

FIRST REGULAR SESSION

HOUSE BILL NO. 1209

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WILLIAMS.

2599H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 455.095, RSMo, and to enact in lieu thereof one new section relating to electronic monitoring with victim notification, with a penalty provision.

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Section A. Section 455.095, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 455.095, to read as follows:

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

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

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

26 (h) The nonconfidential nature of the protected person's communications with the
27 court concerning electronic monitoring and the restrictions to be imposed upon the monitored
28 person's movements.

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

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

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

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

39 4. Electronic monitoring with victim notification shall be ordered only with the
40 protected person's informed consent. In determining whether to place a person on electronic
41 monitoring with victim notification, the court may hold a hearing to consider the likelihood
42 that the person's participation in electronic monitoring will deter the person from injuring the
43 protected person. The court shall consider the following factors:

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

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

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

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

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

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

51 and

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

53 5. Unless the person is determined to be indigent by the court, a person ordered to be
54 placed on electronic monitoring with victim notification shall be ordered to pay the related

55 costs and expenses. If the court determines the person is indigent, the person may be placed
56 on electronic monitoring with victim notification, and the clerk of the court in which the case
57 was determined shall notify the department of corrections that the person was determined to
58 be indigent and shall include in a bill to the department the costs associated with the
59 monitoring. The department shall establish by rule a procedure to determine the portion of
60 costs each indigent person is able to pay based on a person's income, number of dependents,
61 and other factors as determined by the department and shall seek reimbursement of such
62 costs.

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

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

68 8. No supplier of a product, system, or service used for electronic monitoring with
69 victim notification shall be liable, directly or indirectly, for damages arising from any injury
70 or death associated with the use of the product, system, or service unless, and only to the
71 extent that, such action is based on a claim that the injury or death was proximately caused by
72 a manufacturing defect in the product or system.

73 9. Nothing in this section shall be construed as limiting a court's ability to place a
74 person on electronic monitoring without victim notification under section 544.455 or
75 557.011.

76 10. A person shall be found guilty of the offense of tampering with electronic
77 monitoring equipment under section 575.205 if he or she commits the actions prohibited
78 under such section with any equipment that a court orders the person to wear under this
79 section.

80 11. The department of corrections shall promulgate rules and regulations for the
81 implementation of subsection 5 of this section. Any rule or portion of a rule, as that term is
82 defined in section 536.010, that is created under the authority delegated in this section shall
83 become effective only if it complies with and is subject to all of the provisions of chapter 536
84 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
85 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
86 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
87 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018,
88 shall be invalid and void.

89 12. The provisions of this section shall expire on August 28, ~~2024~~ 2034.