



Testimony for the Senate Judicial Proceedings Committee

**SB 208 – Criminal Procedure – Sex Offenders – Tracking Device as a
Condition of Probation and for Life After Release from Custody**

March 15, 2011

OPPOSE

The ACLU of Maryland opposes SB 208, which would mandate that all sex offenders wear an electronic tracking device for the rest of their lives.

This bill would not contribute to Maryland's public safety, as it makes no distinction between habitual offenders at high risk of striking again, and the felons who have served their time and present no apparent threat to public safety in the eyes of the court. The current system, in which the court reviews a presentence investigation of every lifetime sexual offender being released and determines if they need GPS tracking, is preferable in that it reserves GPS tracking only for those determined to need it.

Imposing GPS tracking on every sex offender is more than just regulating them but is increasing the punishment for their past acts, which is likely to be unconstitutional. It is giving them a life sentence of constant monitoring in the privacy of their own home, which could be considered an unreasonable search and seizure. But beyond the legal issues, it is likely to have little impact on preventing crimes against children. The majority of such crimes are not committed by strangers but by adults known to the victim and likely to happen within the confines of the offender's home. So wearing a GPS tracking device while in their home will not do anything to prevent crimes from happening in their home and will just provide a false sense of security.

This false sense of security comes at a very high price tag. The fiscal note for this bill estimates that within five years, additional State costs for electronic tracking could total \$825,000, but may be significantly higher, depending on the actual number of persons who would require constant electronic tracking under this bill. For a program of dubious value and of likely harm to the offenders' civil rights, this is much too high a cost.

Additionally, GPS monitoring may actually increase the likelihood of recidivism. In order to fully rehabilitate, the offender must become a productive member of society. To the extent the device is visible the offender may find it difficult to find employment, find an apartment, go grocery shopping, or function productively in society. Further, by creating situations where an ex-offender must submit to monitoring for life without the

ability to get the device removed for good behavior, GPS legislation could remove an incentive for the ex-offender to become a productive member of society and makes him or her more likely to reoffend.

For these reasons, we would urge an unfavorable report of this bill.