

**SENATE AMENDMENT NO. \_\_\_\_\_**

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/Senate Bill No. 10, Page 18, Section 67.5060, Line 360,

2 by inserting after all of said line the following:

3 "455.095. 1. For purposes of this section, the  
4 following terms mean:

5 (1) "Electronic monitoring with victim notification",  
6 an electronic monitoring system that has the capability to  
7 track and monitor the movement of a person and immediately  
8 transmit the monitored person's location to the protected  
9 person and the local law enforcement agency with  
10 jurisdiction over the protected premises through an  
11 appropriate means, including the telephone, an electronic  
12 beeper, or paging device whenever the monitored person  
13 enters the protected premises as specified in the order by  
14 the court;

15 (2) "Informed consent", the protected person is given  
16 the following information before consenting to participate  
17 in electronic monitoring with victim notification:

18 (a) The protected person's right to refuse to  
19 participate in such monitoring and the process for  
20 requesting the court to terminate his or her participation  
21 after it has been ordered;

22 (b) The manner in which the electronic monitoring  
23 technology functions and the risks and limitations of that  
24 technology;

25 (c) The boundaries imposed on the person being  
26 monitored during the electronic monitoring;

27 (d) The sanctions that the court may impose for  
28 violations of the order issued by the court;

29 (e) The procedure that the protected person is to  
30 follow if the monitored person violates an order or if the  
31 electronic monitoring equipment fails;

32 (f) Identification of support services available to  
33 assist the protected person in developing a safety plan to  
34 use if the monitored person violates an order or if the  
35 electronic monitoring equipment fails;

36 (g) Identification of community services available to  
37 assist the protected person in obtaining shelter,  
38 counseling, education, child care, legal representation, and  
39 other help in addressing the consequences and effects of  
40 domestic violence; and

41 (h) The nonconfidential nature of the protected  
42 person's communications with the court concerning electronic  
43 monitoring and the restrictions to be imposed upon the  
44 monitored person's movements.

45 2. When a person is found guilty of violating the  
46 terms and conditions of an ex parte or full order of  
47 protection under section 455.085 or 455.538, the court may,  
48 in addition to or in lieu of any other disposition:

49 (1) Sentence the person to electronic monitoring with  
50 victim notification; or

51 (2) Place the person on probation and, as a condition  
52 of such probation, order electronic monitoring with victim  
53 notification.

54 3. When a person charged with violating the terms and  
55 conditions of an ex parte or full order of protection under  
56 section 455.085 or 455.538 is released from custody before  
57 trial pursuant to section 544.455, the court may, as a  
58 condition of release, order electronic monitoring of the  
59 person with victim notification.

60           4. Electronic monitoring with victim notification  
61 shall be ordered only with the protected person's informed  
62 consent. In determining whether to place a person on  
63 electronic monitoring with victim notification, the court  
64 may hold a hearing to consider the likelihood that the  
65 person's participation in electronic monitoring will deter  
66 the person from injuring the protected person. The court  
67 shall consider the following factors:

68           (1) The gravity and seriousness of harm that the  
69 person inflicted on the protected person in the commission  
70 of any act of domestic violence;

71           (2) The person's previous history of domestic violence;

72           (3) The person's history of other criminal acts, if  
73 any;

74           (4) Whether the person has access to a weapon;

75           (5) Whether the person has threatened suicide or  
76 homicide;

77           (6) Whether the person has a history of mental illness  
78 or has been civilly committed; and

79           (7) Whether the person has a history of alcohol or  
80 substance abuse.

81           5. Unless the person is determined to be indigent by  
82 the court, a person ordered to be placed on electronic  
83 monitoring with victim notification shall be ordered to pay  
84 the related costs and expenses. If the court determines the  
85 person is indigent, the person may be placed on electronic  
86 monitoring with victim notification, and the clerk of the  
87 court in which the case was determined shall notify the  
88 department of corrections that the person was determined to  
89 be indigent and shall include in a bill to the department  
90 the costs associated with the monitoring. The department  
91 shall establish by rule a procedure to determine the portion  
92 of costs each indigent person is able to pay based on a

93 person's income, number of dependents, and other factors as  
94 determined by the department and shall seek reimbursement of  
95 such costs.

96 6. An alert from an electronic monitoring device shall  
97 be probable cause to arrest the monitored person for a  
98 violation of an ex parte or full order of protection.

99 7. The department of corrections, department of public  
100 safety, Missouri state highway patrol, the circuit courts,  
101 and county and municipal law enforcement agencies shall  
102 share information obtained via electronic monitoring  
103 conducted pursuant to this section.

104 8. No supplier of a product, system, or service used  
105 for electronic monitoring with victim notification shall be  
106 liable, directly or indirectly, for damages arising from any  
107 injury or death associated with the use of the product,  
108 system, or service unless, and only to the extent that, such  
109 action is based on a claim that the injury or death was  
110 proximately caused by a manufacturing defect in the product  
111 or system.

112 9. Nothing in this section shall be construed as  
113 limiting a court's ability to place a person on electronic  
114 monitoring without victim notification under section 544.455  
115 or 557.011.

116 10. A person shall be found guilty of the offense of  
117 tampering with electronic monitoring equipment under section  
118 575.205 if he or she commits the actions prohibited under  
119 such section with any equipment that a court orders the  
120 person to wear under this section.

121 11. The department of corrections shall promulgate  
122 rules and regulations for the implementation of subsection 5  
123 of this section. Any rule or portion of a rule, as that  
124 term is defined in section 536.010, that is created under  
125 the authority delegated in this section shall become

126 effective only if it complies with and is subject to all of  
127 the provisions of chapter 536 and, if applicable, section  
128 536.028. This section and chapter 536 are nonseverable and  
129 if any of the powers vested with the general assembly  
130 pursuant to chapter 536 to review, to delay the effective  
131 date, or to disapprove and annul a rule are subsequently  
132 held unconstitutional, then the grant of rulemaking  
133 authority and any rule proposed or adopted after August 28,  
134 2018, shall be invalid and void.

135 [12. The provisions of this section shall expire on  
136 August 28, 2024.]; and

137 Further amend the title and enacting clause accordingly.