

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

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1745

By: Representatives Unger, Lundstrum

By: Senator M. McKee

## For An Act To Be Entitled

AN ACT TO CREATE THE OFFENSE OF UNLAWFUL REMOVAL OR  
FAILURE TO CHARGE AN ELECTRONIC MONITORING DEVICE;  
AND FOR OTHER PURPOSES.

## Subtitle

TO CREATE THE OFFENSE OF UNLAWFUL REMOVAL  
OR FAILURE TO CHARGE AN ELECTRONIC  
MONITORING DEVICE.

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

SECTION 1. Arkansas Code Title 5, Chapter 54, Subchapter 1, is amended to add an additional section to read as follows:

5-54-123. Unlawful removal or failure to charge an electronic monitoring device.

(a) As used in this section:

(1) "Electronic monitoring device" means an electronic device approved by the Board of Corrections that meets the minimum Federal Communications Commission regulations and requirements and that utilizes available technology that is able to track a person's location and monitor his or her location; and

(2) "Pending charge" means a charge that results from an arrest or issuance of a citation or criminal summons, or after the filing of an information or indictment, and that has not been resolved by acquittal, conviction, dismissal, or nolle prosequi.

(b) A person commits unlawful removal or failure to charge an



electronic monitoring device if, being ordered to wear an electronic monitoring device as a condition of probation, parole, or release on a pending charge or disposition of a charge:

(1) The person knowingly removes the electronic monitoring device from his or her body; or

(2) The person fails to properly charge the electronic monitoring device and the failure to properly charge the electronic monitoring device prevents the electronic monitoring device from tracking or monitoring the person's location.

(c)(1) If the actor is on probation or parole, unlawful removal or failure to charge an electronic monitoring device is a:

(A) Class D felony if the offense for which the person is on probation or parole is a felony offense; or

(B) Class A misdemeanor if the offense for which the person is on probation is a misdemeanor offense.

(2) If the actor is on release other than probation for a pending charge or for disposition on a charge, unlawful removal or failure to charge an electronic monitoring device is a:

(A) Class C felony if the pending charge or charge to be disposed is a felony either before or after a determination of guilt of the charge;

(B) Class A misdemeanor if the pending charge or charge to be disposed is a Class A misdemeanor either before or after a determination of guilt of the charge;

(C) Class B misdemeanor if the pending charge or charge to be disposed is a Class B misdemeanor either before or after a determination of guilt of the charge;

(D) Class C misdemeanor if the pending charge or charge to be disposed is a Class C misdemeanor or violation either before or after a determination of guilt of the charge; or

(E) Unclassified misdemeanor with the same penalty as the unclassified misdemeanor in the pending charge or charge to be disposed if the pending charge or charge to be disposed is an unclassified misdemeanor either before or after a determination of guilt of the charge.

(d) Upon conviction for unlawful removal or failure to charge an electronic monitoring device, a defendant shall be ordered to pay restitution

for the cost of repair or replacement of the electronic monitoring device if the electronic monitoring device was damaged, lost, or destroyed.