



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 266
[2011 Senate Bill 104]

**GPS Tracking for
Injunction Violations**

2011 Wisconsin Act 266 permits a court to order global positioning system (GPS) tracking for certain persons who violate a domestic abuse or harassment temporary restraining order (TRO) or injunction.

The Act provides that, if a person knowingly violates a domestic abuse or harassment TRO or injunction, in addition to other penalties provided, the court may report the violation to the Department of Corrections (DOC) immediately upon the person's conviction and may order the person to submit to GPS tracking. Before issuing an order to require GPS tracking, the court must find that the person is more likely than not to cause serious bodily harm to the person who petitioned for the TRO or injunction, weighing the following factors:

- Whether the person has allegedly caused physical injury, intentionally abused pets or damaged property, or committed sexual assault, an act of strangulation, or forcible entry to gain access to the petitioner.
- Whether the person has threatened any individual, including the petitioner, with harm.
- Whether the person has a history of improperly using or threatening to use a firearm or other dangerous weapon.
- Whether the person has expressed suicidal ideation.
- Whether the person has exhibited obsessive or controlling behavior toward the petitioner or any member of the petitioner's family.
- The person's mental health history.
- Whether the person has a history of abusing alcohol or a controlled substance.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

The court may request DOC to provide a validated risk assessment of the person or request a domestic violence prevention or treatment center in the person's county to complete a danger assessment of the person in order to make the above findings.

If a court enters an order requiring GPS tracking, it must provide the person who petitioned for the TRO or injunction with a referral to a domestic violence or sexual assault victim service provider.

The Act provides that if, after weighing the factors described above, the court determines that a person is more likely than not to cause serious bodily harm to the person who petitioned for the TRO or injunction, and the court determines that another alternative, including imprisonment, is more likely to protect the person who petitioned for the TRO or injunction, the court *may not* order GPS tracking.

Under the Act, if a person is ordered to submit to GPS tracking and is placed on probation for violating a TRO or injunction, the term of probation must be not less than six months, nor more than the period of the domestic abuse or harassment injunction. A person who is ordered to be subject to GPS tracking is subject to the tracking requirement for the duration of his or her period of probation. If such a person is placed on extended supervision following incarceration, GPS tracking must be a condition of his or her extended supervision.

The Act requires DOC to implement a continuous GPS system to electronically monitor the whereabouts of persons who are subject to tracking due to a TRO or injunction violation. The system must automatically provide instantaneous information regarding the whereabouts of a person who is being monitored, including information regarding the person's presence in an exclusion zone that the person is prohibited from entering. Also, the system must immediately alert DOC if the person enters an exclusion zone. DOC must immediately notify the law enforcement agency having jurisdiction over the exclusion zone and the petitioner of any exclusion zone violation.

A person who is subject to GPS tracking may be required to pay a fee that is based upon the cost of tracking the person and the person's ability to pay. The Act also creates a surcharge under which a person who is convicted of violating a TRO or injunction must pay a surcharge of \$200 for each offense. These surcharges must be used for expenditures relating to the GPS tracking program for persons who have violated a TRO or injunction. If the unencumbered balance of these surcharges exceeds \$100,000 immediately before the end of any fiscal year, DOC must transfer the excess to an appropriation for grants to domestic abuse service agencies.

The Act increases the maximum fine for violation of a domestic abuse or harassment restraining order from \$1,000 to \$10,000. These offenses also carry a potential term of imprisonment.

Effective date: Act 266 takes effect on January 1, 2014, except that the provisions creating the surcharge for persons convicted of violating TRO or injunction take effect on July 1, 2013.

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