

Amendment No. 1 to SB1972

Gardenhire

Signature of Sponsor

AMEND Senate Bill No. 1972*

House Bill No. 2692

by deleting all language after the enacting clause and substituting:

SECTION 1. This act is known and may be cited as "The Debbie and Marie Domestic Violence Protection Act."

SECTION 2. Tennessee Code Annotated, Section 40-11-150(n)(2), is amended by deleting "did occur, unless" and substituting "did occur, then unless".

SECTION 3. Tennessee Code Annotated, Section 40-11-150, is amended by deleting subdivision (n)(2)(B) and substituting:

(B) Prior to the defendant's release on bond, the court or magistrate shall:

(i) Issue a no contact order containing all bond conditions set out in this section that are applicable to the protection of the domestic violence victim; and

(ii) Order the defendant to wear a global positioning monitoring system device as set forth in § 40-11-152(b)(2).

SECTION 4. Tennessee Code Annotated, Section 40-11-152, is amended by deleting subsections (a) and (b) and substituting:

(a) As used in this part:

(1) "Global positioning monitoring system":

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

(B) 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; and

(2) "Qualified contract service provider" means a private or public entity

that:

(A) Meets the qualifications of § 55-10-426;

(B) Has a written agreement with the issuing court that designates specific persons to receive notifications and alerts as required by subsection (i); and

(C) Maintains a monitoring center that is staffed twenty-four (24) hours a day, seven (7) days a week and capable of immediately notifying the law enforcement employee designee and the appropriate emergency communications dispatch center of violations by text message or electronic mail as required by subsection (i).

(b)

(1) Pursuant to § 40-11-150, the court or magistrate may order a 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), (11), or (12), 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 bail:

(A) Wear a global positioning monitoring system device and pay the costs associated with operating that system in relation to the defendant; and

(B) If the alleged victim of the offense consents after receiving the information described by subsection (d), pay the costs associated with providing the victim with a cellular device application or an electronic receptor device that:

(i) Is capable of receiving the global positioning monitoring system information from the device worn by the defendant;

(ii) 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; and

(iii) Notifies the victim if the defendant is within a prescribed proximity of the victim's cellular device or electronic receptor device.

(2) Pursuant to § 40-11-150(n), if the court or magistrate finds probable cause to believe that one (1) or more of the circumstances in § 40-11-150(n)(1) did occur, then unless the court or magistrate finds the offender no longer poses a threat to the alleged victim or public safety and makes such a finding in a written order, the court or magistrate shall order a defendant who is charged with the offense of aggravated assault, as defined in § 39-13-102(a)(1)(A)(i), (a)(1)(A)(iii), or (a)(1)(A)(iv), in which the alleged victim of the offense is a domestic abuse victim, as defined in § 36-3-601, to do the following as a condition of bail:

(A) Wear a global positioning monitoring system device and pay the costs associated with operating that system in relation to the defendant; and

(B) If the alleged victim of the offense consents after receiving the information described in subsection (d), pay the costs associated with providing the victim with a cellular device application or an electronic receptor device that:

(i) Is capable of receiving the global positioning monitoring system information from the device worn by the defendant;

(ii) 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; and

(iii) Notifies the victim if the defendant is within a prescribed proximity of the victim's cellular device or electronic receptor device.

(3) If a defendant is released without a global positioning monitoring system device, then the court or magistrate shall make reasonable efforts to directly contact the victim and notify the victim that the offender will be released without a global positioning monitoring system device and the victim will not be provided with access to notifications of the offender's proximity.

SECTION 5. Tennessee Code Annotated, Section 40-11-152(g), is amended by adding the following at the end of the subsection:

If a victim voluntarily chooses not to utilize a cellular device application that supports offender proximity monitoring or is noncompliant with correct usage of the application, then the special duty exception to the public duty doctrine does not apply, and the qualified contract service provider and the manufacturer of the global positioning

monitoring system device are immune from civil or criminal liability resulting from the victim's choice or noncompliance.

SECTION 6. Tennessee Code Annotated, Section 40-11-152, is amended by deleting subsection (h) and substituting:

(h) A defendant ordered to wear a global positioning monitoring system device or to provide the victim with a cellular device application or an electronic receptor device pursuant to subsection (b) shall pay all costs associated with operating that system in relation to the defendant and all costs associated with providing the victim with a cellular device application or an electronic receptor device. The defendant is not eligible for assistance from the electronic monitoring indigency fund, as established pursuant to § 55-10-419, regardless of whether the defendant is indigent.

SECTION 7. Tennessee Code Annotated, Section 40-11-152, is amended by deleting subsection (i) and substituting:

(i) The magistrate who imposes a condition described by subsection (b) shall order the entity that operates the global positioning monitoring system to notify the law enforcement employee designated in subsection (e) and the appropriate emergency communications dispatch center if a defendant violates a condition of bond imposed under this section.

SECTION 8. Tennessee Code Annotated, Section 40-11-152(k), is amended by adding the following at the end of the subsection:

Each such county or municipality shall enter into a written agreement with a qualified contract service provider.

SECTION 9. Tennessee Code Annotated, Section 40-11-152, is amended by adding the following as a new subsection:

() A qualified contract service provider and the manufacturer of the global positioning monitoring system device are not civilly or criminally liable for injuries or damages resulting from actions of the defendant when the actions of those entities and

the entities' employees are in accordance with this section and done in good faith and without gross negligence or malice.

SECTION 10. This act takes effect July 1, 2024, the public welfare requiring it.