

BILL ANALYSIS

Senate Research Center

S.B. 2340
By: Averitt
Criminal Justice
9/24/2009
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When managing the flow of offenders into and out of jail, Texas counties are responsible for ensuring public safety and minimizing the cost to taxpayers. S.B. 2340 permits counties to operate an electronic monitoring program, which can be used to increase the number of jail cells available for a community's most dangerous offenders while decreasing the cost to taxpayers.

S.B. 2340 amends current law relating to electronic monitoring and other alternative means for certain defendants to discharge a fine or costs or satisfy a term of confinement in county jail.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 42.035, Code of Criminal Procedure, by amending Subsections (a) and (d) and adding Subsection (e), as follows:

(a) Authorizes a court to require a defendant to serve all or part of a sentence of confinement in county jail by participating in an electronic monitoring program rather than being confined in the county jail, if the program is operated by a community supervision and corrections department that serves the county in which the court is located and has been approved by the community justice assistance division of the Texas Department of Criminal Justice (TDCJ), or is operated by the commissioners court of the county, or by a private vendor under contract with the commissioners court, under Section 351.904, Local Government Code, if the defendant has not been placed on community supervision. Deletes existing text authorizing a court in a county served by a community supervision and corrections department that has an electronic monitoring program approved by the community justice assistance division of TDCJ to require a defendant to serve all or part of a sentence of confinement in county jail by submitting to electronic monitoring rather than being confined in the county jail.

(d) Provides that a defendant who submits to electronic monitoring or participates in the house arrest program under this article, rather than section, discharges a sentence of confinement in the same manner as if the defendant were confined in county jail, rather than discharges a sentence of confinement without deductions, good conduct time credits, or commutations.

(e) Authorizes a court to revoke a defendant's participation in an electronic monitoring program and requires the defendant to serve the remainder of the defendant's sentence of confinement in county jail if the defendant violates a condition imposed by a court under this article, including a condition requiring the defendant to pay for participating in the program under Subsection (c) (relating to the defendant being required to pay for participation in the house arrest program).

SECTION 2. Amends Article 43.09(e), Code of Criminal Procedure, as follows:

(e) Authorizes a court in a county that operates an electronic monitoring program or contracts with a private vendor to operate an electronic monitoring program under

Section 351.904, Local Government Code, or that is served by a community supervision and corrections department that operates, rather than has, an electronic monitoring program approved by the community justice assistance division of TDCJ, to require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by participating in the program, rather than submitting to electronic monitoring. Provides that a defendant who participates in, rather than submits to, an electronic monitoring program under this subsection discharges fines and costs in the same manner as if the defendant were confined in county jail.

SECTION 3. Amends Article 43.10, Code of Criminal Procedure, as follows:

Art. 43.10. MANUAL LABOR. Requires the defendant, rather than the party convicted, where the punishment assessed in a conviction for a misdemeanor is confinement in jail for more than one day or is only a pecuniary fine and the defendant is unable to pay the fine and costs adjudged against the defendant, or where the defendant is sentenced to jail for a felony or is confined in jail after conviction of a felony, to be required to work in the county jail industries program or to do manual labor in accordance with certain rules and regulations. Deletes existing text prohibiting the deduction authorized by this article, when combined with the deduction required by Article 42.10 (Satisfaction of Judgment as in Misdemeanor Convictions) of this code, from exceeding two-thirds (2/3) of the sentence. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Article 43.101, Code of Criminal Procedure, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Authorizes a defendant who is confined in county jail before trial, rather than awaiting trial, after conviction of a misdemeanor, or after conviction of a felony or revocation of community supervision, parole, or mandatory supervision and awaiting transfer to TDCJ, rather than a defendant confined in a county jail after conviction of a felony or revocation of community supervision, parole, or mandatory supervision and awaiting transfer to the institutional division of TDCJ, to volunteer to participate in any work program operated by the sheriff that uses the labor of convicted defendants.

(b) Authorizes the sheriff to accept a defendant as a volunteer under Subsection (a), rather than of this section, if the defendant is not awaiting trial for an offense involving violence or is not awaiting transfer to TDCJ, rather than the institutional division of TDCJ, after conviction of a felony involving violence, and if the sheriff determines that the inmate has not engaged previously in violent conduct and does not pose a security risk to the general public if allowed to participate in the work program.

(d) Authorizes the court or sheriff, for each day of volunteer work, in addition to any other credits allowed by law, to deduct one day from each sentence imposed on the defendant in relation to the offense or violation of the terms of release for which the defendant was confined in county jail.

SECTION 5. Amends Article 44.041(b), Code of Criminal Procedure, as follows:

(b) Requires that a court that releases a defendant under this article require the defendant to participate in a program under Article 42.033 (Sentence to Serve Time During Off-Work Hours), 42.034 (County Jail Work Release Program), 42.035 (Electronic Monitoring; House Arrest), or 42.036 (Community Service), rather than of this code, during the pendency of the appeal. Authorizes a defendant required to participate in a program to receive credit toward completion of the defendant's sentence while participating in the program in the same manner and to the same extent provided by Article 42.033, 42.034, 42.035, or 42.036, as applicable. Deletes existing text prohibiting the defendant from receiving credit toward completion of the defendant's sentence while participating in a program required by this subsection. Makes a nonsubstantive change.

SECTION 6. Amends Subchapter Z, Chapter 351, Local Government Code, by adding Section 351.904, as follows:

Sec. 351.904. ELECTRONIC MONITORING PROGRAM. (a) Authorizes a commissioners court of a county to establish and operate an electronic monitoring program for the purpose of monitoring defendants required by a court of the county to participate in an electronic monitoring program under Article 43.09 (Fine Discharged), Code of Criminal Procedure, to discharge a fine or costs, or Article 42.035, Code of Criminal Procedure, as an alternative to serving all or part of a sentence of confinement in county jail.

(b) Requires the commissioners court to provide for the sheriff or the community supervision and corrections department serving the county, under an agreement with the commissioners court, to oversee and operate, or if the program is operated by a private vendor under Subsection (c), oversee the operation of, an electronic monitoring program established under this section.

(c) Authorizes a commissioners court to contract with a private vendor to operate an electronic monitoring program under this section, including by enrolling and tracking participants in the program and performing periodic reviews with participants regarding compliance with the program.

(d) Authorizes a commissioners court to use money that a defendant is ordered to pay to a county under Article 42.035(c) (relating to authorizing the court to require the defendant to pay to the community supervision and corrections department or the county any reasonable cost incurred because of the defendant's participation in the house arrest program), Code of Criminal Procedure, to pay for the services of a private vendor that operates an electronic monitoring program under Subsection (c).

(e) Authorizes a commissioners court to subsidize all or part of the cost of a defendant's participation in an electronic monitoring program under this section if the defendant is indigent.

(f) Authorizes a commissioners court to contract for any available electronic monitoring technology, including a technology that provides continuous positional tracking of the participant, that meets the approval of the commissioners court and either the sheriff or the community supervision and corrections department, as appropriate.

SECTION 7. Repealer: Section 6 (prohibiting no other time allowance or credits in addition to the commutation of time under this article from being deducted from the term or terms of sentences, except for credit earned by a defendant under Article 43.10), Article 42.032 (Good Conduct), Code of Criminal Procedure.

SECTION 8. Makes application of Article 42.035(e), Code of Criminal Procedure, as added by this Act, prospective.

SECTION 9. Provides that the changes in law made by this Act in amending Article 43.10 and Subsection (b), Article 44.041, Code of Criminal Procedure, and in repealing Section 6, Article 42.032, Code of Criminal Procedure, apply only to credit that is earned by a defendant as a result of participation in a program or work performed on or after the effective date of this Act. Provides that the accrual of credit by a defendant as a result of participation in a program or work performed before the effective date of this Act is governed by the law in effect when the participation occurred or work was performed, and the former law remains in effect for that purpose.

SECTION 10. Effective date: upon passage or September 1, 2009.