

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0402-01  
Bill No.: SB 99  
Subject: Courts; Corrections Department; Crimes and Punishment; Criminal Procedure;  
Domestic Relations; Highway Patrol; Law Enforcement Agencies and Officers  
Type: Original  
Date: December 29, 2016

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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 2018	FY 2019	FY 2020
General Revenue	(\$40,745 to \$66,295)	\$4,566 to (\$57,980)	(\$9,315 to \$105,011)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$40,745 to \$66,295)</b>	<b>\$4,566 to (\$57,980)</b>	<b>(\$9,315 to \$105,011)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</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 2018</b>	<b>FY 2019</b>	<b>FY 2020</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 2018</b>	<b>FY 2019</b>	<b>FY 2020</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 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 the division to place offenders on Electronic Monitoring, place in Residential Facilities, 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. The DOC assumes this could only be accomplished through private probation, unsupervised probation, or Court Probation.

ASSUMPTION (continued)

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.

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 FY16, 73 individuals received probation sentences for violations of protective orders that are supervised by the Department of Corrections, with an average probation sentence of 2.6 years. An additional six individuals received term sentences averaging 5.3 years. This bill would make it possible to sentence these offenders to electronic monitoring with victim notification. However, the DOC assumes the 73 offenders currently sentenced to probation would not be sentenced to additional electronic monitoring.

Therefore, the fiscal impact would be to divert the six 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 (\$5,110 per year) of electronic monitoring with victim notification.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

In summary, if the probationers pay all costs for 6 EM devices with victim notification which would result in 6 EMs in 2018, 12 in 2019 and 18 in 2020, this would result in a savings of \$19,255 in 2018, \$9,896 in 2019 and a loss of \$3,852 in 2020. If DOC pays all costs for the 6 EMs with victim notification, this would result in a loss of \$6,295 in 2018, \$52,650 in 2019 and \$99,548 in 2020.

**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 2018 and 2019 and costs in 2020. Oversight assumes the budgeted cost avoidance in DOC's response is a minimal amount, but will reflect this for the proposal.

ASSUMPTION (continued)

Officials at the **Department of Public Safety's Missouri Highway Patrol (MHP)** assume subsection 7 of §455.095 will require a consultant to build and/or modify MHP databases with the MULES system. Work will be completed by contractors because the systems affected are components of a commercial system bought by the MHP. Therefore, all changes must be completed by the vendor. Estimated costs are as follows:

- 80 hours - Discovery and Design
- 120 hours - Database Modifications
- 70 hours - Store Procedure Codes
- 100 hours - Forms Creation and Redesign
- 90 hours - Switch Routing and Transactions
- 80 hours - Testing
- 60 hours - Project Management

Total of 600 hours @ \$100 per hour = \$60,000. In addition, the MHP estimates an annual maintenance cost of \$5,200.

Officials at **St. Louis County** assume the St. Louis County Department of Justice Services only monitors persons on electronic detention from 7:30am-4:30pm, Monday through Friday. A minimum of an additional four full-time employees along with six part-time employees would be needed to meet to the requirements of the proposed legislation. The additional staffing would cost St. Louis County \$336,000 annually.

There are several other costs that St. Louis County would incur. At this time we are unable to determine the price of the monitoring, therefore an accurate amount of the fiscal impact on St. Louis County cannot be calculated. However, we are able to clearly define where the financial aid will be needed. First off, our current system does not track GPS monitoring in real-time. Our reports are generated in 30 minute increments. Real-time GPS monitoring is significantly more expensive. Second, our current system does not support the technological or hardware requirements stated in the proposed legislation. St. Louis County would be forced to replace our current electronic monitoring system, essentially starting over from scratch, another significant cost. Third, St. Louis County is comprised of over 90 municipalities. All the municipalities would have to be on the same system. In the event a victim or law enforcement agency would need to be contacted, the monitoring agency must first determine the location, then contact the proper authority based on municipality, thus creating a "lag" in the system.

**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 2018 and 2019 and costs in 2020. Oversight assumes the budgeted cost avoidance in DOC's response is a minimal amount, but will reflect this for the proposal.

ASSUMPTION (continued)

Officials at the **Office of the State Courts Administrator**, the **Department of Mental Health**, the **Department of Social Services**, the **Joint Committee on Administrative Rules**, the **Office of the State Public Defender** and the **Office of Prosecution Services** 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 Ashland Police Chief, 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 and the St. Louis Metropolitan Police Department did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
<b>GENERAL REVENUE</b>			
<u>Savings</u> - DOC - cost avoidance on incarceration of 6 offenders wearing EMs	Up to \$19,255	Up to \$9,896	\$0
<u>Cost</u> - DOC - from indigent individuals being incarcerated	(Up to \$6,295)	(Up to \$52,650)	(\$3,852 to \$99,548)
<u>Cost</u> - MHP - consultant & maintenance fees on modifying databases with the MULES system	<u>(\$60,000)</u>	<u>(\$5,330)</u>	<u>(\$5,463)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$40,745 to \$66,295)</u></b>	<b><u>\$4,566 to (\$57,980)</u></b>	<b><u>(\$9,315 to \$105,011)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<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.

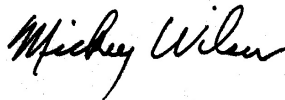
This act provides immunity from liability to suppliers of the electronic monitoring system for certain injuries associated with the use of the system.

The provisions of this act expire August 28, 2023

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



Mickey Wilson, CPA  
Director  
December 29, 2016

Ross Strobe  
Assistant Director  
December 29, 2016