

BILL ANALYSIS

Senate Research Center
88R15420 MCF-F

C.S.S.B. 1004
By: Huffman
Criminal Justice
3/7/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Electronic monitoring devices are integral tools utilized to increase public safety and promote accountability upon the release of defendants on house arrest or as a condition of community supervision, parole, mandatory supervision, or release on bail. When these individuals remove or destroy their electronic monitoring devices, which should be tracking their daily activities, the lives of Texans may be put in danger. Currently, it is only a technical violation of parole and is not considered a violation of the law to tamper or destroy an ankle monitor.

S.B. 1004 creates a criminal offense if a person knowingly removes or disables an electronic tracking device that the person is required to wear to enable the electronic monitoring of the person's location. An offense under this bill would be a state jail felony, unless the person is in a super-intensive supervision program in which case it would be a felony of the third-degree.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1004 amends current law relating to creating the criminal offense of tampering with an electronic monitoring device and to certain consequences on conviction of that offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 38, Penal Code, by adding Section 38.112, as follows:

Sec. 38.112. TAMPERING WITH ELECTRONIC MONITORING DEVICE. (a) Provides that a person who is required to submit to electronic monitoring of the person's location as part of an electronic monitoring program under Article 42.035 (Electronic Monitoring; House Arrest), Code of Criminal Procedure, or as a condition of community supervision, parole, mandatory supervision, or release on bail commits an offense if the person knowingly removes or disables, or causes another person to remove or disable, a tracking device that the person is required to wear to enable the electronic monitoring of the person's location.

(b) Provides that an offense under this section is a state jail felony, except that the offense is a felony of the third degree if the person is in the super-intensive supervision program described by Section 508.317(d) (relating to requiring the Texas Department of Criminal Justice (TDCJ) to establish a program to provide super-intensive supervision to inmates released on parole), Government Code.

(c) Provides that it is an exception to the application of this section that the tracking device was removed or disabled by a health care provider, as defined by Section 161.201 (Definition), Health and Safety Code, due to medical necessity.

SECTION 2. Amends Article 42.08, Code of Criminal Procedure, by adding Subsection (b-1), as follows:

(b-1)(1) Authorizes a judge sentencing a defendant convicted of an offense under Section 38.112, Penal Code, committed while on parole or mandatory supervision, to order the sentence for the offense to:

(A) run concurrently with the sentence for the offense for which the defendant was released on parole or to mandatory supervision; or

(B) commence immediately on completion of the sentence for the offense for which the defendant was released on parole or to mandatory supervision.

(2) Requires a judge who orders a sentence to be imposed consecutively in the manner described by Subdivision (1)(B) to, on pronouncing the sentence, order the defendant transferred to the custody of TDCJ for purposes of serving the applicable sentences consecutively as described by that subdivision if the defendant has not been taken into custody by TDCJ following the automatic revocation of the defendant's parole or mandatory supervision under Section 508.285, Government Code.

SECTION 3. Amends Subchapter I, Chapter 508, Government Code, by adding Section 508.285, as follows:

Sec. 508.285. AUTOMATIC REVOCATION ON CONVICTION OF TAMPERING WITH ELECTRONIC MONITORING DEVICE. Provides that a releasee's parole or mandatory supervision, notwithstanding any other law, on the releasee's conviction of an offense under Section 38.112, Penal Code, is automatically revoked and the sentence for which the releasee was on parole or mandatory supervision is prohibited from being considered to have ceased to operate for purposes of Article 42.08 (Cumulative or Concurrent Sentence), Code of Criminal Procedure.

SECTION 4. Effective date: September 1, 2023.