

AMENDED IN SENATE FEBRUARY 11, 2013

SENATE BILL

No. 57

Introduced by Senators Lieu and Rubio

January 7, 2013

An act to add Sections 3010.10 and 3466 to the Penal Code, relating to electronic monitoring.

LEGISLATIVE COUNSEL'S DIGEST

SB 57, as amended, Lieu. Electronic monitoring: removing or disabling GPS device: offense.

Existing law, as amended by Proposition 83, adopted at the November 7, 2006, statewide general election, requires the Department of Corrections and Rehabilitation to monitor sex offenders using a global positioning system (GPS). With regard to all other offenders, existing law permits county probation departments and the Department of Corrections and Rehabilitation to use electronic or GPS monitoring to electronically monitor the whereabouts of individuals on probation and parole, respectively. Under existing law, a probationer or parolee who fails to comply with the rules or conditions for the use of electronic monitoring as a supervision tool may be found guilty of violating the terms of his or her probation or parole, respectively.

This bill would provide that the unauthorized removal, as specified, of an electronic, GPS, or other monitoring device affixed as a condition of parole or postrelease community supervision is an offense punishable by imprisonment in the state prison for 16 months, 2 years, or 3 years.

Proposition 83 provides that any amendment of its provisions by the Legislature requires a $\frac{2}{3}$ vote of the membership of each house unless the amendments expand the scope of its application or increase the punishments or penalties provided, in which case the Legislature may

amend its provisions by a statute passed by a majority vote of each house.

Because this bill increases the punishments or penalties provided in Proposition 83, this bill would require a majority vote.

By creating a new crime, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

~~Existing law permits, and with respect to certain sex offenders requires, the use of electronic monitoring by county probation departments and the Department of Corrections and Rehabilitation to electronically monitor the whereabouts of persons on probation and parole, respectively.~~

~~This bill would state the intent of the Legislature to enact legislation that would address the removal and disablement of global positioning system (GPS) monitoring devices by parolees and probationers.~~

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

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

1 SECTION 1. Section 3010.10 is added to the Penal Code, to
2 read:

3 3010.10. (a) A person who willfully removes or disables, or
4 willfully permits another to remove or disable, an electronic, global
5 positioning system (GPS), or other monitoring device affixed to
6 his or her person, knowing that the device was affixed as a
7 condition of parole, is guilty of a felony, punishable by
8 imprisonment in the state prison for 16 months, two years, or three
9 years.

10 (b) Except as provided in subdivision (c), a person who willfully
11 removes or disables an electronic, GPS, or other monitoring device
12 affixed to the person of another, knowing that the device was
13 affixed as a condition of parole, is guilty of a felony, punishable
14 by imprisonment in the state prison for 16 months, two years, or
15 three years.

1 (c) (1) *This section shall not apply to the removal or disabling*
2 *of an electronic, GPS, or other monitoring device by a physician,*
3 *emergency medical services technician, or by any other emergency*
4 *response or medical personnel when doing so is necessary during*
5 *the course of medical treatment of the person subject to the*
6 *electronic, GPS, or other monitoring device.*

7 (2) *This section shall not apply where the removal or disabling*
8 *of the electronic, GPS, or other monitoring device is authorized*
9 *or required by a court, or by the law enforcement, probation,*
10 *parole authority, or other entity responsible for placing the*
11 *electronic, GPS, or other monitoring device upon the person, or*
12 *that has, at the time, the authority and responsibility to monitor*
13 *the electronic, GPS, or other monitoring device.*

14 SEC. 2. *Section 3466 is added to the Penal Code, to read:*

15 3466. (a) *A person who willfully removes or disables, or*
16 *willfully permits another to remove or disable, an electronic, global*
17 *positioning system (GPS), or other monitoring device affixed to*
18 *his or her person, knowing that the device was affixed as a*
19 *condition of postrelease community supervision, is guilty of a*
20 *felony, punishable by imprisonment in the state prison for 16*
21 *months, two years, or three years.*

22 (b) *Except as provided in subdivision (c), a person who willfully*
23 *removes or disables an electronic, GPS, or other monitoring device*
24 *affixed to the person of another, knowing that the device was*
25 *affixed as a condition of postrelease community supervision, is*
26 *guilty of a felony, punishable by imprisonment in the state prison*
27 *for 16 months, two years, or three years.*

28 (c) (1) *This section shall not apply to the removal or disabling*
29 *of an electronic, GPS, or other monitoring device by a physician,*
30 *emergency medical services technician, or by any other emergency*
31 *response or medical personnel when doing so is necessary during*
32 *the course of medical treatment of the person subject to the*
33 *electronic, GPS, or other monitoring device.*

34 (2) *This section shall not apply where the removal or disabling*
35 *of the electronic, GPS, or other monitoring device is authorized*
36 *or required by a court of law, or by the law enforcement, probation,*
37 *parole authority, or other entity responsible for placing the*
38 *electronic, GPS, or other monitoring device upon the person, or*
39 *that has, at the time, the authority and responsibility to monitor*
40 *the electronic, GPS, or other monitoring device.*

1 *SEC. 3. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

10 ~~SECTION 1. It is the intent of the Legislature to enact~~
11 ~~legislation that would address the removal and disablement of~~
12 ~~global positioning system (GPS) monitoring devices by parolees~~
13 ~~and probationers.~~