

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2016

Introduced by Assembly Member Morrell

February 23, 2012

An act to add Chapter 5 (commencing with Section 653.77) to Title 15 of Part 1 of the Penal Code, relating to ~~local jails~~ electronic monitoring.

LEGISLATIVE COUNSEL'S DIGEST

AB 2016, as amended, Morrell. ~~Local jails: electronic monitoring.~~
Electronic monitoring: removing or disabling: offense.

Existing law provides various programs of in-home detention and monitoring that include wearing global positioning system (GPS) devices, as specified. Existing law permits, and with respect to certain sex offenders requires, the use of electronic monitoring by county probation departments and the Department of Corrections and Rehabilitation to electronically monitor the whereabouts of persons on probation and parole, respectively.

This bill would provide that unauthorized removal, as specified, of an electronic, GPS, or other monitoring device affixed for purposes of a criminal sentence, juvenile court disposition, parole, or probation is an offense punishable by imprisonment in a county jail for one year, or a \$1,000 fine, or both, if the underlying offense was a misdemeanor, or by imprisonment in the state prison for 16 months, 2 years, or 3 years, if the underlying offense is a felony.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would provide it would be operative only if SB 968 of the 2011–12 Regular Session is enacted and becomes effective on or before January 1, 2013.

~~Under existing law, misdemeanors and some felonies are punishable by imprisonment in local jail facilities. Existing law provides for the use of electronic monitoring of a person either postrelease or as an alternative to incarceration in some circumstances.~~

~~This bill would state the intent of the Legislature to enact legislation that would provide local safety officials with greater flexibility and tools to manage local jail populations through electronic monitoring.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5 (commencing with Section 653.77) is
2 added to Title 15 of Part 1 of the Penal Code, to read:

3
4 CHAPTER 5. *DISABLING ELECTRONIC MONITORING DEVICES*

5
6 653.77. (a) A person who willfully removes or disables an
7 electronic, global positioning system (GPS), or other monitoring
8 device affixed to his or her person or the person of another,
9 knowing that the device was affixed as a condition of a criminal
10 sentence, juvenile court disposition, parole, or probation, is guilty
11 of a public offense.

12 (b) (1) A person subject to an electronic, GPS, or other
13 monitoring device based on a misdemeanor conviction or a juvenile
14 adjudication for a misdemeanor offense, who willfully violates
15 subdivision (a) is guilty of a misdemeanor, punishable by
16 imprisonment in a county jail for up to one year, by a fine of up
17 to one thousand dollars (\$1,000), or both that fine and
18 imprisonment.

1 (2) *Except as provided in subdivision (e), a person who willfully*
2 *removes or disables an electronic, GPS, or other monitoring device*
3 *affixed to another person where that device was affixed to the other*
4 *person based upon a misdemeanor conviction, or based upon a*
5 *juvenile adjudication for a misdemeanor offense, is guilty of a*
6 *misdemeanor, punishable by imprisonment in a county jail for up*
7 *to one year, by a fine of up to one thousand dollars (\$1,000), or*
8 *both that fine and imprisonment.*

9 (c) (1) *A person subject to an electronic, GPS, or other*
10 *monitoring device based on a felony conviction, juvenile*
11 *adjudication for a felony offense, or terms of parole for a felony*
12 *offense, who willfully violates subdivision (a) is guilty of a felony,*
13 *punishable by imprisonment in the state prison for 16 months, two*
14 *years, or three years.*

15 (2) *Except as provided in subdivision (e), a person who willfully*
16 *removes or disables an electronic, GPS, or other monitoring device*
17 *affixed to another person where that device was affixed to the other*
18 *person based on a felony conviction or a juvenile conviction for*
19 *a felony offense is guilty of a felony, punishable by imprisonment*
20 *in the state prison for 16 months or three years.*

21 (d) *Nothing in this section shall be construed to prevent*
22 *punishment pursuant to any other provision of law that imposes*
23 *a greater or more severe punishment, including, but not limited*
24 *to, Section 594.*

25 (e) *This section shall not apply to the removal or disabling of*
26 *an electronic, GPS, or other monitoring device by a physician,*
27 *emergency medical services technician, or by any other emergency*
28 *response or medical personnel when doing so is necessary during*
29 *the course of medical treatment of the person subject to the*
30 *electronic, GPS, or other monitoring device. This section shall*
31 *also not apply where the removal or disabling of the electronic,*
32 *GPS, or other monitoring device is authorized or required by a*
33 *court of law, or by the law enforcement, probation, parole*
34 *authority, or other entity responsible for placing the electronic,*
35 *GPS, or other monitoring device upon the person, or that has, at*
36 *the time, the authority and responsibility to monitor the electronic,*
37 *GPS, or other monitoring device.*

38 SEC. 2. *No reimbursement is required by this act pursuant to*
39 *Section 6 of Article XIII B of the California Constitution because*
40 *the only costs that may be incurred by a local agency or school*

1 *district will be incurred because this act creates a new crime or*
2 *infraction, eliminates a crime or infraction, or changes the penalty*
3 *for a crime or infraction, within the meaning of Section 17556 of*
4 *the Government Code, or changes the definition of a crime within*
5 *the meaning of Section 6 of Article XIII B of the California*
6 *Constitution.*

7 *SEC. 3. This bill shall become operative only if Senate Bill 968*
8 *of the 2011–12 Regular Session is enacted and takes effect on or*
9 *before January 1, 2013.*

10 ~~SECTION 1. It is the intent of the Legislature to enact~~
11 ~~legislation that would provide local safety officials with greater~~
12 ~~flexibility and tools to manage local jail populations through~~
13 ~~electronic monitoring.~~