

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 or conspires or cooperates with 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) This section does not apply to the removal or disabling of a tracking device by a health care provider, as defined by Section 161.201, Health and Safety Code, due to medical necessity.

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

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

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

9 (B) if the defendant's parole or mandatory
10 supervision has been revoked, commence immediately on completion of
11 the sentence for the offense for which the defendant was released on
12 parole or to mandatory supervision.

13 (2) A judge who orders a sentence to be imposed
14 consecutively in the manner described by Subdivision (1)(B) shall,
15 on pronouncing the sentence, order the defendant transferred to the
16 custody of the Texas Department of Criminal Justice for purposes of
17 serving the applicable sentences consecutively as described by that
18 subdivision if the defendant has not been taken into custody by the
19 department following the revocation of the defendant's parole or
20 mandatory supervision.

21 SECTION 3. This Act takes effect September 1, 2023.

S.B. No. 1004

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1004 passed the Senate on March 20, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1004 passed the House on May 2, 2023, by the following vote: Yeas 142, Nays 2, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor