

- SUBJECT:** Electronic monitoring of burglary suspects with prior convictions
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 8 ayes — Gallego, Aliseda, Burkett, Carter, Christian, Y. Davis, Rodriguez, Zedler
- 0 nays
- 1 absent — Hartnett
- WITNESSES:** For — Darrell Davila, Tarrant County District Attorney’s Office; John McCluskey, Professional Bondsmen of Texas; Gary Tittle, for Dallas Police Department Chief of Police David Brown, North Texas Crime Commission; (*Registered, but did not testify:* John Chancellor, Texas Police Chiefs Association; Katrina Daniels, Bexar County Criminal District Attorney’s Office; Wynn Dillard; Jim Jones, San Antonio Police Department; Jessica Sloman, Houston Police Department; Scott Walstad, Professional Bondsmen of Texas)
- Against — None
- On — John Dahill, Texas Conference of Urban Counties
- BACKGROUND:** Penal Code, sec. 30.02 defines burglary as an offense that occurs when a person, without the owner’s consent, enters a home or building with the intent to commit a felony, theft, or assault. Penal Code, sec. 30.04 defines burglary of a vehicle as when a person, without the owner’s consent, breaks into or enters a vehicle with the intent to commit any felony or theft.
- DIGEST:** CSHB 1029 would require that a person with two or more convictions for burglary or burglary of a vehicle be electronically monitored as a condition of release on bail for a subsequent charge of the same offense. The person would have to pay the cost of the “global positioning monitoring system,” unless he or she was judged indigent.
- The bill also would forbid release on a personal bond if the person violated the original conditions of the bond requiring the monitoring

system. The defendant would be taken into custody and released only after posting a cash bond or securing a surety bond through a bail bondsman.

The bill would apply to offenses that occurred on or after the bill would take effect on September 1, 2011.

**SUPPORTERS  
SAY:**

CSHB 1029 would properly focus on a class of criminals who threaten the safety and peace of mind of Texas — repeat offender burglars. The Office of Court Administration reports that 44,913 burglary cases were filed in 2009 and 46,273 cases were filed in 2010. These reflect only cases where a perpetrator has been identified. Many more cases remain unsolved. However, a relatively small percentage of career criminals commit the bulk of these crimes. The bill would ensure that repeat offenders did not break the law again and would help law enforcement officials to keep track of their activities while they were free on bond.

Tracking pretrial defendants electronically would be cheaper than keeping them in custody. The cost of the monitoring anklets would be less than the estimated \$45 a day needed to keep inmates in a county jail. Many counties already electronically monitor those on community supervision or probation, and adding a few more pretrial defendants would not significantly increase the programs' costs.

CSHB 1029 would provide meaningful sanctions for people who violated the terms of personal bonds. Burglary suspects frequently do not show up at court proceedings. Electronic monitoring would work in tandem with other requirements to ensure periodic contact with authorities. Monitoring would help law enforcement officials know where these defendants were, while the frequent contacts would help remind defendants of their upcoming court dates. Those who violate the terms of their initial release should be incarcerated and made to post cash or surety bonds. Those who had been previously convicted for multiple burglaries merit further monitoring and restrictions on their movements.

Concerns about unfunded mandates to counties are overstated. No one can predict how many burglar suspects would be subject to the provisions of CSHB 1029 or would qualify as being indigent. The number likely would be very low. Judges probably would set high bonds that would keep these burglary defendants in custody pending trial.

Both the state and local governments face severe budgetary restraints that would prevent needed changes to move court dockets more quickly. The Legislature should consider measures like CSHB 1029, which would help protect public safety in the meantime.

OPPONENTS  
SAY:

The bill could impose another substantial unfunded mandate on counties to add or expand their electronic monitoring systems. Counties also would be liable for the monitoring costs for indigent defendants. The expense of an electronic monitoring system exceeds just the cost of the anklets. Authorities must monitor the movements of those in the tracking system to make it work. A state's criminal justice system can absorb only a few more such mandates before the cost becomes unmanageable.

Requiring electronic monitoring would impose an unfair and undue punishment on defendants who have not yet faced trial for their crimes. These tracking devices may be more appropriate for those on probation or community supervision who have been sentenced to punishment. Even those with previous convictions for burglary should retain their constitutional presumption of innocence before being convicted in court.

OTHER  
OPPONENTS  
SAY:

The Legislature and counties should allocate the necessary resources to process criminal cases and move court dockets. Swift and sure justice is the best way to combat any crime, even an offense with such a low clearance rate as burglary.

NOTES:

The committee substitute differs from the original version of the bill in provisions that would require incarceration and posting of bond for those in the electronic monitoring program who violated terms of personal bond. The substitute also added a definition of the global positioning monitoring system.