

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1972 - HB 2692

February 10, 2024

SUMMARY OF BILL: Requires the court to order a person charged with aggravated assault to wear a global positioning monitoring system (GPS) as a condition of bail if the alleged victim is a domestic abuse victim and the alleged assault involved certain specified actions. Requires the GPS to be worn by the defendant, rather than carried or worn. Requires the defendant to pay all costs associated with the GPS for the defendant and the victim to the extent the defendant is able, as determined by the magistrate. Requires, if a defendant is released without a GPS, the court to make reasonable efforts to directly notify the defendant of such release and that the defendant will not be provided with access to notifications of the offender's proximity. Requires every county and municipality to enter into a written agreement with a qualified GPS provider.

Requires such a GPS system to be able to notify the victim through a cellular device application or electronic receptor device if the defendant is within a prescribed proximity of the victim's device. Requires the entity that provides the GPS service to notify a designated law enforcement employee and the appropriate emergency communications dispatch center when a defendant violates a condition of bond. Provides civil and criminal immunity to GPS providers and manufacturers if the victim voluntarily chooses not to utilize a device that provides proximity notifications or is noncompliant in the device's correct usage, and when the actions of those entities and the entities' employees are in accordance with the law and done in good faith and without gross negligence or malice.

FISCAL IMPACT:

**Increase State Expenditures – \$65,800/FY24-25 and Subsequent Years/
Electronic Indigency Monitoring Fund**

Increase Local Expenditures – \$65,800/FY24-25 and Subsequent Years*

Assumptions:

- The GPS monitoring requirement as a condition of bail would apply to a defendant charged with aggravated assault on a domestic abuse victim when the court makes a finding that there is probable cause to believe the defendant:
 - caused serious bodily injury;
 - strangled or attempted to strangle the victim; or
 - used or displayed a deadly weapon.

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- The proposed legislation requires the defendant, if able, to pay the costs associated with operating the GPS system pursuant to Tenn. Code Ann. § 55-10-419(h)(1), unless the court finds the person to be indigent.
- Pursuant to Tenn. Code Ann. § 40-11-152(h), if the magistrate determines that the defendant is indigent, the magistrate must order the defendant to pay any portion of the costs associated with the GPS system for which the defendant has the ability to pay, as determined by the magistrate. Any portion of the costs that the defendant is unable to pay shall come from the Electronic Monitoring Indigency Fund (EMIF), subject to the availability of funds.
- According to the Tennessee Bureau of Investigation's 2022 domestic violence report, a total of 4,273 incidents of domestic violence involved the use of a firearm or asphyxiation. This is assumed to be the number of defendants statewide that could be subject to an order for GPS monitoring as a condition of bail under the proposed legislation.
- It is estimated that approximately 20 percent of those offenders, or 855 individuals (4,273 cases x 20%), will be determined to be indigent and will require funding assistance.
- The average cost of a GPS monitor is estimated to be \$7 per day.
- Pursuant to the Tennessee Criminal Court Proceedings, Rule 5(c)(2), unless the defendant expressly waives the right to a preliminary hearing, when the defendant pleads not guilty the magistrate shall schedule a preliminary hearing to be held within 14 days if the defendant remains in custody and within 30 days if released.
- For the purposes of this analysis, it is estimated a released defendant will be monitored for an average of 22 days.
- The recurring mandatory increase in expenditures related to monitoring is estimated to be \$131,670 [855 offenders x (22 days x \$7 cost)] in FY23-24 and subsequent years.
- Pursuant to Tenn. Code Ann. § 55-10-419(g), for GPS monitoring, the state is only obligated to provide a 50 percent match with participating local governments, subject to availability.
- According to the Department of Finance and Administration, there are only 18 counties participating in the program in the current fiscal year. However, the program was completely restructured effective October 1, 2023. The option to participate will reopen before the beginning of FY24-25. It is not known how many counties will choose to participate in the shared funding program in FY24-25 or subsequent years. It is assumed that participation will continue to grow in coming years as requirements for GPS monitoring are expected to continue to expand. For that reason, this analysis assumes full participation.
- Therefore, it is assumed that \$131,670 of the increased expenditures will be subject to a 50/50 match with the state.
- The total recurring mandatory increase in expenditures to local governments is estimated to be \$65,835 (\$131,670 x 50%) in FY24-25 and subsequent years.
- The total recurring increase in state expenditures from the EMIF is estimated to be \$65,835 (\$131,670 x 50%) in FY24-25 and subsequent years.
- Any impacts resulting from the requirements placed on GPS providers, including system functionality and notification requirements, will be borne by private parties.

- It is assumed that counties and municipalities can enter into agreements with GPS providers within existing local resources. Entering into such agreements will not result in additional defendants being required to wear GPS devices under this legislation.
- It is assumed that this legislation will not significantly impact the rates of incarceration due to violating conditions of bail.
- The courts can comply with the proposed requirements in the normal course of business without experiencing a significant increase in expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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