

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4661-01  
Bill No.: SB 678  
Subject: Courts; Corrections Department; Crimes and Punishment; Criminal Procedure;  
Domestic Relations; Highway Patrol; Law Enforcement Agencies and Officers  
Type: Original  
Date: January 13, 2016

Bill Summary: This proposal allows a court to place a person on electronic monitoring with victim notification if a person has been charged with, or found guilty of, violating an order of protection.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	\$19,383 to (\$14,617)	\$5,732 to (\$77,500)	(\$12,506 to \$139,851)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$19,383 to (\$14,617)</b>	<b>\$5,732 to (\$77,500)</b>	<b>(\$12,506 to \$139,851)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Corrections (DOC)** assume this proposal permits Courts to place an offender on "electronic monitoring (EM) with victim notification" as either part of a sentence, if a person is found guilty of violating the terms of an ex parte order, or to order it as a condition of release from custody before trial if a person is charged with that offense. "Electronic monitoring with victim notification" directs that alerts to be sent to "the protected person and the appropriate law enforcement agency" whenever the "monitored person is within a certain distance of the protected person or protected premises" as specified in the Court's order. As a condition of being considered for such electronic monitoring, the bill requires the offender to pay for the related costs and expenses of the EM. The bill does not expressly state who will be responsible for providing the electronic monitoring services.

The Division of Probation and Parole does not monitor individuals released prior to trial and would not be responsible for providing electronic monitoring for those individuals. It would be difficult for the DOC to assume responsibility for providing electronic monitoring with victim notification for the offenders who were convicted of violating the terms of an ex parte order. The DOC currently does not have a contract in place that would allow the Division of Probation and Parole to provide monitoring that would allow the victim to be alerted, either electronically or telephonically, from an individual hired by the division to advise when a perpetrator was near them in proximity. Additionally, DOC has no operating system in place to allow offenders to pay for EM services such as outlined in the legislation. Offenders currently pay Intervention Fees which allows for the division to place offenders on EM, place in a Residential Facility, or provide other services.

Therefore, the DOC assumes that, if it is the Court's intent to place these offenders on probation with an EM system that would allow victim notification of close proximity, the Court would have to contract through a vendor to provide this service, which would include an operating system to charge and collect fees related to this. In our opinion, this could only be accomplished through private probation, unsupervised probation, or Court Probation.

There could also be an issue for Probation and Parole as any records generated by EM would be considered confidential and privileged under §549.500 and 559.125 RSMo. The bill requires this information be shared with the "protected person" and directs that any information obtained via electronic monitoring must be shared between the DOC, the Highway Patrol, circuit courts and county and municipal law enforcement agencies. There is nothing protecting the information from further dissemination.

ASSUMPTION (continued)

The fiscal impact of this legislation on the DOC would occur if offenders previously sentenced to probation supervision or incarceration by the DOC would now be under the supervision of the Court or private probation services. In FY14, 84 individuals received probation sentences for violations of protective orders that are supervised by the Department of Corrections, with an average probation sentence of 2.4 years. An additional eight individuals received term sentences averaging 3.3 years, but served only 10 months. This bill would make it possible to sentence these offenders to electronic monitoring with victim notification. However, the DOC assumes the 84 offenders currently sentenced to probation would not be sentenced to additional electronic monitoring.

Therefore, the fiscal impact would be to divert the eight incarcerated offenders per year to DOC probation or parole supervision. Electronic monitoring with victim notification would be provided by private probation. This has the potential to save the DOC funds on the cost of incarceration, but would be offset by DOC supervision costs and by private probation costs if offenders fail to pay the estimated \$14 per day per offender (\$40,800 per year) of electronic monitoring with victim notification. The FY15 average cost of supervision is \$6.04 per offender per day or an annual cost of \$2,205 per offender. The DOC cost of incarceration is \$16.809 per day or an annual cost of \$6,135 per offender. The DOC assumes this legislation may result in a long term cost or a cost avoidance.

In summary, if the probationers pay all costs for 8 EM devices with victim notification which would result in 8 EMs in 2017, 16 in 2018 and 24 in 2019, this would result in a savings of \$19,383 in 2017, \$5,732 in 2018 and a loss of \$12,506 in 2019. If DOC pays all costs for the 8 EMs with victim notification, this would result in a loss of \$14,617 in 2017, \$77,500 in 2018 and \$139,851 in 2019.

**Oversight** assumes according to subsection 5 of the proposal that the related costs and expenditures of the electronic monitoring will be paid to the vendor by the person wearing the device. However, if indigent individuals are not responsible, the DOC could be held responsible and have a potential savings/costs in fiscal years 2017 and 2018 and costs in 2019. Oversight assumes the budgeted cost avoidance in DOC's response is a minimal amount, but will reflect this for the proposal.

Officials at the **City of Independence** assume this bill does not specify responsibility for monitoring and enforcement of the electronic monitoring systems. This can place increased financial hardship on municipalities if they are charged with or responsible for the enforcement of this statute. The bill includes provisions for financial reimbursement, however, indigent individuals which would include a large number of those covered under the bill, are not responsible. Additionally, collection of those fees now falls to the municipality.

ASSUMPTION (continued)

**Oversight** assumes according to subsection 5 of the proposal that the related costs and expenditures of the electronic monitoring will be paid to the vendor by the person wearing the device. However, if indigent individuals are not responsible, the DOC could be held responsible and have a potential savings/costs in fiscal years 2017 and 2018 and costs in 2019. Oversight assumes the budgeted cost avoidance in DOC's response is a minimal amount, but will reflect this for the proposal.

Officials at the **Office of the State Courts Administrator**, the **Department of Public Safety's Missouri Highway Patrol**, the **Department of Mental Health**, the **Department of Social Services**, the **Joint Committee on Administrative Rules**, the **Office of Prosecution Services** and the **Office of the State Public Defender** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **Boone County Sheriff's Department**, the **Cole County Sheriff's Department** and the **Springfield Police Department** each assume no fiscal impact to their respective entities from this proposal.

Officials from the Buchanan County Sheriff's Department, Cass County Sheriff Department, Clark County Sheriff's Department, Columbia Police Department, Independence Police Department, Jackson County Sheriff Department, Jefferson City Police Department, Platte County Sheriff's Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Police Department, St. Louis County Justice Services and the St. Louis Metropolitan Police Department did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
<b>GENERAL REVENUE</b>			
<u>Savings</u> - Department of Corrections - cost avoidance on incarceration of 8 offenders wearing Electronic Monitoring Devices	Up to \$19,383	Up to \$5,732	\$0
<u>Cost</u> - Department of Corrections - from indigent individuals being incarcerated	<u>(Up to \$14,617)</u>	<u>(Up to \$77,500)</u>	(\$12,506 to \$139,851)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$19,383 to (\$14,617)</u></b>	<b><u>\$5,732 to (\$77,500)</u></b>	<b><u>(\$12,506 to \$139,851)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act provides that a court may place a person on electronic monitoring with victim notification if the person is charged with, or has been found guilty of, violating an order of protection. Electronic monitoring with victim notification is defined as a monitoring system that can monitor the movement of a person and immediately transmit the person's location to the victim and local law enforcement when the person enters a certain area.

The court only may place a person on electronic monitoring with victim notification if the protected person has provided his or her informed consent. The phrase "informed consent" is defined under the act. The person being monitored must pay the costs associated with the monitoring unless he or she is determined by the court to be indigent. If determined to be indigent, the court clerk must notify the Department of Corrections and send a bill for the monitoring costs to the department. The department must establish a procedure to determine the portion of costs the indigent person is able to pay and must seek reimbursement of such costs. This act gives the Department of Corrections rulemaking authority for this provision.

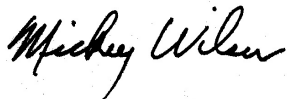
Under this act, an alert is probable cause to arrest the monitored person for a violation of a protective order. This act requires the Department of Corrections, Department of Public Safety, Missouri State Highway Patrol, circuit courts, and local law enforcement agencies to share information obtained via the electronic monitoring. This act provides immunity from liability to suppliers of the electronic monitoring system for certain injuries associated with the use of the system.

The provisions of this act expire August 28, 2022.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections  
City of Independence  
Office of the State Courts Administrator  
Department of Public Safety  
    Missouri Highway Patrol  
Department of Mental Health  
Department of Social Services  
Joint Committee on Administrative Rules  
Office of Prosecution Services  
Office of the State Public Defender  
Boone County Sheriff's Department  
Cole County Sheriff's Department  
Springfield Police Department



Mickey Wilson, CPA  
Director  
January 13, 2016

Ross Strobe  
Assistant Director  
January 13, 2016