

2023 Regular Session

HOUSE BILL NO. 556

BY REPRESENTATIVES DAVIS, CARRIER, EDMONDS, EDMONSTON, GAROFALO, HORTON, KNOX, MCKNIGHT, MCMAHEN, GREGORY MILLER, RISER, SCHLEGEL, SEABAUGH, STEFANSKI, THOMPSON, AND VILLIO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CORRECTIONS: Provides relative to electronic monitoring

1 AN ACT

2 To amend and reenact R.S. 14:110.2(B) and to enact R.S. 15:571.36(A)(8) through (14), (B),
3 and (C) and 835, relative to electronic monitoring equipment; to require the
4 Department of Public Safety and Corrections to develop additional policies and
5 procedures relative to electronic monitoring equipment; to provide for a reporting
6 requirement; to provide for penalties; to provide relative to the imposition of
7 electronic monitoring; to provide for registration; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:110.2(B) is hereby amended and reenacted to read as follows:

10 §110.2. Tampering with electronic monitoring equipment

11 * * *

12 B.(1) Whoever commits the crime of tampering with electronic monitoring
13 equipment shall be fined not more than five hundred dollars and shall be imprisoned
14 for not more than six months.

15 (2) If the offender violates the provisions of this Section while he is involved
16 in the commission of a felony, he shall be fined not more than one thousand dollars
17 and shall be imprisoned at hard labor for not more than one year.

1 **(b) The presence of the electronic monitoring equipment in an exclusion**
2 **zone and the ability to provide an alert of this violation within four minutes of the**
3 **violation.**

4 **(c) Low battery alert prior to the complete discharge of the battery within the**
5 **electronic monitoring equipment.**

6 **(11) Simultaneous access to an authorizing judge or law enforcement agency**
7 **for all monitoring records of an electronic monitoring provider.**

8 **(12) Coordination and development of a statewide system for the use of**
9 **global position system monitoring and other electronic methods of monitoring as an**
10 **alternative to incarceration for the following circumstances:**

11 **(a) Before trial.**

12 **(b) After trial.**

13 **(c) In cases where the defendant has a mental illness or an intellectual**
14 **disability.**

15 **(13) Development of guidelines and criteria for contracts between a local**
16 **government and a person or entity who provides electronic monitoring services.**

17 **(14) Development and maintenance of a centralized registry that can assist**
18 **the state in the collection of the following data:**

19 **(a) The number of persons who are electronically monitored by jurisdiction.**

20 **(b) The number of violations that occur within each jurisdiction.**

21 **B.(1) When an individual has been placed under electronic monitoring, the**
22 **provider of the electronic monitoring service shall, by noon of the following day,**
23 **provide law enforcement agencies within the appropriate jurisdiction all of the**
24 **following information:**

25 **(a) The name and any aliases used by the monitored individual.**

26 **(b) The physical address or addresses of residence of the monitored**
27 **individual.**

28 **(c) The name and physical address of place of employment. If the monitored**
29 **individual does not have a fixed place of employment, he shall provide information**

1 with as much specificity as possible regarding the places where he works, including
2 but not limited to travel routes used by the monitored offender.

3 (d) The pending criminal charges against the monitored individual.

4 (e) The reason why the monitored individual has been placed under
5 electronic monitoring.

6 (2) After an individual has been placed under electronic monitoring, the
7 court exercising jurisdiction over the monitored individual shall report the
8 information provided in Paragraph (1) of this Subsection to all law enforcement
9 agencies within its jurisdiction.

10 C.(1) Any provider of an electronic monitoring service who intentionally
11 withholds or intentionally fails to timely report information as required by this
12 Section shall be subject to a civil fine of not more than one thousand dollars and shall
13 be prohibited from registering to provide electronic monitoring services in this state
14 for a period of five years.

15 (2) The attorney general shall have the authority to pursue the civil fine
16 imposed pursuant to this Subsection and may institute any civil action to prohibit any
17 violator of this Subsection from providing or registering to provide electronic
18 monitoring services in this state for a period of five years.

19 * * *

20 §835. Registration of electronic monitoring service providers

21 A. Any person or entity who provides electronic monitoring services for the
22 purpose of supervising accused or convicted offenders in this state shall register with
23 the Department of Public Safety and Corrections no later than January 1, 2024.

24 B. No person or entity shall provide electronic monitoring services in this
25 state without having first complied with the registration requirements as provided in
26 Subsection A of this Section. The application for registration shall be submitted on
27 forms provided by the department and shall contain all the information required by
28 such forms and any accompanying instructions.

- 1 C. The department shall suspend or revoke the approval of a person or entity
 2 that provides electronic monitoring services in this state at any time the department
 3 determines that the person or entity has violated the provisions of R.S. 15:571.36(C).
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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 556 Reengrossed

2023 Regular Session

Davis

Abstract: Provides relative to policies and procedures of DPS&C for electronic monitoring equipment.

Present law (R.S. 14:110.2) provides for the crime of tampering with electronic monitoring equipment and provides for penalties.

Proposed law retains present law, but adds an additional penalty of a fine of not more than \$1,000 and imprisonment at hard labor for not more than one year for an offender who violates present law after being released pursuant to a bail undertaking for a felony crime of violence enumerated or defined in present law (R.S. 14:2(B)).

Present law (R.S. 15:571.36) requires DPS&C to develop written policies and procedures in the manner provided in Administrative Procedure Act (APA) for the promulgation of a rule governing the availability, storage, and use of electronic monitoring equipment.

Present law requires these policies and procedures to include the following criteria:

- (1) Secure storage.
- (2) Timely visual inspection of equipment worn by the monitored individual.
- (3) A master listing and inventory.
- (4) Availability of at least one complete backup unit for a number of specified units.
- (5) Responses to system malfunctions.
- (6) Restricted password access to authorized staff.
- (7) Maintenance and cleaning of equipment.

Proposed law retains present law, specifies that the policies and procedures be pursuant to the APA, and adds the following criteria:

- (1) Location accuracy for the indoor, outdoor, and on-demand location of a monitored individual. Also provides for the ability to provide a monitored offender's location accuracy within three minutes of a request.
- (2) Development of zoning capabilities for inclusion and exclusion zones.
- (3) Timely alert notifications from the office of technology services to an authorizing judge or law enforcement agency for all of the following:

- (a) The tampering of the electronic monitoring equipment and the ability to provide an alert of this violation within three minutes of the violation.
 - (b) The presence of the electronic monitoring equipment in an exclusion zone and the ability to provide an alert of this violation within four minutes of the violation.
 - (c) Low battery alert prior to the complete discharge of the battery within the electronic monitoring equipment.
- (4) Simultaneous access to an authorizing judge or law enforcement agency for all monitoring records of an electronic monitoring provider.
- (5) Coordination and development of a statewide system for the use of global position system monitoring and other electronic methods of monitoring as an alternative to incarceration for the following circumstances:
- (a) Before trial.
 - (b) After trial.
 - (c) In cases where the defendant has a mental illness or an intellectual disability.
- (6) Development of guidelines and criteria for contracts between a local government and a person or entity who provides electronic monitoring services.
- (7) Development and maintenance of a centralized registry that can assist the state in the collection of the following data:
- (a) The number of persons who are electronically monitored by jurisdiction.
 - (b) The number of violations that occur within each jurisdiction.

Proposed law provides that when an individual has been placed under electronic monitoring, the provider of the electronic monitoring service shall, by noon of the following day, provide law enforcement agencies within the appropriate jurisdiction all of the following information:

- (1) The name and any aliases used by the monitored individual.
- (2) The physical address or addresses of residence of the monitored individual.
- (3) The name and physical address of place of employment. Further provides that if the monitored individual does not have a fixed place of employment, he shall provide information with as much specificity as possible regarding the places where he works, including but not limited to travel routes used by the monitored offender.
- (4) The pending criminal charges against the monitored individual.
- (5) The reason why the monitored individual has been placed under electronic monitoring.

Proposed law provides that after an individual has been placed under electronic monitoring, the court exercising jurisdiction over the monitored individual shall report the information provided in proposed law to all law enforcement agencies within its jurisdiction.

Proposed law provides that any provider of an electronic monitoring service who intentionally withholds or intentionally fails to timely report information as required by

proposed law shall be subject to a civil fine of not more than \$1,000 and shall be prohibited from conducting business in this state.

Proposed law provides that the attorney general shall have the authority to pursue the civil fine imposed pursuant to proposed law and may institute any civil action to prohibit any violator of proposed law from conducting business in this state for a period of five years.

Proposed law provides that any person or entity who provides electronic monitoring services for the purpose of supervising accused or convicted offenders in this state shall register with the DPS&C no later than Jan. 1, 2024.

Proposed law provides that no person or entity shall provide electronic monitoring services in this state without having first complied with the registration requirements as provided in proposed law. Further provides that the application for registration shall be submitted on forms provided by the DPS&C and shall contain all the information required by such forms and any accompanying instructions.

Proposed law provides that the DPS&C shall suspend or revoke the approval of a person or entity who provides electronic monitoring services in this state at any time the department determines that the person or entity has violated the provisions of proposed law.

(Amends R.S. 14:110.2(B); Adds R.S. 15:571.36(8)-(14),(B), and (C) and 835)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Relative to the present law crime of "tampering with electronic monitoring equipment", create a new penalty provision consisting of a fine of not more than \$1,000 and imprisonment at hard labor not more than one year for any offender who violates present law after being released pursuant to a bail undertaking for a felony crime of violence enumerated or defined in present law (R.S. 14:2(B)).
3. Clarify that the policies and procedures governing the availability, storage, and use of electronic monitoring equipment shall include alert notifications from the office of technology services to an authorizing judge of law enforcement agency.
4. Provide for additional policies and procedures.
5. Provide for a reporting requirement for electronic monitoring service providers and the court exercising jurisdiction over the monitored individual.
6. Establish a civil fine of not more than \$1,000 for electronic monitoring service providers who intentionally withhold or intentionally fail to timely report information required by proposed law and prohibit any violators from conducting business in La.
7. Require all providers who provide electronic monitoring services in Louisiana to register with DPS&C.
8. Require DPS&C to suspend or revoke the approval of a electronic monitoring service provider at any time the department determines that the provider has intentionally withheld or intentionally failed to timely report information required by proposed law.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Prohibit a violator from registering to provide electronic monitoring services for five years.
3. Provide that the attorney general shall have the authority to pursue the civil fine imposed pursuant to proposed law.
4. Provide that attorney general may institute any civil action to prohibit any violator of proposed law from conducting business in the state.
5. Clarify that DPS&C's written policies and procedures governing the availability, storage, and use of electronic monitoring equipment are to be developed in the manner provided in Administrative Procedure Act (APA) for the promulgation of a rule.