

MAINE STATE LEGISLATURE

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Date: 5/31/13

L.D. 842
(Filing No. H-296)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 593, L.D. 842, Bill, "An Act To Facilitate the Use of Electronic Monitoring To Prevent Domestic Violence"

Amend the bill by striking out the title and substituting the following:

'An Act To Facilitate the Use of Electronic Monitoring'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 15 MRSA §1026, sub-§3, ¶A, as repealed and replaced by PL 2007, c. 518, §3, is amended to read:

A. If, after consideration of the factors listed in subsection 4, the judicial officer determines that the release described in subsection 2-A will not reasonably ensure the appearance of the defendant at the time and place required, will not reasonably ensure that the defendant will refrain from any new criminal conduct, will not reasonably ensure the integrity of the judicial process or will not reasonably ensure the safety of others in the community, the judicial officer shall order the pretrial release of the defendant subject to the least restrictive further condition or combination of conditions that the judicial officer determines will reasonably ensure the appearance of the defendant at the time and place required, will reasonably ensure that the defendant will refrain from any new criminal conduct, will reasonably ensure the integrity of the judicial process and will reasonably ensure the safety of others in the community. These conditions may include that the defendant:

- (1) Remain in the custody of a designated person or organization agreeing to supervise the defendant, including a public official, public agency or publicly funded organization, if the designated person or organization is able to reasonably ensure the appearance of the defendant at the time and place required, that the defendant will refrain from any new criminal conduct, the integrity of the judicial process and the safety of others in the community. When it is feasible to do so, the judicial officer shall impose the responsibility upon the defendant to produce the designated person or organization. The judicial officer may

COMMITTEE AMENDMENT

- 1 interview the designated person or organization to ensure satisfaction of both the
- 2 willingness and ability required. The designated person or organization shall
- 3 agree to notify immediately the judicial officer of any violation of release by the
- 4 defendant;
- 5 (2) Maintain employment or, if unemployed, actively seek employment;
- 6 (3) Maintain or commence an educational program;
- 7 (4) Abide by specified restrictions on personal associations, place of abode or
- 8 travel;
- 9 (5) Avoid all contact with a victim of the alleged crime, a potential witness
- 10 regarding the alleged crime or with any other family or household members of
- 11 the victim or the defendant or to contact those individuals only at certain times or
- 12 under certain conditions;
- 13 (6) Report on a regular basis to a designated law enforcement agency or other
- 14 governmental agency;
- 15 (7) Comply with a specified curfew;
- 16 (8) Refrain from possessing a firearm or other dangerous weapon;
- 17 (9) Refrain from use or excessive use of alcohol and from any use of drugs;
- 18 (10) Undergo, as an outpatient, available medical or psychiatric treatment, or
- 19 enter and remain, as a voluntary patient, in a specified institution when required
- 20 for that purpose;
- 21 (10-A) Enter and remain in a long-term residential facility for the treatment of
- 22 substance abuse;
- 23 (11) Execute an agreement to forfeit, in the event of noncompliance, such
- 24 designated property, including money, as is reasonably necessary to ensure the
- 25 appearance of the defendant at the time and place required, to ensure that the
- 26 defendant will refrain from any new criminal conduct, to ensure the integrity of
- 27 the judicial process and to ensure the safety of others in the community and post
- 28 with an appropriate court such evidence of ownership of the property or such
- 29 percentage of the money as the judicial officer specifies;
- 30 (12) Execute a bail bond with sureties in such amount as is reasonably necessary
- 31 to ensure the appearance of the defendant at the time and place required, to
- 32 ensure that the defendant will refrain from any new criminal conduct, to ensure
- 33 the integrity of the judicial process and to ensure the safety of others in the
- 34 community;
- 35 (13) Return to custody for specified hours following release for employment,
- 36 schooling or other limited purposes;
- 37 (14) Report on a regular basis to the defendant's attorney;
- 38 (15) Notify the court of any changes of address or employment;

1 (16) Provide to the court the name, address and telephone number of a
2 designated person or organization that will know the defendant's whereabouts at
3 all times;

4 (17) Inform any law enforcement officer of the defendant's condition of release
5 if the defendant is subsequently arrested or summonsed for new criminal
6 conduct; ~~and~~

7 (18) Satisfy any other condition that is reasonably necessary to ensure the
8 appearance of the defendant at the time and place required, to ensure that the
9 defendant will refrain from any new criminal conduct, to ensure the integrity of
10 the judicial process and to ensure the safety of others in the community; and

11 (19) Participate in an electronic monitoring program, if available.

12 **Sec. 2. 17-A MRSA §1204, sub-§2-A, ¶L**, as repealed and replaced by PL 1977,
13 c. 53, §4, is amended to read:

14 L. To perform specified work for the benefit of the State, a county, a municipality, a
15 School Administrative District, other public entity or a charitable institution; ~~or~~

16 **Sec. 3. 17-A MRSA §1204, sub-§2-A, ¶M**, as enacted by PL 1977, c. 53, §4, is
17 amended to read:

18 M. To satisfy any other conditions reasonably related to the rehabilitation of the
19 convicted person or the public safety or security; or

20 **Sec. 4. 17-A MRSA §1204, sub-§2-A, ¶N** is enacted to read:

21 N. To participate in an electronic monitoring program, if available.

22 **Sec. 5. 34-A MRSA §1218**, as enacted by PL 2011, c. 655, Pt. EEE, §1, is
23 repealed.

24 **Sec. 6. 34-A MRSA §1807** is enacted to read:

25 **§1807. Electronic Monitoring Fund**

26 The Electronic Monitoring Fund, referred to in this section as "the fund," is
27 established within the board and is a nonlapsing fund to be used by the board for the
28 purpose of funding the use of electronic monitoring pursuant to Title 15, section 1026,
29 subsection 3, paragraph A, subparagraph (19) and Title 17-A, section 1204, subsection
30 2-A, paragraph N. The board may accept and deposit into the fund any monetary gifts,
31 donations or other contributions from public or private sources, and funds in the fund
32 must be used for the purposes specified in this section.

33 **Sec. 7. PL 2011, c. 655, Pt. EEE, §2** is repealed.

34 **Sec. 8. Development and implementation of a pilot project.** The Maine
35 Commission on Domestic and Sexual Abuse, to the extent practicable and as resources
36 permit, shall assist the State Board of Corrections in developing and implementing an
37 electronic monitoring pilot project. The commission shall report by February 15, 2014 to
38 the Joint Standing Committee on Criminal Justice and Public Safety on the progress in
39 developing and implementing an electronic monitoring pilot project. The joint standing

1 committee may report out a bill implementing the recommendations of the commission to
2 the Second Regular Session of the 126th Legislature.

3 **Sec. 9. Transfer; unexpended funds; Electronic Monitoring Fund.**
4 Notwithstanding any other provision of law, the State Controller shall transfer the
5 unexpended balance in the Department of Corrections, Electronic Monitoring Fund to the
6 State Board of Corrections, Electronic Monitoring Fund upon the effective date of this
7 Act.

8 **Sec. 10. Appropriations and allocations.** The following appropriations and
9 allocations are made.

10 **CORRECTIONS, STATE BOARD OF**

11 **Electronic Monitoring Fund - State Board of Corrections N160**

12 Initiative: Provides a base allocation to establish the Electronic Monitoring Fund under
13 the State Board of Corrections.

14	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
15	All Other	\$500	\$500
16			
17	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$500</u>	<u>\$500</u>
18			

19 **SUMMARY**

20 This amendment replaces the bill and does the following.

21 1. It provides that a judicial officer may require a defendant to participate in an
22 electronic monitoring program as a condition of pretrial release.

23 2. It provides that a judicial officer may require a person convicted of a crime to
24 participate in an electronic monitoring program as a condition of probation.

25 3. It establishes the Electronic Monitoring Fund within the State Board of
26 Corrections and removes the fund from the purview of the Department of Corrections.

27 4. It directs the Maine Commission on Domestic and Sexual Abuse, to the extent
28 practicable and as resources permit, to assist the State Board of Corrections in developing
29 and implementing an electronic monitoring pilot project. By February 15, 2014, the
30 commission must report to the Joint Standing Committee on Criminal Justice and Public
31 Safety on the progress in developing and implementing an electronic monitoring pilot
32 project. The amendment authorizes the committee to report out a bill to the Second
33 Regular Session of the 126th Legislature implementing the recommendations of the
34 commission.

35 5. It adds an appropriations and allocations section.

36 **FISCAL NOTE REQUIRED**

37 **(See attached)**



126th MAINE LEGISLATURE

LD 842

LR 101(02)

An Act To Facilitate the Use of Electronic Monitoring To Prevent Domestic Violence

Fiscal Note for Bill as Amended by Committee Amendment *A (H-296)*

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

	FY 2013-14	FY 2014-15	Projections FY 2015-16	Projections FY 2016-17
Appropriations/Allocations				
Other Special Revenue Funds	\$500	\$500	\$500	\$500

Fiscal Detail and Notes

This bill includes an Other Special Revenue Funds allocation of \$500 in fiscal years 2013-14 and 2014-15 to establish the Electronic Monitoring Fund under the State Board of Corrections. The amount of revenue that may accrue to the fund cannot be estimated at this time.