

FINAL BILL REPORT

SHB 1124

C 5 L 99

Synopsis as Enacted

Brief Description: Correcting DUI penalty provisions.

Sponsors: By House Committee on Judiciary (Originally sponsored by Representatives Constantine, Sheahan, Ballasiotes, Lantz, McDonald, Lambert, Stensen, Hurst and Esser).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

As part of extensive amendments to the state's drunk driving laws in 1998, the Legislature greatly expanded the use of electronic home monitoring in "driving under the influence" (DUI) sentences. All DUI offenders are now explicitly subject to electronic monitoring. Electronic home monitoring may include an alcohol detection breathalyzer test to which the offender is periodically required to submit. The monitoring must be paid for by the offender. In some instances the monitoring is mandatory.

For first-time offenders, electronic monitoring may be given in lieu of what is otherwise mandatory jail time. This means that first-time offenders must be given either a prescribed minimum jail sentence or a prescribed minimum monitoring sentence. For a first-time offender with an alcohol concentration (BAC) below 0.15 percent, not less than 15 days of electronic monitoring may be given in lieu of an otherwise mandatory one day in jail. In the case of a first-time offender with a BAC of 0.15 or more, not less than 30 days may be given in lieu of an otherwise mandatory two days in jail.

For repeat offenders, electronic monitoring must be given in addition to mandatory jail time. This means that repeat offenders must be given a prescribed minimum sentence of both jail and monitoring. For these repeat offenders, the prescribed minimum sentence ranges from 60 to 150 days, depending on the offenders' histories and BAC levels.

Electronic home monitoring is not considered "confinement." Under the Sentencing Reform Act (SRA), confinement includes "home detention . . . for a substantial portion of the day with the balance of the day spent in the community." The state is

responsible for the cost of incarcerating offenders who are sentenced to more than one year of incarceration.

The electronic monitoring requirements do not address options for those offenders who lack a dwelling or a phone line, both of which are necessary for home monitoring.

Summary:

Courts may waive otherwise mandatory electronic home monitoring in DUI cases if:

- the offender has no dwelling, phone, or other necessity for monitoring;
- the offender resides outside the state; or
- there is reason to believe the offender will violate the terms of the monitoring.

Whenever a court waives the mandatory monitoring, it must give its reasons and must impose an alternative sentence with similar punitive consequences. Alternatives include, but are not limited to, more jail time, work crew, or work camp.

The statement that electronic monitoring is not "confinement" is removed.

If the total of jail time and electronic monitoring (or an alternative to monitoring) would exceed one year, the jail time is to be served first and the monitoring (or alternative) is to be reduced so that the combination does not exceed one year.

Votes on Final Passage:

House 95 0

Senate 47 0

Effective: March 16, 1999