

Introduced by Senators Speier, Denham, and Torlakson
(Coauthors: Assembly Members DeVore, Garcia, Shirley Horton,
Jones, Mullin, and Pavley)

February 22, 2005

An act to add Chapter 1.4 (commencing with Section 1210.7) to Title 8 of Part 2 of, to add Article 2 (commencing with Section 3010) to Title 1 of Part 3 of, and to repeal Section 3004 of, the Penal Code, relating to electronic monitoring of offenders, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 619, as introduced, Speier. Electronic monitoring of offenders.

Existing law authorizes probation as an alternative to incarceration for various offenses.

This bill would authorize county probation departments to use global positioning system technology to supervise persons on probation, as specified.

Existing law authorizes the release of prisoners to parole. Existing law also authorizes electronic monitoring of certain parolees.

This bill would repeal the current provisions authorizing the use of electronic monitoring and would add new provisions authorizing the Department of Corrections to use global positioning system technology to supervise persons on parole, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 1.4 (commencing with Section 1210.7)
2 is added to Title 8 of Part 2 of the Penal Code, to read:

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4

CHAPTER 1.4. ELECTRONIC MONITORING

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6 1210.7. (a) Notwithstanding any other provisions of law, a
7 county probation department may utilize continuous electronic
8 monitoring to electronically monitor the whereabouts of persons
9 on probation, as provided by this chapter.

10 (b) Any use of continuous electronic monitoring pursuant to
11 this chapter shall have as its primary objective the enhancement
12 of public safety through the reduction in the number of people
13 being victimized by crimes committed by persons on probation.

14 (c) It is the intent of the Legislature in enacting this chapter to
15 specifically expand the authority of a county probation
16 department acting pursuant to this chapter to utilize a system of
17 continuous electronic monitoring that conforms with the
18 requirements of this chapter.

19 (d) For purposes of this chapter, “continuous electronic
20 monitoring” may include the use of worldwide radio navigation
21 system technology, known as the Global Positioning System, or
22 GPS. The Legislature finds that because of its capability for
23 continuous surveillance, continuous electronic monitoring has
24 been used in other parts of the country to monitor persons on
25 formal probation who are identified as requiring a high level of
26 supervision.

27 (e) The Legislature finds that continuous electronic monitoring
28 has proven to be an effective risk management tool for
29 supervising high-risk persons on probation who are likely to
30 reoffend where prevention and knowledge of their whereabouts
31 is a high priority for maintaining public safety.

32 1210.8. A county probation department may utilize a
33 continuous electronic monitoring device pursuant to this section
34 that has all of the following attributes:

35 (a) A device designed to be worn by a human being.

36 (b) A device that emits a signal as a person is moving or is
37 stationary. The signal shall be capable of being received and
38 tracked across large urban or rural areas, statewide, and being

1 received from within structures, vehicles, and other objects to the
2 degree technically feasible in light of the associated costs, design,
3 and other considerations as are determined relevant by the county
4 probation department.

5 (c) A device that functions 24 hours a day.

6 (d) A device that is resistant or impervious to unintentional or
7 willful damage.

8 1210.9. (a) A continuous electronic monitoring system may
9 have the capacity to immediately notify a county probation
10 department of violations, actual or suspected, of the terms of
11 probation that have been identified by the monitoring system if
12 the requirement is deemed necessary by the county probation
13 officer with respect to an individual person.

14 (b) The information described in subdivision (a), including
15 geographic location and tampering, may be used as evidence to
16 prove a violation of the terms of probation.

17 1210.10. A county probation department shall establish the
18 following standards as are necessary to enhance public safety:

19 (a) Standards for the minimum time interval between
20 transmissions of information about the location of the person
21 under supervision. The standards shall be established after an
22 evaluation of, at a minimum, all of the following:

23 (1) The resources of the county probation department.

24 (2) The criminal history of the person under supervision.

25 (3) The safety of the victim of the persons under supervision.

26 (b) Standards for the accuracy of the information identifying
27 the location of the person under supervision. The standards shall
28 be established after consideration of, at a minimum, all of the
29 following:

30 (1) The need to identify the location of a person proximate to
31 the location of a crime, including a violation of probation.

32 (2) Resources of the probation department.

33 (3) The need to avoid false indications of proximity to crimes.

34 1210.11. (a) A county probation department operating a
35 system of continuous electronic monitoring pursuant to this
36 section shall establish prohibitions against unauthorized access
37 to, and use of, information by private or public entities as may be
38 deemed appropriate. Unauthorized access to, and use of,
39 electronic signals includes signals transmitted in any fashion by
40 equipment utilized for continuous electronic monitoring.

1 (b) Devices used pursuant to this section shall not be used to
2 eavesdrop or record any conversation, except a conversation
3 between the participant and the person supervising the participant
4 that is to be used solely for the purposes of voice identification.

5 1210.12. (a) A county chief probation officer shall have the
6 sole discretion to decide which persons shall be supervised using
7 continuous electronic monitoring administered by the county
8 probation department. No individual shall be required to
9 participate in continuous electronic monitoring authorized by this
10 chapter for any period or time longer than the term of probation.

11 (b) The county chief probation officer shall establish written
12 guidelines that identify those persons on probation subject to
13 continuous electronic monitoring authorized by this chapter.
14 These guidelines shall include the need for enhancing monitoring
15 in comparison to other persons not subject to the enhanced
16 monitoring and the public safety needs that will be served by the
17 enhanced monitoring.

18 1210.13. A county chief probation officer may revoke, in his
19 or her discretion, the continuous monitoring of any individual.

20 1210.14. Whenever a probation officer supervising an
21 individual has reasonable cause to believe that the individual is
22 not complying with the rules or conditions set forth for the use of
23 continuous electronic monitoring as a supervision tool, the
24 probation officer supervising the individual may, without a
25 warrant of arrest, take the individual into custody for a violation
26 of probation.

27 1210.15. (a) A chief probation officer may charge persons
28 on probation for the costs of any form of supervision that utilizes
29 continuous electronic monitoring devices that monitor the
30 whereabouts of the person pursuant to this chapter. This authority
31 is not limited solely to the cost of continuous electronic
32 monitoring devices, but may also include reasonable and
33 necessary expenses relating to the procurement, maintenance,
34 and monitoring of the devices. Inability to pay all or a portion of
35 the costs of continuous electronic monitoring authorized by this
36 chapter shall not preclude use of continuous electronic
37 monitoring and eligibility for probation shall not be enhanced by
38 reason of ability to pay.

39 (b) A chief probation officer may charge a person on probation
40 pursuant to subdivision (a) for the cost of continuous electronic

1 monitoring in accordance with Section 1203.1 provided the
2 person has first satisfied all other outstanding base fines, state
3 and local penalties, restitution fines, and restitution orders
4 imposed by a court.

5 1210.16. It is the intent of the Legislature that continuous
6 electronic monitoring established pursuant to this chapter
7 maintain the highest public confidence, credibility, and public
8 safety. In the furtherance of these standards, the following shall
9 apply:

10 (a) The chief probation officer may administer continuous
11 electronic monitoring pursuant to written contracts and
12 appropriate public or private agencies or entities to provide
13 specified supervision services. No public or private agency or
14 entity may operate a continuous electronic monitoring system as
15 authorized by this section in any county without a written
16 contract with the county's probation department. No public or
17 private agency or entity entering into a contract may itself
18 employ any person who is a participant in continuous electronic
19 monitoring surveillance.

20 (b) The county board of supervisors, the chief probation
21 officer, and designees of the chief probation officer shall comply
22 with Section 1090 of the Government Code in the consideration,
23 making, and execution of contracts pursuant to this section.

24 SEC. 2. Section 3004 of the Penal Code is repealed.

25 ~~3004. Notwithstanding any other law, the parole authority~~
26 ~~may require, as a condition of release on parole or reinstatement~~
27 ~~on parole, or as an intermediate sanction in lieu of return to~~
28 ~~prison, that an inmate or parolee agree in writing to the use of~~
29 ~~electronic monitoring or supervising devices for the purpose of~~
30 ~~helping to verify his or her compliance with all other conditions~~
31 ~~of parole. The devices shall not be used to eavesdrop or record~~
32 ~~any conversation, except a conversation between the parolee and~~
33 ~~the agent supervising the parolee which is to be used solely for~~
34 ~~the purposes of voice identification.~~

35 SEC. 3. Article 2 (commencing with Section 3010) is added
36 to Chapter 8 of Title 1 of Part 3 of the Penal Code, to read:

1 Article 2. Electronic Monitoring

2

3 3010. (a) Notwithstanding any other provisions of law, the
4 Department of Corrections may utilize continuous electronic
5 monitoring to electronically monitor the whereabouts of persons
6 on parole, as provided by this article.

7 (b) Any use of continuous electronic monitoring pursuant to
8 this article shall have as its primary objective the enhancement of
9 public safety through the reduction in the number of people being
10 victimized by crimes committed by persons on parole.

11 (c) It is the intent of the Legislature in enacting this article to
12 specifically expand the authority of the department acting
13 pursuant to this article to utilize a system of continuous
14 electronic monitoring that conforms with the requirements of this
15 article.

16 (d) (1) For purposes of this article, “continuous electronic
17 monitoring” may include the use of worldwide radio navigation
18 system technology, known as the Global Positioning System, or
19 GPS. The Legislature finds that because of its capability for
20 continuous surveillance, continuous electronic monitoring has
21 been used in other parts of the country to monitor persons on
22 parole who are identified as requiring a high level of supervision.

23 (2) For purposes of this article, “department” means the
24 Department of Corrections.

25 (e) The Legislature finds that continuous electronic monitoring
26 has proven to be an effective risk management tool for
27 supervising high-risk persons on parole who are likely to
28 reoffend where prevention and knowledge of their whereabouts
29 is a high priority for maintaining public safety.

30 3010.1. The department may utilize a continuous electronic
31 monitoring device pursuant to this section that has all of the
32 following attributes:

33 (a) A device designed to be worn by a human being.

34 (b) A device that emits a signal as a person is moving or is
35 stationary. The signal shall be capable of being received and
36 tracked across large urban or rural areas, statewide, and being
37 received from within structures, vehicles, and other objects to the
38 degree technically feasible in light of the associated costs, design,
39 and other considerations as are determined relevant by the
40 department.

1 (c) A device that functions 24 hours a day.

2 (d) A device that is resistant or impervious to unintentional or
3 willful damage.

4 3010.2. (a) A continuous electronic monitoring system may
5 have the capacity to immediately notify the department of
6 violations, actual or suspected, of the terms of parole that have
7 been identified by the monitoring system if the requirement is
8 deemed necessary by the parole officer with respect to an
9 individual person.

10 (b) This information, including geographic location and
11 tampering, may be used as evidence to prove a violation of the
12 terms of parole.

13 3010.3. The department shall establish the following
14 standards as are necessary to enhance public safety:

15 (a) Standards for the minimum time interval between
16 transmissions of information about the location of the person
17 under supervision. The standards shall be established after an
18 evaluation of, at a minimum, all of the following:

19 (1) The resources of the department.

20 (2) The criminal history of the person under supervision.

21 (3) The safety of the victim of the persons under supervision.

22 (b) Standards for the accuracy of the information identifying
23 the location of the person under supervision. The standards shall
24 be established after consideration of, at a minimum, all of the
25 following:

26 (1) The need to identify the location of a person proximate to
27 the location of a crime, including a violation of parole.

28 (2) Resources of the department.

29 (3) The need to avoid false indications of proximity to crimes.

30 3010.4. (a) The department, operating a system of continuous
31 electronic monitoring pursuant to this section, shall establish
32 prohibitions against unauthorized access to, and use of,
33 information by private or public entities as may be deemed
34 appropriate. Unauthorized access to, and use of, electronic
35 signals includes signals transmitted in any fashion by equipment
36 utilized for continuous electronic monitoring.

37 (b) Devices used pursuant to this section shall not be used to
38 eavesdrop or record any conversation, except a conversation
39 between the participant and the person supervising the participant
40 that is to be used solely for the purposes of voice identification.

1 3010.5. (a) A parole officer shall have the sole discretion to
2 decide which persons shall be supervised using continuous
3 electronic monitoring administered by the department. No
4 individual shall be required to participate in continuous
5 electronic monitoring authorized by this article for any period or
6 time longer than the term of parole.

7 (b) The department shall establish written guidelines that
8 identify those persons on parole subject to continuous electronic
9 monitoring authorized by this article. These guidelines shall
10 include the need for enhanced monitoring in comparison to other
11 persons not subject to the enhanced monitoring and the public
12 safety needs that will be served by the enhanced monitoring.

13 3010.6. A parole officer may revoke, in his or her discretion,
14 the continuous monitoring of any individual.

15 3010.7. Whenever a parole officer supervising an individual
16 has reasonable cause to believe that the individual is not
17 complying with the rules or conditions set forth for the use of
18 continuous electronic monitoring as a supervision tool, the
19 officer supervising the individual may, without a warrant of
20 arrest, take the individual into custody for a violation of parole.

21 3010.8. (a) The department may charge persons on parole
22 for the costs of any form of supervision that utilizes continuous
23 electronic monitoring devices that monitor the whereabouts of
24 the person pursuant to this article. This authority is not limited
25 solely to the cost of continuous electronic monitoring devices,
26 but may also include reasonable and necessary expenses relating
27 to the procurement, maintenance, and monitoring of the devices.
28 Inability to pay all or a portion of the costs of continuous
29 electronic monitoring authorized by this article shall not preclude
30 use of continuous electronic monitoring and eligibility for parole
31 shall not be enhanced by reason of ability to pay.

32 (b) The department may charge a person on parole pursuant to
33 subdivision (a) for the cost of continuous electronic monitoring
34 in accordance with Section 1203.1 provided the person has first
35 satisfied all other outstanding base fines, state and local penalties,
36 restitution fines, and restitution orders imposed by a court.

37 3010.9. It is the intent of the Legislature that continuous
38 electronic monitoring established pursuant to this article maintain
39 the highest public confidence, credibility, and public safety. In
40 the furtherance of these standards, the following shall apply:

1 (a) The department may administer continuous electronic
2 monitoring pursuant to written contracts and appropriate public
3 or private agencies or entities to provide specified supervision
4 services. No public or private agency or entity may operate a
5 continuous electronic monitoring system as authorized by this
6 section without a written contract with the department. No public
7 or private agency or entity entering into a contract may itself
8 employ any person who is a participant in continuous electronic
9 monitoring surveillance.

10 (b) The department shall comply with Section 1090 of the
11 Government Code in the consideration, making, and execution of
12 contracts pursuant to this section.

13 SEC. 4. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or safety
15 within the meaning of Article IV of the Constitution and shall go
16 into immediate effect. The facts constituting the necessity are:

17 In order to assure appropriate supervision of persons on
18 probation and parole and to reduce incidents of crime and
19 recidivism, it is necessary for this act to take effect immediately.