

SENATE BILL REPORT

SB 6292

As Passed Senate, February 9, 2018

Title: An act relating to electronic monitoring of domestic violence perpetrators.

Brief Description: Concerning electronic monitoring of domestic violence perpetrators.

Sponsors: Senators Wilson, Rivers and Keiser.

Brief History:

Committee Activity: Law & Justice: 1/23/18, 1/30/18 [DP].

Floor Activity:

Passed Senate: 2/09/18, 46-0.

Brief Summary of Bill

- Defines electronic monitoring to include electronic monitoring with victim notification technology (EMVNT) that is capable of notifying a victim or protected party if the monitored individual is nearby.
- Requires the Administrative Office of the Courts to develop a list of vendors that can provide EMVNT and an informational handout for victims on the availability of EMVNT and, to the extent funds are appropriated, provide funding to counties to cover the cost of EMVNT.
- Gives state and local government immunity from liability for the utilization of EMVNT unless it acted with gross negligence or in bad faith.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Angel, Assistant Ranking Member; Darneille, Frockt and Wilson.

Staff: Shani Bauer (786-7468)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: Electronic monitoring means tracking the location of an individual through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location and includes, but is not limited to:

- radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or
- active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

A passive GPS system stores and transmits data at appointed times to the monitoring agency. In contrast, an active GPS system transmits information in near real time on the individual's location to the monitoring agency. This near-real-time transmission theoretically allows an agency to alert someone immediately when a violation occurs. It also provides information on where an individual has been throughout the course of the day and when the offender was at the various locations.

Pursuant to state law, electronic monitoring may be imposed in various circumstances, including:

- as a condition of community custody when the offender was convicted of a sex offense;
- in connection with a conviction for driving under the influence;
- as a condition of pre-trial release;
- at the time of entering a sexual assault protection order, stalking protection order, domestic violence no contact order, or domestic violence protection order; and
- as a penalty for violation of certain domestic violence protections orders, restraining orders, and no contact orders.

In most circumstances, the court may order the person being monitored to pay the costs of electronic monitoring.

Summary of Bill: Electronic monitoring is also defined to include EMVNT that is capable of notifying a victim or protected party, either directly or through a monitoring agency, if the monitored individual is at or near a location from which the monitored individual is required to stay away.

Definitional sections for those protection orders that authorize electronic monitoring are updated to clarify that electronic monitoring has the same meaning provided in the Sentencing Reform Act.

The Administrative Office of the Courts must:

- develop a list of vendors or enter into a contract with a vendor that provides EMVNT;
- create an informational handout on the opportunity to request EMVNT to be provided to individuals seeking a protection order and for which EMVNT is available;
- to the extent amounts are appropriated, provide funding to counties to cover the cost of EMVNT when a respondent is unable to pay for the costs of electronic monitoring.

State and local government are immune from civil liability for damages resulting from the utilization of EMVNT unless the state or local government acted with gross negligence or in bad faith.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: In 2014, 51 percent of all crimes against persons were domestic violence. This bill seeks to make available real time notification to victims for all types of protection orders. Maryland uses smartphone technology to do this. The personal experience of domestic violence is devastating. Anything we can do to help a victim protect themselves from an abuser should be done.

Persons Testifying: PRO: Senator Lynda Wilson, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.