

FIRST REGULAR SESSION

SENATE BILL NO. 86

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0478S.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, with an effective date.

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 section, 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 send an alert to a protected person and the appropriate law enforcement agency whenever the monitored person is within a certain distance of 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 the program 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;

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

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

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

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

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

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

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

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

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

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

- 58 **(2) The person's previous history of domestic violence;**
59 **(3) The person's history of other criminal acts, if any;**
60 **(4) Whether the person has access to a weapon;**
61 **(5) Whether the person has threatened suicide or homicide;**
62 **(6) Whether the person has a history of mental illness or has**
63 **been civilly committed; and**
64 **(7) Whether the person has a history of alcohol or substance**
65 **abuse.**
- 66 **5. A person ordered by the court to be placed on electronic**
67 **monitoring with victim notification shall be ordered to pay the related**
68 **costs and expenses.**
- 69 **6. An alert from an electronic monitoring device shall be**
70 **probable cause to arrest the monitored person for a violation of an ex**
71 **parte or full order of protection.**
- 72 **7. The department of corrections, department of public safety,**
73 **Missouri state highway patrol, the circuit courts, and county and**
74 **municipal law enforcement agencies shall share information obtained**
75 **via electronic monitoring conducted pursuant to this section.**
- 76 **8. No supplier of a product, system, or service used for electronic**
77 **monitoring with victim notification shall be liable, directly or**
78 **indirectly, for damages arising from any injury or death associated**
79 **with the use of the product, system or service unless, and only to the**
80 **extent that, such action is based on a claim that the injury or death was**
81 **proximately caused by a manufacturing defect in the product or system.**
- 82 **9. Nothing in this section shall be construed as limiting a court's**
83 **ability to place a person on electronic monitoring without victim**
84 **notification under sections 544.455 or 557.011.**
- 85 **10. A person shall be found guilty of the offense of tampering**
86 **with electronic monitoring equipment under section 575.205 if he or she**
87 **commits the actions prohibited under such section with any equipment**
88 **that a court orders the person to wear under this section.**
- 89 **11. The provisions of this section shall expire on August 28, 2021.**