

AMENDED IN SENATE MAY 30, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1178

Introduced by Senator Speier

January 13, 2006

An act to amend Sections 1202.8 and 3004 of, and to add Section 290.04 to, the Penal Code relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1178, as amended, Speier. Sex offenders: electronic monitoring.

Existing law requires persons placed on probation by a court to be under the supervision of the county probation officer who shall determine both the level and type of supervision consistent with the court-ordered conditions of probation.

This bill, commencing July 1, 2008, would require every adult male who is convicted of an offense that requires him to register as a sex offender to be assessed for the risk of reoffending using the STATIC-99 assessment. Every adult male who is assessed to have a moderate-high or high risk of reoffending would be required to be electronically monitored while on probation, unless the court determines that such monitoring is unnecessary for a particular person. The bill would require each probation department to report to the Legislature and to the Governor on the effectiveness of mandatory electronic monitoring of offenders, as specified.

Existing law authorizes the parole authority to require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to prison, that an inmate or

parolee agree in writing to the use of electronic monitoring or supervising devices.

This bill, commencing July 1, 2008, would require every adult male who is convicted of an offense that requires him to register as a sex offender to be assessed for the risk of reoffending using the STATIC-99 assessment. Every adult male who is assessed to have a moderate-high or high risk of reoffending would be required to be electronically monitored while on parole, unless the Department of Corrections and Rehabilitation determines that such monitoring is unnecessary for a particular person. The bill would require the Department of Corrections and Rehabilitation to report to the Legislature and to the Governor on the effectiveness of mandatory electronic monitoring of offenders, as specified.

The bill would specify that the monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology.

The bill would require the Department of Corrections and Rehabilitation, in consultation with specified experts, to establish a training program for probation officers, parole officers, and any other persons authorized by law to perform risk assessment. The bill would require probation departments and regional parole officers to designate persons within their organizations to attend a yearly training and to train others within their organizations who are designated to perform risk assessments. Because the bill would impose new duties on local agencies, the bill would impose a state-mandated local program.

~~The bill would state that its provisions would be inoperative if a specified initiative measure is enacted at the November 7, 2006, general election.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 290.04 is added to the Penal Code, to
2 read:

3 290.04. (a) On or before January 1, 2008, the Department of
4 Corrections and Rehabilitation, in consultation with the
5 Department of Mental Health and experts in sex offender risk
6 assessment and the use of actuarial instruments in predicting sex
7 offender risk, shall establish a training program for probation
8 officers, parole officers, and any other persons authorized by law
9 to perform risk assessment. The department shall use an expert in
10 the field of risk assessment and the use of actuarial instruments in
11 predicting sex offender risk to conduct periodic training.
12 Probation departments and regional parole officers shall
13 designate persons within their organizations to attend a yearly
14 training and shall train others within their organizations who are
15 designated to perform risk assessments as required or authorized
16 by law.

17 (b) On or before January 1, 2008, the department, in
18 consultation with the Department of Mental Health and experts in
19 sex offender risk assessment and the use of actuarial instruments
20 in predicting sex offender risk, shall research actuarial risk
21 assessment tools for female and juvenile sex offenders, and make
22 recommendations to the Governor and the Legislature concerning
23 the appropriate actuarial risk assessment instrument to be used to
24 assess those populations.

25 SEC. 2. Section 1202.8 of the Penal Code is amended to read:

26 1202.8. (a) Persons placed on probation by a court shall be
27 under the supervision of the county probation officer who shall
28 determine both the level and type of supervision consistent with
29 the court-ordered conditions of probation.

30 (b) Commencing July 1, 2008, every adult male who is
31 convicted of an offense that requires him to register as a sex
32 offender pursuant to Section 290 shall be assessed for the risk of
33 reoffending using the STATIC-99 assessment. The assessment
34 shall be performed by a probation officer who has been trained
35 pursuant to Section 290.04. Every adult male who has a risk
36 assessment of moderate-high or high shall be electronically
37 monitored while on probation, unless the court determines that
38 such monitoring is unnecessary for a particular person. The

1 monitoring device used for these purposes shall be identified as
2 one that employs the latest available proven effective monitoring
3 technology. Nothing in this section prohibits probation
4 authorities from using electronic monitoring technology pursuant
5 to any other provision of law.

6 (c) Within 30 days of a court making an order to provide
7 restitution to a victim or to the Restitution Fund, the probation
8 officer shall establish an account into which any restitution
9 payments that are not deposited into the Restitution Fund shall be
10 deposited.

11 (d) Beginning January 1, 2009, each probation department
12 shall report to the Legislature and to the Governor on the
13 effectiveness of mandatory electronic monitoring of offenders
14 pursuant to subdivision (b). The report shall include the costs of
15 monitoring and the recidivism rates of those persons who have
16 been monitored.

17 SEC. 3. Section 3004 of the Penal Code is amended to read:

18 3004. (a) Notwithstanding any other law, the parole authority
19 may require, as a condition of release on parole or reinstatement
20 on parole, or as an intermediate sanction in lieu of return to
21 prison, that an inmate or parolee agree in writing to the use of
22 electronic monitoring or supervising devices for the purpose of
23 helping to verify his or her compliance with all other conditions
24 of parole. The devices shall not be used to eavesdrop or record
25 any conversation, except a conversation between the parolee and
26 the agent supervising the parolee which is to be used solely for
27 the purposes of voice identification.

28 (b) Notwithstanding subdivision (a), commencing July 1,
29 2008, every adult male who is convicted of an offense that
30 requires him to register as a sex offender pursuant to Section 290
31 shall be assessed for the risk of reoffending using the
32 STATIC-99 assessment. The assessment shall be performed by a
33 parole officer who has been trained pursuant to Section 290.04.
34 Every adult male who has a risk assessment of moderate-high or
35 high shall be electronically monitored while on parole, unless the
36 department determines that such monitoring is unnecessary for a
37 particular person. The monitoring device used for these purposes
38 shall be identified as one that employs the latest available proven
39 effective monitoring technology. Nothing in this section prohibits

1 parole authorities from using electronic monitoring technology
2 pursuant to any other provision of law.

3 (c) Beginning January 1, 2009, the Department of Corrections
4 and Rehabilitation shall report to the Legislature and to the
5 Governor on the effectiveness of mandatory electronic
6 monitoring of offenders pursuant to subdivision (b). The report
7 shall include the costs of monitoring and the recidivism rates of
8 those persons who have been monitored.

9 SEC. 4. Section 1 of this act, which adds Section 290.04 to
10 the Penal Code, shall only become operative if Senate Bill 1128
11 of the 2005–06 Regular Session is not enacted on or before
12 January 1, 2007, or if Senate Bill 1128 is enacted but does not
13 add Section 290.04 to the Penal Code.

14 ~~SEC. 5. This act shall be inoperative if the initiative measure~~
15 ~~commonly known as “Jessica’s Law” is enacted by the voters at~~
16 ~~the November 7, 2006, general election.~~

17 ~~SEC. 6.~~

18 SEC. 5. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.