By:  Huffman S.B. No. 1004

(In the Senate - Filed February 17, 2023; February 22, 2023, read first time and referred to Committee on Criminal Justice; March 9, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 7, Nays 0; March 9, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Flores          X

Bettencourt     X

Hinojosa        X

Huffman         X

King            X

Miles           X

COMMITTEE SUBSTITUTE FOR S.B. No. 1004 By:  Huffman

A BILL TO BE ENTITLED

AN ACT

relating to creating the criminal offense of tampering with an electronic monitoring device and to certain consequences on conviction of that offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 38, Penal Code, is amended by adding Section 38.112 to read as follows:

Sec. 38.112.  TAMPERING WITH ELECTRONIC MONITORING DEVICE. (a) 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, 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)  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), Government Code.

(c)  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, Health and Safety Code, due to medical necessity.

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

(b-1)(1)  A judge sentencing a defendant convicted of an offense under Section 38.112, Penal Code, committed while on parole or mandatory supervision may 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)  A judge who orders a sentence to be imposed consecutively in the manner described by Subdivision (1)(B) shall, on pronouncing the sentence, order the defendant transferred to the custody of the Texas Department of Criminal Justice for purposes of serving the applicable sentences consecutively as described by that subdivision if the defendant has not been taken into custody by the department following the automatic revocation of the defendant's parole or mandatory supervision under Section 508.285, Government Code.

SECTION 3.  Subchapter I, Chapter 508, Government Code, is amended by adding Section 508.285 to read as follows:

Sec. 508.285.  AUTOMATIC REVOCATION ON CONVICTION OF TAMPERING WITH ELECTRONIC MONITORING DEVICE. Notwithstanding any other law, on a releasee's conviction of an offense under Section 38.112, Penal Code, the releasee's parole or mandatory supervision is automatically revoked and the sentence for which the releasee was on parole or mandatory supervision may not be considered to have ceased to operate for purposes of Article 42.08, Code of Criminal Procedure.

SECTION 4.  This Act takes effect September 1, 2023.

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