

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

House Bill 331 (Delegate Simmons, *et al.*)
 Judiciary

Family Law - Final Protective Order - Global Positioning Monitoring System

This bill authorizes a judge to order a respondent to wear or carry a global positioning monitoring system (GPS) device as part of a final protective order if the judge finds by clear and convincing evidence that the respondent presents a present risk of abuse to the petitioner. The respondent must pay the costs associated with monitoring.

Fiscal Summary

State Effect: General fund revenues increase minimally to reflect payments for monitoring costs. General fund expenditures increase by \$58,400 in FY 2011 for the Judiciary to make necessary computer modifications. General fund expenditures for the Department of State Police (DSP) increase by \$511,800 beginning in FY 2011. Out-years include annualization and inflation.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	-	-	-	-	-
GF Expenditure	\$570,200	\$584,100	\$611,500	\$640,100	\$670,200
Net Effect	(\$570,200)	(\$584,100)	(\$611,500)	(\$640,100)	(\$670,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill will not materially impact operations of the circuit courts. Any potential increase in workload for local law enforcement based on the assumption that they will respond to violations is expected to be absorbable with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: A “global positioning monitoring system” is defined as a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology.

DSP is required to monitor a respondent who is ordered to wear or carry a global positioning monitoring device. A judge must describe specifically the locations that the respondent has been ordered to remain away from and the minimum distances that the respondent must maintain from the locations. The respondent is responsible for costs associated with monitoring. DSP, in consultation with the Administrative Office of the Courts, must adopt regulations to carry out the provisions of this section.

Current Law: In a domestic violence proceeding, if a judge finds by clear and convincing evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

A final protective order may require the respondent to:

- (1) refrain from abusing or threatening to abuse any person eligible for relief;
- (2) refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- (3) refrain from entering the residence of any person eligible for relief;
- (4) in certain cases, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief;
- (5) remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;
- (6) remain away from a child care provider of a person eligible for relief while the child is in the provider’s care;
- (7) award temporary custody of a minor child of the respondent and a person eligible for relief;
- (8) establish temporary visitation with a minor child of the respondent and a person eligible for relief under certain conditions;

- (9) provide emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support;
- (10) provide temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief under certain conditions;
- (11) participate in professionally supervised counseling or a domestic violence program such order may also apply to any or all of the persons eligible for relief; or
- (12) pay filing fees and costs of the proceeding.

The final protective order must require the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm, for the duration of the protective order.

All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years if it is issued against a respondent for an act of abuse committed within one year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expired, if the prior final protective order was issued for a period of at least six months. In limited circumstances specified by statute, the court may issue a permanent protective order that requires the respondent to refrain from abusing or threatening to abuse the person eligible for relief or refrain from contacting, attempting to contact, or harassing the person eligible for relief.

A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. A final protective order may be modified or rescinded during its term after giving notice to all affected persons eligible for relief and the respondent and after holding a hearing. For good cause shown, a judge may extend the term of a protective order for six months beyond the specified period after giving notice to all affected persons eligible for relief and the respondent and after a hearing.

Background: According to information compiled by the Department of Legislative Services (DLS) in 2009 (the most recent information readily available), the following states authorized 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: Hawaii, Illinois, Louisiana, Massachusetts, Michigan, 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. Three states (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.

The circuit courts granted 1,758 final protective orders in fiscal 2009; 9,090 final protective orders were granted in the District Court.

State and Local Fiscal Effect: The bill specifies that a respondent will be required to pay for the costs associated with monitoring. DSP advises that it will contract with an outside vendor that will provide the actual monitoring, and DSP will be alerted when there has been a breach of proximity limitations as specified in the final protective order. For purposes of this estimate, DLS assumes that DSP will be responsible for securing the monitoring equipment and collecting the appropriate costs from the respondent. A reliable estimate of the equipment costs is not available at this time. However, any payments to DSP by a respondent for the equipment are assumed to be cost-recovery only.

The bill also specifies that DSP is required to monitor a respondent ordered to wear or carry a GPS device. Based on an assumption that DSP will be required not only to coordinate the monitoring process but also to respond to calls whenever there is an alert that there has been a breach, DSP provided an estimate that reflected the costs associated with establishing a separate unit with dedicated troopers at each barracks. DSP advises that it is not practical to rely on limited field operation forces to respond in a timely fashion and over a large geographic area. Although DLS concurs that the requirements of the bill cannot be absorbed with the existing resources of DSP, it advises that if the bill's provisions were construed to simply require DSP to coordinate the monitoring process, the new monitoring unit could be centralized. The GPS monitoring device could still alert DSP staff of a breach of proximity limits, and DSP could notify local law enforcement who would be responsible for responding to the location.

General fund expenditures increase by \$511,808 in fiscal 2011, which accounts for the bill's October 1, 2010 effective date. This estimate reflects the cost of hiring one sergeant and four troopers to implement a new global positioning monitoring unit. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the provision requiring GPS monitoring will be a requirement of 20% of the final protective orders issued;
- a centralized unit of DSP will be responsible for coordinating the monitoring process, but not responding directly to calls;

- the new unit will require four troopers and one supervisor.

Salaries and Fringe Benefits	\$429,522
Operating Expenses	<u>82,286</u>
Total FY 2011 State Expenditures	\$511,808

Future year expenditures reflect full salaries with 4.4% annual increase and 3% employee turnover. This estimate does not reflect the costs of any additional equipment that will be needed for the unit.

The Judiciary estimates that expenditures increase by approximately \$58,400 in fiscal 2011 only in order to make computer modifications associated with the Domestic Violence Central Repository. Otherwise, the bill will not have an ongoing impact on the Judiciary because it simply gives the courts an additional option when granting a final protective order. To the extent that this bill's provisions lead to additional hearings relating to arrests for violations of protective orders any increase in the workload of the District Court or the circuit courts can be absorbed with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

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