

**HOUSE BILL NO. 1277**

Introduced by

Representatives Klemin, DeKrey

Senators Lyson, Traynor

1 A BILL for an Act to create and enact a new chapter to title 12 of the North Dakota Century  
2 Code, relating to electronic home detention and global positioning system monitoring for certain  
3 offenders.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 12 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Definitions.** As used in this chapter:

- 8 1. "Approved electronic monitoring device" means a global positioning system device  
9 or other electronic monitoring device approved by the department which is primarily  
10 intended to actively or passively monitor, record, and transmit confirmation of a  
11 participant's location or the participant's presence or nonpresence in the home.
- 12 2. "Court" means the district court having criminal or juvenile jurisdiction to place a  
13 participant in electronic home detention or global positioning system monitoring.
- 14 3. "Department" means the department of corrections and rehabilitation.
- 15 4. "Home detention" means the confinement of an individual convicted or charged  
16 with a crime to the individual's place of residence under the terms and conditions  
17 established by the court or the department.
- 18 5. "Participant" means an inmate or offender placed into an electronic monitoring  
19 program.

20 **Application.** Except for an offense for which the law requires mandatory incarceration,  
21 electronic home detention or global positioning system monitoring may be used for low-risk,  
22 nonviolent adult and juvenile offenders as selected by the court. Electronic home detention and  
23 global positioning system monitoring may be used for the following:

- 24 1. Pretrial or preadjudicatory detention.

- 1           2. Probation.
- 2           3. Community corrections.
- 3           4. Parole.
- 4           5. Work release.
- 5           6. Institutional furlough.
- 6           7. Prison or county jail diversion.

7           **Program description.** The department shall adopt rules that prescribe reasonable  
8 guidelines for the operation of an electronic home detention and global positioning system  
9 monitoring program. The rules must provide that an approved electronic monitoring device may  
10 be used to record a conversation between the participant and the monitoring device or the  
11 participant and the individual supervising the participant solely for the purpose of identification  
12 and not for the purpose of eavesdropping or conducting any other illegally intrusive monitoring.  
13 The rules also must provide that:

- 14           1. The participant must remain within the interior premises or within the property  
15 boundaries of the participant's residence at all times during the hours designated  
16 by the court or the department. Instances of approved absences from the  
17 residence may include:
  - 18           a. Work or employment approved by the court or traveling to or from approved  
19 employment;
  - 20           b. Unemployment and seeking employment approved for the participant by the  
21 court;
  - 22           c. Medical, psychiatric, mental health treatment, counseling, or other treatment  
23 programs approved for the participant by the court;
  - 24           d. Attendance at an educational institution or a program approved for the  
25 participant by the court;
  - 26           e. Attendance at a regularly scheduled religious service at a place of worship;
  - 27           f. Participation in a community work release or community service program  
28 approved for the participant by the court; or
  - 29           g. For another compelling reason consistent with the public interest, as approved  
30 by the court or the department.

- 1           2.    The participant must admit any individual or agent designated by the court or the  
2                    department into the participant's residence at any time for purposes of verifying the  
3                    participant's compliance with the conditions of the participant's detention.
- 4           3.    The participant must make the necessary arrangements to allow for any individual  
5                    or agent as designated by the court or the department to visit the participant's  
6                    place of education or employment at any time, based upon the approval of the  
7                    educational institution or employer, for the purpose of verifying the participant's  
8                    compliance with the conditions of the participant's detention.
- 9           4.    The participant must acknowledge and participate in the approved electronic  
10                   monitoring program as designated by the court or the department at any time for  
11                   the purpose of verifying the participant's compliance with the conditions of the  
12                   participant's detention.
- 13          5.    The participant must maintain the following:
  - 14               a.    A monitoring device in the participant's residence or on the participant's  
15                    person, or both; and
  - 16               b.    A working telephone in the participant's residence or in the absence of a  
17                    telephone a monitoring device in the participant's residence and on the  
18                    participant's person.
- 19          6.    The participant must obtain approval from the court or the department before the  
20                   participant changes residence or the schedule described in subsection 1.
- 21          7.    The participant must be notified that violation of the order for home detention may  
22                   subject the participant to prosecution for the crime of escape from official detention.
- 23          8.    The participant must abide by other conditions as set by the court or the  
24                   department.

25           **Consent of the participant.** Before entering an order for commitment for electronic  
26 home detention or global positioning system monitoring, the court or the department shall  
27 inform the participant and other individuals residing in the residence of the nature and extent of  
28 the approved electronic monitoring devices by:

- 29           1.    Securing the written consent of the participant in the program to comply with the  
30                   rules of the program;

- 1           2.    Securing the written consent of other individuals residing in the residence of the
- 2                    participant at the time an order or commitment for electronic home detention or
- 3                    global positioning system monitoring is entered and acknowledgment of the nature
- 4                    and extent of approved electronic monitoring devices; and
- 5           3.    Ensuring that the approved electronic devices be minimally intrusive upon the
- 6                    privacy of the participant and other individuals residing in the residence while
- 7                    remaining in compliance with the rules adopted by the department.