

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH30421-LHz-227 (4/10)

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

Sponsors: Representatives Ray, Goforth, and Glazier (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ACTIVE GPS MONITORING OF ANY SEX OFFENDER WHO REQUIRES THE HIGHEST LEVEL OF SUPERVISION AND MONITORING IF THE OFFENDER IS RELEASED ON PROBATION, PAROLE, OR POST-RELEASE SUPERVISION FOR THE SUPERVISORY PERIOD OF THAT PROBATION, PAROLE, OR POST-RELEASE SUPERVISION AND TO APPROPRIATE FUNDS TO IMPLEMENT THE GPS MONITORING SYSTEM, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON SEX OFFENDER REGISTRATION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1343(b2) reads as rewritten:

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

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

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

5 (6) Satisfy any other conditions determined by the court to be reasonably
6 related to his rehabilitation.

7 (7) Submit to electronic monitoring as provided in G.S. 15A-1380.6, if the
8 defendant is required to register under Part 3 of Article 27A of Chapter
9 14 of the General Statutes because the defendant is classified as a
10 sexually violent predator, is a recidivist, or was convicted of an
11 aggravated offense as those terms are defined in G.S.14-208.6.

12 (8) Submit to electronic monitoring as provided in G.S. 15A-1380.6, if the
13 defendant is required to register under Part 2 of Article 27A of Chapter
14 14 of the General Statutes, has committed an offense involving the
15 physical, mental, or sexual abuse of a minor, and the Department of
16 Correction, based on the Department's risk assessment program,
17 recommends that the defendant submit to the highest possible level of
18 supervision and monitoring.

19 Defendants subject to the provisions of this subsection shall not be placed on
20 unsupervised probation."

21 **SECTION 2.** G.S. 15A-1343(c2) reads as rewritten:

22 "(c2) Electronic Monitoring Device Fee. – Any person placed on house arrest with
23 electronic monitoring under subsection (b1) of this section or who has electronic
24 monitoring imposed as a condition of probation under subsection (b2) of this section
25 and G.S. 15A-1380.6 shall pay a fee of ninety dollars (\$90.00) for the electronic
26 monitoring device. The court may exempt a person from paying the fee only for good
27 cause and upon motion of the person placed on house arrest with electronic ~~monitoring,~~
28 monitoring or upon motion of the person who has electronic monitoring imposed as a
29 condition of probation under subsection (b2) of this section and G.S. 15A-1380.6. The
30 court may require that the fee be paid in advance or in a lump sum or sums, and a
31 probation officer may require payment by those methods if the officer is authorized by
32 subsection (g) of this section to determine the payment schedule. The fee must be paid
33 to the clerk of court for the county in which the judgment was entered or the deferred
34 prosecution agreement was filed. Fees collected under this subsection shall be
35 transmitted to the State for deposit into the State's General Fund."

36 **SECTION 3.** G.S. 15A-1344 is amended by adding a new subsection to
37 read:

38 "(e2) Mandatory Electronic Monitoring Required for Extension of Probation in
39 Response to Violation by Certain Sex Offenders. – If a defendant who violates
40 probation satisfies the criteria in either subdivision (1) or (2) of this subsection, and if
41 the court extends the probation as a result of the violation, then the court shall order
42 electronic monitoring as a condition of the extended probation. The electronic
43 monitoring system used shall comply with the provisions of G.S. 15A-1380.6.
44 Electronic monitoring shall be required if the defendant:

1 parole, or post-release supervision and who have electronic monitoring imposed as a
2 condition of that probation, parole, or post-release supervision:

3 (1) The defendant is required to register under Part 3 of Article 27A of
4 Chapter 14 of the General Statutes because the person is classified as a
5 sexually violent predator, is a recidivist, or was convicted of an
6 aggravated offense as those terms are defined in G.S.14-208.6.

7 (2) The defendant is required to register under Part 2 of Article 27A of
8 Chapter 14 of the General Statutes, has committed an offense
9 involving the physical, mental, or sexual abuse of a minor, and the
10 Department of Correction, based on the Department's risk assessment
11 program, recommends that the defendant submit to the highest
12 possible level of supervision and monitoring."

13 **SECTION 6.** The Department of Correction shall issue a Request for
14 Proposal (RFP) for passive and active Global Positioning Systems for use as an
15 intermediate sanction and to help supervise certain sex offenders who are placed on
16 probation, parole, or post-release supervision and who are identified by the Department
17 of Correction as requiring the highest possible level of supervision and monitoring. The
18 RFP shall require separate bids: one for equipment, maintenance, and technical support,
19 and one for the aforementioned items plus monitoring services.

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

23 **SECTION 7.** There is appropriated from the General Fund to the
24 Department of Correction the sum of one million three hundred seven thousand two
25 hundred eighteen dollars (\$1,307,218) for the 2006-2007 fiscal year to implement the
26 active and passive electronic monitoring systems required by this act to supervise up to
27 300 sex offenders.

28 **SECTION 8.** Section 7 of this act becomes effective July 1, 2006. The
29 remainder of this act becomes effective January 1, 2007, and applies to offenders placed
30 on probation, parole, or post-release supervision on or after that date.