

## 1 SENATE BILL NO. 207

2 INTRODUCED BY PERRY, BARKUS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AS A CONDITION OF SENTENCE THAT SEXUAL  
5 OFFENDERS DESIGNATED AS LEVEL 3 OFFENDERS PARTICIPATE IN A PROGRAM FOR CONTINUOUS,  
6 SATELLITE-BASED MONITORING; REQUIRING THE DEPARTMENT OF CORRECTIONS TO ESTABLISH  
7 A PROGRAM FOR THE CONTINUOUS SATELLITE-BASED MONITORING OF LEVEL 3 SEXUAL  
8 OFFENDERS; REQUIRING PROGRESS REPORTS; AMENDING SECTION 46-23-1031, MCA; AND  
9 PROVIDING AN EFFECTIVE DATE."

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11 WHEREAS, the United States Department of Justice has published confirmed statistics that over 60%  
12 of serious and violent offenders in state prisons have a history of prior convictions and that the number of  
13 prisoners convicted for violent sexual assault has increased by an annual rate of 15% each year since 1980;  
14 and

15 WHEREAS, criminals who commit sexual and violent crimes have shown unusually high recidivism  
16 rates, thereby posing an unacceptable level of risk to the community; and

17 WHEREAS, intensive supervision of sexual or violent offenders is a crucial element to both the  
18 rehabilitation of the released convicts and the safety of the surrounding community; and

19 WHEREAS, mature technological solutions now exist to provide improved supervision and behavioral  
20 control of sexual or violent offenders following their release; and

21 WHEREAS, these solutions can now also provide law enforcement and correctional professionals with  
22 significant new tools for electronic correlation of the constantly updated geographical location of supervised  
23 sexual or violent offenders following their release with the geographic location of reported crimes, both to  
24 possibly link released offenders to crimes or to possibly exclude released offenders from ongoing criminal  
25 investigations; and

26 WHEREAS, continuous 24-hour-a-day, 7-day-a-week electronic monitoring of those convicted of sexual  
27 offenses is a valuable and reasonable requirement for those convicts who are placed on probation, who failed  
28 to register as sexual or violent offenders as required by law, or who have been released from incarceration while  
29 they remain under the active supervision of the state.

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1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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3 **NEW SECTION. Section 1. Sexual offenders -- electronic monitoring as additional condition of**  
 4 **sentence.** (4) Upon sentencing a person for conviction of a sexual offense under Title 45, chapter 5, part 5, WHO  
 5 IS DESIGNATED AS A LEVEL 3 OFFENDER UNDER 46-23-509, the sentencing judge shall, as a condition of ~~sentence~~,  
 6 ~~including~~ probation, parole, CONDITIONAL RELEASE, or deferment or suspension of sentence, require the offender  
 7 to participate in the program for the continuous satellite-based monitoring of sexual offenders established under  
 8 [section 2].

9 ~~(2) Monitoring of a sexual offender under subsection (1) must continue for:~~

10 ~~—— (a) the balance of the sentence imposed on the offender following the release of the offender from~~  
 11 ~~incarceration if the offender is designated as a level 1 or level 2 offender under 46-23-509; or~~

12 ~~—— (b) the balance of the maximum period of incarceration that could be imposed on the offender following~~  
 13 ~~the release of the offender from incarceration if the offender is designated as a level 3 offender under 46-23-509.~~

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15 **NEW SECTION. Section 2. Sexual offenders -- electronic monitoring program -- contract -- rules.**

16 (1) The department shall establish a program for the continuous, satellite-based monitoring of sexual offenders  
 17 DESIGNATED AS LEVEL 3 OFFENDERS UNDER 46-23-509. The program may include:

18 (a) time-correlated and continuous tracking of the geographic location of a monitored person using a  
 19 global positioning system based on satellite and other location-tracking technology;

20 (b) reporting of a monitored person's violation of prescriptive and proscriptive schedule or location  
 21 requirements. Frequency of reporting may range from once-a-day, passive reporting to near-real-time, active  
 22 reporting.

23 (c) an automated system that allows local and state law enforcement officials to compare the  
 24 geographic positions of a monitored person with reported criminal incidents to determine whether the monitored  
 25 person was at or near the scene of a reported criminal incident and to include or exclude a monitored person  
 26 from the investigation of a criminal incident.

27 (2) The department shall adopt rules for the establishment and operation of the program required under  
 28 subsection (1), including rules establishing supervisory fees. The department may consult with state and local  
 29 law enforcement officials in developing the rules.

30 (3) The department shall contract with a single vendor for the procurement of the equipment and

1 services needed to monitor persons under the program and correlate the movements of monitored persons to  
 2 reported criminal incidents. The contract may provide for equipment and services necessary to implement or  
 3 facilitate any of the provisions of this section and for the collection and disposition of the fees provided for in  
 4 46-23-1031 and may allow for the reasonable cost of collection of the proceeds.

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6 **Section 3.** Section 46-23-1031, MCA, is amended to read:

7 **"46-23-1031. Supervisory fees -- account established.** (1) (a) Except as provided in subsection ~~(1)(b)~~  
 8 (1)(c), a probationer, parolee, or person committed to the department who is supervised by the department;

9 (i) under intensive supervision or conditional release shall pay to the clerk of the district court that has  
 10 jurisdiction over the person during the person's supervision a supervisory fee of no less than \$120 a year and  
 11 no more than \$360 a year, prorated at no less than \$10 a month for the number of months under supervision;  
 12 or

13 (ii) under continuous satellite-based monitoring shall pay to the clerk of the district court that has  
 14 jurisdiction over the person during the person's supervision a supervisory fee of no more than \$4,000 a year as  
 15 established by rules adopted by the department under [section 2].

16 (b) A person allowed to transfer supervision to another state shall pay a fee of \$50 to cover the cost of  
 17 processing the transfer. The interstate transfer fees required by this subsection must be collected by the  
 18 department.

19 ~~(b)(c)~~ The court, department, or board may reduce or waive a fee required by subsection (1)(a) or (1)(b)  
 20 or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the person  
 21 a significant financial hardship.

22 (2) (a) There is an account in the state special revenue fund for the supervisory fees collected under  
 23 the provisions of this section.

24 (b) ~~Prior to July 1, 2003, district court clerks shall deduct from the total supervisory fees collected~~  
 25 ~~pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the~~  
 26 ~~remaining amount into the state special revenue account established in subsection (2)(a). After June 30, 2003,~~  
 27 ~~district~~ District court clerks shall deposit the total supervisory fees collected pursuant to subsection (1) into the  
 28 state special revenue account established in subsection (2)(a) as specified by the supreme court administrator."  
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30 NEW SECTION. **Section 4. Interim report to legislature.** During fiscal years 2006 and 2007, the

1 department of corrections shall make regular progress reports to the law and justice interim committee regarding  
 2 the establishment, operation, and administration of the program for the continuous satellite-based monitoring  
 3 of sexual offenders.

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 5 **NEW SECTION. Section 5. Codification instruction.** (1) [Section 1] is intended to be codified as an  
 6 integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [section 1].

7 (2) [Section 2] is intended to be codified as an integral part of Title 46, chapter 23, part 10, and the  
 8 provisions of Title 46, chapter 23, part 10, apply to [section 2].

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 10 **COORDINATION SECTION. SECTION 6. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 288 IS PASSED**  
 11 **AND APPROVED AND IF IT AMENDS 46-23-1031, THEN [SECTION 3 OF THIS ACT], AMENDING 46-23-1031, IS VOID AND**  
 12 **46-23-1031 MUST BE AMENDED AS FOLLOWS:**

13 **"46-23-1031. Supervisory fees -- account established.** (1) (a) Except as provided in subsection ~~(1)(b)~~  
 14 ~~(1)(c)~~, a probationer, parolee, or person committed to the department who is supervised by the department;

15 (i) under intensive supervision or conditional release shall pay to the clerk of the district court that has  
 16 jurisdiction over the person during the person's supervision department a supervisory fee of no less than \$120  
 17 a year and no more than \$360 a year, prorated at no less than \$10 a month for the number of months under  
 18 supervision; or

19 (ii) under continuous satellite-based monitoring shall pay to the department a supervisory fee of no more  
 20 than \$4,000 a year as established by rules adopted by the department under [section 2].

21 (b) A person allowed to transfer supervision to another state shall pay a fee of \$50 to cover the cost of  
 22 processing the transfer. The interstate transfer fees required by this subsection must be collected by the  
 23 department.

24 ~~(b)(c)~~ The court, department, or board may reduce or waive a fee required by subsection (1)(a) or ~~(1)(b)~~  
 25 or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the person  
 26 a significant financial hardship.

27 (2) (a) There is an account in the state special revenue fund for the supervisory fees collected under  
 28 the provisions of this section.

29 (b) ~~Prior to July 1, 2003, district court clerks shall deduct from the total supervisory fees collected~~  
 30 ~~pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the~~

1 remaining amount into the state special revenue account established in subsection (2)(a). After June 30, 2003,  
2 ~~district court clerks~~ The department shall deposit the total supervisory fees collected pursuant to subsection (1)  
3 into the state special revenue account established in subsection (2)(a) ~~as specified by the supreme court~~  
4 ~~administrator."~~

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6 NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are  
7 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
8 the part remains in effect in all valid applications that are severable from the invalid applications.

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10 ~~NEW SECTION. SECTION 8. CONTINGENT VOIDNESS. IF HOUSE BILL NO. 2 DOES NOT CONTAIN A LINE ITEM~~  
11 ~~APPROPRIATION TO IMPLEMENT THE PROVISIONS OF [SECTIONS 1 AND 2], THEN [THIS ACT] IS VOID.~~

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13 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 2005.

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