



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1062/P1
PJH:eev:rs

P2

stays
rnr

DOA:.....Wavrunek, BB0353 - GPS Tracking for Certain Restraining Orders and Injunctions

FOR 2013-2015 BUDGET - NOT READY FOR INTRODUCTION

1-15-13

PWFV

don't gen

1 AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

victim's

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats (petitioner) may obtain a temporary restraining order against the person who has committed the acts of abuse, or harassment, or has made a threat. The restraining order bars the person from contacting the victim and requires the person to stay away from the petitioner's residence and other places temporarily occupied by the victim until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer-lasting injunction.

If the court determines that the person has engaged in, or may engage in, acts of abuse, harassment, or threats against the petitioner, the court may issue an injunction against the person. An injunction may stay in effect for up to four years and bars the person from contacting the petitioner, requires the person to stay away from the petitioner's residence, and may require the person to stay away from other locations temporarily occupied by the petitioner.

Under 2011 Wisconsin Act 266 (the Act), if the person violates certain restraining orders or an injunction, the court may require the person to submit, for

victim's

victim

victim

victim

the duration of the restraining order or injunction, to global positioning system (GPS) tracking by the Department of Corrections (DOC).

The Act requires the court to find, before ordering GPS tracking, that the person who violated the restraining order or injunction is more likely than not to cause serious bodily harm to the petitioner. When the court orders GPS tracking, DOC develops a personalized exclusion zone into which the person may not enter in order to protect the petitioner. If the person enters the exclusion zone, DOC must immediately notify local law enforcement and the petitioner. Under the Act, a person who tampers with the GPS device is guilty of a Class I felony.

Under the bill, if a court issues a restraining order or injunction to protect a petitioner from abuse, harassment, or threats, a court may order the person who is subject to the restraining order or injunction to submit, for the duration of the restraining order or injunction, to global positioning system (GPS) tracking by the Department of Corrections (DOC). The bill requires the court to make the same findings as are required for a person who has violated a restraining order or injunction and requires of DOC the same tracking, administration, and notice duties as are required for a person who has violated a restraining order or injunction.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.410 (1) (gL) (title) of the statutes, as created by 2011 Wisconsin
2 Act 266, is amended to read:

3 20.410 (1) (gL) (title) *Global positioning system tracking devices for certain*
4 *violators of persons subject to or who violate restraining orders.*

5 **SECTION 2.** 301.03 (3k) of the statutes is created to read:

6 301.03 (3k) Provide a validated risk assessment if requested by a court under
7 s. 813.129 (3) (a) and monitor a person subject to an order under s. 813.129 (1) (a) as
8 provided in s. 301.49.

9 **SECTION 3.** 301.49 (title) of the statutes, as created by 2011 Wisconsin Act 266,
10 is amended to read:

11 **301.49 (title) Global positioning system tracking for persons who**
12 **violate or are subject to certain orders or injunctions.**

1 **SECTION 4.** 301.49 (2) (a) of the statutes, as created by 2011 Wisconsin Act 266,
2 is renumbered 301.49 (2) (am) and amended to read:

3 301.49 (2) (am) The department shall maintain global positioning system
4 tracking of a person who is not in jail or in prison and who is ordered by a court to
5 submit to monitoring under s. 813.129 (1) (b) for the duration of the person's period
6 of probation.

7 **SECTION 5.** 301.49 (2) (ag) of the statutes is created to read:

8 301.49 (2) (ag) The department shall maintain global positioning system
9 tracking of a person who is not in jail or in prison and who is ordered by a court to
10 submit to monitoring under s. 813.129 (1) (a) for the duration of the restraining order
11 or injunction.

12 **SECTION 6.** 301.49 (3) (c) of the statutes, as created by 2011 Wisconsin Act 266,
13 is amended to read:

14 301.49 (3) (c) For each person who is subject to global positioning system
15 tracking under this section, the department shall create an individualized exclusion
16 zone for the person, as necessary to protect the petitioner. In creating an exclusion
17 zone, the department shall consider input from the petitioner and shall include any
18 location that the person is ordered to avoid or enjoined from entering under the
19 restraining order or injunction to which the person is subject or that the person
20 violated or is alleged to have violated.

21 **SECTION 7.** 813.12 (8) (a) of the statutes, as affected by 2011 Wisconsin Act 266,
22 is amended to read:

23 813.12 (8) (a) Whoever knowingly violates a temporary restraining order or
24 injunction issued under sub. (3) or (4) shall be fined not more than \$10,000 or
25 imprisoned for not more than 9 months or both, and may be subject to an order under

Insert 3.20

1 s. 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall
2 report the violation to the department of corrections immediately upon the person's
3 conviction.

4 **SECTION 8.** 813.125 (7) of the statutes, as affected by 2011 Wisconsin Act 266,
5 is amended to read:

6 813.125 (7) PENALTY. Whoever violates a temporary restraining order or
7 injunction issued under this section shall be fined not more than \$10,000 or
8 imprisoned not more than 90 days or both, and may be subject to an order under s.
9 813.129 (1) (b). If the court issues an order under 813.129 (1) (b), the court shall
10 report the violation to the department of corrections immediately upon the person's
11 conviction.

12 **SECTION 9.** 813.129 (1) of the statutes, as created by 2011 Wisconsin Act 266,
13 is repealed and recreated to read:

14 813.129 (1) A court may order a person to submit to global positioning system
15 tracking under s. 301.49 if any of the following ~~occure~~ occurs

16 (a) The court issues a temporary restraining order or injunction under s. 813.12
17 or 813.125.

18 (b) The person is convicted of knowingly violating a temporary restraining
19 order or injunction issued under s. 813.12 or 813.125.

20 **SECTION 10.** 813.129 (5) of the statutes, as created by 2011 Wisconsin Act 266,
21 is amended to read:

22 813.129 (5) If, after weighing the factors set forth under sub. (2), the court
23 determines that a person is more likely than not to cause serious bodily harm to the
24 person who petitioned for the restraining order or injunction, and the court
25 determines that another alternative, including imprisonment, is more likely to

1 protect the person who petitioned for the restraining order or injunction, the court
2 may not enter an order under sub. (1) (b).

3 **SECTION 9108. Nonstatutory provisions; Correctional System.**

4 (1) GLOBAL POSITIONING SYSTEM MONITORING. The department of corrections
5 shall promulgate rules to implement section 301.49 of the statutes, as affected by this
6 act. The department of corrections shall consult with one or more organizations or
7 agencies that are dedicated to the prevention of domestic violence, law enforcement
8 agencies, judges, district attorneys, and probation officers in developing the
9 implementation plan.

10 **SECTION 9308. Initial applicability; Correctional System.**

11 ^{create} ^{a.r. X} (1) GLOBAL POSITIONING SYSTEM MONITORING. The treatment of sections 301.49
12 (title), (2) (a) and (ag), and (3) (c) and 813.129 (1) of the statutes first applies to persons
13 who are subject to a restraining order or injunction on the effective date of this
14 subsection.

15 **SECTION 9408. Effective dates; Correctional System.**

16 (1) GLOBAL POSITIONING SYSTEM MONITORING. The treatment of sections 20.410
17 (1) (gL) (title), 301.03 (3k), 301.49 (title), ~~301.49~~ (2) (a) and (ag) and (3) (c), 813.12 (8)
18 (a), 813.125 (7), and 813.129 (1) and (5) of the statutes takes effect on January 1,
19 2014.

20 (END)

^{use} ^{a.r. X}
(CS)
and SECTION 9308 (*)
of this act

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1062/P1ins
PJH:eev:rs

1 INSERT 3.20:

2 SECTION 1. 301.49 (7) of the statutes is created to read:

3 301.49 (7) ^{CS} ~~RULES~~. The department shall promulgate rules necessary to carry
4 out its duties under this section. In promulgating the rules, the department shall
5 consult with one or more organizations or agencies that are dedicated to the
6 prevention of domestic violence, law enforcement agencies, judges, district
7 attorneys, and probation officers.

Hurley, Peggy

From: Wavrunek, Leah J - DOA <Leah.Wavrunek@wisconsin.gov>
Sent: Wednesday, January 30, 2013 1:34 PM
To: Hurley, Peggy
Subject: RE: GPS grant program

Hi Peggy,

We are going to go with copying the language in the weed and seed and community policing sections, so allow DOJ to make policies/procedures outside of the rules process.

Thanks!
leah

From: Hurley, Peggy [<mailto:Peggy.Hurley@legis.wisconsin.gov>]
Sent: Tuesday, January 29, 2013 10:39 AM
To: Wavrunek, Leah J - DOA
Subject: RE: GPS grant program

Ok. Standing by!

From: Wavrunek, Leah J - DOA [<mailto:Leah.Wavrunek@wisconsin.gov>]
Sent: Tuesday, January 29, 2013 10:39 AM
To: Hurley, Peggy
Subject: RE: GPS grant program

Well, there is no way they can get permanent rules in place in 6 months, the process can take up to a year. This kind of makes the case for not doing rules but instead doing it through policies and procedures. Let me run this by folks and get back to you. Thanks!

From: Hurley, Peggy [<mailto:Peggy.Hurley@legis.wisconsin.gov>]
Sent: Tuesday, January 29, 2013 10:37 AM
To: Wavrunek, Leah J - DOA
Subject: RE: GPS grant program

Yes. If you think DOJ can get the permanent rules done by January 1, 2014, then there's no problem.

From: Wavrunek, Leah J - DOA [<mailto:Leah.Wavrunek@wisconsin.gov>]
Sent: Tuesday, January 29, 2013 10:36 AM
To: Hurley, Peggy
Subject: RE: GPS grant program

If we allow emergency rules, then I think DOJ could get them written in 6 months and could still get grants out the door in FY14. Can you draft them as emergency rules?

From: Hurley, Peggy [<mailto:Peggy.Hurley@legis.wisconsin.gov>]
Sent: Tuesday, January 29, 2013 10:31 AM
To: Wavrunek, Leah J - DOA
Subject: RE: GPS grant program

Hi Leah,

I am drafting to require DOJ to promulgate rules to evaluate applications and administer the grants to counties. The earlier version of the draft kind of "piggybacked" on 2011 Wisconsin Act 266 and required DOC to promulgate rules to administer GPS for people subject to restraining orders/injunctions by the effective date of January 1, 2014. I felt that this would work because Act 266 already required DOC to promulgate rules to administer GPS for people who violate restraining orders/injunctions.

In this new version, however, DOJ will be promulgating an entirely different set of rules. Do you want to delay the effective date past January 1, 2014?

Peggy

From: Wavrunek, Leah J - DOA [<mailto:Leah.Wavrunek@wisconsin.gov>]
Sent: Tuesday, January 29, 2013 8:24 AM
To: Hurley, Peggy
Subject: RE: GPS grant program

Hi,

I think for now can we have it drafted with rule making authority? We'll review the whole draft then and see if it makes more sense to put rules in or the other process (folks are still mulling that over and I don't want to hold up the draft too long).

Thanks!
leah

From: Hurley, Peggy [<mailto:Peggy.Hurley@legis.wisconsin.gov>]
Sent: Monday, January 28, 2013 4:41 PM
To: Wavrunek, Leah J - DOA
Subject: GPS grant program

Hi Leah,

I can redraft -1062/P2 to require DOJ to promulgate rules for the grant program and allow emergency rules, as we discussed. Alternatively, I see the weed-and-seed grant program, the law enforcement technology grant program, and the community policing grant program allow DOJ to establish "policies and procedures" that need not be promulgated as rules under ch. 227. Do you want to go that route for this program?

Peggy

Peggy Hurley
Legislative Reference Bureau
608 266 8906



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1062/D2

PJH:eev:ph

Stays

P3
mr

DOA:.....Wavrunek, BB0353 - GPS Tracking for Certain Restraining Orders and Injunctions

FOR 2013-2015 BUDGET - NOT READY FOR INTRODUCTION

1-30-13

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COURTS AND PROCEDURE

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

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ADULT CORRECTIONAL SYSTEM

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If the court determines that the person has engaged in, or may engage in, acts of abuse, harassment, or threats against the victim, the court may issue an injunction against the person. An injunction may stay in effect for up to four years and bars the person from contacting the victim, requires the person to stay away from the victim's residence, and may require the person to stay away from other locations temporarily occupied by the victim.

Under 2011 Wisconsin Act 266 (the Act), if the person violates certain restraining orders or an injunction, the court may require the person to submit, for the duration of the restraining order or injunction, to global positioning system (GPS) tracking by DOC.

Inset analysis

The Act requires the court to find, before ordering GPS tracking, that the person who violated the restraining order or injunction is more likely than not to cause serious bodily harm to the victim. When the court orders GPS tracking, DOC develops a personalized exclusion zone into which the person may not enter in order to protect the victim. If the person enters the exclusion zone, DOC must immediately notify local law enforcement and the victim. Under the Act, a person who tampers with the GPS device is guilty of a Class I felony.

Under the bill, if a court issues a restraining order or injunction to protect a victim from abuse, harassment, or threats, a court may order the person who is subject to the restraining order or injunction to submit, for the duration of the restraining order or injunction, to GPS tracking by DOC. The bill requires the court to make the same findings as are required for a person who has violated a restraining order or injunction and requires of DOC the same tracking, administration, and notice duties as are required for a person who has violated a restraining order or injunction.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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4 *violators of persons subject to or who violate restraining orders.*

5 **SECTION 2.** 301.03 (3k) of the statutes is created to read:

6 301.03 (3k) Provide a validated risk assessment if requested by a court under
7 s. 813.129 (3) (a) and monitor a person subject to an order under s. 813.129 (1) (a) as
8 provided in s. 301.49.

9 **SECTION 3.** 301.49 (title) of the statutes, as created by 2011 Wisconsin Act 266,
10 is amended to read:

11 ~~301.49~~ (title) **Global positioning system tracking for persons who**
12 **violate or are subject to certain orders or injunctions.**

1 **SECTION 4.** 301.49 (2) (a) of the statutes, as created by 2011 Wisconsin Act 266,
2 is renumbered 301.49 (2) (am) and amended to read:

3 301.49 (2) (am) The department shall maintain global positioning system
4 tracking of a person who is not in jail or in prison and who is ordered by a court to
5 submit to monitoring under s. 813.129 (1) (b) for the duration of the person's period
6 of probation.

7 **SECTION 5.** 301.49 (2) (ag) of the statutes is created to read:

8 301.49 (2) (ag) The department shall maintain global positioning system
9 tracking of a person who is not in jail or in prison and who is ordered by a court to
10 submit to monitoring under s. 813.129 (1) (a) for the duration of the restraining order
11 or injunction.

12 **SECTION 6.** 301.49 (3) (c) of the statutes, as created by 2011 Wisconsin Act 266,
13 is amended to read:

14 301.49 (3) (c) For each person who is subject to global positioning system
15 tracking under this section, the department shall create an individualized exclusion
16 zone for the person, as necessary to protect the petitioner. In creating an exclusion
17 zone, the department shall consider input from the petitioner and shall include any
18 location that the person is ordered to avoid or enjoined from entering under the
19 restraining order or injunction to which the person is subject or that the person
20 violated or is alleged to have violated.

21 **SECTION 7.** 301.49 (7) of the statutes is created to read:

22 301.49 (7) RULES. The department shall promulgate rules necessary to carry
23 out its duties under this section. In promulgating the rules, the department shall
24 consult with one or more organizations or agencies that are dedicated to the

Insert 4.2

1 prevention of domestic violence, law enforcement agencies, judges, district
2 attorneys, and probation officers.

3 SECTION 8. 813.12 (8) (a) of the statutes, as affected by 2011 Wisconsin Act 266,
4 is amended to read:

5 813.12 (8) (a) Whoever knowingly violates a temporary restraining order or
6 injunction issued under sub. (3) or (4) shall be fined not more than \$10,000 or
7 imprisoned for not more than 9 months or both, and may be subject to an order under
8 s. 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall
9 report the violation to the department of corrections immediately upon the person's
10 conviction.

11 SECTION 9. 813.125 (7) of the statutes, as affected by 2011 Wisconsin Act 266,
12 is amended to read:

13 813.125 (7) PENALTY. Whoever violates a temporary restraining order or
14 injunction issued under this section shall be fined not more than \$10,000 or
15 imprisoned not more than 90 days or both, and may be subject to an order under s.
16 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall
17 report the violation to the department of corrections immediately upon the person's
18 conviction.

19 SECTION 10. 813.129 (1) of the statutes, as created by 2011 Wisconsin Act 266,
20 is repealed and recreated to read:

21 813.129 (1) A court may order a person to submit to global positioning system
22 tracking under s. 301.49 if any of the following occurs:

23 (a) The court issues a temporary restraining order or injunction under s. 813.12
24 or 813.125.

In a county that has received a grant under s. 165.94, the

1 (b) The person is convicted of knowingly violating a temporary restraining
2 order or injunction issued under s. 813.12 or 813.125.

3 SECTION 11. 813.129 (5) of the statutes, as created by 2011 Wisconsin Act 266,
4 is amended to read:

5 813.129 (5) If, after weighing the factors set forth under sub. (2), the court
6 determines that a person is more likely than not to cause serious bodily harm to the
7 person who petitioned for the restraining order or injunction, and the court
8 determines that another alternative, including imprisonment, is more likely to
9 protect the person who petitioned for the restraining order or injunction, the court
10 may not enter an order under sub. (1) (b).

[Handwritten scribble]

Section

11 SECTION 9308. Initial applicability; Correctional System.

12 (1) GLOBAL POSITIONING SYSTEM MONITORING. The treatment of sections 301.49
13 (title), (2) (a) and (ag), and (3) (c) and 813.129 (1) of the statutes first applies to
14 persons who are subject to a restraining order or injunction on the effective date of
15 this subsection.

16 SECTION 9408. Effective dates; Correctional System.

17 (1) GLOBAL POSITIONING SYSTEM MONITORING. The treatment of sections 20.410
18 (1) (gL) (title), 301.03 (3k), 301.49 (title), (2) (a) and (ag), and (3) (c), 813.12 (8) (a),
19 813.125 (7), and 813.129 (1) and (5) of the statutes and SECTION 9308 (1) of this act
20 take effect on January 1, 2014.

21 (END)

*20.455(2)(br),
165.94(1),*

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1062/P2ins
PJH:eev:ph

INSERT ANALYSIS:

The bill establishes a grant program, administered by DOJ, that allows counties to apply for a grant in order to establish a GPS tracking program for persons within that county who are subject to a restraining order or injunction. Under the bill, in a county that has received a grant to operate a GPS tracking program,

INSERT 4.2:

SECTION 1. 20.455 (2) (br) of the statutes is created to read:

20.455 (2) (br) *Global positioning system tracking.* The amounts in the schedule to provide grants for global positioning system tracking programs under s. 165.94.

SECTION 2. 165.94 of the statutes is created to read:

165.94 Grants to counties for global positioning system tracking.

(1) From the appropriation under s. 20.455 (2) (br), the department of justice may provide grants to any eligible county whose plan for expending the grant moneys to fund a global positioning system tracking program for persons who are subject to an order under s. 813.129 is approved.

(2) The department of justice shall develop criteria which, notwithstanding s. 227.10 (1), need not be promulgated as rules under ch. 227, for use in awarding grants under this section.

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1062/P3
PJH:eev:jf

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EKF

DOA:.....Wavrunek, BB0353 – GPS Tracking for Certain Restraining Orders
and Injunctions

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

2-4-13

Don't Gen

1 AN ACT ...; relating to: the budget.

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COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats may obtain a temporary restraining order against the person who has committed the acts of abuse, or harassment, or has made a threat. The restraining order bars the person from contacting the victim and requires the person to stay away from the victim's residence and other places temporarily occupied by the victim until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer-lasting injunction.

If the court determines that the person has engaged in, or may engage in, acts of abuse, harassment, or threats against the victim, the court may issue an injunction against the person. An injunction may stay in effect for up to four years and bars the person from contacting the victim, requires the person to stay away from the victim's residence, and may require the person to stay away from other locations temporarily occupied by the victim.

Under 2011 Wisconsin Act 266 (the Act), if the person violates certain restraining orders or an injunction, the court may require the person to submit, for the duration of the restraining order or injunction, to global positioning system (GPS) tracking by DOC.

established by statute

The Act requires the court to find, before ordering GPS tracking, that the person who violated the restraining order or injunction is more likely than not to cause serious bodily harm to the victim. When the court orders GPS tracking, DOC develops a personalized exclusion zone into which the person may not enter in order to protect the victim. If the person enters the exclusion zone, DOC must immediately notify local law enforcement and the victim. Under the Act, a person who tampers with the GPS device is guilty of a Class I felony.

The bill establishes a grant program, administered by DOJ, that allows counties to apply for a grant in order to establish a GPS tracking program for persons within that county who are subject to a restraining order or injunction. Under the bill, in a county that has received a grant to operate a GPS tracking program, if a court issues a restraining order or injunction to protect a victim from abuse, harassment, or threats, a court may order the person to submit, for the duration of the restraining order or injunction, to GPS tracking. The bill requires the court to make the same findings as are required for a person who has violated a restraining order or injunction.

Insert analysis operates

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.455 (2) (br) of the statutes is created to read:

2 20.455 (2) (br) *Global positioning system tracking*. The amounts in the
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4 165.94.

5 SECTION 2. 165.94 of the statutes is created to read:

6 **165.94 Grants to counties for global positioning system tracking. (1)**

7 From the appropriation under s. 20.455 (2) (br), the department of justice may
8 provide grants to any eligible county whose plan for expending the grant moneys to
9 fund a global positioning system tracking program for persons who are subject to an
10 order under s. 813.129 is approved.

Insert 2.4

Inset 3.2

1 (2) The department of justice shall develop criteria which, notwithstanding s.
2 227.10 (1), need not be promulgated as rules under ch. 227, for use in awarding
3 grants under this section.

4 SECTION 3. 813.12 (8) (a) of the statutes, as affected by 2011 Wisconsin Act 266,
5 is amended to read:

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7 injunction issued under sub. (3) or (4) shall be fined not more than \$10,000 or
8 imprisoned for not more than 9 months or both, and may be subject to an order under
9 s. 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall
10 report the violation to the department of corrections immediately upon the person's
11 conviction.

12 SECTION 4. 813.125 (7) of the statutes, as affected by 2011 Wisconsin Act 266,
13 is amended to read:

14 813.125 (7) PENALTY. Whoever violates a temporary restraining order or
15 injunction issued under this section shall be fined not more than \$10,000 or
16 imprisoned not more than 90 days or both, and may be subject to an order under s.
17 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall
18 report the violation to the department of corrections immediately upon the person's
19 conviction.

20 SECTION 5. 813.129 (1) of the statutes, as created by 2011 Wisconsin Act 266,
21 is repealed and recreated to read:

22 813.129 (1) A court may order a person to submit to global positioning system
23 tracking if any of the following occurs:

24 (a) In a county that has received a grant under s. 165.94, the court issues a
25 temporary restraining order or injunction under s. 813.12 or 813.125.

established a program under s. 59.54 (6m)

1 (b) The person is convicted of knowingly violating a temporary restraining
2 order or injunction issued under s. 813.12 or 813.125.

3 SECTION 6. 813.129 (5) of the statutes, as created by 2011 Wisconsin Act 266,
4 is amended to read:

5 813.129 (5) If, after weighing the factors set forth under sub. (2), the court
6 determines that a person is more likely than not to cause serious bodily harm to the
7 person who petitioned for the restraining order or injunction, and the court
8 determines that another alternative, including imprisonment, is more likely to
9 protect the person who petitioned for the restraining order or injunction, the court
10 may not enter an order under sub. (1) (b).

11 SECTION 9308. Initial applicability; Correctional System.

12 (1) GLOBAL POSITIONING SYSTEM MONITORING. The treatment of section 813.129
13 (1) of the statutes first applies to persons who are subject to a restraining order or
14 injunction on the effective date of this subsection.

15 SECTION 9408 Effective dates; Correctional System

16 (1) GLOBAL POSITIONING SYSTEM MONITORING. The treatment of sections 20.455
17 (2) (br), 165.94 (1), 813.12 (8) (a), 813.125 (7), and 813.129 (1) and (5) of the statutes
18 and SECTION 9308 (1) of this act take effect on January 1, 2014.

19 (END)

Justice
wire
9426
59.54(6m)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1062/P3ins
PJH:eev:jf

1 INSERT ANALYSIS:

 The bill requires DOJ to establish standards for counties that wish to administer their own GPS tracking program for persons within that county who are subject to a restraining order or injunction and creates a grant program whereby DOJ may issue grants to counties for that purpose.

2

3 INSERT 2.4:

4 **SECTION 1.** 59.54 (6m) of the statutes is created[✓] to read:

5 59.54 (6m) GLOBAL POSITIONING SYSTEM TRACKING. The board may establish a
6 global positioning tracking program for persons subject to an order under s. 813.129[✓]
7 (1) (a). A program established under this subsection shall adhere to the guidelines[✓]
8 set forth under s. 165.94 (2).[✓]

9 INSERT 3.2:

10 as guidelines to be followed by a county that wishes to establish a program for[✓]
11 global positioning system tracking under s. 59.54 (6m) for persons subject to an order
12 under s. 813.129 (1) (a) and[✓]

Hurley, Peggy

From: Wavrunek, Leah J - DOA <Leah.Wavrunek@wisconsin.gov>
Sent: Thursday, February 07, 2013 1:06 PM
To: Hurley, Peggy
Subject: RE: GPS language

Yes! Thanks so much!

From: Hurley, Peggy [<mailto:Peggy.Hurley@legis.wisconsin.gov>]
Sent: Thursday, February 07, 2013 10:10 AM
To: Wavrunek, Leah J - DOA
Subject: GPS language

Hi Leah,

What do you think of this language:

813.129 (6) of the statutes is created to read:

813.129 (6) A local unit of government, a law enforcement agency, or a tribal law enforcement agency may establish a global positioning tracking program for persons subject to a temporary restraining order or injunction under s. 813.12 or 813.125. A local unit of government, a law enforcement agency, or a tribal law enforcement agency may apply for a grant under s. 165.94 (1) to establish and administer a program established pursuant to this subsection. Any program established pursuant to this subsection shall comply with the guidelines established under s. 165.94 (2), regardless of whether the local unit of government, law enforcement agency, or tribal law enforcement agency receives a grant under s. 165.94 (1).

I will delete Section 2 of the bill and replace "county" with "local unit of government, law enforcement agency, or tribal law enforcement agency" in Section 3 of the bill.

In s. 813.129 (1) [in Section 6 of the bill], it gets a little tricky, but I think changing "In a county that has established a program under s. 59.54 (6m)" to "in a jurisdiction that has established a program under sub. (6)," does the trick.

Does that work for you?

Peggy Hurley
Legislative Reference Bureau
608 266 8906



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1062/P4
PJH:eev&kjf:rs

PS
Stays
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DOA:.....Wavrunek, BB0353 – GPS Tracking for Certain Restraining Orders and Injunctions

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

2-7-13

don't gen

1 AN ACT .; relating to: the budget.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats may obtain a temporary restraining order against the person who has committed the acts of abuse, or harassment, or has made a threat. The restraining order bars the person from contacting the victim and requires the person to stay away from the victim's residence and other places temporarily occupied by the victim until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer-lasting injunction.

If the court determines that the person has engaged in, or may engage in, acts of abuse, harassment, or threats against the victim, the court may issue an injunction against the person. An injunction may stay in effect for up to four years and bars the person from contacting the victim, requires the person to stay away from the victim's residence, and may require the person to stay away from other locations temporarily occupied by the victim.

Under 2011 Wisconsin Act 266 (the Act), if the person violates certain restraining orders or an injunction, the court may require the person to submit, for the duration of the restraining order or injunction, to global positioning system (GPS) tracking by DOC.

local units of government, law enforcement agencies, or tribal law enforcement agencies

The Act requires the court to find, before ordering GPS tracking, that the person who violated the restraining order or injunction is more likely than not to cause serious bodily harm to the victim. When the court orders GPS tracking, DOC develops a personalized exclusion zone into which the person may not enter in order to protect the victim. If the person enters the exclusion zone, DOC must immediately notify local law enforcement and the victim. Under the Act, a person who tampers with the GPS device is guilty of a Class I felony.

The bill requires DOJ to establish standards for counties that wish to administer their own GPS tracking program for persons within that county who are subject to a restraining order or injunction and creates a grant program whereby DOJ may issue grants to counties for that purpose. Under the bill, in a county that operates a GPS tracking program, if a court issues a restraining order or injunction to protect a victim from abuse, harassment, or threats, a court may order the person to submit, for the duration of the restraining order or injunction, to GPS tracking. The bill requires the court to make the same findings as are required for a person who has violated a restraining order or injunction.

jurisdiction

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

(S)

(S)

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SECTION 1. 20.455 (2) (br) of the statutes is created to read:

20.455 (2) (br) *Global positioning system tracking.* The amounts in the schedule to provide grants for global positioning system tracking programs under s. 165.94.

SECTION 2. 59.54 (6m) of the statutes is created to read:

59.54 (6m) GLOBAL POSITIONING SYSTEM TRACKING. The board may establish a global positioning tracking program for persons subject to an order under s. 813.129 (1) (a). A program established under this subsection shall adhere to the guidelines set forth under s. 165.94 (2).

SECTION 3. 165.94 of the statutes is created to read:

165.94 Grants to counties for global positioning system tracking. (1)

From the appropriation under s. 20.455 (2) (br), the department of justice may

(S)

local unit of government, law enforcement agency
or tribal law enforcement agency

-3
local unit of government, law enforcement agency, or tribal law enforcement agency

1 provide grants to any eligible county whose plan for expending the grant moneys to
2 fund a global positioning system tracking program for persons who are subject to an
3 order under s. 813.129 is approved. pursuant to s. 813.129(6)

4 (2) The department of justice shall develop criteria which, notwithstanding s.
5 227.10 (1), need not be promulgated as rules under ch. 227, as guidelines to be
6 followed by a county that wishes to establish a program for global positioning system
7 tracking under s. 59.54 (6m) for persons subject to an order under s. 813.129 (1) (a)
8 and for use in awarding grants under this section.

9 SECTION 4. 813.12 (8) (a) of the statutes, as affected by 2011 Wisconsin Act 266,
10 is amended to read:

11 813.12 (8) (a) Whoever knowingly violates a temporary restraining order or
12 injunction issued under sub. (3) or (4) shall be fined not more than \$10,000 or
13 imprisoned for not more than 9 months or both, and may be subject to an order under
14 s. 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall
15 report the violation to the department of corrections immediately upon the person's
16 conviction.

17 SECTION 5. 813.125 (7) of the statutes, as affected by 2011 Wisconsin Act 266,
18 is amended to read:

19 813.125 (7) PENALTY. Whoever violates a temporary restraining order or
20 injunction issued under this section shall be fined not more than \$10,000 or
21 imprisoned not more than ~~90 days~~ 9 months or both, and may be subject to an order under s.
22 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall
23 report the violation to the department of corrections immediately upon the person's
24 conviction.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1062/P4ins
PJH:eev&kjfrs

1 INSERT

4-16

2 SECTION 1. 813.129 (6) of the statutes is created to read:

3 813.129 (6) A local unit of government, a law enforcement agency, or a tribal
4 law enforcement agency may establish a global positioning tracking program for
5 persons subject to a temporary restraining order or injunction under s. 813.12 or
6 813.125. A local unit of government, a law enforcement agency, or a tribal law
7 enforcement agency may apply for a grant under s. 165.94 (1) to establish and
8 administer a program established pursuant to this subsection. Any program
9 established pursuant to this subsection shall comply with the guidelines established
10 under s. 165.94 (2), regardless of whether the local unit of government, law
11 enforcement agency, or tribal law enforcement agency receives a grant under s.
12 165.94 (1).



DOA:.....Wavrunek, BB0353 – GPS Tracking for Certain Restraining Orders
and Injunctions

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats may obtain a temporary restraining order against the person who has committed the acts of abuse, or harassment, or has made a threat. The restraining order bars the person from contacting the victim and requires the person to stay away from the victim's residence and other places temporarily occupied by the victim until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer-lasting injunction.

If the court determines that the person has engaged in, or may engage in, acts of abuse, harassment, or threats against the victim, the court may issue an injunction against the person. An injunction may stay in effect for up to four years and bars the person from contacting the victim, requires the person to stay away from the victim's residence, and may require the person to stay away from other locations temporarily occupied by the victim.

Under 2011 Wisconsin Act 266 (the Act), if the person violates certain restraining orders or an injunction, the court may require the person to submit, for the duration of the restraining order or injunction, to global positioning system (GPS) tracking by DOC.

The Act requires the court to find, before ordering GPS tracking, that the person who violated the restraining order or injunction is more likely than not to cause serious bodily harm to the victim. When the court orders GPS tracking, DOC develops a personalized exclusion zone into which the person may not enter in order to protect the victim. If the person enters the exclusion zone, DOC must immediately notify local law enforcement and the victim. Under the Act, a person who tampers with the GPS device is guilty of a Class I felony.

The bill requires DOJ to establish standards for local units of government, law enforcement agencies, or tribal law enforcement agencies that wish to administer their own GPS tracking program for persons who are subject to a restraining order or injunction and creates a grant program whereby DOJ may issue grants for that purpose. Under the bill, in a jurisdiction that operates a GPS tracking program, if a court issues a restraining order or injunction to protect a victim from abuse, harassment, or threats, a court may order the person to submit, for the duration of the restraining order or injunction, to GPS tracking. The bill requires the court to make the same findings as are required for a person who has violated a restraining order or injunction.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.455 (5) (br) of the statutes is created to read:

2 20.455 (5) (br) *Global positioning system tracking.* The amounts in the
3 schedule to provide grants for global positioning system tracking programs under s.
4 165.94.

5 **SECTION 2.** 165.94 of the statutes is created to read:

6 **165.94 Grants for global positioning system tracking.** (1) From the
7 appropriation under s. 20.455 (5) (br), the department of justice may provide grants
8 to any eligible local unit of government, law enforcement agency, or tribal law
9 enforcement agency whose plan for expending the grant moneys to fund a global
10 positioning system tracking program for persons who are subject to an order under
11 s. 813.129 is approved.

1 (2) The department of justice shall develop criteria which, notwithstanding s.
2 227.10 (1), need not be promulgated as rules under ch. 227, as guidelines to be
3 followed by a local unit of government, law enforcement agency, or tribal law
4 enforcement agency that wishes to establish a program for global positioning system
5 tracking pursuant to s. 813.129 (6) for persons subject to an order under s. 813.129
6 (1) (a) and for use in awarding grants under this section.

7 **SECTION 3.** 813.12 (8) (a) of the statutes, as affected by 2011 Wisconsin Act 266,
8 is amended to read:

9 813.12 (8) (a) Whoever knowingly violates a temporary restraining order or
10 injunction issued under sub. (3) or (4) shall be fined not more than \$10,000 or
11 imprisoned for not more than 9 months or both, and may be subject to an order under
12 s. 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall
13 report the violation to the department of corrections immediately upon the person's
14 conviction.

15 **SECTION 4.** 813.125 (7) of the statutes, as affected by 2011 Wisconsin Act 266,
16 is amended to read:

17 813.125 (7) PENALTY. Whoever violates a temporary restraining order or
18 injunction issued under this section shall be fined not more than \$10,000 or
19 imprisoned not more than ~~90 days~~ 9 months or both, and may be subject to an order
20 under s. 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court
21 shall report the violation to the department of corrections immediately upon the
22 person's conviction.

23 **SECTION 5.** 813.129 (1) of the statutes, as created by 2011 Wisconsin Act 266,
24 is repealed and recreated to read:

1 813.129 (1) A court may order a person to submit to global positioning system
2 tracking if any of the following occurs:

3 (a) In a jurisdiction that has established a program under sub. 6, the court
4 issues a temporary restraining order or injunction under s. 813.12 or 813.125.

5 (b) The person is convicted of knowingly violating a temporary restraining
6 order or injunction issued under s. 813.12 or 813.125.

7 **SECTION 6.** 813.129 (5) of the statutes, as created by 2011 Wisconsin Act 266,
8 is amended to read:

9 813.129 (5) If, after weighing the factors set forth under sub. (2), the court
10 determines that a person is more likely than not to cause serious bodily harm to the
11 person who petitioned for the restraining order or injunction, and the court
12 determines that another alternative, including imprisonment, is more likely to
13 protect the person who petitioned for the restraining order or injunction, the court
14 may not enter an order under sub. (1) (b).

15 **SECTION 7.** 813.129 (6) of the statutes is created to read:

16 813.129 (6) A local unit of government, a law enforcement agency, or a tribal
17 law enforcement agency may establish a global positioning tracking program for
18 persons subject to a temporary restraining order or injunction under s. 813.12 or
19 813.125. A local unit of government, a law enforcement agency, or a tribal law
20 enforcement agency may apply for a grant under s. 165.94 (1) to establish and
21 administer a program established pursuant to this subsection. Any program
22 established pursuant to this subsection shall comply with the guidelines established
23 under s. 165.94 (2), regardless of whether the local unit of government, law
24 enforcement agency, or tribal law enforcement agency receives a grant under s.
25 165.94 (1).

