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SENATE FILE 2378
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2332)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a home electronic monitoring pilot project
2 for repeat operating-while-intoxicated offenders, and
3 providing an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2378

1 Section 1. DEFINITIONS.

2 1. "Department" means the judicial department.

3 2. "Home electronic monitor" means a computerized home
4 detention system approved by the department that provides
5 regular visual and other confirmation of a defendant's
6 presence at home, which may be combined with a continuous
7 radio transmission signal emitted from a band worn by the
8 defendant, and which includes monitoring of the defendant's
9 blood alcohol level by means of regular remote breath alcohol
10 testing.

11 3. "OWI" means operating while intoxicated, an offense
12 under section 321J.2, subsection 1.

13 4. "Repeat offender" means a person who has, within the
14 last six years, twice been previously convicted of an OWI
15 offense.

16 Sec. 2. HOME ELECTRONIC MONITORING PILOT PROJECT --
17 ESTABLISHED.

18 1. A home electronic monitoring pilot project is
19 established within the judicial department.

20 a. The pilot project shall operate in Woodbury county and
21 Blackhawk county for a period of one year.

22 b. A project manager shall be hired to supervise the pilot
23 project. The project manager may hire an assistant manager
24 for each county participating in the project, as determined by
25 the chief justice of the supreme court.

26 c. The salaries of the project manager and assistant
27 managers shall be determined by the chief justice. All
28 persons employed for the pilot project shall serve at the
29 pleasure of the chief justice.

30 d. The department shall negotiate a contract with a
31 private vendor to provide home electronic monitoring services
32 in the participating counties. The project manager shall be
33 responsible for overseeing the implementation of the contract.

34 2. The primary purpose of the pilot project is to provide
35 a better method of pretrial supervision of OWI repeat

1 offenders, which does not utilize the existing correctional
2 facilities.

3 a. At the time of the initial appearance for a defendant
4 who has been arrested for a third or subsequent OWI violation,
5 the defendant shall be required either to submit the entire
6 cash bond, or to post a minimal bond and to participate in the
7 pilot project pending trial.

8 b. If the defendant chooses to participate in the pilot
9 project, the defendant shall be required to execute a written
10 document in which the defendant stipulates to the following:

11 (1) The defendant agrees, as a pretrial condition of
12 release, to submit to home electronic monitoring. Through
13 this process, the defendant will be required to submit to
14 electronic alcohol testing up to three times per day, at pre-
15 arranged times. The defendant shall also be required to
16 consent to the use of recording equipment to record
17 conversations between the defendant and the monitoring
18 personnel solely for the purpose of identification, and not
19 for the purpose of eavesdropping or conducting any other
20 illegal monitoring. Prior to trial, the defendant agrees not
21 to use, possess, or consume any mood-altering chemical,
22 including alcohol, unless prescribed by a physician.

23 (2) If the defendant fails to answer the telephone, or if
24 the defendant tests positive for alcohol, the defendant will
25 immediately be picked up by law enforcement personnel and
26 incarcerated.

27 (3) The defendant agrees to pay a fee of up to ten dollars
28 per day to participate in the monitoring program. The amount
29 of the fee can be adjusted by the court in accordance with the
30 defendant's income level.

31 3. The department shall develop policies and procedures
32 for implementation of this program, covering issues including:

33 a. A list of required elements in the offender's home for
34 the effective use of the monitoring system.

35 b. Notice to, and consent forms to be executed by, other

1 residents of the offender's home.

2 c. Procedures for responding to violations of conditions
3 of release.

4 d. Fee structures.

5 e. Staff training.

6 f. Other issues relevant to effective implementation of
7 electronic monitoring.

8 4. The department shall prepare a report on the
9 implementation of the pilot project, and present this report
10 to the general assembly in January 1998.

11 Sec. 3. FUNDING. There is appropriated from the general
12 fund of the state to the judicial department for the fiscal
13 year beginning July 1, 1996, and ending June 30, 1997, the
14 following amount, or so much thereof as is necessary, to be
15 used for the purpose designated:

16 For the home electronic monitoring pilot project, including
17 salaries, support, maintenance, miscellaneous purposes, and
18 for not more than the following full-time equivalent
19 positions:

20	\$	250,000
21	FTEs	3.00

22 Sec. 4. EFFECTIVE DATE. This Act, being deemed of
23 immediate importance, takes effect upon enactment.

24 EXPLANATION

25 This bill establishes a home electronic monitoring pilot
26 project, to provide for home monitoring, pending trial, of the
27 breath-alcohol level of repeat OWI offenders. A repeat
28 offender who participated in the project would agree to submit
29 to breath-alcohol testing up to three times a day, according
30 to a prearranged schedule. A defendant who missed a testing
31 time, or failed a test would be incarcerated immediately.
32 During the period of pretrial release, the defendant would not
33 be permitted to use, possess, or consume any mood altering
34 chemical, including alcohol, unless by a doctor's
35 prescription. The defendant would be required to pay a fee of

1 up to \$10 per day, according to the defendant's income level,
2 to cover the costs of participating in the project.

3 The project is established within the judicial department,
4 with an initial appropriation of \$250,000. The chief justice
5 is directed to appoint a project manager to oversee
6 implementation of the pilot project in Woodbury and Blackhawk
7 counties. The department is also directed to develop written
8 policies and procedures pertaining to implementation of the
9 program.

10 The monitoring services are provided by a private vendor.
11 The judicial department would secure the contract with the
12 vendor, and the project manager would oversee its
13 implementation.

14 To permit contract procurement to begin immediately, the
15 bill is effective immediately.

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