

By: Whitmire

S.B. No. 368

A BILL TO BE ENTITLED

AN ACT

relating to the release by a sheriff of certain defendants to an electronic monitoring or house arrest program.

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

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0321 to read as follows:

Art. 42.0321. RELEASE BY SHERIFF TO HOUSE ARREST OR ELECTRONIC MONITORING. (a) Notwithstanding Article 42.035, if a sheriff determines that it is in the best interest of a defendant and the public, the sheriff may require a defendant who is serving a sentence of confinement in the county jail to serve all or part of the sentence in an electronic monitoring program or under house arrest, rather than being confined in the county jail. The sheriff may require a defendant released to house arrest to also be electronically monitored.

(b) A defendant who participates in an electronic monitoring or house arrest program under this article:

(1) discharges a sentence of confinement in the same manner as if the defendant were confined in a county jail; and

(2) is responsible for payment to a county for the reasonable costs incurred by the county because of the defendant's participation in the program.

(c) A sheriff may impose reasonable conditions on a defendant who participates in an electronic monitoring or house

1 arrest program.

2 (d) A sheriff may revoke a defendant's participation in an
3 electronic monitoring or house arrest program and require the
4 defendant to serve the remainder of the defendant's sentence of
5 confinement in the county jail if:

6 (1) the sheriff is unable to monitor the defendant due
7 to a failure in the electronic monitoring device;

8 (2) the defendant violates a condition imposed by the
9 sheriff or a court; or

10 (3) the defendant fails to pay for participating in
11 the program as required by Subsection (b)(2).

12 SECTION 2. Section 351.0415(c), Local Government Code, is
13 amended to read as follows:

14 (c) The sheriff or the sheriff's designee may use commissary
15 proceeds only to:

16 (1) fund, staff, and equip a program addressing the
17 social needs of the inmates, including an educational or
18 recreational program, ~~and~~ religious or rehabilitative
19 counseling, or an electronic monitoring or house arrest program
20 operated under Article 42.0321, Code of Criminal Procedure;

21 (2) supply inmates with clothing, writing materials,
22 and hygiene supplies;

23 (3) establish, staff, and equip the commissary
24 operation and fund the salaries of staff responsible for managing
25 the inmates' commissary accounts;

26 (4) fund, staff, and equip both an educational and a
27 law library for the educational use of inmates; or

1 (5) fund physical plant improvements, technology,
2 equipment, programs, services, and activities that provide for the
3 well-being, health, safety, and security of the inmates and the
4 facility.

5 SECTION 3. Sections 351.904(a) and (d), Local Government
6 Code, are amended to read as follows:

7 (a) A commissioners court of a county may establish and
8 operate an electronic monitoring program for the purpose of
9 monitoring defendants required [~~by a court of the county~~] to
10 participate in an electronic monitoring program under:

11 (1) Article 43.09, Code of Criminal Procedure, to
12 discharge a fine or costs; or

13 (2) Article 42.0321 or 42.035, Code of Criminal
14 Procedure, as an alternative to serving all or part of a sentence of
15 confinement in county jail.

16 (d) A commissioners court may use money that a defendant is
17 ordered to pay to a county under Article 42.0321(b)(2) or
18 42.035(c), Code of Criminal Procedure, to pay for the services of a
19 private vendor that operates an electronic monitoring program under
20 Subsection (c).

21 SECTION 4. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2013.