



**House
Legislative
Analysis
Section**

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ELECTRONIC HOME DETENTION ACT

House Bill 5253
Sponsor: Rep. Gerald Law
Committee: Corrections

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A SUMMARY OF HOUSE BILL 5253 AS INTRODUCED 11-1-89

The bill would create the Electronic Home Detention Act to provide for home confinement and electronic monitoring of low-risk, nonviolent, adult and juvenile offenders. Under the bill, offenders selected by a court, or by a correctional administrator -- the director of the Department of Corrections, or, in the case of a county jail, a sheriff -- could be placed into home detention, as an alternative to incarceration. Prisoners would be monitored by means of electronic monitoring devices, defined in the bill as devices that are "primarily intended to record and transmit information as to the defendant's presence in, or absence from, his or her home."

Electronic Home Detention Program. Under the bill, an electronic home detention program could be used as an alternative to incarceration for offenders selected by a court or correctional administrator, under certain circumstances, including the following:

- Pretrial or preadjudicatory detention.
- Probation.
- Community corrections.
- Parole.
- Work release.
- Institutional furlough.
- Jail diversion.

Under the bill, reasonable guidelines for the operation of an electronic home detention program could be prescribed by the court, or by the correctional administrator. The guidelines would include, but not be limited to, the following:

- a) The participant would be required to remain within the interior premises or within the property boundaries of his or her residence at all times during the hours designated by the correctional administrator, except for approved absences. Approved absences from the home could include, but would not be limited to, the following instances, if approved by the court or correctional administrator: employment, or traveling to or from employment; seeking employment; undergoing medical or mental health treatment, counseling, or other approved treatment programs; attending an educational institution or program; attending a regularly scheduled religious service; participating in community work release or community service programs; or for another compelling reason consistent with the public interest.

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b) The participant would be required to admit any person or agent designated by the court or correctional administrator into his or her home at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

c) The participant would be required to make the necessary arrangements to allow for any person or agent as designated by the court or correctional administrator to visit the participant's place of education, employment, or treatment at any time, with the approval of the educational institution, employer, or health care provider, for the purpose of verifying the participant's compliance with the conditions of his or her detention.

d) The participant would be required to acknowledge and cooperate with the electronic monitoring device as designated by the court or correctional administrator at any time for the purpose of verifying the participant's compliance with the conditions of his or her detention.

e) The participant would be required to obtain approval from the court or correctional administrator before changing his or her residence or the designated hours of confinement.

f) The participant could not commit another crime during the period of home detention ordered by the court.

g) The participant would be notified that violation of the order for home detention could subject the participant to prosecution for the crime of escape.

Electronic Monitoring Device. Under the bill, use of an electronic monitoring device (defined in the bill as "a device that is primarily intended to record and transmit information as to the defendant's presence in, or absence from, his or her home") would require approval by the correctional administrator or court, and the written consent of the participant and other persons residing in the participant's home. The electronic monitoring device could record or transmit oral or wire communications or an auditory sound, visual images, or information regarding the offender's activities while inside his or her home; the device could also be used to record a conversation between the participant and the device, or between the participant and the person supervising the participant, solely for the purpose of identification, and not for the purpose of eavesdropping or conducting any other electronic surveillance. The court, or the correctional administrator, could prescribe reasonable guidelines under which an electronic home detention program would operate.

Before an order for commitment for home detention could be entered, the bill would require that the court or correctional administrator inform the participant and other persons residing in the participant's home as to the nature and extent of the electronic monitoring devices, by obtaining the participant's written consent that he or she would comply with the program's rules, by securing the written consent of other persons residing in the home acknowledging the nature and extent of the devices, and by ensuring that the electronic devices intrude as little as possible upon the privacy of the participant and other persons residing in the home.