

HOUSE BILL REPORT

SHB 2407

As Passed Legislature

Title: An act relating to electronic monitoring of sex offenders.

Brief Description: Revising provisions relating to electronic monitoring of sex offenders.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lovick, Strow, O'Brien, Ericks, Dunshee, Linville, Grant, Lantz, Kessler, Williams, Blake, Morrell, Rodne, Hunt, Conway, P. Sullivan, Springer, Takko, Kilmer, Fromhold, B. Sullivan, Hunter, Simpson, Green, Miloscia, Sells, Upthegrove, Campbell and Ormsby).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/12/06, 1/31/06 [DPS];

Appropriations: 2/3/06, 2/4/06 [DPS(CJC)].

Floor Activity:

Passed House: 2/11/06, 95-1.

Senate Amended.

Passed Senate: 2/28/06, 49-0.

House Concurred.

Passed House: 3/6/06, 98-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Authorizes the Department of Corrections to electronically monitor certain sex offenders as a condition of community custody using the most appropriate monitoring technology given the individual circumstances of the offender.
- Defines "electronic monitoring."

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby, Strow and Williams.

Staff: Lara Zarowsky (786-7119) and Jim Morishima (786-7191).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Criminal Justice & Corrections be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Pearson, Priest, Schual-Berke, P. Sullivan, Talcott and Walsh.

Staff: Bernard Dean (786-7130).

Background:

Sex offenders who commit a first "two-strikes" offense after September 2001, and those who committed one "two-strikes" offense prior to September 2001 and subsequently commit any non-strike sex offense, are subject to determinate-plus sentencing. Rather than a definitive number of days, a determinate-plus sentence consists of a minimum and maximum term of confinement. The minimum term is generally set within the standard sentencing range, which takes into account the seriousness of the offense and the offender score. The maximum term is equal to the statutory maximum for the offense. Statutory maximums are Life for a Class A felony, 10 years for a Class B felony, and five years for a class C felony. After serving the minimum term, the offender is subject to the jurisdiction of the Indeterminate Sentence Review Board (ISRB) through the end of the maximum term.

An offender will be released from custody after serving the minimum term unless the ISRB finds the offender more likely than not to commit a future predatory sex offense. When the offender is released, he or she will be in community custody until the expiration of the maximum term. The obligations of community custody must include certain conditions, such as reporting to a community corrections officer and obtaining residence approval from the Department of Corrections (department).

The term "community custody" refers to the period following release from total confinement in which an offender is supervised by the department. Community custody is that portion of an offender's sentence served in the community, subject to conditions imposed by the sentencing court and the department. An offender may be sanctioned administratively by the department for violating his or her conditions of release.

Certain crimes, including sex offenses not qualifying for determinate-plus sentencing, serious violent offenses, crimes against a person, and some drug offenses carry a mandatory term of community custody. Unless waived by the court, certain mandatory conditions are required to be included in the term of community custody. Special conditions, such as crime-related prohibitions, may also be included. The department assesses an offender's risk of re-offense, and may modify or impose conditions of community custody in addition to those imposed by the court, provided they do not contravene or decrease the court's order. For example, the

department may require an offender to participate in rehabilitative programs or perform affirmative conduct according to the offender's risk of re-offense.

An offender accused of violating a condition of community custody is entitled to a hearing before the department before sanctions are imposed. If an offender is found to be in violation of a condition of community custody, the department may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any time actually spent in community custody.

Summary of Substitute Bill:

Upon recommendation by the department, the ISRB may impose electronic monitoring as a condition of community custody for determinate-plus sex offenders. The department may impose electronic monitoring for offenders serving a term of community custody pursuant to conviction for a sex offense not qualifying for determinate-plus sentencing. Electronic monitoring is defined as the monitoring of an offender using an electronic tracking system using radio frequency or active or passive global positioning technology. The department is required to carry out any electronic monitoring condition using the most appropriate monitoring technology given the individual circumstances of the offender, within resources made available by the department for this purpose.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Criminal Justice & Corrections) (In support of original bill) Dealing with sex offenders in our communities is a serious and important issue that needs to be addressed. Monitoring technology is improving continually; being monitored with active GPS by using an ankle bracelet is not very intrusive for the offender. This bill is a component to a larger picture. Communities need to be aware of who resides there and what they are capable of. If we can't put sex offenders away for good, we need to know where they are at all times, and electronic monitoring sex offenders is a powerful step in this direction. Ideally, we would be housing and monitoring sex offenders; since we are not able to do this, we need to be creative and aggressive to ensure safety in our communities.

(Concerns on original bill) There are limitations to the technology even though it is continually improving. A GPS signal is not always available (bus tunnels, inside some buildings, and urban canyons present problems). Battery life, weather and heavy vegetation are also problems regarding the effectiveness of the technology. Though monitoring might have some deterrent effect, it cannot be relied on to prevent future sex crimes. The bottom line is that offenders will reoffend if they are so inclined, regardless of an ankle bracelet. It is not clear what constitutes a violation requiring local law enforcement to be contacted. The GPS technology makes information available immediately, but local law enforcement is not set up to respond 24 hours a day. Active electronic monitoring should be added as a tool

available for supervision, but community correction officers should be allowed to determine whether it is appropriate. Enacting this bill would require additional staffing on the community corrections side. Given the limitations of the technology, we don't want to create a false sense of security.

Testimony For: (Appropriations) This measure came from an interim task force on sex offender management. The bill allows the Department of Corrections and judges to impose electronic monitoring. It will allow us to keep better track of sex offenders in our communities. Compared to the original bill, this bill does not impose mandates and allows for the most appropriate technology to be used for offenders.

Testimony Against: (Criminal Justice & Corrections) None.

Testimony Against: (Appropriations) None.

Persons Testifying: (Criminal Justice & Corrections) (In support of original bill) Representative Lovick, prime sponsor; Representative Strow; and Suzanne Brown McBride, Washington Coalition of Sexual Assault Programs.

(Concerns on original bill) James McMahan, Washington Association of Sheriffs and Police Chiefs; and Lin Miller, Department of Corrections.

Persons Testifying: (Appropriations) Don Pierce and James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: (Criminal Justice & Corrections) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.