HB127

NCRQ8J-1

By Representatives Pettus, Treadaway, Bedsole, Lee

RFD: Judiciary

First Read: 06-Feb-24

SYNOPSIS:

Under existing law, certain inmates released from the physical custody of the Department of Corrections under mandatory supervision and certain inmates released on parole are subject to electronic monitoring.

Under existing law, certain inmates released on probation may be subject to electronic monitoring.

This bill would make it unlawful for an individual subject to electronic monitoring to knowingly alter, disable, deactivate, tamper with, remove, damage, or destroy any device used to facilitate electronic monitoring.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds

within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

Relating to electronic monitoring; to amend Sections 15-22-26.2, 15-22-29, and 15-22-52, Code of Alabama 1975, to make it unlawful for an individual subject to electronic monitoring to knowingly alter, disable, deactivate, tamper with, remove, damage, or destroy any device used to facilitate electronic monitoring; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 15-22-26.2, 15-22-29, and 15-22-52, Code of Alabama 1975, are amended to read as follows:

"§15-22-26.2

(a) A convicted defendant sentenced to a period of confinement under the supervision of the Department of Corrections shall be subject to the following provisions, unless the defendant is released to a term of probation or

released on parole under this chapter:

(1) If the defendant is sentenced to a period of five years or less, he or she shall be released by the department to supervision by the Board of Pardons and Paroles no less than three months and no more than five months prior to the defendant's release date.

(2) If the defendant is sentenced to a period of more than five years but less than 10 years, he or she shall be released by the department to supervision by the Board of Pardons and Paroles no less than six months and no more than nine months prior to the defendant's release date.

(3) If the defendant is sentenced to a period of 10 years or more, he or she shall be released by the department to supervision by the Board of Pardons and Paroles no less than 10 months and no more than 12 months prior to the defendant's release date.

(b) This section shall not apply to a defendant convicted of any sex offense involving a child, as defined in Section 15-20A-4.

(c) Prior to the defendant's release to supervision pursuant to this section, notice of the release shall be provided by the department to the victim and interested parties through the victim notification system established pursuant to Section 15-22-36.2.

(d)(1) An offender released to supervision pursuant to this section shall be released to the supervision of the Board of Pardons and Paroles and shall be subject to this article.

(2) The board shall determine the level of supervision

required for an offender based on the results of a validated risk and needs assessment.

(e)(1) An offender released pursuant to this section shall be subject to electronic monitoring for a period of time determined by the Director of Pardons and Paroles.

(2) The board shall be responsible for the costs of the electronic monitoring as required by this subsection.

(3) It shall be a Class C felony for any individual to knowingly alter, disable, deactivate, tamper with, remove, damage, or destroy any device used to facilitate electronic monitoring under this subsection.

(f) This section applies to a defendant in the custody of the department without regard to when he or she was sentenced for or committed the crime."

"§15-22-29

(a) The Board of Pardons and Paroles, in releasing an inmate on parole, shall specify in writing the conditions of his or her parole and shall provide a copy of the conditions to the parolee. A parolee who violates the conditions of parole may be subject to arrest and reimprisonment.

(b) The Board of Pardons and Paroles shall adopt general rules regarding the conditions of parole and their violation and may make special rules to govern particular cases. The rules, both general and special, shall include, but are not limited to, all of the following:

(1) The parolee may not leave the state without the consent of the board.

(2) The parolee shall contribute to the support of his

or her dependents to the best of his or her ability.

(3) The parolee shall make reparation or restitution for his or her crime.

(4) The parolee shall avoid persons or places of disreputable or harmful character.

(5) The parolee shall follow the instructions of his or her parole officer and shall cooperate with the parole officer.

(6)a. The parolee shall be subject to electronic monitoring for a period of time determined by the Director of Pardons and Paroles.

b. The board shall be responsible for the costs of the electronic monitoring as required by this subdivision.

c. It shall be a Class C felony for any individual to knowingly alter, disable, deactivate, tamper with, remove, damage, or destroy any device used to facilitate electronic monitoring under this subdivision.

(7) The parolee shall submit to behavioral treatment, substance abuse treatment, GPS monitoring, or any other treatment as deemed necessary by the board or the supervising parole officer.

(8) The parolee may not buy, own, or possess a firearm in violation of federal law or in violation of Section 13A-11-72."

"§15-22-52

The court shall determine and may at any time modify the conditions of probation. The conditions of probation shall include, but are not limited to, all of the following:

(1) Avoid injurious or vicious habits.

(2) Avoid persons or places of disreputable or harmful character.

(3) Report to the probation officer as directed.

(4) Permit the probation officer to visit him or her at his or her home or elsewhere.

(5) Work faithfully at suitable employment as far as possible.

(6) Remain within a specified place.

(7) Pay the fine imposed or costs or any portions of fines or costs, as the court may determine, and in installments as the court may direct.

(8) Make reparation or restitution to the aggrieved party for the damage or loss caused by his or her offense in an amount to be determined by the court.

(9) Support his or her dependents to the best of his or her ability.

(10)a. Submit to behavioral treatment, substance abuse treatment, GPS monitoring, or any other treatment as deemed necessary by the court or supervising probation officer.

b. It shall be a Class C felony for any individual to knowingly alter, disable, deactivate, tamper with, remove, damage, or destroy any device used to facilitate electronic monitoring under this subdivision.

(11) The probationer may not buy, own, or possess a firearm in violation of federal law or in violation of Section 13A-11-72."

Section 2. Although this bill would have as its purpose

or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective on October 1, 2024.