



State of Wisconsin
2007 - 2008 LEGISLATURE

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LRB-1184/P5
CMH:lmk&wlj:pg
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DOA:.....Steinmetz, BB0247 - GPS tracking of sex offenders

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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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, begin their supervision by 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~~ 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) (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) (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)



State of Wisconsin
2007 - 2008 LEGISLATURE

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CMH:lmk&wlj:rs

P7
9PJH

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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, begin their supervision by 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.

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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.

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

9 is repealed.

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17 1, 2008, the department releases ~~the~~ a person to extended supervision or parole while
18 the person is serving a sentence for committing a serious child sex offense, the
19 department shall have the person tracked using a global positioning system tracking
20 device as a condition of extended supervision or parole.

21 **SECTION 7.** 301.48 (2) (a) 3. of the statutes, as created by 2005 Wisconsin Act
22 431, is repealed.

23 **SECTION 8.** 301.48 (2) (a) 5. of the statutes, as created by 2005 Wisconsin Act
24 431, is repealed.

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

SECTION 9

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

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

8 301.48 (2) (bg) The Except as provided in sub. (7), as a condition of supervised
9 release, the department shall maintain lifetime tracking of have a person tracked
10 using a global positioning system tracking device if any of the following occurs with
11 respect to the person, on or after July 1, 2007: 1. A January 1, 2008, a court places
12 the person on supervised release under s. 980.08 (6m).

13 **SECTION 11.** 301.48 (2) (b) 2. of the statutes, as created by 2005 Wisconsin Act
14 431, is repealed.

15 **SECTION 12.** 301.48 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Act
16 431, is renumbered 301.48 (2) (br) and amended to read:

17 301.48 (2) (br) The Except as provided in sub. (6) or (7), as a condition of parole,
18 the department shall have a person tracked using a global positioning system
19 tracking device if, on or after January 1, 2008, the department of health and family
20 services places the person on parole or discharges the person under ch. 975. This
21 subdivision paragraph does not apply unless the person's commitment was based on
22 his or her commission of a serious child sex offense.

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

1 301.48 (2) (c) (intro.) ~~The~~ Except as provided in sub. (6) or (7), the department
2 shall have a person tracked using a global positioning system tracking device if all
3 of the following apply:

4 **SECTION 14.** 301.48 (2) (c) 2. of the statutes, as created by 2005 Wisconsin Act
5 431, is repealed and recreated to read:

6 301.48 (2) (c) 2. On or after January 1, 2008, the department begins supervision
7 of the person under s. 302.25.

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

10 301.48 (2) (d) If, on or after ~~July 1, 2007~~ January 1, 2008, a person is being
11 placed on ~~probation, extended supervision, or parole, or lifetime supervision~~ for
12 committing a sex offense and par. (a) ~~(b)~~ (ag), (ar), (bg), or (c) does not apply, the
13 department may have the person tracked using a global positioning system tracking
14 device as a condition of the person's ~~probation, extended supervision, or parole, or~~
15 lifetime supervision.

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

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

20 301.48 (3) (a) (intro.) ~~Except as provided in sub. (2m), the~~ The department shall
21 implement ~~a~~ continuous global positioning tracking system tracking to
22 electronically ~~monitor~~ record the whereabouts of persons who are subject to this
23 section. The system shall do all of the following:

24 **SECTION 18.** 301.48 (3) (a) 1. of the statutes, as created by 2005 Wisconsin Act
25 431, is amended to read:

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 tracked, including information
5 regarding the person's presence in an exclusion zone established under par. (c) or
6 absence from an inclusion zone established under par. (c).

7 **SECTION 19.** 301.48 (3) (a) 3. of the statutes, as created by 2005 Wisconsin Act
8 431, 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.

14 **SECTION 20.** 301.48 (3) (b) of the statutes, as created by 2005 Wisconsin Act 431,
15 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.

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

21 301.48 (3) (c) For each person who is subject to global positioning system
22 tracking under this section, the department shall create individualized exclusion
23 and inclusion zones for the person, if necessary to protect public safety. In creating
24 exclusion zones, the department shall focus on areas where children congregate,
25 ~~with perimeters of 100 to 250 feet,~~ and on areas where the person has been prohibited

1 from going as a condition of ~~probation~~, extended supervision, parole, conditional
2 release, ~~or supervised release~~, or lifetime supervision. In creating inclusion zones
3 for a person on supervised release, the department shall consider s. ~~980.08 (7)~~ s.
4 980.08 (9).

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

7 301.48 (4) (a) 1. The cost of global positioning system tracking ~~or passive~~
8 ~~positioning system tracking~~ for the person.

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

11 301.48 (4) (b) If required by the department, a person who is subject to global
12 positioning system tracking ~~or passive positioning system tracking~~ shall pay for the
13 cost of tracking up to the amount calculated for the person under par. (a) 2. *INS 7-13*

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

16 301.48 (4) (c) The department of health and family services shall pay for the
17 cost of tracking a person to whom sub. (2) (a) ~~4. or 5. or (b) (am) or (bg)~~ applies while
18 the person is on conditional release or supervised release to the extent that the cost
19 is not covered by payments made by the person under par. (b). *INS 7-19*

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

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

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.

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

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.

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

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

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

18 (f) After it receives notification from the court under par. (d) 2., the department
19 may prepare and submit to the court a report concerning a person who has filed a
20 petition requesting termination of lifetime tracking. If the department prepares and
21 submits a report under this paragraph, the report shall include information
22 concerning the person's conduct while on lifetime tracking and an opinion as to
23 whether lifetime tracking of the person is still necessary to protect the public. When
24 a report prepared under this paragraph has been received by the court, the court
25 shall, before the hearing under par. (g), disclose the contents of the report to the

1 attorney for the person who filed the petition and to the district attorney. When the
2 person who filed the petition is not represented by an attorney, the contents shall be
3 disclosed to the person.

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

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

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

19 **SECTION 26.** 301.48 (7) (title) of the statutes, as created by 2005 Wisconsin Act
20 431, is amended to read:

21 301.48 (7) (title) DEPARTMENT'S PETITION TO TERMINATE ~~LIFETIME~~ TRACKING.

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

24 301.48 (7) (a) The department may file a petition requesting that a person's
25 ~~lifetime tracking be terminated~~ person no longer be tracked using a global

1 ~~positioning system tracking device~~ if the person is permanently physically
2 incapacitated. ~~The petition shall include affidavits from 2 physicians that explain~~
3 ~~the nature of the person's permanent physical incapacitation~~ department
4 determines that tracking is no longer necessary to protect the public.

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

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

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

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

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

1 examination, and the court shall provide copies of the report to the department and
2 the party to whom the petition was sent under par. (b) 2. The contents of the report
3 shall be confidential until the physician or psychologist testifies at a hearing under
4 par. (d). The department shall pay the cost of an examination required under this
5 paragraph.

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

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

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

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

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

25 301.48 (8) (title) TRACKING OPTIONS IF RELATIVE.

DOA:.....Steinmetz, BB0015 – Appropriation for GPS fees
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: fees related to global positioning systems and making an
2 appropriation.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC tracks certain sex offenders using a global positioning system tracking device. Current law allows DOC to charge the person who is tracked for all or part of the costs of tracking. This bill creates an appropriation into which the funds collected by the person tracked are deposited.

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

3 **SECTION 1.** 20.410 (1) (gk) of the statutes is created to read:

4 20.410 (1) (gk) *Global positioning system tracking devices.* All moneys received
5 from sex offenders who are required to pay for global positioning system tracking
6 devices under s. 301.48 (4) (b) for expenditures related to the global positioning
7 system tracking program under s. 301.48.

4 * 94 NOTE BUD

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27

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1184/P7dn
CMH:lmk:pg

January 30, 2007

This draft reconciles LRB-1184/P6 and LRB-0290/2 by incorporating -0290 into -1184/P7. LRB-0290 should no longer be in the compile.

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1184/P7
CMH&PJH:lmk&wlj:pg

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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, begin their supervision by 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.** 20.410 (1) (gk) of the statutes is created to read:
2 20.410 (1) (gk) *Global positioning system tracking devices.* All moneys received
3 from sex offenders who are required to pay for global positioning system tracking
4 devices under s. 301.48 (4) (b) for expenditures related to the global positioning
5 system tracking program under s. 301.48.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 **SECTION 2.** 301.48 (1) (b) of the statutes, as created by 2005 Wisconsin Act 431,
7 is amended to read:
8 301.48 (1) (b) "Global positioning system tracking" means tracking using a
9 system that ~~actively monitors and identifies~~ can monitor, identify, and record a

1 person's location and ~~timely reports or that~~ records the person's presence near or at
2 a ~~crime scene or~~ in an exclusion zone or the person's departure from an inclusion
3 zone. "Global positioning system tracking" includes comparable technology.

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

6 SECTION 4. 301.48 (1) (dm) of the statutes, as created by 2005 Wisconsin Act
7 431, is repealed.

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

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

17 SECTION 6. 301.48 (2) (a) 1. of the statutes, as created by 2005 Wisconsin Act
18 431, is repealed.

19 SECTION 7. 301.48 (2) (a) 2. of the statutes, as created by 2005 Wisconsin Act
20 431, is renumbered 301.48 (2) (ar) and amended to read:

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

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

3 **SECTION 9.** 301.48 (2) (a) 5. of the statutes, as created by 2005 Wisconsin Act
4 431, is repealed.

5 **SECTION 10.** 301.48 (2) (ag) of the statutes is created to read:

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

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

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

18 **SECTION 12.** 301.48 (2) (b) 2. of the statutes, as created by 2005 Wisconsin Act
19 431, is repealed.

20 **SECTION 13.** 301.48 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Act
21 431, is renumbered 301.48 (2) (br) and amended to read:

22 301.48 (2) (br) The Except as provided in sub. (6) or (7), as a condition of parole,
23 the department shall have a person tracked using a global positioning system
24 tracking device if, on or after January 1, 2008, the department of health and family
25 services places the person on parole or discharges the person under ch. 975. This

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

3 **SECTION 14.** 301.48 (2) (c) (intro.) of the statutes, as created by 2005 Wisconsin
4 Act 431, is amended to read:

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

8 **SECTION 15.** 301.48 (2) (c) 2. of the statutes, as created by 2005 Wisconsin Act
9 431, is repealed and recreated to read:

10 301.48 (2) (c) 2. On or after January 1, 2008, the department begins supervision
11 of the person under s. 302.25.

12 **SECTION 16.** 301.48 (2) (d) of the statutes, as created by 2005 Wisconsin Act 431,
13 is amended to read:

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

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

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

24 301.48 (3) (a) (intro.) ~~Except as provided in sub. (2m), the~~ The department shall
25 implement ~~a~~ continuous global positioning tracking system tracking to

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

3 **SECTION 19.** 301.48 (3) (a) 1. of the statutes, as created by 2005 Wisconsin Act
4 431, is amended to read:

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

11 **SECTION 20.** 301.48 (3) (a) 3. of the statutes, as created by 2005 Wisconsin Act
12 431, is amended to read:

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

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

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

23 **SECTION 22.** 301.48 (3) (c) of the statutes, as created by 2005 Wisconsin Act 431,
24 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 23.** 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 24.** 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. The
19 department shall collect moneys paid by the person under this paragraph and credit
20 those moneys to the appropriation under s. 20.410 (1) (gk).

21 **SECTION 25.** 301.48 (4) (c) of the statutes, as created by 2005 Wisconsin Act 431,
22 is amended to read:

23 301.48 (4) (c) The department of health and family services shall pay for the
24 cost of tracking a person to whom sub. (2) (a) 4. ~~or 5. or (b)~~ (am) or (bg) applies while
25 the person is on conditional release or supervised release to the extent that the cost

1 is not covered by payments made by the person under par. (b). The department shall
2 collect moneys paid by the department of health and family services under this
3 paragraph and credit those moneys to the appropriation under s. 20.410 (1) (kx).

4 **SECTION 26.** 301.48 (6) (title), (a), (b), (c), (d) 1. and 2., (e), (f), (g), (h) and (i) of
5 the statutes, as created by 2005 Wisconsin Act 431, are amended to read:

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

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

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

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

22 (c) Upon receiving a petition requesting termination of lifetime tracking, the
23 court shall send a copy of the petition to the district attorney responsible for
24 prosecuting the serious sex offense that was the basis for the order of lifetime
25 tracking. Upon receiving the copy of the petition, the district attorney shall conduct

1 a criminal history record search to determine whether the person has been convicted
2 of a criminal offense that was committed during the period of lifetime tracking. No
3 later than 30 days after the date on which he or she receives the copy of the petition,
4 the district attorney shall report the results of the criminal history record search to
5 the court and may provide a written response to the petition.

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

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

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

1 (f) After it receives notification from the court under par. (d) 2., the department
2 may prepare and submit to the court a report concerning a person who has filed a
3 petition requesting termination of ~~lifetime~~ tracking. If the department prepares and
4 submits a report under this paragraph, the report shall include information
5 concerning the person's conduct while on ~~lifetime~~ tracking and an opinion as to
6 whether ~~lifetime~~ tracking of the person is still necessary to protect the public. When
7 a report prepared under this paragraph has been received by the court, the court
8 shall, before the hearing under par. (g), disclose the contents of the report to the
9 attorney for the person who filed the petition and to the district attorney. When the
10 person who filed the petition is not represented by an attorney, the contents shall be
11 disclosed to the person.

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

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

23 (i) If a petition requesting termination of ~~lifetime~~ tracking is denied after a
24 hearing under par. (g), the person may not file a subsequent petition requesting

1 termination of lifetime tracking until at least 5 years have elapsed since the most
2 recent petition was denied.

3 SECTION 27. 301.48 (7) (title) of the statutes, as created by 2005 Wisconsin Act
4 431, is amended to read:

5 301.48 (7) (title) DEPARTMENT'S PETITION TO TERMINATE LIFETIME TRACKING.

6 SECTION 28. 301.48 (7) (a) of the statutes, as created by 2005 Wisconsin Act 431,
7 is amended to read:

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

14 SECTION 29. 301.48 (7) (b) of the statutes, as created by 2005 Wisconsin Act 431,
15 is amended to read:

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

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

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

3 301.48 (7) (c) Upon its own motion or upon the motion of the party to whom the
4 petition was sent under par. (b) 2., the court may order that the person to whom the
5 petition relates be examined by a physician, or a psychologist licensed under ch. 455,
6 who is approved by the court. The physician or psychologist who conducts an
7 examination under this paragraph shall prepare a report of his or her examination
8 that includes his or her opinion of whether the person is ~~permanently physically~~
9 ~~incapacitated~~ a danger to the public. The physician or psychologist shall file the
10 report of his or her examination with the court within 60 days after completing the
11 examination, and the court shall provide copies of the report to the department and
12 the party to whom the petition was sent under par. (b) 2. The contents of the report
13 shall be confidential until the physician or psychologist testifies at a hearing under
14 par. (d). The department shall pay the cost of an examination required under this
15 paragraph.

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

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

1 system tracking device. The department and the party to whom the petition was sent
2 under par. (b) 2. may offer relevant evidence regarding that issue.

3 **SECTION 32.** 301.48 (7) (e) of the statutes, as created by 2005 Wisconsin Act 431,
4 is amended to read:

5 301.48 (7) (e) The court may grant a petition filed under par. (b) 1. if it
6 determines after a hearing under par. (d) that the person to whom the petition relates
7 is permanently physically incapacitated so that he or she is would not be a danger
8 to the public if not tracked under this section using a global positioning system
9 tracking device.

10 **SECTION 33.** 301.48 (8) (title) of the statutes is created to read:

11 301.48 (8) (title) TRACKING OPTIONS IF RELATIVE.

12 **SECTION 34.** 301.48 (8) (b) of the statutes, as created by 2005 Wisconsin Act 431,
13 is amended to read:

14 301.48 (8) (b) Notwithstanding sub. (2), ~~the department may terminate a~~
15 ~~person's lifetime tracking after 10 years or~~ (7), if a person is subject to being tracked
16 under this section and if the victim of the serious child sex offense for which the
17 person is being tracked is a relative of the person being tracked, the department may
18 decide not to track the person if the department determines the person would not be
19 a danger to the public if not tracked.

20 **SECTION 35.** 980.08 (9) of the statutes, as created by 2005 Wisconsin Act 431,
21 is renumbered 980.08 (9) (a).

22 **SECTION 36.** 980.08 (9) (b) of the statutes is created to read:

23 980.08 (9) (b) The department of corrections may contract for the escort
24 services under par. (a).

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

