

CHAPTER 189

AN ACT concerning the monitoring of certain sex offenders, supplementing Title 30 of the Revised Statutes and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.30:4-123.80 Short title.

1. This act may be known and shall be cited as the "Sex Offender Monitoring Pilot Project Act."

C.30:4-123.81 Findings, declarations relative to monitoring of sex offenders.

2. The Legislature finds and declares:

a. Offenders who commit serious and violent sex crimes have demonstrated high recidivism rates and, according to some studies, are four to five times more likely to commit a new sex offense than those without such prior convictions, thereby posing an unacceptable level of risk to the community.

b. Intensive supervision of serious and violent sex offenders is a crucial element in both the rehabilitation of the released inmate and the safety of the surrounding community.

c. Technological solutions currently exist to provide improved supervision and behavioral control of sex offenders following their release.

d. These solutions also provide law enforcement and correctional professionals with new tools for electronic correlation of the constantly updated geographic location of supervised sex offenders following their release with the geographic location of reported crimes, to possibly link released offenders to crimes or to exclude them from ongoing criminal investigations.

e. Continuous 24 hours per day, seven days per week, monitoring is a valuable and reasonable requirement for those offenders who are determined to be a high risk to reoffend, were previously committed as sexually violent predators and conditionally discharged, or received or are serving a special sentence of community or parole supervision for life. A pilot program should be established to study its effectiveness.

C.30:4-123.82 Definitions relative to monitoring of sex offenders.

3. a. As used in this act:

"Chairman" means the Chairman of the State Parole Board.

"Monitored subject" means:

(1) a person whose risk of reoffense has been determined to be high pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8); and

(2) a person who the chairman deems appropriate for continuous satellite-based monitoring pursuant to the provisions of this act and who:

(a) was subject to civil commitment as a "sexually violent predator" in accordance with the provisions of P.L.1998, c.71 (C.30:4-27.24 et seq.) and has been conditionally discharged or discharged pursuant to section 13 of P.L.1998, c.71 (C.30:4-27.36);

(b) has been sentenced to a term of community or parole supervision for life pursuant to section 2 of P.L.1994, c.130 (C.2C:43-6.4); or

(c) has been convicted of or adjudicated delinquent for a sex offense enumerated in subsection b. of section 2 of P.L.1994, c. 133 (C.2C:7-2) and the victim of the offense was under 18 years of age or 60 years of age or older, regardless of the date of conviction.

b. In addition to those offenders whose risk of reoffense has been determined to be high pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8), the chairman, in exercising his discretion in determining subjects to monitor through time correlated or continuous tracking of their geographic location under the pilot program authorized by this act, shall consider the risk to the public posed by the subject, based on relevant risk factors such as the seriousness of the offense, the age of the victim or victims, the degree of force and contact, and any other factors the chairman deems appropriate. Time correlated or continuous tracking of the offender's geographic location shall not be provided during the time a monitored subject is in custody due to arrest, incarceration or civil commitment.

c. Nothing in this act shall be construed to preclude a judge from ordering time correlated or continuous tracking of the person's geographic location or other electronic monitoring as a condition of discharge of a person committed pursuant to P.L.1998, c.71 (C.30:4-27.24 et seq.), or as a condition or requirement of supervision for any other person sentenced pursuant to N.J.S.2C:45-1 or sentenced to a term of community or parole supervision for life pursuant to section 2 of P.L. 1994, c. 130 (2C:43-6.4).

C.30:4-123.83 Establishment of two-year pilot program.

4. a. The chairman, in consultation with the Attorney General, shall establish a two-year pilot program for the continuous, satellite-based monitoring of not more than 250 subjects. The system shall provide for the capability of active and passive monitoring, or a combination of both.

b. The monitoring system, at a minimum, shall provide:

(1) Time-correlated or continuous tracking of the geographic location of the monitored subject using a global positioning system based on satellite and other location technology; and

(2) An automated monitoring system that can be used to permit law enforcement agencies to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was in the proximity of such reported crime incidents.

c. The State Parole Board shall develop procedures to determine, investigate, and report on a 24 hours per day basis a monitored subject's noncompliance with the terms and conditions of the pilot program. All reports of noncompliance shall be investigated immediately by a parole or law enforcement officer.

d. The chairman may promulgate guidelines to effectuate the provisions of this act.

C.30:4-123.84 Sharing of criminal incident information by law enforcement agencies.

5. Notwithstanding any provision of law, rule or regulation to the contrary, the chairman, Attorney General, Superintendent of State Police and, federal, State, county and municipal law enforcement agencies may share criminal incident information with each other and the vendor selected by the chairman to provide the monitoring equipment for the pilot program. The chairman may direct the vendor to use data obtained pursuant to this act in preparing correlation reports for distribution and use by federal, State, county and municipal law enforcement agencies.

C.30:4-123.85 Failure to comply with monitoring, third degree crime.

6. A person who is monitored under the pilot program established pursuant to this act and who fails to comply with its requirements is guilty of a crime of the third degree. Nothing in this act shall be construed to preclude a person who violates any condition of a special sentence of community or parole supervision for life from being subjected to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b). Nothing in this act shall be construed to preclude a person on conditional discharge pursuant to P.L.1998, c. 71 (C.30:4-27.24 et seq.) who violates any condition of discharge imposed by the court from being subjected to the provisions of paragraph (3) of subsection c. of section 9 of P.L.1998, c.71 (C.30:4-27.32).

C.30:4-123.86 Interference with device, third degree crime.

7. Any person who tampers with, removes or vandalizes a device worn or utilized by a monitored subject pursuant to this act is guilty of a crime of the third degree.

C.30:4-123.87 Report to Governor, Legislature.

8. The chairman shall submit a report evaluating the effectiveness of the pilot program to the Governor and the Legislature within 90 days upon completion of the pilot program. The report shall recommend whether the pilot program should be continued as a Statewide program.

9. There is appropriated \$3,000,000 from the General Fund to the State Parole Board for the purposes of implementing the two-year pilot program established pursuant to this act.

C.30:4-123.88 Polygraph exams of offenders, conditions, use, cost.

10. The State Parole Board, on at least an annual basis, may administer to all offenders serving a special sentence of community or parole supervision for life, imposed pursuant to section 2 of P.L.1994, c.130 (C.2C:43-6.4), polygraph examinations in order to obtain information necessary for risk management and treatment and to reduce the offender's denial

mechanisms. A polygraph examination shall be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid for by the offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of the special sentence of community or parole supervision for life or condition of discharge has occurred.

11. This act shall take effect immediately, and sections 1 through 9 shall expire two years after enactment.

Approved August 11, 2005.