

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 1902**

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

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Sponsors: Representatives Ray, Goforth, Glazier, Farmer-Butterfield (Primary Sponsors); B. Allen, L. Allen, Blust, Brown, Capps, Clary, Coates, Dollar, England, Faison, Fisher, Frye, Goodwin, Grady, Harrison, Hilton, Hollo, Holloway, Howard, Johnson, Ed Jones, Lewis, Luebke, McGee, Moore, Pate, Preston, Rapp, Setzer, Sherrill, Starnes, Steen, Stiller, Sutton, Underhill, Vinson, Weiss, Wiley, and Wray.

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Referred to: Judiciary IV, if favorable, Appropriations.

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May 11, 2006

A BILL TO BE ENTITLED

1  
2 AN ACT TO REQUIRE ACTIVE GPS MONITORING OF ANY SEX OFFENDER  
3 WHO REQUIRES THE HIGHEST LEVEL OF SUPERVISION AND  
4 MONITORING IF THE OFFENDER IS RELEASED ON PROBATION, PAROLE,  
5 OR POST-RELEASE SUPERVISION FOR THE SUPERVISORY PERIOD OF  
6 THAT PROBATION, PAROLE, OR POST-RELEASE SUPERVISION AND TO  
7 APPROPRIATE FUNDS TO IMPLEMENT THE GPS MONITORING SYSTEM,  
8 AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON SEX  
9 OFFENDER REGISTRATION LAWS.

10 The General Assembly of North Carolina enacts:

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

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

- 17 (1) Register as required by G.S. 14-208.7 if the offense is a reportable  
18 conviction as defined by G.S. 14-208.6(4).  
19 (2) Participate in such evaluation and treatment as is necessary to  
20 complete a prescribed course of psychiatric, psychological, or other  
21 rehabilitative treatment as ordered by the court.  
22 (3) Not communicate with, be in the presence of, or found in or on the  
23 premises of the victim of the offense.

- 1 (4) Not reside in a household with any minor child if the offense is one in  
2 which there is evidence of sexual abuse of a minor.
- 3 (5) Not reside in a household with any minor child if the offense is one in  
4 which there is evidence of physical or mental abuse of a minor, unless  
5 the court expressly finds that it is unlikely that the defendant's harmful  
6 or abusive conduct will recur and that it would be in the minor child's  
7 best interest to allow the probationer to reside in the same household  
8 with a minor child.
- 9 (6) Satisfy any other conditions determined by the court to be reasonably  
10 related to his rehabilitation.
- 11 (7) Submit to electronic monitoring as provided in G.S. 15A-1380.6, if the  
12 defendant is required to register under Part 3 of Article 27A of Chapter  
13 14 of the General Statutes because the defendant is classified as a  
14 sexually violent predator, is a recidivist, or was convicted of an  
15 aggravated offense as those terms are defined in G.S.14-208.6.
- 16 (8) Submit to electronic monitoring as provided in G.S. 15A-1380.6, if the  
17 defendant is required to register under Part 2 of Article 27A of Chapter  
18 14 of the General Statutes, has committed an offense involving the  
19 physical, mental, or sexual abuse of a minor, and the Department of  
20 Correction, based on the Department's risk assessment program,  
21 recommends that the defendant submit to the highest possible level of  
22 supervision and monitoring.

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

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

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

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

42 "(e2) Mandatory Electronic Monitoring Required for Extension of Probation in  
43 Response to Violation by Certain Sex Offenders. – If a defendant who violates  
44 probation satisfies the criteria in either subdivision (1) or (2) of this subsection, and if

1 the court extends the probation as a result of the violation, then the court shall order  
2 electronic monitoring as a condition of the extended probation. The electronic  
3 monitoring system used shall comply with the provisions of G.S. 15A-1380.6.  
4 Electronic monitoring shall be required if the defendant:

- 5 (1) Is classified as a sexually violent predator, is a recidivist, or was  
6 convicted of an aggravated offense as those terms are defined in  
7 G.S.14-208.6; or  
8 (2) Is required to register under Part 2 of Article 27A of Chapter 14 of the  
9 General Statutes, has committed an offense involving the physical,  
10 mental, or sexual abuse of a minor, and the Department of Correction,  
11 based on the Department's risk assessment program, recommends that  
12 the defendant submit to the highest possible level of supervision and  
13 monitoring."

14 **SECTION 4.** G.S. 15A-1368.4 is amended by adding a new subsection to  
15 read:

16 "(b2) Mandatory Electronic Monitoring for Certain Other Sex Offenders. – In  
17 addition to the other required conditions set forth in this section, the Commission shall  
18 also impose electronic monitoring as a condition for a supervisee who satisfies the  
19 criteria set out in either subdivision (1) or (2) of this subsection. The electronic  
20 monitoring system used shall comply with the provisions of G.S. 15A-1380.6.  
21 Electronic monitoring shall be required if the defendant:

- 22 (1) Is required to register under Part 3 of Article 27A of Chapter 14 of the  
23 General Statutes because the person is classified as a sexually violent  
24 predator, is a recidivist, or was convicted of an aggravated offense as  
25 those terms are defined in G.S.14-208.6; or  
26 (2) Is required to register under Part 2 of Article 27A of Chapter 14 of the  
27 General Statutes, has committed an offense involving the physical,  
28 mental, or sexual abuse of a minor, and the Department of Correction,  
29 based on the Department's risk assessment program, recommends that  
30 the defendant submit to the highest possible level of supervision and  
31 monitoring."

32 **SECTION 5.** Chapter 15A of the General Statutes is amended by adding a  
33 new Article to read:

34 "Article 85C.

35 "Electronic Monitoring Devices.

36 "**§ 15A-1380.6. Electronic monitoring devices.**

37 (a) If electronic monitoring is imposed as a condition of probation, parole, or  
38 post-release supervision on an offender described in subsection (b) of this section, the  
39 Department of Correction shall use an electronic monitoring system that actively  
40 monitors the offender, identifies the offender's location, and timely reports or records  
41 the offender's presence near or within a crime scene or in a prohibited area or the  
42 offender's departure from specified geographical areas. If an electronic monitoring  
43 system that actively monitors the offender will not work as provided by this section,

1 then the Department of Correction shall use a passive electronic system that works  
2 within the technological or geographical limitations.

3 (b) An electronic monitoring system as described in subsection (a) of this section  
4 shall be used to monitor any of the following offenders who are placed on probation,  
5 parole, or post-release supervision and who have electronic monitoring imposed as a  
6 condition of that probation, parole, or post-release supervision:

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

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

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

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

27 **SECTION 7.** There is appropriated from the General Fund to the  
28 Department of Correction the sum of one million three hundred seven thousand two  
29 hundred eighteen dollars (\$1,307,218) for the 2006-2007 fiscal year to implement the  
30 active and passive electronic monitoring systems required by this act to supervise up to  
31 300 sex offenders.

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