



Senate

File No. 671

General Assembly

February Session, 2000

(Reprint of File No. 161)

Substitute Senate Bill No. 60
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 27, 2000

An Act Concerning Electronic Monitoring.

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

1 Section 1. Section 53a-30 of the general statutes, as amended by
2 section 12 of public act 99-183, is repealed and the following is
3 substituted in lieu thereof:

4 (a) When imposing sentence of probation or conditional discharge,
5 the court may, as a condition of the sentence, order that the defendant:
6 (1) Work faithfully at a suitable employment or faithfully pursue a
7 course of study or of vocational training that will equip [him] the
8 defendant for suitable employment; (2) undergo medical or psychiatric
9 treatment and remain in a specified institution, when required for that
10 purpose; (3) support [his] the defendant's dependents and meet other
11 family obligations; (4) make restitution of the fruits of [his] the
12 defendant's offense or make restitution, in an amount [he] the
13 defendant can afford to pay or provide in a suitable manner, for the
14 loss or damage caused thereby and the court may fix the amount
15 thereof and the manner of performance; (5) if a minor, (A) reside with

16 [his] the minor's parents or in a suitable foster home, (B) attend school,
17 and (C) contribute to [his] the minor's own support in any home or
18 foster home; (6) post a bond or other security for the performance of
19 any or all conditions imposed; (7) refrain from violating any criminal
20 law of the United States, this state or any other state; (8) if convicted of
21 a misdemeanor or a felony, other than a capital felony, a class A felony
22 or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-
23 57, 53a-58 or 53a-70b or any offense for which there is a mandatory
24 minimum sentence which may not be suspended or reduced by the
25 court, and any sentence of imprisonment is suspended, participate in
26 an alternate incarceration program; (9) reside in a residential
27 community center or halfway house approved by the Commissioner of
28 Correction, and contribute to the cost incident to such residence; (10)
29 participate in a program of community service labor in accordance
30 with section 53a-39c; (11) participate in a program of community
31 service in accordance with section 51-181c; (12) if convicted of a
32 violation of subdivision (2) of section 53-21, section 53a-70, 53a-70a,
33 53a-70b, 53a-71, 53a-72a or 53a-72b, undergo specialized sexual
34 offender treatment; (13) if convicted of a criminal offense against a
35 victim who is a minor, a nonviolent sexual offense or a sexually violent
36 offense, as defined in section 54-250, as amended by public act 99-183,
37 or of a felony that the court finds was committed for a sexual purpose,
38 as provided in section 54-254, as amended by public act 99-183, register
39 such person's identifying factors, as defined in section 54-250, as
40 amended by public act 99-183, with the Commissioner of Public Safety
41 when required pursuant to section 54-251, as amended by public act
42 99-183, 54-252, as amended by public act 99-183, or 54-253, as amended
43 by public act 99-183, as the case may be; (14) be subject to electronic
44 monitoring; (15) satisfy any other conditions reasonably related to [his]
45 the defendant's rehabilitation. The court shall cause a copy of any such
46 order to be delivered to the defendant and to the probation officer, if
47 any.

48 (b) When a defendant has been sentenced to a period of probation,
49 the Office of Adult Probation may require that the defendant comply

50 with any or all conditions which the court could have imposed under
51 subsection (a) which are not inconsistent with any condition actually
52 imposed by the court.

53 (c) At any time during the period of probation or conditional
54 discharge, after hearing and for good cause shown, the court may
55 modify or enlarge the conditions, whether originally imposed by the
56 court under this section or otherwise, and may extend the period,
57 provided the original period with any extensions shall not exceed the
58 periods authorized by section 53a-29. The court shall cause a copy of
59 any such order to be delivered to the defendant and to the probation
60 officer, if any.

61 (d) The period of participation in an alternate incarceration
62 program, unless terminated sooner, shall not exceed the period of
63 probation authorized by section 53a-29 or two years, whichever is less.

64 (e) The court may require that the person subject to electronic
65 monitoring subject to subsection (a) of this section pay directly to the
66 electronic monitoring service provider a fee for the cost of such
67 electronic monitoring services. If the court finds that the person subject
68 to electronic monitoring is indigent and unable to pay the costs of
69 electronic monitoring services, it shall waive such costs. Any contract
70 entered into by the judicial branch and the electronic monitoring
71 service provider shall include a provision stating that the total cost for
72 electronic monitoring services shall not exceed five dollars per day.
73 Such amount shall be indexed annually to reflect the rate of inflation.

74 Sec. 2. Subsection (c) of section 54-64a of the general statutes, as
75 amended by section 2 of public act 99-187, is repealed and the
76 following is substituted in lieu thereof:

77 (c) If the court determines that a nonfinancial condition of release
78 should be imposed pursuant to subparagraph (B) of subdivision (1) of
79 subsection (a) or (b) of this section, the court shall order the pretrial
80 release of the person subject to the least restrictive condition or
81 combination of conditions that the court determines will reasonably

82 assure the appearance of the arrested person in court and, with respect
83 to the release of the person pursuant to subsection (b) of this section,
84 that the safety of any other person will not be endangered, which
85 conditions may include an order that the arrested person do one or
86 more of the following: (1) Remain under the supervision of a
87 designated person or organization; (2) comply with specified
88 restrictions on such person's travel, association or place of abode; (3)
89 not engage in specified activities, including the use or possession of a
90 dangerous weapon, an intoxicant or a controlled substance; (4)
91 participate in the zero-tolerance drug supervision program established
92 under section 53a-39d, as amended by public act 99-187; (5) provide
93 sureties of the peace pursuant to section 54-56f under supervision of a
94 designated bail commissioner; (6) avoid all contact with an alleged
95 victim of the crime and with a potential witness who may testify
96 concerning the offense; (7) maintain employment or, if unemployed,
97 actively seek employment; (8) maintain or commence an educational
98 program; [or] (9) be subject to electronic monitoring; or (10) satisfy any
99 other condition that is reasonably necessary to assure the appearance
100 of the person in court and that the safety of any other person will not
101 be endangered. The court shall state on the record its reasons for
102 imposing any such nonfinancial condition.

103 Sec. 3. Section 54-64a of the general statutes, as amended by section
104 2 of public act 99-187, is amended by adding subsection (e) as follows:

105 (NEW) (e) The court may require that the person subject to
106 electronic monitoring subject to subsection (a) of this section pay
107 directly to the electronic monitoring service provider a fee for the cost
108 of such electronic monitoring services. If the court finds that the person
109 subject to electronic monitoring is indigent and unable to pay the costs
110 of electronic monitoring services, it shall waive such costs. Any
111 contract entered into by the judicial branch and the electronic
112 monitoring service provider shall include a provision stating that the
113 total cost for electronic monitoring services shall not exceed five
114 dollars per day. Such amount shall be indexed annually to reflect the
115 rate of inflation.

116 Sec. 4. Section 53a-115 of the general statutes is repealed and the
117 following is substituted in lieu thereof:

118 (a) A person is guilty of criminal mischief in the first degree when:
119 (1) With intent to cause damage to tangible property of another and
120 having no reasonable ground to believe that [he] such person has a
121 right to do so, [he] such person damages tangible property of another
122 in an amount exceeding one thousand five hundred dollars, or (2) with
123 intent to cause an interruption or impairment of service rendered to
124 the public and having no reasonable ground to believe that [he] such
125 person has a right to do so, [he] such person damages or tampers with
126 tangible property of a utility or mode of public transportation, power
127 or communication, and thereby causes an interruption or impairment
128 of service rendered to the public, or (3) with intent to cause damage to
129 any electronic monitoring equipment owned or leased by the state or
130 its agent and required as a condition of probation or conditional
131 discharge pursuant to section 53a-30, as amended by this act, or as a
132 condition of release pursuant to section 54-64a, as amended by this act,
133 and having no reasonable ground to believe that such person has a
134 right to do so, such person damages such electronic monitoring
135 equipment and thereby causes an interruption in its ability to function,
136 or (4) with intent to cause an interruption or impairment of service
137 rendered to the public and having no reasonable ground to believe
138 that [he] such person has a right to do so, [he] such person damages or
139 tampers with (A) any tangible property owned by the state, a
140 municipality or a person for fire alarm or police alarm purposes, (B)
141 any telecommunication system operated by the state police or a
142 municipal police department, (C) any emergency medical or fire
143 service dispatching system, (D) any fire suppression equipment owned
144 by the state, a municipality, a person or a fire district, or (E) any fire
145 hydrant or hydrant system owned by the state or a municipality, a
146 person, a fire district or a private water company.

147 (b) Criminal mischief in the first degree is a class D felony.

148 Sec. 5. Section 46b-140a of the general statutes is amended by

149 adding subsection (e) as follows:

150 (NEW) (e) Upon a determination by the court that a child or youth
151 has violated probation by failing to comply with the requirements of
152 electronic monitoring, the court support services division shall notify
153 the local law enforcement agency of such violation.

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: See Explanation Below

Affected Agencies: Judicial Department, Various Criminal Justice Agencies

Municipal Impact: See Explanation Below

Explanation

State Impact:

The bill conforms statute to current practice by specifying that judges may order electronic monitoring in certain cases. This provision, therefore, does not result in a fiscal impact.

The bill also could result in a savings by requiring that a person subject to electronic monitoring pay a fee to the electronic monitoring service provider. The savings is a result of revenue from fees being paid by the participants subject to electronic monitoring to the service provider, which could potentially affect the overall cost of the electronic monitoring services. The Judicial Department currently spends approximately \$580,000 in electronic monitoring devices for adult offenders and \$451,000 for juvenile offenders. Typically, offenders are subjected to electronic monitoring for a period of 60 days to 180 days. The service costs \$3.75 per day or \$1,369 per year per offender. A vendor through a contract with the state provides these services.

The bill also states that the contract between the Judicial

Department and the electronic monitoring service provider must include a provision which states that the total cost for the electronic monitoring services shall not exceed \$5.00 per day (which would be indexed annually to reflect inflation). Since the service currently costs \$3.75 a day, this is not anticipated to result in a fiscal impact in the short term. However, if, in the future, the cost of these services exceeds the limit specified in the bill, the continued provision of these services could be jeopardized, requiring more costly forms of supervision.

The bill could also result in a cost to the criminal justice system by increasing the penalty for damaging or tampering with electronic monitoring equipment owned or leased by the state or its agents. The extent to which this currently occurs is unknown. These costs relate to additional criminal justice and correctional resources being allocated to these cases. In the short run, it is anticipated that these costs can be absorbed within the existing caseload structures of the criminal justice system. Over time, however, increases in criminal penalties could result in the need for additional criminal justice resources.

In addition, the bill requires the court support services division to notify the local law enforcement agency if a juvenile has violated probation by failing to comply with their electronic monitoring requirements. This could result in additional workload for the court support services division and police departments although the bill does not specify what action the police departments must take after notification. It is anticipated that any workload increase can be handled within normal budgetary structures.

House Amendment "A" affected potential savings to the state by adding the requirement that a person pay the electronic monitoring fee directly to the service provider instead of to the Judicial Department. It also added the impact associated with requiring a contract between the Judicial Department and the electronic monitoring services provider include a maximum cost indexed annually to reflect inflation rates. In addition, it added the workload impact associated with

requiring the court support services division to notify the local law enforcement agency if a juvenile has violated their probation related to electronic monitoring.

OLR Amended Bill Analysis

sSB 60 (as amended by House "A")*

AN ACT CONCERNING ELECTRONIC MONITORING.**SUMMARY:**

This bill specifies that judges may order electronic monitoring as a condition of probation, conditional discharge, or pretrial release. It authorizes the court to require people subject to such orders to pay a monitoring fee directly to the electronic monitor service provider. The court must waive the fee for people it finds are indigent and unable to pay. The bill requires that contracts between the Judicial Department and service providers cap the cost at five dollars a day. This cost must be indexed annually to reflect the rate of inflation.

The bill requires the Court Support Services Division to notify the local law enforcement agency whenever it determines a child or youth has violated probation by not complying with electronic monitoring requirements.

The bill makes it a class D felony for someone to intentionally damage electronic equipment owned or leased by the state or its agents and required as a condition of probation, conditional discharge, or pretrial release if (1) he has no reasonable basis to believe he had a right to do so and (2) the damages interrupts the equipment's ability to function. A class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both.

Under current law, the penalty for intentionally damaging property is primarily determined by the amount of damage. If damages exceed \$1,500, it is a class D felony; if they exceed \$250 but are less than \$1,500, it is a class A misdemeanor (up to one year in prison, up to a \$2,000 fine, or both); if they are \$250 or less, it is a class B misdemeanor (up to six months in prison, a fine of up to \$1,000, or both).

EFFECTIVE DATE: October 1, 2000

*House Amendment "A" requires that fees be paid directly to service

providers, caps the cost at five dollars a day, and requires that the cost be indexed annually to reflect the rate of inflation. It also adds the notification requirement when a child or youth violates an electronic monitoring order. It reestablishes the Judicial Department's authority to require parents or guardians of children on probation to fully or partially reimburse the department for the costs of supervision. The unamended bill (File 16) had eliminated it.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0