

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE**Revised**

House Bill 1336

(Washington County Delegation)

Judiciary

Judicial Proceedings

**Washington County - Domestic Violence - GPS Tracking System Pilot Program
for Offenders**

This bill requires Washington County to implement a global positioning satellite (GPS) tracking system pilot program that authorizes the court, as a condition of a defendant's pretrial release on a charge of violating a protective order, to order that the defendant be supervised by means of active electronic monitoring. The bill also establishes that on entering a judgment of conviction for failing to comply with the relief granted in a protective order, if a court suspends the imposition or execution of sentence and places the defendant on probation, the court may order that the defendant be supervised by means of active electronic monitoring for the duration of the protective order. The court may also order that the defendant is responsible for paying the fee for active electronic monitoring established by the county, although a defendant may be exempted wholly or partially if the court determines that the defendant cannot afford to pay the fee. By September 1, 2012, the Washington County Sheriff and the Administrative Judge for the District Court in Washington County must submit a report to the General Assembly that evaluates the pilot program.

The bill takes effect October 1, 2010, and terminates September 30, 2012. However, the bill specifies that the sunset provision does not affect a defendant's obligation to comply with any court order entered on or before the bill's termination date.

Fiscal Summary

State Effect: None. The Judiciary and the Division of Parole and Probation (DPP) can handle the bill's requirements with existing resources.

Local Effect: Any increase in Washington County expenditures can be handled with existing resources. Potential increase in revenue to the extent that additional defendants are subject to electronic monitoring. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

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 maximum penalties of a \$2,500 fine and/or imprisonment for one year.

Background: “Active electronic monitoring” is electronic monitoring that takes place on a 24-hour basis. The monitoring law enforcement agency receives reports in real time, that is, at the time an infraction occurs. Traditional electronic monitoring, also referred to as “passive” electronic monitoring, would provide a report on a predetermined schedule and inform the agency of the infractions that took place over a predetermined period. For example, a report might indicate that the defendant had five electronic monitoring infractions over a one-week period.

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 defendant, subject to a protective order, is required to stay away from the residence and the petitioner'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 Department of Public Safety and Correctional Services (DPSCS) advises that the average rate per offender for active electronic monitoring is approximately \$9 per day or \$270 per month.

DPSCS also advises that in fiscal 2009, DPP opened 68 cases in Washington County for offenders placed on supervision for domestic violence-related offenses.

State and Local Fiscal Effect: To the extent that the increased level of supervision from electronic monitoring leads to an increase in the number of probation violation hearings, bail revocation hearings, and/or criminal charges for violation of a protective order, the courts can handle these hearings using existing resources. The District Court in Washington County can also submit the required pilot program evaluation report using existing resources.

It is assumed that Washington County, not DPP, will be responsible for the electronic monitoring of the defendants. Washington County law enforcement will be responsible for setting up the GPS tracking system and responding to any incidents. Even if the protective order has expired, it is likely that a condition of probation will be to stay away from the petitioner so the defendant will continue to be subject to electronic monitoring. If this condition is violated, Washington County law enforcement will inform DPP and DPP will inform the court, which may then reimpose the original sentence. DPP can handle this notification process with existing resources.

It is also likely that a condition of pretrial release will be for the defendant to stay away from the petitioner who filed the protective order. If the defendant violates this condition, Washington County law enforcement will notify the court, which may then revoke the defendant's bail. Although Washington County expenditures may also increase to the extent that the county detention facility experiences an increase in its population if pretrial release for a defendant is revoked, it is assumed that incarceration costs will not be significantly affected. Per diem operating costs for the Washington County detention center is expected to total \$62 per inmate in fiscal 2011.

The bill also specifies that the defendant may be responsible for paying the fee that is established by the county. Washington County revenues may increase, depending on the amount of the fee that is charged and the ability of the defendants to pay the fee.

Washington County has indicated that any expenditures associated with monitoring defendants who are not able to pay the fee can be absorbed within existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Washington County, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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