

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 56  
Judiciary

(Delegate Barnes, *et al.*)

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**Domestic Violence - Conditions of Probation - Order to Carry or Wear a Global Positioning System Device**

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This bill authorizes a court, when placing on probation a defendant who has been convicted of certain crimes of domestic violence, to order the defendant to carry or wear a global positioning system (GPS) device as a condition of probation.

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**Fiscal Summary**

**State Effect:** The bill's requirements can be handled with existing budgeted resources.

**Local Effect:** The bill's requirements can be handled with existing budgeted resources.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** If a court places a defendant on probation who has been convicted of a crime against a "victim of domestic violence" that is consistent with certain "acts of abuse" as specified by the Family Law Article, the court may order the defendant to carry or wear a GPS device as a condition of probation. The court may add this condition of probation on a motion by the victim of the crime or an individual who is eligible to seek relief from abuse on behalf of the victim under the Family Law Article. If this condition is ordered, the victim of the crime may be provided with an electronic receptor device that is capable of alerting the victim if the defendant is located within a specified proximity to the victim. The victim may also be provided with a telephone contact with the local law enforcement agency to request immediate assistance if the defendant is located within a specified proximity.

A defendant may be released only if the defendant agrees to pay the cost of the GPS device and the monitoring of the device as a condition of release.

**Current Law:** 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.

A “victim of domestic violence” is an individual who has received deliberate, severe, and demonstrable physical injury, or is in fear of imminent deliberate, severe, and demonstrable physical injury from a current or former spouse, or a current or former cohabitant.

An “act of abuse” is defined as:

- an act that causes serious bodily harm;
- an act that places a person eligible for relief in fear of imminent serious bodily harm;
- assault in any degree;
- rape or sexual offense or attempted rape or sexual offense in any degree;
- false imprisonment; or
- stalking.

A “person eligible for relief” may file a petition for a protective order under the Family Law Article. A person eligible for relief includes:

- the current or former spouse of the respondent;
- a cohabitant of the respondent;
- a person related to the respondent by blood, marriage, or adoption;
- a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition;
- a vulnerable adult; or
- an individual who has a child in common with the respondent.

The following individuals may seek relief from abuse on behalf of a minor or vulnerable adult:

- the State’s Attorney for the county where the child or vulnerable adult lives, or if different, where the abuse is alleged to have taken place;

- the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;
- a person related to the child or vulnerable adult by blood, marriage, or adoption; or
- an adult who resides in the home.

**Background:** The following states authorize electronic monitoring in domestic violence cases either when a protective order is issued, as a condition of pretrial release, in lieu of incarceration, or on release: Illinois, Louisiana, Massachusetts, Michigan, Hawaii, Minnesota, Oklahoma, Utah, and Washington. The following states include an additional requirement that the electronic monitoring system alert the victim of any breach of proximity limitations: Illinois, Louisiana, Massachusetts, and Michigan.

Colorado, Florida, and New Hampshire allow for the use of electronic monitoring in general and not specifically in association with domestic violence cases. Alaska specifically prohibits electronic monitoring in lieu of incarceration for a crime involving domestic abuse.

According to the State Police Uniform Crime Report issued for calendar 2007, 19,391 domestic violence crimes occurred in Maryland, a 12% decrease compared to the calendar 2006 total of 21,965. Assault was by far the most frequently reported crime, with 17,995 incidents in calendar 2007. Of reported assaults, simple assaults comprised 13,728 incidents. Aggravated assaults totaled 4,261 or 23.7 % of the reported domestic violence assaults for the same period. In 2007, 30 homicides were attributed to domestic violence incidents.

**State and Local Fiscal Effect:** The Department of Public Safety and Correctional Services advises that because the bill requires the defendant to pay the cost of the GPS device and monitoring costs as a condition of release, there is no direct cost to the Division of Parole and Probation (DPP). Any administrative costs associated with billing the defendant for the GPS device and processing payment can be assessed to the defendant or absorbed within existing budgeted resources. If a court has imposed a special condition of probation that the defendant is to stay away from the victim and DPP learns that the defendant has violated this condition, DPP will notify the court of the alleged violation.

Local law enforcement agencies may receive an increased number of phone calls from victims when an offender triggers the GPS system, but unless there is an active protective order in place, law enforcement is unable to arrest a defendant simply for being within the vicinity of the victim. Any potential increase in workload for local law enforcement

can be handled with existing resources. For example, both Baltimore City and Montgomery County advise the bill will have no fiscal impact.

This bill does not have a direct fiscal impact on the Judiciary because it simply gives the courts an additional disposition option when imposing a sentence on a defendant. To the extent that this bill's provisions lead to additional hearings relating to arrests for violations of protective orders or to address alleged violations of a stay away order issued as a condition of probation, any increase in the workload of the District Court or the circuit courts can be absorbed with existing budgeted resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery County, Baltimore City, Department of Human Resources, Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2009  
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