

ACT No. 139

2018 Regular Session

HOUSE BILL NO. 705

BY REPRESENTATIVE MAGEE

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AN ACT

To amend and reenact R.S. 15:571.35.1(A), (B), (C)(1) and (2)(a) and (e), (D), (E), (F), (G), and (H), to enact R.S. 15:571.35.1(C)(3), and to repeal R.S. 15:571.35.1(I), relative to home incarceration; to provide relative to a home incarceration program in Lafourche Parish; to provide for eligibility; to provide relative to the determination of eligibility; to provide relative to conditions of the program; to provide with respect to bail; to provide relative to electronic monitoring; to remove provisions relating to the pilot program and its termination; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:571.35.1(A), (B), (C)(1) and (2)(a) and (e), (D), (E), (F), (G), and (H) are hereby amended and reenacted and R.S. 15:571.35.1(C)(3) is hereby enacted to read as follows:

§571.35.1. ~~Pilot program~~; Lafourche Parish Pretrial Home Incarceration Program; electronic monitoring

A. ~~Not later than January 1, 2011, the~~ The Lafourche Parish Sheriff's Office may implement a ~~pilot~~ program using, as an alternative mode of incarceration to traditional imprisonment, active electronic monitoring of offenders who are eligible under the provisions of this Section. This ~~pilot~~ program shall be referred to as the Lafourche Parish Pretrial Home Incarceration Program.

B. A defendant may be eligible for participation in the ~~pilot~~ program under the following conditions:

1 (1) No defendant who has been charged with a crime of violence as defined
2 in R.S. 14:2(B), or with a sex offense as defined in R.S. 15:541, shall be eligible for
3 the ~~pilot~~ program established under the provisions of this Section.

4 (2) A determination is made by the Lafourche Parish Sheriff's Office that the
5 defendant is particularly likely to respond affirmatively to participation in the ~~pilot~~
6 program.

7 (3) The Lafourche Parish Sheriff's Office has interviewed the defendant and
8 has made a risk assessment determination that the defendant is eligible for
9 participation in the ~~pilot~~ program. The Lafourche Parish Sheriff's Office shall
10 forward the risk assessment to the court for use as the court may deem proper.

11 C.(1) The Lafourche Parish Sheriff's Office shall develop, adopt, and
12 implement rules and regulations for the development, implementation, and
13 administration of the ~~pilot~~ program.

14 (2) Such rules and regulations shall include but not be limited to the
15 following:

16 (a) A defendant in the program shall be supervised and shall be subject to
17 all of the conditions required for participation. The conditions of the ~~pilot~~ program
18 may include any condition reasonably related to the ~~pilot~~ program, including curfew,
19 home visitations by persons designated by the sheriff, and limitations of the
20 defendant's activities outside of the home.

21 * * *

22 (e) Notwithstanding the provisions of Code of Criminal Procedure Article
23 880, the defendant may receive credit for time served while participating in the ~~pilot~~
24 program only with the approval of the sentencing court.

25 (3) Participation in the program does not, in any way, negate nor nullify the
26 bail obligations as set by the court. At any time, a defendant may post a legally
27 sufficient authorized bail and become relieved of all conditions of this program
28 unless those conditions are specifically ordered by the court or by law as a condition
29 of bail.

1 D.(1) No defendant shall be admitted to the ~~pilot~~ program prior to court
2 approval of the defendant's participation in the ~~pilot~~ program.

3 (2) Notwithstanding any other provision of law to the contrary, the court, at
4 any time on its own motion, may prohibit or terminate a defendant's initial or
5 continued participation in the ~~pilot~~ program.

6 E.(1) The sheriff shall be entitled to collect from the parish governing
7 authority and apply to the funding of the ~~pilot~~ program a sum not less than the per
8 diem fee authorized by R.S. 13:5535(1). In lieu of the per diem, the sheriff may
9 establish a fee which is agreed upon by the parish governing authority and the
10 sheriff. In no event shall those funds be considered surplus funds.

11 (2) In the case of indigent persons who may be eligible to participate in the
12 ~~pilot~~ program, the sheriff shall establish rules and regulations addressing governing
13 participation by indigent defendants.

14 (3) The sheriff may apply for funding and grants from any and all sources
15 he may deem appropriate to develop, design, implement, administer, and evaluate
16 the ~~pilot~~ program.

17 (4) The sheriff may engage in cooperative endeavor agreements with other
18 government agencies or departments and with any nonprofit organization whose
19 mission is compatible with the goals and objectives of the ~~pilot~~ program.

20 F. The sheriff may terminate the participation of any defendant in the ~~pilot~~
21 program who fails to comply with the terms of participation in the program and
22 require the physical return of any defendant terminated from participation in the
23 program to parish jail or such other facility as the sheriff may deem appropriate for
24 the purpose of continuing his pretrial detention.

25 G. With respect to any defendant in the ~~pilot~~ program, neither the sheriff nor
26 the parish shall be responsible for any medical costs or the provision of medical care,
27 transportation costs or the provision of transportation, housing costs or the provision
28 of housing, food costs or the provision of food, or clothing costs or the provision of
29 clothing to the defendant.

1 H. Neither the sheriff of Lafourche Parish, nor his deputies and employees,
 2 nor the governing authority of Lafourche Parish or its elected or appointed officials,
 3 deputies, or employees, nor any party engaged in a cooperative endeavor agreement
 4 with the ~~pilot~~ program shall have any liability for the acts of any defendant who is
 5 admitted to participation during the time the defendant is participating in the ~~pilot~~
 6 program.

7 Section 2. R.S. 15:571.35.1(I) is hereby repealed in its entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____