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**SUBSTITUTE SENATE BILL 5766**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Roach, O'Ban, Padden, and Darneille)

AN ACT Relating to monitoring agencies providing electronic monitoring; adding a new section to chapter 9.94A RCW; adding a new section to chapter 10.21 RCW; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 9.94A RCW to read as follows:

(1) A supervising agency must establish terms and conditions of electronic monitoring for each individual subject to electronic monitoring in the supervising agency's jurisdiction. The supervising agency must communicate those terms and conditions to the monitoring agency. A supervising agency must also establish protocols for when and how a monitoring agency must notify the supervising agency when a violation of the terms and conditions occurs. A monitoring agency must comply with the terms and conditions as established by the supervising agency.

(2) A private monitoring agency must also:

(a) Hold general liability insurance in an amount not less than one hundred thousand dollars;

(b) Obtain a surety bond in the amount of ten thousand dollars, running to the state of Washington for the benefit of a person injured by a wrongful act of the monitoring agency and executed by a surety company authorized to do business in the state of Washington;

(c) Have detailed contingency plans for the monitoring agency's operation with provisions for power outage, loss of telephone service, fire, flood, malfunction of equipment, death, incapacitation or personal emergency of a monitor, and financial insolvency of the monitoring agency;

(d) Prohibit certain relationships between a monitored individual and a monitored agency, including:

(i) Personal associations between a monitored individual and a monitoring agency or agency employee;

(ii) A monitoring agency or employee entering into another business relationship with a monitored individual or monitored individual's family during the monitoring; and

(iii) A monitoring agency or employee employing a monitored individual for at least one year after the termination of the monitoring;

(e) Not employ or be owned by any person convicted of a felony offense within the past four years; and

(f) Obtain a background check through the Washington state patrol for every partner, director, officer, owner, or operator of the monitoring agency, at the monitoring agency's expense.

(3) A private monitoring agency that fails to comply with any of the requirements in this section may be subject to a civil penalty, as determined by a court of competent jurisdiction, in an amount of not more than one thousand dollars for each violation.

(4) All contracts with private entities to provide electronic monitoring may, as deemed necessary, be in writing and may provide contractual penalties in addition to those provided under subsection (3) of this section.

(5) For the purposes of this section:

(a) "Electronic monitoring" means a program of partial confinement in a private residence twenty-four hours a day, with limited exceptions only where authorized or ordered in the explicit terms and conditions of a supervising agency. Electronic monitoring uses electronic surveillance and is an alternative to incarceration available to eligible offenders.

(b) "Monitoring agency" means an entity, private or public, which supervises an individual who has been authorized or required by a supervising agency to be on electronic monitoring. A monitoring agency may also be a supervising agency.

(c) "Supervising agency" means the public entity that authorized the alternative to incarceration, whether pretrial or posttrial, and authorized or imposed electronic monitoring on the individual. A supervising agency may also be a monitoring agency.

NEW SECTION. **Sec.**  A new section is added to chapter 10.21 RCW to read as follows:

(1) Defendants who have a prior conviction for a violent offense or a sex offense, as both are defined in RCW 9.94A.030, and defendants who have a prior conviction for escape in the first, second, or third degree are ineligible for electronic monitoring while awaiting trial.

(2) No defendant may be released to electronic monitoring unless the defendant's release before trial is secured with a payment of bail. If bail is revoked by the court or the bail bond agency, the court shall note the reason for the revocation in the court file.

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