

2018 Regular Session

HOUSE BILL NO. 705

BY REPRESENTATIVE MAGEE

CRIMINAL/SENTENCING: Provides relative to the Lafourche Parish Alternative Home Incarceration Program

1 AN ACT

2 To amend and reenact R.S. 15:571.35.1, relative to home incarceration; to provide relative
3 to a home incarceration program in Lafourche Parish; to provide for eligibility; to
4 provide relative to the determination of eligibility; to provide relative to conditions
5 of the program; to provide with respect to bail; to provide relative to electronic
6 monitoring; to remove provisions relating to the pilot program and its termination;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:571.35.1 is hereby amended and reenacted to read as follows:

10 §571.35.1. ~~Pilot program~~; Lafourche Parish ~~Pretrial~~ Alternative Home Incarceration
11 Program; electronic monitoring

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

17 B. ~~A defendant~~ With consent of the judge at the time of a hearing set by the
18 court, including a bail hearing, an inmate may be eligible for participation in the ~~pilot~~
19 program under the following conditions:

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

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

8 (3) The Lafourche Parish Sheriff's Office has interviewed the ~~defendant~~
9 inmate and has made a risk-based assessment determination that the ~~defendant~~
10 inmate is eligible for participation in the ~~pilot~~ program. The Lafourche Parish
11 Sheriff's Office shall, upon specific request, forward the particular risk-based
12 assessment to the court for use as the court may deem proper.

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

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

18 (a) ~~A defendant~~ An inmate in the program shall be supervised and shall be
19 subject to all of the conditions required for participation. The conditions of the ~~pilot~~
20 program may include any condition reasonably related to the ~~pilot~~ program,
21 including curfew, home visitations by persons designated by the sheriff, ~~and~~
22 limitations of the ~~defendant's~~ inmate's activities outside of the home, and
23 participation in appropriate counseling or training sessions.

24 (b) The program shall include the use of active global positioning
25 systems electronic monitoring devices.

26 (c) ~~A defendant~~ An inmate may be required to obtain or maintain
27 employment and may be required to pay a reasonable supervision fee to the
28 supervising agency to defray the cost of his supervision and the cost of the required
29 electronic monitoring.

1 (d) ~~A defendant~~ An inmate shall be given written notice of the conditions
2 imposed ~~in writing~~ for participation in the program, and ~~he~~ the inmate shall be
3 required to agree in writing to the conditions.

4 (e) ~~Notwithstanding the provisions of Code of Criminal Procedure Article~~
5 ~~880, the defendant may receive credit for time served while participating in the pilot~~
6 ~~program only with the approval of the sentencing court.~~ In accordance with the
7 provisions of R.S. 15:571.3, an inmate may receive a diminution of sentence for
8 good behavior.

9 (3) Participation in the program does not negate nor nullify a bond or bail
10 obligation set by the court. At any time, an inmate may post a legally sufficient bond
11 or bail obligation and become relieved of all conditions of this program unless those
12 conditions are specifically ordered by the court or by law as a condition of the bond
13 or bail obligation.

14 D.(1) ~~No defendant shall be admitted to the pilot program prior to court~~
15 ~~approval of the defendant's participation in the pilot program.~~ In no case does an
16 inmate have a right nor an entitlement to participate in the program.

17 (2) Notwithstanding any other provision of law to the contrary, the court to
18 whom a criminal matter is properly assigned, at any time and on its own motion, may
19 prohibit or terminate ~~a defendant's~~ an inmate's initial or continued participation in the
20 ~~pilot~~ program.

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

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

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

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

7 F. The sheriff or his designee may terminate the participation of any
8 ~~defendant inmate~~ in the ~~pilot~~ program who fails to comply with the terms of
9 participation in the program and require the immediate physical return of any
10 ~~defendant inmate~~ terminated from participation in the program to parish jail or such
11 other facility as the sheriff may deem appropriate for the purpose of continuing his
12 ~~pretrial~~ detention.

13 G. With respect to any ~~defendant inmate~~ in the ~~pilot~~ program, neither the
14 sheriff nor the parish shall be responsible for any medical costs or the provision of
15 medical care, transportation costs or the provision of transportation, housing costs
16 or the provision of housing, food costs or the provision of food, or clothing costs or
17 the provision of clothing to the ~~defendant participating inmate~~.

18 H. Neither the sheriff of Lafourche Parish, nor his deputies, ~~and~~ employees,
19 or insurers, nor the governing authority of Lafourche Parish or its elected or
20 appointed officials, deputies, or employees, nor any party engaged in a cooperative
21 endeavor agreement with the ~~pilot~~ program shall have any liability for the acts of any
22 ~~defendant inmate~~ who is admitted to participation during the time the ~~defendant~~
23 inmate is participating in the pilot program.

24 I.~~(†)~~ The ~~pilot~~ program established pursuant to the provisions of this Section
25 shall be evaluated with regard to security, beneficial and detrimental effects on the
26 ~~prisoner inmate~~, projected probable effects on deterrence, cost, labor intensiveness,
27 and other relevant measures of effectiveness. Such evaluation shall provide the
28 required information on a project basis as well as in comparison with traditional
29 imprisonment.

1 (2) A report of the evaluation of the program shall be presented to the Joint
2 Legislative Committee on the Budget, the Senate Committee on Judiciary B, and the
3 House Committee on the Administration of Criminal Justice not later than thirty days
4 prior to the first day of the 2012 Regular Session of the Legislature of Louisiana.

5 (3) ~~Unless otherwise terminated by appropriate legislative action, the pilot~~
6 ~~program shall begin a termination process not later than sixty days after the date in~~
7 ~~which a newly constructed correctional facility in Lafourche Parish is opened and~~
8 ~~occupied. After that date, no new participants shall be admitted to the program.~~
9 ~~Those participants in the program prior to that date shall be allowed to continue~~
10 ~~participation, except as otherwise provided for by this Section, and the program shall~~
11 ~~be phased out and fully terminated when the number of participants declines to zero.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 705 Original

2018 Regular Session

Magee

Abstract: Provides for the Lafourche Parish Alternative Home Incarceration Program, including eligibility determinations and conditions of the program.

Present law authorizes the Lafourche Parish Sheriff's Office to implement a pilot program using electronic monitoring as an alternative to incarceration. Provides for the following eligibility provisions:

- (1) No defendant charged with a crime of violence or sex offense can participate in the pilot program.
- (2) The sheriff's office makes a determination that the defendant is particularly likely to respond to the program.
- (3) The sheriff's office interviewed the defendant and conducted a risk assessment.

Present law provides for electronic monitoring of the participants in the program and provides for other conditions of the program. Allows the court or the sheriff to terminate participation in the program at any time. Authorizes the sheriff to assess a fee or to collect the per diem authorized by present law (R.S. 13:5535(1)), and, in the case of indigent persons, requires the sheriff to establish rules governing participation in the program by indigent defendants. Provides for the evaluation of the program and requires the reporting of information to the legislature by the year 2012.

Proposed law makes the following changes to the program:

- (1) Renames the program the Lafourche Parish Alternative Home Incarceration Program.

- (2) Changes the nature of the program from a pilot program to a permanent program.
- (3) Amends eligibility requirements as follows:
 - (a) Only those persons charged with a crime punishable by death or life imprisonment are ineligible to participate in the program.
 - (b) Requires the sheriff's office to forward the risk-based assessment determination to the court upon request.
- (4) Provides that the conditions of the program may include participation in appropriate counseling or training sessions, shall include the use of active global positioning systems electronic monitoring, and may require the inmate to maintain employment.
- (5) Provides that participation in the program does not negate or nullify a bond or bail obligation, and provides that an inmate may post a bond or bail obligation and be relieved of the conditions of this program unless the conditions are specifically ordered by the court or by law.
- (6) Deletes the present law provision allowing the defendant to receive credit for time served while participating in the program with the approval of the sentencing court, and adds provisions allowing the inmate to receive a diminution of sentence for good behavior.

Proposed law removes present law provisions regarding the evaluation of the original pilot program and the reporting of that information to the legislature, and removes present law provisions governing the termination of the present law pilot program.

(Amends R.S. 15:571.35.1)