

**PROPOSED HOUSE BILL
ELECTRONIC HOME DETENTION AND GPS MONITORING
TESTIMONY OF REP. LAWRENCE R. KLEMIN
COMMISSION ON ALTERNATIVES TO INCARCERATION
JUNE 20, 2006**

Mr. Chairman and Members of the Commission. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I'm appearing before you to testify in support of a proposed House Bill relating to electronic home detention and GPS monitoring.

You are all well aware that the State Penitentiary is crowded and expensive to maintain and operate. The cost of housing a prisoner continues to increase. We must look to alternatives to incarceration wherever possible, in order to conserve our financial resources to the extent possible. In fact, that is one of the purposes of this Commission. This bill provides for home detention as an alternative to incarceration in an appropriate case. This draft of the bill was completed by representatives of the Department of Corrections and Rehabilitation (DOCR), legal counsel from the Governor's office, and myself.

At the present time, there are no provisions in the law for electronic home detention as a general program through the Department of Corrections. There is nothing about GPS monitoring. The Department of Corrections has general authority in Section 54-23.3-02(6) and 54-23.3-04(10) to develop and promote alternatives to conventional incarceration, but those sections refer to community-based facilities and programs, not to home detention. Consequently, there is a need to provide for electronic home detention and GPS monitoring in the North Dakota statutes and to give the Department of Corrections the specific authority to implement such a program

The bill creates a new chapter to the North Dakota Century Code in Section 1. The first part of Section 1 contains definitions pertinent to the bill. An electronic device used for home detention or to monitor the location of an offender must be approved by the Department. The bill applies to all adult and juvenile offenders, except for those offenses where mandatory incarceration is required. Electronic monitoring is permissive and can be used in a number of situations described at the top of page 2 of the bill, including pretrial detention, probation, parole, work release, prison diversion, and sex offender containment, among others.

The next part of the bill describes the program and permits the Department to implement a program of electronic home detention and GPS monitoring. A participant in the program must remain in the participant's residence at all times, unless there is an approved absence from the residence. A nonexclusive list of the instances under which an absence may be permitted is contained in subsection 2, beginning on line 12 of page 2.

Page 3 contains requirements for a participant in the program. Among other things, a participant must allow authorized persons to have access to his residence at any time to verify that the participant is complying with the conditions of his detention. A participant must make appropriate arrangements for authorized persons to visit him at his place of employment or education. A participant cannot change his residence without prior approval. Violation of an order for home detention can subject the participant to prosecution of the crime of escape from official detention.

The program is voluntary. The consent of the participant must be obtained.

Section 2 of the bill on page 4 contains an amendment to the definition of "official detention" to include home detention.

The intention of this bill is to provide an alternative to incarceration in an appropriate case, with minimally intrusive supervision and monitoring consistent with the program. This program can be used to alleviate crowding in the prison system, to reduce costs, to promote the rehabilitation of offenders, and to provide for their return to the community under supervised circumstances. The program as implemented by the Department of Corrections will allow for uniformity of application across the State so that all persons subject to electronic home detention and GPS monitoring are subject to the same standards.

I request your support for this bill and ask to have it considered for introduction as a Commission bill in the 2007 Legislative Session.