

1 INTERIM STUDY PROPOSAL 2015-068

2 State of Arkansas
3 90th General Assembly
4 Regular Session, 2015

As Engrossed: S3/18/15

A Bill

SENATE BILL 820

5
6 By: Senator U. Lindsey
7 By: Representative D. Whitaker

8 Filed with: Senate Committee on Judiciary
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT PROVIDING FOR HOME CONFINEMENT AND ELECTRONIC
12 MONITORING AS OPPOSED TO IMPRISONMENT FOR FIRST-TIME,
13 NONVIOLENT OFFENDERS CONVICTED OF A FELONY AND
14 SENTENCED TO THE DEPARTMENT OF CORRECTION; AND FOR
15 OTHER PURPOSES.

Subtitle

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19 PROVIDING FOR HOME CONFINEMENT AND
20 ELECTRONIC MONITORING AS OPPOSED TO
21 IMPRISONMENT FOR FIRST-TIME, NONVIOLENT
22 OFFENDERS CONVICTED OF A FELONY AND
23 SENTENCED TO THE DEPARTMENT OF
24 CORRECTION.

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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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29 SECTION 1. Arkansas Code § 5-4-402(a)-(c), concerning the place of
30 imprisonment for a person convicted of a felony or misdemeanor, is amended to
31 read as follows:

32 (a) Except as provided in §§ 5-4-304, 5-4-405, and 16-93-708, a
33 defendant convicted of a felony and sentenced to imprisonment shall be
34 committed to the custody of the Department of Correction for the term of his
35 or her sentence or until released in accordance with law.

1 (b) Except as provided in § 16-93-708, a defendant convicted of a
2 misdemeanor and sentenced to imprisonment shall be committed to the county
3 jail or other authorized institution designated by the court for the term of
4 his or her sentence or until released in accordance with law.

5 (c) Except as provided in § 5-4-304, § 5-4-405, or § 16-93-708, a
6 defendant convicted of a felony violation of §§ 5-64-419 – 5-64-442 and
7 sentenced to imprisonment shall be committed to the custody of the Department
8 of Correction for the term of his or her sentence or until released in
9 accordance with law.

10
11 SECTION 2. Arkansas Code Title 5, Chapter 4, Subchapter 4, is amended
12 to add a new section to read as follows:

13 5-4-405. Home confinement and electronic monitoring.

14 (a) As used in this section:

15 (1) "Electronic monitoring" means the use of electronic, global
16 positioning, or other technology designed to be used for the monitoring and
17 tracking of a person and his or her location; and

18 (2) "Home confinement" means that a person serving a sentence
19 for a criminal conviction is allowed to serve his or her sentence within the
20 confines of his or her residence under strict rules and procedures, as well
21 as prohibitions against certain movements beyond the confines of his or her
22 residence.

23 (b) A person sentenced to the Department of Correction shall be
24 immediately eligible for home confinement and electronic monitoring if:

25 (1) The person does not have a prior felony offense other than
26 the felony offense for which he or she is currently sentenced; and

27 (2) The felony offense is not:

28 (A) A felony involving violence as defined under § 5-4-
29 501(d)(2)(A); or

30 (B) A felony offense requiring registration under the Sex
31 Offender Registration Act of 1997, § 12-12-901 et seq.

32 (c) The circuit court may choose to sentence a person otherwise
33 eligible for home confinement and electronic monitoring to imprisonment in
34 the department if it makes specific, written findings of fact that set out
35 the following, if applicable:

1 (1) The presence of an undue risk that the defendant will commit
2 another offense;

3 (2) The defendant is in need of correctional treatment that can
4 be provided most effectively by his or her commitment to an institution;

5 (3) Home confinement and electronic monitoring will discount the
6 seriousness of the defendant's offense;

7 (4) The defendant's conduct caused or threatened serious harm;

8 (5) The defendant did not act under strong provocation;

9 (6) There was no substantial ground or course tending to excuse
10 or justify the defendant's conduct;

11 (7) The victim of the offense did not initiate or facilitate the
12 offense committed;

13 (8) The defendant has not compensated or has knowingly refused
14 to compensate the victim of the offense for the damage or injury that the
15 victim sustained;

16 (9) The defendant has a history of prior delinquency or criminal
17 activity for a substantial period of time before the commission of the
18 present offense;

19 (10) The defendant's conduct was the result of circumstances
20 likely to reoccur;

21 (11) The character and attitude of the defendant indicate that
22 he or she is likely to commit another offense;

23 (12) The defendant is not likely to respond affirmatively to
24 home confinement and electronic monitoring;

25 (13) The defendant is not advanced in age and does not suffer
26 from any significant health or mental impairment;

27 (14) The defendant did not cooperate with law enforcement
28 authorities in his or her own prosecution or in bringing another offender to
29 justice; or

30 (15) The defendant lacks remorse for his or her offense.

31 (d) A person serving a sentence of home confinement and electronic
32 monitoring under this section shall accrue all credits toward and be subject
33 to all rules regarding parole as if he or she were incarcerated in a unit of
34 the department.

35 (e) A device used for electronic monitoring under this section shall
36 be approved by the Board of Corrections and meet the minimum regulations and

1 requirements of the Federal Communications Commission for use in tracking a
2 person and his or her location.

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4 SECTION 3. Arkansas Code Title 12, Chapter 27, is amended to add a new
5 section to read as follows:

6 12-27-144. Home confinement and electronic monitoring – Procedures.

7 The Board of Corrections shall establish policy and procedures for a
8 person serving a sentence of home confinement and electronic monitoring under
9 § 5-4-405, including without limitation reporting requirements, terms, and
10 conditions of serving a sentence of home confinement and electronic
11 monitoring.

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13 */s/U. Lindsey*

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16 Referred by the Arkansas Senate

17 Prepared by: VJF