

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1902
Committee Substitute Favorable 6/7/06

Short Title: GPS Monitoring of Some Sex Offenders/Funds.

(Public)

Sponsors:

Referred to:

May 11, 2006

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ACTIVE GPS MONITORING FOR THE SUPERVISORY PERIOD OF PROBATION, PAROLE, OR POST-RELEASE SUPERVISION OF ANY SEX OFFENDER REQUIRED TO REGISTER ON THE LIFETIME SEX OFFENDER REGISTRY BECAUSE THE OFFENDER IS CLASSIFIED AS A SEXUALLY VIOLENT PREDATOR, A RECIDIVIST, OR AN AGGRAVATED OFFENDER, AND TO APPROPRIATE FUNDS TO IMPLEMENT THE GPS MONITORING SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 27A of Chapter 14 of the General Statutes is amended by adding a new Part to read:

"Part 5. Sex Offender Monitoring.

"§ 14-208.33. Establishment of program; creation of guidelines; duties.

(a) The Department of Correction shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a recidivist, or was convicted of an aggravated offense as those terms are defined in G.S. 14-208.6.

(b) In developing the guidelines for the program, the Department shall require that any offender who is enrolled in the satellite-based program submit to an active continuous satellite-based monitoring program, unless an active program will not work as provided by this section. If the Department determines that an active program will not work as provided by this section, then the Department shall require that the defendant submit to a passive continuous satellite-based program that works within the technological or geographical limitations.

(c) The satellite-based monitoring program shall use a system that provides all of the following:

1 (1) Time-correlated and continuous tracking of the geographic location of
2 the subject using a global positioning system based on satellite and
3 other location tracking technology.

4 (2) Reporting of subject's violations of prescriptive and proscriptive
5 schedule or location requirements. Frequency of reporting may range
6 from once a day (passive) to near real-time (active).

7 (d) The Department may contract with a single vendor for the hardware services
8 needed to monitor subject offenders and correlate their movements to reported crime
9 incidents. The contract may provide for services necessary to implement or facilitate
10 any of the provisions of this Part.

11 **"§ 14-208.34. Enrollment in satellite-based monitoring programs mandatory;**
12 **length of enrollment.**

13 Any person who is convicted of a reportable conviction as defined by
14 G.S. 14-208.6(4), who is required to register under Part 3 of Article 27A of Chapter 14
15 of the General Statutes because the defendant is classified as a sexually violent predator,
16 is a recidivist, or was convicted of an aggravated offense as those terms are defined in
17 G.S. 14-208.6, and who is placed on probation, parole, or post-release supervision, shall
18 enroll in a satellite-based monitoring program with the Division of Community
19 Corrections office in the county where the person resides. The person shall remain
20 enrolled in the satellite-based monitoring program for the period of probation, parole, or
21 post-release supervision.

22 **"§ 14-208.35. Fees.**

23 (a) There shall be a onetime fee of ninety dollars (\$90.00) assessed to each
24 person required to enroll pursuant to this Part. The court may exempt a person from
25 paying the fee only for good cause and upon motion of the person placed on
26 satellite-based monitoring. The court may require that the fee be paid in advance or in a
27 lump sum or sums, and a probation officer may require payment by those methods if the
28 officer is authorized by subsection (c) of this section to determine the payment schedule.
29 This fee is intended to offset only the costs associated with the time-correlated tracking
30 of the geographic location of subjects using the location tracking crime correlation
31 system.

32 (b) The fee shall be payable to the clerk of superior court, and the fees shall be
33 transmitted to the State for deposit into the State's General Fund.

34 (c) If a person placed on supervised probation, parole, or post-release supervision
35 is required as a condition of that probation, parole, or post-release supervision to pay
36 any moneys to the clerk of superior court, the court may delegate to a probation officer
37 the responsibility to determine the payment schedule."

38 **SECTION 2.** G.S. 15A-1343(b2) reads as rewritten:

39 "(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of
40 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special
41 conditions of probation, a defendant who has been convicted of an offense which is a
42 reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical,
43 mental, or sexual abuse of a minor, must:

- 1 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
2 conviction as defined by G.S. 14-208.6(4).
- 3 (2) Participate in such evaluation and treatment as is necessary to
4 complete a prescribed course of psychiatric, psychological, or other
5 rehabilitative treatment as ordered by the court.
- 6 (3) Not communicate with, be in the presence of, or found in or on the
7 premises of the victim of the offense.
- 8 (4) Not reside in a household with any minor child if the offense is one in
9 which there is evidence of sexual abuse of a minor.
- 10 (5) Not reside in a household with any minor child if the offense is one in
11 which there is evidence of physical or mental abuse of a minor, unless
12 the court expressly finds that it is unlikely that the defendant's harmful
13 or abusive conduct will recur and that it would be in the minor child's
14 best interest to allow the probationer to reside in the same household
15 with a minor child.
- 16 (6) Satisfy any other conditions determined by the court to be reasonably
17 related to his rehabilitation.
- 18 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
19 of Chapter 14 of the General Statutes, if the defendant is described by
20 G.S. 14-208.34."

21 **SECTION 3.** G.S. 15A-1343.2 is amended by adding a new subsection to
22 read:

23 "(f1) Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders.
24 – Notwithstanding any other provision of this section, the court shall impose
25 satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the
26 General Statutes as a condition of probation on any offender who is described by
27 G.S. 14-208.34."

28 **SECTION 4.** G.S. 15A-1344 is amended by adding a new subsection to
29 read:

30 "(e2) Mandatory Satellite-Based Monitoring Required for Extension of Probation
31 in Response to Violation by Certain Sex Offenders. – If a defendant who is described by
32 G.S. 14-208.34 violates probation and if the court extends the probation as a result of
33 the violation, then the court shall order satellite-based monitoring pursuant to Part 5 of
34 Article 27A of Chapter 14 of the General Statutes as a condition of the extended
35 probation."

36 **SECTION 5.** G.S. 15A-1368.4 (b1) reads as rewritten:

37 "(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
38 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the
39 required condition set forth in subsection (b) of this section, ~~for~~a supervisee who has
40 been convicted of an offense which is a reportable conviction as defined in
41 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor,
42 ~~controlling conditions, violations of which may result in revocation of post release~~
43 ~~supervision, are:~~must:

- 1 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
2 conviction as defined by G.S. 14-208.6(4).
- 3 (2) Participate in such evaluation and treatment as is necessary to
4 complete a prescribed course of psychiatric, psychological, or other
5 rehabilitative treatment as ordered by the Commission.
- 6 (3) Not communicate with, be in the presence of, or found in or on the
7 premises of the victim of the offense.
- 8 (4) Not reside in a household with any minor child if the offense is one in
9 which there is evidence of sexual abuse of a minor.
- 10 (5) Not reside in a household with any minor child if the offense is one in
11 which there is evidence of physical or mental abuse of a minor, unless
12 a court of competent jurisdiction expressly finds that it is unlikely that
13 the defendant's harmful or abusive conduct will recur and that it would
14 be in the child's best interest to allow the supervisee to reside in the
15 same household with a minor child.
- 16 (6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
17 of Chapter 14 of the General Statutes, if the offense is a reportable
18 conviction as defined by G.S. 14-208.6(4) and the supervisee is
19 described by G.S. 14-208.34."

20 **SECTION 6.** G.S. 15A-1374 is amended by adding a new subsection to

21 read:

22 "(b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for
23 Certain Offenders. – If a parolee is described by G.S. 14-208.34, the Commission shall
24 require as a condition of parole that the parolee submit to satellite-based monitoring
25 pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes."

26 **SECTION 7.** G.S. 15A-1368.4 (b1) reads as rewritten:

27 "(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
28 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the
29 required condition set forth in subsection (b) of this section, ~~for~~a supervisee who has
30 been convicted of an offense which is a reportable conviction as defined in
31 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor,
32 ~~controlling conditions, violations of which may result in revocation of post release~~
33 ~~supervision, are:~~must:

- 34 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
35 conviction as defined by G.S. 14-208.6(4).
- 36 (2) Participate in such evaluation and treatment as is necessary to
37 complete a prescribed course of psychiatric, psychological, or other
38 rehabilitative treatment as ordered by the Commission.
- 39 (3) Not communicate with, be in the presence of, or found in or on the
40 premises of the victim of the offense.
- 41 (4) Not reside in a household with any minor child if the offense is one in
42 which there is evidence of sexual abuse of a minor.
- 43 (5) Not reside in a household with any minor child if the offense is one in
44 which there is evidence of physical or mental abuse of a minor, unless

1 a court of competent jurisdiction expressly finds that it is unlikely that
2 the defendant's harmful or abusive conduct will recur and that it would
3 be in the child's best interest to allow the supervisee to reside in the
4 same household with a minor child.

5 (6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
6 of Chapter 14 of the General Statutes, if the offense is a reportable
7 conviction as defined by G.S. 14-208.6(4) and the supervisee is
8 described by G.S. 14-208.34."

9 **SECTION 8.** The Department of Correction shall issue a Request for
10 Proposal (RFP) for passive and active Global Positioning Systems for use as an
11 intermediate sanction and to help supervise certain sex offenders who are placed on
12 probation, parole, or post-release supervision. The RFP shall require separate bids: one
13 for equipment, maintenance, and technical support, and one for the aforementioned
14 items plus monitoring services.

15 No less than 30 days prior to issuing these RFPs, the Department shall
16 provide the Fiscal Research Division with copies of the draft RFPs. The RFPs shall be
17 issued in an appropriate amount of time for contract terms to begin January 1, 2007.

18 **SECTION 9.** There is appropriated from the General Fund to the Department
19 of Correction the sum of seven hundred seventy-one thousand five hundred thirty-nine
20 dollars (\$771,539) for the 2006-2007 fiscal year to implement the active and passive
21 electronic monitoring systems required by this act to supervise up to 100 sex offenders.

22 **SECTION 10.** Section 9 of this act becomes effective July 1, 2006. The
23 remainder of this act becomes effective January 1, 2007, and applies to offenders placed
24 on probation, parole, or post-release supervision on or after that date.