

HOUSE BILL 548

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 40 and Title 41, relative to the continuous satellite monitoring of parolees and probationers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 28, is amended by adding Sections 2 through 6 of this act as a new part thereto.

SECTION 2.

(a) The board of probation and parole shall establish a parolee and probationer monitoring program and promulgate guidelines governing it, consistent with this part.

(b) The board shall carry out the following duties:

(1) By December 31, 2009, in consultation with all participating state and local law enforcement, the board shall develop implementing guidelines for the continuous satellite-based monitoring of parolees and probationers. The system may provide:

(A) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology;

(B) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once-a-day (passive) to near real-time (active); and

(C) An automated system that provides local and state law enforcement with alerts to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was at or

near the reported crime incidents. These alerts will enable authorities to include or exclude monitored subjects from an ongoing investigation.

(2) Prior to June 30, 2010, the board of probation and parole shall contract with one (1) or more vendors for the hardware services needed to monitor subjects and correlate their movements to reported crime incidents using a system meeting the requirements described in subdivision (b)(1)(C).

(3) The board's contracts may provide for services necessary to implement or facilitate any of the provisions of this part including the collection and disposition of the charges and fees provided for in this part and § 40-28-201(a)(2) and to allow for the reasonable cost of collection of the proceeds.

(4) On or before April 1, 2011, the board shall make a report to a joint meeting of the judiciary committees of the senate and the house of representatives and the joint oversight committee on correction regarding the implementation of this part, and the results of the programs created by this part.

SECTION 3.

(a) Notwithstanding any other law, any court of this state and the board of probation and parole may require, as a mandatory condition of probation or release for any person convicted of a criminal offense, that any person so sentenced or released be enrolled in a satellite-based monitoring program for the full extent of the person's term of probation or parole, consistent with the requirements of Section 2 of this act.

(b) Offender participation in a location tracking and crime correlation based monitoring and supervision program under this section shall be at the sole discretion of the sentencing court or the board, as appropriate, and shall conform to the participant payment requirements stated in Section 5 of this act, and be based upon the person's ability to pay.

SECTION 4.

(a) Intentional tampering with, removal of, or vandalism to a device issued pursuant to a location tracking and crime correlation based monitoring and supervision program described in Section 2 of this act by a person duly enrolled in the program is a Class A misdemeanor for the first offense, punishable by confinement in the county jail for not less than one hundred eighty (180) days. The minimum one hundred eighty-day sentence provided for this Class A misdemeanor offense is mandatory, and no person committing the offense shall be eligible for suspension of sentence, diversion, or probation until the minimum sentence is served in its entirety. A second or subsequent violation under this section is a Class E felony. Additionally, if the person violating this section is on probation, parole, or any other alternative to incarceration, then the violation shall also constitute sufficient grounds for immediate revocation of probation, parole, or other alternative to incarceration.

(b) Any person who knowingly aids, abets, or assists a person duly enrolled in a location tracking and crime correlation based monitoring and supervision program described in Section 2 of this act in tampering with, removing, or vandalizing a device issued pursuant to the program commits a Class A misdemeanor.

SECTION 5.

(a) The board of probation and parole shall assess a daily or monthly fee, as the board deems reasonable and necessary to effectuate the purposes of this program, from parolees and probationers who are required by a court or the board to participate in the monitoring program described in Section 2 of this act. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system. Fees assessed by the

board pursuant to this program may be collected in accordance with Section 2(b)(3) of this act.

(b) A court or the board may waive all or any portion of the fees required by this section if it determines that an offender is indigent or financially unable to pay all or any portion of the fee. A court or the board shall waive only that portion of the surcharge which the offender is financially unable to pay.

SECTION 6. Notwithstanding any other law, the department of correction, the board of probation and parole, the Tennessee bureau of investigation, and all local law enforcement agencies are specifically authorized to share criminal incident information, limited to the time, place, and nature of the crime, with each other and any vendor selected by the department to carry out the purposes of this part, and the department is authorized to direct the vendor so chosen to use data collected pursuant to Section 2(b) of this act in preparing correlation reports as described in that subsection for distribution to and use by state and local law enforcement agencies.

SECTION 7. This act is intended to supersede, to the fullest extent possible, the Tennessee Serious and Violent Sex Offender Monitoring Pilot Project Act, compiled in title 40, chapter 39, part 3.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.