HOUSE DOCKET, NO. 3318 FILED ON: 1/21/2011

HOUSE . . . . . No. 2836

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 passage of the accompanying:

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:
Steven L. Levy	*4th Middlesex*
Robert L. Hedlund	☐ *[District]* ☐
Shaunna O'Connell	*3rd Bristol*
Daniel K. Webster	*6th Plymouth*

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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.

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

The Commonwealth of Massachusetts

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:

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

A person who is placed on probation for any offense listed within the definition of "sex offense", a "sex offense involving a child" or a "sexually violent offense", as defined in section 178C of chapter 6, and who is found to have violated any conditions of release set by the court, shall be guilty of a second and subsequent offense, which shall be punishable by a fine of not more than five thousand dollars, or by imprisonment for not more than two and one-half years in a house of correction, or by both such fine and imprisonment.

Where a defendant has been found in violation of a condition of release under this section, the court may, in addition to the penalties provided for in this section after conviction 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.