

**HOUSE . . . . . No. 2836**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Steven L. Levy*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the electronic monitoring of sex offenders found to be in violation of the conditions of probation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Robert L. Hedlund</i>	
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>

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By Mr. Levy of Marlborough, a petition (accompanied by bill, House, No. 2836) of Steven L. Levy and others relative to the electronic monitoring of sex offenders found to be in violation of the conditions of probation. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 4282 OF 2009-2010.]

The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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An Act relative to the electronic monitoring of sex offenders found to be in violation of the conditions of probation.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to require the electronic monitoring of convicted sex offenders found to be in violation of the conditions of probation, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 47 of chapter 265 of the General Laws, as appearing in the 2008  
2 Official Edition is hereby amended by adding the following 3 paragraphs:-

3 A person who is placed on probation for any offense listed within the definition of "sex  
4 offense", a "sex offense involving a child" or a "sexually violent offense", as defined in section  
5 178C of chapter 6, and who is found to have violated any conditions of release set by the court,  
6 shall be guilty of a second and subsequent offense, which shall be punishable by a fine of not

7 more than five thousand dollars, or by imprisonment for not more than two and one-half years in  
8 a house of correction, or by both such fine and imprisonment.

9           Where a defendant has been found in violation of a condition of release under this  
10 section, the court may, in addition to the penalties provided for in this section after conviction  
11 and any other existing penalties, as an alternative to incarceration and as a condition of  
12 probation, require the defendant to wear a global positioning system device, or any comparable  
13 device, administered by the commissioner of probation, at all times for the length of his  
14 probation. The commissioner of probation, in addition to any other conditions, shall establish  
15 defined geographic exclusion zones including, but not limited to, the areas in and around the  
16 victim's residence, place of employment and school and other areas defined to minimize the  
17 probationer's contact with children, if applicable. If the probationer enters an excluded zone, as  
18 defined by the terms of his probation, the probationer's location data shall be immediately  
19 transmitted to the police department in the municipality wherein the violation occurred and the  
20 commissioner of probation, by telephone, electronic beeper, paging device or other appropriate  
21 means. If the commissioner or the probationer's probation officer has probable cause to believe  
22 that the probationer has violated this term of his probation, the commissioner or the probationer's  
23 probation officer shall arrest the probationer pursuant to section 3 of chapter 279. Otherwise, the  
24 commissioner shall cause a notice of surrender to be issued to such probationer.

25           The fees incurred by installing, maintaining and operating the global positioning system  
26 device, or comparable device, shall be paid by the probationer. If an offender establishes his  
27 inability to pay such fees, the court may waive them.

28           SECTION 2. In cases reviewing the requirement of GPS tracking units for sex offenders  
29 convicted prior to 2006, the presiding judge shall make a written finding including the rationale  
30 for said finding after a hearing.