



Ohio Legislative Service Commission

Bill Analysis

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H.B. 457

129th General Assembly
(As Introduced)

Rep. O'Brien

BILL SUMMARY

- Authorizes a sheriff to charge an electronic monitoring fee to an offender or delinquent child who is being monitored electronically by the sheriff's office and establishes criteria for determining the amount of the fee.
- Requires that electronic monitoring fees charged by a sheriff be deposited in a sheriff's electronic monitoring expense fund created in the county treasury.
- Authorizes use of money in a sheriff's electronic monitoring expense fund for monitoring-related expenses, with the approval of the board of county commissioners.

CONTENT AND OPERATION

Sheriff's monitoring fee

The bill authorizes a sheriff, subject to certain exceptions discussed below, to charge a fee to an offender or delinquent child being electronically monitored by the sheriff's office pursuant to an electronic monitoring order or requirement. An electronic monitoring order or requirement is any court order issued, sentence imposed, or disposition made, or any requirement imposed by the Department of Rehabilitation and Correction or Department of Youth Services, that is made under any R.C. provision that requires that an offender or delinquent child be monitored by electronic monitoring and pursuant to which the sheriff's office does the monitoring. Electronic monitoring means any monitoring that is electronic monitoring as defined in R.C. 2929.01 (see "**Definitions**," below) and any monitoring through use of a global positioning device or global positioning system device. A sheriff may charge the fee for each day that the

office is monitoring the offender or delinquent child pursuant to the order or requirement and must determine the fee on a daily basis.¹

The sheriff must determine the amount of the fee in accordance with the following criteria:²

(1) The fee must cover the costs of the office in performing functions related to or associated with the monitoring, including, but not limited to, the cost of equipment and supplies used in the monitoring, personnel costs involved in the monitoring, and any other cost reasonably related to or associated with the monitoring.

(2) The cost that an offender or delinquent child is charged for each day of monitoring may not exceed the average daily cost of the office in the preceding calendar year for providing similar electronic monitoring of offenders or delinquent children.

A sheriff may not charge a monitoring fee if either (1) the court that orders or imposes the monitoring requires the offender or delinquent child, pursuant to or under authority of any other provision of the Revised Code, to pay some or all of the costs of the monitoring or (2) some or all of the costs of the monitoring are paid pursuant to or under authority of any other provision of the Revised Code.³

Sheriff's electronic monitoring expense fund

The bill requires each county to establish in the county treasury a sheriff's electronic monitoring expense fund. If a sheriff charges an offender or delinquent child a fee for electronic monitoring, the offender or delinquent child must pay the fee to the county treasurer. The county treasurer must deposit the payments into the sheriff's electronic monitoring expense fund.⁴

With the approval of the board of county commissioners, a sheriff may expend the fees deposited into the sheriff's electronic monitoring expense fund for any costs incurred by the sheriff in connection with performing any functions related to or associated with the monitoring of any offender or delinquent child pursuant to an electronic monitoring order or requirement. The costs for which the sheriff may use the

¹ R.C. 311.43(A) and (B).

² R.C. 311.43(B).

³ R.C. 311.43(D).

⁴ R.C. 311.43(C)(1).

fees include the cost of equipment and supplies, personnel costs, and any other cost reasonably related to or associated with the monitoring.⁵

Definitions

The bill incorporates by reference the following definitions from R.C. 2929.01:

"Electronic monitoring" means monitoring through the use of an "electronic monitoring device."⁶

"Electronic monitoring device" means any of the following:⁷

(1) Any device that can be operated by electrical or battery power and that conforms with all of the following:

(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in paragraph (1)(b) if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with, that can transmit continuously and periodically a signal to that receiver when the person is within a specified distance from the receiver, and that can transmit an appropriate signal to that receiver if the person to whom it is attached travels a specified distance from that receiver.

(b) The device has a receiver that can receive continuously the signals transmitted by a transmitter of the type described in paragraph (1)(a), can transmit continuously those signals by a wireless or landline telephone connection to a central monitoring computer of the type described in paragraph (1)(c), and can transmit continuously an appropriate signal to that central monitoring computer if the device has been turned off or altered without prior court approval or otherwise tampered with. The device is designed specifically for use in electronic monitoring, is not a converted wireless phone or another tracking device that is clearly not designed for electronic monitoring, and provides a means of text-based or voice communication with the person.

⁵ R.C. 311.43(C)(2).

⁶ R.C. 311.43(A)(1)(a) (incorporating R.C. 2929.01(TT)).

⁷ R.C. 311.43(A)(1)(a) (incorporating R.C. 2929.01(UU) through the definition of "electric monitoring").

(c) The device has a central monitoring computer that can receive continuously the signals transmitted by a wireless or landline telephone connection by a receiver of the type described in paragraph (1)(b) and can monitor continuously the person to whom an electronic monitoring device of the type described in division (UU)(1)(a) of this section is attached.

(2) Any device that is not a device of the type described in paragraph (1) and that conforms with all of the following:

(a) The device includes a transmitter and receiver that can monitor and determine the location of a subject person at any time, or at a designated point in time, through the use of a central monitoring computer or through other electronic means.

(b) The device includes a transmitter and receiver that can determine at any time, or at a designated point in time, through the use of a central monitoring computer or other electronic means the fact that the transmitter is turned off or altered in any manner without prior approval of the court in relation to the electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with.

(3) Any type of technology that can adequately track or determine the location of a subject person at any time and that is approved by the director of rehabilitation and correction, including, but not limited to, any satellite technology, voice tracking system, or retinal scanning system that is so approved.

COMMENT

In R.C. 311.43(B) (line 36 of the bill), the word "charged" should be "charge."

HISTORY

ACTION	DATE
Introduced	02-14-12

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