



House of Representatives

General Assembly

File No. 450

February Session, 2000

Substitute House Bill No. 5904

House of Representatives, April 5, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Electronic Monitoring Of Drunken Drivers And Other Probationers With A History Of Alcohol Abuse And Requiring Notification When The Functioning Of Electronic Monitoring Equipment Is Interrupted.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) Not later than January 1, 2001, the Chief Court
2 Administrator shall establish a pilot zero-tolerance alcohol supervision
3 program to monitor the consumption of alcohol by persons placed on
4 probation who have been convicted of a violation of section 14-227a, as
5 amended, 53a-56b or 53a-60d of the general statutes or who have a
6 history of alcohol abuse.

7 (b) Eligibility for participation in the program shall be limited to
8 individuals who have been convicted of an offense, have been
9 identified as having a history of alcohol abuse and have been
10 sentenced to a period of probation and ordered by the court, as a
11 condition of such probation, to participate in the program and shall be

12 based upon criteria, including a limit on the maximum number of
13 eligible participants, established by the Chief Court Administrator.

14 (c) Any person entering such program shall, as a condition of
15 participating in such program, agree to: (1) Submit to periodic breath
16 tests to determine the presence of alcohol in the blood of such person,
17 (2) detention in a halfway house facility each time such test produces a
18 positive result, (3) comply with all rules established by the halfway
19 house if detained in such facility, and (4) waive the right to a hearing.

20 (d) Participants in the zero-tolerance alcohol supervision program
21 shall submit to periodic breath tests to determine the presence of
22 alcohol in the blood of such person. The Office of Adult Probation shall
23 cause to be installed in the dwelling of each participant a device that
24 measures the amount of alcohol in such participant's blood as shown
25 by a chemical analysis of the participant's breath when such
26 participant blows into the device and that electronically transmits the
27 results of such analysis to such participant's probation officer. If the
28 test produces a positive result, the participant shall be detained in a
29 halfway house facility for a period of two days for the first positive test
30 result and for a period of five days for each subsequent positive test
31 result.

32 (e) Any person who has submitted to a breath test pursuant to
33 subsection (d) of this section that produced a positive result may
34 request that a breath test be administered, at such person's expense, to
35 confirm the results of the first test, except that if the participant is
36 determined to be indigent, based upon financial affidavits, the Judicial
37 Department shall pay the cost of the test. The second test shall be a
38 breath test, separate and independent of the initial test. The participant
39 shall be detained in a halfway house pending the results of the second
40 test. If such second test does not produce a positive result, the
41 participant, if detained in a halfway house, shall be released and the
42 fee, if paid by the participant, shall be refunded to the participant.

43 (f) A participant enrolled in the zero-tolerance alcohol supervision
44 program may be charged with a violation of probation if the
45 participant's probation officer determines that the participant has
46 violated the conditions of probation or the conditions of the program.

47 (g) Not later than January 1, 2002, the Chief Court Administrator
48 shall submit a report on the pilot zero-tolerance alcohol supervision
49 program to the joint standing committee of the General Assembly
50 having cognizance of matters relating to criminal justice.

51 Sec. 2. Subsection (h) of section 14-227a of the general statutes, as
52 amended by section 1 of public act 99-255, is repealed and the
53 following is substituted in lieu thereof:

54 (h) Any person who violates any provision of subsection (a) of this
55 section shall: (1) For conviction of a first violation, (A) be fined not less
56 than five hundred dollars nor more than one thousand dollars and (B)
57 be (i) imprisoned not more than six months, forty-eight consecutive
58 hours of which may not be suspended or reduced in any manner or (ii)
59 imprisoned not more than six months, with the execution of such
60 sentence of imprisonment suspended entirely and a period of
61 probation imposed requiring as a condition of such probation that
62 such person perform one hundred hours of community service, as
63 defined in section 14-227e, and (C) have such person's motor vehicle
64 operator's license or nonresident operating privilege suspended for
65 one year; (2) for conviction of a second violation within ten years after
66 a prior conviction for the same offense, (A) be fined not less than one
67 thousand dollars nor more than four thousand dollars, (B) be (i)
68 imprisoned not more than two years, one hundred twenty consecutive
69 days of which may not be suspended or reduced in any manner, and
70 sentenced to a period of probation requiring as a condition of such
71 probation that such person perform one hundred hours of community
72 service, as defined in section 14-227e, or (ii) imprisoned not more than
73 two years, twenty days of which may not be suspended or reduced in

74 any manner, and sentenced to a period of probation of six months
75 requiring as a condition of such probation that such person participate
76 in the pilot zero-tolerance alcohol supervision program established
77 under section 1 of this act, and (C) have such person's motor vehicle
78 operator's license or nonresident operating privilege suspended for
79 three years or until the date of such person's twenty-first birthday,
80 whichever is longer; and (3) for conviction of a third and subsequent
81 violation within ten years after a prior conviction for the same offense,
82 (A) be fined not less than two thousand dollars nor more than eight
83 thousand dollars, (B) be imprisoned not more than three years, one
84 year of which may not be suspended or reduced in any manner, and
85 sentenced to a period of probation requiring as a condition of such
86 probation that such person perform one hundred hours of community
87 service, as defined in section 14-227e, and (C) have such person's
88 motor vehicle operator's license or nonresident operating privilege
89 permanently revoked upon such third offense. For purposes of the
90 imposition of penalties for a second or third and subsequent offense
91 pursuant to this subsection, a conviction under the provisions of
92 subsection (a) of section 14-227a in effect on October 1, 1981, or as
93 amended thereafter, a conviction under the provisions of either
94 subdivision (1) or (2) of subsection (a) of this section, a conviction
95 under the provisions of section 53a-56b or 53a-60d or a conviction in
96 any other state of any offense the essential elements of which are
97 determined by the court to be substantially the same as subdivision (1)
98 or (2) of subsection (a) of this section or 53a-56b or 53a-60d, shall
99 constitute a prior conviction for the same offense.

100 Sec. 3. (NEW) If there is an interruption in the functioning of the
101 electronic monitoring equipment of a person subject to electronic
102 monitoring as a condition of release on probation pursuant to section
103 53a-30 of the general statutes, as amended, or prior to trial pursuant to
104 section 54-64a of the general statutes, as amended, the agent of the
105 state responsible for supervising such electronic monitoring shall
106 immediately notify the appropriate law enforcement agency or

107 agencies and the Court Support Services Division within the Judicial
108 Department of such interruption and such law enforcement agency or
109 agencies and said division shall use their best efforts to locate such
110 person as soon as possible.

JUD Committee Vote: Yea 39 Nay 1 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost, Savings

Affected Agencies: Judicial Department, Department of Correction, Department of Public Safety

Municipal Impact: Minimal

Explanation

State and Municipal Impact:

The bill would result in an estimated cost of \$550,000 in FY 01 (\$1.1 million annualized) to the Judicial Department by establishing a pilot zero-tolerance alcohol supervision program. These costs are based upon establishing the pilot program in a large court location with an estimated 1,200 participants per year (300 per quarter) participating for three months. Included in these costs are four probation officers and expenses, alcohol detection devices, and 40 residential beds.

The bill would also result in savings to the Department of Correction (DOC) to the extent that individuals who would normally be incarcerated would participate in the zero-tolerance alcohol supervision program. The extent to which this may occur is uncertain. About 45 DOC beds would have to be freed up on an annual basis to cover the cost of this program.

Funding for this program and savings for DOC have not been

included in the current biennial budget or in the various adjustments that have been proposed for FY 01.

The bill also requires law enforcement agencies and the Judicial Department to use their best efforts to locate individuals on probation or pre-trial release who sever their connections to electronic monitoring devices. It is anticipated that this can be handled within the existing staff and resources of these agencies.

OLR Bill Analysis

sHB 5904

AN ACT CONCERNING ELECTRONIC MONITORING OF DRUNKEN DRIVERS AND OTHER PROBATIONERS WITH A HISTORY OF ALCOHOL ABUSE AND REQUIRING NOTIFICATION WHEN THE FUNCTIONING OF ELECTRONIC MONITORING EQUIPMENT IS INTERRUPTED AND REQUIRING NOTIFICATION WHEN THE FUNCTIONING OF ELECTRONIC MONITORING EQUIPMENT IS INTERRUPTED.

SUMMARY:

This bill requires the chief court administrator to establish a zero-tolerance alcohol supervision program by January 1, 2001 to monitor alcohol consumption. Judges may order certain offenders to participate in it as a condition of probation. The program applies to people who have a history of alcohol abuse or who have been convicted of driving under the influence, manslaughter in the second degree with a motor vehicle, or assault in the second degree with a motor vehicle.

The bill reduces the mandatory minimum prison sentence for those convicted of driving under the influence for a second time in 10 years from 120 consecutive days to 20 days if they are sentenced to months probation with a condition that they participate in the pilot program. The maximum prison sentence for second offenders continues to be two years.

The bill requires participants to submit to periodic breath tests to determine whether alcohol is in their blood. It requires the Office of Adult Probation to install in each participant's home a device that measures the amount of alcohol in his blood when he blows into it. The test results must be electronically transmitted to the participant's probation officer.

If a breath test reveals the presence to alcohol, the bill requires that participants be detained in a half-way house for two days the first time and five days for each subsequent time.

The bill directs the chief court administrator to establish additional program criteria including the maximum number of participants. It requires him to submit a program report to the Judiciary Committee by January 1, 2002.

Finally, the bill requires that whenever there is an interruption in the functioning of electronic monitoring equipment of someone on probation or pretrial release the state agent responsible for monitoring it must immediately notify the appropriate law enforcement agency or agencies and the Judicial Department's court support services division. The bill requires these agencies and the division to use their best efforts to locate the person as soon as possible.

EFFECTIVE DATE: October 1, 2000

PROGRAM CONDITIONS

In order to participate probationers must agree to:

1. submit to periodic breath tests,
2. be detained in a half-way house each time they test positive,
3. comply with all half-way house rules, and
4. waive their right to a hearing.

SECOND TEST

Participants who test positive may request a separate and independent breath test to confirm the first test's results. The Judicial Department must pay for the second test if the participant is determined to be indigent based on financial affidavits. (The bill does not specify who makes this determination.)

The bill requires the participant be detained in a halfway house pending the results of the second test. If it does not produce a positive result, the participant must be released and the Judicial Department must return the test fee he paid.

PROBATION VIOLATION

A participant may be charged with a probation violation if his probation officer determines he has violated either a probation or program condition. (It is not clear whether the participant's waiver of his right to a hearing applies to an alleged violation that may result in his being ordered to prison to serve the remainder of his sentence or only to a positive test that will result in his being placed in a half-way house.)

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 1