

Regular Session, 2012

SENATE BILL NO. 649

BY SENATOR GARY SMITH

CRIMINAL PROCEDURE. Provides for GPS tracking of certain arrestees while out on bail. (8/1/12)

AN ACT

To enact Code of Criminal Procedure Article 334.4, relative to bail; to provide for the use of global positioning system monitoring of persons charged with certain offenses; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 334.4 is hereby enacted to read as follows:

Art. 334.4. Burglary and misappropriation with or without violence; conditions of bail; global positioning system monitoring

A.(1) In determining conditions of release of a defendant who is alleged to have committed any burglary offense, R.S. 14:60 through 62.9, misappropriation with violence, R.S. 14:64 through 66, or misappropriation without violence, R.S. 14:67 through 73, the court may consider the defendant's criminal history, including but not limited to prior convictions of any burglary, misappropriation with violence, or misappropriation without violence, to determine whether the defendant poses a threat or danger to the general public to commit similar offenses in the future. If the court determines that the

1 defendant poses such a threat or danger, it may order the defendant to be
2 equipped with a global positioning system device as a condition of release on
3 bail.

4 (2) In determining whether to order a defendant, as a condition of release
5 on bail, to participate in global positioning system monitoring, the court shall
6 consider the likelihood that the defendant's participation in global positioning
7 system monitoring will deter the defendant from engaging in additional
8 criminal activity.

9 (3) The defendant shall be released on bail pursuant to the provisions of
10 this Article only if he agrees to pay the cost of the global positioning system
11 monitoring and fees associated with the device, or agrees to perform community
12 service in lieu of paying such costs.

13 (4)(a) Upon ordering global positioning system monitoring as a condition
14 of release on bail, the court shall designate a local law enforcement agency to be
15 the repository of all electronic information gathered from the global positioning
16 system provider. The law enforcement agency so designated shall report to the
17 court in writing within seven days any information relative to the defendant's
18 having engaged in alleged criminal activity while participating in the global
19 positioning system monitoring.

20 (b) Any local, state, or federal law enforcement agency may request from
21 the local law enforcement agency serving as the repository of electronic
22 information, and may subsequently utilize, all such electronic information
23 relative to suspected criminal activity.

24 B. For the purposes of this Section, "global positioning system" means
25 a system that electronically determines and reports the location of an individual
26 by means of an ankle bracelet transmitter or similar device worn by the
27 individual that transmits latitude and longitude data to the global positioning
28 system provider through global positioning satellite technology, but does not
29 contain or operate any global positioning system technology or radio frequency

1 **identification technology or similar technology that is implanted in or otherwise**
2 **invades or violates the corporeal body of the individual.**

3 **C. A violation of any condition of release, including participation in the**
4 **global positioning system monitoring, may be punishable by the forfeiture of**
5 **bail and the issuance of a bench warrant for the defendant's arrest, or**
6 **remanding the defendant to custody or a modification of the terms of bail.**

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Gary Smith (SB 649)

Proposed law provides that in determining conditions of release of a defendant who is alleged to have committed any burglary offense, misappropriation with violence, or misappropriation without violence, as provided for by present law, the court may consider the defendant's criminal history, including but not limited to prior convictions of any burglary, misappropriation with violence, or misappropriation without violence, to determine whether the defendant poses a threat or danger to the general public to commit similar offenses in the future. Proposed law further provides that if the court determines that the defendant poses such a threat or danger, it may order the defendant to be equipped with a global positioning system (GPS) device as a condition of release on bail.

Proposed law provides that in determining whether to order a defendant, as a condition of release on bail, to participate in GPS monitoring, the court is to consider the likelihood that the defendant's participation in GPS monitoring will deter the defendant from engaging in additional criminal activity.

Proposed law provides that the defendant will be released on bail pursuant to the provisions of proposed law only if he agrees to pay the cost of the GPS monitoring and fees associated with the GPS device, or agrees to perform community service in lieu of paying such costs.

Proposed law provides that upon ordering GPS monitoring as a condition of release on bail, the court is to designate a local law enforcement agency to be the repository of all electronic information gathered from the GPS provider. Proposed law further provides that the law enforcement agency so designated is to report to the court in writing within seven days any information relative to the defendant's having engaged in alleged criminal activity while participating in the GPS monitoring.

Proposed law provides that any local, state, or federal law enforcement agency may request from the local law enforcement agency serving as the repository of electronic information, and may subsequently utilize, all such electronic information relative to suspected criminal activity.

Proposed law provides that "global positioning system" means a system that electronically determines and reports the location of an individual by means of an ankle bracelet transmitter or similar device worn by the individual that transmits latitude and longitude data to the GPS provider through global positioning satellite technology, but does not contain or operate any GPS technology or radio frequency identification technology or similar technology that is implanted in or otherwise invades or violates the corporeal body of the individual.

Proposed law provides that a violation of any condition of release, including participation in GPS monitoring, may be punishable by the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest, or remanding the defendant to custody or a modification of the terms of bail.

Effective August 1, 2012.

(Adds C.Cr.P. Art. 334.4)