

FIRST REGULAR SESSION

SENATE BILL NO. 603

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCCREERY.

1682S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 455.095, RSMo, and to enact in lieu thereof one new section relating to electronic monitoring of a person in violation of a protection order.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 455.095, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 455.095,
3 to read as follows:

455.095. 1. For purposes of this section, the
2 following terms mean:

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

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

16 (a) The protected person's right to refuse to
17 participate in such monitoring and the process for

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 requesting the court to terminate his or her participation
19 after it has been ordered;

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

23 (c) The boundaries imposed on the person being
24 monitored during the electronic monitoring;

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

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

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

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

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

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

47 (1) Sentence the person to electronic monitoring with
48 victim notification; or

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

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

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

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

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

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

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

73 (5) Whether the person has threatened suicide or
74 homicide;

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

77 (7) Whether the person has a history of alcohol or
78 substance abuse.

79 5. Unless the person is determined to be indigent by
80 the court, a person ordered to be placed on electronic

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

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

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

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

110 9. Nothing in this section shall be construed as
111 limiting a court's ability to place a person on electronic

112 monitoring without victim notification under section 544.455
113 or 557.011.

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

119 11. The department of corrections shall promulgate
120 rules and regulations for the implementation of subsection 5
121 of this section. Any rule or portion of a rule, as that
122 term is defined in section 536.010, that is created under
123 the authority delegated in this section shall become
124 effective only if it complies with and is subject to all of
125 the provisions of chapter 536 and, if applicable, section
126 536.028. This section and chapter 536 are nonseverable and
127 if any of the powers vested with the general assembly
128 pursuant to chapter 536 to review, to delay the effective
129 date, or to disapprove and annul a rule are subsequently
130 held unconstitutional, then the grant of rulemaking
131 authority and any rule proposed or adopted after August 28,
132 2018, shall be invalid and void.

133 [12. The provisions of this section shall expire on
134 August 28, 2024.]

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