

HOUSE No. 02836

The Commonwealth of Massachusetts

PRESENTED BY:

Steven L. Levy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the electronic monitoring of sex offenders found to be in violation of the conditions of probation

□.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>

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By Mr. Levy of Marlborough, a petition (accompanied by bill, House, No. 2836) of Webster and others relative to the electronic monitoring of sex offenders found to be in violation of the conditions of probation Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
 HOUSE
 , NO. 4282 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the electronic monitoring of sex offenders found to be in violation of the conditions of probation

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Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to require the electronic monitoring of convicted sex offenders found to be in violation of the conditions of probation, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Section 47 of chapter 265 of the General Laws, as appearing in the 2008 Official
- 2 Edition is hereby amended by adding the following 3 paragraphs:-

3 A person who is placed on probation for any offense listed within the definition of "sex offense",
4 a "sex offense involving a child" or a "sexually violent offense", as defined in section 178C of
5 chapter 6, and who is found to have violated any conditions of release set by the court, shall be
6 guilty of a second and subsequent offense, which shall be punishable by a fine of not more than
7 five thousand dollars, or by imprisonment for not more than two and one-half years in a house of
8 correction, or by both such fine and imprisonment.

9 Where a defendant has been found in violation of a condition of release under this section, the
10 court may, in addition to the penalties provided for in this section after conviction and any other
11 existing penalties, as an alternative to incarceration and as a condition of probation, require the
12 defendant to wear a global positioning system device, or any comparable device, administered by
13 the commissioner of probation, at all times for the length of his probation. The commissioner of
14 probation, in addition to any other conditions, shall establish defined geographic exclusion zones
15 including, but not limited to, the areas in and around the victim's residence, place of employment
16 and school and other areas defined to minimize the probationer's contact with children, if
17 applicable. If the probationer enters an excluded zone, as defined by the terms of his probation,
18 the probationer's location data shall be immediately transmitted to the police department in the
19 municipality wherein the violation occurred and the commissioner of probation, by telephone,
20 electronic beeper, paging device or other appropriate means. If the commissioner or the
21 probationer's probation officer has probable cause to believe that the probationer has violated this
22 term of his probation, the commissioner or the probationer's probation officer shall arrest the
23 probationer pursuant to section 3 of chapter 279. Otherwise, the commissioner shall cause a
24 notice of surrender to be issued to such probationer.

25 The fees incurred by installing, maintaining and operating the global positioning system device,
26 or comparable device, shall be paid by the probationer. If an offender establishes his inability to
27 pay such fees, the court may waive them.

28 SECTION 2. In cases reviewing the requirement of GPS tracking units for sex offenders
29 convicted prior to 2006, the presiding judge shall make a written finding including the rationale
30 for said finding after a hearing.