

# 30:4-123.89

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007                    **CHAPTER:** 128  
**NJSA:** 30:4-123.89    (Establishes sex offender monitoring program)  
**BILL NO:** S484                    (Substituted for A1716)  
**SPONSOR(S):** Sweeney and others

**DATE INTRODUCED:** January 10, 2006

**COMMITTEE:**                    **ASSEMBLY:**  
**SENATE:** Law and Public Safety and Veterans' Affairs;  
Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** June 21, 2007  
**SENATE:** June 21, 2007

**DATE OF APPROVAL:** August 6, 2007

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (First reprint enacted)

**S484**

**[SPONSOR'S STATEMENT:](#)** (Begins on page 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes [L & PS & VA](#)  
[6-7-07](#)  
[Budget and Approp](#)  
[6-14-07](#)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL NOTE:** No

**A1716**

**[SPONSOR'S STATEMENT:](#)** (Begins on page 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** [Yes](#)

**SENATE:** No

**[FLOOR AMENDMENT STATEMENT:](#)** [Yes](#)

**[LEGISLATIVE FISCAL NOTE:](#)** [Yes](#)

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

IS 4/22/08

P.L. 2007, CHAPTER 128, *approved August 6, 2007*  
Senate, No. 484 (*First Reprint*)

1 AN ACT concerning the monitoring of certain sex offenders,  
2 supplementing Title 30 of the Revised Statutes, 'and' repealing  
3 sections 1 through 8 of P.L.2005, c.189 '[and making an  
4 appropriation]'.  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

9 1. This act may be known and shall be cited as the "Sex  
10 Offender Monitoring Act."  
11

12 2. The Legislature finds and declares:

13 a. Offenders who commit serious and violent sex crimes have  
14 demonstrated high recidivism rates and, according to some studies,  
15 are four to five times more likely to commit a new sex offense than  
16 those without such prior convictions, thereby posing an  
17 unacceptable level of risk to the community.

18 b. Intensive supervision of serious and violent sex offenders is a  
19 crucial element in both the rehabilitation of the released inmate and  
20 the safety of the surrounding community.

21 c. Technological solutions currently exist to provide improved  
22 supervision and behavioral control of sex offenders following their  
23 release.

24 d. These solutions also provide law enforcement and correctional  
25 professionals with new tools for electronic correlation of the  
26 constantly updated geographic location of supervised sex offenders  
27 following their release with the geographic location of reported  
28 crimes, to possibly link released offenders to crimes or to exclude  
29 them from ongoing criminal investigations.

30 e. Continuous 24 hours per day, seven days per week, monitoring  
31 is a valuable and reasonable requirement for those offenders who  
32 are determined to be a high risk to reoffend, were previously  
33 committed as sexually violent predators and conditionally  
34 discharged, or received or are serving a special sentence of  
35 community or parole supervision for life. A program to monitor  
36 these sex offenders should be established.

37

38 3. a. As used in this act:

39 "Chairman" means the Chairman of the State Parole Board.

40 "Monitored subject" means:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLP committee amendments adopted June 7, 2007.

- 1 (1) a person whose risk of reoffense has been determined to be  
2 high pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8); and
- 3 (2) a person who the chairman deems appropriate for continuous  
4 satellite-based monitoring pursuant to the provisions of this act and  
5 who:
- 6 (a) was subject to civil commitment as a "sexually violent  
7 predator" in accordance with the provisions of P.L.1998, c.71  
8 (C.30:4-27.24 et seq.) and has been conditionally discharged or  
9 discharged pursuant to section 13 of P.L.1998, c.71 (C.30:4-27.36);
- 10 (b) has been sentenced to a term of community or parole  
11 supervision for life pursuant to section 2 of P.L.1994, c.130  
12 (C.2C:43-6.4); or
- 13 (c) has been convicted of or adjudicated delinquent for a sex  
14 offense enumerated in subsection b. of section 2 of P.L.1994, c. 133  
15 (C.2C:7-2) and the victim of the offense was under 18 years of age  
16 or 60 years of age or older, regardless of the date of conviction.
- 17 b. In addition to those offenders whose risk of reoffense has  
18 been determined to be high pursuant to section 3 of P.L.1994, c.128  
19 (C.2C:7-8), the chairman, in exercising his discretion in  
20 determining subjects to monitor through time correlated or  
21 continuous tracking of their geographic location under the program  
22 authorized by this act, shall consider the risk to the public posed by  
23 the subject, based on relevant risk factors such as the seriousness of  
24 the offense, the age of the victim or victims, the degree of force and  
25 contact, and any other factors the chairman deems appropriate.  
26 Time correlated or continuous tracking of the offender's geographic  
27 location shall not be provided during the time a monitored subject is  
28 in custody due to arrest, incarceration or civil commitment.
- 29 c. Nothing in this act shall be construed to preclude a judge  
30 from ordering time correlated or continuous tracking of the person's  
31 geographic location or other electronic monitoring as a condition of  
32 discharge of a person committed pursuant to P.L.1998, c.71  
33 (C.30:4-27.24 et seq.), or as a condition or requirement of  
34 supervision for any other person sentenced pursuant to N.J.S.2C:45-  
35 1 or sentenced to a term of community or parole supervision for life  
36 pursuant to section 2 of P.L. 1994, c. 130 (C.2C:43-6.4).
- 37
- 38 4. a. The chairman, in consultation with the Attorney General,  
39 shall establish a program for the continuous, satellite-based  
40 monitoring of sex offenders in this State. The system shall provide  
41 for the capability of active and passive monitoring, or a  
42 combination of both.
- 43 b. The monitoring system, at a minimum, shall provide:
- 44 (1) Time-correlated or continuous tracking of the geographic  
45 location of the monitored subject using a global positioning system  
46 based on satellite and other location technology; and
- 47 (2) An automated monitoring system that can be used to permit  
48 law enforcement agencies to compare the geographic positions of

1 monitored subjects with reported crime incidents and whether the  
2 subject was in the proximity of such reported crime incidents.

3 c. The State Parole Board shall develop procedures to determine,  
4 investigate, and report on a 24 hours per day basis a monitored  
5 subject's noncompliance with the terms and conditions of the  
6 program. All reports of noncompliance shall be investigated  
7 immediately by a parole or law enforcement officer.

8 d. The chairman may promulgate guidelines to effectuate the  
9 provisions of this act.

10

11 5. Notwithstanding any provision of law, rule or regulation to  
12 the contrary, the chairman, Attorney General, Superintendent of  
13 State Police and, federal, State, county and municipal law  
14 enforcement agencies may share criminal incident information with  
15 each other and the vendor selected by the chairman to provide the  
16 monitoring equipment for the program. The chairman may direct  
17 the vendor to use data obtained pursuant to this act in preparing  
18 correlation reports for distribution and use by federal, State, county  
19 and municipal law enforcement agencies.

20

21 6. A person who is monitored under the program established  
22 pursuant to this act and who fails to comply with its requirements is  
23 guilty of a crime of the third degree. Nothing in this act shall be  
24 construed to preclude a person who violates any condition of a  
25 special sentence of community or parole supervision for life from  
26 being subjected to the provisions of sections 16 through 19 and 21  
27 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-  
28 123.65) pursuant to the provisions of subsection c. of section 3 of  
29 P.L.1997, c.117 (C.30:4-123.51b).

30 Nothing in this act shall be construed to preclude a person on  
31 conditional discharge pursuant to P.L.1998, c. 71 (C.30:4-27.24 et  
32 seq.) who violates any condition of discharge imposed by the  
33 court from being subjected to the provisions of paragraph (3) of  
34 subsection c. of section 9 of P.L.1998, c.71 (C.30:4-27.32).

35

36 '7. Any person who tampers with, removes or vandalizes a  
37 device worn or utilized by a monitored subject pursuant to this act  
38 is guilty of a crime of the third degree.'  
39

40

41 '[7.] 8.' Sections 1 through 8 of P.L.2005, c.189 (C.30:4-  
42 123.80 et seq.) are hereby repealed.

43

44 '[8. There is appropriated from the General Fund to the State  
45 Parole Board the amounts necessary to implement the provisions of  
46 this act.]'

47

9. This act shall take effect '[upon the expiration of sections 1

1 through 9 of P.L.2005, c.189] immediately<sup>1</sup>.

2

3

4

5

6 Establishes sex offender monitoring program.

# SENATE, No. 484

## STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senators Littell and Buono**

**SYNOPSIS**

Makes permanent sex offender monitoring pilot program.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 11/14/2006)**

1 AN ACT concerning the monitoring of certain sex offenders,  
2 supplementing Title 30 of the Revised Statutes, repealing  
3 sections 1 through 8 of P.L.2005, c.189 and making an  
4 appropriation.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7 *of New Jersey:*

8

9 1. This act may be known and shall be cited as the "Sex  
10 Offender Monitoring Act."

11

12 2. The Legislature finds and declares:

13 a. Offenders who commit serious and violent sex crimes have  
14 demonstrated high recidivism rates and, according to some studies,  
15 are four to five times more likely to commit a new sex offense than  
16 those without such prior convictions, thereby posing an  
17 unacceptable level of risk to the community.

18 b. Intensive supervision of serious and violent sex offenders is a  
19 crucial element in both the rehabilitation of the released inmate and  
20 the safety of the surrounding community.

21 c. Technological solutions currently exist to provide improved  
22 supervision and behavioral control of sex offenders following their  
23 release.

24 d. These solutions also provide law enforcement and correctional  
25 professionals with new tools for electronic correlation of the  
26 constantly updated geographic location of supervised sex offenders  
27 following their release with the geographic location of reported  
28 crimes, to possibly link released offenders to crimes or to exclude  
29 them from ongoing criminal investigations.

30 e. Continuous 24 hours per day, seven days per week, monitoring  
31 is a valuable and reasonable requirement for those offenders who  
32 are determined to be a high risk to reoffend, were previously  
33 committed as sexually violent predators and conditionally  
34 discharged, or received or are serving a special sentence of  
35 community or parole supervision for life. A program to monitor  
36 these sex offenders should be established.

37

38 3. a. As used in this act:

39 "Chairman" means the Chairman of the State Parole Board.

40 "Monitored subject" means:

41 (1) a person whose risk of reoffense has been determined to be  
42 high pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8); and

43 (2) a person who the chairman deems appropriate for continuous  
44 satellite-based monitoring pursuant to the provisions of this act and  
45 who:

46 (a) was subject to civil commitment as a "sexually violent  
47 predator" in accordance with the provisions of P.L.1998, c.71



- 1 (C.30:4-27.24 et seq.) and has been conditionally discharged or  
2 discharged pursuant to section 13 of P.L.1998, c.71 (C.30:4-27.36);
- 3 (b) has been sentenced to a term of community or parole  
4 supervision for life pursuant to section 2 of P.L.1994, c.130  
5 (C.2C:43-6.4); or
- 6 (c) has been convicted of or adjudicated delinquent for a sex  
7 offense enumerated in subsection b. of section 2 of P.L.1994, c. 133  
8 (C.2C:7-2) and the victim of the offense was under 18 years of age  
9 or 60 years of age or older, regardless of the date of conviction.
- 10 b. In addition to those offenders whose risk of reoffense has  
11 been determined to be high pursuant to section 3 of P.L.1994, c.128  
12 (C.2C:7-8), the chairman, in exercising his discretion in  
13 determining subjects to monitor through time correlated or  
14 continuous tracking of their geographic location under the program  
15 authorized by this act, shall consider the risk to the public posed by  
16 the subject, based on relevant risk factors such as the seriousness of  
17 the offense, the age of the victim or victims, the degree of force and  
18 contact, and any other factors the chairman deems appropriate.  
19 Time correlated or continuous tracking of the offender's geographic  
20 location shall not be provided during the time a monitored subject is  
21 in custody due to arrest, incarceration or civil commitment.
- 22 c. Nothing in this act shall be construed to preclude a judge  
23 from ordering time correlated or continuous tracking of the person's  
24 geographic location or other electronic monitoring as a condition of  
25 discharge of a person committed pursuant to P.L.1998, c.71  
26 (C.30:4-27.24 et seq.), or as a condition or requirement of  
27 supervision for any other person sentenced pursuant to N.J.S.2C:45-  
28 1 or sentenced to a term of community or parole supervision for life  
29 pursuant to section 2 of P.L. 1994, c. 130 (2C:43-6.4).
- 30
- 31 4. a. The chairman, in consultation with the Attorney General,  
32 shall establish a program for the continuous, satellite-based  
33 monitoring of sex offenders in this State. The system shall provide  
34 for the capability of active and passive monitoring, or a  
35 combination of both.
- 36 b. The monitoring system, at a minimum, shall provide:
- 37 (1) Time-correlated or continuous tracking of the geographic  
38 location of the monitored subject using a global positioning system  
39 based on satellite and other location technology; and
- 40 (2) An automated monitoring system that can be used to permit  
41 law enforcement agencies to compare the geographic positions of  
42 monitored subjects with reported crime incidents and whether the  
43 subject was in the proximity of such reported crime incidents.
- 44 c. The State Parole Board shall develop procedures to determine,  
45 investigate, and report on a 24 hours per day basis a monitored  
46 subject's noncompliance with the terms and conditions of the  
47 program. All reports of noncompliance shall be investigated  
48 immediately by a parole or law enforcement officer.

1 d. The chairman may promulgate guidelines to effectuate the  
2 provisions of this act.

3  
4 5. Notwithstanding any provision of law, rule or regulation to  
5 the contrary, the chairman, Attorney General, Superintendent of  
6 State Police and, federal, State, county and municipal law  
7 enforcement agencies may share criminal incident information with  
8 each other and the vendor selected by the chairman to provide the  
9 monitoring equipment for the program. The chairman may direct  
10 the vendor to use data obtained pursuant to this act in preparing  
11 correlation reports for distribution and use by federal, State, county  
12 and municipal law enforcement agencies.

13  
14 6. A person who is monitored under the program established  
15 pursuant to this act and who fails to comply with its requirements is  
16 guilty of a crime of the third degree. Nothing in this act shall be  
17 construed to preclude a person who violates any condition of a  
18 special sentence of community or parole supervision for life from  
19 being subjected to the provisions of sections 16 through 19 and 21  
20 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-  
21 123.65) pursuant to the provisions of subsection c. of section 3 of  
22 P.L.1997, c.117 (C.30:4-123.51b).

23 Nothing in this act shall be construed to preclude a person on  
24 conditional discharge pursuant to P.L.1998, c. 71 (C.30:4-27.24 et  
25 seq.) who violates any condition of discharge imposed by the  
26 court from being subjected to the provisions of paragraph (3) of  
27 subsection c. of section 9 of P.L.1998, c.71 (C.30:4-27.32).

28  
29 7. Sections 1 through 8 of P.L.2005, c.189 (C.30:4-123.80 et  
30 seq.) are hereby repealed.

31  
32 8. There is appropriated from the General Fund to the State  
33 Parole Board the amounts necessary to implement the provisions of  
34 this act.

35  
36 9. This act shall take effect upon the expiration of sections 1  
37 through 9 of P.L.2005, c.189.

38  
39

40 STATEMENT

41  
42 P.L.2005, c.189 (C.30:4-123.80 et seq.) requires the Chairman  
43 of the State Parole Board, in consultation with the Attorney  
44 General, to establish a two-year pilot program for the continuous,  
45 satellite based monitoring of high risk sex offenders, as well as  
46 certain other sex offenders deemed appropriate for monitoring.  
47 Under this law, the monitoring system is to provide for the

**S484 SWEENEY, MADDEN**

5

1 capability of active and passive monitoring of up to 250 sex  
2 offenders.

3 This bill would make the pilot program established by P.L.2005,  
4 c.189 (C.30:4-123.81 et seq.) a permanent program to monitor these  
5 sex offenders. The bill would take effect upon the expiration of the  
6 two-year pilot program.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 484**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 7, 2007

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 484.

P.L.2005, c.189 (C.30:4-123.80 et seq.) established a two-year pilot program for continuous, satellite-based monitoring of high risk sex offenders and to require certain sex offenders to submit to an annual polygraph examination. This monitoring system was to provide for the capability of active and passive monitoring of up to 250 sex offenders. As amended and reported by the committee, this bill establishes a permanent sex offender monitoring program.

Offenders selected for the monitoring program would be: (1) those whose risk of reoffense has been determined to be high pursuant to section 3 or P.L.1994, c.128 (C.2C:7-8); and (2) those deemed by the chairman to be appropriate for continuous satellite-based monitoring and who (a) were subject to civil commitment as a "sexually violent predator" and have been conditionally discharged or discharged; (b) have been sentenced to a term of community or parole supervision for life; or (c) have been convicted of or adjudicated delinquent for a sex offense and the victim was under age 18 or over age 60, regardless of the date of conviction.

The provisions of this bill do not preclude a judge from ordering electronic monitoring as a condition of discharge of a person committed as a sexually violent predator, or from ordering time correlated or continuous tracking of the offender's geographic location as a condition or requirement of supervision, release or discharge for any other person subject to probation or parole supervision.

The bill provides that the sex offender monitoring program would provide: (1) time-correlated or continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location technology; and (2) an automated monitoring system that permits law enforcement

agencies to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was in the proximity of such reported crime incidents.

The bill requires the State Parole Board to develop procedures to determine, investigate, and report on a 24 hours per day basis a monitored subject's noncompliance with the terms and conditions of the program.

The bill provides that the chairman, Attorney General, Superintendent of State Police and State, county and municipal law enforcement agencies would be permitted to share criminal incident information with each other and the vendor selected by the commissioner to provide the monitoring equipment for the program. The chairman may direct the vendor to use data obtained in preparing correlation reports for distribution and use by State, county, municipal and federal law enforcement agencies.

A monitored subject who fails to comply with the bill's requirements would be guilty of a crime of the third degree. As amended, the bill provides that any person who tampers with, removes or vandalizes a device worn or utilized by a monitored subject is guilty of a crime of the third degree; this provision was included in P.L.2005, c. 189 which established the pilot program.

The committee amendments also provide that the bill would take effect immediately; as introduced the bill would have been effective upon the expiration of the pilot program. In addition, the amendments remove the appropriation language.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### **SENATE, No. 484**

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 484 (1R).

Senate Bill No. 484 (1R) establishes a permanent sex offender monitoring program. It makes permanent the provisions established in a two-year pilot program for continuous, satellite-based monitoring of high risk sex offenders. The pilot program monitoring system was to provide for the capability of active and passive monitoring of up to 250 sex offenders.

Offenders selected for the monitoring program would be: (1) those whose risk of reoffense has been determined to be high pursuant to section 3 or P.L.1994, c.128 (C.2C:7-8); and (2) those deemed by the Chairman of the State Parole Board to be appropriate for continuous satellite-based monitoring and who (a) were subject to civil commitment as a “sexually violent predator” and have been conditionally discharged or discharged; (b) have been sentenced to a term of community or parole supervision for life; or (c) have been convicted of or adjudicated delinquent for a sex offense and the victim was under age 18 or over age 60, regardless of the date of conviction.

The provisions of this bill do not preclude a judge from ordering electronic monitoring as a condition of discharge of a person committed as a sexually violent predator, or from ordering time correlated or continuous tracking of the offender's geographic location as a condition or requirement of supervision, release or discharge for any other person subject to probation or parole supervision.

The bill provides that the sex offender monitoring program would provide: (1) time-correlated or continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location technology; and (2) an automated monitoring system that permits law enforcement agencies to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was in the proximity of such reported crime incidents.

The bill requires the State Parole Board to develop procedures to

determine, investigate, and report on a 24 hours per day basis a monitored subject's noncompliance with the terms and conditions of the program.

The bill provides that the chairman, Attorney General, Superintendent of State Police and State, county and municipal law enforcement agencies would be permitted to share criminal incident information with each other and the vendor selected by the commissioner to provide the monitoring equipment for the program. The chairman may direct the vendor to use data obtained in preparing correlation reports for distribution and use by State, county, municipal and federal law enforcement agencies.

A monitored subject who fails to comply with the bill's requirements would be guilty of a crime of the third degree. Also, any person who tampers with, removes or vandalizes a device worn or utilized by a monitored subject would be guilty of a crime of the third degree, which criminal offense was also established under the pilot program.

FISCAL IMPACT:

The State Parole Board states that the pilot program spent \$1.139 million in FY 2006 the first year of operation. The FY 2007 adjusted appropriation for the program totals \$3.05 million, of which \$1.15 million is for salaries and \$1.9 million is for non-salary expenses such as equipment and supplies. The Governor's FY 2008 Budget Recommendation proposes \$2.372 million for the program, with \$1.348 million recommended in salaries and \$1.024 million recommended in non-salary costs.

**ASSEMBLY, No. 1716**

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**STATE OF NEW JERSEY**

**212th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**

**Assemblyman DOUGLAS H. FISHER**  
**District 3 (Salem, Cumberland and Gloucester)**  
**Assemblywoman ALISON LITTELL MCHOSE**  
**District 24 (Sussex, Hunterdon and Morris)**  
**Assemblywoman JOAN M. VOSS**  
**District 38 (Bergen)**  
**Assemblyman JOHN J. BURZICHELLI**  
**District 3 (Salem, Cumberland and Gloucester)**  
**Assemblyman LOUIS M. MANZO**  
**District 31 (Hudson)**

**Co-Sponsored by:**

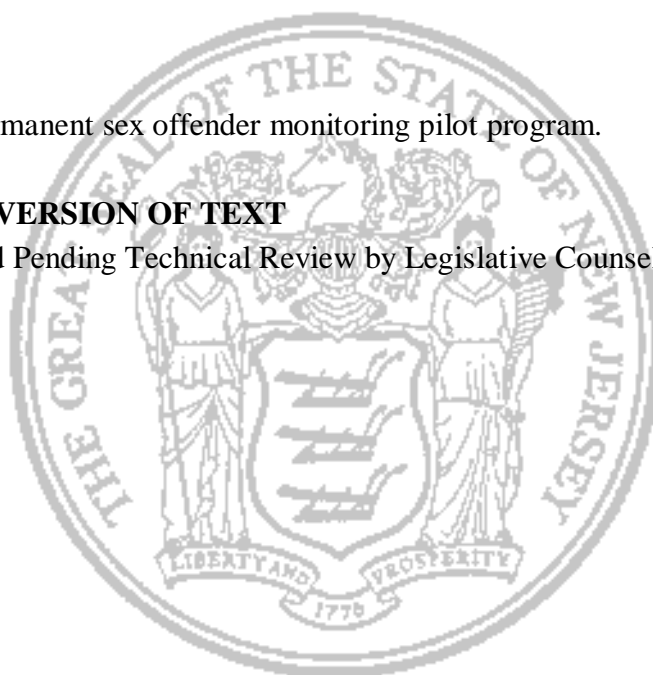
**Assemblyman Connors**

**SYNOPSIS**

Makes permanent sex offender monitoring pilot program.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 5/22/2007)**



1 AN ACT concerning the monitoring of certain sex offenders,  
2 supplementing Title 30 of the Revised Statutes, repealing  
3 sections 1 through 8 of P.L.2005, c.189 and making an  
4 appropriation.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7 *of New Jersey:*

8

9 1. This act may be known and shall be cited as the "Sex  
10 Offender Monitoring Act."

11

12 2. The Legislature finds and declares:

13 a. Offenders who commit serious and violent sex crimes have  
14 demonstrated high recidivism rates and, according to some studies,  
15 are four to five times more likely to commit a new sex offense than  
16 those without such prior convictions, thereby posing an  
17 unacceptable level of risk to the community.

18 b. Intensive supervision of serious and violent sex offenders is a  
19 crucial element in both the rehabilitation of the released inmate and  
20 the safety of the surrounding community.

21 c. Technological solutions currently exist to provide improved  
22 supervision and behavioral control of sex offenders following their  
23 release.

24 d. These solutions also provide law enforcement and correctional  
25 professionals with new tools for electronic correlation of the  
26 constantly updated geographic location of supervised sex offenders  
27 following their release with the geographic location of reported  
28 crimes, to possibly link released offenders to crimes or to exclude  
29 them from ongoing criminal investigations.

30 e. Continuous 24 hours per day, seven days per week, monitoring  
31 is a valuable and reasonable requirement for those offenders who  
32 are determined to be a high risk to reoffend, were previously  
33 committed as sexually violent predators and conditionally  
34 discharged, or received or are serving a special sentence of  
35 community or parole supervision for life. A program to monitor  
36 these sex offenders should be established.

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38 3. a. As used in this act:

39 "Chairman" means the Chairman of the State Parole Board.

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41 (1) a person whose risk of reoffense has been determined to be  
42 high pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8); and

43 (2) a person who the chairman deems appropriate for continuous  
44 satellite-based monitoring pursuant to the provisions of this act and  
45 who:

46 (a) was subject to civil commitment as a "sexually violent  
47 predator" in accordance with the provisions of P.L.1998, c.71  
48 (C.30:4-27.24 et seq.) and has been conditionally discharged or

- 1 discharged pursuant to section 13 of P.L.1998, c.71 (C.30:4-27.36);  
2 (b) has been sentenced to a term of community or parole  
3 supervision for life pursuant to section 2 of P.L.1994, c.130  
4 (C.2C:43-6.4); or  
5 (c) has been convicted of or adjudicated delinquent for a sex  
6 offense enumerated in subsection b. of section 2 of P.L.1994, c. 133  
7 (C.2C:7-2) and the victim of the offense was under 18 years of age  
8 or 60 years of age or older, regardless of the date of conviction.
- 9 b. In addition to those offenders whose risk of reoffense has  
10 been determined to be high pursuant to section 3 of P.L.1994, c.128  
11 (C.2C:7-8), the chairman, in exercising his discretion in  
12 determining subjects to monitor through time correlated or  
13 continuous tracking of their geographic location under the program  
14 authorized by this act, shall consider the risk to the public posed by  
15 the subject, based on relevant risk factors such as the seriousness of  
16 the offense, the age of the victim or victims, the degree of force and  
17 contact, and any other factors the chairman deems appropriate.  
18 Time correlated or continuous tracking of the offender's geographic  
19 location shall not be provided during the time a monitored subject is  
20 in custody due to arrest, incarceration or civil commitment.
- 21 c. Nothing in this act shall be construed to preclude a judge from  
22 ordering time correlated or continuous tracking of the person's  
23 geographic location or other electronic monitoring as a condition of  
24 discharge of a person committed pursuant to P.L.1998, c.71  
25 (C.30:4-27.24 et seq.), or as a condition or requirement of  
26 supervision for any other person sentenced pursuant to N.J.S.2C:45-  
27 1 or sentenced to a term of community or parole supervision for life  
28 pursuant to section 2 of P.L. 1994, c. 130 (2C:43-6.4).  
29
- 30 4. a. The chairman, in consultation with the Attorney General,  
31 shall establish a program for the continuous, satellite-based  
32 monitoring of sex offenders in this State. The system shall provide  
33 for the capability of active and passive monitoring, or a  
34 combination of both.
- 35 b. The monitoring system, at a minimum, shall provide:  
36 (1) Time-correlated or continuous tracking of the geographic  
37 location of the monitored subject using a global positioning system  
38 based on satellite and other location technology; and  
39 (2) An automated monitoring system that can be used to permit  
40 law enforcement agencies to compare the geographic positions of  
41 monitored subjects with reported crime incidents and whether the  
42 subject was in the proximity of such reported crime incidents.
- 43 c. The State Parole Board shall develop procedures to determine,  
44 investigate, and report on a 24 hours per day basis a monitored  
45 subject's noncompliance with the terms and conditions of the  
46 program. All reports of noncompliance shall be investigated  
47 immediately by a parole or law enforcement officer.
- 48 d. The chairman may promulgate guidelines to effectuate the

1 provisions of this act.

2

3 5. Notwithstanding any provision of law, rule or regulation to  
4 the contrary, the chairman, Attorney General, Superintendent of  
5 State Police and, federal, State, county and municipal law  
6 enforcement agencies may share criminal incident information with  
7 each other and the vendor selected by the chairman to provide the  
8 monitoring equipment for the program. The chairman may direct  
9 the vendor to use data obtained pursuant to this act in preparing  
10 correlation reports for distribution and use by federal, State, county  
11 and municipal law enforcement agencies.

12

13 6. A person who is monitored under the program established  
14 pursuant to this act and who fails to comply with its requirements is  
15 guilty of a crime of the third degree. Nothing in this act shall be  
16 construed to preclude a person who violates any condition of a  
17 special sentence of community or parole supervision for life from  
18 being subjected to the provisions of sections 16 through 19 and 21  
19 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-  
20 123.65) pursuant to the provisions of subsection c. of section 3 of  
21 P.L.1997, c.117 (C.30:4-123.51b).

22 Nothing in this act shall be construed to preclude a person on  
23 conditional discharge pursuant to P.L.1998, c. 71 (C.30:4-27.24 et  
24 seq.) who violates any condition of discharge imposed by the court  
25 from being subjected to the provisions of paragraph (3) of  
26 subsection c. of section 9 of P.L.1998, c.71 (C.30:4-27.32).

27

28 7. Sections 1 through 8 of P.L.2005, c.189 (C.30:4-123.80 et  
29 seq.) are hereby repealed.

30

31 8. There is appropriated from the General Fund to the State  
32 Parole Board the amounts necessary to implement the provisions of  
33 this act.

34

35 9. This act shall take effect upon the expiration of sections 1  
36 through 9 of P.L.2005, c.189.

37

38

39

#### STATEMENT

40

41 P.L.2005, c.189 (C.30:4-123.80 et seq.) requires the Chairman  
42 of the State Parole Board, in consultation with the Attorney  
43 General, to establish a two-year pilot program for the continuous,  
44 satellite based monitoring of high risk sex offenders, as well as  
45 certain other sex offenders deemed appropriate for monitoring.  
46 Under this law, the monitoring system is to provide for the  
47 capability of active and passive monitoring of up to 250 sex  
48 offenders.

**A1716 FISHER, MCHOSE**

5

1       This bill would make the pilot program established by P.L.2005,  
2 c.189 (C.30:4-123.81 et seq.) a permanent program to monitor these  
3 sex offenders. The bill would take effect upon the expiration of the  
4 two-year pilot program.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1716**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 21, 2007

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1716.

P.L.2005, c.189 (C.30:4-123.80 et seq.) established a two-year pilot program for continuous, satellite-based monitoring of high risk sex offenders and to require certain sex offenders to submit to an annual polygraph examination. This monitoring system was to provide for the capability of active and passive monitoring of up to 250 sex offenders. This bill would make this pilot program a permanent program. The bill would take effect upon the expiration of the two-year pilot program.

Offenders selected for the monitoring program would be: (1) those whose risk of reoffense has been determined to be high pursuant to N.J.S.2C:7-8; and (2) those deemed by the chairman to be appropriate for continuous satellite-based monitoring and who (a) were subject to civil commitment as a “sexually violent predator” and have been conditionally discharged or discharged; (b) have been sentenced to a term of community or parole supervision for life; or (c) have been convicted of or adjudicated delinquent for a sex offense and the victim was under age 18 or over age 60, regardless of the date of conviction.

The provisions of this bill does not preclude a judge from ordering electronic monitoring as a condition of discharge of a person committed as a sexually violent predator, or from ordering time correlated or continuous tracking of the offender's geographic location as a condition or requirement of supervision, release or discharge for any other person subject to probation or parole supervision.

The bill provides that the permanent sex offender monitoring program would provide: (1) time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location technology; and (2) an automated monitoring system that permits law enforcement agencies to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was in the proximity of such reported crime incidents.

The bill requires the State Parole Board to develop procedures to determine, investigate, and report on a 24 hours per day basis a monitored subject's noncompliance with the terms and conditions of the program.

The bill provides that the chairman, Attorney General, Superintendent of State Police and State, county and municipal law enforcement agencies would be permitted to share criminal incident information, limited to time, place and nature of the crime, with each other and the vendor selected by the commissioner to provide the monitoring equipment for the pilot program. The chairman may direct the vendor to use data obtained in preparing correlation reports for distribution and use by State, county, municipal and federal law enforcement agencies.

A monitored subject who fails to comply with the substitute's requirements would be guilty of a crime of the third degree. As amended, the bill provides that any person who tampers with, removes or vandalizes a device worn or utilized by a monitored subject is guilty of a crime of the third degree.

The committee also amended the effective date to provide that the bill would take effect immediately and be operative as of August 11, 2007, but if enacted after that date shall be retroactive to that date.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### COMMITTEE AMENDMENTS:

1. Insert a new section 7 which would provide that any person who tampers with, removes or vandalizes a device worn or utilized by a monitored subject is guilty of a crime of the third degree. This provision was included in P.L.2005, c. 189 which established the pilot program.

2. The effective date would be amended to provide that the bill takes effect immediately and be operative as of August 11, 2007, but if enacted after that date shall be retroactive to that date, the expiration date of the pilot program.

3. Make other technical amendments to correct internal references.

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 1716**

with Assembly Floor Amendments  
(Proposed By Assemblyman FISHER)

ADOPTED: JUNE 11, 2007

This bill makes the two-year “Sex Offender Monitoring” pilot program a permanent program. This program provides for continuous, satellite-based monitoring of high risk sex offenders.

This floor amendment deletes the language which provided for an appropriation. In addition, this floor amendment amends the effective date to make the bill effective immediately.

These floor amendment would make this bill identical to Senate Bill No.484 (1R).

**FISCAL NOTE**  
[Second Reprint]  
**ASSEMBLY, No. 1716**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JULY 9, 2007

**SUMMARY**

**Synopsis:** Establishes sex offender monitoring program.

**Type of Impact:** General Fund expenditure.

**Agencies Affected:** State Parole Board.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2008</u></b>	<b><u>Fiscal Year 2009</u></b>
<b>State Cost</b>	\$2,372,000	\$2,439,000

- The Office of Legislative Services **concurs** with the Executive estimate but notes that as the population of sex offenders paroled to the program increases, so will the program costs.
- The bill would make permanent the sex offender monitoring program which was originally established as a two-year pilot program under P.L.2005, c.189 (C.30:4-123.80 et seq.). The program provides continuous, satellite-based monitoring of high risk sex offenders and to require certain sex offenders to submit to an annual polygraph examination.
- Information provided by the State Parole Board indicates that the Satellite Based Monitoring of Sex Offenders Pilot Program received an appropriation of \$3 million in FY 2007 of which \$1.15 million is for salaries and \$1.9 million is for non-salary costs. Non-salary costs include both one-time startup items and ongoing equipment rental costs. The FY 2008 Budget recommendation includes an appropriation of \$2.372 million, of which \$1.348 million is for salaries and \$1.024 million is for non-salary costs. Assuming a 5 percent growth rate for salaries of \$1.415 million and non-salary costs of \$1.24 million, the FY 2009 cost would total \$2.439 million.

**BILL DESCRIPTION**

Assembly Bill No. 1716 (2R) of 2006 would make permanent the sex offender monitoring



program which was originally established as a two-year pilot program under P.L.2005, c.189 (C.30:4-123.80 et seq.). The program provides continuous, satellite-based monitoring of high risk sex offenders and to require certain sex offenders to submit to an annual polygraph examination.

Offenders selected for the monitoring program would be: (1) those whose risk of reoffense has been determined to be high pursuant to section 3 or P.L.1994, c.128 (C.2C:7-8); and (2) those deemed by the chairman to be appropriate for continuous satellite-based monitoring and who (a) were subject to civil commitment as a “sexually violent predator” and have been conditionally discharged or discharged; (b) have been sentenced to a term of community or parole supervision for life; or (c) have been convicted of or adjudicated delinquent for a sex offense and the victim was under age 18 or over age 60, regardless of the date of conviction.

The provisions of this bill do not preclude a judge from ordering electronic monitoring as a condition of discharge of a person committed as a sexually violent predator, or from ordering time correlated or continuous tracking of the offender's geographic location as a condition or requirement of supervision, release or discharge for any other person subject to probation or parole supervision.

The bill provides that the sex offender monitoring program would provide: (1) time-correlated or continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location technology; and (2) an automated monitoring system that permits law enforcement agencies to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was in the proximity of such reported crime incidents.

The bill requires the State Parole Board to develop procedures to determine, investigate, and report on a 24 hour basis a monitored subject's noncompliance with the terms and conditions of the program.

The bill provides that the chairman, Attorney General, Superintendent of State Police and State, county and municipal law enforcement agencies be permitted to share criminal incident information with each other and the vendor selected by the commissioner to provide the monitoring equipment for the program. The chairman may direct the vendor to use data obtained in preparing correlation reports for distribution and use by State, county, municipal and federal law enforcement agencies.

A monitored subject who fails to comply with the bill's requirements would be guilty of a crime of the third degree. As amended, the bill provides that any person who tampers with, removes or vandalizes a device worn or utilized by a monitored subject is guilty of a crime of the third degree; this provision was included in P.L.2005, c. 189 which established the pilot program.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

Information provided by the State Parole Board indicates that the Satellite Based Monitoring of Sex Offenders Pilot Program received an appropriation of \$3 million in FY 2007 of which \$1.15 million is for salaries and \$1.9 million is for non-salary costs. Non-salary costs include both one-time startup items and ongoing equipment rental costs. The FY 2008 Budget recommendation includes an appropriation of \$2.372 million, of which \$1.348 million is for

salaries and \$1.024 million is for non-salary costs. Assuming a 5 percent growth rate for salaries the FY 2009 cost would total \$2.439 million.

***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services concurs with the Executive estimate but notes that as the population of sex offenders paroled to the program increases, so will the program costs.

*Section:       Judiciary*

*Analyst:       Anne Raughley*  
*Principal Fiscal Analyst*

*Approved:     David J. Rosen*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.