

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/SCS/House Bill No. 225, Page 56, Section 324.009, Line 141,

2 by inserting after all of said line the following:

3 "455.095. 1. For purposes of this section, the
4 following terms mean:

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

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

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

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

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

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

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

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

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

41 (h) The nonconfidential nature of the protected
42 person's communications with the court concerning electronic
43 monitoring and the restrictions to be imposed upon the
44 monitored person's movements.

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

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

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

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

60 4. Electronic monitoring with victim notification
61 shall be ordered only with the protected person's informed
62 consent. In determining whether to place a person on
63 electronic monitoring with victim notification, the court
64 may hold a hearing to consider the likelihood that the
65 person's participation in electronic monitoring will deter
66 the person from injuring the protected person. The court
67 shall consider the following factors:

- 68 (1) The gravity and seriousness of harm that the
69 person inflicted on the protected person in the commission
70 of any act of domestic violence;
71 (2) The person's previous history of domestic violence;
72 (3) The person's history of other criminal acts, if
73 any;
74 (4) Whether the person has access to a weapon;
75 (5) Whether the person has threatened suicide or
76 homicide;
77 (6) Whether the person has a history of mental illness
78 or has been civilly committed; and
79 (7) Whether the person has a history of alcohol or
80 substance abuse.

81 5. Unless the person is determined to be indigent by
82 the court, a person ordered to be placed on electronic
83 monitoring with victim notification shall be ordered to pay
84 the related costs and expenses. If the court determines the
85 person is indigent, the person may be placed on electronic
86 monitoring with victim notification, and the clerk of the
87 court in which the case was determined shall notify the
88 department of corrections that the person was determined to
89 be indigent and shall include in a bill to the department
90 the costs associated with the monitoring. The department
91 shall establish by rule a procedure to determine the portion
92 of costs each indigent person is able to pay based on a

93 person's income, number of dependents, and other factors as
94 determined by the department and shall seek reimbursement of
95 such costs.

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

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

104 8. No supplier of a product, system, or service used
105 for electronic monitoring with victim notification shall be
106 liable, directly or indirectly, for damages arising from any
107 injury or death associated with the use of the product,
108 system, or service unless, and only to the extent that, such
109 action is based on a claim that the injury or death was
110 proximately caused by a manufacturing defect in the product
111 or system.

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

116 10. A person shall be found guilty of the offense of
117 tampering with electronic monitoring equipment under section
118 575.205 if he or she commits the actions prohibited under
119 such section with any equipment that a court orders the
120 person to wear under this section.

121 11. The department of corrections shall promulgate
122 rules and regulations for the implementation of subsection 5
123 of this section. Any rule or portion of a rule, as that
124 term is defined in section 536.010, that is created under
125 the authority delegated in this section shall become

effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be invalid and void.

[12. The provisions of this section shall expire on August 28, 2024.]; and

Further amend the title and enacting clause accordingly.