

HOUSE BILL 665

E2
HB 56/09 – JUD

0lr1158

By: **Delegate Barnes**
Introduced and read first time: February 4, 2010
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 25, 2010

CHAPTER _____

1 AN ACT concerning

2 **Prince George's County – Domestic Violence – ~~Conditions of Probation –~~**
3 **~~Order to Carry or Wear a Global Positioning System Device~~ GPS Tracking**
4 **System Pilot Program for Offenders**

5 FOR the purpose of ~~authorizing a court, when placing on probation a defendant who~~
6 ~~has been convicted of a certain crime of domestic violence, to order the~~
7 ~~defendant to carry or wear a global positioning system device as a condition of~~
8 ~~probation and to provide the victim of the crime with an electronic receptor~~
9 ~~device capable of receiving certain information that notifies the victim if the~~
10 ~~defendant is located within the proximity to the victim proscribed by the court;~~
11 ~~requiring that a certain victim of a certain crime of domestic violence be~~
12 ~~furnished with certain information under certain circumstances; prohibiting a~~
13 ~~defendant from being released under this Act unless the defendant agrees to~~
14 ~~pay certain costs as a condition of release; and generally relating to conditions of~~
15 ~~probation and domestic violence~~ requiring the court in Prince George's County
16 to implement a global positioning satellite tracking system pilot program that
17 authorizes the court, as a condition of a defendant's pretrial release on a charge
18 of violating a certain protective order, to order that the defendant be supervised
19 by means of active electronic monitoring as a condition of bail under certain
20 circumstances; requiring the court in Prince George's County to implement a
21 global positioning satellite tracking system pilot program that authorizes the
22 court, if the court suspends the sentence of a certain defendant convicted of
23 failing to comply with certain relief granted in an interim protective order,
24 temporary protective order, or final protective order, to order that the defendant
25 be supervised by active electronic monitoring as a condition of probation under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain circumstances; authorizing the court to consider the preferences of the
 2 victim and the parties before issuing a certain order; requiring a certain
 3 defendant to pay certain fees established by the county under certain
 4 circumstances; authorizing the county to exempt the defendant from the fee
 5 under certain circumstances; requiring the Sheriff of Prince George's County
 6 and the administrative judge for the District Court in Prince George's County to
 7 submit a certain report on the pilot program; providing for the termination of
 8 this Act; providing that the abrogation of this Act does not terminate the
 9 obligation of a defendant to comply with an order entered by a court under this
 10 Act on or before a certain date; and generally relating to a global positioning
 11 satellite tracking system pilot program in Prince George's County.

12 ~~BY repealing and reenacting, without amendments,~~
 13 ~~Article – Criminal Procedure~~
 14 ~~Section 6–219(b)~~
 15 ~~Annotated Code of Maryland~~
 16 ~~(2008 Replacement Volume and 2009 Supplement)~~

17 ~~BY adding to~~
 18 ~~Article – Criminal Procedure~~
 19 ~~Section 6–219(g)~~
 20 ~~Annotated Code of Maryland~~
 21 ~~(2008 Replacement Volume and 2009 Supplement)~~

22 ~~BY repealing and reenacting, with amendments,~~
 23 ~~Article – Criminal Procedure~~
 24 ~~Section 6–220(b)~~
 25 ~~Annotated Code of Maryland~~
 26 ~~(2008 Replacement Volume and 2009 Supplement)~~

27 ~~BY repealing and reenacting, without amendments,~~
 28 ~~Article – Family Law~~
 29 ~~Section 4–501(a), (b), (h), (l), (m), and (p), 4–504, and 4–513~~
 30 ~~Annotated Code of Maryland~~
 31 ~~(2006 Replacement Volume and 2009 Supplement)~~

32 BY repealing and reenacting, without amendments,
 33 Article – Criminal Procedure
 34 Section 5–202(e)
 35 Annotated Code of Maryland
 36 (2008 Replacement Volume and 2009 Supplement)

37 BY adding to
 38 Article – Criminal Procedure
 39 Section 5–202(g)
 40 Annotated Code of Maryland
 41 (2008 Replacement Volume and 2009 Supplement)

1 BY repealing and reenacting, with amendments,
 2 Article – Criminal Procedure
 3 Section 6–221
 4 Annotated Code of Maryland
 5 (2008 Replacement Volume and 2009 Supplement)

6 BY repealing and reenacting, without amendments,
 7 Article – Family Law
 8 Section 4–509(a)
 9 Annotated Code of Maryland
 10 (2006 Replacement Volume and 2009 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Criminal Procedure**

14 ~~6–219.~~

15 ~~(b) Subject to subsection (c) of this section, a court:~~

16 ~~(1) may suspend a sentence generally or for a definite time;~~

17 ~~(2) may pass orders and impose terms as to costs, recognizance for~~
 18 ~~appearance, or matters relating to the residence or conduct of the defendant who is~~
 19 ~~convicted as may be deemed proper;~~

20 ~~(3) may order confinement in any care or custody as may be deemed~~
 21 ~~proper; or~~

22 ~~(4) may order a person to a term of custodial confinement as a~~
 23 ~~condition of a suspended sentence.~~

24 ~~(c) (1) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO~~
 25 ~~HAS BEEN CONVICTED OF A CRIME AGAINST A VICTIM OF DOMESTIC VIOLENCE~~
 26 ~~AS DEFINED IN § 4–513 OF THE FAMILY LAW ARTICLE THAT IS CONSISTENT~~
 27 ~~WITH AN ACT OF ABUSE AS DEFINED IN § 4–501 OF THE FAMILY LAW ARTICLE,~~
 28 ~~ON MOTION BY THE VICTIM OF THE CRIME OR AN INDIVIDUAL WHO MAY SEEK~~
 29 ~~RELIEF FROM ABUSE ON BEHALF OF THE VICTIM UNDER THE FAMILY LAW~~
 30 ~~ARTICLE, THE COURT MAY:~~

31 ~~(i) ORDER THE DEFENDANT TO CARRY OR WEAR A GLOBAL~~
 32 ~~POSITIONING SYSTEM DEVICE AS A CONDITION OF PROBATION; AND~~

33 ~~(ii) PROVIDE THE VICTIM OF THE CRIME WITH:~~

1 ~~1. AN ELECTRONIC RECEPTOR DEVICE CAPABLE OF~~
2 ~~RECEIVING THE GLOBAL POSITIONING SYSTEM INFORMATION FROM THE~~
3 ~~DEVICE CARRIED OR WORN BY THE DEFENDANT THAT NOTIFIES THE VICTIM IF~~
4 ~~THE DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM~~
5 ~~PROSCRIBED BY THE COURT; AND~~

6 ~~2. A TELEPHONE CONTACT WITH THE LOCAL LAW~~
7 ~~ENFORCEMENT AGENCY TO REQUEST IMMEDIATE ASSISTANCE IF THE~~
8 ~~DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM PROSCRIBED~~
9 ~~BY THE COURT.~~

10 ~~(2) A DEFENDANT DESCRIBED IN THIS SUBSECTION MAY BE~~
11 ~~RELEASED UNDER THIS SECTION ONLY IF THE DEFENDANT AGREES TO PAY THE~~
12 ~~COST OF THE GLOBAL POSITIONING SYSTEM DEVICE AND THE MONITORING OF~~
13 ~~THE DEVICE AS A CONDITION OF RELEASE.~~

14 ~~6-220.~~

15 ~~(b) (1) When a defendant pleads guilty or nolo contendere or is found~~
16 ~~guilty of a crime, a court may stay the entering of judgment, defer further proceedings,~~
17 ~~and place the defendant on probation subject to reasonable conditions if:~~

18 ~~(i) the court finds that the best interests of the defendant and~~
19 ~~the public welfare would be served; and~~

20 ~~(ii) the defendant gives written consent after determination of~~
21 ~~guilt or acceptance of a nolo contendere plea.~~

22 ~~(2) Subject to paragraphs (3) and (4) of this subsection, the conditions~~
23 ~~may include an order that the defendant:~~

24 ~~(i) pay a fine or monetary penalty to the State or make~~
25 ~~restitution; or~~

26 ~~(ii) participate in a rehabilitation program, the parks program,~~
27 ~~or a voluntary hospital program.~~

28 ~~(3) Before the court orders a fine, monetary penalty, or restitution, the~~
29 ~~defendant is entitled to notice and a hearing to determine the amount of the fine,~~
30 ~~monetary penalty, or restitution, what payment will be required, and how payment~~
31 ~~will be made.~~

32 ~~(4) Any fine or monetary penalty imposed as a condition of probation~~
33 ~~shall be within the amount set by law for a violation resulting in conviction.~~

~~(5) As a condition of probation, the court may order a person to a term of custodial confinement or imprisonment.~~

~~(6) (i) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN CONVICTED OF A CRIME AGAINST A VICTIM OF DOMESTIC VIOLENCE AS DEFINED IN § 4-513 OF THE FAMILY LAW ARTICLE THAT IS CONSISTENT WITH AN ACT OF ABUSE AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE, ON MOTION BY THE VICTIM OF THE CRIME OR AN INDIVIDUAL WHO MAY SEEK RELIEF FROM ABUSE ON BEHALF OF THE VICTIM UNDER THE FAMILY LAW ARTICLE, THE COURT MAY:~~

~~1. ORDER THE DEFENDANT TO CARRY OR WEAR A GLOBAL POSITIONING SYSTEM DEVICE AS A CONDITION OF PROBATION; AND~~

~~2. PROVIDE THE VICTIM OF THE CRIME WITH:~~

~~A. AN ELECTRONIC RECEPTOR DEVICE CAPABLE OF RECEIVING THE GLOBAL POSITIONING SYSTEM INFORMATION FROM THE DEVICE CARRIED OR WORN BY THE DEFENDANT THAT NOTIFIES THE VICTIM IF THE DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM PROSCRIBED BY THE COURT; AND~~

~~B. A TELEPHONE CONTACT WITH THE LOCAL LAW ENFORCEMENT AGENCY TO REQUEST IMMEDIATE ASSISTANCE IF THE DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM PROSCRIBED BY THE COURT.~~

~~(ii) A DEFENDANT DESCRIBED IN THIS SUBSECTION MAY BE RELEASED UNDER THIS SECTION ONLY IF THE DEFENDANT AGREES TO PAY THE COST OF THE GLOBAL POSITIONING SYSTEM DEVICE AND THE MONITORING OF THE DEVICE AS A CONDITION OF RELEASE.~~

~~Article — Family Law~~

~~4-501.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) (1) “Abuse” means any of the following acts:~~

~~(i) an act that causes serious bodily harm;~~

~~(ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;~~

~~(iii) assault in any degree;~~

1 ~~(iv) rape or sexual offense under §§ 3-303 through 3-308 of the~~
 2 ~~Criminal Law Article or attempted rape or sexual offense in any degree;~~

3 ~~(v) false imprisonment; or~~

4 ~~(vi) stalking under § 3-802 of the Criminal Law Article.~~

5 ~~(2) If the person for whom relief is sought is a child, "abuse" may also~~
 6 ~~include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this~~
 7 ~~subtitle shall be construed to prohibit reasonable punishment, including reasonable~~
 8 ~~corporal punishment, in light of the age and condition of the child, from being~~
 9 ~~performed by a parent or stepparent of the child.~~

10 ~~(3) If the person for whom relief is sought is a vulnerable adult,~~
 11 ~~"abuse" may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1~~
 12 ~~of this article.~~

13 ~~(h) "Final protective order" means a protective order issued under § 4-506 of~~
 14 ~~this subtitle.~~

15 ~~(l) "Person eligible for relief" includes:~~

16 ~~(1) the current or former spouse of the respondent;~~

17 ~~(2) a cohabitant of the respondent;~~

18 ~~(3) a person related to the respondent by blood, marriage, or adoption;~~

19 ~~(4) a parent, stepparent, child, or stepchild of the respondent or the~~
 20 ~~person eligible for relief who resides or resided with the respondent or person eligible~~
 21 ~~for relief for at least 90 days within 1 year before the filing of the petition;~~

22 ~~(5) a vulnerable adult; or~~

23 ~~(6) an individual who has a child in common with the respondent.~~

24 ~~(m) (1) "Petitioner" means an individual who files a petition.~~

25 ~~(2) "Petitioner" includes:~~

26 ~~(i) a person eligible for relief; or~~

27 ~~(ii) the following persons who may seek relief from abuse on~~
 28 ~~behalf of a minor or vulnerable adult:~~

1 ~~1. the State's Attorney for the county where the child or~~
2 ~~vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;~~

3 ~~2. the department of social services that has jurisdiction~~
4 ~~in the county where the child or vulnerable adult lives, or, if different, where the abuse~~
5 ~~is alleged to have taken place;~~

6 ~~3. a person related to the child or vulnerable adult by~~
7 ~~blood, marriage, or adoption; or~~

8 ~~4. an adult who resides in the home.~~

9 ~~(p) "Temporary protective order" means a protective order issued under §~~
10 ~~4-505 of this subtitle.~~

11 ~~4-504.~~

12 ~~(a) A petitioner may seek relief from abuse by filing with a court, or with a~~
13 ~~commissioner under the circumstances specified in § 4-504.1(a) of this subtitle, a~~
14 ~~petition that alleges abuse of any person eligible for relief by the respondent.~~

15 ~~(b) (1) The petition shall:~~

16 ~~(i) be under oath; and~~

17 ~~(ii) include any information known to the petitioner of:~~

18 ~~1. the nature and extent of the abuse for which the relief~~
19 ~~is being sought, including information known to the petitioner concerning previous~~
20 ~~injury resulting from abuse by the respondent;~~

21 ~~2. each previous action between the parties in any court;~~

22 ~~3. each pending action between the parties in any court;~~

23 ~~4. the whereabouts of the respondent, if known;~~

24 ~~5. if financial relief is requested, information known to~~
25 ~~the petitioner regarding the financial resources of the respondent; and~~

26 ~~6. in a case of alleged child abuse or alleged abuse of a~~
27 ~~vulnerable adult, the whereabouts of the child or vulnerable adult and any other~~
28 ~~information relating to the abuse of the child or vulnerable adult.~~

29 ~~(2) If the petition states that disclosure of the address of a person~~
30 ~~eligible for relief would risk further abuse of a person eligible for relief, or reveal the~~
31 ~~confidential address of a shelter for domestic violence victims, that address may be~~

1 ~~omitted from all documents filed with a commissioner or filed with, or transferred to, a~~
2 ~~court. If disclosure is necessary to determine jurisdiction or consider any venue issue,~~
3 ~~it shall be made orally and in camera and may not be disclosed to the respondent.~~

4 ~~(e) The petitioner may not be required to pay a filing fee or costs for the~~
5 ~~issuance or service of:~~

6 ~~(1) an interim protective order;~~

7 ~~(2) a temporary protective order;~~

8 ~~(3) a final protective order; or~~

9 ~~(4) a witness subpoena.~~

10 ~~(d) (1) If a petitioner has requested notification of the service of a~~
11 ~~protective order, the Department of Public Safety and Correctional Services shall:~~

12 ~~(i) notify the petitioner of the service on the respondent of an~~
13 ~~interim or a temporary protective order within one hour after a law enforcement~~
14 ~~officer electronically notifies the Department of Public Safety and Correctional~~
15 ~~Services of the service; and~~

16 ~~(ii) notify the petitioner of the service on the respondent of a~~
17 ~~final protective order within one hour after knowledge of service of the order on the~~
18 ~~respondent.~~

19 ~~(2) The Department of Public Safety and Correctional Services shall~~
20 ~~develop a notification request form and procedures for notification under this~~
21 ~~subsection.~~

22 ~~(3) The court clerk or Commissioner shall provide the notification~~
23 ~~request form to a petitioner.~~

24 ~~4-513.~~

25 ~~In this Part III and in Part IV of this subtitle, "victim of domestic violence"~~
26 ~~means an individual who has received deliberate, severe, and demonstrable physical~~
27 ~~injury, or is in fear of imminent deliberate, severe, and demonstrable physical injury~~
28 ~~from a current or former spouse, or a current or former cohabitant, as defined in §~~
29 ~~4-501 of this subtitle.~~

30 ~~5-202.~~

31 ~~(e) (1) A District Court commissioner may not authorize the pretrial~~
32 ~~release of a defendant charged with violating:~~

1 (i) the provisions of a temporary protective order described in §
2 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order
3 described in § 4-506(d)(1) of the Family Law Article that order the defendant to
4 refrain from abusing or threatening to abuse a person eligible for relief; or

5 (ii) the provisions of an order for protection, as defined in §
6 4-508.1 of the Family Law Article, issued by a court of another state or of a Native
7 American tribe that order the defendant to refrain from abusing or threatening to
8 abuse a person eligible for relief, if the order is enforceable under § 4-508.1 of the
9 Family Law Article.

10 (2) A judge may allow the pretrial release of a defendant described in
11 paragraph (1) of this subsection on:

12 (i) suitable bail;

13 (ii) any other conditions that will reasonably ensure that the
14 defendant will not flee or pose a danger to another person or the community; or

15 (iii) both bail and other conditions described under
16 subparagraph (ii) of this paragraph.

17 (3) When a defendant described in paragraph (1) of this subsection is
18 presented to the court under Maryland Rule 4-216(f), the judge shall order the
19 continued detention of the defendant if the judge determines that neither suitable bail
20 nor any condition or combination of conditions will reasonably ensure that the
21 defendant will not flee or pose a danger to another person or the community before the
22 trial.

23 **(G) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE'S**
24 **COUNTY.**

25 **(2) THE COURT SHALL IMPLEMENT A GLOBAL POSITIONING**
26 **SATELLITE TRACKING SYSTEM PILOT PROGRAM AS A CONDITION OF PRETRIAL**
27 **RELEASE OF A DEFENDANT DESCRIBED IN SUBSECTION (E) OF THIS SECTION.**

28 **(3) (I) THE COURT MAY ORDER THAT, AS A CONDITION OF**
29 **BAIL, THE DEFENDANT BE:**

30 **1. SUPERVISED BY MEANS OF ACTIVE ELECTRONIC**
31 **MONITORING; AND**

32 **2. EXCEPT AS PROVIDED IN SUBPARAGRAPH ~~(H)~~ (III)**
33 **OF THIS PARAGRAPH, RESPONSIBLE FOR PAYING THE FEE FOR ACTIVE**
34 **ELECTRONIC MONITORING ESTABLISHED BY THE COUNTY.**

1 4-509.

2 (a) A person who fails to comply with the relief granted in an interim
3 protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), or (8) of this subtitle, a
4 temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), (v), or (viii) of this
5 subtitle, or a final protective order under § 4-506(d)(1), (2), (3), (4), or (5), or (e) of this
6 subtitle is guilty of a misdemeanor and on conviction is subject, for each offense, to:

7 (1) for a first offense, a fine not exceeding \$1,000 or imprisonment not
8 exceeding 90 days or both; and

9 (2) for a second or subsequent offense, a fine not exceeding \$2,500 or
10 imprisonment not exceeding 1 year or both.

11 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September
12 1, 2012, the Sheriff of Prince George’s County and the administrative judge for the
13 District Court in Prince George’s County jointly shall submit a report to the General
14 Assembly, in accordance with § 2-1246 of the State Government Article, that
15 evaluates the global positioning satellite tracking system pilot program established by
16 this Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That the abrogation of this Act
18 at the end of September 30, 2012, as provided in Section 4 of this Act, may not be
19 interpreted or applied to terminate the obligation of a defendant to comply with any
20 order entered by a court under this Act on or before September 30, 2012.

21 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
22 effect October 1, 2010. It shall remain effective for a period of 2 years and, at the end
23 of September 30, 2012, with no further action required by the General Assembly, this
24 Act shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.