

2018 Regular Session

HOUSE BILL NO. 705

BY REPRESENTATIVE MAGEE

CRIMINAL/SENTENCING: Provides relative to the Lafourche Parish Pretrial Home Incarceration Program

1 AN ACT

2 To amend and reenact R.S. 15:571.35.1(A), (B), (C)(1) and (2)(a) and (e), (D), (E), (F), (G),
3 and (H), to enact R.S. 15:571.35.1(C)(3), and to repeal R.S. 15:571.35.1(I), relative
4 to home incarceration; to provide relative to a home incarceration program in
5 Lafourche Parish; to provide for eligibility; to provide relative to the determination
6 of eligibility; to provide relative to conditions of the program; to provide with respect
7 to bail; to provide relative to electronic monitoring; to remove provisions relating to
8 the pilot program and its termination; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:571.35.1(A), (B), (C)(1) and (2)(a) and (e), (D), (E), (F), (G), and
11 (H) are hereby amended and reenacted and R.S. 15:571.35.1(C)(3) is hereby enacted to read
12 as follows:

13 §571.35.1. ~~Pilot program~~; Lafourche Parish Pretrial Home Incarceration Program;
14 electronic monitoring

15 A. ~~Not later than January 1, 2011, the~~ The Lafourche Parish Sheriff's Office
16 may implement a ~~pilot~~ program using, as an alternative mode of incarceration to
17 traditional imprisonment, active electronic monitoring of offenders who are eligible
18 under the provisions of this Section. This ~~pilot~~ program shall be referred to as the
19 Lafourche Parish Pretrial Home Incarceration Program.

1 unless those conditions are specifically ordered by the court or by law as a condition
2 of bail.

3 D.(1) No defendant shall be admitted to the ~~pilot~~ program prior to court
4 approval of the defendant's participation in the ~~pilot~~ program.

5 (2) Notwithstanding any other provision of law to the contrary, the court, at
6 any time on its own motion, may prohibit or terminate a defendant's initial or
7 continued participation in the ~~pilot~~ program.

8 E.(1) The sheriff shall be entitled to collect from the parish governing
9 authority and apply to the funding of the ~~pilot~~ program a sum not less than the per
10 diem fee authorized by R.S. 13:5535(1). In lieu of the per diem, the sheriff may
11 establish a fee which is agreed upon by the parish governing authority and the
12 sheriff. In no event shall those funds be considered surplus funds.

13 (2) In the case of indigent persons who may be eligible to participate in the
14 ~~pilot~~ program, the sheriff shall establish rules and regulations ~~addressing governing~~
15 participation by indigent defendants.

16 (3) The sheriff may apply for funding and grants from any and all sources
17 he may deem appropriate to develop, design, implement, administer, and evaluate
18 the ~~pilot~~ program.

19 (4) The sheriff may engage in cooperative endeavor agreements with other
20 government agencies or departments and with any nonprofit organization whose
21 mission is compatible with the goals and objectives of the ~~pilot~~ program.

22 F. The sheriff may terminate the participation of any defendant in the ~~pilot~~
23 program who fails to comply with the terms of participation in the program and
24 require the physical return of any defendant terminated from participation in the
25 program to parish jail or such other facility as the sheriff may deem appropriate for
26 the purpose of continuing his pretrial detention.

27 G. With respect to any defendant in the ~~pilot~~ program, neither the sheriff nor
28 the parish shall be responsible for any medical costs or the provision of medical care,
29 transportation costs or the provision of transportation, housing costs or the provision

1 of housing, food costs or the provision of food, or clothing costs or the provision of
2 clothing to the defendant.

3 H. Neither the sheriff of Lafourche Parish, nor his deputies and employees,
4 nor the governing authority of Lafourche Parish or its elected or appointed officials,
5 deputies, or employees, nor any party engaged in a cooperative endeavor agreement
6 with the ~~pilot~~ program shall have any liability for the acts of any defendant who is
7 admitted to participation during the time the defendant is participating in the ~~pilot~~
8 program.

9 Section 2. R.S. 15:571.35.1(I) is hereby repealed in its entirety.

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 705 Engrossed

2018 Regular Session

Magee

Abstract: Provides for the Lafourche Parish Pretrial Home Incarceration Program, including eligibility determinations and conditions of the program.

Present law authorizes the Lafourche Parish Sheriff's Office to implement a pilot program using electronic monitoring as an alternative to incarceration. Provides for the following eligibility provisions:

- (1) No defendant charged with a crime of violence or sex offense can participate in the pilot program.
- (2) The sheriff's office makes a determination that the defendant is particularly likely to respond to the program.
- (3) The sheriff's office interviewed the defendant and conducted a risk assessment.

Present law provides for electronic monitoring of the participants in the program and provides for other conditions of the program. Allows the court or the sheriff to terminate participation in the program at any time. Authorizes the sheriff to assess a fee or to collect the per diem authorized by present law (R.S. 13:5535(1)), and, in the case of indigent persons, requires the sheriff to establish rules governing participation in the program by indigent defendants. Provides for the evaluation of the program and requires the reporting of information to the legislature by the year 2012.

Proposed law changes the nature of the program from a pilot program to a permanent program.

Proposed law provides that participation in the program does not, in any way, negate nor nullify the bail obligations as set by the court. At any time, a defendant may post a legally sufficient authorized bail and become relieved of all conditions of this program unless those conditions are specifically ordered by the court or by law as a condition of bail.

Proposed law removes present law provisions regarding the evaluation of the original pilot program and the reporting of that information to the legislature, and removes present law provisions governing the termination of the present law pilot program.

Proposed law otherwise retains present law.

(Amends R.S. 15:571.35.1(A), (B), (C)(1) and (2)(a) and (e), (D), (E), (F), (G), and (H); Adds R.S. 15:571.35.1(C)(3); Repeals R.S. 15:571.35.1(I))

Summary of Amendments Adopted by House

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

1. Remove proposed law changes to present law except for the following:
 - (a) Retain the proposed law change to the nature of the program from a pilot program to a permanent program.
 - (b) Amend the proposed law provision relative to bail obligations to provide that participation in the program does not, in any way, negate nor nullify the bail obligations as set by the court. At any time, a defendant may post a legally sufficient authorized bail and become relieved of all conditions of this program unless those conditions are specifically ordered by the court or by law as a condition of bail.
 - (c) Retain the proposed law removal of present law provisions regarding the evaluation of the original pilot program and the reporting of that information to the legislature, and the removal of present law provisions governing the termination of the present law pilot program.