

Iowa Legislative Services Agency Fiscal Services



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Electronic Monitoring of Sex Offenders

ISSUE

This *Issue Review* provides an overview of the electronic monitoring system used by the Community-Based Corrections (CBC) District Departments, alternatives for cost containment, and the impact on the State's budget.

AFFECTED AGENCIES

Department of Corrections
Community-Based Corrections District Departments
Judicial Branch

CODE AUTHORITY

Chapters 602, 692A, 901B, 904, 905, Code of Iowa

BACKGROUND

The Fifth CBC District Department started the Electronic Monitoring Program with federal funds as a pilot project in Polk County in FY 1988. The General Assembly replaced the expired federal funds with a State General Fund appropriation to the Fifth CBC District Department in FY 1993.

Generally, the electronic monitoring devices were used within the Intermediate Criminal Sanctions Program as defined by Chapter 901B, Code of Iowa. Offenders required to be on electronic monitoring were usually high risk, repeat offenders that were also being supervised according to the policies of the Intensive Supervision Program. This Program requires the offender to have a variety of multiple contacts each week with a Parole/Probation Officer (PPO). Examples of the type of offense for which an offender could be placed on electronic monitoring include Operating While Intoxicated (OWI) Third Offense, domestic violence, and sex offenses.

Electronic monitoring of offenders in Iowa has been used primarily for enforcement of a curfew (home confinement), as an intermediate sanction for those offenders who failed to comply with the terms of the probation or parole agreement, or to monitor an offender's alcohol consumption. Electronic monitoring has not been used to track an offender's location in real

time. The Judicial Branch, the Department of Corrections (DOC), and the CBC District Departments do not currently have the capability to provide an immediate response to reports of violation.

CURRENT SITUATION

Section 77 of HF 882 (FY 2006 Standing Appropriations Act) amended HF 619 (Sex Offender Act) to permit electronic monitoring of offenders included on the Sex Offender Registry. The Act further stated, "However, if the person committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor, the person shall be supervised for a period of at least five years by an electronic tracking and monitoring system in addition to any other conditions of release."

The Fiscal Note for HF 619 was based on the assumption that the mandated electronic monitoring applied to offenders convicted on or after July 1, 2005. This assumption results in approximately 300 offenders annually subject to the requirement. It was also assumed that the legislation would not impact juvenile sex offenders. These offenders would either be waived to adult court or remain under the jurisdiction of Juvenile Court Officers and be electronically monitored as they were prior to the enactment of HF 619.

The DOC and the CBC District Departments received an informal opinion from the Office of the Attorney General that the language requires all sex offenders currently under supervision in the community, whose victim was a minor (under 17 years old), to be electronically monitored; therefore, approximately 500 sex offenders may be electronically monitored during FY 2006. **Attachment 1** is the DOC guidelines for electronic monitoring of sex offenders. The Attachment includes information regarding applicable offenders, type and costs of electronic monitoring systems available in Iowa, and protocol for supervision of offenders on electronic monitoring devices. The table below shows statewide usage by type of electronic monitoring device as of November 28, 2005.

Offenders on Electronic Monitoring: November 28, 2005									
Specialty	1JD	2JD	3JD	4JD	5JD	6JD	7JD	8 JD	Total
Electronic Monitoring - MEMS	3				3	5	1		12
Global Positioning - Satellite					2		1		3
Radio Frequency	58	24	52	4	32	21	29	12	232
Video Display - Breath Alcohol Test		1				7			8
Video Display/Breath Alcohol Test/Radio Freq	3					6	3		12
Voice Verification	1	30		10	49	30	5	28	153
Totals	65	55	52	14	86	69	39	40	420

JD = Judicial District

MEMS = Mitsubishi Electronic Monitoring System

Source: Iowa Department of Corrections

Approximately 77.0% of offenders on electronic monitoring in November 2005 were registered with the Sex Offender Registry. In the future, other high risk offenders may not be electronically monitored so that the devices are available for use on sex offenders. Some sex offenders on electronic monitoring are no longer being placed in the Intensive Supervision Program. Additionally, the electronic monitoring devices are being placed on sex offenders regardless of their compliance with the conditions of probation and parole. Therefore, the electronic monitoring systems may no longer be an effective intermediate sanction tool.

The language requires sex offenders to be subject to electronic monitoring for up to five years. The DOC and Office of the Attorney General interpret the requirement to apply up to five years or whenever the sentence is discharged, whichever is sooner. There will be exponential growth in the number of offenders that are electronically monitored in future fiscal years because most sex offenders serve their sentence for several years.

ALTERNATIVES

According to the Criminal and Juvenile Justice Planning Division of the Department of Human Rights, approximately 80.0% of victims knew the sex offender. Based on information in the Uniform Crime Reports provided by the Department of Public Safety, 73.8% of all sex offenses occurred in the residence or home of the victim. The General Assembly may wish to clarify intent in HF 882 regarding the requirement that sex offenders be electronically monitored. Is the purpose to enforce curfews, provide a sanction for noncompliance with conditions of probation or parole, or monitor offender movements and locations? Did the General Assembly intend to include the juvenile court system in the requirements? There are several alternatives to consider regarding the clarification of the legislative intent, including:

- Retain the law as currently written.
- Eliminate mandatory electronic monitoring of juvenile sex offenders under the jurisdiction of the court system. Permit electronic monitoring as a possible condition of probation to be imposed by the juvenile court.
- Eliminate mandatory electronic monitoring of all sex offenders convicted as adults whose victim was a minor (17 years of age or younger). Language may be drafted that limits the potential pool of offenders to be electronically monitored.
- Provide discretion to CBC District Departments as to which offenders should be electronically monitored. Permit the District Departments to develop guidelines for electronic monitoring of sex offenders with judicial approval.

BUDGET IMPACT

House File 811 (Justice System Appropriations Act) added \$2.5 million and 28.1 FTE positions for sex offender supervision and treatment in FY 2006, including:

- \$750,000 and 10.0 FTE positions to expand the Sex Offender Treatment Program at the Mount Pleasant Correctional Facility.
- \$417,000 to the Fifth CBC District Department for additional electronic monitoring devices to be used statewide. The current total budget for electronic monitoring devices is \$614,000.
- \$462,000 and 8.1 FTE positions for staff to supervise sex offenders that are electronically monitored.
- \$884,000 and 10.0 FTE positions for sex offender treatment programs in the CBC District Departments.

The DOC may seek a FY 2006 supplemental appropriation for additional electronic monitoring devices. The DOC is requesting an additional \$1.3 million and 7.0 FTE positions to supervise, electronically monitor, and treat sex offenders in FY 2007.

The DOC and Judicial Branch have provided preliminary estimates for the costs of electronic monitoring based on the interpretation of the language in HF 882. The DOC and Judicial Branch are in the process of refining the budget estimates. The cost for electronically monitoring adult sex offenders using the Global Positioning System (GPS) with a cellular telephone may be an additional \$2.4 million. This includes costs for additional GPS devices and staff for immediate response.

The cost for electronically monitoring juvenile sex offenders under the jurisdiction of the court system is estimated to be approximately \$650,000 in additional funding. Currently, agreements exist between the Executive and Judicial Branches so that Juvenile Court Officers have access to electronic monitoring devices from the Fifth CBC District Department.

The estimates above do not include funding for the potential exponential growth of demand and costs for electronic monitoring devices in future fiscal years.

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ATTACHMENT 1

STATE DEPARTMENT OF CORRECTIONS GUIDELINES FOR ELECTRONIC MONITORING OF SEX OFFENDERS

NOTE: These guidelines are effective for all sex offenders on supervision. However, mandatory electronic monitoring requirements are applicable only for those offenders identified in House Files 619 & 882.

APPLICABLE OFFENDERS (PER HOUSE FILES 619 & 882)

“A person required to register under this chapter who is placed on probation, parole, work release, special sentence or any other type of conditional release, **may be supervised** by an electronic tracking and monitoring system in addition to any other conditions of supervision. However, if the person committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor, the **person shall be supervised for a period of at least five years** by an electronic tracking and monitoring system in addition to any other conditions of release.”

Clarifying Notes:

A. Applicable Offenders

Offenders with offenses against minors (17 and under) shall be placed on electronic monitoring. All offenders currently on caseloads fall into this category and are subject to the mandatory EM placement. Additionally, any offender required to register **may** be placed on EM according to the state guidelines.

B. Applicable offenders includes juveniles waived to adult court.

C. Five Year EM Supervision Requirement

The period of five years is confined to the time the offender is on a “conditional release” i.e. under some type of supervision. Therefore, the five-year requirement is only for the time an offender is on supervision. If an offender is discharged i.e. “off paper” prior to completing the five-years of electronic monitoring placement, the requirement is no longer effective since the offender is no longer on a “conditional release”. Offenders who are discharged from an institution with no supervision requirements will not be required to be placed on electronic monitoring.

TYPE OF ELECTRONIC MONITORING SYSTEMS AVAILABLE IN IOWA

VOICE VERIFICATION (VV)– A voice print template is made of the offender who receives random or scheduled calls at the residence or offender could make calls from approved remote locations (work). No equipment is needed. Cost is \$1.88 per day.

RADIO FREQUENCY (RF)– A home monitoring receiver unit with the offender's phone attached, a phone cord to the phone jack and plugged into power. The offender wears a waterproof transmitter on the ankle that does alert of strap tamper (strap or clip cut and/or opened) and/or body tamper (not against the skin). This unit used mostly on high risk offenders monitors the offender's arrivals and departures and the curfew hours. Cost is \$2.87 per day offender is monitored.

VB – VIDEO DISPLAY/BREATH ALCOHOL TEST – This unit consists of a Video display telephone for visual verification of the offender's presence with the Breath alcohol test for alcohol consumption assessment. This unit is used on high risk offenders with alcohol history. The cost is \$4.00 per day offender is monitored.

VBR – VIDEO DISPLAY/BREATH ALCHOL TEST/RADIO FREQUENCY – This unit is the same as the VB (above) with the Radio Frequency transmitter added to also monitor the offender's arrivals and departures. The cost is \$6.00 per day offender is monitored.

GPS – GLOBAL POSITIONING SATELLITE – This unit will report time and date of arrival and departure, the travel path and times, removal or tampering of transmitter and the monitoring unit and violations of exclusion zone (designated area that offender is restricted from entering). This unit is used mostly for high risk sex offenders, interstate compact offenders and also for some pre-trial release offenders. The offender also wears the Radio Frequency transmitter. This unit will report in as soon as the offender is back at their residence. The cost is \$4.75 per day offender is monitored.

GPS – GLOBAL POSITIONING SATELLITE – CELLULAR – This unit is the same as above but has cell phone and it can report immediately. The cost is \$7.25 per day.

PROTOCOL FOR ELECTRONIC MONITORING OF SEX OFFENDERS

A. Initial EM Placement on Supervision

Upon placement on supervision, all applicable offenders will be placed on Radio Frequency (RF) with curfews enforced. Following assessment, offenders may be moved up or down on the EM Continuum.

Per DOC Policy, assessment should occur within a maximum of 45 days of placement on supervision. However, it is recommended that staff conduct

assessments as soon as possible so that movement up or down on the EM Continuum can be applied per the EM Guidelines. Initial assessment consists of:

- Static '99 and/or ISORA-8 Risk Scores
- All other assessments available during the first 30 days of supervision.

B. Continuing EM System Application and Review

The selection of offenders and all decisions related to equipment use is to be made by Judicial District staff and their designated supervisors. To control costs and to avoid excessive intrusion into the life of the family of the offender, the type of system to be applied shall follow state guidelines set below. Exceptions may be made with supervisor approval. The use of the system shall be reviewed and approved on a monthly basis by the supervising officer.

C. Minimum EM Requirements for Applicable Offenders

If required higher level units are unavailable, all applicable offenders will, at a minimum, be placed on Voice Verification (VV).

D. Protocol for Offenders in Residential Facilities (Work Releasees and Probationers)

1. The following electronic monitoring shall be used for sex offenders in Residential Facilities :
 - Physical security systems, such as locked doors or alarmed doors and windows, observation cameras (when offenders are in-house, provides the same benefits as Radio Frequency, and more-timely)
 - Check-out and check-in procedures, hourly counts of offenders in facility (when offenders are in-house, provides the same benefits as Radio Frequency, and more-timely)
 - Telephone contacts and visits made by staff to employment and furlough locations to verify whereabouts of offenders (when offenders are at work or at an approved furlough location, provides the same benefits as Voice Verification and Radio Frequency, often more-timely)
 - Visual observation, breathalyzers and drug testing to determine whether alcohol or drugs have been used (when offenders are in-house or returning from furlough, provides same benefits as Video Display/Breath Alcohol tests, often more-timely). In addition, if staff suspect an offender is using alcohol or drugs while on furlough, they

can cancel the furlough or staff go to the furlough location to test the offender.

- Verification of furlough itineraries submitted by offenders (with residents on furlough, provides the same benefits as Radio Frequency, and more-timely)
 - Application of EMS Units per EM Guidelines
2. As offenders advance in the level system and earn longer furloughs, staff shall continually evaluate the appropriateness of the current monitoring methods used and adjust efforts accordingly. Decisions and the rationale for them shall be documented.

NOTES:

- (1) The only level of electronic monitoring that provides more information to staff than is already available through normal residential facility procedures is global positioning satellite (GPS).
- (2) In the event that an offender escapes, no level of electronic monitoring is likely to help in tracking or apprehending the offender, as the unit can be easily removed with scissors.

E. Protocol for Offenders in In-Patient Treatment (Medical, Substance Abuse, Mental Health)

1. The surveillance provided in an in-patient setting by staff would usually be greater than that provided by all forms of electronic monitoring except GPS. The decision on whether to place an offender on a form of electronic monitoring shall be made using the guidelines and the protocol in (D), above.
2. If an offender is in an in-patient setting, corrections staff shall notify the facility in writing that they are to contact the supervising officer or Residential Facility staff immediately if the offender leaves the facility.

F. Placement of EM Information on ICON

Electronic monitoring information shall be entered into ICON as follows:

A "Specialty" shall be added to ICON, off the Supervision Status record. When the electronic monitoring device is removed from the offender, an appropriate Reason for Change shall be entered on the Specialty record.

If an offender moves from one type of electronic monitoring system to another on the EMS continuum, the "Specialty" shall be closed and a new "Specialty" added to reflect that movement.

**GUIDELINES FOR PLACEMENT OF SEX OFFENDERS ON THE
ELECTRONIC MONITORING CONTINUUM**

TYPE OF EM SYSTEM	CRITERIA FOR PLACEMENT
Voice Verification (VV) \$1.88/day	<ul style="list-style-type: none"> ➤ Low or medium-low risk score or ➤ Progressing in Treatment ➤ Compliant in behavior ➤ Passes polygraph
Radio Frequency (RF) \$2.87/day	<ul style="list-style-type: none"> ➤ Medium-high risk score ➤ Exhibits risky behavior/compliance issues ➤ Negative polygraph results
Video Display/Breath Alcohol Test (VB) \$4.00/day	<ul style="list-style-type: none"> ➤ Same criteria as voice verification (VV) Plus ➤ Current alcohol use issues and/or ➤ Propensity to sexually offend when under the influence
Video Display/Breath Alcohol Test/Radio Frequency (VBR) \$6.00/day	<ul style="list-style-type: none"> ➤ Same criteria as Radio Frequency (RF) Plus ➤ Current alcohol use issues and/or ➤ Propensity to sexually offend when under the influence
Global Positioning Satellite (GPS) \$4.75/day	<ul style="list-style-type: none"> ➤ High risk score ➤ High profile offender ➤ Access to victim ➤ Absconding/Escape history ➤ Must be approved by director
Global Positioning Satellite – Cellular (GPS) \$7.25/day	<ul style="list-style-type: none"> ➤ Same criteria as GPS non-cellular but must have 24/7 response capability

Source: Department of Corrections