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BILL



ANALYSIS

Telephone: (517) 373-5383
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Senate Bill 1126 (as enacted)
Senate Bill 1127 (as enacted)
Senate Bill 1357 (as enacted)
Sponsor: Senator Rick Jones
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 610 of 2012
PUBLIC ACT 612 of 2012
PUBLIC ACT 611 of 2012

Date Completed: 5-17-13

CONTENT

Senate Bill 1126 amended Chapter XI (Probation) of the Code of Criminal Procedure to do the following:

- Require a court to order a person convicted of a felony and allowed work or school release to wear an electronic monitoring device that is ankle-worn and provides information to the sheriff if it is tampered with or removed.
- Require the individual ordered to wear an electronic monitoring device to pay the costs associated with it.
- Limit these requirements to courts that have in place a program to provide for the electronic monitoring of people placed on probation.

Senate Bill 1127 amended Chapter XI to do the following:

- Require a court to order the Department of Corrections (DOC) to verify, within seven days, that a person convicted of a felony is employed or enrolled in school before granting him or her work or school release from jail, unless the county sheriff has provided or will provide that verification.

- Prohibit a court from ordering a felon to be released to attend work or school unless the sheriff or DOC has determined that he or she is currently employed or currently enrolled in school.
- Require a release order to provide that it is contingent at all times upon the approval of the county sheriff.
- Prohibit and establish a felony penalty for knowingly removing, destroying, or circumventing the operation of an electronic monitoring device or knowingly interfering with a signal, impulse, or data being transmitted by or stored within a device, without authority to do so.

Senate Bill 1357 amended Chapter XVII (Sentencing Guidelines) of the Code to include in the sentencing guidelines tampering with or removing an electronic monitoring device. A violation is a Class G felony against the public order, with a statutory maximum sentence of two years' imprisonment.

Senate Bills 1126 and 1357 were tie-barred to Senate Bill 1127. Senate Bill 1127 was tie-barred to Senate Bill 1126.

Senate Bills 1127 and 1357 took effect on March 1, 2013. Senate Bill 1126 took effect on March 28, 2013.

A more detailed description of Senate Bills 1126 and 1127 follows.

Senate Bill 1126

The bill added Section 3e to Chapter XI to provide that, if the court permits a probationer convicted of a felony to be released from jail for purposes of attending work or school, the court must order the individual to wear an electronic monitoring device that will provide a signal to the county sheriff, through the GPS system or by other means, of the individual's movement and location at all times while he or she is on that release. The device must be an ankle-worn device that provides information to the county sheriff if it is tampered with or removed. The information provided by the device must be recorded and monitored by the sheriff to ensure individual's compliance with his or her work release requirements. The installation, maintenance, monitoring, and removal costs of the device must be paid for by the individual.

The electronic monitoring device requirements described above apply only if the court has in place a program to provide for the electronic monitoring of individuals placed on probation that complies with those requirements.

Senate Bill 1127

Work or School Release

The Code requires certain conditions to be included in a sentence of probation, and allows a court to require certain actions as a condition of probation. The court may require a probationer to be imprisoned in the county jail for up to 12 months, at one time or in nonconsecutive intervals, and may permit a work or school release from jail. The bill allows the court to permit an individual to be released from jail to work at his or her existing job or to attend a school in which he or she is enrolled, subject to Section 3d (added to Chapter XI by the bill) and Section 3e.

Under Section 3d, before an individual convicted of a felony is released from jail to attend work or school, the court at the time of sentencing must order the DOC to verify that the individual is currently employed or enrolled in school. The DOC verification requirement does not apply, however, if the county sheriff has provided or will provide that verification. If required, the DOC must provide the verification to the court within seven days after the order is issued. The court may not order an individual to be released to attend work or school unless the sheriff or DOC determines that the individual is currently employed or currently enrolled in school. The order of release must provide that release is contingent at all times upon the sheriff's approval.

The bill defines "school" as a school of secondary education; a community college, college, or university; a State-licensed technical or vocational school or program; or a program that prepares a person for the General Education Development (GED) test.

Removing or Tampering with Device

The bill prohibits a person from knowingly and without authority removing, destroying, or circumventing the operation of an electronic monitoring device or knowingly interfering with a signal, data, or an impulse that is being transmitted by or stored within an electronic monitoring device worn or otherwise used by an individual as a condition for any of the following:

- Work release or house arrest.
- Bond or other pretrial release.
- Probation.
- Parole.
- Postrelease supervision or postconviction bond.
- Release for work or school under Section 3e.

The bill also prohibits a person from knowingly and without authority requesting or soliciting any other person to remove, destroy, or circumvent the operation of an electronic monitoring device or knowingly interfere with a

signal, impulse, or data being transmitted by or stored within an electronic monitoring device worn or otherwise used by an individual released under any of the conditions listed above.

These prohibitions do not apply to either of the following:

- The owner of the electronic monitoring device or his or her agent while performing proper maintenance and repairs on the device.
- A person who removes the electronic monitoring device at the direction of a physician due to an immediate medical necessity.

A violation of either prohibition is a felony, punishable by up to two years' imprisonment and/or a maximum fine of \$4,000.

The bill provides that "electronic monitoring device" includes any electronic device or instrument that is used to track the location of a person or detect the presence of alcohol.

MCL 771.3e (S.B. 1126)
771.3 et al. (S.B. 1127)
777.17f (S.B. 1357)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills may result in an indeterminate increase in administrative costs to the Department of Corrections due to the added workload of verifying school enrollment or employment. Department field operations agents typically investigate and put together a presentencing investigation report to assist the judge in sentencing. Therefore, in some cases, the employment or school enrollment may already be verified before the consideration of work release. However, if sufficient time elapses before the consideration of work release, and the county sheriff has not provided or will not provide that verification, the court might require additional investigation or reverification, which will result in an added burden to

Department of Corrections field operations staff. It is unclear at this time whether the responsibilities can be absorbed by current staff and appropriation levels.

The bills also create a new felony for tampering with or preventing the operation of an electronic monitoring device. Those convicted may be punished by up to two years' imprisonment or a fine of up to \$4,000, or both. The State may incur the cost of incarceration and/or felony probation, and the local unit may incur additional incarceration costs in county jails. Any additional fine revenue will benefit public libraries.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.