

H. B. 2722

(By Delegates Sobonya, Sumner and Rowan)
[Introduced January 20, 2011; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §62-11D-3 of the Code of West Virginia,
1931, as amended, relating to subjecting persons convicted of
sexual crimes against a minor to "GPS" monitoring for the
duration of their life.

Be it enacted by the Legislature of West Virginia:

That §62-11D-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

**ARTICLE 11D. HEIGHTENED EXAMINATION AND SUPERVISION FOR CERTAIN
SEX OFFENDERS.**

**§62-11D-3. Electronic monitoring of certain sex offenders under
supervision; tampering with devices; offenses and
penalties.**

(a) Notwithstanding any provisions of this code to the
contrary, any person convicted of committing a sexual crime against
a minor pursuant to article eight-b, chapter sixty-one, who is on

1 probation, parole or supervised release, shall be subject to "GPS"
2 monitoring as a condition of probation, parole or supervised
3 release for the duration of his or her life. Any person designated
4 as a sexually violent predator pursuant to ~~the provisions of~~
5 section two-a, article twelve, chapter fifteen of this code who is
6 on probation, parole or supervised release, shall be subject to
7 electronic monitoring as a condition of probation, parole or
8 supervised release. A person required to register as a sex
9 offender pursuant to ~~the provisions of~~ article twelve, chapter
10 fifteen of this code may, as a condition of probation, parole or
11 supervised release, be subject to electronic monitoring.

12 (b) Upon being placed on supervision, a person required to
13 undergo electronic monitoring pursuant to ~~the provisions of~~ this
14 section, other than persons convicted of sexual crimes against a
15 minor subjected to "GPS" monitoring in accordance with this
16 section, shall be placed at a minimum on radio frequency monitoring
17 with curfews enforced. Following an assessment designed to
18 determine the level and type of electronic monitoring necessary to
19 effectuate the protection of the public, a supervised person, other
20 than persons convicted of sexual crimes against a minor in
21 accordance with this section, may be placed on a system providing
22 a greater or lesser degree of monitoring.

23 (c) A person subject to ~~the provisions of~~ this section shall
24 be responsible for the cost of the "GPS" or electronic monitoring.

1 In the event a person required to submit to "GPS" or electronic
2 monitoring as required by ~~the provisions of~~ this section is unable
3 to pay for the "GPS" or electronic monitoring, that person may
4 present an affidavit reflecting the inability to pay for ~~such~~ the
5 monitoring to the circuit court of the county of supervision. If
6 it appears to the satisfaction of the court that such person is in
7 fact financially unable to pay for ~~such~~ the monitoring, the court
8 shall issue an order reflecting such findings and forward said
9 order to the supervising entity. Upon receipt of such order, the
10 supervising entity shall then be responsible for paying for each
11 testing.

12 (d) The assessment required by ~~the provisions of~~ subsection
13 (b) of this section shall be completed not later than thirty days
14 after the supervised person begins serving probation or parole or
15 supervised release. Under no circumstances may a person of whom
16 electronic monitoring has been mandated as a condition of
17 supervision be on a type of monitoring less effective than voice
18 verification with a curfew.

19 (e) Any person who intentionally alters, tampers with, damages
20 or destroys any "GPS" or electronic monitoring equipment, with the
21 intent to remove the device or impair its effectiveness, is guilty
22 of a felony and, upon conviction thereof, shall be confined in a
23 state correctional facility for not less than one year nor more
24 than ten years.

NOTE: The purpose of this bill is to subject persons convicted of sexual offenses against minors who are on parole or probation to "GPS" monitoring for the duration of their life.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.