

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-30-09

Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

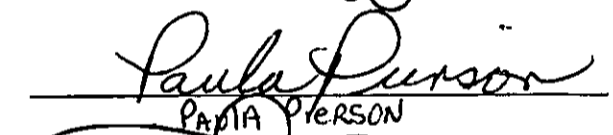
Sirs:

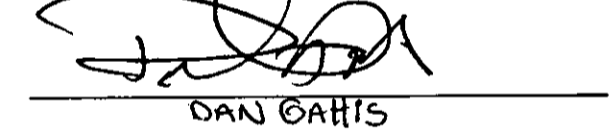
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1506 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

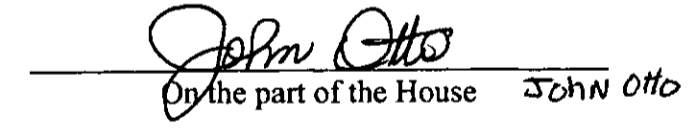

Chair: Juan Hinojosa

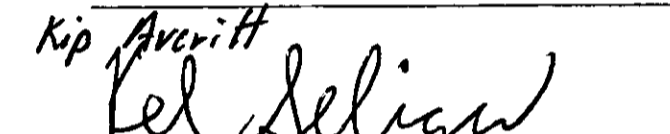

CHAIR: ABEL HERRERO

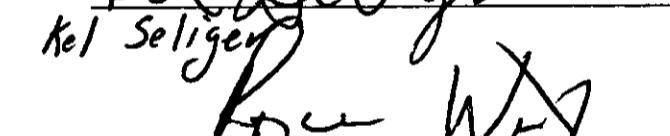

Pete Gallego

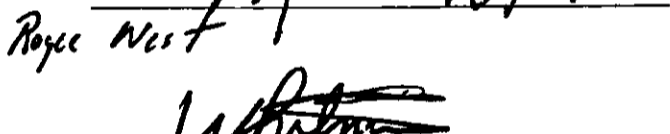

PAULA PEARSON

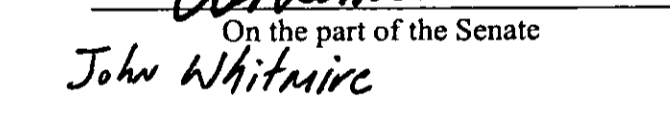

DAN GATTIS


On the part of the House JOHN OTTO

Kip Averitt


Kel Seliger


Royce West



On the part of the Senate
John Whitmire

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 1506

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the imposition of conditions on certain defendants
3 charged with an offense involving family violence.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 17.292, Code of Criminal Procedure, is
6 amended by adding Subsection (c-1) to read as follows:

7 (c-1) In addition to the conditions described by Subsection
8 (c), the magistrate in the order for emergency protection may
9 impose a condition described by Article 17.49(b) in the manner
10 provided by that article, including ordering a defendant's
11 participation in a global positioning monitoring system or allowing
12 participation in the system by an alleged victim or other person
13 protected under the order.

14 SECTION 2. Chapter 17, Code of Criminal Procedure, is
15 amended by adding Article 17.49 to read as follows:

16 Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE
17 INVOLVING FAMILY VIOLENCE. (a) In this article:

18 (1) "Family violence" has the meaning assigned by
19 Section 71.004, Family Code.

20 (2) "Global positioning monitoring system" means a
21 system that electronically determines and reports the location of
22 an individual through the use of a transmitter or similar device
23 carried or worn by the individual that transmits latitude and
24 longitude data to a monitoring entity through global positioning

1 satellite technology. The term does not include a system that
2 contains or operates global positioning system technology, radio
3 frequency identification technology, or any other similar
4 technology that is implanted in or otherwise invades or violates
5 the individual's body.

6 (b) A magistrate may require as a condition of release on
7 bond that a defendant charged with an offense involving family
8 violence:

9 (1) refrain from going to or near a residence, school,
10 place of employment, or other location, as specifically described
11 in the bond, frequented by an alleged victim of the offense;

12 (2) carry or wear a global positioning monitoring
13 system device and, except as provided by Subsection (h), pay the
14 costs associated with operating that system in relation to the
15 defendant; or

16 (3) except as provided by Subsection (h), if the
17 alleged victim of the offense consents after receiving the
18 information described by Subsection (d), pay the costs associated
19 with providing the victim with an electronic receptor device that:

20 (A) is capable of receiving the global
21 positioning monitoring system information from the device carried
22 or worn by the defendant; and

23 (B) notifies the victim if the defendant is at or
24 near a location that the defendant has been ordered to refrain from
25 going to or near under Subdivision (1).

26 (c) Before imposing a condition described by Subsection
27 (b)(1), a magistrate must afford an alleged victim an opportunity

1 to provide the magistrate with a list of areas from which the victim
2 would like the defendant excluded and shall consider the victim's
3 request, if any, in determining the locations the defendant will be
4 ordered to refrain from going to or near. If the magistrate imposes
5 a condition described by Subsection (b)(1), the magistrate shall
6 specifically describe the locations that the defendant has been
7 ordered to refrain from going to or near and the minimum distances,
8 if any, that the defendant must maintain from those locations.

9 (d) Before imposing a condition described by Subsection
10 (b)(3), a magistrate must provide to an alleged victim information
11 regarding:

12 (1) the victim's right to participate in a global
13 positioning monitoring system or to refuse to participate in that
14 system and the procedure for requesting that the magistrate
15 terminate the victim's participation;

16 (2) the manner in which the global positioning
17 monitoring system technology functions and the risks and
18 limitations of that technology, and the extent to which the system
19 will track and record the victim's location and movements;

20 (3) any locations that the defendant is ordered to
21 refrain from going to or near and the minimum distances, if any,
22 that the defendant must maintain from those locations;

23 (4) any sanctions that the court may impose on the
24 defendant for violating a condition of bond imposed under this
25 article;

26 (5) the procedure that the victim is to follow, and
27 support services available to assist the victim, if the defendant

1 violates a condition of bond or if the global positioning
2 monitoring system equipment fails;

3 (6) community services available to assist the victim
4 in obtaining shelter, counseling, education, child care, legal
5 representation, and other assistance available to address the
6 consequences of family violence; and

7 (7) the fact that the victim's communications with the
8 court concerning the global positioning monitoring system and any
9 restrictions to be imposed on the defendant's movements are not
10 confidential.

11 (e) In addition to the information described by Subsection
12 (d), a magistrate shall provide to an alleged victim who
13 participates in a global positioning monitoring system under this
14 article the name and telephone number of an appropriate person
15 employed by a local law enforcement agency whom the victim may call
16 to request immediate assistance if the defendant violates a
17 condition of bond imposed under this article.

18 (f) In determining whether to order a defendant's
19 participation in a global positioning monitoring system under this
20 article, the magistrate shall consider the likelihood that the
21 defendant's participation will deter the defendant from seeking to
22 kill, physically injure, stalk, or otherwise threaten the alleged
23 victim before trial.

24 (g) An alleged victim may request that the magistrate
25 terminate the victim's participation in a global positioning
26 monitoring system at any time. The magistrate may not impose
27 sanctions on the victim for requesting termination of the victim's

1 participation in or refusing to participate in a global positioning
2 monitoring system under this article.

3 (h) If the magistrate determines that a defendant is
4 indigent, the magistrate may, based on a sliding scale established
5 by local rule, require the defendant to pay costs under Subsection
6 (b)(2) or (3) in an amount that is less than the full amount of the
7 costs associated with operating the global positioning monitoring
8 system in relation to the defendant or providing the victim with an
9 electronic receptor device.

10 (i) If an indigent defendant pays to an entity that operates
11 a global positioning monitoring system the partial amount ordered
12 by a magistrate under Subsection (h), the entity shall accept the
13 partial amount as payment in full. The county in which the
14 magistrate who enters an order under Subsection (h) is located is
15 not responsible for payment of any costs associated with operating
16 the global positioning monitoring system in relation to an indigent
17 defendant.

18 (j) A magistrate that imposes a condition described by
19 Subsection (b)(1) or (2) shall order the entity that operates the
20 global positioning monitoring system to notify the court and the
21 appropriate local law enforcement agency if a defendant violates a
22 condition of bond imposed under this article.

23 (k) A magistrate that imposes a condition described by
24 Subsection (b) may only allow or require the defendant to execute or
25 be released under a type of bond that is authorized by this chapter.

26 (l) This article does not limit the authority of a
27 magistrate to impose any other reasonable conditions of bond or

1 enter any orders of protection under other applicable statutes.

2 SECTION 3. Articles 17.292(c-1) and 17.49, Code of Criminal
3 Procedure, as added by this Act, apply only to a defendant released
4 on bond, or to an order for emergency protection issued, in
5 connection with an offense committed on or after the effective date
6 of this Act. A defendant released on bond, or an order for
7 emergency protection issued, in connection with an offense
8 committed before the effective date of this Act is governed by the
9 law in effect when the offense was committed, and the former law is
10 continued in effect for that purpose. For purposes of this section,
11 an offense was committed before the effective date of this Act if
12 any element of the offense occurred before that date.

13 SECTION 4. This Act takes effect September 1, 2009.

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SECTION 1. Article 17.292, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) In addition to the conditions described by Subsection (c), the magistrate in the order for emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant's participation in a global positioning monitoring system or allowing participation in the system by an alleged victim or other person protected under the order.

SECTION 2. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.49 to read as follows:

Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE.

(a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or

SENATE VERSION

SECTION 1. Same as House version.

SECTION 2. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.49 to read as follows:

Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE.

(a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or

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SECTION 1. Same as House version.

SECTION 2. Same as House version except as follows:

Same as House version.

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operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1) refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(2) carry or wear a global positioning monitoring system device and, except as provided by Subsection (h), pay the costs associated with operating that system in relation to the defendant; or

(3) except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), pay the costs associated with providing the victim with an electronic receptor device that:

(A) is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1).

SENATE VERSION

operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1) refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(2) carry or wear a global positioning monitoring system device and, except as provided by Subsection (h), pay no more than \$75 per month of the costs associated with operating that system in relation to the defendant; or

(3) except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), pay the costs associated with providing the victim with an electronic receptor device that:

(A) is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1).

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Same as House version.

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(c) Before imposing a condition described by Subsection (b)(1), a magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by Subsection (b)(1), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(d) Before imposing a condition described by Subsection (b)(3), a magistrate must provide to an alleged victim information regarding:

(1) the victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) the manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

SENATE VERSION

(c) Before imposing a condition described by Subsection (b)(1), a magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by Subsection (b)(1), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(d) Before imposing a condition described by Subsection (b)(3), a magistrate must provide to an alleged victim information regarding:

(1) the victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) the manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

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Same as House version.

Same as House version.

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(4) any sanctions that the court may impose on the defendant for violating a condition of bond imposed under this article;

(5) the procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;

(6) community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and

(7) the fact that the victim's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(e) In addition to the information described by Subsection (d), a magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this article the name and telephone number of an appropriate person employed by a local law enforcement agency whom the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this article.

(f) In determining whether to order a defendant's participation in a global positioning monitoring system under this article, the magistrate shall consider the likelihood that the defendant's participation will deter the

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(4) any sanctions that the court may impose on the defendant for violating a condition of bond imposed under this article;

(5) the procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;

(6) community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and

(7) the fact that the victim's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(e) In addition to the information described by Subsection (d), a magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this article the name and telephone number of an appropriate person employed by a local law enforcement agency whom the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this article.

(f) In determining whether to order a defendant's participation in a global positioning monitoring system under this article, the magistrate shall consider the likelihood that the defendant's participation will deter the

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Same as House version.

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defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(g) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this article.

(h) A magistrate may allow a defendant to perform community service in lieu of paying the costs required by Subsection (b)(2) or (3) if the magistrate determines that the defendant is indigent.

No equivalent provision.

No equivalent provision.

SENATE VERSION

defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(g) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this article.

(h) A magistrate may allow a defendant to perform community service in lieu of paying the costs required by Subsection (b)(2) or (3) if the magistrate determines that the defendant is indigent.

Same as House version.

Same as House version.

CONFERENCE

Same as House version.

No equivalent provision.

(h) If the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay costs under Subsection (b)(2) or (3) in an amount that is less than the full amount of the costs associated with operating the global positioning monitoring system in relation to the defendant or providing the victim with an electronic receptor device.

(i) If an indigent defendant pays to an entity that operates a global positioning monitoring system the partial amount ordered by a magistrate under Subsection (h), the entity shall accept the partial amount as payment

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(i) A magistrate that imposes a condition described by Subsection (b)(1) or (2) shall order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this article.

No equivalent provision.

(j) This article does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

SECTION 3. Articles 17.292(c-1) and 17.49, Code of Criminal Procedure, as added by this Act, apply only to a defendant released on bond, or to an order for emergency protection issued, in connection with an offense committed on or after the effective date of this Act. A defendant released on bond, or an order for emergency

(i) A magistrate that imposes a condition described by Subsection (b)(1) or (2) shall order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this article.

(j) A magistrate that imposes a condition described by Subsection (b) may only allow or require the defendant to execute or be released under a type of bond that is authorized by this chapter.

(k) This article does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

SECTION 3. Same as House version.

in full. The county in which the magistrate who enters an order under Subsection (h) is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent defendant.

(j) Same as House version.

(k) Same as Senate version.

(l) Same as House version.

SECTION 3. Same as House version.

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protection issued, in connection with an offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

No equivalent provision.

SENATE VERSION

SECTION __. Article 42.035, Code of Criminal Procedure, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:
(a) ~~A court [in a county served by a community supervision and corrections department that has an electronic monitoring program approved by the community justice assistance division of the Texas Department of Criminal Justice]~~ may require a defendant to serve all or part of a sentence of confinement in county jail by participating in an [submitting to] electronic monitoring program rather than being confined in the county jail, if the program:
(1) is operated by a community supervision and corrections department that serves the county in which the court is located and has been approved by the community justice assistance division of the Texas Department of Criminal Justice; or
(2) is operated by the commissioners court of the county, or by a private vendor under contract with the commissioners court, under Section 351.904, Local

Same as House version.

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Government Code, if the defendant has not been placed on community supervision.

(d)A defendant who submits to electronic monitoring or participates in the house arrest program under this article [section] discharges a sentence of confinement in the same manner as if the defendant were confined in county jail [without deductions, good conduct time credits, or commutations].

(e)A court may revoke a defendant's participation in an electronic monitoring program and require the defendant to serve the remainder of the defendant's sentence of confinement in county jail if the defendant violates a condition imposed by a court under this article, including a condition requiring the defendant to pay for participating in the program under Subsection (c).

No equivalent provision.

SECTION __.Subsection (e), Article 43.09, Code of Criminal Procedure, is amended to read as follows:

(e)A court in a county that operates an electronic monitoring program or contracts with a private vendor to operate an electronic monitoring program under Section 351.904, Local Government Code, or that is served by a community supervision and corrections department that operates [has] an electronic monitoring program approved by the community justice assistance division of the Texas Department of Criminal Justice, may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by participating

Same as House version.

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in the program [~~submitting to electronic monitoring~~]. A defendant who participates in an [~~that submits to~~] electronic monitoring program under this subsection discharges fines and costs in the same manner as if the defendant were confined in county jail.

No equivalent provision.

SECTION __. Article 43.10, Code of Criminal Procedure, is amended to read as follows:

Same as House version.

Art. 43.10. MANUAL LABOR. Where the punishment assessed in a conviction for a misdemeanor is confinement in jail for more than one day[;] or [~~where in such conviction the punishment~~] is [assessed] only [at] a pecuniary fine and the defendant [~~party so convicted~~] is unable to pay the fine and costs adjudged against the defendant [~~him~~], or where the defendant [~~party~~] is sentenced to jail for a felony or is confined in jail after conviction of a felony, the defendant [~~party convicted~~] shall be required to work in the county jail industries program or shall be required to do manual labor in accordance with [~~the provisions of this article under~~] the following rules and regulations:

1. Each commissioners court may provide for the erection of a workhouse and the establishment of a county farm in connection therewith for the purpose of utilizing the labor of defendants under this article [~~said parties so convicted~~];

2. Such farms and workhouses shall be under the control and management of the sheriff, and the sheriff may adopt

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such rules and regulations not inconsistent with the rules and regulations of the Commission on Jail Standards and with the laws as the sheriff deems necessary;

3. Such overseers and guards may be employed by the sheriff under the authority of the commissioners court as may be necessary to prevent escapes and to enforce such labor, and they shall be paid out of the county treasury such compensation as the commissioners court may prescribe;

4. They shall be put to labor upon public works and maintenance projects, including public works and maintenance projects for a political subdivision located in whole or in part in the county. They may be put to labor upon maintenance projects for a cemetery that the commissioners court uses public funds, county employees, or county equipment to maintain under Section 713.028, Health and Safety Code. They may also be put to labor providing maintenance and related services to a nonprofit organization that qualifies for a tax exemption under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code, and is organized as a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), provided that, at the sheriff's request, the commissioners court determines that the nonprofit organization provides a public service to the county or to a political subdivision located in whole or in part in the county;

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5. A defendant [~~One~~] who from age, disease, or other physical or mental disability is unable to do manual labor shall not be required to work. The defendant's [~~His~~] inability to do manual labor may be determined by a physician appointed for that purpose by the county judge or the commissioners court, who shall be paid for such service such compensation as said court may allow; and
6. For each day of manual labor, in addition to any other credits allowed by law, a defendant is entitled to have one day deducted from each sentence the defendant [~~he~~] is serving. [~~The deduction authorized by this article, when combined with the deduction required by Article 42.10 of this code, may not exceed two thirds (2/3) of the sentence.~~]

No equivalent provision.

SECTION __. Article 43.101, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:
(a) A defendant who is confined in county jail before [~~awaiting~~] trial, after conviction of a misdemeanor, or [~~a defendant confined in county jail~~] after conviction of a felony or revocation of community supervision, parole, or mandatory supervision and awaiting transfer to the [~~institutional division of the~~] Texas Department of Criminal Justice may volunteer to participate in any work program operated by the sheriff that uses the labor of convicted defendants.
(b) The sheriff may accept a defendant as a volunteer

Same as House version.

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under Subsection (a) ~~[of this section]~~ if the defendant is not awaiting trial for an offense involving violence or is not awaiting transfer to the ~~[institutional division of the]~~ Texas Department of Criminal Justice after conviction of a felony involving violence, and if the sheriff determines that the inmate has not engaged previously in violent conduct and does not pose a security risk to the general public if allowed to participate in the work program.

(d) For each day of volunteer work, in addition to any other credits allowed by law, the court or sheriff may deduct one day from each sentence imposed on the defendant in relation to the offense or violation of the terms of release for which the defendant was confined in county jail.

No equivalent provision.

SECTION __. Subsection (b), Article 44.041, Code of Criminal Procedure, is amended to read as follows:

(b) A court that releases a defendant under this article must require the defendant to participate in a program under Article 42.033, 42.034, 42.035, or 42.036 ~~[of this code]~~ during the pendency of the appeal. A [The] defendant ~~required to participate in a program~~ may ~~[not]~~ receive credit toward completion of the defendant's sentence while participating in the [a] program in the same manner and to the same extent provided by Article 42.033, 42.034, 42.035, or 42.036, as applicable [required by this subsection].

Same as House version.

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No equivalent provision.

SENATE VERSION

SECTION __.Subchapter Z, Chapter 351, Local Government Code, is amended by adding Section 351.904 to read as follows:

Sec.

351.904.ELECTRONICMONITORINGPROGRAM.(a)

A commissioners court of a county may establish and operate an electronic monitoring program for the purpose of monitoring defendants required by a court of the county to participate in an electronic monitoring program under:

(1)Article 43.09, Code of Criminal Procedure, to discharge a fine or costs; or

(2)Article 42.035, Code of Criminal Procedure, as an alternative to serving all or part of a sentence of confinement in county jail.

(b)The commissioners court shall provide for the sheriff or the community supervision and corrections department serving the county, under an agreement with the commissioners court, to oversee and operate, or, if the program is operated by a private vendor under Subsection (c), oversee the operation of, an electronic monitoring program established under this section.

(c)A commissioners court may contract with a private vendor to operate an electronic monitoring program under this section, including by enrolling and tracking participants in the program and performing periodic reviews with participants regarding compliance with the program.

(d)A commissioners court may use money that a

CONFERENCE

Same as House version.

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defendant is ordered to pay to a county under Article 42.035(c), Code of Criminal Procedure, to pay for the services of a private vendor that operates an electronic monitoring program under Subsection (c).

(e)A commissioners court may subsidize all or part of the cost of a defendant's participation in an electronic monitoring program under this section if the defendant is indigent.

(f)A commissioners court may contract for any available electronic monitoring technology, including a technology that provides continuous positional tracking of the participant, that meets the approval of the commissioners court and either the sheriff or the community supervision and corrections department, as appropriate.

No equivalent provision.

SECTION __. Section 6, Article 42.032, Code of Criminal Procedure, is repealed.

Same as House version.

No equivalent provision.

SECTION __. Subsection (e), Article 42.035, Code of Criminal Procedure, as added by this Act, applies only to a defendant who is sentenced to a term of confinement in county jail for an offense committed on or after September 1, 2009. A defendant who is sentenced to a term of confinement in county jail for an offense committed before September 1, 2009, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2009, if any element of the offense

Same as House version.

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occurred before that date.

No equivalent provision.

SECTION __. The changes in law made by this Act in amending Article 43.10 and Subsection (b), Article 44.041, Code of Criminal Procedure, and in repealing Section 6, Article 42.032, Code of Criminal Procedure, apply only to credit that is earned by a defendant as a result of participation in a program or work performed on or after the effective date of this Act. The accrual of credit by a defendant as a result of participation in a program or work performed before the effective date of this Act is governed by the law in effect when the participation occurred or work was performed, and the former law remains in effect for that purpose.

Same as House version.

SECTION 4. Effective date.

SECTION 4. Same as House version.

SECTION 4. Same as House version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

**TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives**

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1506 by Herrero (Relating to the imposition of conditions on certain defendants charged with an offense involving family violence.), Conference Committee Report

No fiscal implication to the State is anticipated.

SECTION 1 of the bill would amend Article 17.292, Code of Criminal Procedure, to authorize a magistrate to include in an order for emergency protection a requirement that the person arrested for family violence participate in a global positioning monitoring system or allowing participation in the system by a victim or other person protected under the order, as described in SECTION 2 of the bill.

SECTION 2 of the bill would add Article 17.49 to the Code of Criminal Procedure to authorize a magistrate to require as a condition of release on bond that a defendant charged with an offense involving family violence to carry or wear a global positioning monitoring system device and to pay for the costs associated with operating the system in relation to the defendant. Or, the magistrate may require the defendant to pay the costs associated with providing the victim with an electronic receptor device that meets certain criteria, if the victim agrees. The bill would also provide guidelines for payment of certain costs by indigent defendants. A magistrate imposing one of these conditions must afford the alleged victim an opportunity to provide a list of areas from which the defendant should be prohibited. The magistrate would also be required to provide the alleged victim with victim rights information.

SECTION 3 stipulates that the changes added by the bill would apply only to a defendant released on bond or to an order for emergency protection issued on or after the effective date of the bill, which would be September 1, 2009.

Local Government Impact

A magistrate would experience administrative costs associated with implementing provisions of the bill related to interactions with the alleged victim of the offense. Those costs are not expected to be significant. However, a local government would incur certain costs of a global positioning monitoring system if a defendant required to use a system is determined to be indigent. The costs would vary by municipality or county depending on the number of offenders to which the condition would be imposed and are found to be indigent.

According to the Texas County and District Clerks Association, the costs could be significant to set up, monitor, and maintain a global positioning monitoring system. Cost information on these systems was also provided by individual counties and by the Texas Department of Criminal Justice (TDCJ). For example, the Montgomery County auditor's office estimates, based on their research, that equipment rental and monitoring fees for each participant would be \$350 per month. The county has approximately 200 cases to which the requirements of the bill could apply. If all 200 were to be monitored for one month, the county would incur a cost of \$70,000. According to TDCJ, the cost for an "active" global positioning monitoring system in use by the agency's Parole Division is \$9.95 per person per day, and the cost of a "passive" system is \$4.41 per person per day. The monthly cost per person, therefore, is approximately \$298 for the active system and \$132 for the passive. [Note: Active

systems are those for which data is transmitted in real time; Passive systems are those for which the positioning data is downloaded at the end of the day for review.]

Source Agencies:

LBB Staff: JOB, ESi, DB

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 1506 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

Alfred Herrero
(name)

5-30-09
(date)