

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE FEBRUARY 11, 2013

SENATE BILL

No. 57

Introduced by Senator Lieu

January 7, 2013

An act to add Section 3010.10 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 the Department of Corrections and Rehabilitation to use electronic or GPS monitoring to electronically monitor the whereabouts of individuals on parole. Under existing law, a 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 parole.

This bill would prohibit a person who is required to register as a sex offender and who is subject to parole supervision from removing, as specified, an electronic, GPS, or other monitoring device affixed as a condition of parole. ~~The~~ *Upon a violation, the bill would require, upon a first violation, require* the parole authority to revoke the person's

parole and impose a mandatory, 180-day period of ~~incarceration, to be served in actual custody.~~ The bill would require, upon a 2nd or subsequent violation, the parole authority to revoke the person's parole and impose a mandatory, 365-day period of ~~incarceration, to be served in actual custody.~~ *incarceration.*

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.

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 3010.10 is added to the Penal Code, to
2 read:
3 3010.10. (a) A person who is required to register as a sex
4 offender pursuant to Section 290 shall not remove or disable, or
5 permit another to remove or disable, an electronic, global
6 positioning system (GPS), or other monitoring device affixed to
7 his or her person as a condition of parole, when he or she knows
8 that the device was affixed as a condition of parole.
9 (b) (1) This section shall not apply if the removal or disabling
10 of an electronic, GPS, or other monitoring device is performed by
11 a physician, emergency medical services technician, or by any
12 other emergency response or medical personnel when doing so is
13 necessary during the course of medical treatment of the person
14 subject to the electronic, GPS, or other monitoring device.

1 (2) This section shall not apply if the removal or disabling of
 2 the electronic, GPS, or other monitoring device is authorized or
 3 required by a court, or by the law enforcement, probation, parole
 4 authority, or other entity responsible for placing the electronic,
 5 GPS, or other monitoring device upon the person, or that has, at
 6 the time, the authority and responsibility to monitor the electronic,
 7 GPS, or other monitoring device.

8 ~~(e) Punishment for a violation of this section shall be as follows:~~

9 ~~(1)~~

10 ~~(c) Upon a first violation, violation of this section, the parole~~
 11 ~~authority shall revoke the person’s parole and require that he or~~
 12 ~~she be incarcerated in the county jail for a period of 180 days.~~
 13 ~~Notwithstanding any other law, a person who has had his or her~~
 14 ~~parole revoked pursuant to this paragraph shall not be entitled to~~
 15 ~~earn any time credits, including, but not limited to, those described~~
 16 ~~in Section 4019, and shall be required to serve the entire 180-day~~
 17 ~~period in actual custody.~~

18 ~~(2) Upon a second or subsequent violation, the parole authority~~
 19 ~~shall revoke the person’s parole and require that he or she be~~
 20 ~~incarcerated in the county jail for a period of 365 days.~~
 21 ~~Notwithstanding any other law, a person who has had his or her~~
 22 ~~parole revoked pursuant to this paragraph shall not be entitled to~~
 23 ~~earn any time credits, including, but not limited to, those described~~
 24 ~~in Section 4019, and shall be required to serve the entire 365-day~~
 25 ~~period in actual custody.~~

26 SEC. 2. No reimbursement is required by this act pursuant to
 27 Section 6 of Article XIII B of the California Constitution because
 28 the only costs that may be incurred by a local agency or school
 29 district will be incurred because this act creates a new crime or
 30 infraction, eliminates a crime or infraction, or changes the penalty
 31 for a crime or infraction, within the meaning of Section 17556 of
 32 the Government Code, or changes the definition of a crime within
 33 the meaning of Section 6 of Article XIII B of the California
 34 Constitution.