

SENATE BILL NO. 193

BY SENATOR CLAITOR

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AN ACT

To amend and reenact Code of Criminal Procedure Article 335.1, relative to bail; to provide for the monitoring of certain persons through the use of a global positioning monitoring system; provide for certain conditions; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 335.1 is hereby amended and reenacted to read as follows:

Art. 335.1. Offenses against a family or household member or dating partner; provisions for forfeiture, arrest, modification

A.(1) In determining conditions of release of a defendant who is alleged to have committed an offense against the defendant's family or household member, as defined in R.S. 46:2132(4), or against the defendant's dating partner, as defined in R.S. 46:2151, **or who is alleged to have committed the offense of domestic abuse battery under the provisions of R.S. 14:35.3,** or who is alleged to have committed the offense of stalking under the provisions of R.S. 14:40.2, the court shall consider whether the defendant poses a threat or danger to the victim. If the court determines that the defendant poses such a threat or danger, it shall require as a condition of bail that the defendant refrain from going to the residence or household of the victim, the victim's school, and the victim's place of employment or otherwise contacting the victim in any manner whatsoever, and shall refrain from having any further contact with the victim.

(2)(a) In addition, the court may order the defendant to be equipped

1 with a global positioning monitoring system as a condition of release on bail
2 pursuant to Paragraph B of this Article.

3 (b) In determining whether to order a defendant, as a condition of
4 release on bail, to participate in global positioning system monitoring, the court
5 shall consider the likelihood that the defendant's participation in global
6 positioning system monitoring will deter the defendant from seeking to harm,
7 injure, or otherwise threaten the victim prior to trial.

8 (c) The defendant shall be released on bail pursuant to the provisions of
9 this Article only if he agrees to pay the cost of the global positioning monitoring
10 system and monitoring fees associated with the device, or agrees to perform
11 community service in lieu of paying such costs.

12 B.(1)(a) If the court orders the defendant to be equipped with a global
13 positioning monitoring system as a condition of release on bail, the court may
14 order the defendant, with the informed consent of the victim, to provide the
15 victim of the charged crime with an electronic receptor device which is capable
16 of receiving the global positioning system information and which notifies the
17 victim if the defendant is located within an established proximity to the victim.

18 (b) The court, in consultation with the victim, shall determine which
19 areas the defendant shall be prohibited from accessing and shall establish the
20 proximity to the victim within which a defendant shall be excluded. In making
21 this determination, the court shall consider a list, provided by the victim, which
22 includes those areas from which the victim desires the defendant to be excluded.

23 (2) The victim shall be furnished with telephone contact information for
24 the local law enforcement agency in order to request immediate assistance if the
25 defendant is located within that proximity to the victim.

26 (3) The court shall order the global positioning monitoring system
27 provider to program the system to notify local law enforcement if the defendant
28 violates the order.

29 (4) The victim, at any time, may request that the court terminate the
30 victim's participation in the global positioning monitoring system of the

1 **defendant.**

2 **(5) The court shall not impose sanctions on the victim for refusing to**
3 **participate in global positioning system monitoring provided for in this**
4 **Paragraph.**

5 **C. For the purpose of this Section:**

6 **(1) "Global positioning monitoring system" means a system that**
7 **electronically determines and reports the location of an individual by means of**
8 **an ankle bracelet transmitter or similar device worn by the individual that**
9 **transmits latitude and longitude data to monitoring authorities through global**
10 **positioning satellite technology but does not contain or operate any global**
11 **positioning system technology or radio frequency identification technology or**
12 **similar technology that is implanted in or otherwise invades or violates the**
13 **corporeal body of the individual.**

14 **(2) "Informed consent" means that the victim was given information**
15 **concerning all of the following before consenting to participate in global**
16 **positioning system monitoring:**

17 **(a) The victim's right to refuse to participate in global positioning system**
18 **monitoring and the process for requesting the court to determine the victim's**
19 **participation after it has been ordered.**

20 **(b) The manner in which the global positioning monitoring system**
21 **technology functions and the risks and limitations of that technology, and the**
22 **extent to which the system will track and record the victim's location and**
23 **movements.**

24 **(c) The boundaries imposed on the defendant during the global**
25 **positioning system monitoring.**

26 **(d) Sanctions that the court may impose on the defendant for violating**
27 **an order issued under this Section.**

28 **(e) The procedure that the victim is to follow if the defendant violates an**
29 **order issued under this Section or if global positioning monitoring system**
30 **equipment fails.**

1 (f) Identification of support services available to assist the victim to
2 develop a safety plan to use if the court's order issued under this Section is
3 violated or if the global positioning monitoring system equipment fails.

4 (g) Identification of community services available to assist the victim in
5 obtaining shelter, counseling, education, child care, legal representation, and
6 other help in addressing the consequences and effects of domestic violence or
7 stalking.

8 (h) The nonconfidential nature of the victim's communications with the
9 court concerning global positioning system monitoring and the restrictions to
10 be imposed upon the defendant's movements.

11 B D. A violation of the conditions of release may be punishable by the
12 forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or
13 remanding the defendant to custody or a modification of the terms of bail.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____