ENROLLED HOUSE
BILL NO. 1242

By: Hastings, Wesselhoft, Nance and Auffet of the House

and

Williamson of the Senate

An Act relating to electronic monitoring devices; amending 21 O.S. 2001, Section 443, which relates to escape from custody; expanding scope of prohibited acts; amending Section 2, Chapter 125, O.S.L. 2002, as amended by Section 13, Chapter 390, O.S.L. 2002 (22 O.S. Supp. 2004, Section 1105.2), which relates to Pretrial Release Act; authorizing placement of monitoring device; requiring payment of supervision fee as condition of pretrial release; requiring collection of supervision fee by court clerk; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 443, is amended to read as follows:

Section 443. A. Any person having been imprisoned in a county or city jail or detained in a juvenile detention facility awaiting charges on a felony offense or prisoner awaiting trial or having been sentenced on a felony charge to the custody of the Department of Corrections who escapes from a juvenile detention facility while actually confined therein or escapes from a county or city jail, either while actually confined therein, while permitted to be at large as a trusty, or while awaiting transportation to a Department of Corrections facility for execution of sentence, shall be guilty of a felony punishable by imprisonment of not less than one (1) year nor more than seven (7) years.

B. Any person who is an inmate in the custody of the Department of Corrections who escapes from said custody, either while actually confined in a correctional facility, while assigned to an alternative to incarceration authorized by law, while assigned to the Preparole Conditional Supervision Program as authorized by Section 365 of Title 57 of the Oklahoma Statutes or while permitted to be at large as a trusty, shall be guilty of a felony punishable by imprisonment of not less than two (2) years nor more than seven (7) years.

C. For the purposes of this section, an inmate assigned to an alternative to incarceration authorized by law or to the Preparole Conditional Supervision Program shall be considered to have escaped if the inmate cannot be located within a twenty-four hour period or if he <u>or she</u> fails to report to a correctional facility or

institution, as directed. This includes any person escaping by absconding from an electronic monitoring device or absconding after removing an electronic monitoring device from their body.

D. For the purposes of this section, if the individual who escapes has felony convictions for offenses other than the offense for which he was serving imprisonment at the time of his escape, those previous felony convictions may be used for enhancement of punishment pursuant to the provisions of Section 434 of this act. The fact that any such convictions may have been used to enhance punishment in the sentence for the offense for which he was imprisoned at the time of the escape shall not prevent such convictions from being used to enhance punishment for the escape.

SECTION 2. AMENDATORY Section 2, Chapter 125, O.S.L. 2002, as amended by Section 13, Chapter 390, O.S.L. 2002 (22 O.S. Supp. 2004, Section 1105.2), is amended to read as follows:

Section 1105.2 A. The provisions of this act shall apply only to counties having a population of four hundred thousand (400,000) or more persons.

B. Following an arrest for a misdemeanor or felony offense and before formal charges have been filed or an indictment made, the arrested person may have bail set by the court as provided in this act; provided there are no provisions of law to the contrary.

C. When formal charges or an indictment has been filed, bail shall be set according to law and the pretrial bond, if any, may be reaffirmed unless additional security is required. Every judicial district may, upon the order of the presiding judge for the district, establish a pretrial bail schedule for felony or misdemeanor offenses, except for traffic offenses included in subsections B, C and D of Section 1115.3 of Title 22 of the Oklahoma Statutes and those offenses specifically excluded herein. The bail schedule established pursuant to the authority of this act shall exclude any offense for which bail is not allowed by law. The bail schedule authorized by this act shall be set in accordance with guidelines relating to bail and shall be published and reviewed by March 1 of each year by the courts and district attorney of the judicial district.

D. The pretrial bail shall be set in a numerical dollar amount. If the person fails to appear in court as required the judge shall:

1. Rescind the bond and proceed to enter a judgment against the defendant for the dollar amount of the pretrial bail if no private bail was given at the time of release; provided, however, the court clerk shall follow the procedures as set forth in Section 1301 et seq. of Title 59 of the Oklahoma Statutes in collecting the forfeiture amount against the person who fails to appear in court; or

2. Rescind and forfeit the private bail if cash, property or surety bail was furnished at the time of release as set forth in Section 1301 et seq. of Title 59 of the Oklahoma Statutes.

E. When a pretrial program authorized by subsection A of this section exists in the judicial district where the person is being held, the judge may utilize the services of the pretrial release

program when ordering pretrial release, except when private bail has been furnished.

F. Upon an order for pretrial release or release on bond, the person shall be released from custody without undue delay.

G. The court may require the person to be placed on an electronic monitoring device as a condition of pretrial release.

H. In instances where an electronic monitoring device has been ordered, the court may impose payment of a supervision fee. Payment of the fee, in whole or according to a court-ordered installment schedule, shall be a condition of pretrial release. The court clerk shall collect the supervision fees.

SECTION 3. This act shall become effective November 1, 2005.

Passed the House of Representatives the 16th day of March, 2005.

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Presiding Officer of the House of Representatives

Passed the Senate the 12th day of April, 2005.

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Presiding Officer of the Senate