

SENATE BILL REPORT

SB 5149

As Reported by Senate Committee On:
Law & Justice, January 24, 2019

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

Brief Description: Monitoring of domestic violence perpetrators. [**Revised for 1st Substitute:** Monitoring with victim notification technology.]

Sponsors: Senators Wilson, L., Becker, Kuderer, Short and Takko.

Brief History:

Committee Activity: Law & Justice: 1/22/19, 1/24/19 [DPS].

Brief Summary of First Substitute 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: That Substitute Senate Bill No. 5149 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

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 (GPS) technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

A passive GPS stores and transmits data at appointed times to the monitoring agency. In contrast, an active GPS 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 (First Substitute): Electronic monitoring is 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.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute): The reference to domestic violence perpetrators is removed from the title to ensure stalking and sexual assault protection orders are included within the scope.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Personal experience has made me cognizant of what a few extra minutes might give to a victim of domestic violence. In 2014, domestic violence offenses constituted 51 percent of all offenses against persons. Notice to the victim may be the difference in allowing them time to get away from the perpetrator. The ability to be prepared gives a victim a far better chance of protecting themselves.

OTHER: Domestic violence incidents are terrible and all too common and dangerous. If there is something law enforcement can do to reduce the danger, law enforcement is willing to do that. Law enforcement has a small amount of involvement in electronic monitoring and greater involvement in victim notification. From that experience, we offer two observations. First, technology is incredible, but it is not as accurate as one might think. GPS may register blocks away from where the person actually is; in this circumstance, we cannot afford to be wrong. Second, it is not comfortable telling a victim to trust the technology and that as long as the person is not close to you, you are safe. A victim always needs to be vigilant.

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

OTHER: James McMahan, Washington Association of Sheriffs and Police Chiefs.

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