

SENATE BILL REPORT

SB 5162

As of February 19, 1999

Title: An act relating to correcting electronic monitoring provisions in the penalty schedule for alcohol violators.

Brief Description: Correcting DUI penalty provisions.

Sponsors: Senators Goings, McCaslin, Long, Kline, Rasmussen, Heavey and Winsley.

Brief History:

Committee Activity: Judiciary: 2/26/99.

SENATE COMMITTEE ON JUDICIARY

Staff: Lidia Mori (786-7755)

Background: As part of extensive amendments to the state's driving under the influence of liquor (DUI) laws in 1998, the Legislature greatly expanded the use of electronic home monitoring in DUI sentences. All DUI offenders are now 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.

For first-time offenders, electronic monitoring may be ordered in lieu of mandatory jail time. The court may order not less than 15 days of electronic monitoring in lieu of the otherwise mandatory one day in jail for first time offenders with an alcohol concentration (BAC) below .15. A first-time offender with a BAC of .15 or more may receive not less than 30 days of electronic monitoring in lieu of the otherwise mandatory two days in jail.

For repeat offenders, electronic monitoring must be ordered in addition to mandatory jail time. For repeat offenders, the prescribed minimum sentence ranges from 60 to 150 days, depending on the offenders' histories and BAC levels.

Some local jurisdictions have expressed concern that the requirements for mandatory electronic home monitoring may prove ineffective or impractical if the offender lacks a dwelling or a phone line which are necessary for home monitoring. Some concern has also been expressed that exempting electronic home monitoring from the Sentencing Reform Act (SRA) definition of detention makes administration of the program difficult.

Summary of Bill: 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;
- 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. The statement that electronic monitoring is not "confinement" is removed.

Appropriation: None.

Fiscal Note: Available

Effective Date: Ninety days after adjournment of session in which bill is passed.