

House Bill 306

By: Representatives Walker of the 107<sup>th</sup>, Ralston of the 7<sup>th</sup>, and Reese of the 98<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 6 of the Title 17 of the Official Code of Georgia Annotated, relating to  
2 bonds and recognizances, so as to provide legislative findings and intent; to provide for a  
3 program of electronic pretrial release and monitoring of criminal defendants; to provide the  
4 standards, terms, and conditions for such program; to provide for penalties for violating the  
5 terms of such program; to provide for fees for such monitoring; to provide for the payment  
6 of such fees by the sheriff under certain circumstances; to provide for the revocation of  
7 participation in such program under certain circumstances; to provide for related matters; to  
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 The General Assembly finds that a program of electronic pretrial release, monitoring, and  
12 home confinement incorporates modern technology to accomplish the following purposes,  
13 including, but not limited to:

- 14 (1) Insuring proper prioritization of local incarceration resources;
- 15 (2) Improving child support collections by giving nonpayors an opportunity to maintain  
16 employment while under electronic surveillance;
- 17 (3) Better protecting crime victims by global positioning satellite (GPS) tracking and  
18 monitoring of pretrial release offenders to better ensure ongoing protection of crime  
19 victims;
- 20 (4) Permitting defendants with extraordinary health problems to seek appropriate medical  
21 care;
- 22 (5) Assisting sheriffs in alleviating jail overcrowding by creating alternative methods of  
23 pretrial release and home confinement;
- 24 (6) Reducing the costs of pretrial detention to governing authorities of counties as the costs  
25 of self-paid, electronic pretrial release are substantially less than pretrial incarceration; and

26 (7) Creating instant alert capabilities to law enforcement in the event terms of pretrial  
27 release are violated.

28 **SECTION 2.**

29 Chapter 6 of the Title 17 of the Official Code of Georgia Annotated, relating to bonds and  
30 recognizances, is amended by adding a new Code section to read as follows:

31 "17-6-1.1.

32 (a) In addition to other methods of posting bail or as special condition of bond, a criminal  
33 defendant may be released from custody pending the trial of his or her case on the  
34 condition that the defendant comply with the terms and conditions of an approved  
35 electronic pretrial release program. The sheriff or other county agency may enter into  
36 agreements with providers of electronic monitoring services who are approved under  
37 subsection (k) of this Code section to provide such services.

38 (b) If it appears to the court that a defendant subject to its jurisdiction is a suitable  
39 candidate for electronic pretrial release and monitoring, the court may, in its sole discretion  
40 and subject to the eligibility requirements of this Code section, authorize the defendant to  
41 be released under the provisions of an approved electronic pretrial release and monitoring  
42 program. A judge may only authorize electronic pretrial release if that judge has  
43 jurisdiction to set a bond for the offense charged and the defendant is otherwise eligible for  
44 bond under subsection (e) of Code Section 17-6-1. The assigned judge of the court then  
45 having jurisdiction over the defendant, or the chief judge of such court in the event the case  
46 has not been assigned to a particular division of the court, may terminate a defendant's  
47 further participation in an electronic pretrial release program at any time at which any new  
48 warrant, accusation, or indictment is issued by any court for the defendant, in which event  
49 the defendant shall be immediately returned to custody.

50 (c)(1) When a court of competent jurisdiction has already set bond for a defendant  
51 indicating that the defendant is otherwise eligible for release on bail pursuant to  
52 subsection (e) of Code Section 17-6-1, in lieu of accepting cash in satisfaction of the bond  
53 set by a court, the court may notify the sheriff that the defendant is eligible for electronic  
54 pretrial release.

55 (2) Upon obtaining of the written agreement of the defendant that the defendant will  
56 abide by the terms and conditions of electronic pretrial release, the sheriff shall notify in  
57 writing the court having jurisdiction over the defendant that the defendant will be  
58 released on electronic pretrial release within 48 hours. The court, in its discretion, may  
59 revoke at any time the authority for any defendant to participate in the electronic pretrial  
60 release program.

61 (d) An accused may not be released to, or remain in, electronic pretrial release who has  
62 any other outstanding warrants, accusations, indictments, holds, or incarceration orders  
63 from any other court, law enforcement agency, or probation or parole officer that require  
64 the posting of bond or further adjudication.

65 (e) A person released pursuant to an approved electronic pretrial release and monitoring  
66 program shall abide by such conditions as the court or the sheriff may impose relating to  
67 such release and monitoring program, including, but not limited to, the following:

68 (1) Periods of home confinement;

69 (2) Compliance with all requirements and conditions of the approved electronic pretrial  
70 release program provider;

71 (3) Compliance with any court orders or special conditions of bond which may include  
72 an order directing that no contact, direct or indirect, be made with the victim or  
73 forbidding entry upon, about, or near certain premises;

74 (4) An order directing that the accused provide support and maintenance for the person's  
75 dependents to the best of his or her ability;

76 (5) Restrictions on the use of alcoholic beverages and controlled substances;

77 (6) Curfews;

78 (7) Limitations on work hours and employment;

79 (8) An order directing the accused to submit to test of breath, blood, or urine from time  
80 to time;

81 (9) Travel restrictions;

82 (10) An order directing that electronic pretrial release equipment be kept in good  
83 working condition;

84 (12) An order directing that the person refrain from violating the criminal laws of any  
85 state, county, or municipality;

86 (13) An order directing timely payment of all fees connected with the electronic pretrial  
87 release;

88 (14) Payroll deductions to fund monitoring fees;

89 (15) Provisions to permit reasonable medical treatment;

90 (16) Provisions for procuring reasonable necessities, such as grocery shopping;

91 (17) Provisions for attendance in educational, rehabilitative, and treatment programs; and

92 (18) Such other terms and conditions as the court or the sheriff may deem just and  
93 proper.

94 (f)(1) A person commits the offense of violation of electronic pretrial release when,  
95 having been charged with a crime under the laws of this state and having been released  
96 under an electronic pretrial release program upon the condition that the person will

97 remain at a specified location for certain periods of time when the person does any of the  
98 following:

99 (A) Intentionally fails to remain at such location as directed;

100 (B) Intentionally fails to return timely to such location;

101 (C) Intentionally fails to promptly report to such location after release; or

102 (D) Intentionally alters, tampers with, interferes with the operation of, or destroys any  
103 electronic monitoring equipment.

104 (2) A person convicted of the offense of violation of electronic pretrial release shall be  
105 punished as follows:

106 (A) If the person was released and the charge then pending against such person was a  
107 felony, by imprisonment for not less than one nor more than five years or by a fine of  
108 not more than \$5,000.00, or both; or

109 (B) If the person was released and the charge then pending against such person was a  
110 misdemeanor, for a misdemeanor of a high and aggravated nature.

111 (g) In the event that a court of competent jurisdiction finds probable cause, upon oath,  
112 affirmation, or sworn affidavit, that a defendant has violated the terms or conditions of his  
113 or her electronic pretrial release, other than terms regarding home confinement set forth in  
114 paragraph (1) of subsection (e) of this Code section or finds that the defendant provided  
115 false or misleading information concerning his or her qualifications to participate in the  
116 electronic release and monitoring program, including, but not limited to, name, date of  
117 birth, address, or other personal identification information, then the defendant's ongoing  
118 participation in the electronic pretrial release program shall be terminated immediately and,  
119 upon arrest of the defendant for such violation by any law enforcement officer, the  
120 defendant shall be returned to confinement at the county jail or other facility from which  
121 the defendant was released to electronic pretrial release program.

122 (h)(1) As an additional condition of electronic pretrial release, a defendant authorized to  
123 participate in an electronic pretrial release program by the court or the sheriff shall pay  
124 a reasonable, nonrefundable fee for program enrollment, equipment use, and monitoring.

125 (2) The fees connected with the electronic pretrial release program and supervision shall  
126 be timely paid by a defendant who is released as a condition of his or her ongoing  
127 participation in the electronic pretrial release program in accordance with the terms and  
128 provisions of electronic release approved by the court and the sheriff. Failure to make  
129 timely payments shall constitute a violation of the terms of the electronic pretrial release  
130 and shall authorize the immediate return to custody of the defendant.

131 (3) Defendants who have an extraordinary medical conditions requiring ongoing medical  
132 treatment or indigent persons, as defined by the court, and who are selected by the sheriff

133 following the indigency standards established by the court may have such electronic  
134 monitoring fees paid by the sheriff with the consent of the governing authority.

135 (4) In the event a bonding company, bonding agent, or probation service provider is  
136 approved by the court and the sheriff as an approved electronic pretrial release provider,  
137 all fees earned in the capacity of an electronic pretrial release provider shall be in addition  
138 to other fees prescribed by law.

139 (i) In the event that home confinement or house arrest is ordered by the court as a  
140 condition of electronic pretrial release, then the defendant shall be given full credit for each  
141 day successfully spent in such confinement in compliance with the electronic pretrial  
142 release program similar to that provided by Code Sections 17-10-11 and 17-10-12. For  
143 the purposes of calculating the time of confinement, the sheriff or lawful deputy shall make  
144 such determination by having simultaneous access to all records and electronic monitoring  
145 connected with each defendant placed on electronic pretrial release.

146 (j) No person released under an electronic pretrial release program under this Code section  
147 shall be deemed to be an agent, employee, or involuntary servant of the county or the  
148 electronic pretrial release provider while so released, working, or participating in training  
149 or going to and from the person's place of employment or training. Neither the electronic  
150 monitoring provider nor the sheriff shall be civilly liable for the criminal acts of a  
151 defendant released pursuant to this Code section.

152 (k) Any person or corporation approved by the chief judge of the court and the sheriff in  
153 their discretion who meets the following minimum requirements may be approved to  
154 provide electronic pretrial release services:

155 (1) The provider shall comply with all applicable federal, state, and local laws and all  
156 rules and regulations established by the chief judge and the sheriff in counties where the  
157 provider provides electronic pretrial release services;

158 (2) The provider shall provide the chief judge and the sheriff with the name of the  
159 provider, the name of an individual who shall serve as the contact person for the provider,  
160 and the telephone number of such contact person;

161 (3) The provider shall promptly notify the chief judge and sheriff of any changes in its  
162 address, ownership, or qualifications under this Code section;

163 (4) The provider shall provide simultaneous access to all records regarding all  
164 monitoring information, GPS tracking, home confinement, and victim protection  
165 regarding each person placed on electronic pretrial release; and

166 (5) The provider shall act as surety for the bond.

167 (l) The sheriff shall maintain a list of approved providers of electronic pretrial release  
168 services. The sheriff, in his or her discretion, may temporarily or permanently remove any  
169 provider from the list of approved providers should the provider:

- 170 (1) Fail to comply with the requirements of this Code section;  
171 (2) Fail to monitor properly any person that the provider was required to monitor;  
172 (3) Charge an excessive fee for use and monitoring of electronic monitoring equipment;  
173 or  
174 (4) Act or fail to act in such a manner that, in the discretion of the sheriff, constitutes  
175 good cause for removal."

176 **SECTION 3.**

177 All laws and parts of laws in conflict with this Act are repealed.