

AMENDED IN ASSEMBLY APRIL 12, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2016

Introduced by Assembly Member ~~Morrell~~ Gorell
(Coauthor: Assembly Member Morrell)

February 23, 2012

An act to add Chapter 5 (commencing with Section 653.77) to Title 15 of Part 1 of the Penal Code, relating to electronic monitoring.

LEGISLATIVE COUNSEL'S DIGEST

AB 2016, as amended, ~~Morrell~~ Gorell. Electronic monitoring: removing or disabling: offense.

Existing law provides various programs of in-home detention and monitoring that include wearing global positioning system (GPS) devices, as specified. 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 provide that unauthorized removal, as specified, of an electronic, GPS, or other monitoring device affixed for purposes of a criminal sentence, juvenile court disposition, parole, or probation is an offense punishable by imprisonment in a county jail for one year, or a \$1,000 fine, or both, if the underlying offense was a misdemeanor, or by imprisonment in the state prison for 16 months, 2 years, or 3 years, if the underlying offense is a felony.

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.

This bill would provide it would be operative only if SB 968 of the 2011–12 Regular Session is enacted and becomes effective on or before January 1, 2013.

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. Chapter 5 (commencing with Section 653.77) is
2 added to Title 15 of Part 1 of the Penal Code, to read:

3
4 CHAPTER 5. DISABLING ELECTRONIC MONITORING DEVICES

5
6 653.77. (a) A person who willfully removes or disables an
7 electronic, global positioning system (GPS), or other monitoring
8 device affixed to his or her person or the person of another,
9 knowing that the device was affixed as a condition of a criminal
10 sentence, juvenile court disposition, parole, or probation, is guilty
11 of a public offense.

12 (b) (1) A person subject to an electronic, GPS, or other
13 monitoring device based on a misdemeanor conviction or a juvenile
14 adjudication for a misdemeanor offense, who willfully violates
15 subdivision (a) is guilty of a misdemeanor, punishable by
16 imprisonment in a county jail for up to one year, by a fine of up
17 to one thousand dollars (\$1,000), or both that fine and
18 imprisonment.

19 (2) Except as provided in subdivision (e), a person who willfully
20 removes or disables an electronic, GPS, or other monitoring device
21 affixed to another person where that device was affixed to the other
22 person based upon a misdemeanor conviction, or based upon a
23 juvenile adjudication for a misdemeanor offense, is guilty of a
24 misdemeanor, punishable by imprisonment in a county jail for up

1 to one year, by a fine of up to one thousand dollars (\$1,000), or
2 both that fine and imprisonment.

3 (c) (1) A person subject to an electronic, GPS, or other
4 monitoring device based on a felony conviction, juvenile
5 adjudication for a felony offense, or terms of parole for a felony
6 offense, who willfully violates subdivision (a) is guilty of a felony,
7 punishable by imprisonment in the state prison for 16 months, two
8 years, or three years.

9 (2) Except as provided in subdivision (e), a person who willfully
10 removes or disables an electronic, GPS, or other monitoring device
11 affixed to another person where that device was affixed to the other
12 person based on a felony conviction or a juvenile conviction for
13 a felony offense is guilty of a felony, punishable by imprisonment
14 in the state prison for 16 months or three years.

15 (d) Nothing in this section shall be construed to prevent
16 punishment pursuant to any other provision of law that imposes a
17 greater or more severe punishment, including, but not limited to,
18 Section 594.

19 (e) (1) This section shall not apply to the removal or disabling
20 of an electronic, GPS, or other monitoring device by a physician,
21 emergency medical services technician, or by any other emergency
22 response or medical personnel when doing so is necessary during
23 the course of medical treatment of the person subject to the
24 electronic, GPS, or other monitoring device. ~~This~~

25 (2) ~~This~~ section shall ~~also~~ not apply where the removal or
26 disabling of the electronic, GPS, or other monitoring device is
27 authorized or required by a court of law, or by the law enforcement,
28 probation, parole authority, or other entity responsible for placing
29 the electronic, GPS, or other monitoring device upon the person,
30 or that has, at the time, the authority and responsibility to monitor
31 the electronic, GPS, or other monitoring device.

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

1 SEC. 3. This bill shall become operative only if Senate Bill
2 968 of the 2011–12 Regular Session is enacted and takes effect
3 on or before January 1, 2013.

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