

HOUSE BILL No. 5253

November 1, 1989, Introduced by Reps. Law, Willis Bullard, Bender and DeMars and referred to the Committee on Corrections.

A bill to allow electronic home detention and to provide for its implementation; and to provide for certain powers and duties of courts and certain other state and local officers and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "electronic home detention act".

3 Sec. 2. As used in this act:

4 (a) "Court" means a court having jurisdiction over criminal
5 offenses, or, in the case of a juvenile offender, the juvenile
6 division of probate court.

7 (b) "Correctional administrator" means, in the case of a
8 state correctional facility, the director of the department of
9 corrections, and in the case of a county jail, the sheriff.

1 (c) "Electronic monitoring device" means a device that is
2 primarily intended to record and transmit information as to the
3 defendant's presence in or absence from his or her home.

4 (d) "Home detention" means the confinement within his or her
5 home of a person convicted of or charged with a crime under the
6 terms and conditions established by the court or correctional
7 administrator.

8 (e) "Participant" means an offender who is placed into home
9 detention.

10 Sec. 3. An electronic home detention program may be used as
11 an alternative to incarceration for low-risk, nonviolent, adult
12 and juvenile offenders as selected by a court or the correctional
13 administrator. Applications for electronic home detention
14 include, but are not limited to, the following:

15 (a) Pretrial or preadjudicatory detention.

16 (b) Probation.

17 (c) Community corrections.

18 (d) Parole.

19 (e) Work release.

20 (f) Institutional furlough.

21 (g) Jail diversion.

22 Sec. 4. (1) An electronic monitoring device shall be used
23 only after being approved by the correctional administrator or by
24 a sentencing court.

25 (2) An electronic monitoring device may record or transmit
26 oral or wire communications or an auditory sound, visual images,
27 or information regarding the offender's activities while inside

1 the offender's home. The use of electronic monitoring devices is
2 subject to the consent required in section 6.

3 (3) An electronic monitoring device may be used to record a
4 conversation between the participant and the electronic monitor-
5 ing device, or between the participant and the person supervising
6 the participant, solely for the purpose of identification and not
7 for the purpose of eavesdropping or conducting any other elec-
8 tronic surveillance.

9 Sec. 5. A court or the correctional administrator may pre-
10 scribe reasonable guidelines under which an electronic home
11 detention program shall operate. The guidelines shall include,
12 but not be limited to, the following:

13 (a) The participant shall remain within the interior
14 premises or within the property boundaries of his or her resi-
15 dence at all times during the hours designated by the correc-
16 tional administrator, except for approved absences. Instances of
17 approved absences from the home may include, but are not limited
18 to, the following:

19 (i) Employment approved by the court or correctional admin-
20 istrator or traveling to or from approved employment.

21 (ii) Seeking employment approved for the participant by the
22 court or correctional administrator.

23 (iii) Undergoing medical treatment, mental health treatment,
24 counseling, or other treatment programs approved for the partici-
25 pant by the court or correctional administrator.

1 (iv) Attending an educational institution or a program.
2 approved for the participant by the court or correctional
3 administrator.

4 (v) Attending a regularly scheduled religious service at a
5 place of worship.

6 (vi) Participating in community work release or community
7 service programs approved for the participant by the court or
8 correctional administrator.

9 (vii) For another compelling reason consistent with the
10 public interest, as approved by the court or correctional
11 administrator.

12 (b) The participant shall admit any person or agent desig-
13 nated by the court or correctional administrator into his or her
14 home at any time for purposes of verifying the participant's com-
15 pliance with the conditions of his or her detention.

16 (c) The participant shall make the necessary arrangements to
17 allow for any person or agent as designated by the court or cor-
18 rectional administrator to visit the participant's place of edu-
19 cation, employment, or treatment at any time, with the approval
20 of the educational institution, employer, or health care provid-
21 er, for the purpose of verifying the participant's compliance
22 with the conditions of his or her detention.

23 (d) The participant shall acknowledge and cooperate with the
24 electronic monitoring device as designated by the court or cor-
25 rectional administrator at any time for the purpose of verifying
26 the participant's compliance with the conditions of his or her
27 detention.

1 (e) The participant shall obtain approval from the court or
2 correctional administrator before the participant changes his or
3 her residence or the designated hours described in
4 subdivision (a).

5 (f) The participant shall not commit another crime during
6 the period of home detention ordered by the court.

7 (g) The participant shall be notified that violation of the
8 order for home detention may subject the participant to prosecu-
9 tion for the crime of escape.

10 Sec. 6. Before entering an order for commitment for home
11 detention, the court or the correctional administrator shall
12 inform the participant and other persons residing in the home of
13 the nature and extent of the electronic monitoring devices
14 approved for use by the court or correctional administrator by
15 doing the following:

16 (a) Securing the written consent of the participant to
17 comply with the rules and regulations of the program.

18 (b) Securing the written consent of other persons residing
19 in the home of the participant at the time an order or commitment
20 for home detention is entered, acknowledging the nature and
21 extent of electronic monitoring devices.

22 (c) Ensuring that the electronic devices intrude as little
23 as possible upon the privacy of the participant and other persons
24 residing in the home.