Regular Session, 2011

HOUSE BILL NO. 106

BY REPRESENTATIVES MORENO, LOPINTO, AND GARY SMITH

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

CRIMINAL/SENTENCING: Requires reporting from providers of home incarceration or electronic monitoring services to DPS&C

AN ACT

To amend and reenact Code of Criminal Procedure Article 894.2(A)(introductory paragraph) and (3), (B), (C), (E), (H), and (I), relative to criminal sentencing; to provide with respect to home incarceration; to provide for uniform data collection and reporting of home incarceration and electronic monitoring services; to provide for oversight; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 894.2(A)(introductory paragraph) and (3), (B), (C), (E), (H), and (I) are hereby amended and reenacted to read as follows:

Art. 894.2. Home incarceration; requirements

A. Notwithstanding any other provision of law to the contrary, a defendant may be ~~sentenced to~~ placed on home incarceration under the following conditions:

* * *

(3) The court determines, after a contradictory hearing, that home incarceration of the defendant is more suitable than imprisonment or supervised probation without home incarceration and would serve the best interests of justice. The court may ~~sentence a defendant to~~ order home incarceration either in lieu of, or in addition to, a term of imprisonment. When the court sentences a defendant, it may order the defendant to serve any portion of the sentence under home incarceration.

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B. A defendant ~~sentenced~~ ordered to home incarceration shall be supervised and may be subject to any of the conditions of probation. Every provider of home incarceration supervision or electronic monitoring services shall submit information to the court, the sheriff of the parish, and the Department of Public Safety and Corrections. The Department of Public Safety and Corrections is authorized to establish regulations to develop a uniform reporting format and procedures for providers of home incarceration in order to promote efficiency and uniformity in data collection. Information provided shall include but not be limited to:

(1) An annual report indicating the services offered, areas served, number of defendants served, number of defendants who successfully completed home incarceration, and credentials or qualifications of the provider.

(2) A monthly report including the name, date of birth, and offense of conviction for every defendant supervised.

(3) Failure to comply with the provisions of this Paragraph may subject the provider to forfeiture of its authority to do business.

C. The court shall specify the conditions of home incarceration ~~when it imposes such sentence upon the defendant~~. The conditions may include any condition reasonably related to implementing or monitoring ~~a sentence of~~ the home incarceration, including curfew, electronic or telephone monitoring, home visitation by persons designated by the court, and limitation of the defendant's activities outside of the home.

* * *

E. Within thirty days of issuing the order ~~sentencing~~ placing the defendant ~~to~~ on home incarceration, the court shall cause ~~written notice~~ the minute entry to be sent by the clerk of court to the Department of Public Safety and Corrections and the sheriff of the parish or chief law enforcement officer of a municipality where the defendant is ~~sentenced~~ to serve the home incarceration. ~~In cases where electronic monitoring is a condition of the defendant's parole, notice may be sent by the provider of the electronic monitoring device to the sheriff of the parish where the~~

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~~defendant is sentenced to home incarceration.~~ The minute entry shall include all available contact information of the home incarceration or electronic monitoring provider.

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H. The ~~sentence~~ period of home incarceration shall be for a period of not more than four years in felony cases and for a period not to exceed six months in misdemeanor cases.

I. If the defendant violates the conditions of home incarceration, the court, on motion of the state or its own motion, may, after contradictory hearing modify ~~the sentence to~~ or impose a sentence of imprisonment.

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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)]

Moreno HB No. 106

Abstract: Provides for oversight by DPS&C of providers of home incarceration and electronic monitoring services.

Present law provides for sentencing to home incarceration in lieu of incarceration in a correctional facility.

Proposed law retains the provisions of present law and further provides that all providers of home incarceration or electronic monitoring services shall submit information to the court, the sheriff of the parish, and DPS&C. Authorizes DPS&C to establish regulations to develop a uniform reporting format and procedures for providers of home incarceration in order to promote efficiency and uniformity in data collection. Information provided shall include but not be limited to:

(1) An annual report indicating the services offered, areas served, number of defendants served, number of defendants who successfully completed home incarceration, and credentials or qualifications of the provider.

(2) A monthly report including the name, date of birth, and offense of conviction for every defendant supervised.

(3) Failure to comply with proposed law may subject the provider to forfeiture of its authority to do business.

Present law requires the court to send written notice to certain entities when a defendant is placed on home incarceration.

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Proposed law requires the court to make a minute entry within 30 days of the court order placing a defendant on home incarceration. Requires that the minute entry include contact information of the home incarceration or electronic monitoring provider.

(Amends C.Cr.P. Art. 894.2(A)(intro. para.) and (3), (B), (C), (E), (H), and (I))

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