

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 515 (Senator Shank, *et al.*)
Judicial Proceedings

Washington County - Assault - Global Positioning Satellite Tracking Pilot Program

This bill expands the existing global positioning satellite (GPS) tracking system pilot program in Washington County by authorizing the court, if the court suspends the sentence of a defendant convicted of first or second degree assault, to order the defendant to be supervised by active electronic monitoring as a condition of probation. The bill also authorizes the court to order a defendant to be supervised by active electronic monitoring for the duration of probation. The court is also authorized to order a defendant to maintain a landline telephone number during the duration of the active electronic monitoring.

The bill extends the termination date for the pilot program from September 30, 2012, to September 30, 2015, which does not affect a defendant's obligation to comply with any court order entered on or before the termination date.

The bill takes effect June 1, 2012.

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.

Small Business Effect: None.

Analysis

Current Law: Chapter 464 of 2010 required Washington County to implement a 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 Act also established 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 Act was effective October 1, 2010, and terminates September 30, 2012. However, Chapter 464 specifies that the sunset provision does not affect a defendant's obligation to comply with any court order entered on or before the Act's termination date.

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.

The guidelines worksheets of the Commission on Criminal Sentencing Policy provided the following information for the covered offenses in Washington County in fiscal 2011:

- There were 11 convictions for 1st degree assault; 5 resulting in a partially suspended sentence with probation; and 1 resulting in a fully suspended sentence with probation.
- There were 57 convictions for 2nd degree assault; 37 resulting in a partially suspended sentence with probation; and 3 resulting in a fully suspended sentence with probation.

In multiple count cases, an offender may receive a fully suspended sentence with probation for one offense, but for another offense in the same case receive a term of incarceration. In such an instance, the offender will be incarcerated prior to being placed on probation.

State 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.

It is assumed that Washington County, not DPP, will continue to be responsible for the electronic monitoring of the defendants in the expanded pilot program. Washington County law enforcement will be responsible for setting up the GPS tracking system and responding to any incidents. If a 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.

The existing pilot program specifies that the defendant may be responsible for paying a 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. Any expenditures associated with monitoring defendants who are not able to pay the fee can be absorbed within existing resources of Washington County.

Additional Information

Prior Introductions: None.

Cross File: HB 420 (Washington County Delegation) - Judiciary.

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

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