

Amendment No. 2 to HB0685

Watson
Signature of Sponsor

AMEND Senate Bill No. 567*

House Bill No. 685

by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-11-150(b), is amended by adding the following as a new subdivision (6) and redesignating the subsequent subsections accordingly:

(6) In any county having a population of more than 850,000 according to the 2000 federal census or any subsequent federal census, an order requiring the defendant to carry or wear a global positioning monitoring system device and, if able, pay the costs associated with operating that device and electronic receptor device provided to the victim, pursuant to the pilot project created by § 40-11-152;

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 11, Part 1, is amended by adding the following as a new section:

40-11-152.

(a) For the purposes of this part:

(1) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology; and

(2) "Global positioning monitoring system" does not include a system that contains or operates global positioning system technology, radio frequency

identification technology or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) In any county having a population of more than 850,000 in the 2000 federal census or any subsequent federal census, there is created a two-year pilot program to address problems of recurring domestic violence. The administrative office of the courts (AOC) shall review and evaluate the pilot program at the end of the two (2) years in which the program is conducted. The AOC shall report its findings and conclusions as to the effectiveness of the pilot program in preventing instances of domestic violence. The report shall include input from interested parties including but not limited to the district attorney general, the office of public defenders, the sheriff's department, the city police department, the domestic violence council, and the domestic violence court of each county to which this section applies. The report shall be submitted to the judiciary committees of the house or representatives and senate within six (6) months of the end of the pilot program.

(c) Pursuant to § 40-11-150, a magistrate may order any defendant who is arrested for the offense of stalking, aggravated stalking or especially aggravated stalking, as defined in § 39-17-315, any criminal offense defined in title 39, chapter 13, in which the alleged victim of the offense is a victim as defined in § 36-3-601(5), (10) or (11), or is in violation of an order of protection as authorized by title 36, chapter 3, part 6, to do the following as a condition of release or bail:

(1) Carry or wear a global positioning monitoring system device and, except as provided by subsection (i), pay the costs associated with operating that system in relation to the defendant; or

(2) If the alleged victim of the offense consents after receiving the information described by subsection (e) and, except as provided by subsection

(i), pay the costs associated with providing the victim with an electronic receptor device that:

(A) Is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) Notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under § 40-11-150.

(d) Before imposing a condition described by subsection (c), the magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by subsection (c), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(e) Before imposing a condition described by subdivision (c)(2), the magistrate must provide to an alleged victim information regarding:

(1) The victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) The manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) Any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

(4) Any sanctions that the magistrate may impose on the defendant for violating a condition of bond imposed under this section;

(5) The procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;

(6) Community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of domestic violence; and

(7) The fact that the victim's communications with the magistrate concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(f) In addition to the information described by subsection (e), the magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this section the name and telephone number of an appropriate person employed by a local law enforcement agency who the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this section.

(g) In determining whether to order a defendant's participation in a global positioning monitoring system under this section, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(h) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may

not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this section.

(i) The magistrate may allow a defendant to perform community service in lieu of paying the costs required by subsection (c) if the magistrate determines that the defendant is indigent.

(j) The magistrate that imposes a condition described by subsection (c) shall order the entity that operates the global positioning monitoring system to notify the magistrate and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this section.

(k) This section shall not limit the authority of the magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to all arrests on or after such date.