

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/18/15
A Bill

SENATE BILL 820

By: Senator U. Lindsey
By: Representative D. Whitaker

For An Act To Be Entitled

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

Subtitle

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

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

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

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

(b) Except as provided in § 16-93-708, a defendant convicted of a misdemeanor and sentenced to imprisonment shall be committed to the county jail or other authorized institution designated by the court for the term of



his or her sentence or until released in accordance with law.

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

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

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

(a) As used in this section:

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

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

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

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

(2) The felony offense is not:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) A device used for electronic monitoring under this section shall be approved by the Board of Corrections and meet the minimum regulations and requirements of the Federal Communications Commission for use in tracking a person and his or her location.

SECTION 3. Arkansas Code Title 12, Chapter 27, is amended to add a new

section to read as follows:

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

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

/s/U. Lindsey