

SECOND REGULAR SESSION

SENATE BILL NO. 641

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4768S.01I

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 immediately transmit the monitored person's**
6 **location to the protected person and the local law enforcement agency**
7 **with jurisdiction over the protected premises through an appropriate**
8 **means, including the telephone, an electronic beeper, or paging device**
9 **whenever the monitored person enters the protected premises as**
10 **specified in the order by the court;**

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

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

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

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;

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. Unless the person is determined to be indigent by the court,
69 a person ordered to be placed on electronic monitoring with victim
70 notification shall be ordered to pay the related costs and expenses. If
71 the court determines the person is indigent, the person may be placed
72 on electronic monitoring with victim notification, and the clerk of the
73 court in which the case was determined shall notify the department of
74 corrections that the person was determined to be indigent and shall
75 include in a bill to the department the costs associated with the
76 monitoring. The department shall establish by rule a procedure to
77 determine the portion of costs each indigent person is able to pay based
78 on a person's income, number of dependents, and other factors as
79 determined by the department and shall seek reimbursement of such
80 costs.

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

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

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

94 9. Nothing in this section shall be construed as limiting a court's

95 ability to place a person on electronic monitoring without victim
96 notification under sections 544.455 or 557.011.

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

101 11. The department of corrections shall promulgate rules and
102 regulations for the implementation of subsection 5 of this section. Any
103 rule or portion of a rule, as that term is defined in section 536.010 that
104 is created under the authority delegated in this section shall become
105 effective only if it complies with and is subject to all of the provisions
106 of chapter 536, and, if applicable, section 536.028. This section and
107 chapter 536 are nonseverable and if any of the powers vested with the
108 general assembly pursuant to chapter 536, to review, to delay the
109 effective date, or to disapprove and annul a rule are subsequently held
110 unconstitutional, then the grant of rulemaking authority and any rule
111 proposed or adopted after August 28, 2018, shall be invalid and void.

112 12. The provisions of this section shall expire on August 28, 2024.

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