



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #240

GPS Tracking of Serious Child Sex Offenders (Corrections -- Adult Community Corrections)

Bill Agency

[LFB 2007-09 Budget Summary: Page 112, #1]

CURRENT LAW

GPS Tracking

Under current law, effective on or after July 1, 2007, the Department of Corrections must maintain lifetime global positioning system (GPS) tracking for individuals convicted of, or found not guilty of or responsible for by reason of mental disease or defect, a serious child sex offense.

Lifetime tracking is defined as using GPS monitoring to track a person for the remainder of the person's life or until terminated. GPS tracking is defined as a system that "actively monitors and identifies a person's location and timely reports or records the person's presence near or at a crime scene or in an exclusion zone or the person's departure from an inclusion zone."

The Department may track a person using passive positioning system tracking if the person completes his or her sentence, including any probation, parole or extended supervision. Passive positioning system tracking is defined as a system that monitors, identifies, and records a person's location.

Sex Offender Registry

Under current law, the Department maintains a sex offender registry, containing information related to persons who have been found to have committed a sex offense or committed an offense with a sexual motivation. Information on the registry that is available to

the public over the Internet includes the offender's name and address, a physical description, the crimes for which the offender is required to register, a current photograph, and whether or not the offender is compliant with the registry.

GOVERNOR

Modify certain provisions related to GPS tracking of serious child sex offenders (discussed in more detail below). In addition, provide \$2,589,100 GPR and 52.5 GPR positions and \$155,400 PR in 2007-08 and \$7,837,400 GPR and 122.25 GPR positions and \$365,300 PR in 2008-09 to track serious child sex offenders. Under the bill, staffing in 2008-09 would include: (a) 52.75 communications operators; (b) 3.0 corrections communications supervisors; (c) 42.25 probation and parole agents; (d) 4.25 correctional field supervisors; (e) 2.0 program support supervisors; (e) 12.5 office operations associates; (f) 5.0 sex registry corrections program specialists; and (g) 0.5 corrections services supervisor.

CURRENT LAW DISCUSSION

Who is Tracked

1. The provisions related to GPS tracking are provided under section 301.48 of the statutes. Under current provisions, (effective on or after July 1, 2007), the Department of Corrections must:

a. Maintain lifetime tracking of persons placed on probation, parole, extended supervision, conditional release, or supervised release for committing a serious child sex offense;

b. Maintain lifetime tracking of persons discharged from prison, conditional release, or supervised release for a serious child sex offense; and

c. Track an individual using GPS if all the following apply: (i) the person was convicted under federal law or another state's law, or found not guilty of or not responsible for by reason of mental disease or defect, of a crime comparable to a serious child sex offense; and (ii) the person resides in the state, is employed or carrying on a vocation, or is a student.

2. In addition to offenders identified above, the Department may utilize GPS tracking for individuals placed on probation, parole, extended supervision, conditional release, or supervised release for committing a sex offense not defined as a serious child sex offense.

Serious Child Sex Offense

3. Under the GPS tracking provisions, a "serious child sex offense" is defined by reference to certain first-degree sexual assault of a child offenses and engaging in repeated acts of sexual assault against the same child offenses provided under Chapter 948 (Crimes Against Children). These offenses were modified during the 2005 legislative session by three separate acts:

Acts 430, 431, and 437. However, the Revisor of Statutes has determined that the provisions in these acts are mutually inconsistent. For example, one of offenses referenced for GPS tracking is s. 948.02(1)(d): under Act 430, this subsection is a Class B felony for sexual contact with a person under the age of 16 by use or threat of force or violence; however, there is no such subsection under Act 437.

4. A Special Committee on Review of Crimes Against Children was formed during the 2006 legislative interim and charged with reviewing certain crimes against children under Chapter 948 to determine whether these statutes should be clarified and whether the penalties for these offenses are consistent and appropriate. The Special Committee issued a report on March 19, 2007, which included two companion bills to address the inconsistencies between the acts (Senate Bill 103 and Assembly Bill 209).

5. The inconsistencies addressed by the companion bills that impact the GPS tracking provisions include: (a) reconciling the offenses of first-degree sexual assault of a child and engaging in repeated acts of sexual assault against the same child; (b) modifying the definition of "sexual intercourse;" and (c) modifying the definition of a "serious child sex offense," as a result of reconciling the other offenses. The companion bills would result in the following provisions:

a. *First-Degree Sexual Assault of a Child*

- s. 948.02(1)(am) – whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years and causes great bodily harm to the person is guilty of a Class A felony.
- s. 948.02(1)(b) – whoever has sexual intercourse with a person who has not attained the age of 12 years is guilty of a Class B felony.
- s. 948.02(1)(c) – whoever has sexual intercourse with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony.
- s. 948.02(1)(d) – whoever has sexual contact with a person has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony if the actor is at least 18 years of age when the sexual contact occurs.
- s. 948.02(1)(e) – whoever has sexual contact with a person who has not attained the age of 13 years is guilty of a Class B felony.

b. *Engaging in Repeated Acts of Sexual Assault Against the Same Child*

- s. 948.025(1) – whoever commits three or more violations of first- or second-degree sexual assault within a specified period of time involving the same child is guilty of:
 - (a) a Class A felony if at least three of the violations were s. 948.02(1)(am);

(b) a Class B felony if at least three of the violations were of s. 948.02(1)(am), (b), or (c);

(c) a Class B felony if at least three of the violations were of s. 948.02(1)(am), (b), (c), or (d);

(d) a Class B felony if at least three of the violations were of s. 948.02(1); or

(e) a Class C felony if at least three of the violations were of s. 948.02(1) or (2).

- While the subsections for engaging in repeated acts seem repetitive, they are subdivided as such for the purpose of applying a mandatory minimum sentence. Under the companion bills, a conviction of a violation of s. 948.02(1)(b) or (c), or s. 948.025(1)(b) would require a term of confinement in prison of at least 25 years. A conviction of a violation of s. 948.02(1)(d) or s. 948.025(1)(c) would require a term of confinement in prison of at least five years. The mandatory minimum sentences do not apply if the offender was under 18 years of age at the time of the violation.

c. *Definition of "Sexual Intercourse"* - the companion bills would reinstate the prior law definition of "sexual intercourse," defined as vulvar penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

d. *"Serious Child Sex Offense"* - as a result of reconciling the offenses for first-degree sexual assault of a child and engaging in repeated acts against the same child, a "serious child sex offense for the purposes of GPS tracking would include the following offenses (described above):

- s. 948.02(1)(am)
- s. 948.02(1)(d)
- s. 948.025(1)(a)
- s. 948.02(1)(b) or (c) if the offense involved "sexual intercourse"
- s. 948.025(1)(b) or (c) if the offense involved "sexual intercourse"
- s. 948.02(1), s. 948.02(2), or s. 948.025(1) under the 2003 statutes, if any of the following apply: (a) the actor has sexual intercourse with a person under the age of 12 years; (b) the actor has sexual intercourse with a person under 16 years by use or threat of force or violence; (c) the actor has sexual contact with a person under 16 years by use or threat of force or violence and the actor is at least 18 years of age when the contact occurred; or (d) the actor has sexual contact or sexual intercourse with a person under 13 years and causes great bodily harm.

- For the purposes of GPS tracking, the companion bills would retain the current

definition of "sexual intercourse," defined as vulvar penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required. This definition would apply to offenses s. 948.02(1)(b) or (c), s. 948.025(1)(b) or (c), and under the 2003 statutes, s. 948.02(1), s. 948.02(2), or s. 948.025(1). The definition would not apply to s. 948.02(1)(am) and s. 948.025(1)(a). For these offenses, the reinstated prior law definition would apply (defined under c. above).

6. Attachment 1 identifies the inconsistencies under current law related to the above-described provisions, and shows how the companion bills would reconcile these provisions.

7. Based on the Special Committee's report and recommendations, the Committee may wish to adopt these provisions from the companion bills. Reconciling the provisions would clarify the applicable offenses for the purposes of GPS tracking.

Other Definitions

8. In addition to the definitions for a serious child sex offense and sexual intercourse, the GPS tracking provisions include the following definitions:

a. *Global Positioning System Tracking* - tracking using a system that actively monitors and identifies a person's location and timely reports or records that person's presence near or at a crime scene or in an exclusion zone or the person's departure from an inclusion zone. "Global positioning system tracking" includes comparable technology.

b. *Lifetime Tracking* - GPS tracking that is required for a person for the remainder of the person's life or until terminated by petition.

c. *Passive Positioning System Tracking* - tracking using a system that monitors, identifies, and records a person's location.

d. *Exclusion Zone* - a zone in which a person who is tracked using a GPS tracking device is prohibited from entering except for purposes of traveling through to get to another destination.

e. *Inclusion Zone* - a zone in which a person who is tracked using a GPS tracking device is prohibited from leaving.

f. *Sex Offense* – defined as the offenses for which an individual is required to register with the Department's sex offender registry. Offenses include either: (a) a violation, solicitation, conspiracy, or attempt to commit a violation of one of the following: sexual exploitation by a therapist, first-degree sexual assault, second-degree sexual assault, third-degree sexual assault, incest, first-degree sexual assault of a child under the age of 13, second-degree sexual assault of a child under the age of 16, engaging in repeated acts of sexual assault with the same child, sexual exploitation of a child, causing a child to view or listen to sexual activity, incest with a child, child

enticement, use of a computer to facilitate a child sex crime, soliciting a child for prostitution, sexual assault of a student by a school instructional staff person, exposing a child to harmful material or harmful descriptions or abduction of another's child, or false imprisonment or kidnapping if the victim was a minor and the person who committed the violation was not the victim's parent; or (b) a crime under federal law or the law of any state that is comparable to one of the above crimes.

Departmental Duties

9. The Department must implement a continuous GPS system to electronically monitor the whereabouts of tracked individuals. The GPS system must do all of the following:

a. Use field monitoring equipment that supports cellular communications with as large a coverage area as possible and automatically provide instantaneous or nearly instantaneous information regarding the individual's whereabouts;

b. Use land line communication equipment to transmit information regarding the location of tracked individuals when they are in areas in which no commercial cellular service is available; and

c. Immediately alert the Department and the local law enforcement agency having jurisdiction over the exclusion or inclusion zone if the person stays in any exclusion zone for any longer period than the time needed to travel through to get to another destination or if the person leaves any inclusion zone.

10. The Department is required to contract with a vendor using a competitive process under s. 16.75 to provide GPS tracking services and passive positioning system tracking services.

11. For each individual subject to GPS tracking, the Department must create individualized exclusion and inclusion zones, if necessary to protect public safety. In creating exclusion zones, the Department must focus on areas where children congregate, with perimeters of 100 to 250 feet, and on areas where the person has been prohibited from going as a condition of probation, extended supervision, parole, conditional release, or supervised release.

12. If a person who is on supervised or conditional release is being tracked, the Department must notify DHFS, upon request, of any tracking information for the person under either of the following circumstances: (a) Corrections received an alert that the person has improperly stayed in an exclusion zone or improperly left an inclusion zone; or (b) the person fails to make a required payment for GPS tracking (described below).

GPS Tracking Payments

13. For each person tracked, the Department is required to determine: (a) the cost of GPS tracking or passive positioning system tracking for the person; and (b) how much of the cost the person is able to pay. For individuals on supervised or conditional release being tracked, DHFS

is required to pay the tracking costs to the extent the individual is unable to pay.

14. In determining how much the person is able to pay, the Department may consider: (a) the person's financial resources; (b) the present and future earning capacity of the person; (c) the needs and earning ability of the person's dependents; (d) any other supervision costs the person is required to pay to Corrections or DHFS; or (e) any other factors Corrections considers appropriate.

Offender's Petition to Terminate Lifetime Tracking

15. A person subject to lifetime GPS tracking can petition for the termination of lifetime tracking with the circuit court in the county in which he or she was convicted or found not guilty or not responsible by reason of mental disease or defect. However, the person cannot file a termination petition earlier than 20 years after the date on which lifetime tracking began. Further, the following individuals are prohibited from filing for termination of tracking: (a) a person who was convicted of any crime during the period of lifetime tracking; (b) a person who has been placed on supervised release; and (c) a person placed on parole or discharged under Chapter 975 of the statutes.

16. Upon receiving a petition to terminate lifetime tracking, the court must send a copy of the petition to the district attorney, who conducts a criminal history record search. No later than 30 days after the date of receiving the petition, the district attorney must report the results of the criminal record search and provide a written response to the petition. If the person was convicted of any crime during the period of lifetime tracking, the court must deny the petition without a hearing.

17. If the individual has not been convicted of a crime, the court will: (a) notify the Department of the petition; (b) schedule a hearing on the petition; and (c) order the person be examined by a court-approved physician or psychologist. The physician or psychologist who conducts the examination must file a report within 60 days after completing the examination that includes his or her opinion of whether the person is a danger to the public. The contents of the report will remain confidential until the physician or psychologist testifies at the petition hearing. The petitioner must pay the costs of the examination. Upon notice of the petition and hearing, the Department may submit a report including information on the person's conduct while on lifetime tracking and an opinion as to whether the tracking is still necessary to protect the public.

18. At the hearing, the court will take evidence it considers relevant to the petition, and the petitioner and district attorney may offer evidence relevant to the issue of the petitioner's dangerousness and the continued need for lifetime tracking. The court may grant the petition if it determines after the hearing that lifetime tracking is no longer necessary to protect the public. If the petition is denied, the person may not file a subsequent petition requesting termination until at least five years have elapsed since the most recent petition.

Department's Petition to Terminate Lifetime Tracking

19. The Department may file a petition for termination of lifetime tracking if the person is permanently physically incapacitated. The petition must include affidavits from two physicians

that explain the nature of the person's permanent physical incapacity. The Department must file the petition in the county where the person was convicted, found not guilty or not responsible by reason of mental disease or defect, or found to be a sexually violent person, and forward a copy of the petition to the district attorney or, for individuals committed under Chapter 980, to the agency that filed the Chapter 980 petition.

20. Upon its own motion or motion of the district attorney, the court may order the individual to be examined by a court-approved physician. If an examination is ordered, the physician must prepare a report that includes his or her opinion of whether the person is permanently physically incapacitated, and file the report within 60 days after completing the examination. The report remains confidential until the physician testifies at the hearing. Costs of the examination must be paid by the Department. The court will conduct a hearing and take evidence it considers relevant in determining whether the person is permanently physically incapacitated so that he or she is not a danger to the public. The court may grant the petition after the hearing if it determines that the person is permanently physically incapacitated such that he or she is no longer a danger to the public.

Termination of Lifetime Tracking if Victim was a Relative

21. The Department may terminate a person's lifetime tracking after 10 years if the victim of the serious child sex offense for which the person is being tracked is a relative. Relative is defined as including a child, brother, sister, first cousin, second cousin, nephew, niece, grandchild, or great grandchild, or any other person related by blood, marriage, or adoption.

Departmental Escort for Individuals on Supervised Release

22. The GPS tracking provisions, created under 2005 Act 431, require that the court, as a condition for supervised release, restrict the person to the person's home except for outings under the direct supervision of a Corrections' escort. The outings must be for employment purposes, religious purposes, or for caring for the person's basic living needs.

Sex Offender Registry

23. The Department maintains a sex offender registry of individuals who have been found to have committed a sex offense or committed an offense with a sexual motivation. While the information on the registry is generally confidential, information will be disclosed under specific circumstances to law enforcement agencies, victims, and/or certain entities in the community where the sex offender lives, attends school, or works.

24. The Department must provide the public with Internet access to certain information concerning persons registered as sex offenders. Act 431 expanded the information that is required on the Internet site to include all of the following:

- a. If the person is a sexually violent person, a notice of that status, written in red letters.

- b. A current color photograph of the person, if available, and a physical description including sex, race, height, eye color, and hair color.
- c. The person's name and home address.
- d. Whether the person has responded to the last contact letter from the Department.
- e. The crime(s) committed for which the person must register.
- f. Any conditions of the person's supervised release, except for any condition that may reveal the identity of the victim of the crime.
- g. The date, time, and place of any scheduled hearings for supervised release or discharge under Chapter 980.
- h. The name and court of the judge who authorized the supervised release or discharge.
- i. The most recent date on which the information was updated.

Lifetime Supervision

25. Under current law, a court may place a person on lifetime supervision by the Department if the person is convicted or found not guilty by reason of mental disease or defect of a serious sex offense. The court must determine that lifetime supervision is necessary to protect the public and notify the person that he or she is being placed on lifetime supervision. Once on lifetime supervision, the person is subject to the control of the Department under conditions set by the court.

26. "Serious sex offenses" for which a person may be placed on lifetime supervision include: (a) commission of, or solicitation, conspiracy or attempt to commit, sexual exploitation by a therapist, first-, second- and third-degree sexual assault, first- and second-degree sexual assault of a child, engaging in repeated acts of sexual assault with the same child, sexual exploitation of a child, causing a child to view or listen to sexual activity, incest with a child, child enticement, soliciting a child for prostitution, exposing a child to harmful materials or harmful descriptions or narratives, possession of child pornography, using a computer to facilitate a child sex crime, sexual assault of a child placed in substitute care; and child sex offender working with children; or (b) a violation of, or solicitation, conspiracy or attempt to commit a violation, under statutes related to life and bodily security, property crimes, crimes against sexual morality or crimes against children, if a court determines that one of the purposes for the conduct constituting the violation was for a person's sexual arousal or gratification.

27. Lifetime supervision begins: (a) when the person is discharged from prison for a serious sex offense; (b) when the person is discharged from probation, parole, or extended supervision for a serious sex offense, upon his or her discharge from probation; (c) when the person is discharged from commitment to a mental health facility for a serious sex offense; or (d) if none of the previous situations apply, upon the person being sentenced for a serious sex offense.

28. A person subject to lifetime supervision may file a petition with the court requesting that lifetime supervision be terminated if: (a) he or she has not been convicted of a crime that was committed during the period of lifetime supervision; and (b) he or she has been on lifetime supervision for at least 15 years. The petition must be filed with the court that ordered the lifetime supervision. If a person files a petition requesting termination at any time earlier than 15 years after the date on which the period of lifetime supervision began, the court is required to deny the petition without a hearing. Provisions related to the court proceedings for petitions to terminate lifetime supervision are identical to the provisions for an offender's petition to terminate lifetime GPS monitoring, discussed above.

SENATE BILL 40 -- MODIFICATIONS TO CURRENT LAW

29. Senate Bill 40 (SB 40) would modify several of the GPS tracking provisions created under Act 431. Below is a summary of the changes:

a. Change the effective date of the GPS tracking provisions from July 1, 2007 to January 1, 2008.

b. Delete the requirement of GPS tracking for individuals who have been discharged from the custody of either Corrections or DHFS.

c. Delete the requirement of GPS tracking for individuals who have been placed on probation for committing a serious child sex offense.

d. For an individual convicted of a comparable serious child sex offense under federal law or the law of another state, delete the requirement of GPS tracking if the individual is employed, carrying on a vocation, or a student in Wisconsin. Instead, require GPS tracking if the individual is subject to departmental supervision, beginning on or after January 1, 2008, under the interstate corrections compact.

e. Add the provision requiring GPS tracking for all offenders who are placed on lifetime supervision for serious child sex offenses.

f. Modify the definition of "global positioning system tracking" to mean tracking using a system that can monitor, identify, and record a person's location and that records the person's presence in an exclusion zone or the person's departure from an inclusion zone.

g. Delete provisions associated with "lifetime tracking" and "passive positioning system tracking."

h. Create an appropriation in the Department for monies collected for costs relating to GPS tracking of offenders. Specify that monies received be utilized for expenditures related to GPS tracking.

i. Delete the provision authorizing the Department to petition for termination of a person's tracking if the person is permanently physically incapacitated. Instead, provide that the Department may petition for termination if the Department determines that tracking is no longer necessary to protect the public. Provide that, in addition to physicians, examinations may be conducted by court-approved psychologists.

j. Delete the provision that the Department may terminate a person's GPS tracking after 10 years if the victim of the serious child sex offense was a relative of the person tracked. Instead, provide that if a person is subject to the GPS tracking provisions, and the victim of the serious child sex offense was a relative, the Department may decide not to track the person, if the Department determines the person would not be a danger to the public if not tracked.

k. Provide that the Department may contract for services to escort persons on supervised release who are restricted during the first year of their supervised release.

30. Attachment 2 includes a table identifying the GPS tracking provisions provided under current law, and how SB 40 modifies the provisions.

31. In regards to the provisions in SB 40 for GPS monitoring, the Department explains policy changes provided in the bill, such as requiring only offenders under the Department's supervision to be tracked, funding and staff provided for the program, and addressing "costly oversights in the current law." Points raised by the Department include:

- Requiring GPS tracking for offenders for the rest of their lives, regardless of where they live or the risk they present raises legal and practical problems. In reviewing other states' law on GPS monitoring of sex offenders, the Department found no other state that requires tracking of offenders who have been discharged from their sentences and are no longer on parole or other supervision.

- For individuals who have been discharged from their sentences, the Department is required to define inclusion and exclusion zones, but imposes no penalty if the individual exits or enters such zones. Law enforcement could track down the individual, but not lawfully arrest him or her. For individuals under the Department's supervision, however, conditions can be set and the Department can enforce the conditions with consequences such as sending the offender back to prison.

- "The original GPS law contained other flaws. For example, it included no provision allowing DOC to end GPS tracking of offenders who permanently move outside of Wisconsin. Thus, we would be required to track offenders living in California, New York, etc. with the Wisconsin taxpayer footing the bill. This oversight is fixed by the Governor's proposal."

- "While DOC will contract with vendors for equipment, software, and technical support, only *state staff*, not contractors, will investigate and resolve GPS alerts to hold offenders accountable. The key to improved public safety is following up on the information that GPS provides."

DOC FISCAL ESTIMATE

32. Based on the provisions enacted under Act 431 for GPS tracking, the sex offender registry, and departmental escorts for persons on supervised release, in its 2007-09 budget request to the Governor, the Department requested a total of \$23,705,500 and 234.75 positions for the 2007-09 biennium. As a result of the changes made to these provisions in SB 40, the Department estimates needing a total of \$11,527,700 and 122.25 positions over the biennium.

	Act 431 - Current Law		Senate Bill 40		Difference	
	<u>GPR</u>	<u>PR</u>	<u>GPR</u>	<u>PR</u>	<u>GPR</u>	<u>PR</u>
2007-08	\$7,128,700	\$610,500	\$2,589,100	\$155,400	-\$4,539,600	-\$455,100
2008-09	<u>15,270,100</u>	<u>696,200</u>	<u>7,837,400</u>	<u>365,300</u>	<u>-7,432,700</u>	<u>-330,900</u>
Total	\$22,398,800	\$1,306,700	\$10,426,500	\$520,700	-\$11,972,300	-\$786,000

Department 2007-09 Budget Request

33. Funding and staffing estimates for the current law provisions under the Department's request were based on the following assumptions:

- *Populations.* For its budget request, the Department compiled a list of all offenders convicted of first- and second-degree sexual assault of a child or engaging in repeated acts against the same child who will be released from prison on or after July 1, 2007. The Department assumed that 65% of these offenders' convictions would meet the criteria of a "serious child sex offense" for the purposes of GPS monitoring (based on the new definition of "sexual intercourse"). As a result, to implement the current law provisions beginning on July 1, 2007, the Department estimated that it will utilize GPS tracking for 581 individuals in 2007-08 and 957 in 2008-09. The number of individuals tracked each year will continue to grow annually, until the first group of offenders would be removed from GPS tracking after 20 years (or 10 years for offenders whose victims were relatives). Of the 581 offenders in 2007-08, the Department will begin GPS tracking 156 individuals on the first day of implementation who have been convicted under federal law or another state's law, or found not guilty of or not responsible for by reason of mental disease or defect, of a crime comparable to a serious child sex offense.

- *Equipment.* According to the Department, the only technology currently available to meet the "immediate alert" requirement for GPS tracking is "active GPS," which involves the offender carrying a small tracking device unit that tracks and records the whereabouts of the offender once every minute, and sends the cumulative data to the Department every 10 minutes. The individual's location can be tracked by computer, and an alert will be issued if the offender is in a prohibited area. The Department currently leases active GPS technology between a rate of \$9 per day and \$11.50 per day, plus an additional per call charge (depending on the communication technologies available in certain portions of Wisconsin). The Department's budget request assumed an active GPS cost of \$10 per day.

- *Monitoring Staff.* To implement the GPS tracking provisions, the Department requested a total of \$2,807,800 GPR and 86.75 GPR positions in 2007-08 and \$6,727,600 GPR and 137.75 GPR positions in 2008-09 for the Department's Monitoring Center. The Monitoring Center currently monitors approximately 1,600 offenders by electronic monitoring (non-GPS) and approximately 40 sex offenders, including 18 individuals on supervised release, on active GPS monitoring. The Monitoring Center's current staffing includes 23.5 corrections communications operators (10 of whom are limited-term employees), 2.0 supervisors, 1.0 deputy director, and 1.0 director.

The requested staffing was based on the Department's experience with GPS monitoring, utilizing a staffing ratio of 1.0 corrections communication operator (CCO) for every 40 offenders on GPS monitoring, 1.0 supervisor for every 15.0 CCOs, and 2.0 supervisors for third-shift and training. According to the Department:

"There is value in having one central monitoring center or central contact rather than decentralized and remote contracted monitoring center services. There are over 400 police agencies in the State of Wisconsin. The Department's Monitoring Center (MC) has been in existence in the State of Wisconsin since 1987 and has a solid reputation and good working relationship with the state's local law enforcement agencies. The MC has direct communication with all law enforcement agencies in Wisconsin and, in addition to routine monitoring services and responses to alerts, is able to teletype statewide broadcasts to local police stations regarding high risk offenders, provide detailed information on the offender, answer questions from local law enforcement and cancel arrest warrants when they are no longer needed or when the offender has been apprehended."

The Department indicates that, as a centralized unit, the Monitor Center is best able to receive and respond to GPS alerts. According to the Monitoring Center, with the approximately 40 offenders currently tracked by GPS, the Center receives between 60 to 150 alerts each day, each of which needs to be tracked. When an alert is received, the CCO will check the offender's schedule to see where he or she is supposed to be, and depending on the circumstances, may contact the offender's employer, the offender's agent, an agent supervisor, law enforcement, and/or the offender directly, and possibly issue a warrant. The Center estimates that approximately 40-45% of the alerts are the result of technical issues resulting from no GPS signal or no cellular coverage.

- *Field Staff.* The Department requested additional funding and positions for correctional field staff of \$3,114,300 GPR and 68.0 GPR positions in 2007-08 and \$5,769,000 GPR and 95.0 GPR positions in 2008-09. Positions would include probation and parole agents, correctional field supervisors, office operations associates, and corrections program supervisors. The Department indicated that the additional staffing was necessary as a result of: (a) the number of individuals requiring GPS tracking who are not currently under the Department's supervision; and (b) the increased workload associated with GPS monitoring, including annually evaluating each offender's finances to determine ability to pay, and reviewing and analyzing offender movement patterns to establish inclusion and exclusion zones.

- *Financial Staff.* The Department requested \$51,700 GPR in 2007-08 and \$57,300 GPR in 2008-09 and 1.0 financial specialist position to maintain the financial information collected on each individual and to receive and process offender payments.
- *Sex Offender Registry.* The Department's request included \$45,300 GPR in 2007-08 and \$49,400 GPR in 2008-09 and 1.0 GPR officer operations associate to implement the changes required to the sex offender registry public website. The Department indicated that some of the new court-related data requirements, such as the judge's name, Chapter 980 hearing dates and times, and the conditions required for supervised release under Chapter 980, are not currently available to the Department electronically, which will result in programming changes to the registry.
- *Department Escorts for Supervised Release.* The Department requested \$505,700 PR annually for overtime costs associated with providing escort services to offenders during their first year on supervised release.

Senate Bill 40 Funding

34. As a result of the changes to GPS monitoring provided in SB 40, the Department estimated needing funding and staffing based on the following assumptions:

- *Populations.* The Department used the same assumptions for populations under the bill as for its budget request, adjusted for the changes provided in the bill. Under SB 40, the Department estimates that 200 individuals will be tracked by GPS in 2007-08 and 599 will be tracked by GPS in 2008-09. The number of individuals tracked each year will continue to grow annually, until the first group of offenders would be removed from GPS tracking after 20 years.

It should be noted that SB 40 provides the Department with the discretion not to utilize GPS tracking for serious child sex offenders if the victim was a relative of the person, and the Department determines the person is not a danger to the public if not tracked. In reviewing its sex offender registry data, of 7,725 offenders convicted of GPS-required offenses, the Department identified 2,987 individuals (approximately 39%) with an offense pattern that included victims who were relatives. While it is not possible to quantify how many of these offenders that the Department might determine not a danger to the public if not tracked, the potential number of individuals estimated to be tracked under the bill may be lower as a result of providing the Department with this discretion.

Additionally, it should be noted that, in 2005 Act 430, mandatory minimum sentences were created for certain child sex crimes, although the provisions are inconsistent with other acts. As discussed previously in this paper, the companion bills introduced this session to reconcile the provisions would maintain the mandatory minimum sentences. As a result of mandatory minimum prison sentences, populations released to the community requiring GPS tracking may be mitigated in future years. This change in law would likely not impact current estimates, however, since releases in the near future will primarily be offenders convicted under prior law statutes.

In contrast, while the mandatory minimum provisions in the companion bills could potentially

mitigate future populations for GPS tracking, another provision could potentially increase these populations. Under current law, the applicable offenses requiring GPS tracking utilize the following definition of sexual intercourse: "vulvar penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction." The companion bills would retain this definition for most of the applicable offenses requiring GPS tracking, except for two offenses -- s. 948.02(1)(am) and s. 948.025(1)(a) (for offense descriptions, see p. 3). For these two offenses, the prior law definition of sexual intercourse, which is broader, would apply. By requiring GPS tracking for offenses under the broader definition, the number of individuals to be tracked in the future will likely increase. It should be noted however, that the two offenses for which the broader definition would apply would be Class A felonies (punishable by life in prison) under the companion bills, with mandatory minimum sentences of 25 years. Thus, any potential increase to GPS tracking populations would not occur for many years.

- *Equipment.* As with the Department's budget request, SB 40 assumes that active GPS monitoring will cost \$10 per day.

- *Monitoring Staff.* The bill would provide \$845,400 GPR and 18.5 GPR positions and \$10,500 PR in 2007-08 and \$3,969,400 GPR and 55.75 GPR positions and \$75,600 PR in 2008-09 for the Department's Monitoring Center. The bill utilizes a staffing ratio of 1.0 corrections communication operator (CCO) for every 60 offenders, compared to 1.0 CCO for every 40 offenders in the Department's request. In regards to the Monitoring Center, the Department indicates:

"The Wisconsin Department of Corrections has 20 years of experience, having operated its own electronic monitoring center since 1987. The monitoring center has the experienced staff, established procedures, and skills needed to provide immediate reaction to alerts and related issues. It has worked with local law enforcement in every county in the state for the last twenty years, developing rapport and trust with local authorities. That rapport enhances efficiency in the submission of apprehension requests, orders to detain, and apprehension request cancellations. Local law enforcement are family with the DOC monitoring center and do not question the validity of its requests, as they might with an automated alert from an out-of-state commercial entity."

- *Field Staff.* The bill provides \$1,207,900 GPR and 28.5 GPR positions and \$144,900 PR in 2007-08 and \$3,033,000 GPR and 61.0 GPR positions and \$289,700 PR in 2008-09 for correctional field staff.

- *Financial Staff.* No funding or staffing is provided for the Department. The Department had previously requested a position to maintain the financial information of tracked individuals.

- *Sex Offender Registry.* The bill would provide \$349,100 GPR in 2007-08 and \$404,200

GPR and 5.5 GPR positions annually to provide increased support for the Department's sex offender apprehension felony enforcement (SAFE) initiative to increase compliance with the state's sex offender registry.

- *Department Escorts for Supervised Release.* The bill provides \$144,900 PR in 2007-08 and \$289,700 PR in 2008-09 for vendor costs associated with providing escort services to offenders during their first year on supervised release. The bill modifies current law to allow the Department to contract for these services.

Adjustments to SB 40 Funding

35. If the Committee were to adopt the provisions of SB 40 related to GPS tracking, the Committee could modify funding and staffing amounts by -\$231,000 GPR and -4.75 GPR positions in 2007-08 and -\$751,200 GPR and -15.0 GPR positions in 2008-09, based on adjusting estimated agent caseloads. Calculations for correctional field staffing are based on estimated offender caseloads for probation and parole agents. Staffing provided in the bill assumed that each individual requiring GPS monitoring would be new to an agent's caseload. However, while GPS monitoring will increase the amount of time an agent spends on an individual's supervision, the individuals for whom the bill requires GPS monitoring would already be on supervision and part of an agent's caseload. Therefore, only the incremental amount of increased work associated with GPS monitoring need be provided.

36. Further, it should be noted that, although the Department intended to use the same assumptions for its population estimates under the bill as under current law, the estimates in the bill inadvertently assumed a higher increase in populations in the second year. As a result, the Committee could modify the population estimates in the second year from 599 offenders to 548 offenders.

37. With the above modifications, funding to the bill could be modified by -\$231,000 GPR and -4.75 GPR positions in 2007-08 and -\$1,242,200 GPR and -23.5 GPR positions and -\$5,000 PR in 2008-09. Total funding for GPS monitoring would be \$2,358,100 GPR and 47.75 GPR positions and \$155,400 PR in 2007-08 and \$6,595,200 GPR and 98.75 GPR positions and \$360,300 PR in 2008-09.

38. If the Committee wished to approve the Governor's recommendations (with the above modifications), but wanted the GPS monitoring program to begin under the current effective date of July 1, 2007, total funding in the bill would be \$4,957,700 GPR and 90.75 GPR positions and \$361,500 PR in 2007-08 and \$10,979,700 GPR and 129.25 GPR positions and \$467,300 PR in 2008-09.

Adjustments to Department's Request

39. If the Committee wished to retain the current law provisions for GPS tracking, and provide the funding and staffing required under the Department's budget request, the following modifications could be made:

- *Monitoring Unit.* The Department's request included a staffing ratio 1.0 corrections communication operator (CCO) for every 40 offenders, compared to 1.0 CCO for every 60 offenders in SB 40. If the higher staffing ratio is utilized, the Department's request would be adjusted by -\$962,500 GPR and -30.25 GPR positions in 2007-08 and -\$2,288,200 GPR and -46.25 GPR positions in 2008-09.

- *Field Staffing.* Correctional field staffing could be modified by -\$755,800 GPR and -14.25 GPR positions in 2007-08 and -\$1,580,300 GPR and -25.5 GPR positions in 2008-09 as a result of an adjustment to the estimated caseload needs for field staff.

- *Retaining Certain SB 40 Provisions.* The Committee may wish to retain the SB 40 provision creating a new appropriation for monies collected from tracked individuals. The new appropriation would allow the Department to collect and use payments from offenders to support program costs. In addition, the Committee may wish to consider retaining the SB 40 provisions authorizing the Department to contract for services to offenders requiring escorts during their first year on supervised release, which would reduce the Department's request by \$216,000 PR in annually.

40. The above adjustments would result in total funding for GPS tracking of \$5,930,800 and 112.25 positions in 2007-08 and \$12,052,900 and 163.0 positions in 2008-09 (\$5,536,700 GPR and 111.25 GPR positions and \$394,500 PR and 1.0 PR position in 2007-08 and \$11,572,700 GPR and 162.0 GPR positions and \$480,200 PR and 1.0 PR position in 2008-09). With these adjustments, SB 40 would be modified by \$6,682,500 GPR and 39.75 GPR positions and \$354,000 PR and 1.0 PR position.

41. To provide time for the Department to implement the monitoring program, the Committee may wish to delay the effective date, as provided in SB 40, until January 1, 2008. As a result of changing the effective date (and making the modifications identified above), total funding for GPS tracking would be \$4,091,900 and 82.5 positions in 2007-08 and \$9,314,700 and 130.25 positions in 2008-09 (\$3,876,900 GPR and 81.5 GPR positions and \$215,000 PR and 1.0 PR position in 2007-08 and \$8,873,100 GPR and 129.25 GPR positions and \$441,600 PR and 1.0 PR position in 2008-09). With these adjustments, SB 40 would be modified by \$2,323,500 GPR and 7.0 GPR positions and \$135,900 PR and 1.0 PR position.

42. The number of individuals requiring GPS tracking undoubtedly impacts the costs of the monitoring program. In an effort to moderate costs, while maintaining most of provisions under current law, the Committee could modify the population of offenders requiring GPS monitoring. Current law provisions require GPS monitoring of individuals who: (a) have been convicted of a comparable serious child sex offense under federal law or the law of another state; and (b) are employed, carrying on a vocation, or a student in Wisconsin. These individuals may or may not be subject to departmental supervision under the interstate corrections compact. If this provision is deleted and replaced to provide GPS monitoring of individuals who: (a) have been convicted of a comparable serious child sex offense under federal law or the law of another state; and (b) are subject to departmental supervision under the interstate corrections compact, beginning on or after

the program's effective date, the estimated number of individuals to be monitored would decrease by 164 offenders in 2007-08 and 171 offenders in 2008-09. Individuals who would no longer be GPS monitored would include: (a) individuals who are not under departmental supervision under the interstate corrections compact; and (b) individuals who are under departmental supervision under the interstate corrections compact prior to the effective date of the bill.

43. If the Committee adopted the above changes to the monitored populations (and made the modifications identified previously), total funding for GPS tracking would be \$4,252,000 and 78.36 positions in 2007-08 and \$9,580,700 and 131.52 positions in 2008-09 (\$3,879,600 GPR and 77.36 GPR positions and \$372,400 PR and 1.0 PR position in 2007-08; and \$9,131,300 GPR and 130.52 GPR positions and \$449,400 PR and 1.0 PR position in 2008-09). With these adjustments, funding in the bill would be modified by \$2,584,400 GPR and 8.27 GPR positions and \$301,100 PR and 1.0 PR position.

44. If the above alternative included delaying the effective date of the program until January 1, 2008, total funding would be \$2,152,200 and 40.16 positions in 2007-08 and \$7,089,600 and 103.66 positions in 2008-09 (\$1,806,700 GPR and 39.16 GPR positions and \$200,700 PR and 1.0 PR position in 2007-08 and \$6,673,200 GPR and 102.66 GPR positions and \$416,400 PR and 1.0 PR position in 2008-09). With these adjustments, over the 2007-09 biennium SB 40 would be modified by -\$1,947,700 GPR and 7.0 GPR positions and \$96,400 PR and 1.0 PR position.

OTHER COST OPTIONS

45. GPS is a relatively new technology, and states have only recently begun to use this technology for electronic supervision of offenders. In 2004, the State of Maryland convened a Task Force to Study Criminal Offender Monitoring by Global Positioning Systems that issued a report on December 31, 2005, to the Maryland Governor and Legislature. Related to financing for GPS monitoring, the report indicated:

"The Task Force has studied the costs of GPS by surveying the costs incurred by other jurisdictions. As stated previously, costs for the equipment alone range from \$5 to \$9 per day for passive and \$9 to \$12 per day for active monitoring. What the Task Force heard repeatedly was that these costs only include the equipment and reports of the 24/7 data. Supervising agencies must devote resources to tasks including hooking up the equipment on the offenders, interpreting the data and tracking down lost or damaged equipment. In its analysis of the costs versus benefits of GPS, the Task Force determined that personnel costs may well turn out to be the most expensive element of the system...Repeatedly, the Task Force heard that ratios of offenders to agents had to be small so that data could be analyzed, equipment managed, violations investigated and all the attendant duties of agents could be completed...The Task Force heard complaints from other jurisdictions of "information overload." Agents received so much information that it became too much to analyze, and much ultimately had to be ignored...

GPS technology is not a stand-alone replacement for offender supervision. In fact, the increased information provided on the offender by the technology may translate into additional work for the supervision agent and law enforcement. Additional resources to adequately react and cover caseloads will be needed to effectively use the technology and the information it provides."

46. In 2002, the American Probation and Parole Association (APPA) published the document "Offender Supervision with Electronic Technology, A User's Guide," which includes a chapter on evaluating funding resources available for electronic supervision technologies. The guide summarizes a variety of costs that need to be considered and calculated when establishing an electronic supervision program:

- Number of offenders eligible for electronic supervision based on decisions made about the place and purpose of electronic supervision.
- Estimated frequency and length of use of the technology with the offenders.
- Costs of equipment and supplies. If the criminal or juvenile justice agency implementing the program is also monitoring the electronic devices, there will be added costs like computers, telephone lines, office space, pagers, cellular phones, and fax machines.
- Number and salary of staff required to implement the technologies adequately, including additional costs for training on the technology, transportation costs for field work, turnover costs, and overtime pay when needed.
- Salaries and other costs for managers, administrators, accounting, and support staff with responsibility for the program.
- The general four types of staff needed for electronic supervision are program component managers, equipment specialists, monitoring technicians, and offender supervision staff.
- Monitoring of offenders may be provided by the agency that has sentencing or releasing authority oversight of the offender, or it may be provided by a private contractor. Private contractors should be required to provide an equivalent standard of services that is required by the justice system provider. If a private company is providing field services relative only to the electronic supervision, the sentencing or releasing authority oversight agency may still have responsibility for providing case management and other supervision services to the offender.

47. The APPA guide also identifies issues related to the general supervision of offenders on electronic monitoring, and emphasizes the importance of effective monitoring. Monitoring options for agencies to consider include:

- Agency personnel perform all services providing monitoring computer data, supervision of offenders, drug and alcohol testing, verification of offenders' community activities, installation and removal of equipment, violation responses, and other tasks.

- Monitoring of computer data is contracted to a service provider while agency staff perform all other tasks.
- A contracted service provider furnishes services beyond monitoring computer data, such as equipment installation and removal and equipment troubleshooting, while agency staff tend to case management issues.
- All services – including monitoring computer data and providing field services – are performed by an outside contractor. However, the government agency (i.e. probation, parole, law enforcement, pretrial services) maintains legal authority and makes ultimate decisions about responding to violations.

Each of the options has benefits and disadvantages an agency must consider. The best choice for a given agency will depend on several factors, including the number of offenders being supervised electronically and the purpose established for this program component. If an agency has highly computer literate staff available to manage the complex software involved in electronic monitoring, then it may choose to conduct all the monitoring services in-house. However, if staff already are stretched with high caseloads, it may be more effective to contract for some or all of the monitoring services. Monitoring companies can spread the costs of monitoring services across hundreds or thousands of offenders, making it much more cost effective."

48. The Department of Corrections based its fiscal estimates on the assumption of primarily using direct staffing to support monitoring and supervision activities, while using contractors for equipment, software and technical support. Related to its Monitoring Center and providing direct monitoring services, the Department emphasizes that:

"By employing its own Monitoring Center, the Department of Corrections has direct control over the quality of its service. Personnel working for the DOC Monitoring Center are directly answerable to a state supervisor who can hold each operator accountable for the quality of their work and be sure of the employee's skills and training. Employees who live in and work for the State of Wisconsin feel closely connected to the outcome of their jobs, and take pride in their role in protecting public safety for their own state and communities."

49. Questions have been raised about the Department's fiscal estimates for resources and staffing necessary to support Wisconsin's GPS monitoring of serious children sex offenders. Specifically, comparisons have been made to the GPS monitoring program in Kansas.

50. According to the Kansas Legislative Research Department, sex offenders in Kansas with two or more offenses against minors are assigned to GPS monitoring, as are other high-risk populations. The specific offenses against minors include: aggravated trafficking if the victim is less than 14 years of age; rape of a child; indecent liberties with a child; aggravated indecent liberties with a child; indecent solicitation of a child; aggravated indecent solicitation of a child; promoting prostitution of a child; sexual exploitation of a child; and any attempt, conspiracy, or

criminal solicitation to commit the aforementioned crimes. These offenders are subject to lifetime supervision by the Kansas Parole Board. As of March, 2007, the Kansas Department of Corrections (KDOC) has 268 sex offenders and 44 high-risk offenders on GPS monitoring.

51. The 2006 Kansas Legislature provided \$1,131,200 and 9.0 positions for its GPS monitoring program. The positions were provided for a specialized GPS unit in the Department of Corrections' parole division. In addition, Kansas contracts for GPS monitoring services through Rocky Mountain Offender Monitoring Systems, based out of Westminster, Colorado.

52. It should be noted that, in 2006, Kansas created the Sex Offender Policy Board to consult and advise the Kansas Criminal Justice Coordinating Council (KCJCC) on issues and policies relating to the treatment, sentencing, rehabilitation, reintegration and supervision of sex offenders. The Board is statutorily required to submit a report on the first day of the legislative session to the KCJCC, Governor, Attorney General, Supreme Court, and Legislature. For its 2007 report, the Board examined four topics: utilization of electronic monitoring, public notification on sex offenders, management of juvenile sex offenders and restrictions on the residence of released sex offenders. Regarding utilization of electronic monitoring, the Board made several recommendations, including:

- "The use of electronic monitoring will translate into an increased workload for those responsible for the supervision of sex offenders in the community. Additional resources must be provided to ensure that staff can utilize the technology and use the information yielded from the technology effectively..."
- Electronic monitoring programs should be used selectively on a specific population of sex offenders. Utilizing risk assessments to determine who should be placed on electronic monitoring and adequately screening the population of sex offenders can prevent overuse of electronic monitoring. By limiting the population placed on electronic monitoring, it will ensure that electronic monitoring is used on those sex offenders who need it the most and pose the greatest risk to the community."

53. The Wisconsin Department of Corrections has reviewed Kansas's GPS monitoring program, and identified differences to the requirements of who is to be tracked. In addition, the Department identified some factors of influencing the cost differences between the states:

- "Kansas' cost estimates for their GPS program do not include agent overtime. The Kansas Sex Offender Policy Board reports that "in some cases, the addition of electronic monitoring for community supervision can double or even triple workloads..."
- Kansas reportedly uses limited inclusion/exclusion zones for offenders on GPS. In some cases, an inclusion zone is set up only for the offender's home to enforce a curfew. This could reduce the number of alerts (and workload) per offender substantially...
- Kansas reports few problems with GPS alerts based on technical failures (e.g., loss of cellular signal). In Wisconsin, GPS monitors generate numerous technical alerts, which increases

workload. This seems attributable to differences in cell coverage and topography between the states...

- KDOC staffs after-hours GPS alerts by requiring parole agent to be on call. They are paid comp time or overtime for responding to alerts. Our proposal would allot sufficient numbers of field staff and monitoring center staff to carry out an effective program and avoid overtime. The workload for GPS is shared between agents and the DOC monitoring center, which is staffed 24x7."

54. This office asked officials from the KDOC to review the Wisconsin Department's summary of the Kansas program and cost differences. Kansas officials indicated that the Wisconsin Department covered the issues well, except that the fewer technical failures are the result of the type of GPS equipment Kansas utilizes, which has "reduced signal problems, and lost and damage equipment costs."

55. To modify the program similarly to Kansas, the Department indicates that the program could be modified to require GPS monitoring for individuals found to be a sexually violent person under Chapter 980, or have on two or more occasions been convicted of or found not guilty or not responsible by reason of mental disease or defect for a sex offense or for a violation of a law that is comparable to a sex offense. Under current law, this provision relates to individuals for whom the Department is required to notify the police chief of any community and the sheriff of any county in which the person will be residing, employed or attending school. These notifications are known as "special bulletin notifications." It should be noted that if this modification were made, the types of offenses for which an individual would be required to be tracked would be broader than under current law or the bill (it would include sex offenses as opposed to serious child sex offenses.)

56. If these changes were adopted for a program more resembling Kansas's, the Department estimates needing \$1,584,900 and 22.75 positions in 2007-08 and \$3,926,900 and 48.25 positions in 2008-09 for a GPS tracked population of 77 individuals in 2007-08 and 224 individuals in 2008-09.

57. Given the higher costs associated with providing funding and positions for direct staffing of the GPS monitoring program, and that costs will continue to rise as the number of individuals requiring tracking increase, the Committee may wish to direct the Department to utilize contracting services for monitoring offenders under the program. As such, the Committee could: (a) place \$2,589,100 GPR in 2007-08 and \$7,837,400 GPR in 2008-09 associated with GPS monitoring into the Joint Committee on Finance's supplemental appropriation; (b) delay the effective date of the GPS tracking provisions to January 1, 2008; and (c) direct the Department of Corrections to submit a request by December 1, 2007, which would identify the estimated funding and positions needed to operate the program with the Department contracting for GPS monitoring services.

58. According to the Department, if the SB 40 provisions were deleted, Corrections would "implement the existing law provisions to the best of its ability, provided funding and positions that are necessary to implement the program are approved, [however] full implementation

of the law will likely not be possible until January 1, 2008, when staff can be hired and trained." The Department has further expressed concerns related to GPS tracking of offenders who are no longer on supervision.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to modify current law provisions related to GPS monitoring of serious child sex offenders. Provide \$2,589,100 GPR and 52.5 GPR positions and \$155,400 PR in 2007-08 and \$7,837,400 GPR and 122.25 GPR positions and \$365,300 PR in 2008-09 to track serious child sex offenders.

ALT 1	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$0	0.00	\$10,426,500	122.25
PR	<u>0</u>	<u>0.00</u>	<u>520,700</u>	<u>0.00</u>
Total	\$0	0.00	\$10,947,200	122.25

2. Approve the Governor's recommendation with the following modification: delete \$231,000 GPR and 4.75 GPR positions in 2007-08 and \$1,242,200 GPR and 23.5 GPR positions and \$5,000 PR in 2008-09 associated with adjusting the estimated caseload needs for field staff. As a result, total funding in the bill would be \$2,358,100 GPR and 47.75 GPR positions and \$155,400 PR in 2007-08 and \$6,595,200 GPR and 98.75 GPR positions and \$360,300 PR in 2008-09.

ALT 2	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$1,473,200	- 23.50	\$8,953,300	98.75
PR	<u>- 5,000</u>	<u>0.00</u>	<u>515,700</u>	<u>0.00</u>
Total	-\$1,478,200	- 23.50	\$9,469,000	98.75

3. Approve the Governor's recommendation, but maintain the current law effective date of July 1, 2007. As a result, total funding in the bill would be \$4,957,700 GPR and 90.75 GPR positions and \$361,500 PR in 2007-08 and \$10,979,700 GPR and 129.25 GPR positions and \$467,300 PR in 2008-09 (this includes the modification identified under Alternative 2).

ALT 3	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$5,510,900	7.00	\$15,937,400	129.25
PR	<u>308,100</u>	<u>0.00</u>	<u>828,000</u>	<u>0.00</u>
Total	\$5,819,000	7.00	\$16,766,200	129.25

4. Maintain current law, with the following modifications: (a) create an appropriation in the Department for monies collected for costs relating to GPS tracking of offenders. Specify that monies received be utilized for expenditures related to GPS tracking; and (b) provide that the Department may contract for services to escort persons on supervised release who are restricted during the first year of their supervised release.

Provide \$5,536,300 GPR and 111.25 GPR positions and \$394,500 PR and 1.0 PR position in 2007-08 and \$11,572,700 GPR and 162.0 GPR positions and \$480,200 PR and 1.0 PR position in 2008-09 related to GPS monitoring of serious child sex offenders. *[This alternative would provide funding and positions similar to the Department's 2007-09 budget request.]*

ALT 4	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$6,682,500	39.75	\$17,109,000	162.00
PR	<u>354,000</u>	<u>1.00</u>	<u>874,700</u>	<u>1.00</u>
Total	\$7,036,500	40.75	\$17,983,700	163.00

5. Maintain current law, with the following modifications: (a) create an appropriation in the Department for monies collected for costs relating to GPS tracking of offenders. Specify that monies received be utilized for expenditures related to GPS tracking; (b) provide that the Department may contract for services to escort persons on supervised release who are restricted during the first year of their supervised release; and (c) change the effective date of the GPS tracking provisions to January 1, 2008.

Provide \$3,876,900 GPR and 81.5 GPR positions and \$215,000 PR and 1.0 PR position in 2007-08 and \$8,873,100 GPR and 129.25 GPR positions and \$441,600 PR and 1.0 PR position in 2008-09 related to GPS monitoring of serious child sex offenders. *[This alternative would provide funding and positions similar to the Department's 2007-09 budget request, with a delayed effective date of January 1, 2008.]*

ALT 5	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$2,323,500	7.00	\$12,750,000	129.35
PR	<u>135,900</u>	<u>1.00</u>	<u>656,600</u>	<u>1.00</u>
Total	\$2,459,400	8.00	\$13,406,600	130.25

6. Maintain current law, with the following modifications: (a) create an appropriation in the Department for monies collected for costs relating to GPS tracking of offenders. Specify that monies received be utilized for expenditures related to GPS tracking; and (b) provide that the Department may contract for services to escort persons on supervised release who are restricted during the first year of their supervised release.

In addition, delete current law provisions relating to tracking of individuals convicted, or

found not guilty by reason of mental disease or defect, of a comparable serious child sex offense under federal law or law of another state who are employed, carrying on a vocation, or a student in Wisconsin. Instead, require tracking of individuals convicted, or found not guilty by reason of mental disease or defect, of a comparable serious child sex offense under federal law or law of another state who are subject to departmental supervision, beginning on or after the effective date of the provisions, under interstate corrections compact.

Provide \$3,879,600 GPR and 77.36 GPR positions and \$372,400 PR and 1.0 PR position in 2007-08 and \$9,131,300 GPR and 130.52 GPR positions and \$449,400 PR and 1.0 PR position in 2008-09 related to GPS monitoring of serious child sex offenders. *[This alternative is similar to Alternative 4 above, with the additional adjustment of modifying the population to be tracked.]*

ALT 6	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$2,584,400	8.27	\$13,010,900	130.52
PR	<u>301,100</u>	<u>1.00</u>	<u>821,800</u>	<u>1.00</u>
Total	\$2,885,500	9.27	\$13,832,700	131.52

7. Maintain current law, with the following modifications: (a) create an appropriation in the Department for monies collected for costs relating to GPS tracking of offenders. Specify that monies received be utilized for expenditures related to GPS tracking; (b) provide that the Department may contract for services to escort persons on supervised release who are restricted during the first year of their supervised release; and (c) change the effective date of the GPS tracking provisions to January 1, 2008.

In addition, delete current law provisions relating to tracking of individuals convicted, or found not guilty by reason of mental disease or defect, of a comparable serious child sex offense under federal law or law of another state who are employed, carrying on a vocation, or a student in Wisconsin. Instead, require tracking of individuals convicted, or found not guilty by reason of mental disease or defect, of a comparable serious child sex offense under federal law or law of another state who are subject to departmental supervision, beginning on or after the effective date of the provisions, under interstate corrections compact.

Provide \$1,806,700 GPR and 39.16 GPR positions and \$200,700 PR and 1.0 PR position in 2007-08 and \$6,672,100 GPR and 102.66 GPR positions and \$416,400 PR and 1.0 PR position in 2008-09 related to GPS monitoring of serious child sex offenders. *[This alternative is similar to Alternative 5 above, with the additional adjustment of modifying the population to be tracked.]*

ALT 7	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$1,947,700	19.59	\$8,478,800	102.66
PR	<u>96,400</u>	<u>1.00</u>	<u>617,100</u>	<u>1.00</u>
Total	-\$1,851,300	20.59	\$9,095,900	103.66

8. Delete the Governor's recommendation. Instead, modify current law to provide that the Department will utilize GPS monitoring for: (a) individuals placed on supervised release under Chapter 980; (b) individuals placed on conditional release after being found not of a serious child sex offense by reason of mental disease or mental defect; (c) individuals placed on lifetime supervision; and (d) individuals for whom "special bulletin notifications" apply under s. 301.46(2m)(am).

Provide \$1,391,400 and 22.75 positions in 2007-08 and \$3,539,900 and 48.75 positions in 2008-09 for a GPS tracked population of 77 individuals in 2007-08 and 224 individuals in 2008-09 (\$1,246,500 GPR and 23.25 GPR positions and \$144,900 PR in 2007-08 and \$3,250,200 GPR and 48.75 GPR positions and \$289,700 PR in 2008-09). *[This alternative would modify the GPS monitoring program to be similar to the GPS program in Kansas.]*

ALT 8	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$5,929,800	- 73.50	\$4,496,700	48.75
PR	<u>- 86,700</u>	<u>0.00</u>	<u>434,600</u>	<u>0.00</u>
Total	-\$6,015,900	- 73.50	\$4,931,300	48.75

9. Delete the Governor's recommended statutory language changes. Place \$2,589,100 GPR and in 2007-08 and \$7,837,400 GPR in 2008-09 associated with GPS monitoring into the Joint Committee on Finance's supplemental appropriation. Direct the Department of Corrections to submit a request by December 1, 2007, which would identify the estimated funding and positions needed to operate the program with the Department contracting for GPS monitoring services.

10. In addition to any of the above alternatives, adopt the provisions from the companion bills Senate Bill 103 and Assembly Bill 209 related to: (a) reconciling the offenses of first-degree sexual assault and engaging in repeated acts of sexual assault against the same child; (b) modifying the definition of "sexual intercourse;" and (c) modifying the definition of a "serious child sex offense," as a result of reconciling the other offenses.

11. Delete provision.

ALT 11	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$10,426,500	- 122.25	\$0	0.00
PR	<u>- 520,700</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>
Total	-\$10,947,200	- 122.25	\$0	0.00

Prepared by: Chris Carmichael

ATTACHMENT 1

Current Law - Inconsistent Statutory Provisions

First Degree Sexual Assault

Act 430

Act 437

• s.948.02(1)(a) In this subsection, "sexual intercourse" means vulvar penetration as well as cunnilingus fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

• s.948.02(1)(intro.) Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years is guilty of one of the following: • s.948.02(1)(a) If the sexual contact or sexual intercourse resulted in great bodily harm to the person, a Class A felony.

• s.948.02(1)(b) Whoever has sexual intercourse with a person who has not attained the age of 12 years is guilty of a Class B felony.

• s.948.02(1)(b) If the sexual contact or sexual intercourse did not result in great bodily harm to the person, a Class B felony.

• s.948.02(1)(c) Whoever has sexual intercourse with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony.

• s.948.02(1)(d) Whoever has sexual contact with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony if the actor is at least 18 years of age when the sexual contact occurs.

• s.948.02(1)(e) Whoever has sexual contact with a person who has not attained the age of 13 years is guilty of a Class B felony.

Engaging in Repeated Acts

Act 430

Act 437

• s.948.025(1)Whoever commits 3 or more violations under s.948.02(1) or (2) within a specified period of time involving the same child is guilty of:

• s.948.025(1) Whoever commits 3 or more violations under s.948.02(1) or (2) within a specified period of time involving the same child is guilty of:

• s.948.025(1)(a) A Class B felony if at least 3 of the violations were s.948.02(1)(b) or (c).

• s.948.025(1)(ag) A Class A felony if at least 3 of the violations were s.948.02(1)(a).

• s.948.025(1)(ag) A Class B felony if at least 3 of the violations were s.948.02(1)(b),(c) or (d), but fewer than 3 were violations of s.948.02(1)(b) or (c).

• s.948.025(1)(ar) A Class B felony if fewer than 3 of the violations were violations of s.948.02(1)(a) but at least 3 were violations of s.948.02(1)(a) or (b).

• s.948.025(1)(ar) A Class B felony if at least 3 of the violations were s.948.02(1)(b),(c), (d) or (e), but fewer than 3 were violations of s.948.02(1)(b), (c) or (d).

"Serious Child Sex Offense"

Act 431

• s.301.48(1)(g) "Sexual intercourse" means vulvar penetration as well as cunnilingus fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

• s.301.48(1)(e)1. Violation of, or solicitation, conspiracy, or attempt to engage in conduct in violation of s.948.02(1)(b), (c), or (d) or 948.025(1)(a) or (ag).

• s.301.48(1)(e)2. Under the 2003 statutes, a violation of, or solicitation, conspiracy, or attempt to engage in conduct in violation of s.948.02(1) or (2) or 948.025(1) if any of the following apply:

a. The actor has sexual intercourse with a person under the age of 12 years; b. the actor has sexual intercourse with a person under 16 years by use or threat of force or violence; or c. the actor has sexual contact with a person under 16 years by use or threat of force or violence and the actor is at least 18 years of age when the contact occurs.

Special Committee on Review of Crimes Against Children Recommendation

Reconciliation Bills

First Degree Sexual Assault

• Definition of sexual intercourse provided in Act 430 is repealed. Prior law definition would apply under Chapter 948: vulvar penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

• s.948.02(1)(am) Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years and causes great bodily harm to the person is guilty of a Class A felony.

• s.948.02(1)(b) Whoever has sexual intercourse with a person who has not attained the age of 12 years is guilty of a Class B felony.

• s.948.02(1)(c) Whoever has sexual intercourse with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony.

• s.948.02(1)(d) Whoever has sexual contact with a person who has not attained the age of 16 years by use of force or violence is guilty of a Class B felony if the actor is at least 18 years of age when the sexual contact occurs.

• s.948.02(1)(e) Whoever has sexual contact with a person who has not attained the age of 13 years is guilty of a Class B felony.

Engaging in Repeated Acts

• s.948.025(1) Whoever commits 3 or more violations under s.948.02(1) or (2) within a specified period of time involving the same child is guilty of:

• s.948.025(1)(a) A Class A felony if at least 3 of the violations were s.948.02(1)(am).

• s.948.025(1)(b) A Class B felony if at least 3 of the violations were s.948.02(1)(am), (b), or (c).

• s.948.025(1)(c) A Class B felony if at least 3 of the violations were s.948.02(1)(am), (b), (c), or (d).

• s.948.025(1)(d) A Class B felony if at least 3 of the violations were s.948.02(1).

• s.948.025(1)(e) A Class C felony if at least 3 of the violations were s.948.02(1) or (2).

"Serious Child Sex Offense"

• s.301.48(1)(g) "Sexual intercourse" means vulvar penetration as well as cunnilingus fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required. *[Definition applicable solely for purpose of GPS tracking.]*

• s.301.48(1)(e)1. Violation of, or solicitation, conspiracy, or attempt to engage in conduct in violation of s.948.02(1)(am) or (d) or s.948.025(1)(a).

• s.301.48(1)(e)1m. Violation of, or solicitation, conspiracy, or attempt to engage in conduct in violation of s.948.02(1)(b) or (c) or 948.025(1)(b) or (c) if the offense involved sexual intercourse.

• s.301.48(1)(e)2. Under the 2003 statutes, a violation of, or solicitation, conspiracy, or attempt to engage in conduct in violation of s.948.02(1) or (2) or 948.025(1) if any of the following apply:

• s.301.48(1)(e)2. Under the 2003 statutes, a violation of, or solicitation, conspiracy, or attempt to engage in conduct in violation of s.948.02(1) or (2) or 948.025(1) if any of the following apply:

a. The actor has sexual intercourse with a person under the age of 12 years; b. the actor has sexual intercourse with a person under 16 years by use or threat of force or violence; c. the actor has sexual contact with a person under 16 years by use or threat of force or violence and the actor is at least 18 years of age when the contact occurs; or d. the actor has sexual contact or sexual intercourse with a person under 13 years and causes great bodily harm.

ATTACHMENT 2

Statutory Provisions for GPS Tracking under Current Law and Senate Bill 40

Current Law		Senate Bill 40
Definitions		
Global positioning system tracking	Tracking using a system that actively monitors and identifies a person's location and timely reports or records that person's presence near or at a crime scene or in an exclusion zone or person's departure from an inclusion zone.	Tracking using a system that can monitor, identify, and record a person's location and that records that person's presence near or at a crime scene or in an exclusion zone or person's departure from an inclusion zone.
Lifetime tracking	GPS tracking required for a person for the remainder of the person's life or until terminated by petition.	Provision deleted.
Passive positioning system tracking	Tracking using a system that monitors, identifies, and records a person's location.	Provision deleted.
Exclusion zone	A zone in which the tracked individual is prohibited from entering except for purposes of traveling through to get to another destination.	No change.
Inclusion zone	A zone in which the tracked individual is prohibited from leaving.	No change.
Serious child sex offense	A violation of, or solicitation, conspiracy, or attempt to engage in conduct in violation of: (1) s. 948.02(1)(b), (c), or (d) or s. 948.025(1)(a) or (ag); or (2) under the 2003 statutes, s. 948.02(1) or (2) or s. 948.025(1), if any of the following apply: (i) the actor has sexual intercourse with a person under the age of 12; (ii) the actor has sexual intercourse with a person under the age of 16 by use or threat of force or violence; or (iii) the actor has sexual contact with a person who is under 16 by use or threat of force of violence and the actor is under the age of 18.	No change.
Sexual intercourse	Vulvar penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.	No change.

Senate Bill 40		
Effective Date	Current Law	January 1, 2008
Who is Covered	<p>July 1, 2007</p> <p>1. The Department of Corrections (DOC) must maintain lifetime tracking of a person, on or after July 1, 2007, if:</p> <ul style="list-style-type: none"> a. A court places the person on probation for committing a serious child sex offense. b. DOC releases the person to extended supervision or parole while the person is serving a sentence for committing a serious child sex offense. c. DOC releases the person from prison upon the completion of a sentence imposed for a serious child sex offense. <p>For the individuals under a., b., or c. above, DOC may utilize passive positioning system tracking instead of GPS tracking when the person completes his or her sentence. Further, these individuals are eligible for termination of tracking through petition (petition for termination provisions are described below).</p> <p>2. DOC must maintain lifetime tracking of a person, on or after July 1, 2007, if:</p> <ul style="list-style-type: none"> a. A court that found the person not guilty of a serious child sex offense by reason of mental disease or mental defect places the person on conditional release under Chapter 971. b. A court that found the person not guilty of a serious child sex offense by reason of mental disease or mental defect discharges the person from commitment under Chapter 971. <p>For the individuals under a. or b. above, DOC cannot utilize passive positioning system tracking and must maintain GPS tracking for monitoring the individual. These individuals are eligible for termination of tracking through petition.</p> <p>3. DOC must maintain lifetime tracking of a person, on or after July 1, 2007, if:</p> <ul style="list-style-type: none"> a. A court places the person on supervised release. b. A court discharges the person from commitment under Chapter 980. <p>For the individuals under a. or b. above, DOC cannot utilize passive positioning system tracking and must maintain GPS tracking for monitoring the individual. Further, these individuals are eligible for termination of tracking through petition.</p>	<p>1. Reference to "lifetime" tracking deleted. Effective date is modified to January 1, 2008.</p> <ul style="list-style-type: none"> a. Provision deleted. b. No change. c. Provision deleted. <p>The provision related to passive positioning tracking would no longer be applicable, since the section on passive positioning tracking is deleted.</p> <p>2. Reference to "lifetime" tracking deleted. Effective date is modified to January 1, 2008.</p> <ul style="list-style-type: none"> a. No change. b. Provision deleted. <p>The provision related to passive positioning tracking would no longer be applicable, since the section on passive positioning tracking is deleted.</p> <p>3. Reference to "lifetime" tracking deleted. Effective date is modified to January 1, 2008.</p> <ul style="list-style-type: none"> a. No change. b. Provision deleted. <p>The provision related to passive positioning tracking would no longer be applicable, since the section on passive positioning tracking is deleted.</p>

Current Law		Senate Bill 40
<p>4. The Department of Health and Family Services (DHFS) places the person on parole or discharges the person under Chapter 975, if the person's commitment was based on the commission of a serious child sex offense.</p> <p>5. DOC must have person tracked using GPS if both of the following apply:</p> <p>a. The person was convicted under federal law or the law of another state of a comparable crime to a serious child sex offense or was found not guilty or not responsible for such a crime by reason of mental disease or defect; and</p> <p>b. The person resides in Wisconsin, is employed or carrying on a vocation, or a student.</p> <p>6. DOC may have a person tracked using GPS if, on or after July 1, 2007, the person is placed on probation, extended supervision, or parole for committing a sex offense not defined as a serious child sex offense.</p>	<p>4. The provision related to the person being discharged is deleted.</p> <p>5. No change</p> <p>a. No change</p> <p>b. Replaces provision with requirement that the person begins supervision by DOC on or after January 1, 2008 under interstate compact.</p> <p>6. Modifies effective date. Deletes reference to probation. Adds reference to lifetime supervision.</p> <p>7. Includes new provision requiring individuals subject to lifetime supervision for a serious child sex offense be tracked by GPS.</p>	<p>4. The provision related to the person being discharged is deleted.</p> <p>5. No change</p> <p>a. No change</p> <p>b. Replaces provision with requirement that the person begins supervision by DOC on or after January 1, 2008 under interstate compact.</p> <p>6. Modifies effective date. Deletes reference to probation. Adds reference to lifetime supervision.</p> <p>7. Includes new provision requiring individuals subject to lifetime supervision for a serious child sex offense be tracked by GPS.</p>
<p>Departmental Duties</p> <p>DOC must implement a continuous GPS system to electronically monitor the whereabouts of tracked individuals.</p> <p>The GPS system must use field monitoring equipment that supports cellular communications with as large a coverage area as possible and shall automatically provide instantaneous or nearly instantaneous information regarding the individual's whereabouts.</p> <p>The GPS system must use land line communications equipment to transmit information regarding the location of tracked individuals when they are in areas in which no commercial cellular service is available.</p> <p>The system must immediately alert DOC and local law enforcement if the person stays in an exclusion zone too long or leaves an inclusion zone.</p> <p>DOC must contract with a vendor using a competitive process to provide GPS tracking and passive positioning system tracking services.</p> <p>DOC must create individualized exclusion and inclusion zones for the person, if necessary to protect public safety.</p>	<p>No change.</p> <p>Replaces phrase "shall automatically provide" with "allows."</p> <p>No change.</p> <p>The system must allow DOC and local law enforcement to receive an immediate alert if the person stays in an exclusion zone too long or leaves an inclusion zone.</p> <p>Deletes reference to passive positioning system tracking.</p> <p>No change.</p>	<p>No change.</p> <p>Replaces phrase "shall automatically provide" with "allows."</p> <p>No change.</p> <p>The system must allow DOC and local law enforcement to receive an immediate alert if the person stays in an exclusion zone too long or leaves an inclusion zone.</p> <p>Deletes reference to passive positioning system tracking.</p> <p>No change.</p>

Current Law		Senate Bill 40
	<p>In creating exclusion zones, the Department must focus on areas where children congregate, with perimeters of 100 to 250 feet, and on areas where the person has been prohibited from going as a condition of probation, extended supervision, parole, conditional release, or supervision release.</p> <p>If the person is on supervised release or conditional release, DOC must notify DHFS, upon request, of any tracking information if: (a) DOC has been alerted to person improperly staying in an exclusion zone or leaving an inclusion zone; or (b) the tracked individuals fails to make any required payments to DOC.</p>	<p>Deletes the words "with perimeters of 100 to 250 feet" and "probation." Adds reference to lifetime supervision.</p> <p>No change.</p>
Costs	<p>For each individual tracked, DOC must determine all the following: (a) the cost of GPS tracking or passive positioning system tracking of the individual; and (b) how much the individual is able to pay. DOC may require the individual to pay costs.</p> <p>DHFS must pay the tracking costs of individuals on conditional or supervised release to the extent costs are not covered by the individual's payments.</p> <p>In determining a person's ability to pay, DOC may consider any of the following: (a) person's financial resources; (b) present and future earning ability of person; (c) the needs and earning ability of person's dependents; (d) any other required costs required of the person from DOC or DHFS; or (e) any other factors DOC considers appropriate.</p>	<p>Deletes reference to passive positioning system tracking. Add language that any collected monies for costs be deposited into the DOC appropriation for GPS tracking fees.</p> <p>Adds language that any collected monies for costs be deposited into the DOC appropriation for GPS tracking fees.</p> <p>No change.</p>
Offender's Petition to Terminate Tracking	<p>Individuals who are eligible to petition for termination of lifetime tracking (see above section on who is covered) may file a petition with the circuit court in the county in which the person was convicted or found not guilty or not responsible by reason or mental disease or defect. The person may not file a petition earlier than 20 years after the date on which lifetime tracking began.</p> <p>The court must send a copy of the petition to the district attorney, who must conduct a criminal history record search to determine whether the petitioner has been convicted of a crime while on lifetime tracking. No later than 30 days after receiving a copy of the petition, the district attorney must report the criminal search results to the court and provide a written response to the petition.</p> <p>If the person was convicted of any crime while on lifetime tracking, the court will deny the petition without a hearing. If there are no convictions, the court will: (a) notify DOC of the petition; (b) schedule a hearing on the petition; and (c) order the person to be examined by a court-approved physician or psychologist. The physician or psychologist must file a report within 60 days after the examination that includes an opinion of whether the person is a danger to the public. The contents of the report will be confidential until the physician or psychologist testifies at the petition hearing. The petitioner must pay the costs for the examination.</p>	<p>Deletes all references to "lifetime" tracking.</p>

Current Law

Senate Bill 40

Upon notice of the petition and hearing, DOC may submit a report including information on the person's conduct while on lifetime tracking and an opinion as to whether tracking is still necessary to protect the public.

At the hearing, the court will take evidence it considers relevant to determining whether the individual is a danger to the public. The court may grant the petition if it determines tracking is no longer necessary to protect the public. If the petition is denied, the individual may not file a subsequent petition until at least five years have passed since the most recent petition was denied.

Department's Petition to Terminate Tracking

DOC may file a petition requesting termination of lifetime tracking if the person is permanently physically incapacitated. The petition must include affidavits from two physicians that explain the nature of the person's permanent physical incapacitation.

DOC must file the petition with the circuit court in the county where the person was convicted, found not guilty or not responsible by reason of mental disease or defect, or found to be a sexually violent person.

The court may order the person be examined by a court-approved physician, who must file a report within 60 days of the examination that includes his or her opinion of whether the person is permanently physically incapacitated. The contents of the report will be confidential until the physician testifies at the petition hearing. DOC must pay the costs for the examination.

At the hearing, the court will take evidence it considers relevant to determining whether the individual is permanently physically incapacitated so that he or she is not a danger to the public. The court may grant the petition if it determines that the individual is permanently physically incapacitated so that he or she is not a danger to the public.

Department's Termination of Tracking

DOC may terminate a person's lifetime tracking after 10 years if the victim of the serious child sex offense for which the person is being tracked is a relative of the tracked individual. Relative includes a child, brother, sister, first cousin, second cousin, nephew, niece, grandchild, or great grandchild, or any other person related by blood, marriage, or adoption.

Deletes references to permanently physically incapacitated. Instead, provides that DOC may file a petition requesting termination of GPS tracking if DOC determines that tracking is no longer necessary to protect the public.

No change.

Provides that the examination may also be conducted by a psychologist. Deletes the requirement of permanent physical incapacity. Instead, the physician or psychologist will make a finding of whether the person is still a danger to the public.

Deletes the requirement of permanent physical incapacity.

Provides that if a person is subject to being tracked under s.301.48, and the victim of the serious child sex offense for which the person is being tracked is a relative of the person, DOC may decide not to track the person, if DOC determines the person would not be a danger to the public if not tracked.