

Senate Bill 255

By: Senators Butterworth of the 50th, Grant of the 25th, Harp of the 29th, Mullis of the 53rd, Hamrick of the 30th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, the "Criminal Code of
2 Georgia," so as to require that persons convicted of certain crimes shall be required to wear
3 a global positioning system monitor capable of tracking and recording their location; to
4 provide for the offenses subject to such requirement; to provide for enforcement through
5 probation or parole requirements; to provide for fees to be paid by offenders and their
6 disposition; to provide for the award of contracts to providers of monitoring equipment and
7 services; to provide for waivers of privacy rights and other rights; to redefine the crime of
8 unlawfully interfering with monitoring equipment and provide for punishment; to provide
9 for construction; to provide for other matters related to the foregoing; to provide an effective
10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 16 of the Official Code of Georgia Annotated, the "Criminal Code of Georgia," is
14 amended by adding a new Chapter 18 as follows:

15 style="text-align:center">"CHAPTER 18.

16 16-18-1.

17 As used in this chapter, the term 'GPS monitoring offense' means:

18 (1) Murder or felony murder under Code Section 16-5-1;

19 (2) Voluntary manslaughter under Code Section 16-5-2;

20 (3) Aggravated assault under Code Section 16-5-21;

21 (4) Aggravated battery under Code Section 16-5-24;

22 (5) Kidnapping under Code Section 16-5-40;

23 (6) False imprisonment under Code Section 16-5-41;

24 (7) Trafficking of persons for labor or sexual servitude under Code Section 16-5-46;

- 25 (8) Cruelty to children under Code Section 16-5-70;
 26 (9) Causing or permitting a child to be present where any person is manufacturing
 27 methamphetamine or possessing a chemical substance with the intent to manufacture
 28 methamphetamine under Code Section 16-5-73;
 29 (10) Stalking under Code Section 16-5-90;
 30 (11) Aggravated stalking under Code Section 16-5-91;
 31 (12) Any felony offense under Chapter 6 of this title, relating to sexual offenses;
 32 (13) Burglary under Code Section 16-7-1;
 33 (14) Any felony offense involving arson under Code Sections 16-7-60 through 16-7-64;
 34 (15) Possessing, manufacturing, transporting, distributing, possessing with the intent to
 35 distribute, or offering to distribute a destructive device under Code Section 16-7-82;
 36 (16) Robbery under Code Section 16-8-40;
 37 (17) Armed robbery under Code Section 16-8-41;
 38 (18) Attempted murder or threatening of witnesses in official proceedings under Code
 39 Section 16-10-32;
 40 (19) Bail jumping under Code Section 16-10-51;
 41 (20) Escape under Code Section 16-10-52;
 42 (21) Sexual exploitation of a child under Code Section 16-12-100;
 43 (22) Any felony offense involving trafficking, manufacturing, distributing, or possessing
 44 with intent to distribute controlled substances, marijuana, or illegal drugs under Chapter
 45 13 of this title; and
 46 (23) Any felony offense under Chapter 15 of this title, the 'Georgia Street Gang
 47 Terrorism and Prevention Act.'

48 16-18-2.

49 As used in this chapter, the term 'GPS monitor' means an active assisted global positioning
 50 system to be worn by an offender that shall have, at a minimum:

- 51 (1) The capacity to locate and record the location of the offender by a link to a global
 52 positioning satellite system;
 53 (2) The capacity to timely report or record the offender's presence near or within a crime
 54 scene or in a prohibited area or the offender's departure from specific geographic
 55 locations; and
 56 (3) An alarm that is automatically activated and broadcasts the offender's location if the
 57 monitor is removed or tampered with by anyone other than a law enforcement official
 58 designated to maintain and remove or replace the equipment.

59 16-18-3.

60 With respect to any offense committed on or after July 1, 2009, a person who is convicted
61 under Code Section 16-5-95 of violation of a family violence temporary restraining order,
62 temporary protective order, permanent restraining order, or permanent protective order
63 issued against that person shall be sentenced to wear a GPS monitor for the lesser of:

64 (1) The remaining life of the order which was violated; or

65 (2) One year beginning on the date of conviction or release from confinement for the
66 conviction, whichever is later.

67 Such requirement shall be enforced through a period of probation or parole as otherwise
68 provided in this chapter.

69 16-18-4.

70 The following conditions shall be made a part of the sentence for any GPS monitoring
71 offense committed on or after July 1, 2009:

72 (1) If the offender is placed on probation for any part of the sentence, he or she will be
73 required to wear a GPS monitor for the entire period of probation or two years, whichever
74 is shorter; and

75 (2) If the offender is paroled from confinement, he or she shall be required to wear a
76 GPS monitor for the entire period of parole or two years, whichever is shorter.

77 16-18-5.

78 With respect to any GPS monitoring offense committed prior to July 1, 2009:

79 (1) If the offender is on or after July 1, 2009, placed on probation for any part of the
80 sentence, the court may require as a condition of probation that the offender wear a GPS
81 monitor for all or any part of the period of probation; and

82 (2) If the offender is paroled from confinement on or after July 1, 2009, he or she shall
83 be required as a condition of parole to wear a GPS monitor for the entire period of parole
84 unless the court finds that GPS monitoring should not be required.

85 16-18-6.

86 GPS monitoring required under this article shall be enforced by:

87 (1) The Department of Corrections if monitoring commences while the offender is on
88 probation for a felony;

89 (2) The Board of Pardons and Paroles if the monitoring commences while the offender
90 is on parole; or

91 (3) The appropriate local agency if the monitoring commences while the offender is on
92 probation for a misdemeanor.

93 16-18-7.

94 (a) An offender who is subject to GPS monitoring under this chapter shall pay, as a
95 condition of probation or parole and in addition to any other amounts required, a one-time
96 fee prior to the commencement of monitoring and a recurring daily fee for each day during
97 which monitoring takes place. The amount of such fees shall be established in the contract
98 or contracts provided for in Code Section 16-18-9. If the offender establishes that he or she
99 is indigent and unable to pay such fees under guidelines to be established by the
100 Department of Corrections and the State Board of Pardons and Paroles, then the cost of
101 monitoring shall be absorbed as provided in the contract or contracts provided for in Code
102 Section 16-18-9.

103 (b) Such payments shall be made to the appropriate agency as identified under Code
104 Section 16-18-6. The receiving agency shall use the balance of fees received for
105 reimbursing GPS monitoring service providers under Code Section 16-18-9 and deposit
106 any amounts in excess of those required for provider reimbursement into the general fund
107 of the state treasury.

108 16-18-8.

109 An offender who is subject to GPS monitoring shall as a condition of probation or parole
110 execute a waiver of any privacy rights or other rights which the offender might otherwise
111 have which would prohibit warrantless, on demand location of the offender through GPS
112 monitoring by any law enforcement agency.

113 16-18-9.

114 (a) The Department of Administrative Services, with the cooperation of the Georgia
115 Technology Authority, shall through a process of competitive proposals award contracts
116 to one or more GPS monitoring service providers to supply GPS monitors and track
117 offenders wearing monitors.

118 (b) The equipment and tracking provided by a GPS monitoring service provider shall, at
119 a minimum:

120 (1) Provide constant real time monitoring of the location of offenders wearing GPS
121 monitors;

122 (2) Have the capacity to locate an offender on demand and provide uninterrupted
123 location monitoring and reporting in increments of one minute or less;

124 (3) Have the capacity to timely report or record an offender's presence near or within a
125 crime scene or in a prohibited area or the offender's departure from specific geographic
126 locations;

127 (4) Have an alarm that is automatically activated and broadcasts the offender's location
 128 if the GPS monitor is removed or tampered with by anyone other than a law enforcement
 129 official designated to maintain and remove or replace the equipment;

130 (5) Provide all services including mapping, data storage, and other services through
 131 computer hardware and software which is compatible with the state's computer hardware
 132 and software and meets other technical requirements set by the Georgia Technology
 133 Authority;

134 (6) Use assisted global positioning and ensure noninterrupted location monitoring and
 135 reporting over different carrier networks; and

136 (7) Include dual-mode capable GPS monitors that can transmit data via a cellular or
 137 satellite modem.

138 (c) A GPS monitoring service provider shall maintain the historical data of all monitored
 139 offenders for on demand review by the responsible agency under Code Section 16-8-4 and
 140 other law enforcement agencies.

141 (d) The contract or contracts provided for in this Code section shall establish a fee
 142 structure which shall include:

143 (1) The amounts of fees to be paid under Code Section 16-8-7 by offenders who are not
 144 indigent which shall be established to cover the costs of monitoring all offenders subject
 145 to GPS monitoring; and

146 (2) The absorption by the GPS monitoring service provider of the costs of monitoring
 147 offenders who are determined to be indigent under the guidelines established by the
 148 Department of Corrections and the State Board of Pardons and Paroles.

149 16-18-10.

150 In the event of any conflict between this chapter and Article 2 of Chapter 1 of Title 42,
 151 relating to registration and monitoring of sexual offenders:

152 (1) If an offender is required to wear an electronic monitoring system under the terms of
 153 Article 2 of Chapter 1 of Title 48, then that article shall control; and

154 (2) If an offender is required to wear a GPS monitor under the terms of this chapter but
 155 is not required to wear an electronic monitoring system under the terms of Article 2 of
 156 Chapter 1 of Title 48, then this chapter shall control."

157 **SECTION 2.**

158 Said title is further amended by revising Code Section 16-7-29, relating to unlawful
 159 interference with electronic monitoring devices, as follows:

160 "16-7-29.

161 (a) For purposes of this Code section, the term 'electronic monitoring device' shall include
162 any device that is utilized to track the location of a person.

163 (b) It shall be unlawful for any person to knowingly and without authority remove,
164 destroy, or circumvent the operation of an electronic monitoring device which is being used
165 for the purpose of monitoring a person who is:

166 (1) Complying with a home arrest program as set forth in Code Section 42-1-8;

167 (2) Wearing an electronic monitoring device as a condition of bond or pretrial release;

168 (3) Wearing an electronic monitoring device as a condition of probation; ~~or~~

169 (4) Wearing an electronic monitoring device as a condition of parole;

170 (5) Wearing an electronic monitoring device under Code Section 42-1-14, relating to
171 classification of sexual offenders and monitoring of sexually violent predators; or

172 (6) Wearing an electronic monitoring device under Chapter 18 of this title, relating to
173 GPS monitoring offenses.

174 (c) It shall be unlawful for any person to knowingly and without authority request or solicit
175 any other person to remove, destroy, or circumvent the operation of an electronic
176 monitoring device which is being used for the purposes described in subsection (b) of this
177 Code section.

178 (d) Any person who violates this Code section shall be guilty of the offense of tampering
179 with the operation of an electronic monitoring device and shall be punished by
180 imprisonment for not less than one nor more than five years."

181 **SECTION 3.**

182 This Act shall become effective upon its approval by the Governor or upon its becoming law
183 without such approval.

184 **SECTION 4.**

185 All laws and parts of laws in conflict with this Act are repealed.