**A** **BILL**

TO AMEND SECTION 16‑25‑120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RELEASE ON BOND AND FACTORS TO CONSIDER WHEN GRANTING BOND FOR VIOLENT OFFENDERS AND DOMESTIC VIOLENCE OFFENDERS, SO AS TO ALLOW THE COURT, IN LIEU OF SETTING BOND OR AS AN ADDITIONAL CONDITION OF RELEASE ON BOND, TO PLACE A PERSON CHARGED WITH A DOMESTIC VIOLENCE OFFENSE ON SURVEILLANCE VIA AN ACTIVE ELECTRONIC MONITORING DEVICE CAPABLE OF KEEPING THE VICTIM OF THE OFFENSE NOTIFIED AT ALL TIMES OF THE PERSON’S IMMEDIATE LOCATION, TO PROVIDE PROCEDURES FOR THE MONITORING, AND TO PROVIDE PENALTIES FOR TAMPERING WITH AN ACTIVE ELECTRONIC MONITORING DEVICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑25‑120 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) The court, in its discretion, may place a person charged with a violation of this article on surveillance via an active electronic monitoring device in lieu of setting or requiring the posting of bond or as an additional condition of release on bond. The device must be capable of recording the person’s immediate location at all times and the victim must be provided access to determine the immediate location of the person at all times. The appropriate law enforcement agency with jurisdiction over the offense shall place the person on an active electronic monitoring device and shall ensure the provisions of this section are followed.

The person monitored:

(a) shall follow instructions provided by appropriate law enforcement agency with jurisdiction over the offense to maintain the active electronic monitoring device in working order. Incidental damage or defacement of the active electronic monitoring device must be reported to the appropriate law enforcement agency with jurisdiction over the offense within two hours. A person who fails to comply with the reporting requirement of this subsection must be punished in the discretion of the court;

(b) shall abide by other terms and conditions set forth by the appropriate law enforcement agency with jurisdiction over the offense with regard to the active electronic monitoring device and electronic monitoring program;

(c) must be charged for the cost of the active electronic monitoring device and the operation of the active electronic monitoring device for the duration of the time the person is required to be electronically monitored. The appropriate law enforcement agency with jurisdiction over the offense may exempt a person from the payment of a part or all of the cost during a part or all of the duration of the time the person is required to be electronically monitored, if it is determined that exceptional circumstances exist such that these payments cause a severe hardship to the person. The payment of the cost must be a condition of supervision of the person and a delinquency of two months or more in making payments may operate as a violation of a term or condition of the electronic monitoring. All fees generated by this subsection must be retained by the appropriate law enforcement agency with jurisdiction over the offense, carried forward, and applied to support the active electronic monitoring of domestic violence offenders;

(d) who intentionally removes, tampers with, defaces, alters, damages, or destroys an active electronic monitoring device must be punished in the discretion of the court. This subsection does not apply to a person or agent authorized by the appropriate law enforcement agency to perform maintenance and repairs to the active electronic monitoring devices.

(2) As used in this subsection, ‘active electronic monitoring device’ means an all‑body worn device that is not removed from the person’s body utilized by the appropriate law enforcement agency with jurisdiction over the offense in conjunction with a web‑based computer system that actively monitors and records a person’s location at least once every minute twenty‑four hours a day and that timely records and reports the person’s presence near or within a prohibited area or the person’s departure from a specified geographic location. In addition, the device must be resistant or impervious to unintentional or wilful damages. In areas of the State where cellular coverage requires the use of an alternate device, the appropriate law enforcement agency may use an alternate device.”

SECTION 2. This act takes effect upon approval by the Governor.

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