



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1184/P2

CMH:lmk/ks

P3

↑ stays

WED
IF POSSIBLE

DOA:.....Steinmetz, BB0247 - GPS tracking of sex offenders

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Do Not

the budget

1 AN ACT ...; relating to: global positioning system tracking of sex offenders and
2 escorts for persons on supervised release. *Keep*

Analysis by the Legislative Reference Bureau

CORRECTIONS

Current law requires DOC to maintain lifetime global positioning system (GPS) tracking of certain sex offenders who have committed certain sex offenses against a child (serious child sex offense). These child sex offenders include individuals who are placed on probation on or after July 1, 2007, for committing a serious child sex offense, individuals released on or after July 1, 2007, to extended supervision or parole while serving a sentence for committing a serious child sex offense, and individuals released from prison on or after July 1, 2007, upon completing a sentence imposed for a serious child sex offense. This bill requires DOC to maintain GPS tracking over these individuals only while the individuals are on probation, parole, or extended supervision and eliminates the requirement to maintain GPS tracking over individuals released from prison at the completion of their sentence.

Also under current law, DOC must maintain GPS tracking of an individual who has been found to have committed under the law of another jurisdiction a crime that is comparable to a serious child sex offense if the individual resides in this state, is employed or carrying on a vocation in this state, or is a student in this state. This bill applies this requirement only to individuals who begin their residency, ~~start their employment or vocation, or become a student~~ on or after July 1, 2007, and allows

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January 17
2008

DOC to maintain either GPS tracking or passive position system tracking of these individuals.

Finally under current law, an individual who is on supervised release must be restricted to his or her home for the first year except for outings that are under the direct supervision of a DOC escort and that are for employment purposes, for religious purposes, or for caring for the individual's basic living needs. This bill allows DOC to contract for the escorts.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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SECTION 1. 301.48 (1) (d) of the statutes, as created by 2005 Wisconsin Act 431, is amended to read: *repealed*

~~301.48 (1) (d) "Lifetime tracking" means global positioning system tracking that is required for a person for the remainder of the person's life or until terminated under sub. (2m), sub. (6), if applicable, or sub. (7) or (8). "Lifetime tracking" does not include global positioning system tracking under sub. (2) (c) or (d), regardless of how long it is required.~~

SECTION 2. 301.48 (2) (a) (intro.) of the statutes, as created by 2005 Wisconsin Act 431, is amended to read:

~~301.48 (2) (a) (intro.) Except as provided in sub. (2m), the The department shall maintain lifetime tracking of a person if the court that found the person not guilty of a serious child sex offense by reason of mental disease or mental defect does any of the following occurs with respect to the person on or after July 1, 2007:~~

SECTION 3. 301.48 (2) (a) 1. of the statutes, as created by 2005 Wisconsin Act 431, is renumbered 301.48 (2) (ag) and amended to read:

~~301.48 (2) (ag) A If a court places the a person on probation on or after July 1, 2007, for committing a serious child sex offense, the department shall have the~~

Except as provided in sub. (6) or (7)

1 person tracked using a global positioning tracking device until the person is
2 discharged from the probation imposed for the serious child sex offense.

3 **SECTION 4.** 301.48 (2) (a) 2. of the statutes, as created by 2005 Wisconsin Act
4 431, is renumbered 301.48 (2) (an) ^{far} and amended to read:

5 301.48 (2) (an) ^{far} The ~~if~~, on or after ^{January 28} July 1, 2007, the department releases the a
6 person to extended supervision or parole while the person is serving a sentence for
7 committing a serious child sex offense, ^{as a condition of extended supervision or parole} the department shall have the person tracked
8 using a global positioning tracking device until the person is discharged from the
9 extended supervision or parole portion of the sentence imposed for the serious child
10 sex offense. *keep*

11 **SECTION 5.** 301.48 (2) (a) 3. of the statutes, as created by 2005 Wisconsin Act
12 431, is repealed.

13 **SECTION 6.** 301.48 (2) (a) 4. and 5. of the statutes, as created by 2005 Wisconsin
14 Act 431, are amended to read:

15 301.48 (2) (a) 4. ~~A court that found the person not guilty of a serious child sex~~
16 ~~offense by reason of mental disease or mental defect places~~ Places the person on
17 conditional release.

18 5. ~~A court that found the person not guilty of a serious child sex offense by~~
19 ~~reason of mental disease or mental defect discharges~~ Discharges the person under
20 s. 971.17 (6). ~~This subdivision does not apply if unless~~ the person was on conditional
21 release immediately before being discharged.

22 **SECTION 7.** 301.48 (2) (c) (intro.) of the statutes, as created by 2005 Wisconsin
23 Act 431, is amended to read:

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SECTION 7

Except as provided in sub (6) or (7) the

1 301.48 (2) (c) (intro.) ~~The~~ department shall have a person tracked using a global
2 positioning system tracking device or a passive positioning system tracking device
3 if all of the following apply:

INS 4-4

****NOTE: Do you want any standards to apply as to whether the person is tracked actively or passively? The lack of standards may result in an improper delegation of authority to let DOC make such decisions without any guidance from the legislature. ✓

4 SECTION 8. 301.48 (2) (c) 2. of the statutes, as created by 2005 Wisconsin Act
5 431, is amended to read:

January 1, 2008

6 301.48 (2) (c) 2. The On or after July 1, 2007, the person resides begins
7 residency in this state, ~~is or begins a period in which he or she is~~ employed or carrying
8 ~~on a vocation, as defined in s. 301.45 (1d) (a), in this state, or in which he or she is~~
9 ~~a student, as defined in s. 301.45 (1d) (c), in this state.~~

plan 2
****NOTE: This tracking requirement applies even if the person is no longer under any supervision in the other jurisdiction - OK?

10 SECTION 9. 301.48 (2) (d) of the statutes, as created by 2005 Wisconsin Act 431,
11 is amended to read:

strike comma

January 1, 2008

12 301.48 (2) (d) If, on or after ~~July 1, 2007~~, a person is being placed on probation,
13 extended supervision, or parole for committing a sex offense and par. (a) ~~(ag), (an),~~ *(ar)*
14 (b), or (c) does not apply, the department may have the person tracked using a global
15 positioning system tracking device as a condition of the person's probation, ~~extended~~ *or*
16 supervision, ~~or parole.~~ *or parole*

strike comma

17 SECTION 10. 301.48 (2m) of the statutes, as created by 2005 Wisconsin Act 431,
18 is repealed.

19 SECTION 11. 301.48 (3) (a) (intro.) of the statutes, as created by 2005 Wisconsin
20 Act 431, is amended to read:

subs. and (9)(b)

21 301.48 (3) (a) (intro.) Except as provided in ~~sub. (2m)~~ *subs.* (2) (c), the department
22 shall implement a continuous global positioning tracking system to electronically

1 monitor the whereabouts of persons who are subject to this section. The system shall
2 do all of the following:

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3 **SECTION 12.** 301.48 (8) (b) of the statutes, as created by 2005 Wisconsin Act 431,
4 is amended to read:

5 301.48 (8) (b) Notwithstanding sub. (2), ~~the department may terminate a~~
6 ~~person's lifetime tracking after 10 years if a person is subject to being tracked under~~
7 ~~sub. (2)~~ ^{this section} and if the victim of the serious child sex offense for which the person is being
8 tracked is a relative of the person being tracked, the department may track the
9 person using a global positioning tracking device or a passive positioning tracking
10 device for a period of time determined by the department, or may terminate any
11 tracking of the person.

12 **SECTION 13.** 980.08 (9) of the statutes, as created by 2005 Wisconsin Act 431,
13 is renumbered 980.08 (9) (a).

14 **SECTION 14.** 980.08 (9) (b) of the statutes is created to read:

15 980.08 (9) (b) The department of corrections may contract for the escort
16 services under par. (a).

17 **SECTION 9309. Initial applicability; Corrections.**

18 (1) GLOBAL POSITIONING TRACKING OF CHILD SEX OFFENDERS. The treatment of
19 section 301.48 (1) (d), (2) (a) (intro.), 1., 2., 3., 4., and 5. and (d), (2m), and (3) (a)
20 (intro.) of the statutes first applies to persons placed on probation, released to
21 extended supervision or parole, or released from prison on July 1, 2007.

22 (2) GLOBAL POSITIONING TRACKING OF CHILD SEX OFFENDERS FROM OTHER
23 JURISDICTIONS. The treatment of section 301.48 (2) (c) (intro.) of the statutes first
24 applies to persons found to have violated a federal law, or a law of another state, that
25 is comparable to a serious child sex offense, as defined in section 301.48 (1) (e) of the

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[Handwritten notes and scribbles]

1 statutes, and resides, is employed or carrying on a vocation, or is a student in this
2 state on July 1, 2007.

3 **SECTION 9409. Effective dates; Corrections.**

4 (1) SUPERVISION OF PERSONS ON SUPERVISED RELEASE. The renumbering of section
5 980.08 (9) of the statutes and the creation of section 980.08 (9) (b) of the statutes take
6 effect on July 1, 2007.

7 (END)

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(2) GPS TRACKING ^{cs} The treatment of section 301.48
 (1) (d), (2) (a) (intro), 10, 20, 30, 40 and 50; (b) (intro),
 10, and 30; (c) (intro) and 20; and (d); (2m); (3)
 (a) (intro) and (c); (b) (title); (a); (b); (c); (d) 10 and 20;
 (e); (f); (g); (h); and (i); (7) (title); (a); and (b);
 and (8) ^{(title) and} (b) of the statutes takes effect
 on July 1, 2007.

***NOTE: I did not change the effective date as DOC requested tracking.
 The in-text dates ensure that the GPS tracking requirements
 will apply beginning January 1, 2008. But the possibly
 retroactive effective date of July 1, 2007 will eliminate
 the requirement that DOC begin tracking persons on July
 1, 2007 - which I believe is what you intend. You want the
 text to change on July 1, 2007, but no action required until January 1, 2008.

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1184/P2ins
CMH:lmk:rs

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Insert A

Current law requires DOC to maintain global positioning system (GPS) tracking of certain sex offenders who have committed certain sex offenses against a child (serious child sex offense). These GPS tracking requirements begin on July 1, 2007. With some exceptions the requirements apply for the rest of the sex offender's life. The ~~child~~ sex offenders to be tracked include individuals who have been declared ~~sexually violent persons~~ and released to supervised release or discharged from DHFS custody, individuals found not guilty of a serious child sex offense by reason of mental disease or defect and placed on conditional release or discharged, individuals who are released to extended supervision or parole while serving a sentence for committing a serious child sex offense, individuals who are placed on probation for committing a serious child sex offense, and individuals who are released from prison upon completing a sentence imposed for a serious child sex offense. This bill delays the implementation of the requirements to January 1, 2008. This bill changes the length of the tracking requirement to apply only while the individual is on supervised release, conditional release, extended supervision, or parole for the serious child sex offense. This bill eliminates the requirement to track individuals discharged from DHFS custody, individuals found not guilty by reason of mental disease or defect who are discharged from commitment, individuals placed on probation for committing a serious child sex offense, and individuals released from prison upon completing a sentence imposed for a serious child sex offense.

SVPs
sex offenders who have been committed as sexually violent persons (and specified)

SVPs

committed as

of a serious child sex offense

as created by 2005 Wisconsin Act 431

or (7)

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Insert 3-3

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SECTION 1. 301.48 (1) (d) of the statutes, as created by 2005 Wisconsin Act 431,

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is repealed.

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SECTION 2. 301.48 (2) (a) (intro.) and 4. of the statutes are consolidated,

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renumbered 301.48 (2) (ag) and amended to read:

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301.48 (2) (ag) Except as provided in sub. (2m) (6), as a condition of conditional

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release, the department shall maintain lifetime tracking of have a person tracked

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using a global positioning system tracking device if any of the following occurs with

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respect to the person, on or after July 1, 2007: 4. A January 1, 2008, a court that

1 found the person not guilty of a serious child sex offense by reason of mental disease
2 or mental defect places the person on conditional release. ✓

History: 2005 a. 431.

3 ~~SECTION 3.~~ 301.48 (2) (a) 1. of the statutes, as created by 2005 Wisconsin Act
4 431, is repealed. ✓

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6 Insert 3-13

7 ~~SECTION 4.~~ 301.48 (2) (a) 5. of the statutes, as created by 2005 Wisconsin Act
8 431, is repealed. ✓

9
10 ~~Insert 3-22~~

11 ~~SECTION 5.~~ 301.48 (2) (b) (intro.) and 1. of the statutes, as created by 2005
12 Wisconsin Act 431, are consolidated, renumbered 301.48 (2) (bg) and amended to
13 read:

14 301.48 (2) (bg) The Except as provided in sub. (6), as a condition of supervised
15 release, the department shall maintain lifetime tracking of have a person tracked
16 using a global positioning system tracking device if any of the following occurs with
17 respect to the person, on or after July 1, 2007: 1. A January 1, 2008, a court places
18 the person on supervised release under s. 980.08 (6m). ✓

History: 2005 a. 431.

19 ~~SECTION 6.~~ 301.48 (2) (b) 3. of the statutes, as created by 2007 Wisconsin Act
20 431, is renumbered 301.48 (2) (br) and amended to read:

21 301.48 (2) (br) The Except as provided in sub. (6), as a condition of parole, the
22 department shall have a person tracked using a global positioning system tracking
23 device if, on or after January 1, 2008, the department of health and family services
24 places the person on parole or discharges the person under ch. 975. This subdivision

Section
RP 301.48(2)(b) 2.

(7)

3

or (7)

1 paragraph does not apply unless the person's commitment was based on his or her
2 commission of a serious child sex offense. ✓

History: 2005 a. 431.

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Insert 4-4

****NOTE: I did not remove the language "or a passive positioning system tracking device." DOC asked that this language be removed "to allow the DOC to decide active or passive GPS." But this language is what allows passive GPS; if I removed it, active GPS would be the only option. Do you want to redefine GPS tracking to be either active or passive? ✓

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Insert 5-3

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~~SECTION 7.~~ 301.48 (3) (c) of the statutes, as created by 2005 Wisconsin Act 431,

10 is amended to read:

11 301.48 (3) (c) For each person who is subject to global positioning system
12 tracking under this section, the department shall create individualized exclusion
13 and inclusion zones for the person, if necessary to protect public safety. In creating
14 exclusion zones, the department shall focus on areas where children congregate,
15 with perimeters of 100 to 250 feet, and on areas where the person has been prohibited
16 from going as a condition of ~~probation~~, extended supervision, parole, conditional
17 release, or supervised release. In creating inclusion zones for a person on supervised
18 release, the department shall consider ~~s. 980.08 (7)~~ s. 980.08 (9).

NOTE: NOTE: The correct cross-reference is shown in brackets. Corrective legislation is pending. NOTE:

History: 2005 a. 431.

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~~SECTION 8.~~ 301.48 (6) (title), (a) (b), (c), (d) 1. and 2., (e), (f), (g), (h) and (i) of the

20 statutes, as created by 2007 Wisconsin Act 431, are amended to read:

**** NOTE: Do you want to keep the 20-year minimum? Only persons convicted of a class A felony have a possibility of more than 20 years on extended supervision. This petition process would apply to them. ^{perhaps} ^{some} ^{persons} ^{still} ^{subject} ^{to} ^{parole.}

1 301.48 (6) OFFENDER'S PETITION TO TERMINATE LIFETIME TRACKING. (a) Subject to
2 par. (b), a person who is subject to lifetime tracking being tracked under this section
3 may file a petition requesting that lifetime termination of the tracking be
4 terminated. A person shall file a petition requesting termination of lifetime ^{plain} the ^{remove}
5 tracking with the circuit court for the county in which the person was convicted or
6 found not guilty or not responsible by reason of mental disease or defect.

7 (b) 1. A person may not file a petition requesting termination of lifetime ~~tracking~~
8 tracking if he or she has been convicted of a crime that was committed during the
9 period of lifetime tracking.

10 2. A person may not file a petition requesting termination of lifetime tracking
11 earlier than 20 years after the date on which the period of lifetime tracking began.
12 If a person files a petition requesting termination of lifetime tracking at any time
13 earlier than 20 years after the date on which the period of lifetime tracking began,
14 the court shall deny the petition without a hearing.

15 3. A person described in sub. (2) (b) (bg) may not file a petition requesting
16 termination of lifetime tracking.

****NOTE: I do not know if you wanted to continue the legislature's preference of
prohibiting the 980 people ^{on supervised release} from the tracking requirements

17 (c) Upon receiving a petition requesting termination of lifetime tracking, the
18 court shall send a copy of the petition to the district attorney responsible for
19 prosecuting the serious sex offense that was the basis for the order of lifetime
20 tracking. Upon receiving the copy of the petition, the district attorney shall conduct
21 a criminal history record search to determine whether the person has been convicted
22 of a criminal offense that was committed during the period of lifetime tracking. No
23 later than 30 days after the date on which he or she receives the copy of the petition,

1 the district attorney shall report the results of the criminal history record search to
2 the court and may provide a written response to the petition.

3 (d) 1. If the report indicates that the person filing the petition has been
4 convicted of a criminal offense that was committed during the period of lifetime
5 tracking, the court shall deny the person's petition without a hearing.

6 2. If the report indicates that the person filing the petition has not been
7 convicted of a criminal offense that was committed during the period of lifetime
8 tracking, the court shall order the person to be examined under par. (e), shall notify
9 the department that it may submit a report under par. (f), and shall schedule a
10 hearing on the petition to be conducted as provided under par. (g).

11 (e) A person filing a petition requesting termination of lifetime tracking who
12 is entitled to a hearing under par. (d) 2. shall be examined by a person who is either
13 a physician or a psychologist licensed under ch. 455 and who is approved by the court.
14 The physician or psychologist who conducts an examination under this paragraph
15 shall prepare a report of his or her examination that includes his or her opinion of
16 whether the person petitioning for termination of lifetime tracking is a danger to the
17 public. The physician or psychologist shall file the report of his or her examination
18 with the court within 60 days after completing the examination, and the court shall
19 provide copies of the report to the person filing the petition and the district attorney.
20 The contents of the report shall be confidential until the physician or psychologist
21 testifies at a hearing under par. (g). The person petitioning for termination of
22 lifetime tracking shall pay the cost of an examination required under this paragraph.

23 (f) After it receives notification from the court under par. (d) 2., the department
24 may prepare and submit to the court a report concerning a person who has filed a
25 petition requesting termination of lifetime tracking. If the department prepares and

1 submits a report under this paragraph, the report shall include information
2 concerning the person's conduct while on lifetime tracking and an opinion as to
3 whether lifetime tracking of the person is still necessary to protect the public. When
4 a report prepared under this paragraph has been received by the court, the court
5 shall, before the hearing under par. (g), disclose the contents of the report to the
6 attorney for the person who filed the petition and to the district attorney. When the
7 person who filed the petition is not represented by an attorney, the contents shall be
8 disclosed to the person.

9 (g) A hearing on a petition requesting termination of lifetime tracking may not
10 be conducted until the person filing the petition has been examined and a report of
11 the examination has been filed as provided under par. (e). At the hearing, the court
12 shall take evidence it considers relevant to determining whether lifetime tracking
13 should be continued because the person who filed the petition is a danger to the
14 public. The person who filed the petition and the district attorney may offer evidence
15 relevant to the issue of the person's dangerousness and the continued need for
16 lifetime tracking.

17 (h) The court may grant a petition requesting termination of lifetime tracking
18 if it determines after a hearing under par. (g) that lifetime tracking is no longer
19 necessary to protect the public.

20 (i) If a petition requesting termination of lifetime tracking is denied after a
21 hearing under par. (g), the person may not file a subsequent petition requesting
22 termination of lifetime tracking until at least 5 years have elapsed since the most
23 recent petition was denied.

GPS Bill – LRB-1184/P2

Sec 8 – Change effective date to Jan 1, 2008, and add language specifying that this applies to individuals under supervision by DOC. Not necessary to refer to residence. Suggested language: “On or after January 1, 2008, the Department begins supervision of the person pursuant to sec. 302.25.” (citation is to interstate compact)

Sec. 11. Language needs to be revised to permit Department to do either active or passive GPS tracking.

- Strike the word “continuous” from 301.48(3)(a) (intro).
- Revise 301.48(3)(a) 1. “Use field monitoring equipment that supports cellular communications with as large a coverage area as possible and ~~shall automatically provide~~ permits instantaneous or nearly instantaneous information regarding the whereabouts...”
- Revise 301.48(3)(a)3. “Allow the department and the local law enforcement agency having jurisdiction over the exclusion or inclusion zone to receive an immediately alert if the person stays in any exclusion zone....”
- 301.48(3)(b). Eliminate “and passive positioning system tracking services”

Sec. 12. Clarify language to indicate that the department has discretion to use GPS as a condition of parole or supervised release when victim is a relative: “...the department may have the person tracked using a global positioning tracking device as a condition of parole or extended supervision if it believes such tracking is necessary to protect public safety.”

Other changes:

§ 301.48(3)(c) Delete “probation” from language on exclusion zones – “areas where the person has been prohibited from going as a condition of probation, extended supervision, parole, conditional release or supervised release.”

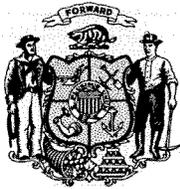
301.48(4)(a)1. and (4)(b). Delete “or passive positioning system tracking” from both provisions.

301.48(6). Repeal section regarding offenders’s petition to terminate GPS tracking.

301.48(7). Changes to section regarding Department’s petition to terminate GPS tracking. Current statute permits DOC to petition only on basis of physical incapacity. Change language to allow petition when in Department’s view, GPS is no longer necessary to protect public safety.

- Eliminate “lifetime” from heading and throughout this section.
- Delete “if the person is permanently physically incapacitated. The petition shall include affidavits from 2 physicians that explain the nature of the person’s permanent physical incapacitation.”
- Add: “The department may file a petition requesting that a person’s tracking be terminated if the department believes tracking of the person is no longer necessary to protect the public.”
- 301.48(7)(b)1 & 2. Retain but eliminate the word “lifetime” from 2.

- 301.48(7)(c). Revise language to authorize the court, on its own motion, to order that the person to whom the petition relates be examined by a physician or psychologist approved by the court. The physician or psychologist shall prepare a report that includes his or her opinion of whether the person is a danger to the public. Department to pay costs of examination (because it's on our petition). See current language in 301.48(6)(e) and 301.48(7)(c).
- 301.48(7)(d) Delete the word "physical" from the phrase "ordered a physical examination under par. (c). Revise the second sentence as follows: "At the hearing, the court shall take evidence it considers relevant to determining whether the person to whom the petition presents a danger to the public if not subject to tracking using a global positioning tracking device under this section."
- 301.48(7)(e) revise: "The court may grant a petition filed under par. (b)1. if it determines after a hearing under par. (d) that the person to whom the petition relates would not present a danger to the public if not subject to tracking using a global positioning tracking device under this section."



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1184/P3
CMH:lmk:nwn

TWLj

TODAY IF POSSIBLE

P4

to terminate the GPS if the individual is permanently

DOA:.....Steinmetz, BB0247 - GPS tracking of sex offenders

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

don't present

DOC must monitor the sex offenders with some exceptions and

NoFF

DOC may petition a court to terminate the GPS physically requirement if the individual is permanently incarcerated

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
CORRECTIONS

Current law requires DOC to maintain global positioning system (GPS) tracking of sex offenders who have been committed as sexually violent persons (SVPs) and certain sex offenders who have committed specified sex offenses against a child (serious child sex offense). These GPS tracking requirements begin on July 1, 2007. With some exceptions the requirements apply for the rest of the sex offender's life. The sex offenders to be tracked include individuals who have been committed as SVPs and released to supervised release or discharged from DHFS custody, individuals found not guilty of a serious child sex offense by reason of mental disease or defect and placed on conditional release or discharged, individuals who are released to extended supervision or parole while serving a sentence for committing a serious child sex offense, individuals who are placed on probation for committing a serious child sex offense, and individuals who are released from prison upon completing a sentence imposed for a serious child sex offense. This bill delays the implementation of the requirements to January 1, 2008. This bill changes the length of the tracking requirement to apply only while the individual is on supervised release, conditional release, extended supervision, or parole for the serious child sex offense. This bill eliminates the requirement to track SVPs discharged from DHFS custody, individuals found not guilty of a serious child sex offense by reason of mental disease or defect who are discharged from commitment, individuals placed on

an

STH

DOC lifetime supervision

requires DOC only to record the sex offender's location rather than actually monitor the person and

after January 1, 2008 are under the supervision of DOC under the Interstate Corrections Compact

Not! The bill also allows DOC to position a court to terminate the GPS tracking requirement if DOC determines that the individual would not endanger the public if not tracked

probation for committing a serious child sex offense, and individuals released from prison upon completing a sentence imposed for a serious child sex offense.

Also under current law, DOC must maintain GPS tracking of ~~an individual~~ ^{a sex offender} who has been found to have committed under the law of another jurisdiction a crime that is comparable to a serious child sex offense if the individual resides in this state, is employed or carrying on a vocation in this state, or is a student in this state. This bill applies this requirement only to individuals who begin their residency on or after January 1, 2008, and allows DOC to maintain either GPS tracking or passive position system tracking of these individuals.

Finally under current law, ~~an individual~~ ^{a sex offender} who is on supervised release must be restricted to his or her home for the first year except for outings that are under the direct supervision of a DOC escort and that are for employment purposes, for religious purposes, or for caring for ~~the individual's~~ ^{his or her} basic living needs. This bill allows DOC to contract for the escorts.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INS ✓
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1 SECTION 1. 301.48 (1) (d) of the statutes, as created by 2005 Wisconsin Act 431,
2 is repealed. ✓ SECTION 1. REPEAL 301.48 (1) (dm), as created by 2005 Wisconsin Act 431

3 SECTION 2. 301.48 (2) (a) (intro.) and 4. of the statutes, as created by 2005
4 Wisconsin Act 431, are consolidated, renumbered 301.48 (2) (ag) and amended to
5 read:

6 301.48 (2) (ag) Except as provided in sub. (2m) (6) or (7), as a condition of
7 conditional release, the department shall ~~maintain lifetime tracking of~~ ^{have} a person
8 tracked using a global positioning system tracking device if any of the following
9 occurs with respect to the person, on or after July 1, 2007: 4. A January 1, 2008,
10 a court that found the person not guilty of a serious child sex offense by reason of
11 mental disease or mental defect places the person on conditional release.

12 SECTION 3. 301.48 (2) (a) 1. of the statutes, as created by 2005 Wisconsin Act
13 431, is repealed.

1 SECTION 4. 301.48 (2) (a) 2. of the statutes, as created by 2005 Wisconsin Act
2 431, is renumbered 301.48 (2) (ar) and amended to read:

3 301.48 (2) (ar) The Except as provided in sub. (6) or (7), if, on or after January
4 1, 2008, the department releases the a person to extended supervision or parole while
5 the person is serving a sentence for committing a serious child sex offense, the
6 department shall have the person tracked using a global positioning tracking device
7 as a condition of extended supervision or parole. system

8 SECTION 5. 301.48 (2) (a) 3. of the statutes, as created by 2005 Wisconsin Act
9 431, is repealed.

10 SECTION 6. 301.48 (2) (a) 5. of the statutes, as created by 2005 Wisconsin Act
11 431, is repealed.

12 SECTION 7. 301.48 (2) (b) (intro.) and 1. of the statutes, as created by 2005
13 Wisconsin Act 431, are consolidated, renumbered 301.48 (2) (bg) and amended to
14 read:

15 301.48 (2) (bg) The Except as provided in sub. (7), as a condition of supervised
16 release, the department shall maintain lifetime tracking of have a person tracked
17 using a global positioning system tracking device if any of the following occurs with
18 respect to the person, on or after July 1, 2007: 1. A January, 1, 2008, a court places
19 the person on supervised release under s. 980.08 (6m).

20 SECTION 8. 301.48 (2) (b) 2. of the statutes is repealed.

21 SECTION 9. 301.48 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Act
22 431, is renumbered 301.48 (2) (br) and amended to read:

23 301.48 (2) (br) The Except as provided in sub. (6) or (7), as a condition of parole,
24 the department shall have a person tracked using a global positioning system
25 tracking device if, on or after January 1, 2008, the department of health and family

INS
3-12

as created
by 2005 Wisconsin
Act 431A

1 services places the person on parole or discharges the person under ch. 975. This
2 subdivision paragraph does not apply unless the person's commitment was based on
3 his or her commission of a serious child sex offense.

4 SECTION 10. 301.48 (2) (c) (intro.) of the statutes, as created by 2005 Wisconsin
5 Act 431, is amended to read:

6 301.48 (2) (c) (intro.) The Except as provided in sub. (6) or (7), the department
7 shall have a person tracked using a global positioning system tracking device ~~or a~~
8 ~~passive positioning system tracking device~~ if all of the following apply:

****NOTE: Do you want any standards to apply as to whether the person is tracked actively or passively? The lack of standards may result in an improper delegation of authority to let DOC make such decisions without any guidance from the legislature.

****NOTE: I did not remove the language "or a passive positioning system tracking device." DOC asked that this language be removed "to allow the DOC to decide active or passive GPS." But this language is what allows passive GPS; if I removed it, active GPS would be the only option. Do you want to redefine GPS tracking to be either active or passive?

department begins supervision of the person under 301.48

GPS device to component

9 SECTION 11. 301.48 (2) (c) 2. of the statutes, as created by 2005 Wisconsin Act
10 431, is ~~amended~~ ^{repealed and recreated} to read:

11 301.48 (2) (c) 2. ^{Plain} ~~The~~ On or after January 1, 2008, the person resides begins
12 residency in this state, is employed or carrying on a vocation, as defined in s. 301.45
13 (1d) (a), in this state, or is a student, as defined in s. 301.45 (1d) (c), in this state.

Plain text

14 SECTION 12. 301.48 (2) (d) of the statutes, as created by 2005 Wisconsin Act 431,
15 is amended to read:

16 ^(ag) 301.48 (2) (d) If, on or after ~~July 1, 2007~~ January 1, 2008, a person is being
17 placed on ~~probation, extended supervision, or parole~~ for committing a sex offense and
18 ~~par~~ ^{or} (a), (ar), (b), or (c) does not apply, the department may have the person tracked
19 using a global positioning system tracking device as a condition of the person's
20 ~~probation, or extended supervision, or parole.~~

or lifetime supervision

(a), (b) (ag), (ar), (bg) Plain comma

1 SECTION 13. 301.48 (2m) of the statutes, as created by 2005 Wisconsin Act 431,
2 is repealed.

3 SECTION 14. 301.48 (3) (a) (intro.) of the statutes, as created by 2005 Wisconsin
4 Act 431, is amended to read:

5 301.48 (3) (a) (intro.) ~~Except as provided in sub. (2m) subs. (2) (c) and (8) (b),~~
6 the department shall implement a continuous global positioning tracking system to
7 electronically monitor the whereabouts of persons who are subject to this section.

8 The system shall do all of the following:

9 SECTION 15. 301.48 (3) (c) of the statutes, as created by 2005 Wisconsin Act 431,
10 is amended to read:

11 301.48 (3) (c) For each person who is subject to global positioning system
12 tracking under this section, the department shall create individualized exclusion
13 and inclusion zones for the person, if necessary to protect public safety. In creating
14 exclusion zones, the department shall focus on areas where children congregate,
15 with perimeters of 100 to 250 feet, and on areas where the person has been prohibited
16 from going as a condition of probation, extended supervision, parole, conditional
17 release, ~~or supervised release.~~ ^{or lifetime supervision} In creating inclusion zones for a person on supervised
18 release, the department shall consider s. ~~980.08 (7)~~ s. 980.08 (9).

19 SECTION 16. 301.48 (6) (title), (a), (b), (c), (d) 1. and 2., (e), (f), (g), (h) and (i) of
20 the statutes, as created by 2005 Wisconsin Act 431, are amended to read:

21 301.48 (6) (title) OFFENDER'S PETITION TO TERMINATE LIFETIME TRACKING. (a)
22 Subject to par. (b), a person who is subject to lifetime tracking being tracked under
23 this section may file a petition requesting that lifetime termination of the tracking
24 be terminated. A person shall file a petition requesting termination of lifetime

MSJ
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strike
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tracking

Strike

or lifetime supervision

1 tracking with the circuit court for the county in which the person was convicted or
2 found not guilty or not responsible by reason of mental disease or defect.

3 (b) 1. A person may not file a petition requesting termination of lifetime
4 tracking if he or she has been convicted of a crime that was committed during the
5 period of lifetime tracking.

6 2. A person may not file a petition requesting termination of lifetime tracking
7 earlier than 20 years after the date on which the period of lifetime tracking began.
8 If a person files a petition requesting termination of lifetime tracking at any time
9 earlier than 20 years after the date on which the period of lifetime tracking began,
10 the court shall deny the petition without a hearing.

****NOTE: Do you want to keep the 20-year minimum? Only persons convicted of
a Class A felony have a possibility of more than 20 years on extended supervision. This
petition process would apply to them, persons on conditional release, and maybe some
persons still subject to parole.

11 3. A person described in sub. (2) (b) (bg) may not file a petition requesting
12 termination of lifetime tracking.

****NOTE: I do not know if you wanted to continue the legislature's preference of
prohibiting the 980 people on supervised release from petitioning for release from the
tracking requirements.

13 (c) Upon receiving a petition requesting termination of lifetime tracking, the
14 court shall send a copy of the petition to the district attorney responsible for
15 prosecuting the serious sex offense that was the basis for the order of lifetime
16 tracking. Upon receiving the copy of the petition, the district attorney shall conduct
17 a criminal history record search to determine whether the person has been convicted
18 of a criminal offense that was committed during the period of lifetime tracking. No
19 later than 30 days after the date on which he or she receives the copy of the petition,
20 the district attorney shall report the results of the criminal history record search to
21 the court and may provide a written response to the petition.

1 (d) 1. If the report indicates that the person filing the petition has been
2 convicted of a criminal offense that was committed during the period of lifetime
3 tracking, the court shall deny the person's petition without a hearing.

4 2. If the report indicates that the person filing the petition has not been
5 convicted of a criminal offense that was committed during the period of lifetime
6 tracking, the court shall order the person to be examined under par. (e), shall notify
7 the department that it may submit a report under par. (f), and shall schedule a
8 hearing on the petition to be conducted as provided under par. (g).

9 (e) A person filing a petition requesting termination of lifetime tracking who
10 is entitled to a hearing under par. (d) 2. shall be examined by a person who is either
11 a physician or a psychologist licensed under ch. 455 and who is approved by the court.
12 The physician or psychologist who conducts an examination under this paragraph
13 shall prepare a report of his or her examination that includes his or her opinion of
14 whether the person petitioning for termination of lifetime tracking is a danger to the
15 public. The physician or psychologist shall file the report of his or her examination
16 with the court within 60 days after completing the examination, and the court shall
17 provide copies of the report to the person filing the petition and the district attorney.
18 The contents of the report shall be confidential until the physician or psychologist
19 testifies at a hearing under par. (g). The person petitioning for termination of
20 lifetime tracking shall pay the cost of an examination required under this paragraph.

21 (f) After it receives notification from the court under par. (d) 2., the department
22 may prepare and submit to the court a report concerning a person who has filed a
23 petition requesting termination of lifetime tracking. If the department prepares and
24 submits a report under this paragraph, the report shall include information
25 concerning the person's conduct while on lifetime tracking and an opinion as to

1 whether lifetime tracking of the person is still necessary to protect the public. When
2 a report prepared under this paragraph has been received by the court, the court
3 shall, before the hearing under par. (g), disclose the contents of the report to the
4 attorney for the person who filed the petition and to the district attorney. When the
5 person who filed the petition is not represented by an attorney, the contents shall be
6 disclosed to the person.

7 (g) A hearing on a petition requesting termination of lifetime tracking may not
8 be conducted until the person filing the petition has been examined and a report of
9 the examination has been filed as provided under par. (e). At the hearing, the court
10 shall take evidence it considers relevant to determining whether lifetime tracking
11 should be continued because the person who filed the petition is a danger to the
12 public. The person who filed the petition and the district attorney may offer evidence
13 relevant to the issue of the person's dangerousness and the continued need for
14 lifetime tracking.

15 (h) The court may grant a petition requesting termination of lifetime tracking
16 if it determines after a hearing under par. (g) that lifetime tracking is no longer
17 necessary to protect the public.

18 (i) If a petition requesting termination of lifetime tracking is denied after a
19 hearing under par. (g), the person may not file a subsequent petition requesting
20 termination of lifetime tracking until at least 5 years have elapsed since the most
21 recent petition was denied.

22 **SECTION 17.** 301.48 (7) (title) of the statutes, as created by 2005 Wisconsin Act
23 431, is amended to read:

24 301.48 (7) (title) DEPARTMENT'S PETITION TO TERMINATE LIFETIME TRACKING.

1 SECTION 18. 301.48 (7) (a) of the statutes, as created by 2005 Wisconsin Act 431,
2 is amended to read:

3 301.48 (7) (a) The department may file a petition requesting that a person's
4 ~~lifetime tracking be terminated~~ person no longer be tracked using a global
5 positioning system tracking device if the ~~person is permanently physically~~
6 ~~incapacitated. The petition shall include affidavits from 2 physicians that explain~~
7 ~~the nature of the person's permanent physical incapacitation.~~

department determines that tracking is no longer necessary to protect the public

8 SECTION 19. 301.48 (7) (b) of the statutes, as created by 2005 Wisconsin Act 431,
9 is amended to read:

10 301.48 (7) (b) 1. The department shall file a petition under par. (a) with the
11 circuit court for the county in which the person was convicted or found not guilty or
12 not responsible by reason of mental disease or defect or, in the case of a person
13 described in sub. (2) (b) (bg), the circuit court for the county in which the person was
14 found to be a sexually violent person.

15 2. The department shall send a copy of a petition filed under subd. 1. to the
16 district attorney responsible for prosecuting the serious sex offense that was the
17 basis for the order of ~~lifetime~~ tracking or, in the case of a person described in sub. (2)
18 (b) (bg), the agency that filed the petition under s. 980.02.

INS 9-19

19 SECTION 20. 301.48 (8) (title) of the statutes is created to read:

20 301.48 (8) (title) TRACKING OPTIONS IF RELATIVE.

21 SECTION 21. 301.48 (8) (b) of the statutes, as created by 2005 Wisconsin Act 431,
22 is amended to read:

23 301.48 (8) (b) Notwithstanding sub. (2), ~~the department may terminate a~~
24 ~~person's lifetime tracking after 10 years~~ if a person is subject to being tracked under
25 this section and if the victim of the serious child sex offense for which the person is

or (7) ^

1 being tracked is a relative of the person being tracked, the department may track the
 2 person using a global positioning tracking device or a passive positioning tracking
 3 device for a period of time determined by the department, or may terminate any
 4 tracking of the person. *decide not to track*

if the department determines the person would not be a danger to the public if not tracked

5 **SECTION 22.** 980.08 (9) of the statutes, as created by 2005 Wisconsin Act 431,
 6 is renumbered 980.08 (9) (a).

7 **SECTION 23.** 980.08 (9) (b) of the statutes is created to read:

8 980.08 (9) (b) The department of corrections may contract for the escort
 9 services under par. (a).

10 **SECTION 9409. Effective dates; Corrections.**

11 (1) SUPERVISION OF PERSONS ON SUPERVISED RELEASE. The renumbering of section
 12 980.08 (9) of the statutes and the creation of section 980.08 (9) (b) of the statutes take
 13 effect on July 1, 2007. *(ag)*

14 (2) GPS TRACKING. The treatment of sections 301.48 (1) (d), (2) (a) (intro.), 1.,
 15 2., 3., 4., and 5., (b) (intro.), 1., 2, and 3., (c) (intro.) and 2., and (d), (2m), (3) (a) (intro.)
 16 and (c), (6) (title), (a), (b), (c), (d) 1. and 2., (e), (f), (g), (h), and (i), (7) (title), (a), ~~and~~
 17 (b), and (8) (title) and (b) of the statutes takes effect on July 1, 2007.

18 ******NOTE:** I did not change the effective date as DOC requested. The in-text dates ensure that the GPS tracking requirements will apply beginning January 1, 2008. But the possibly retroactive effective date of July 1, 2007, will eliminate the requirement that DOC begin tracking persons on July 1, 2007 — which I believe is what you intend. You want the text to change on July 1, 2007, but no action required until January 1, 2008.

(END)

(c), (d), and (e)

(4) (a) (b) and (c),

I think that you

(b), (c), (d), (e)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1184/P3ins
CMH:lmk:nwn

1 Insert 2-1

2 SECTION ~~1~~ 301.48 (1) (b) of the statutes, as created by 2005 Wisconsin Act 431,
3 is amended to read:

4 301.48 (1) (b) "Global positioning system tracking" means tracking using a
5 system that ~~actively monitors and identifies~~ ^{can} ~~is able to~~ monitor, identify, and record
6 a person's location and ~~timely reports or that~~ records the person's presence ~~near or~~
7 ~~at a crime scene or~~ in an exclusion zone or the person's departure from an inclusion
8 zone. "Global positioning system tracking" includes comparable technology.

History: 2005 a. 431.

****NOTE: I think that changing ^{of this} the definition is the best way to allow DOC
discretion on whether to actively or to passively track someone. I eliminated "near or at
a crime scene" because recording a person's location does that already. Since it also does
more, it seems unnecessary to enumerate that one feature.

9
10 Insert 3-12

11 SECTION ~~2~~ 301.48 (2) (ag) of the statutes is created to read:

12 301.48 (2) (ag) Except as provided in sub. (6) or (7), if, on or after January 1,
13 2008, a person is placed on lifetime supervision under s. 939.615 for the commission
14 of a serious child sex offense, the department shall have the person tracked using a
15 global positioning system tracking device as a condition of lifetime supervision.

16
17 Insert 5-9

****NOTE: Please review my changes to the section. "Monitoring" implies active
tracking so I changed it to require DOC to record only, which implies passive tracking.
I think this change gives DOC the discretion it wants.

18 SECTION ~~3~~ 301.48 (3) (a) 1. of the statutes, as created by 2005 Wisconsin Act
19 Act 431, is amended to read:

tracked

1 301.48 (3) (a) 1. Use field monitoring equipment that supports cellular
2 communications with as large a coverage area as possible and shall automatically
3 provide allows instantaneous or nearly instantaneous information regarding the
4 whereabouts of a person who is being ~~monitored~~, including information regarding
5 the person's presence in an exclusion zone established under par. (c) or absence from
6 an inclusion zone established under par. (c).

History: 2005 a. 431.

7 ~~SECTION 4~~ 301.48 (3) (a) 3. of the statutes, as created by 2005 Wisconsin Act
8 Act 431, is amended to read:

9 301.48 (3) (a) 3. ~~Immediately alert~~ Allow the department and the local law
10 enforcement agency having jurisdiction over the exclusion or inclusion zone to
11 receive an immediate alert if the person stays in any exclusion zone for any longer
12 period than the time needed to travel through the zone to get to another destination
13 or if the person leaves any inclusion zone.

History: 2005 a. 431.

14 ~~SECTION 5~~ 301.48 (3) (b) of the statutes, as created by 2005 Wisconsin Act Act
15 431, is amended to read:

16 301.48 (3) (b) The department shall contract with a vendor using a competitive
17 process under s. 16.75 to provide global positioning system tracking services and
18 ~~passive positioning system tracking services~~ for purposes of this section.

History: 2005 a. 431.

20 Insert 5-9

21 ~~SECTION 6~~ 301.48 (4) (a) 1. of the statutes, as created by 2005 Wisconsin Act
22 Act 431, is amended to read:

1 301.48 (4) (a) 1. The cost of global positioning system tracking ~~or passive~~
2 ~~positioning system tracking~~ for the person.

History: 2005 a. 431.

3 **SECTION ~~8~~** 301.48 (4) (b) of the statutes, as created by 2005 Wisconsin Act **Act**
4 431, is amended to read:

5 301.48 (4) (b) If required by the department, a person who is subject to global
6 positioning system tracking ~~or passive positioning system tracking~~ shall pay for the
7 cost of tracking up to the amount calculated for the person under par. (a) 2.

History: 2005 a. 431.

INS X

8
9
10 Insert 9-19

11 **SECTION ~~8~~** 301.48 (7) (c) of the statutes, as created by 2005 Wisconsin Act 431,
12 is amended to read:

13 301.48 (7) (c) Upon its own motion or upon the motion of the party to whom the
14 petition was sent under par. (b) 2., the court may order that the person to whom the
15 petition relates be examined by a physician, or a psychologist licensed under ch. 455,
16 who is approved by the court. The physician or psychologist who conducts an
17 examination under this paragraph shall prepare a report of his or her examination
18 that includes his or her opinion of whether the person is ~~permanently physically~~
19 ~~incapacitated~~ a danger to the public. The physician or psychologist shall file the
20 report of his or her examination with the court within 60 days after completing the
21 examination, and the court shall provide copies of the report to the department and
22 the party to whom the petition was sent under par. (b) 2. The contents of the report
23 shall be confidential until the physician or psychologist testifies at a hearing under

1 par. (d). The department shall pay the cost of an examination required under this
2 paragraph.

3 History: 2005 a. 431.

~~SECTION 9.~~ 301.48 (7) (d) of the statutes, as created by 2005 Wisconsin Act 431,

4 is amended to read:

5 301.48 (7) (d) The court shall conduct a hearing on a petition filed under par.
6 (b) 1., but if the court has ordered ~~a physical~~ an examination under par. (c), the
7 hearing may not occur until after the examination is complete and a report of the
8 examination has been filed as provided under par. (c). At the hearing, the court shall
9 take evidence it considers relevant to determining whether the person to whom the
10 petition relates is ~~permanently physically incapacitated so that he or she is not~~ would
11 be a danger to the public if not tracked under this section using a global positioning
12 system tracking device. The department and the party to whom the petition was sent
13 under par. (b) 2. may offer relevant evidence regarding that issue.

14 History: 2005 a. 431.

~~SECTION 10.~~ 301.48 (7) (e) of the statutes, as created by 2005 Wisconsin Act 431,

15 is amended to read:

16 301.48 (7) (e) The court may grant a petition filed under par. (b) 1. if it
17 determines after a hearing under par. (d) that the person to whom the petition relates
18 is ~~permanently physically incapacitated so that he or she is~~ would not be a danger
19 to the public if not tracked under this section using a global positioning system
20 tracking device.

21 History: 2005 a. 431.

INS X

Section 4

301.48(4)(c) - AM, as created by 2005 US Act 431

(c) The department of health and family services shall pay for the cost of tracking a person to whom sub. (2) ~~(a) 4. or 5. or (b)~~ applies while the person is on conditional release or supervised release to the extent that the cost is not covered by payments made by the person under par. (b).

(am) or (bg)

301.48(4)

✓

B

Hanaman, Cathlene

From: Steinmetz, Jana D - DOA
Sent: Friday, January 19, 2007 2:36 PM
To: Hanaman, Cathlene
Subject: FW: LRB-1184/P4
Importance: High

Cathlene,

DOC had the following comment on the GPS tracking draft, which I think makes sense and would like to incorporate.

Recommended changes/modifications to LRB-1184/P4:

- **SEC. 21/Page 7/Line 5:** remove "with perimeters of 100 to 250 feet"; this limits us in terms of updates to GPS technology and software that would allow for increased accuracy at a perimeter of less than 100 feet ✓

They also had some concerns about the analysis and have offered solutions, shown below. They asked that I pass them along to you, which I am doing. Do what you will with them.

Otherwise, I think the draft looks great and I'm keeping my fingers crossed in hopes that we're almost done with it! Thanks for your work on this.

From: Grosshans, William J - DOC
Sent: Friday, January 19, 2007 12:09 PM
To: Steinmetz, Jana D - DOA
Cc: Crawford, Susan - DOC; Nikolay, Robert A - DOC; Streveler, Anthony J - DOC; Margolies, Robert S - DOC; Champagne, Quala K - DOC
Subject: FW: LRB-1184/P4
Importance: High

Hi Jana:

I met with Bob Margolies, DOC's Legislative Liaison and Melissa Roberts, DOC's Director of Sex Offender Programs. These are our recommendations. Thanks for providing us the opportunity to comment and make recommended modifications and/or changes. Thank you.

Bill

From: Roberts, Melissa B - DOC
Sent: Friday, January 19, 2007 12:01 PM
To: Grosshans, William J - DOC
Subject: LRB-1184/P4

Per our discussion, recommended changes/modifications to the *Analysis*:

- **Paragraph 2/2nd Sentence:**

NO [
○ Change to read: *This bill requires DOC to monitor, identify, and record the sex offender's location and changes the length of the tracking requirement to apply while the sex offender is on supervised release, conditional release, extended supervision, parole, or lifetime supervision for the serious child sex offense.*

• Paragraph 2/3rd Sentence:

OK
○ Change to read: *The bill eliminates the requirement to track SVPs discharged by the court from DHFS supervised release, individuals found not guilty...[keep the rest the same]..for a serious child sex offense.*

• Paragraph 3/2nd Sentence:

OK
○ Change to read: *This bill applies this requirement only to individuals who, after January 1, 2008, begin their supervision by DOC under the Interstate Corrections Compact.*

↑ stays ↑
KMP

DOA:.....Steinmetz, BB0247 - GPS tracking of sex offenders

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

don't you cut

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONS

Current law requires DOC to maintain global positioning system (GPS) tracking of sex offenders who have been committed as sexually violent persons (SVPs) and certain sex offenders who have committed specified sex offenses against a child (serious child sex offense). These GPS tracking requirements begin on July 1, 2007. With some exceptions, DOC must actively monitor the sex offenders, and, with some exceptions, the requirements apply for the rest of an offender's life. The sex offenders to be tracked include individuals who have been committed as SVPs and released to supervised release or discharged from DHFS custody, individuals found not guilty of a serious child sex offense by reason of mental disease or defect and placed on conditional release or discharged, individuals who are released to extended supervision or parole while serving a sentence for committing a serious child sex offense, individuals who are placed on probation for committing a serious child sex offense, and individuals who are released from prison upon completing a sentence imposed for a serious child sex offense. DOC may petition a court to terminate the GPS tracking requirement if the individual is permanently physically incapacitated.

This bill delays the implementation of the requirements to January 1, 2008. This bill requires DOC only to record the sex offender's location rather than actively monitor the person and changes the length of the tracking requirement to apply only

while the sex offender is on supervised release, conditional release, extended supervision, parole, or lifetime supervision for the serious child sex offense. This bill eliminates the requirement to track SVPs discharged from DHFS custody, individuals found not guilty of a serious child sex offense by reason of mental disease or defect who are discharged from commitment, individuals placed on probation for committing a serious child sex offense, and individuals released from prison upon completing a sentence imposed for a serious child sex offense. The bill also allows DOC to petition a court to terminate the GPS tracking requirement if DOC determines that the individual would not endanger the public if not tracked.

Also under current law, DOC must maintain GPS tracking of a sex offender who has been found to have committed under the law of another jurisdiction a crime that is comparable to a serious child sex offense if the individual resides in this state, is employed or carrying on a vocation in this state, or is a student in this state. This bill applies this requirement only to individuals who, after January 1, 2008, ~~are~~ ^{begin} ~~under the supervision of DOC under the Interstate Corrections Compact.~~

Finally under current law, a sex offender who is on supervised release must be restricted to his or her home for the first year except for outings that are under the direct supervision of a DOC escort and that are for employment purposes, for religious purposes, or for caring for his or her basic living needs. This bill allows DOC to contract for the escorts.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 301.48 (1) (b) of the statutes, as created by 2005 Wisconsin Act 431,
2 is amended to read:

3 301.48 (1) (b) "Global positioning system tracking" means tracking using a
4 system that ~~actively monitors and identifies~~ can monitor, identify, and record a
5 person's location and ~~timely reports or that~~ records the person's presence ~~near or at~~
6 ~~a crime scene or~~ in an exclusion zone or the person's departure from an inclusion
7 zone. "Global positioning system tracking" includes comparable technology.

****NOTE: I think that changing this definition is the best way to allow DOC discretion on whether to actively or to passively track someone. I eliminated "near or at a crime scene" because recording a person's location does that already. Since it also does more, it seems unnecessary to enumerate that one feature.

1 **SECTION 2.** 301.48 (1) (d) of the statutes, as created by 2005 Wisconsin Act 431,
2 is repealed.

3 **SECTION 3.** 301.48 (1) (dm) of the statutes, as created by 2005 Wisconsin Act
4 431, is repealed.

5 **SECTION 4.** 301.48 (2) (a) (intro.) and 4. of the statutes, as created by 2005
6 Wisconsin Act 431, are consolidated, renumbered 301.48 (2) (am) and amended to
7 read:

8 301.48 (2) (am) Except as provided in sub. (2m) (6) or (7), as a condition of
9 conditional release, the department shall ~~maintain lifetime tracking of~~ have a person
10 tracked using a global positioning system tracking device if any of the following
11 ~~occurs with respect to the person,~~ on or after July 1, 2007: 4. A January 1, 2008,
12 a court that found the person not guilty of a serious child sex offense by reason of
13 mental disease or mental defect places the person on conditional release.

14 **SECTION 5.** 301.48 (2) (a) 1. of the statutes, as created by 2005 Wisconsin Act
15 431, is repealed.

16 **SECTION 6.** 301.48 (2) (a) 2. of the statutes, as created by 2005 Wisconsin Act
17 431, is renumbered 301.48 (2) (ar) and amended to read:

18 301.48 (2) (ar) The Except as provided in sub. (6) or (7), if, on or after January
19 1, 2008, the department releases ~~the~~ a person to extended supervision or parole while
20 the person is serving a sentence for committing a serious child sex offense, the
21 department shall have the person tracked using a global positioning system tracking
22 device as a condition of extended supervision or parole.

23 **SECTION 7.** 301.48 (2) (a) 3. of the statutes, as created by 2005 Wisconsin Act
24 431, is repealed.

1 **SECTION 8.** 301.48 (2) (a) 5. of the statutes, as created by 2005 Wisconsin Act
2 431, is repealed.

3 **SECTION 9.** 301.48 (2) (ag) of the statutes is created to read:

4 301.48 (2) (ag) Except as provided in sub. (6) or (7), if, on or after January 1,
5 2008, a person is placed on lifetime supervision under s. 939.615 for the commission
6 of a serious child sex offense, the department shall have the person tracked using a
7 global positioning system tracking device as a condition of lifetime supervision.

8 **SECTION 10.** 301.48 (2) (b) (intro.) and 1. of the statutes, as created by 2005
9 Wisconsin Act 431, are consolidated, renumbered 301.48 (2) (bg) and amended to
10 read:

11 301.48 (2) (bg) The Except as provided in sub. (7), as a condition of supervised
12 release, the department shall maintain lifetime tracking of have a person tracked
13 using a global positioning system tracking device if any of the following occurs with
14 respect to the person, on or after July 1, 2007: 1. A January 1, 2008, a court places
15 the person on supervised release under s. 980.08 (6m).

16 **SECTION 11.** 301.48 (2) (b) 2. of the statutes, as created by 2005 Wisconsin Act
17 431, is repealed.

18 **SECTION 12.** 301.48 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Act
19 431, is renumbered 301.48 (2) (br) and amended to read:

20 301.48 (2) (br) The Except as provided in sub. (6) or (7), as a condition of parole,
21 the department shall have a person tracked using a global positioning system
22 tracking device if, on or after January 1, 2008, the department of health and family
23 services places the person on parole or discharges the person under ch. 975. This
24 subdivision paragraph does not apply unless the person's commitment was based on
25 his or her commission of a serious child sex offense.

1 **SECTION 13.** 301.48 (2) (c) (intro.) of the statutes, as created by 2005 Wisconsin
2 Act 431, is amended to read:

3 301.48 (2) (c) (intro.) The Except as provided in sub. (6) or (7), the department
4 shall have a person tracked using a global positioning system tracking device if all
5 of the following apply:

6 **SECTION 14.** 301.48 (2) (c) 2. of the statutes, as created by 2005 Wisconsin Act
7 431, is repealed and recreated to read:

8 301.48 (2) (c) 2. On or after January 1, 2008, the department begins supervision
9 of the person under s. 302.25.

10 **SECTION 15.** 301.48 (2) (d) of the statutes, as created by 2005 Wisconsin Act 431,
11 is amended to read:

12 301.48 (2) (d) If, on or after ~~July 1, 2007~~ January 1, 2008, a person is being
13 placed on ~~probation~~, extended supervision, ~~or parole~~, or lifetime supervision for
14 committing a sex offense and par. (a) ~~(b)~~ (ag), (ar), (bg), or (c) does not apply, the
15 department may have the person tracked using a global positioning system tracking
16 device as a condition of the person's ~~probation~~, extended supervision, ~~or parole~~, or
17 lifetime supervision.

18 **SECTION 16.** 301.48 (2m) of the statutes, as created by 2005 Wisconsin Act 431,
19 is repealed.

20 **SECTION 17.** 301.48 (3) (a) (intro.) of the statutes, as created by 2005 Wisconsin
21 Act 431, is amended to read:

22 301.48 (3) (a) (intro.) ~~Except as provided in sub. (2m), the~~ The department shall
23 implement ~~a~~ continuous global positioning ~~tracking~~ system tracking to
24 electronically ~~monitor~~ record the whereabouts of persons who are subject to this
25 section. The system shall do all of the following:

***NOTE: Please review my changes to the section. "Monitoring" implies active tracking so I changed it to require DOC to record only, which implies passive tracking. I think this change gives DOC the discretion it wants.

1 **SECTION 18.** 301.48 (3) (a) 1. of the statutes, as created by 2005 Wisconsin Act
2 431, is amended to read:

3 301.48 (3) (a) 1. Use field monitoring equipment that supports cellular
4 communications with as large a coverage area as possible and ~~shall automatically~~
5 ~~provide~~ allows instantaneous or nearly instantaneous information regarding the
6 whereabouts of a person who is being ~~monitored~~ tracked, including information
7 regarding the person's presence in an exclusion zone established under par. (c) or
8 absence from an inclusion zone established under par. (c).

9 **SECTION 19.** 301.48 (3) (a) 3. of the statutes, as created by 2005 Wisconsin Act
10 431, is amended to read:

11 301.48 (3) (a) 3. ~~Immediately alert~~ Allow the department and the local law
12 enforcement agency having jurisdiction over the exclusion or inclusion zone to
13 receive an immediate alert if the person stays in any exclusion zone for any longer
14 period than the time needed to travel through the zone to get to another destination
15 or if the person leaves any inclusion zone.

16 **SECTION 20.** 301.48 (3) (b) of the statutes, as created by 2005 Wisconsin Act 431,
17 is amended to read:

18 301.48 (3) (b) The department shall contract with a vendor using a competitive
19 process under s. 16.75 to provide global positioning system tracking services ~~and~~
20 ~~passive positioning system tracking services~~ for purposes of this section.

21 **SECTION 21.** 301.48 (3) (c) of the statutes, as created by 2005 Wisconsin Act 431,
22 is amended to read:

1 301.48 (3) (c) For each person who is subject to global positioning system
2 tracking under this section, the department shall create individualized exclusion
3 and inclusion zones for the person, if necessary to protect public safety. In creating
4 exclusion zones, the department shall focus on areas where children congregate,
5 ~~with perimeters of 100 to 250 feet,~~ and on areas where the person has been prohibited
6 from going as a condition of ~~probation,~~ extended supervision, parole, conditional
7 release, ~~or supervised release,~~ or lifetime supervision. In creating inclusion zones
8 for a person on supervised release, the department shall consider s. ~~980.08 (7) s.~~
9 980.08 (9).

10 **SECTION 22.** 301.48 (4) (a) 1. of the statutes, as created by 2005 Wisconsin Act
11 431, is amended to read:

12 301.48 (4) (a) 1. The cost of global positioning system tracking ~~or passive~~
13 ~~positioning system tracking~~ for the person.

14 **SECTION 23.** 301.48 (4) (b) of the statutes, as created by 2005 Wisconsin Act 431,
15 is amended to read:

16 301.48 (4) (b) If required by the department, a person who is subject to global
17 positioning system tracking ~~or passive positioning system tracking~~ shall pay for the
18 cost of tracking up to the amount calculated for the person under par. (a) 2.

19 **SECTION 24.** 301.48 (4) (c) of the statutes, as created by 2005 Wisconsin Act 431,
20 is amended to read:

21 301.48 (4) (c) The department of health and family services shall pay for the
22 cost of tracking a person to whom sub. (2) (a) ~~4. or 5. or (b) (am) or (bg)~~ applies while
23 the person is on conditional release or supervised release to the extent that the cost
24 is not covered by payments made by the person under par. (b).

1 **SECTION 25.** 301.48 (6) (title), (a), (b), (c), (d) 1. and 2., (e), (f), (g), (h) and (i) of
2 the statutes, as created by 2005 Wisconsin Act 431, are amended to read:

3 301.48 **(6)** (title) OFFENDER'S PETITION TO TERMINATE LIFETIME TRACKING. (a)
4 Subject to par. (b), a person who is subject to ~~lifetime tracking~~ being tracked under
5 this section may file a petition requesting ~~that lifetime~~ termination of the tracking
6 ~~be terminated~~. A person shall file a petition requesting termination of lifetime
7 tracking with the circuit court for the county in which the person was convicted or
8 found not guilty or not responsible by reason of mental disease or defect.

9 (b) 1. A person may not file a petition requesting termination of lifetime
10 tracking if he or she has been convicted of a crime that was committed during the
11 period of ~~lifetime~~ tracking.

12 2. A person may not file a petition requesting termination of ~~lifetime~~ tracking
13 earlier than 20 years after the date on which the period of ~~lifetime~~ tracking began.
14 If a person files a petition requesting termination of ~~lifetime~~ tracking at any time
15 earlier than 20 years after the date on which the period of ~~lifetime~~ tracking began,
16 the court shall deny the petition without a hearing.

17 3. A person described in sub. (2) ~~(b)~~ (bg) may not file a petition requesting
18 termination of ~~lifetime~~ tracking.

19 (c) Upon receiving a petition requesting termination of ~~lifetime~~ tracking, the
20 court shall send a copy of the petition to the district attorney responsible for
21 prosecuting the serious sex offense that was the basis for the order of ~~lifetime~~
22 tracking. Upon receiving the copy of the petition, the district attorney shall conduct
23 a criminal history record search to determine whether the person has been convicted
24 of a criminal offense that was committed during the period of ~~lifetime~~ tracking. No
25 later than 30 days after the date on which he or she receives the copy of the petition,

1 the district attorney shall report the results of the criminal history record search to
2 the court and may provide a written response to the petition.

3 (d) 1. If the report indicates that the person filing the petition has been
4 convicted of a criminal offense that was committed during the period of ~~lifetime~~
5 tracking, the court shall deny the person's petition without a hearing.

6 2. If the report indicates that the person filing the petition has not been
7 convicted of a criminal offense that was committed during the period of ~~lifetime~~
8 tracking, the court shall order the person to be examined under par. (e), shall notify
9 the department that it may submit a report under par. (f), and shall schedule a
10 hearing on the petition to be conducted as provided under par. (g).

11 (e) A person filing a petition requesting termination of ~~lifetime~~ tracking who
12 is entitled to a hearing under par. (d) 2. shall be examined by a person who is either
13 a physician or a psychologist licensed under ch. 455 and who is approved by the court.
14 The physician or psychologist who conducts an examination under this paragraph
15 shall prepare a report of his or her examination that includes his or her opinion of
16 whether the person petitioning for termination of ~~lifetime~~ tracking is a danger to the
17 public. The physician or psychologist shall file the report of his or her examination
18 with the court within 60 days after completing the examination, and the court shall
19 provide copies of the report to the person filing the petition and the district attorney.
20 The contents of the report shall be confidential until the physician or psychologist
21 testifies at a hearing under par. (g). The person petitioning for termination of
22 ~~lifetime~~ tracking shall pay the cost of an examination required under this paragraph.

23 (f) After it receives notification from the court under par. (d) 2., the department
24 may prepare and submit to the court a report concerning a person who has filed a
25 petition requesting termination of ~~lifetime~~ tracking. If the department prepares and

1 submits a report under this paragraph, the report shall include information
2 concerning the person's conduct while on lifetime tracking and an opinion as to
3 whether lifetime tracking of the person is still necessary to protect the public. When
4 a report prepared under this paragraph has been received by the court, the court
5 shall, before the hearing under par. (g), disclose the contents of the report to the
6 attorney for the person who filed the petition and to the district attorney. When the
7 person who filed the petition is not represented by an attorney, the contents shall be
8 disclosed to the person.

9 (g) A hearing on a petition requesting termination of lifetime tracking may not
10 be conducted until the person filing the petition has been examined and a report of
11 the examination has been filed as provided under par. (e). At the hearing, the court
12 shall take evidence it considers relevant to determining whether lifetime tracking
13 should be continued because the person who filed the petition is a danger to the
14 public. The person who filed the petition and the district attorney may offer evidence
15 relevant to the issue of the person's dangerousness and the continued need for
16 lifetime tracking.

17 (h) The court may grant a petition requesting termination of lifetime tracking
18 if it determines after a hearing under par. (g) that lifetime tracking is no longer
19 necessary to protect the public.

20 (i) If a petition requesting termination of lifetime tracking is denied after a
21 hearing under par. (g), the person may not file a subsequent petition requesting
22 termination of lifetime tracking until at least 5 years have elapsed since the most
23 recent petition was denied.

24 **SECTION 26.** 301.48 (7) (title) of the statutes, as created by 2005 Wisconsin Act
25 431, is amended to read:

1 301.48 (7) (title) DEPARTMENT'S PETITION TO TERMINATE LIFETIME TRACKING.

2 **SECTION 27.** 301.48 (7) (a) of the statutes, as created by 2005 Wisconsin Act 431,
3 is amended to read:

4 301.48 (7) (a) The department may file a petition requesting that a person's
5 ~~lifetime tracking be terminated~~ person no longer be tracked using a global
6 positioning system tracking device if the person is permanently physically
7 incapacitated. ~~The petition shall include affidavits from 2 physicians that explain~~
8 ~~the nature of the person's permanent physical incapacitation~~ department
9 determines that tracking is no longer necessary to protect the public.

10 **SECTION 28.** 301.48 (7) (b) of the statutes, as created by 2005 Wisconsin Act 431,
11 is amended to read:

12 301.48 (7) (b) 1. The department shall file a petition under par. (a) with the
13 circuit court for the county in which the person was convicted or found not guilty or
14 not responsible by reason of mental disease or defect or, in the case of a person
15 described in sub. (2) (b) ~~(b)~~ (bg), the circuit court for the county in which the person was
16 found to be a sexually violent person.

17 2. The department shall send a copy of a petition filed under subd. 1. to the
18 district attorney responsible for prosecuting the serious sex offense that was the
19 basis for the order of ~~lifetime~~ tracking or, in the case of a person described in sub. (2)
20 (b) ~~(b)~~ (bg), the agency that filed the petition under s. 980.02.

21 **SECTION 29.** 301.48 (7) (c) of the statutes, as created by 2005 Wisconsin Act 431,
22 is amended to read:

23 301.48 (7) (c) Upon its own motion or upon the motion of the party to whom the
24 petition was sent under par. (b) 2., the court may order that the person to whom the
25 petition relates be examined by a physician, or a psychologist licensed under ch. 455,

1 who is approved by the court. The physician or psychologist who conducts an
2 examination under this paragraph shall prepare a report of his or her examination
3 that includes his or her opinion of whether the person is ~~permanently physically~~
4 ~~incapacitated~~ a danger to the public. The physician or psychologist shall file the
5 report of his or her examination with the court within 60 days after completing the
6 examination, and the court shall provide copies of the report to the department and
7 the party to whom the petition was sent under par. (b) 2. The contents of the report
8 shall be confidential until the physician or psychologist testifies at a hearing under
9 par. (d). The department shall pay the cost of an examination required under this
10 paragraph.

11 **SECTION 30.** 301.48 (7) (d) of the statutes, as created by 2005 Wisconsin Act 431,
12 is amended to read:

13 301.48 (7) (d) The court shall conduct a hearing on a petition filed under par.
14 (b) 1., but if the court has ordered ~~a physical~~ an examination under par. (c), the
15 hearing may not occur until after the examination is complete and a report of the
16 examination has been filed as provided under par. (c). At the hearing, the court shall
17 take evidence it considers relevant to determining whether the person to whom the
18 petition relates ~~is permanently physically incapacitated so that he or she is not~~ would
19 be a danger to the public if not tracked under this section using a global positioning
20 system tracking device. The department and the party to whom the petition was sent
21 under par. (b) 2. may offer relevant evidence regarding that issue.

22 **SECTION 31.** 301.48 (7) (e) of the statutes, as created by 2005 Wisconsin Act 431,
23 is amended to read:

24 301.48 (7) (e) The court may grant a petition filed under par. (b) 1. if it
25 determines after a hearing under par. (d) that the person to whom the petition relates

1 is permanently physically incapacitated so that he or she is would not be a danger
2 to the public if not tracked under this section using a global positioning system
3 tracking device.

4 **SECTION 32.** 301.48 (8) (title) of the statutes is created to read:

5 301.48 (8) (title) TRACKING OPTIONS IF RELATIVE.

6 **SECTION 33.** 301.48 (8) (b) of the statutes, as created by 2005 Wisconsin Act 431,
7 is amended to read:

8 301.48 (8) (b) Notwithstanding sub. (2), ~~the department may terminate a~~
9 ~~person's lifetime tracking after 10 years or (7), if a person is subject to being tracked~~
10 under this section and if the victim of the serious child sex offense for which the
11 person is being tracked is a relative of the person being tracked, the department may
12 decide not to track the person if the department determines the person would not be
13 a danger to the public if not tracked.

14 **SECTION 34.** 980.08 (9) of the statutes, as created by 2005 Wisconsin Act 431,
15 is renumbered 980.08 (9) (a).

16 **SECTION 35.** 980.08 (9) (b) of the statutes is created to read:

17 980.08 (9) (b) The department of corrections may contract for the escort
18 services under par. (a).

19 **SECTION 9409. Effective dates; Corrections.**

20 (1) SUPERVISION OF PERSONS ON SUPERVISED RELEASE. The renumbering of section
21 980.08 (9) of the statutes and the creation of section 980.08 (9) (b) of the statutes take
22 effect on July 1, 2007.

23 (2) GPS TRACKING. The treatment of sections 301.48 (1) (b), (d), and (dm), (2)
24 (a) (intro.), 1., 2., 3., 4., and 5., (ag), (b) (intro.), 1., 2, and 3., (c) (intro.) and 2., and
25 (d), (2m), (3) (a) (intro.) 1., 3., (b), and (c), (4) (a) 1., (b), and (c), (6) (title), (a), (b), (c),

- 1 (d) 1. and 2., (e), (f), (g), (h), and (i), (7) (title), (a), (b), (c), (d), and (e), and (8) (title)
2 and (b) of the statutes takes effect on July 1, 2007.

***NOTE: I did not change the effective date as DOC requested. The in-text dates ensure that the GPS tracking requirements will apply beginning January 1, 2008. But the possibly retroactive effective date of July 1, 2007, will eliminate the requirement that DOC begin tracking persons on July 1, 2007 — which I believe is what you intend. I think that you want the text to change on July 1, 2007, but no action required until January 1, 2008.

3

(END)