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Fifth Session Eleventh Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Administration of Justice
(Electronic Monitoring) Act, 2012

THE ADMINISTRATION OF JUSTICE (ELECTRONIC
MONITORING) (AMENDMENT) BILL, 2020

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Administration of Justice (Electronic Monitoring) Act, Act No. 11 of 2012.

The purpose of the Administration of Justice (Electronic Monitoring) (Amendment) Bill, 2020 is to amend the Administration of Justice (Electronic Monitoring) Act, Act No. 11 of 2012.

Clause 1 of the Bill would provide the short title of the Bill.

Clause 2 of the Bill would provide for the coming into operation of the proposed Act on the date fixed by the President by Proclamation.

Clause 3 of the Bill would provide for the interpretation of the words “the Act” to mean the Administration of Justice (Electronic Monitoring) Act, 2012.

Clause 4 of the Bill seeks to amend section 3 of the Act in subsection (1), by inserting several new definitions into the Act, e.g “authorised officer”, “global positioning system”, “monitored person”, “protection device” and “occupier”. It also seeks to delete and substitute the definitions of “Court” and “electronic monitoring device” or “device” and finally by deleting the words “or against whom a Protection Order is granted under the Domestic Violence Act” in the definition of “respondent”.

The Act is further amended in section 3(2), by deleting the words “Young Offenders Detention Act” and substituting the words “Child Rehabilitation Centres Act”.

Clause 5 of the Bill seeks to amend section 4 of the Act by inserting after section 4, a new section 4A which would provide for an authorised officer.

Clause 6 of the Bill seeks to amend section 6 of the Act in subsection (2)(f) by deleting the word “spatial” and also by inserting after section 6, a new section 6A which would seek to allow the Director to issue standard operating procedures for the proper functioning of the Electronic Monitoring Unit.

Clause 7 of the Bill seeks to amend section 8 of the Act by repealing and substituting section 8, subsections (1) and (2) to allow all persons employed with or by the Electronic Monitoring Unit to take an oath of secrecy.

Clause 8 of the Bill seeks to amend section 10 of the Act in subsection (2) by deleting the word “or” in paragraph (a), deleting the full stop and substituting the word “;” in paragraph (b) and inserting paragraphs (c), (d) and (e) after paragraph (b).

This clause further seeks to amend section 10 of the Act by inserting a new subsection (3A) after subsection (3). Subsection (5) is amended by deleting the words “the Court shall commit the person to custody” and substituting the words “the Court may commit the person to custody or may grant bail on such terms as it thinks fit” and in subsection 5(b)(ii), the words “parent or guardian” are deleted and the words “parent, guardian or person with responsibility for the child” are substituted. Subsection (7) is also amended by removing the mandatory “shall” commit to custody and substituting the words “the Court may commit the person to custody or may grant bail on such terms as it thinks fit”. Finally, a new subsection (8A) is inserted after subsection (8) to allow the Court to request a report from any person it considers necessary.

Clause 9 of the Bill seeks to insert a new section 10A into the Act to allow for the provision of “protection devices” to applicants where an order for protection is made.

Clause 10 of the Bill seeks to amend section 11 of the Act by renumbering same and inserting a new subsection (2).

Clause 11 of the Bill seeks to amend section 12 of the Act by inserting a new subsection 2A after subsection (2), which would allow the competent authority to request a report from any other person.

Clause 12 of the Bill seeks to repeal section 13(1) of the Act and substitute a new subsection to allow a person to apply to the Court on a form approved by the Judiciary to have a device fitted on him.

Clause 13 of the Bill seeks to amend section 15 of the Act in paragraph (c) by deleting the words “parent or guardian” and substituting the words “parent, guardian or person with responsibility for the child”.

Clause 14 of the Bill seeks to amend section 16 of the Act by inserting a new subsection (1A) to make provisions for where the device is damaged by negligence, the person, respondent, child or applicant shall be responsible for the replacement cost subsection (3) is repealed and a new subsection (3) substituted.

Clause 15 of the Bill seeks to amend section 18 of the Act in subsection (2) by deleting the words “a police officer in charge of the police station in the magisterial district in which the breach purportedly occurred” and substituting the words “any police officer in charge of a police station”.

Clause 16 of the Bill seeks to amend section 19 of the Act by deleting the words “parent or guardian of the child” and substituting the words “parent, guardian or person with responsibility for the child”. Further, by inserting after subsection (2), a new subsection (2A) and in subsection (3) by deleting the words “this section” and substituting the words “subsections (1) or (2)”.

Clause 17 of the Bill seeks to amend section 22 of the Act by deleting the words “(1)” and repealing subsection (2).

Clause 18 of the Bill seeks to amend section 23 of the Act in subsections (1) and (2) by deleting the words “parent or guardian of a child” and substituting the words “parent, guardian or person with responsibility for a child”.

Clause 19 of the Bill seeks to amend section 25 of the Act in subsection (1) by deleting paragraphs (b), (c) and (f) in addition to deleting paragraph (g) and substituting a new paragraph.

Clause 20 of the Bill seeks to amend section 25 of the Act by inserting after section 25, a new section 25A which would provide for Rules of Court.

Clause 21 of the Bill seeks to amend section 27 of the Act by deleting the words “First and Second”.

Clause 22 of the Bill seeks to amend the First Schedule by inserting after the words “[Section 10(3)” the words “, (3A)”.

Clause 23 of the Bill seeks to amend several paragraphs in the Second Schedule.

Clause 24 of the Bill seeks to amend the Third Schedule by deleting the words “a report of the Director based on information detailed in the Second Schedule of” and substituting the words “the provisions of”.

Clause 25 of the Bill seeks to insert a Fourth Schedule containing an oath of secrecy.

THE ADMINISTRATION OF JUSTICE (ELECTRONIC
MONITORING) (AMENDMENT) BILL, 2020

Arrangement of Clauses

Clause

1. Short title
2. Commencement
3. Interpretation
4. Section 3 amended
5. Section 4A inserted
6. Section 6 amended
7. Section 8 repealed and substituted
8. Section 10 amended
9. Section 10A inserted
10. Section 11 amended
11. Section 12 amended
12. Section 13 amended
13. Section 15 amended
14. Section 16 amended
15. Section 18 amended
16. Section 19 amended
17. Section 22 amended
18. Section 23 amended
19. Section 25 amended
20. Section 25A inserted
21. Section 27 amended

22. First Schedule amended
23. Second Schedule amended
24. Third Schedule amended
25. Fourth Schedule inserted

BILL

AN ACT to amend the Administration of Justice
(Electronic Monitoring) Act, 2012

[, 2020]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:

- 1.** This Act may be cited as the Administration of Short title
Justice (Electronic Monitoring) (Amendment) Act, 2020.
- 2.** This Act comes into operation on such date as is Commencement
fixed by the President by Proclamation.

Interpretation
Act No.11 of 2012

3. In this Act, “the Act” means the Administration of Justice (Electronic Monitoring) Act, 2012.

Section 3 amended

4. Section 3 of the Act is amended –
(a) in subsection (1)—

(i) by inserting, in the appropriate alphabetical sequence, the following definitions:

““authorised officer” means the Director or a member of staff of the Unit authorised by him under section 4A;

“global positioning system” or “GPS” includes a navigational system using satellite signals to fix the location of a radio receiver on or above the earth’s surface;

“monitored person” means a person, respondent, child or applicant who may be subjected to electronic monitoring pursuant to a court order, a lawful condition of pardon, instructions from a competent authority or an application by a person under section 13 of the Act.

“occupier” means any person exercising control over that part of the premises where the equipment is to be installed for the time being;

“protection device” means a small portable device which generates audible and visual indication signals received from the radio frequency tag physically attached to a monitored person;”;

- (ii) in the definition of “competent authority”, by deleting the word “authority” after the words “Tribunal or other” and substituting the word “person”;
- (iii) by deleting the definition of “Court” and substituting the following definition:

““Court” means a Judge, Master, District Court Judge, Magistrate, Registrar, Magistracy Registrar, Clerk of the Court or Coroner as applicable;”;

- (iv) by deleting the definition of “electronic monitoring device” and substituting the following definition:

““electronic monitoring device” or “device” includes a device, which operates on a global positioning system (GPS), radio frequency or telecommunications network, which is used to monitor compliance with the conditions of release of a monitored person;” and

(v) in the definition of “respondent”, by deleting the words “or against whom a Protection Order is granted under the Domestic Violence Act”; and

(b) in subsection (2), by deleting the words “Young Offenders Detention Act” and substituting the words “Child Rehabilitation Centres Act”.

Section 4A inserted **5.** The Act is amended by inserting after section 4, the following section:

“Authorised officer 4A. The functions of the Director under this Act may be delegated in writing by him to an authorised officer who shall be a member of staff of the Unit acting under and in accordance with his general or special directions.”.

Section 6 amended **6.** Section 6 of the Act is amended—

(a) in subsection (2)(f), by deleting the word “spatial”; and

(b) by inserting after section 6, the following section:

“Director to issue standard operating procedures 6A. The Director may, from time to time as necessary, issue standard operating procedures for the proper functioning of the Electronic Monitoring Unit.”.

Section 8 repealed and substituted **7.** The Act is amended by repealing section 8 and substituting the following subsections:

“Confidentiality of information 8.(1) Every employee of the Unit, whether permanent, on contract, under a consultancy or an individual engaged by a service provider in furtherance of section 7, shall take an oath of secrecy as set out in the Fourth Schedule, to not disclose any

information received from the Unit or service provider in the course of his employment, otherwise than in the proper exercise of his function.”; and

(2) A person who takes the oath under subsection (1) commits an offence where he discloses information in contravention of the oath and is liable on summary conviction to a fine of one hundred thousand dollars and imprisonment for two years.”.

8. Section 10 of the Act is amended—

Section 10 amended

(a) in subsection (2)—

- (i) in paragraph (a), by deleting the word “or”;
- (ii) in paragraph (b), by deleting the full stop and substituting the word “,”; and
- (iii) by inserting after paragraph (b), the following paragraphs:

“(c) a probation order under the Probation of Offenders Act;

Chap. 13:51

(d) a community service order under the Community Service Orders Act; or

Chap. 13:06

(e) any other application which in its discretion it consider appropriate to impose electronic monitoring.”.

(b) by inserting after subsection (3), the following subsection:

“(3A) Notwithstanding subsection (3), the Court may—

- (i) where bail is granted; or

- (ii) in the case of a child, impose electronic monitoring as a condition of the bail.”;
- (c) in subsection (5), by deleting the words “the Court shall commit the person to custody” and substituting the words “the Court may commit the person to custody or may grant bail on such terms as it thinks fit”;
- (d) in subsection (5)(b)(ii), by deleting the words “parent or guardian” and substituting the words “parent, guardian or person with responsibility for the child”;
- (e) in subsection (7), by deleting the words “the Court shall commit the person to custody” and substituting the words “the Court may commit the person to custody or may grant bail on such terms as it thinks fit”;
- (f) by inserting after subsection (8), the following subsection:
 - “(8A) The Court may also request a report from any other person, where applicable, to further assist in making a decision under this section.”; and
- (e) in subsection (9), by deleting the words “parent or guardian” and substituting the words “parent, guardian or person with responsibility for the child”.

Section 10A inserted **9.** The Act is amended by inserting after section 10, the following section:

“Protection device 10A. (1) Where an order for protection is made under any written law, the Court may inquire of the applicant whether that person consents to being issued with a protection device.

(2) Where an applicant agrees to being issued with a protection device under subsection (1), that applicant shall complete the prescribed form indicating that they understand the purpose of the device and accept responsibility for its proper use and care.”.

10. Section 11 of the Act is amended—

Section 11 amended

- (a) by renumbering section 11 as section 11(1); and
- (b) by inserting after section 11(1), as renumbered the following subsection:

“(2) Before making a decision under subsection (1), a report shall be requested from the Director concerning the person, which the Director shall cause to be provided as soon as it is practicable and where necessary, the person shall be committed to appropriate custody while awaiting the report.”.

11. Section 12 of the Act is amended—

Section 12 amended

- (a) by inserting after subsection (2), the following subsection:

“(2A) The competent authority may also request a report from any other person where applicable, to further assist in making a decision under this section.”; and

- (b) in subsection (4), by inserting after the words “the report of the Director” the words “as well as that of any other person”.

12. Section 13 of the Act is amended by repealing subsection (1) and substituting the following subsection:

Section 13 amended

“(1) An individual may apply to the Court on a form approved by the Judiciary to have a device fitted on him.”.

Section 15 amended **13.** Section 15 of the Act is amended in paragraph (c) by deleting the words “parent or guardian” and substituting the words “parent, guardian or person with responsibility for the child”.

Section 16 amended **14.** Section 16 of the Act is amended by—

(a) inserting after subsection (1), the following subsection:

“(1A) Where a person, respondent, child or applicant has been issued an electronic monitoring device or a protection device under the Act and is negligent and causes damage to the electronic monitoring device or protection device, that person, respondent, child or applicant shall—

(a) be liable for the replacement cost of the electronic monitoring device or protection device; and

(b) be brought before the court or competent authority to determine whether they will be allowed to continue participating in electronic monitoring.”.

(b) repealing subsection (3) and substituting the following subsection:

“(3) Copies of the decision of the Court made under sections 10 and 13 shall be given to—

(a) the person or respondent;

(b) the child, as well as his parent, guardian or person with responsibility for the child;

- (c) an applicant;
- (d) the Director of the Electronic Monitoring Unit; and
- (e) any other party the Court in its discretion considers it necessary to inform,

as soon as it is reasonably practicable to do so.”.

15. Section 18 of the Act is amended in subsection (2), Section 18 amended by deleting the words “a police officer in charge of the police station in the magisterial district in which the breach purportedly occurred” and substituting the words “any police officer in charge of a police station”.

16. Section 19 of the Act is amended— Section 19 amended

- (a) in subsection (2), by deleting the words “parent or guardian of the child” and substituting the words “parent, guardian or person with responsibility for the child”;
- (b) by inserting after subsection (2), the following subsection:

“(2A) As soon as the Director receives information of a change or proposed change in circumstances under subsections (1) or (2), he shall forthwith notify the Court in writing.”; and

- (c) in subsection (3), by deleting the words “this section” and substituting the words “subsections (1) or (2)”.

17. Section 22 of the Act is amended by— Section 22 amended

- (a) deleting the words “(1)”; and
- (b) repealing subsection (2).

18. Section 23 of the Act is amended in sub- Section 23 amended sections (1) and (2) by deleting the words “parent or guardian of a child” and substituting the words “parent, guardian or person with responsibility for a child”.

Section 25 amended **19.** Section 25 of the Act is amended in subsection (1) by—

- (a) deleting paragraphs (b), (c) and (f); and
- (b) deleting paragraph (g) and substituting the following paragraph:

“(g) the prescribed forms required under this Act; and”.

Section 25A inserted **20.** The Act is amended by inserting after section 25, the following section:

“Rules 25A. (1) The Rules Committee established under section 77 of the Supreme Court of Judicature Act may make Rules of Court generally for the purposes of this Act.

(2) Rules made under this section shall be subject to the negative resolution of Parliament.”.

Section 27 amended **21.** Section 27 of the Act is amended by deleting the words “First and Second”.

First Schedule amended **22.** The First Schedule of the Act is amended by inserting after the words “[Section 10(3)”, the words “,(3A)”.

Second Schedule amended **23.** The Second Schedule of the Act is amended—

- (a) in paragraph (c), by deleting the words “parent’s or guardian’s, land line” and substituting the words “parent’s, guardian’s or person with responsibility for the child, land line or any other system which utilises a telecommunications network”;
- (b) in paragraph (f), by deleting the word “dependents” and substituting the word “dependants”;
- (c) in paragraph (g), by deleting the words “parent or guardian” and substituting the words “parent, guardian or person with responsibility for the child”; and

(d) in paragraph (k), by deleting the words “parent or guardian” and substituting the words “parent, guardian or person with responsibility for the child”.

24. The Third Schedule of the Act is amended in paragraph (c), subparagraph (a) by deleting the words “a report of the Director based on information detailed in the Second Schedule of the” and substituting the words “the provisions of”. Third Schedule amended

25. The Act is amended by inserting after the “Third Schedule”, the following Schedule: Fourth Schedule inserted

“FOURTH SCHEDULE

OATH OF SECRECY

I,....., do swear and declare that I will honestly and faithfully serve and fulfill the duties that devolve upon me by reason of my employment in the Electronic Monitoring Unit, and that I will not divulge any information being facts or expressions of opinions based on such facts gained by me as a result of my employment to any unauthorised person, orally or in writing, without the previous sanction of the Director/Manager. I understand that these provisions apply not only during the period of my employment but also after my employment with the Unit has ceased.

Signed

Date

.....
Director/Manager, Electronic Monitoring Unit”.

Passed in the House of Representatives this day of , 2020.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of ,
2020.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 3 of 2020

FIFTH SESSION
ELEVENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Administration of
Justice (Electronic Monitoring) Act,
2012

Received and read the

First time

Second time

Third time