

SB

89

25-LS0644\E
Luckhaupt
3/14/07

CS FOR SENATE BILL NO. 89()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS WIELECHOWSKI, McGuire

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to requiring electronic monitoring as a special condition of probation**
2 **for offenders whose offense was related to a criminal street gang."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1. AS 12.55.100 is amended by adding a new subsection to read:**

5 (f) While on probation and as a special condition of probation for an offense
6 where the aggravating factor provided in AS 12.55.155(c)(29) has been proven or
7 admitted or the penalty for the offense was aggravated under AS 12.55.137, the court
8 shall require that the defendant submit to electronic monitoring. Electronic monitoring
9 under this section must provide for monitoring of the defendant's location and
10 movements by Global Positioning System technology.

11 *** Sec. 2. AS 33.16.150 is amended by adding a new subsection to read:**

12 (g) In addition to other conditions of parole imposed under this section for a
13 prisoner serving a sentence for an offense where the aggravating factor provided in
14 AS 12.55.155(c)(29) has been proven or admitted or the penalty for the offense was

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aggravated under AS 12.55.137, the board shall impose as a condition of special medical, discretionary, and mandatory parole a requirement that the defendant submit to electronic monitoring. Electronic monitoring under this subsection must provide for monitoring of the defendant's location and movements by Global Positioning System technology.

Sec. 12.55.137. Penalties for gang activities punishable as misdemeanors.

(a) If a person commits an offense that would be a class B misdemeanor and the person committed the offense for the benefit of, at the direction of, or in association with a criminal street gang, the offense is a class A misdemeanor.

(b) If a person commits an offense that would be a class A misdemeanor and the person committed the offense for the benefit of, at the direction of, or in association with a criminal street gang, the offense is a class C felony.

Sec. 12.55.155. Factors in aggravation and mitigation.

C (29) the defendant committed the offense for the benefit of, at the direction of, or in association with a criminal street gang;

(4) "criminal street gang" has the meaning given in AS 11.81.900 (b);

(13) "criminal street gang" means a group of three or more persons

(A) who have in common a name or identifying sign, symbol, tattoo or other physical marking, style of dress, or use of hand signs; and

(B) who, individually, jointly, or in combination, have committed or attempted to commit, within the preceding three years, for the benefit of, at the direction of, or in association with the group, two or more offenses under any of, or any combination of, the following:

(i) AS 11.41;

(ii) AS 11.46; or

(iii) a felony offense;

GPS Monitoring: Active v. Passive

Our research indicates that the terms "active" and "passive" are commonly used by the monitoring industry to describe electronic monitoring technology, without regard to how the collected data is used.

'Active' GPS units differ from 'passive' GPS units mainly in how data is transmitted. An active unit records an offender's location and transmits the data in near real time. Passive units, on the other hand, generally collect data for a period of time and record it for eventual download. Often passive units rely on land phone lines to relay collected data – this allows for the unit to be cheaper and lighter, since the device wouldn't have to include wireless communication hardware.

In summary: The terms *passive* and *active* are used by the industry to describe monitoring technology – using these terms to describe how involved a parole officer is with utilizing the data may cause some confusion.

Variations on 'active' monitoring:

An 'active' GPS monitoring system can be put to use in any number of ways. It can be utilized just like a passive unit, with a parole officer only checking data sporadically. Another option is for human surveillance 24 hours a day, 7 days a week, with parole officers watching every movement of the offenders.

A representative with iSecureTRAC described the many options available for law enforcement agencies that choose to utilize active monitoring technology. He noted that exclusion zones and other criteria can be programmed into a computer system, notifying someone when a breach occurs. In addition, for 2 dollars a day, the company can be the first line of contact when a 'breach' occurs, limiting the number of false alarms that require the attention of parole officers. When asked to give a rough estimate of offenders that one parole officer could monitor using a system with or without the company as a first line of contact when a alarm occurs, his response was 25 offenders per parole officer for a very hands on program, with a 50:1 ratio for a diluted but feasible option.



FAIRBANKS POLICE DEPARTMENT

911 Cushman Street
Fairbanks, AK 99701-4616
Phone: (907) 450-6500
Fax: (907) 452-1588
Email: fpd@ci.fairbanks.ak.us



Alaska State Legislature
Juneau, AK 99801

RE: Senate Bill 89

March 2, 2007

Dear Members:

It has come to my attention that Senate Bill 89, *Electronic Monitoring of Gang Probationers*, is currently under consideration. I would like to add my voice in strong support of this legislation.

While Fairbanks currently does not experience the scope and extent of gang violence that has been evidenced in Anchorage, I'm somewhat concerned that it is only a matter of time before such activity migrates northward.

We need to act swiftly to deter gang activity and its associated violence, before this problem becomes entrenched throughout Alaska. Senate Bill 89 provides a positive step in keeping those who have been convicted of gang-related crimes of violence from returning to- and associating with- other gang members upon release from prison. Common sense dictates that such associations will likely lead to repeated negative (and often violent) behavior.

Please feel free to call me if you would like to discuss this issue further.

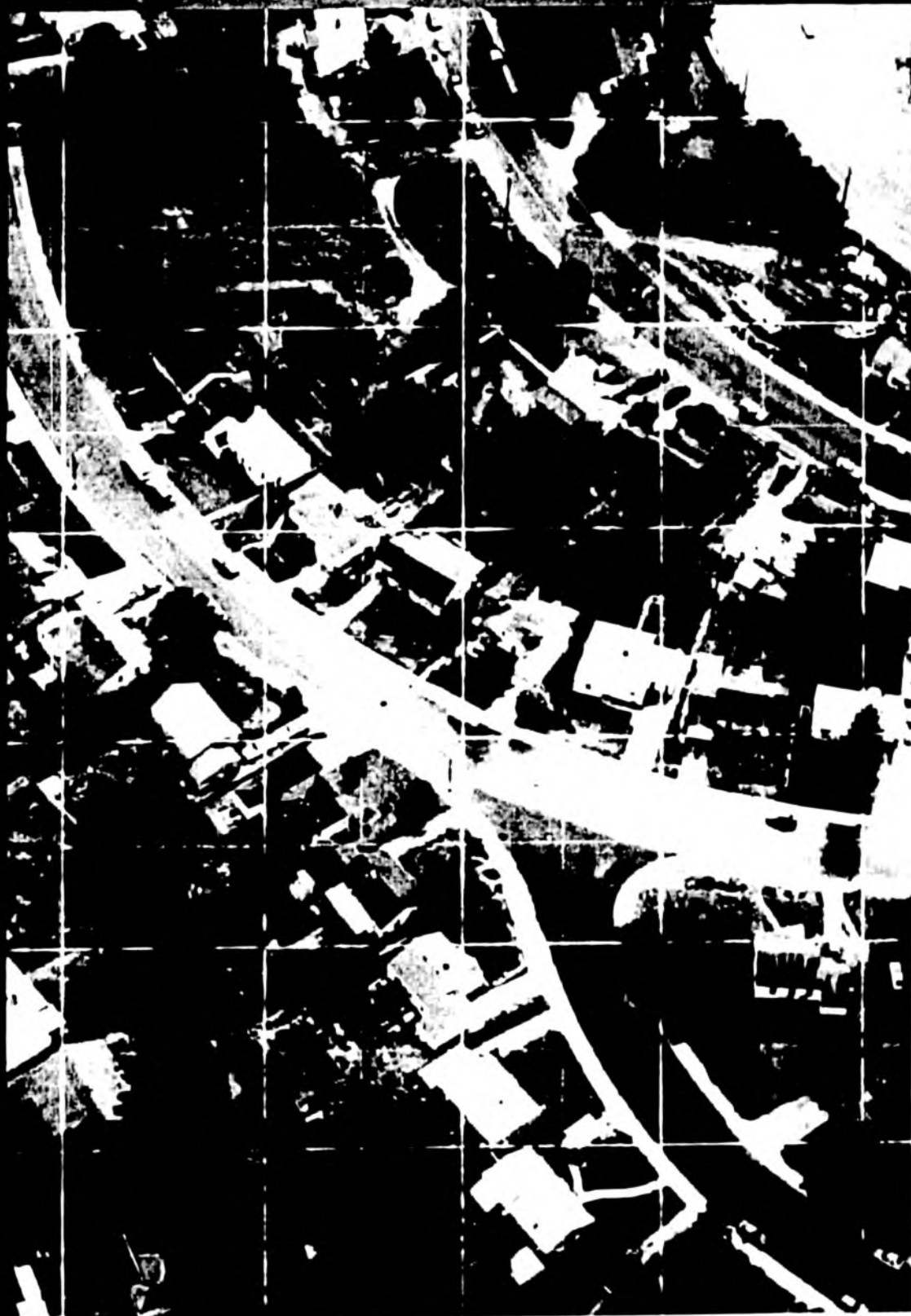
Sincerely,

A handwritten signature in black ink that reads "Daniel P. Hoffman".

Daniel P. Hoffman, Chief
Fairbanks Police Department



SMART® ACTIVE TRACKING SYSTEM
REAL-TIME REPORTING OF AN OFFENDER'S EVERY MOVE



Unlike conventional electronic monitoring devices, SMART Active Tracking offers a means of intensive supervision at an affordable price. It tracks an offender closely and effectively, 24/7, using Global Positioning System (GPS) location information and the wireless network.

HOW DOES IT WORK?

The key components of the SMART Active Tracking System are a Portable Tracking Device (PTD), ankle bracelet, charging stand, and GPS satellites.

Offenders are fitted with a tamper-resistant ankle bracelet and assigned a PTD to keep near them at all times. The ankle bracelet acts as an "electronic tether" which transmits signals to the PTD.

The PTD uses GPS signals and a wireless network to locate and report an offender's every move. The PTD monitors the signal strength of the GPS satellites to insure accurate location information and incorporates a motion detector to monitor movement in areas of insufficient GPS signal strength. Pro Tech's Offender Tracking Center (OTC)



monitors this information. The PTD is equipped with an LCD, used to notify the offender of violations and for sending text messages from the agency. This patented communication capability has

demonstrated its effectiveness in modifying offender behavior and reducing recidivism.

Authorities can even create multiple Inclusion and Exclusion Zones, and be notified by fax, pager or email whenever a zone violation occurs.



- Dimensions: 2" wide x 4" tall x 6" thick
- Weight: 3.8 pounds including batteries
- LCD to display violation message
- Rechargeable 14-hour battery
- High sensitivity GPS receiver
- Bracelet receiver
- Motion detection when no GPS
- Multiple wireless data communication protocols
- Speaker (audible violation notification)

- Dimensions: 2.0" tall x 1.9" wide x 1.0" thick
- Hypoallergenic, adjustable, tamper proof strap
- Weight: 2.5 oz.
- Uses an electronic signal to prevent hopping
- Signal transmitter of strap tampering for battery
- Range to base unit: 125 ± 10 feet
- Waterproof to 2 atmospheres
- One year battery life



2549 SUCCESS DRIVE, ODESSA, FLORIDA 33556
 PHONE: (888) 6-SMART FAX: (727) 484-3111
 WWW.PTM.COM E-MAIL: INFO@PTM.COM

FOR MORE INFORMATION ON PRO TECH MONITORING AND THE SMART SYSTEM GO TO WWW.PTM.COM OR CONTACT A SALES REPRESENTATIVE IN THE MARKETING DEPARTMENT AT (727) 484-3111

<http://www.isecuretrac.com/activeGPS.asp>

Active GPS Tracking
Keeps tabs on individuals in real-time

What is Active GPS Tracking?

Active GPS tracking is a system for monitoring an individual's movement and compliance to time/location parameters 24/7/365, anywhere in the world. GPS tracking is sometimes also referred to as GPS location verification. An Active GPS device has the ability to use wireless communications to send offender data to a central data center, enabling an officer to receive updated information (locations and violations) throughout the day.

Each ISECUREtrac active GPS unit is programmable to remember zones that are off-limits (schools or a spouse's residence, for example). Each unit can also remember the areas an offender is required to be in at certain times (at work from 8:00 AM to 5:00 PM and at diversion sessions on Tuesdays from 6:00 PM to 7:00 PM, for example). If the offender isn't compliant to these parameters, ISECUREtrac's active GPS unit will note a violation and can send an alert.

<http://www.isecuretrac.com/passiveGPS.asp>

Passive GPS Tracking
Provides in-depth offender monitoring

What is Passive GPS Tracking?

Similar to active GPS, passive GPS tracking is also a system for monitoring an offender's movement and compliance data 24/7, anywhere in the world. Each ISECUREtrac passive GPS device continuously records location data throughout the day and is programmable to remember zones that are off-limits (schools or a spouse's residence, for example). Each unit can also remember the areas an offender is required to be in at certain times (at work from 8:00 AM to 5:00 PM and at diversion sessions on Tuesdays from 6:00 PM to 7:00 PM, for example). If the offender isn't compliant to these parameters, ISECUREtrac's passive GPS unit will note a violation.

A passive unit transmits updated tracking information less frequently than an active GPS device does - normally at the end of the day. Authorized personnel can then see updated information once the data has been transferred. Most passive systems transmit data over regular phone lines rather than through cellular networks. This ability to utilize land-lines is necessary for many agencies covering rural or remote areas where cellular coverage may be inadequate.

Passive systems also cost less than active systems and are ideal for agencies that don't require immediate notifications.

GPS Offender Tracking & the Police Officer

From the **June 2005** Issue officer.com

By **Patrick Hyde and Nicola DeJarnatt**

Active and passive GPS

Sometimes, violations to the parameters laid out for the offender can be noted and forwarded to the agency within minutes — this type of system has been labeled an "active" GPS system — while other systems log GPS data points while the person travels through the community then downloads that information to be analyzed when the person returns home and places the GPS tracking unit in the charging base station. Each system has pros and cons, but usually the systems that download the data once or twice a day provide sufficient detail for uncovering the patterns of activity that the supervising officer must address with the offender.

On the surface, it may seem most helpful for agencies to know within minutes if an offender has violated their conditions of release by leaving an inclusion zone or entering an exclusion zone. However, some agencies are leery of active GPS systems. So much information, they say, can lead to "data overload" that can have the agency responding daily to continuous violation notifications, some of which are simply nuisance violations. To the police officer on the street, there will be little if any noticeable difference to these systems, other than size.

A major drawback voiced about active GPS systems is the misperception that a community corrections or police officer can intervene to thwart criminal activity. That is simply not the case, as few agencies have dedicated resources waiting for such a call nor could they move from office to "potential" crime location before a crime is committed.

What both active and passive GPS systems can provide, though, is important and concrete details about offender behavior while they move within the community. As a result, patterns in behavior can be detected and addressed, with the hope that future crime can be prevented. GPS systems can provide correlation to crime scenes and can alert local police officers if offenders are associating with other GPS tracked individuals while in the community.

Long arm of the law: GPS rapidly replaces radio frequency as the technology of choice for electronic monitoring and tracking of defendants awaiting trial, and non-violent criminal offenders on probation or parole

GPS World, August, 2004 by Marty Whitford

Deputy Kevin Rau of the Marion County Sheriff's Office in Oregon said the facility recently purchased 12 iSECUREtrac GPS-based wireless tracking and monitoring systems under a gang enforcement grant and has reaped a plethora of benefits. Rau said Marion County pays about \$6 a day to use each of its six passive iSECUREtrac units, which can download nightly a log of an offender's whereabouts, and \$10 a day for each of its six active systems, which can track an offender's travels within three minutes of real time.

The System

Each GPS-based iSECUREtrac system includes a 13.5-ounce personal tracking unit designed to clip onto one's belt, an ankle bracelet, and a charging base station for night time that powers the 6 X 3.25 X 1.75-inch PTU for 16 to 18 hours of use the next day. The ankle bracelet has light and motion sensors to prevent tampering or removal.

Features. iSECUREtrac's 2150 Passive and 2250 Active Wireless monitoring equipment feature a wearable form factor, remote zone programming and automated violation notification. The products track, report and archive information regarding the movements of criminal offenders. The Passive model has real-time data collection and storage, and the Active unit adds secure, realtime notification (via phone, e-mail, and/or pager, to pre-determined individuals on a tiered/as-need basis).

ALASKA STATE LEGISLATURE

Co-chair, Joint Armed Services
Committee

•
Resources Committee

•
Judiciary Committee

•
Transportation Committee



State Capitol, Rm. 115
Juneau, AK 99801
(907) 465-2435
Fax: (907) 465-6615

716 W. 4th Ave, Ste. 440
Anchorage, AK 99501
(907) 269-0102
Fax: (907) 269-6122

SENATOR BILL WIELECHOWSKI

February 27, 2007
Senator Hollis French, Chair
Senate Judiciary Committee
State Capitol, Room 417
Juneau, Alaska 99801

Dear Senator French:

I am writing to request a hearing on Senate Bill 89, "An Act relating to requiring electronic monitoring as a special condition of probation for offenders whose offense was related to a criminal street gang."

As you know, gang violence has become an increasing problem in Anchorage in recent years. Further, unless immediate action is taken, the problem threatens to spread to other communities throughout Alaska. SB 89 would give law enforcement officials a valuable tool in breaking apart criminal gangs by assuring that gang members do not associate with one another while on probation.

I intend to request that representatives from the appropriate departments and from legislative legal services be present to answer any questions that may arise. Further, I would like to allow public testimony to be taken statewide by electronic means.

Included with this letter you will find the latest version of this bill, a Sponsor Statement, Sectional Analysis, and other background materials.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Wielechowski".

Senator Bill Wielechowski



Senator Bill Wielechowski Sponsor Statement

Senate Bill 89 "Electronic Monitoring of Gang Probationer"

"An Act relating to requiring electronic monitoring as a special condition of probation for offenders whose offense was related to a criminal street gang."

Anchorage has seen an increase in gang violence in recent years. The Anchorage Police Department has reported 20 gang related crimes so far in 2007. In 2006, the Police Department reported 122 gang-related cases.

This bill, which is a legislative priority for the Municipality of Anchorage, addresses a problem that has been documented by the Anchorage Police Department and prosecutors where gang members who have been convicted of violent gang-related crimes go back to gang activity when they are released on probation.

Senate Bill 89 would require people who are convicted of violent, gang-related crimes to wear electronic monitoring devices as a condition of their probation. The bill will help law enforcement officials to monitor the movement of violent offenders, and supervise their activity.

The scope of Senate Bill 89 is narrowly defined. It applies only to those people who have been convicted of violent crimes that are proven in a court of law to be gang related. It would not be used on other offenders.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 26, 2007

SUBJECT: SB 89 - Sectional Summary

TO: Senator Bill Wielechowski
Attn: George Ascott

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1. Amends AS 16.55.100 by adding a new subsection that requires electronic monitoring (with GPS location and tracking ability) as a special condition of probation for offenders whose offense involved a criminal street gang.

GPL:med
07-129.med



Municipality of Anchorage



4501 Bragaw Street • Anchorage, Alaska 99507-1800 • Telephone (907) 780-4500 • <http://www.mml.org>

Mayor Mark Begich

Anchorage Police Department

February 12, 2007

Representative Bob Buch
State Capitol, Room 430
Juneau, Alaska 99801

Re: APD Support for Electronic Ankle Monitors

Dear Representative Buch:

As Chief of the Anchorage Police Department, I endorse the concept of electronic monitoring as a special condition of probation for offenders whose crimes were for the benefit of, at the direction of, or in association with a criminal street gang. This was a public safety priority contained in the Municipality of Anchorage's legislative package.

While the technology is no substitute for regular visits by human monitors, the combination of such visits with the electronic monitoring of the convicted person's movements and location will help ensure that conditions of probation are adhered to. Key to the employment of such devices will be the reasonableness that there is a clear link between the offense and the restriction. It is certainly reasonable to expect convicted violent gang members to keep authorities informed as to their whereabouts.

The fact that this bill uses the court as the deciding factor as to whether the threshold articulated in AS 12.55.155 (c)(29) and AS 12.55.137 was met ensures the defendant's due process rights are adhered to prior to requiring the defendant to submit to the electronic monitoring. As a Police Chief, it is important to me that such conditions of probation are determined after the case has been adjudicated.

Once again, I endorse the concept of electronic monitoring as a special condition of probation for individuals who have been convicted of a crime where the aggravating factors regarding criminal street gangs are proven.

Sincerely,

Rob Heun
Chief of Police

Community, Security, Prosperity