

By: Homer

H.B. No. 4216

A BILL TO BE ENTITLED

AN ACT

relating to the electronic monitoring of certain defendants as an alternative to confinement.

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

SECTION 1. Article 42.035, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) A court [~~in a county served by a community supervision and corrections department that has an electronic monitoring program approved by the community justice assistance division of the Texas Department of Criminal Justice~~] may require a defendant to serve all or part of a sentence of confinement in county jail by participating in an [~~submitting to~~] electronic monitoring program rather than being confined in the county jail, if the program:

(1) is operated by a community supervision and corrections department that serves the county in which the court is located and has been approved by the community justice assistance division of the Texas Department of Criminal Justice; or

(2) is operated by the commissioners court of the county, or by a private vendor under contract with the commissioners court, under Section 351.904, Local Government Code, if the defendant has not been placed on community supervision.

(e) A court may revoke a defendant's participation in an electronic monitoring program and require the defendant to serve

1 the remainder of the defendant's sentence of confinement in county
2 jail if the defendant violates a condition imposed by a court under
3 this article, including a condition requiring the defendant to pay
4 for participating in the program under Subsection (c).

5 SECTION 2. Article 43.09(e), Code of Criminal Procedure, is
6 amended to read as follows:

7 (e) A court in a county that operates an electronic
8 monitoring program or contracts with a private vendor to operate an
9 electronic monitoring program under Section 351.904, Local
10 Government Code, or that is served by a community supervision and
11 corrections department that operates ~~[has]~~ an electronic
12 monitoring program approved by the community justice assistance
13 division of the Texas Department of Criminal Justice, may require a
14 defendant who is unable to pay a fine or costs to discharge all or
15 part of the fine or costs by participating in the program
16 ~~[submitting to electronic monitoring]~~. A defendant who
17 participates in an ~~[that submits to]~~ electronic monitoring program
18 under this subsection discharges fines and costs in the same manner
19 as if the defendant were confined in county jail.

20 SECTION 3. Subchapter Z, Chapter 351, Local Government
21 Code, is amended by adding Section 351.904 to read as follows:

22 Sec. 351.904. ELECTRONIC MONITORING PROGRAM. (a) A
23 commissioners court of a county may establish and operate an
24 electronic monitoring program for the purpose of monitoring
25 defendants required by a court of the county to participate in an
26 electronic monitoring program under:

27 (1) Article 43.09, Code of Criminal Procedure, to

1 discharge a fine or costs; or

2 (2) Article 42.035, Code of Criminal Procedure, as an
3 alternative to serving all or part of a sentence of confinement in
4 county jail.

5 (b) The commissioners court shall provide for the sheriff or
6 the community supervision and corrections department serving the
7 county, under an agreement with the commissioners court, to oversee
8 and operate, or if the program is operated by a private vendor under
9 Subsection (c), oversee the operation of, an electronic monitoring
10 program established under this section.

11 (c) A commissioners court may contract with a private vendor
12 to operate an electronic monitoring program under this section,
13 including by enrolling and tracking participants in the program and
14 performing periodic reviews with participants regarding compliance
15 with the program.

16 (d) A commissioners court may use money that a defendant is
17 ordered to pay to a county under Article 42.035(c), Code of Criminal
18 Procedure, to pay for the services of a private vendor that operates
19 an electronic monitoring program under Subsection (c).

20 (e) A commissioners court may subsidize all or part of the
21 cost of a defendant's participation in an electronic monitoring
22 program under this section if the defendant is indigent.

23 SECTION 4. Article 42.035(e), Code of Criminal Procedure,
24 as added by this Act, applies only to a defendant who is sentenced
25 to a term of confinement in county jail for an offense committed on
26 or after September 1, 2009. A defendant who is sentenced to a term
27 of confinement in county jail for an offense committed before

1 September 1, 2009, is governed by the law in effect when the offense
2 was committed, and the former law is continued in effect for that
3 purpose. For purposes of this section, an offense was committed
4 before September 1, 2009, if any element of the offense occurred
5 before that date.

6 SECTION 5. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2009.