

SENATE BILL 1841

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 35, Part 1, relative to the monitoring of certain persons accused or convicted of a criminal offense.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 35, Part 1, is amended by adding the following as a new section:

Section\_\_\_\_.

(a) As used in this section:

(1) "Magistrate" means any magistrate, judicial commissioner, night judge, or any other official who has the authority to admit to bail a person who has been arrested and detained for the commission of a criminal offense in that county;

(2) "Monitoring device" means:

(A) A transdermal monitoring device or other alternative alcohol or drug monitoring device;

(B) An electronic monitoring device with random alcohol or drug testing;

(C) A global positioning monitoring system as defined in § 40-11-152; or

(D) Any other monitoring device a judge or magistrate orders to ensure that a person charged with or convicted of a criminal offense and released from custody complies with any conditions of release imposed; and

(3) "Monitoring program" means a program whereby a person who has been charged with or convicted of a criminal offense is released from custody on bail, pre-trial diversion, judicial diversion, community correction supervision, or probation and one (1) of the conditions of release is that the person participates in a program whereby the person's alcohol use, drug use, or geographic location is in whole or in part determined by a monitoring device.

(b) No person ordered by a judge or magistrate to participate in a monitoring program as a condition of release from custody shall be released until the appropriate monitoring device is installed on the person required to wear the device.

(c) Unless a person ordered by a judge or magistrate to participate in a monitoring program as a condition of release from custody is determined by the judge or magistrate to be indigent, the person may choose any authorized agent to install and monitor the monitoring device.

(d) Each probation office shall maintain a list of all companies and agents authorized to conduct monitoring programs and monitoring device activities in that judicial district. The office shall provide a list of these authorized companies and agents to any person who has been ordered by a judge or magistrate to participate in a monitoring program as a condition of release from custody. Neither the probation officer, probation office, or other person assigned to supervise the person nor the sentencing judge shall express any preference for a particular agent or company authorized to conduct monitoring programs or install monitoring devices.

(e) Payments for monitoring devices shall be made by the person required to utilize the device directly to the company or agent installing and monitoring the device. Failure to make timely payment for the monitoring device is a violation of the person's terms and conditions of release from custody. Notice of failure to make timely payment for a monitoring device shall be provided to the probation officer or other person supervising the person within seventy-two (72) hours of the failure to make timely

payment. The probation officer or other supervising person shall notify the sentencing judge or magistrate ordering the monitoring device.

(f) All violations involving the installation or deactivation of a monitoring device or a violation of the judge or magistrate's order requiring the person to participate in a monitoring program as a condition of release from custody shall be reported to the appropriate probation officer, the probation officer's designee, or other person supervising the monitoring program within twenty-four (24) hours of the violation.

(g) A company or agent authorized to conduct monitoring programs or monitoring device activity who knowingly fails to send notification to the appropriate probation officer, the officer's designee, or other person supervising the monitoring program pursuant to this section may result in the suspension or revocation of the authority of the company or agent to oversee a monitoring program or install a monitoring device.

(h) Each company or agent who for a fee conducts monitoring programs or monitoring device activities for persons who have been ordered by a judge or magistrate to participate in a monitoring program as a condition of release from custody shall provide access to the probation officer, the probation officer's designee, or any other official charged with supervision of a person's monitoring program, of any electronic data and websites containing information relating to that person. A probation officer, probation officer's designee, or other person supervising the monitoring program of that person may view the electronic data and proprietary websites for the sole purpose of reviewing monitoring information.

(i)

(1) Judges in each judicial district are authorized to qualify and approve companies and agents who wish to conduct monitoring programs and monitoring

device activities for persons required to participate in a monitoring program as a condition of release from custody. The judges may hear complaints and allegations of violations by authorized companies and agents or companies or agents not authorized in that judicial district. Judges may, for good cause, sanction, suspend the authority of, or disqualify any company or agent operating in the judicial district of the judge that is authorized to conduct monitoring programs and monitoring device activities for persons required to participate in a monitoring program as a condition of release from custody.

(2) Before conducting business in a judicial district, a company or agent that conducts monitoring programs and monitoring device activities for persons required to participate in a monitoring program as a condition of release from custody must receive the written approval of a judge of a court designated by the presiding judge of the district.

(3) Each company or agent must comply with all applicable local rules of the courts in each judicial district in which the company or agent operates and must comply with all local rules promulgated by the courts in a judicial district that pertain to the conduct and activities of a company or agent that conducts monitoring programs and monitoring device activities.

SECTION 2. For the purpose of a company or agent conducting monitoring programs or monitoring device activities for persons required to participate in a monitoring program as a condition of release from custody obtaining approval to operate and conduct monitoring programs in a judicial district, this act shall take effect July 1, 2018, the public welfare requiring it. For all other purposes this act shall take effect October 1, 2018, the public welfare requiring it.