

SENATE BILL NO. 95

BY SENATOR CLOUD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact the introductory paragraph of R.S. 15:571.36(C)(1), the introductory paragraph of (C)(2), and the introductory paragraph of (C)(4), and 571.36(D) and to enact R.S. 15:571.36(A)(12), 571.37, and 571.38, relative to electronic monitoring of certain criminal defendants; to provide relative to notifications of noncompliance; to provide relative to penalties; to provide for program costs and maintenance; to provide for termination of electronic monitoring; to provide for certification and registration of electronic monitoring service providers and manufacturers; to create the crime of violation of electronic monitoring conditions; to provide for the elements of the offense; to provide definitions and penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 15:571.36(C)(1), the introductory paragraph of (C)(2), and the introductory paragraph of (C)(4), and 571.36(D) are hereby amended and reenacted and R.S. 15:571.36(A)(12), 571.37, and 571.38 are hereby enacted to read as follows:

§571.36. Electronic monitoring equipment

A. The Department of Public Safety and Corrections, corrections services, the office of state police, and the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall develop written policies and procedures in the manner provided in the Administrative Procedure Act for the promulgation of

1 rules governing mandatory requirements for electronic monitoring service providers
 2 and manufacturers, including the availability, storage, use of, and operational
 3 capacity for electronic monitoring equipment utilized for pretrial, post-conviction,
 4 or monitoring, which shall include all of the following requirements:

5 * * *

6 (12) The certification standards and registration requirements for
 7 electronic monitoring providers and manufacturers who render electronic
 8 monitoring services in this state.

9 * * *

10 C.(1) When an individual has been placed under electronic monitoring, the
 11 provider of the electronic monitoring services shall, by noon of the following day,
 12 provide law enforcement agencies within the appropriate jurisdiction **and the**
 13 **prosecuting authority** all of the following information:

14 * * *

15 (2) Electronic monitoring service providers shall submit an accurate report
 16 to each court exercising jurisdiction over the persons being monitored **and the**
 17 **prosecuting authority**, by the tenth day of each month for the previous month's
 18 monitoring activity to include all of the following information:

19 * * *

20 (4) When a violation of the defendant's monitoring conditions has occurred,
 21 the provider of electronic monitoring services shall report the violation to the bail
 22 agent on record, **the law enforcement agencies within the appropriate**
 23 **jurisdiction, the prosecuting authority**, and the court exercising jurisdiction over
 24 the defendant ~~within one day of~~ **immediately but in no event not longer than**
 25 **thirty minutes from** the provider's receipt **verification** of a notice **of violation** that
 26 any of the following involving the electronic monitoring equipment has occurred:

27 * * *

28 D. Any provider of an electronic monitoring service who intentionally
 29 withholds or intentionally fails to timely report information as required by this
 30 Section shall be ~~subject to a fine of~~ **fined** not more than one thousand dollars **per**

1 each day of a violation, not to exceed ten thousand dollars per instance or
 2 individual monitored, or imprisoned for not more than six months, and shall be
 3 prohibited from registering to provide electronic monitoring services in this state for
 4 a period of five years.

5 * * *

6 **§571.37. Electronic monitoring programs**

7 **A. The court shall impose any condition necessary to further the**
 8 **rehabilitation of a person released subject to electronic monitoring, including**
 9 **maintaining employment and compliance with inclusion and exclusion zones as**
 10 **defined in R.S. 15:571.38. In the case of a juvenile, the conditions may include**
 11 **staying in school, participating in after-school activities, or being subject to a**
 12 **curfew.**

13 **B. The cost for an adult participating in an electronic monitoring**
 14 **program shall be borne by the person being monitored. The court may waive**
 15 **the cost of electronic monitoring in a juvenile matter or in any other matter at**
 16 **the request of the entity that is otherwise responsible for the cost of monitoring.**

17 **C. As a condition of electronic monitoring, and notwithstanding any**
 18 **other provision of law, a person subject to electronic monitoring, including a**
 19 **juvenile, shall:**

20 **(1) Maintain the monitoring equipment in normal working order**
 21 **including but not limited to keeping the monitoring equipment charged.**

22 **(2) Consent to immediate cooperation with and acquiesce to any efforts**
 23 **to evaluate, diagnose, and repair any technical issues associated with the device**
 24 **and monitoring by the electronic monitoring company, which may include but**
 25 **not be limited to reasonable detention by law enforcement.**

26 **D. Electronic monitoring providers operating in this state shall actively**
 27 **monitor any person subject to electronic monitoring for compliance and report**
 28 **any violation in accordance with R.S. 15:571.36. Daily noncompliance reports**
 29 **shall be provided to the district attorney regarding the person being monitored.**

30 **E.(1) Upon a finding of noncompliance, the court may, either on its own**

1 motion or that of the district attorney, issue a warrant for the arrest of a person
2 subject to electronic monitoring.

3 (2) A person arrested pursuant to a warrant issued pursuant to
4 Paragraph (1) of this Subsection shall be held in custody until a hearing is
5 conducted to determine if the person can and will comply with all electronic
6 monitoring restrictions.

7 (3) The court shall terminate a person's participation in an electronic
8 monitoring program, and remand him to state custody for an adult or to the
9 appropriate pretrial facility for a juvenile, after his third finding of
10 noncompliance by the court.

11 §571.38. Violation of electronic monitoring conditions

12 A. It shall be unlawful for any person who is placed on electronic
13 monitoring supervision pursuant to this Part, or any other provision of law, to
14 intentionally do any of the following:

15 (1) Enter an exclusion zone.

16 (2) Fail to immediately exit an exclusion zone.

17 (3) Violate a curfew order.

18 B.(1) Whoever violates Subsection A of this Section shall be fined not
19 more than five hundred dollars, imprisoned for not more than six months, or
20 both.

21 (2) Whoever commits a felony while violating Subsection A of this
22 Section shall be fined not more than one thousand dollars and shall be
23 imprisoned, at hard labor, for one year.

24 (3) Whoever violates Subsection A of this Section, after being released
25 on bail for a felony crime of violence as defined by R.S. 14:2(B), shall be fined
26 not more than one thousand dollars and shall be imprisoned, at hard labor, for
27 one year.

28 C. As used in this Section:

29 (1) "Curfew" means a specified time period defined by court order
30 during which a person is required to either be, or not be, in a specific location.

- 1 (2) "Exclusion zone" means a specified geographic area defined by court
- 2 order that a person is prohibited from entering or remaining.
- 3 (3) "Inclusion zone" means a specified geographic area defined by court
- 4 order in which a person is either allowed or required to be.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____