

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1291

By: Worthen

AS INTRODUCED

An Act relating to the Electronic Monitoring Program;
amending Sections 5 and 14, Chapter 276, O.S.L.
1993 (57 O.S. Supp. 1994, Sections 510.9 and 612),
which relate to electronic monitoring of inmates;
modifying eligibility requirements for placement on
electronic monitoring; modifying definition of
electronic monitoring; providing an effective date;
and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 5, Chapter 276, O.S.L.
1993 (57 O.S. Supp. 1994, Section 510.9), is amended to read as
follows:

Section 510.9 A. There is hereby created the Electronic
Monitoring Program for inmates in the custody of the Department of
Corrections who are sentenced for a nonviolent offense as defined by
Section 571 of Title 57 of the Oklahoma Statutes.

B. All eligible inmates assigned to the Electronic Monitoring
Program shall first be processed and received through the Lexington
Assessment and Reception Center. The Director of the Department of
Corrections shall exercise his discretion in selecting eligible
inmates for assignment to the Electronic Monitoring Program;

provided, however, the following inmates shall not be eligible for assignment to the program:

1. Inmates convicted of a violent offense ~~within the previous ten (10) years;~~
2. Inmates convicted of any violation of the provisions of the Trafficking in Illegal Drugs Act, Section 2-414 et seq. of Title 63 of the Oklahoma Statutes;
3. Inmates denied parole within the previous twelve (12) months pursuant to Section 332.7 of Title 57 of the Oklahoma Statutes;
4. Inmates convicted pursuant to Section 11-902 of Title 47 of the Oklahoma Statutes who are not receptive to substance abuse treatment and follow-up treatment;
5. Inmates removed from the Electronic Monitoring Program or any other alternative to incarceration authorized by law for violation of any rule, regulation or condition of the program and reassigned to imprisonment in a correctional facility;
6. Inmates deemed by the Department to be a security risk or threat to the public; or
7. Inmates requiring educational, medical or other services or programs not available in a community setting as determined by the Department.

In addition, any inmate removed from the Electronic Monitoring Program for violation of any rule, regulation or condition of the program and reassigned to imprisonment in a correctional facility shall not be eligible for consideration for the Preparole Conditional Supervision Program, pursuant to Section 365 of Title 57 of the Oklahoma Statutes, until after the expiration of at least twelve (12) consecutive months of imprisonment at a correctional facility.

C. Every eligible inmate assigned to the Electronic Monitoring Program shall remain in such program until one of the following conditions has been met:

1. The inmate discharges the term of the sentence;

2. The inmate is removed from the Electronic Monitoring Program for violation of any rule, regulation or condition of the program and reassigned to imprisonment in a correctional facility;

3. The inmate is assigned by the Department to another alternative to incarceration authorized by law, except inmates assigned to the Electronic Monitoring Program shall not be considered for the Preparole Conditional Supervision Program, Section 365 of Title 57 of the Oklahoma Statutes, except as provided in subsection B of this section; or

4. The inmate is paroled by the Governor pursuant to Section 332.7 of Title 57 of the Oklahoma Statutes.

D. After an inmate has been assigned to the Electronic Monitoring Program, failure to be granted parole pursuant to Section 332.7 of Title 57 of the Oklahoma Statutes shall not be cause for removal from the program, provided the inmate has not violated the rules, regulations or conditions of the program. The inmate may remain assigned to the program, if otherwise eligible, until the completion of the sentence.

E. The Electronic Monitoring Program shall require active supervision of the inmate in a community setting by a correctional officer or other employee of the Department of Corrections with monitoring by an electronic bracelet ~~or other device~~ approved by the Department under such rules, regulations and conditions as may be established by the Department. If an inmate violates any rule, regulation or condition of the program, the Department may take necessary disciplinary action consistent with the rules established pursuant to this ~~act~~ section, including reassignment to a higher level of security or removing the inmate from the program with reassignment to imprisonment in a correctional facility. Any inmate who escapes from the Electronic Monitoring Program shall be subject

to the provisions of Section 443 of Title 21 of the Oklahoma Statutes.

F. Upon an inmate assigned to the Electronic Monitoring Program becoming eligible for parole consideration, pursuant to Section 332.7 of Title 57 of the Oklahoma Statutes, the Department of Corrections shall deliver the inmate, in person, to a correctional facility for interview, together with any Department records necessary for the Pardon and Parole Board's investigation. Inmates assigned to the Electronic Monitoring Program shall not be allowed to waive consideration or recommendation for parole.

G. Prior to any eligible inmate assigned to the Electronic Monitoring Program being placed in a community setting, the Department of Corrections shall deliver a written notification to the sheriff and district attorney of the county, and the chief law enforcement officer of any incorporated city or town in which the inmate is to be monitored and supervised under the program. The district attorney shall disseminate such information to victims of the crime for which the inmate is serving sentence, if any, when the victims are known to live in the same city, town or county.

H. An inmate assigned to the Electronic Monitoring Program may be required to pay the Department of Corrections for all or part of any monitoring equipment or fee, substance abuse treatment program or follow-up treatment expense, supervision cost, or other costs while assigned to the program. The Department shall determine whether the inmate has the ability to pay all or part of such fee or costs.

I. The Department of Corrections shall promulgate and adopt rules, regulation and procedures necessary to implement the Electronic Monitoring Program, including but not limited to methods of monitoring and supervision, disciplinary action, reassignment to higher and lower security levels, removal from the program, and

costs of monitoring and supervision to be paid by the inmate, if any.

SECTION 2. AMENDATORY Section 14, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1994, Section 612), is amended to read as follows:

Section 612. A. Any person convicted of violating the provisions of Section 11-902 of Title 47 of the Oklahoma Statutes and sentenced to the custody of the Department of Corrections shall be processed through the Lexington Assessment and Reception Center, classified and assigned as follows:

1. To the Department of Mental Health and Substance Abuse Services for substance abuse treatment, if the person is evaluated to be receptive to treatment and not deemed by the Department of Corrections to be a security risk. The inmate may be required to reimburse the Department of Mental Health and Substance Abuse Services for all or part of the actual cost incurred for treatment of the inmate while the inmate is assigned to the Department of Mental Health and Substance Abuse Services. The Department of Corrections shall determine whether the inmate has the ability to pay for all or part of the cost of treatment. While assigned to a Department of Mental Health and Substance Abuse Services treatment program the inmate shall comply with the rules and regulations as agreed upon by the Department of Mental Health and Substance Abuse Services and the Department of Corrections. Any infraction of said rules may result in the inmate's reassignment to a correctional facility of the Department of Corrections. Upon successful completion of the treatment program the inmate shall be properly reassigned by the Department of Corrections for the completion of the sentence imposed by the court. Prior to discharge from the treatment facility, the treatment facility shall forward to the Department of Corrections a report and discharge summary including

arrangements and recommendations for further disposition and follow-up treatment;

2. To the Electronic Monitoring Program pursuant to Section 5 510.9 of this ~~act~~ title, with participation in a substance abuse treatment program and follow-up treatment, when the person is evaluated to be receptive to treatment and not deemed by the Department of Corrections to be a security risk;

3. To another alternative to incarceration authorized by law;
or

4. To a correctional facility when:

- a. the person is evaluated not to be receptive to treatment,
- b. the person is evaluated to be a security risk,
- c. the person requires educational, medical or other services or programs not available in the community setting as determined by the Department, or
- d. alternatives to incarceration are not available or are otherwise inappropriate as determined by the Department.

B. As used in this section:

1. "Substance abuse treatment program" means a residential or outpatient program certified by the Department of Mental Health and Substance Abuse Services and selected by the Department of Corrections to provide substance abuse treatment for the inmate; and

2. "Electronic monitoring" means monitoring of the inmate within a specified location or locations in a community setting by means of an electronic bracelet ~~or other device~~ approved by the Department of Corrections with active supervision by correctional officers or other employees of the Department of Corrections.

SECTION 3. This act shall become effective July 1, 1995.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-1-5708

SD