

**H. B. 3094**

(By Delegates Sobonya, Westfall, J. Nelson,  
Miller, Frich, Border and Rowan)

[Introduced March 25, 2013; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §62-11D-3 of the Code of West Virginia,  
1931, as amended, relating to subjecting persons convicted of  
sexual crimes against a minor to "GPS" monitoring for the  
duration of their lives.

*Be it enacted by the Legislature of West Virginia:*

That §62-11D-3 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 11D. HEIGHTENED EXAMINATION AND SUPERVISION FOR CERTAIN  
SEX OFFENDERS.**

**§62-11D-3. Electronic monitoring of certain sex offenders under  
supervision; tampering with devices; offenses and  
penalties.**

(a) Notwithstanding any provisions of this code to the  
contrary, any person convicted of committing a sexual crime against  
a minor pursuant to article eight-b, chapter sixty-one, who is on  
probation, parole or supervised release, shall be subject to "GPS"

1 monitoring as a condition of probation, parole or supervised  
2 release for the duration of his or her life. Any person designated  
3 as a sexually violent predator pursuant to ~~the provisions of~~  
4 section two-a, article twelve, chapter fifteen of this code who is  
5 on probation, parole or supervised release, shall be subject to  
6 electronic monitoring as a condition of probation, parole or  
7 supervised release. A person required to register as a sex  
8 offender pursuant to ~~the provisions of~~ article twelve, chapter  
9 fifteen of this code may, as a condition of probation, parole or  
10 supervised release, be subject to electronic monitoring.

11 (b) Upon being placed on supervision, a person required to  
12 undergo electronic monitoring pursuant to ~~the provisions of~~ this  
13 section, other than persons convicted of sexual crimes against a  
14 minor subjected to "GPS" monitoring in accordance with this  
15 section, shall be placed at a minimum on radio frequency monitoring  
16 with curfews enforced. Following an assessment designed to  
17 determine the level and type of electronic monitoring necessary to  
18 effectuate the protection of the public, a supervised person, other  
19 than persons convicted of sexual crimes against a minor in  
20 accordance with this section, may be placed on a system providing  
21 a greater or lesser degree of monitoring.

22 (c) A person subject to ~~the provisions of~~ this section shall  
23 be responsible for the cost of the "GPS" or electronic monitoring.  
24 In the event a person required to submit to "GPS" or electronic

1 monitoring as required by ~~the provisions of~~ this section is unable  
2 to pay for the "GPS" or electronic monitoring, that person may  
3 present an affidavit reflecting the inability to pay for ~~such~~ the  
4 monitoring to the circuit court of the county of supervision. If  
5 it appears to the satisfaction of the court that such person is in  
6 fact financially unable to pay for ~~such~~ the monitoring, the court  
7 shall issue an order reflecting such findings and forward said  
8 order to the supervising entity. Upon receipt of such order, the  
9 supervising entity shall then be responsible for paying for each  
10 testing.

11 (d) The assessment required by ~~the provisions of~~ subsection  
12 (b) of this section shall be completed not later than thirty days  
13 after the supervised person begins serving probation or parole or  
14 supervised release. Under no circumstances may a person of whom  
15 electronic monitoring has been mandated as a condition of  
16 supervision be on a type of monitoring less effective than voice  
17 verification with a curfew.

18 (e) Any person who intentionally alters, tampers with, damages  
19 or destroys any "GPS" or electronic monitoring equipment, with the  
20 intent to remove the device or impair its effectiveness, is guilty  
21 of a felony and, upon conviction thereof, shall be confined in a  
22 state correctional facility for not less than one year nor more  
23 than ten years.

NOTE: The purpose of this bill is to subject persons convicted of sexual offenses against minors who are on parole or probation to "GPS" monitoring for life.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.