

1-1 By: Whitmire S.B. No. 368  
 1-2 (In the Senate - Filed February 4, 2013; February 11, 2013,  
 1-3 read first time and referred to Committee on Criminal Justice;  
 1-4 April 29, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 4, Nays 1, 1 present not  
 1-6 voting; April 29, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9		X		
1-10			X	
1-11				X
1-12	X			
1-13				X
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 368 By: Whitmire

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the release by a sheriff of certain defendants to an  
 1-20 electronic monitoring or house arrest program.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 42, Code of Criminal Procedure, is  
 1-23 amended by adding Article 42.0321 to read as follows:

1-24 Art. 42.0321. RELEASE BY SHERIFF TO HOUSE ARREST OR  
 1-25 ELECTRONIC MONITORING. (a) Notwithstanding Article 42.035, if a  
 1-26 sheriff determines that it is in the best interest of a defendant  
 1-27 and the public, the sheriff may require a defendant who is serving a  
 1-28 sentence of confinement in the county jail to serve all or part of  
 1-29 the sentence in an electronic monitoring program or under house  
 1-30 arrest, rather than being confined in the county jail. The sheriff  
 1-31 may require a defendant released to house arrest to also be  
 1-32 electronically monitored.

1-33 (b) A defendant who participates in an electronic  
 1-34 monitoring or house arrest program under this article:

1-35 (1) discharges a sentence of confinement in the same  
 1-36 manner as if the defendant were confined in a county jail; and

1-37 (2) is responsible for payment to a county for the  
 1-38 reasonable costs incurred by the county because of the defendant's  
 1-39 participation in the program.

1-40 (c) A sheriff may impose reasonable conditions on a  
 1-41 defendant who participates in an electronic monitoring or house  
 1-42 arrest program.

1-43 (d) A sheriff may revoke a defendant's participation in an  
 1-44 electronic monitoring or house arrest program and require the  
 1-45 defendant to serve the remainder of the defendant's sentence of  
 1-46 confinement in the county jail if:

1-47 (1) the sheriff is unable to monitor the defendant due  
 1-48 to a failure in the electronic monitoring device;

1-49 (2) the defendant violates a condition imposed by the  
 1-50 sheriff; or

1-51 (3) the defendant fails to pay for participating in  
 1-52 the program as required by Subsection (b)(2).

1-53 SECTION 2. Subsection (c), Section 351.0415, Local  
 1-54 Government Code, is amended to read as follows:

1-55 (c) The sheriff or the sheriff's designee may use commissary  
 1-56 proceeds only to:

1-57 (1) fund, staff, and equip a program addressing the  
 1-58 social needs of the inmates, including an educational or  
 1-59 recreational program, ~~and~~ religious or rehabilitative  
 1-60 counseling, or an electronic monitoring or house arrest program

2-1 operated under Article 42.0321, Code of Criminal Procedure;  
2-2 (2) supply inmates with clothing, writing materials,  
2-3 and hygiene supplies;  
2-4 (3) establish, staff, and equip the commissary  
2-5 operation and fund the salaries of staff responsible for managing  
2-6 the inmates' commissary accounts;  
2-7 (4) fund, staff, and equip both an educational and a  
2-8 law library for the educational use of inmates; or  
2-9 (5) fund physical plant improvements, technology,  
2-10 equipment, programs, services, and activities that provide for the  
2-11 well-being, health, safety, and security of the inmates and the  
2-12 facility.

2-13 SECTION 3. Subsections (a) and (d), Section 351.904, Local  
2-14 Government Code, are amended to read as follows:

2-15 (a) A commissioners court of a county may establish and  
2-16 operate an electronic monitoring program for the purpose of  
2-17 monitoring defendants required [~~by a court of the county~~] to  
2-18 participate in an electronic monitoring program under:

2-19 (1) Article 43.09, Code of Criminal Procedure, to  
2-20 discharge a fine or costs; or

2-21 (2) Article 42.0321 or 42.035, Code of Criminal  
2-22 Procedure, as an alternative to serving all or part of a sentence of  
2-23 confinement in county jail.

2-24 (d) A commissioners court may use money that a defendant is  
2-25 ordered to pay to a county under Article 42.0321(b)(2) or  
2-26 42.035(c), Code of Criminal Procedure, to pay for the services of a  
2-27 private vendor that operates an electronic monitoring program under  
2-28 Subsection (c).

2-29 SECTION 4. This Act takes effect immediately if it receives  
2-30 a vote of two-thirds of all the members elected to each house, as  
2-31 provided by Section 39, Article III, Texas Constitution. If this  
2-32 Act does not receive the vote necessary for immediate effect, this  
2-33 Act takes effect September 1, 2013.

2-34 \* \* \* \* \*