



State of Tennessee

PUBLIC CHAPTER NO. 993

SENATE BILL NO. 2399

By Overbey, Bell, Haile, Stevens, Bailey, Bowling, Jackson

Substituted for: House Bill No. 2424

By Goins, Moody, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 40 and Title 55, relative to driving under the influence of alcohol or drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-402(h)(7)(A), is amended by deleting the subdivision and substituting instead the following:

(A) The use of transdermal monitoring devices or other alternative alcohol or drug monitoring devices. If the court determines that the person is indigent, the court shall order the person to pay any portion of the costs of such a device for which the person has the ability to pay, as determined by the court. Any portion of the costs of such a device that the person is unable to pay shall come from the DUI monitoring fund established pursuant to § 55-10-419;

SECTION 2. Tennessee Code Annotated, Section 55-10-419(a)(1), is amended by deleting the subdivision in its entirety, substituting instead the following, and redesignating the subsequent subdivisions appropriately:

(1) There is created in the state treasury a fund to be known as the DUI monitoring fund. Except as provided in subsection (f), all money in such fund shall be used to pay for the following for persons deemed by the court to be indigent:

(A) The costs associated with the lease, purchase, installation, removal, and maintenance of ignition interlock devices or with any other cost or fee associated with a functioning ignition interlock device required by this part; and

(B) The costs associated with the use of a transdermal monitoring device or other alternative alcohol or drug monitoring device, if required by the court pursuant to § 55-10-402(h)(7).

(C) Notwithstanding subdivisions (a)(1)(A) and (B), no more than two hundred dollars (\$200) per month shall be expended from the fund to pay the costs associated with an indigent person's interlock ignition device pursuant to subdivision (a)(1)(A), or an indigent person's transdermal monitoring device or other alternative alcohol or drug monitoring device, pursuant to subdivision (a)(1)(B).

(2) Moneys in the fund shall not revert to the general fund of the state, but shall remain available to be used as provided for in subsection (a)(1).

SECTION 3. Tennessee Code Annotated, Section 55-10-419, is amended by deleting subdivision (g)(2)(A) and substituting instead the following:

(A) Thirty dollars and fifty cents (\$30.50) to the DUI monitoring fund for the purpose of paying for the following for persons found to be indigent by the court:

(i) All the costs associated with the lease, purchase, installation, removal, and maintenance of a functioning ignition interlock device or with any other cost or fee associated with a functioning ignition interlock device required by this part;

(ii) All the costs associated with the use of a transdermal monitoring device or other alternative alcohol or drug monitoring devices, if required by the court pursuant to § 55-10-402(h)(7); and

(iii) All the administrative costs incurred by the department of treasury in administering the DUI monitoring fund;

SECTION 4. Tennessee Code Annotated, Section 55-10-409(b)(2)(C), is amended by deleting the language "ignition interlock fund" and substituting instead the language "DUI monitoring fund".

SECTION 5. Tennessee Code Annotated, Section 40-33-211(c)(3)(A), is amended by deleting the language "interlock assistance fund" and substituting instead the language "DUI monitoring fund".

SECTION 6. Tennessee Code Annotated, Section 40-33-211(f)(3)(A), is amended by deleting the language "interlock assistance fund" and substituting instead the language "DUI monitoring fund".

SECTION 7. Tennessee Code Annotated, Section 55-10-417(a)(2), is amended by deleting the language "interlock assistance fund" and substituting instead the language "DUI monitoring fund".

SECTION 8. Tennessee Code Annotated, Section 55-10-418(c)(1)(A), is amended by deleting the language "interlock assistance fund" and substituting instead the language "DUI monitoring fund".

SECTION 9. Tennessee Code Annotated, Section 55-10-419, is further amended by deleting the language "interlock assistance fund" wherever it appears and substituting instead the language "DUI monitoring fund".

SECTION 10. Tennessee Code Annotated, Section 40-11-118, is amended by deleting subdivision (d)(2)(B) and substituting instead the following:

(B) The use of transdermal monitoring devices or other alternative alcohol monitoring devices. However, if the court orders the use of a monitoring device on or after July 1, 2016, and determines the defendant is indigent, the court shall order the portion of the costs of the device that the defendant is unable to pay be paid by the DUI monitoring fund, established in § 55-10-419;

SECTION 11. Tennessee Code Annotated, Section 40-11-148, is amended by deleting subdivision (b)(2)(B) and substituting instead the following:

(B) The use of a transdermal monitoring device or other alternative alcohol monitoring devices. However, if the court orders the use of a monitoring device on or after July 1, 2016, and the court determines the defendant to be indigent, the court shall order that the portion of the costs of the device that the defendant is unable to pay be paid by the DUI monitoring fund, established in § 55-10-419;

SECTION 12. Tennessee Code Annotated, Section 40-15-105, is amended by deleting the language "conduct;" at the end of subdivision (a)(2)(l)(i) and substituting instead the following:

conduct. If a memorandum entered into on or after July 1, 2016, requires the use of a transdermal monitoring device or other alternative monitoring device, before approving the memorandum, the judge shall determine if the defendant is indigent. If the court determines the defendant is indigent, the court shall order that the portion of the costs of the device that the person is unable to pay be paid by the DUI monitoring fund, established in § 55-10-419;

SECTION 13. Tennessee Code Annotated, Section 40-28-117, is amended by adding the following to the end of subdivision (a)(2)(B):

If the board includes use of a transdermal monitoring device or alternative monitoring device as a term and condition on or after July 1, 2016, but determines that the person is indigent, the board shall order that the portion of the costs of the device that the person is unable to pay be paid by the DUI monitoring fund, established in § 55-10-419.

SECTION 14. Tennessee Code Annotated, Section 40-35-303, is amended by deleting subdivision (d)(12)(A) and substituting instead the following:

(A) Use a transdermal monitoring device or other alternative monitoring device if the court determines that the defendant's use of alcohol or drugs was a contributing factor in the defendant's unlawful conduct and the defendant is granted probation on or after July 1, 2014. If the defendant is granted probation on or after July 1, 2016, and the court orders a monitoring device but determines that the person is indigent, the court shall order that the portion of the costs of the device that the person is unable to pay be paid by the DUI monitoring fund, established in § 55-10-419;

SECTION 15. Tennessee Code Annotated, Section 40-35-313, is amended by adding the following new sentence between the first and second sentences of subdivision (a)(1)(B)(iii):

If the court requires a qualified defendant to use a transdermal monitoring device or other alternative monitoring device on or after July 1, 2016, as a condition of the defendant's release, and the court determines the defendant is indigent, the court shall order that the portion of the costs of the device that the person is unable to pay be paid by the DUI monitoring fund, established in § 55-10-419.

SECTION 16. Tennessee Code Annotated, Section 55-10-402, is amended by deleting subdivisions (f)(1) and (f)(2) and substituting instead the following:

(1) An offender sentenced to a period of incarceration for a violation of § 55-10-401, shall be required to commence service of the sentence within thirty (30) days of conviction or, if space is not immediately available in the appropriate municipal or county jail or workhouse within such time, as soon as such space is available. If, in the opinion of the sheriff or chief administrative officer of a local jail or workhouse, space will not be available to allow an offender convicted of a violation of § 55-10-401, to commence service of the sentence, the sheriff or administrative officer shall use alternative facilities for the incarceration of the offender.

(2)(A) As used in this subsection (f), "alternative facilities" include, but are not limited to, vacant schools or office buildings or any other building or structure that would be suitable for housing DUI offenders for short periods of time on an as-needed basis and licensed through the department of mental health and substance abuse services for the state of Tennessee.

(B) The court may approve a private appropriately licensed substance abuse treatment program as an "alternative facility". If a person is ordered to participate in a court-approved private appropriately licensed substance abuse treatment program, that person shall be responsible for the cost and fees involved with the program, whether it be a prepayment or pay as you go program. The court does not have the authority to order the expenditure of public funds to provide for participation in such a program. However, if a person ordered to participate in such a program is indigent, the court may allow the person, subject to availability of services, to enter any program that provides the treatment without cost to an individual.

SECTION 17. This act shall take effect July 1, 2016, the public welfare requiring it.

SENATE BILL NO. 2399

PASSED: April 18, 2016



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 27th day of April 2016



BILL HASLAM, GOVERNOR