

SECOND REGULAR SESSION

SENATE BILL NO. 640

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 19, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4883S.011

AN ACT

To amend chapter 455, RSMo, by adding thereto one new section relating to electronic monitoring of persons who have been charged with or found guilty of violating protection orders.

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

Section A. Chapter 455, RSMo, is amended by adding thereto one new
2 section, to be known as section 455.095, to read as follows:

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

3 **(1) "Electronic monitoring with victim notification", an electronic
4 monitoring system that has the capability to track and monitor the
5 movement of a person and send an alert to a protected person and the
6 appropriate law enforcement agency whenever the monitored person
7 is within a certain distance of the protected person or protected
8 premises as specified in the order by the court;**

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

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

15 **(b) The manner in which the electronic monitoring technology
16 functions and the risks and limitations of that technology, and the
17 extent to which the system will track and record the protected person's
18 location and movements;**

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

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

23 **(e) The procedure that the protected person is to follow if the**
24 **monitored person violates an order or if the electronic monitoring**
25 **equipment fails;**

26 **(f) Identification of support services available to assist the**
27 **protected person in developing a safety plan to use if the monitored**
28 **person violates an order or if the electronic monitoring equipment**
29 **fails;**

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

34 **(h) The non-confidential nature of the protected person's**
35 **communications with the court concerning electronic monitoring and**
36 **the restrictions to be imposed upon the monitored person's movements.**

37 **2. When a person is found guilty of violating the terms and**
38 **conditions of an ex parte or full order of protection under sections**
39 **455.085 or 455.538, the court may, in addition to or in lieu of any other**
40 **disposition:**

41 **(1) Sentence the person to electronic monitoring with victim**
42 **notification; or**

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

45 **3. When a person charged with violating the terms and**
46 **conditions of an ex parte or full order of protection under sections**
47 **455.085 or 455.538 is released from custody before trial pursuant to**
48 **section 544.455, the court may, as a condition of release, order**
49 **electronic monitoring of the person with victim notification.**

50 **4. Electronic monitoring with victim notification shall be**
51 **ordered only with the protected person's informed consent. In**
52 **determining whether to place a person on electronic monitoring with**
53 **victim notification, the court may hold a hearing to consider the**
54 **likelihood that the person's participation in electronic monitoring will**
55 **deter the person from injuring the protected person. The court shall**
56 **consider the following factors:**

57 **(1) The gravity and seriousness of harm that the person inflicted**

58 on the protected person in the commission of any act of domestic
59 violence;

60 (2) The person's previous history of domestic violence, if any;

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

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

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

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

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

68 5. A person ordered by the court to be placed on electronic
69 monitoring with victim notification shall be ordered to pay the related
70 costs and expenses.

71 6. The department of corrections, Missouri state highway patrol,
72 the circuit courts, and county and municipal law enforcement agencies
73 shall share information obtained via electronic monitoring conducted
74 pursuant to this section.

75 7. No supplier of a product, system, or service used for electronic
76 monitoring with victim notification shall be liable, directly or
77 indirectly, for damages arising from any injury or death associated
78 with the use of the product, system or service unless, and only to the
79 extent that, such action is based on a claim that the injury or death was
80 proximately caused by a manufacturing defect in the product or system.

81 8. Nothing in this section shall be construed as limiting a court's
82 ability to place a person on electronic monitoring without victim
83 notification under sections 544.455 or 557.011.

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