

Objections to House Bill 188

About HB 188

In 2019 the Georgia Supreme Court ruled that it was unconstitutional to subject someone to electronic monitoring beyond the term of their sentence. As a legislative “work around,” HB188 would give a Judge only two options in sentencing someone for a 2nd Sexual Offense: **lifetime imprisonment or imprisonment followed by lifetime supervision with electronic monitoring** (ankle monitor). The bill would also impose **mandatory** electronic monitoring for those awaiting a risk assessment from the Sexual Offender Registration Review Board (SORRB).

Problems with this Bill

- **Judicial Discretion – This bill removes Judicial discretion.** It ties a Judge’s hands, forcing them to make an impossible decision: Sentence someone to prison for the rest of their life or split the prison sentence with a lifetime of probation and electronic monitoring.

In 2019, the Senate Study Committee on Protections from Sexual Predators (SR 371) provided the following recommendation. “The Study Committee recommends legislative action to give judges discretion to include lifetime GPS ankle monitoring in a sexual offender’s actual sentence by having the leveling information from the SORRB available at the time of sentencing.” Imposing the word “SHALL” in each of the sentencing aspects of this bill takes away Judicial discretion. The sponsor of this bill has continuously rejected the Senate’s recommendations on Judicial discretion.

- **Increased Costs -** Taking away Judicial discretion also guarantees that all these second-offense cases would end up going to trial. There is no chance for Plea Bargains and negotiated sentencing. **This would extend the time for cases to be adjudicated and significantly increase court operating costs and jail fees.** There are also incurred costs to the State when it comes to supervision. Community Supervision Officers from DCS are already overworked and assigned more cases than they can handle. Adding the electronic monitoring aspect would incur more cost to the State and more burden on the Community Supervision Officers.

Offenders being released from incarceration rarely have the monetary funds to afford the basic necessities of life (food, clothing, shelter). Sex Offender Special Conditions of Supervision also require offenders to receive and pay for agency-approved initial psychosexual evaluation (\$250) treatment, counseling (\$40/week), and frequent polygraph assessments (\$250/each, every 6 months). **So where is this additional \$150/month for electronic monitoring going to come from?** If the offender can’t afford the monitoring, their supervision would be revoked, and the offender would end up back in jail. **Again... more costs to the State.**

- **SORRB Backlog -** A last-second inclusion of this bill (lines 401-410) would also force offenders awaiting a risk-based assessment from SORRB to be placed on electronic monitoring. We all know that the SORRB backlog is long and grows every month. Why should the offender be punished for a government agency’s inability to keep up with the standards they made? In business, we have things such as process improvement reviews in which enterprise leaders analyze their business processes to identify areas where they can improve accuracy, effectiveness, and efficiency and then make changes within the processes to realize these improvements. **Maybe it is time for a process review.**

- **Objection to the Presentation of the Bill** – Restore Georgia does object to the way this bill was pushed through the House Committees without serious discussion and last-second substituted onto the House Floor and passed through to the Senate. On February 22 in the Judiciary Non-Civil Hong Subcommittee meeting, this bill was partially discussed with the comments from the sponsor that an “amended version was going to be released soon”. The subcommittee did not vote on the bill because of this. Then in the late hours of March 1st in the Judiciary Non-Civil Committee meeting, the sponsor brought the bill to the full committee without allowing any opposing comments due to the lack of time. The sponsor also disclosed a substitute bill that was in the works.

Then on Crossover Day, the substituted bill was passed by the full House of Representatives riding the narrative of a grieving family to push the bill through. It is disheartening to hear that Mariam Abdulrab was murdered in August of 2021. However, it may be likely that the person alleged to have committed this crime may be innocent. This case has yet to be closed. On February 28, 2023 a Motion to Dismiss (attached) was filed in the Superior Court of Fulton County (21SC179635) on grounds that the State has failed to prosecute this case in a timely manner. If this Motion to Dismiss passes, then this Bill would be riding on a false narrative that an individual who was not leveled by SORRB committed this crime.

How to Fix this Bill

Change SHALL to MAY and give Judges a SAY

In every instance of this bill, we are asking for the following language:

~~shall~~ **may** be punished by imprisonment for life or a split sentence that is a term of imprisonment followed by probation for life. As a condition of probation, the court ~~shall~~ **may** impose the requirement of electronic monitoring.

Remove Lines 401-410

Due to the possibility of the lack of a conviction in State v. Demarcus Brinkley (21SC179635), we ask that these lines be removed from the bill. We do agree that there are issues with the Sexual Offender Registration Review Board (SORRB) and ask that we move to a process review of their classification system.