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Testimony in Support of Assembly Bill 214

Assembly Committee on Corrections

September 14, 2021

Mr. Chairman and members of the committee, I appreciate you holding a public hearing on Assembly Bill 214. Earlier this session, staff from the Wisconsin Department of Corrections (DOC) came to me with this issue of a loophole in our state statutes that compromises the safety of our communities. I've authored this proposal alongside Sen. Testin, and I'm grateful for his help on the matter. Since introduction, our proposal has received bipartisan support.

Under Wisconsin State law (§301.48), the DOC is required to place certain sex offenders on lifetime GPS tracking under certain conditions. These include upon 1) release from prison to supervision, 2) being placed on probation for a serious child sex offense, 3) being granted supervised release, or 4) being discharged from a civil commitment under Wis. Stat. Chap. 971 or 980.

While there is language in the state statutes that provides a penalty for tampering with a GPS device, there is unfortunately a lack of definition for refusing to comply with the installation of the GPS device. This means that those individuals whom the DOC is required to place on lifetime GPS tracking under state law are actually able to initially refuse to wear the device without any sort of consequences. Currently, there are about 15 people walking around our state who should be monitored on GPS devices, but have refused. Our proposal, AB 214, makes it a Class I felony to knowingly refuse, resist, or obstruct the installation of a GPS tracking device, thus closing this loophole in state law. This would match the penalty currently on the books for tampering with the device once installed.

The department has been referring these individuals who have refused to wear the GPS to multiple District Attorney's offices, but their offices have declined to prosecute, citing a lack of statutory authority. AB 214 ensures the DOC has the ability to keep track of those who are statutorily required to be monitored and increases the security of our children, families, and communities. Again, I appreciate your time in listening to my testimony and I hope to see your support for this important legislation.



PATRICK TESTIN

STATE SENATOR

DATE: September 14th, 2021

RE: **Testimony on 2021 Assembly Bill 214**

TO: The Assembly Committee on Corrections

FROM: Senator Patrick Testin

Thank you Chairman Schraa and members of the committee for hearing my testimony in support of Assembly Bill 214 (AB 214).

Currently, according to Wisconsin State law under chapter 301, the Wisconsin Department of Corrections is required to place certain violent offenders on permanent GPS tracking when an offender is:

- Being released from prison into supervision
- Being placed on probation for a serious child sex offense
- Being granted supervised release, or when
- Being discharged from a civil commitment under Wis. Stat. Chap. 971 or 980

However, there is a loophole violent offenders use to evade wearing a tracking device. The Wisconsin DOC's hands are legally tied and cannot enforce the oversight of dangerous offenders. Local district attorneys have declined enforcement of the GPS tracking installation specifically citing lack of statutory authority permitting violent offenders to refuse wearing the tracking device.

As of February this year, there are **15 offenders who are not on** active supervision as a result of this loophole. ***This is unacceptable*** - which is why I authored this bill to make it a Class I felony for a violent offender to knowingly refuse, resist, or obstruct the installation of a GPS tracking device. This mirrors the existing penalty of tampering with a GPS tracking device. When violent offenders are released into supervision, the DOC's EMC (Electronic Monitoring Center) has the full capacity to ensure our neighborhoods remain safe, but only if an offender properly wears the device. Without the tracking device installed, monitoring and tracking are not possible.

The DOC needs to have the ability to enforce compliance, thereby keeping violent offenders accountable and protecting our communities. With that, I am happy to answer any questions.



Public Testimony of Rep. David Bowen
Assembly Bill 214
September 14, 2021

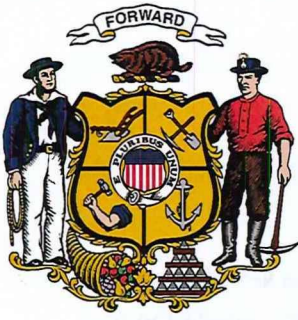
Chairman Schraa and Members of the Assembly Committee on Corrections,

Thank you for allowing me to testify in support of Assembly Bill 214 relating to refusing or tampering with a global positioning system tracking device.

While I normally do not support legislation that seeks to enhance or create a new criminal penalty, this bill is an exception. There is a balance that needs to be struck to ensure that our communities are safe, while following best practices to not over-incarcerate individuals. This is a targeted bill to close a loophole that would only apply to individuals who refuse the statutory requirement that they wear a GPS monitor because they have been convicted of serious sexual offenses. This bill will only affect roughly a dozen individuals, and I am confident that there will be no unintended consequences.

That being said, I am happy to see that this bill was referred to the Joint Review Committee on Criminal Penalties, one of only three bills that has been referred to that committee this session. While I know that that committee has not met in over a decade, we as a legislative body must do everything we can to make sure that the laws we enact that create new penalties or modify existing penalties are properly vetted and without unintended consequences.

Thank you again for allowing me to testify in support of this bill. I look forward to not only seeing this bill pass this committee unanimously, but I also look forward to continued bipartisan legislation to reform our criminal justice and correctional system.



Wisconsin Department of Corrections

Governor Tony Evers | Secretary Kevin A. Carr

**Testimony for SB229/AB214– Penalty definition to include refusing to wear a GPS tracking device
Assembly Committee on Corrections
Tuesday, September 14, 2021**

Good Afternoon Chairman Schraa and committee members. I am Lance Wiersma, the Administrator for the Division of Community Corrections (DCC).

Thank you for the opportunity to testify in support of SB229/AB214, which closes a loophole under the Tampering with a GPS Device penalty, to also include refusing to wear, resist, or obstruct the installation of a GPS device.

Along with supervising about 63,000 people in the community, the DCC is also responsible for managing the state's Electronic Monitoring Center (EMC), which operates 24/7/365 and is located at the Department of Correction's (DOC) Central Office in Madison, WI. The EMC employs 88 staff, and part of their duties includes monitoring about 3,406 individuals who are on some type of electronic monitoring device due to their sentence or as a tool of supervision.

Global Positioning Satellite or GPS monitoring for life is mandated by law for some individuals who have been convicted of a certain sex offense. When someone is on GPS monitoring, they are required to wear a device, usually on their ankle, and this device communicates with satellites and cellular towers to actively track the device's location and provides that information to our EMC.

The DOC currently supervises 2,416 people on active supervision that are required to be on GPS for life. These are individuals who report to a Probation and Parole Agent on a regular basis. If the person has a violation of supervision, including curfew, location and other activities tracked by GPS, agents have the ability respond and address the behavior as needed.

There are an additional 561 people that are completely discharged from supervision but are required to be on GPS tracking for life. These are individuals that have finished their sentences and no longer report to a Probation and Parole Agent, but their locations and movements are still being relayed to the EMC by the GPS tracker.

The current statute includes language specific to "tampering" and "interfering with the signal", but does not specifically require compliance with the installation process, or hooking up a device to a person's ankle. This is the loophole and the reason we are here today. When this has happened over the last few years, the DOC has referred cases to the district attorneys (DA) when a person is required to be on GPS monitoring, but is no longer on supervision. Due to this current loophole, the DA's have declined to

charge those individuals, stating there is nothing in the law barring these individuals from refusing to wear GPS or comply with the installation process.

Because of this loophole, there are currently nine individuals in Wisconsin who have sex offense convictions that require lifetime GPS monitoring and are refusing to comply with the installation of a GPS tracking device. These individuals are currently not being tracked or monitored despite the original intent of the law.

We project an increase in the number of individuals who will be subject to lifetime GPS requirements, and an increase in the number of individuals who will be able to avoid GPS tracking without consequence after they discharge from supervision by simply refusing to comply with the installation process. SB229/AB214 will close the loophole, encourage cooperation with the installation process and provide a consequence for those who refuse to comply.

I would like to thank Senator Testin and Representative Callahan and the other co-sponsors for taking a lead on this bill. Thank you, and I would be happy to answer any questions that you might have.