

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4768-01  
Bill No.: SB 641  
Subject: Courts; Corrections Department; Crimes and Punishment; Criminal Procedure; Domestic Relations; Highway Patrol; Law Enforcement Agencies and Officers  
Type: Original  
Date: January 26, 2018

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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 2019	FY 2020	FY 2021
General Revenue	\$7,958 to \$25,858	(\$12,169) to \$31,651	(\$34,761) to \$32,284
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$7,958 to \$25,858</b>	<b>(\$12,169) to \$31,651</b>	<b>(\$34,761) to \$32,284</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<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 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</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 2019</b>	<b>FY 2020</b>	<b>FY 2021</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 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Local Government</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</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. 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 FY17 the DOC admitted 70 offenders for violations of protective custody. Forty-seven persons were supervised for misdemeanor class offenses with an average term of 2.0 years. Thirteen persons had a class E felony with an average probationary term of 4.8 years. Five offenders were institutionalized with an average sentence of 3.4 years and five offenders with 120-day shock treatment and an average 4.0 year term. This bill provides the option of electronic monitoring with victim notification. DOC would be required to incur the cost for monitoring if the offender is unable to pay. This bill would make it possible to sentence these offenders to electronic monitoring with victim notification. However, the DOC assumes the 70 offenders currently sentenced to probation would not be sentenced to additional electronic monitoring.

Therefore, the fiscal impact would be to divert the five 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 \$11.77 per day per offender (\$4,296 per year) of electronic monitoring with victim notification.

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

ASSUMPTION (continued)

The DOC cost of incarceration is \$17.003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload. The DOC would assume this legislation will result in long term costs/cost avoidance. In summary, DOC would assume the following costs/cost avoidance for this proposal:

	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
If DOC pays all costs for 5 EM with victim notification	\$ 7,958	(\$12,169)	(\$34,761)
Probationers pay all costs for 5 EM with victim notification	<u>\$25,858</u>	<u>\$ 31,651</u>	<u>\$ 32,284</u>
Total Costs/Cost Avoidance for DOC	\$7,958 to \$25,858	(\$12,169) to \$31,651	(\$34,761) to \$32,284

**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 costs/cost avoidance in fiscal years 2019 and 2020 and 2021 and will reflect this for the proposal.

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. There are several other costs that St. Louis County would incur. At this time we are unable to determine the number of individuals to be monitored, 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 expenditures 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.

ASSUMPTION (continued)

Officials at the **Joplin Police Department** assume no fiscal impact from this proposal if the costs for monitoring services are not placed at the local level. The Department is unclear on who would be in charge of the monitoring services and who would end up paying for the service if the person with the monitoring device was found to be indignant.

Officials at the **Office of the State Courts Administrator**, the **Department of Public Safety's Missouri Highway Patrol** and the **Office of the Director**, 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 **St. Louis County Police Department** and the **Springfield Police Department** each assume no fiscal impact to their respective entities from this proposal.

Officials from the following **law enforcement agencies**: the Ashland Police Chief, Branson Police Department, Buchanan County Sheriff's Department, Cass County Sheriff's Office, Clark County Sheriff's Department, Clay County Sheriff's Department, Cole County Sheriff's Department, Columbia Police Department, Franklin County Sheriff's Department, Greene County Sheriff's Department, Independence Police Department, Jackson County Sheriff's Department, Jasper County Sheriff's Department, Jefferson City Police Department, Jefferson County Sheriff's Department, Lawrence County Sheriff's Department, Platte County Sheriff's Department, St. Charles Police Department, St. Joseph Police Department, the St. Louis Metropolitan Police Department and St. Louis County Justice Services did not respond to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>GENERAL REVENUE</b>			
<u>Savings</u> - DOC - cost avoidance on incarceration of offenders wearing EMs	Up to \$25,858	Up to \$31,651	Up to \$32,284
<u>Cost</u> - DOC - from indigent individuals being incarcerated	<u>Up to \$7,958</u>	<u>\$Up to (\$12,169)</u>	<u>Up to (\$34,761)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$7,958 to \$25,858</u></b>	<b><u>(\$12,169) to \$31,651</u></b>	<b><u>(\$34,761) to \$32,284</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Costs</u> - Electronic Monitoring costs	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>

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.

FISCAL DESCRIPTION (continued)

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. An electronic alert is probable cause to arrest the monitored person for a violation of a protective order.

The Department of Corrections, Department of Public Safety, Missouri State Highway Patrol, circuit courts, and local law enforcement agencies are required to share information obtained via the electronic monitoring. Immunity to liability is granted to suppliers of the electronic monitoring system for certain injuries associated with the use of the system.

The provisions of this act expire on August 28, 2024.

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  
St. Louis County  
Joplin Police Department  
Office of the State Courts Administrator  
Department of Public Safety  
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  
St. Louis County Police Department  
Springfield Police Department

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Acting Director  
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