

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1247
Judiciary

(Delegate Shank, *et al.*)

Criminal Procedure - Domestic Violence - Lethality Assessment and Global Positioning Satellite Tracking

This bill requires a court to order a defendant to undergo a lethality assessment evaluation: (1) as a condition of a defendant's pretrial release on a charge of violating a protective order; or (2) if a court suspends the imposition or execution of sentence and places the defendant on probation when entering a judgment that a defendant failed to comply with the relief granted in a protective order.

Fiscal Summary

State Effect: None. The bill's provisions can be handled with existing resources.

Local Effect: Local revenues could increase to the extent that additional defendants are subject to electronic monitoring.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires that the lethality assessment evaluation is to be conducted in a domestic abuse intervention program that is approved by the Maryland Network Against Domestic Violence. If the results of the assessment indicate a need to monitor the defendant, the court must order that the defendant, as a condition of bail or probation, be supervised by active electronic monitoring and responsible for paying the fee for monitoring as established by the county. However, if the county determines that the defendant cannot afford the fee, the county may partially or wholly exempt the defendant from the fee. The bill applies only in a county that implements a global

positioning satellite tracking system program. The bill also requires the Governor's Office of Crime Control and Prevention to work with law enforcement agencies to secure all available funding and develop a program to assist law enforcement agencies in funding implementation.

Current Law: A judge may allow the pretrial release of a defendant charged with violating specified provisions of a temporary or final protective order on suitable bail and/or any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

On entering a judgment of conviction, the court may suspend the imposition or execution of the sentence and place the defendant on probation on conditions that the court considers proper.

The criminal penalties for noncompliance with the relief granted in a protective order apply to a respondent who does not:

- refrain from abusing or threatening to abuse any person eligible for relief;
- refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- refrain from entering the residence of any person eligible for relief;
- vacate the home immediately where the person eligible for relief and the respondent are residing together at the time of the abuse;
- remain away from the place of employment, school, or temporary residence of a person eligible for relief or the home of other family members; or
- for a final protective order only, surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order.

A person who commits any of the offenses listed above is guilty of a misdemeanor. For a first offense, the person is subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment. For a second or subsequent offense, the person is subject to a maximum penalties of a \$2,500 fine and/or imprisonment for one year.

Background: Lethality assessments were developed to aid domestic violence victims and service providers to better understand the potential for danger in domestic violence situations. Research indicates that several risk factors, including strangulation, use of weapons, forced sexual activity, extreme jealousy, and threats to kill are consistently associated with homicides relating to domestic violence.

Many domestic violence service providers also offer domestic abuse intervention programs. A judge may order a defendant in a criminal case or a respondent in a final protective order to complete a domestic abuse intervention program. As part of the intake process, an abuse intervention program develops a history and profile of an abuser's violent behavior based on information from the abuser, the victim, criminal justice agencies, and other relevant persons or agencies. The program must evaluate the abuser's lethality and warn victims who are determined to be at high-risk.

A monitoring system that is connected to a GPS tracking system enables the law enforcement agency to know not only when the defendant went out of range, but precisely to what location the defendant went. If a person under a protective order is told to stay away from the residence and the spouse's workplace, tracking by GPS would enable the law enforcement agency to know exactly when the defendant left the area of confinement and if the defendant went to a place that was prohibited. Traditional electronic monitoring is accomplished through the defendant's phone system, not through satellite.

The following table shows judicial activity in fiscal 2007 (the latest information available) with regard to protective orders.

<u>Jurisdiction</u>	<u>Hearings</u>	<u>Interim Protective Orders Granted</u>	<u>Temporary Orders Granted</u>	<u>Final Protective Orders Granted</u>
Circuit Court	7,106	n/a	1,936	1,290
District Court	53,952	10,170	15,491	7,814

State and Local Fiscal Effect: Any increase in the workload for the Judiciary can be absorbed with existing budgeted resources. The bill does not require the Judiciary to provide lethality assessments but to refer certain defendants to service providers for evaluation.

While electronic monitoring is available in all counties, only some counties have implemented GPS tracking systems. The fee for electronic monitoring is determined by county correctional systems. It varies depending on the required level of monitoring and the length of time a defendant is subject to monitoring. The vast majority of defendants who undergo electronic monitoring instead of confinement are able to pay the fee. Since the county implements the GPS tracking system, county law enforcement is responsible for the active electronic monitoring required by the bill. County law enforcement will inform the Division of Parole and Probation when the defendant was not in compliance, and the division informs the court, which may then reimpose the original sentence.

The Governor's Office of Crime Control and Prevention can assist in securing funding for the bill's provisions using existing resources.

Additional Information

Prior Introductions: None.

Cross File: SB 801 (Senator Forehand, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore City, Governor's Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Maryland Network Against Domestic Violence, Department of Legislative Services

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