

👉 **09hr_ab0263_AC-CJ_pt01**



Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Criminal Justice
(AC-CJ)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

- Jeff Wiswell, Madison — WI Sheriffs & Deputy Sheriffs Association
- Tim Carpenter, Madison — Senator, WI State Senate
- Scott Suder, Madison — Representative, WI State Assembly
- Tom Lothian, Madison — Representative, WI State Assembly

Registrations Against

- Glenn Grothman, Madison — Senator, WI State Senate

Registrations for Information Only

- None.

October 15, 2009

EXECUTIVE SESSION HELD

- Present: (9) Representatives Turner, Kessler, Hraychuck, Soletski, Pasch, Friske, Kramer, Brooks and Ripp.
- Absent: (2) Representatives Staskunas and Kleefisch.

Moved by Representative Kessler, seconded by Representative Friske that **Assembly Amendment 1** be recommended for adoption.

- Ayes: (9) Representatives Turner, Kessler, Hraychuck, Soletski, Pasch, Friske, Kramer, Brooks and Ripp.
- Noes: (0) None.
- Absent: (2) Representatives Staskunas and Kleefisch.

Rep. Kleefisch would have voted Aye had he been present.

ASSEMBLY AMENDMENT 1 ADOPTION RECOMMENDED,
Ayes 9, Noes 0

Moved by Representative Kessler, seconded by Representative Kramer that **Assembly Substitute Amendment 1** be recommended for adoption.

- Ayes: (9) Representatives Turner, Kessler, Hraychuck, Soletski, Pasch, Friske, Kramer, Brooks and Ripp.
- Noes: (0) None.
- Absent: (2) Representatives Staskunas and Kleefisch.

Rep. Kleefisch would have voted Aye had he been present.

ASSEMBLY SUBSTITUTE AMENDMENT 1 ADOPTION
RECOMMENDED, Ayes 9, Noes 0

Moved by Representative Kessler, seconded by Representative
Hraychuck that **Assembly Bill 263** be recommended for passage.

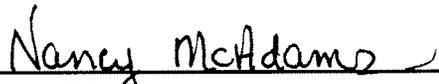
Ayes: (9) Representatives Turner, Kessler, Hraychuck,
Soletski, Pasch, Friske, Kramer, Brooks and
Ripp.

Noes: (0) None.

Absent: (2) Representatives Staskunas and Kleefisch.

Rep. Kleefisch would have voted Aye had he been present.

PASSAGE RECOMMENDED, Ayes 9, Noes 0



Nancy McAdams
Committee Clerk



Vote Record Committee on Criminal Justice

Date: 10-15-09

Moved by: Kessler

Seconded by: Kramer

AB 263

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

1 A/S Sub Amdt 1

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Robert Turner, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frederick Kessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Anthony Staskunas	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Ann Hraychuck	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative James Soletski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sandy Pasch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <i>would have voted yes</i>
Representative Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Bill Kramer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Edward Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Keith Ripp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	_____	<u>2</u>	_____

Motion Carried

Motion Failed

Vote Record Committee on Criminal Justice

Date: 10-15-09

Moved by: Kessler

Seconded by: Friske

AB 263 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt 1
 A/S Amdt _____ to ~~A/S Amdt~~ ~~_____~~
 A/S Sub Amdt 1
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Representative Robert Turner, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frederick Kessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Anthony Staskunas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Representative Ann Hraychuck	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative James Soletski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sandy Pasch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Representative Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Bill Kramer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Edward Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Keith Ripp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	_____	_____	<u>2</u>

yes if present

Motion Carried Motion Failed

Vote Record Committee on Criminal Justice

Date: 10-15-09

Moved by: Kessler

Seconded by: Hraychuck

AB 263

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt 1

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Robert Turner, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frederick Kessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Anthony Staskunas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Representative Ann Hraychuck	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative James Soletski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sandy Pasch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Representative Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Bill Kramer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Edward Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Keith Ripp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Would have voted yes

Totals: 9 _____ _____ 2

Motion Carried

Motion Failed



2009 Assembly Bill 263
Testimony before the Assembly Committee
on Criminal Justice
May 28, 2009

Good Morning Chairman Turner and members of the Assembly Committee on Criminal Justice. My name is Melissa Roberts and I am the Director of Sex Offender Programs within the Department of Corrections. One of my primary areas of responsibility includes oversight of the Department's Electronic Monitoring Center which operates global positioning system (GPS) tracking. I appreciate the opportunity to testify for informational purposes this morning regarding Assembly Bill 263.

Current Law:

Currently, courts may grant temporary restraining orders or permanent injunctions to victims of domestic abuse or child abuse, vulnerable adults, or adults at risk for harassment behaviors. A person who violates a restraining order or an injunction may be fined up to \$1,000 and imprisoned for up to 90 days for harassment only OR fined \$1,000 and imprisoned up to 9 months for all other violations.

Bill Requirements and Staff:

This bill requires the Department to place a violator on GPS as ordered by the Court for the duration of the restraining order or injunction which may be up to four (4) years. The Department must monitor the GPS and immediately notify law enforcement and the victim if the violator on GPS enters an area prohibited in the restraining order or injunction.

According to data available from the Department of Justice from calendar year 2008, an average of 1,557 new harassment and domestic abuse temporary restraining orders and injunctions are filed each month. There is no current procedure in place for courts to notify the Department of Corrections of restraining orders or injunctions, the areas prohibited or circumstances surrounding a restraining order or injunction, violations of those orders or of the victim information relating to violators. The lack of current procedure is representative of the fact that these violators are not necessarily on supervision to the Department. Thus, it is assumed that each Wisconsin and municipal court will develop a process in which the order for GPS and other pertinent information will be sent to a local Community Corrections office. The assigned agent would be responsible for enrolling the violator in the GPS system, coordinating installation with the Monitoring Center and GPS vendor, and providing relevant information to our Office of Victim Services and Programs.

The Department cannot predict how many of the 1,557 individuals per month who are subject to a restraining order or injunction will violate and subsequently be ordered by the court to be placed on GPS under this bill. However, for illustrative purposes *only* the

Department's fiscal estimate assumes that IF 10% of subjects named in restraining orders and injunctions violate and are placed on GPS each month, 1872 violators will be on GPS after the first 12 months and 7,499 after four years. The costs of GPS [including staff costs] for a single person for a 12-month annualized time period is \$13,500.00. Using the same staffing ratios and staff projection methods used for sex offender GPS, the Department's costs would include 381 GPR FTE (146.75 Agents, 14.75 Corrections Field Supervisors, 42.25 Office Operations Associates, 6.5 Program Support Supervisors, 160 Corrections Communications Operators, and 10.75 Corrections Communications Supervisors) during the first 12 months and 1,410 GPR FTE after 4 years, at which time the FTE growth would stabilize.

Office of Victim Services and Programs:

This bill would also impact the workload in the Department's Office of Victim Services and Programs whose staff provides a point of contact for victims who wish to be informed of an offender's change in status such as release from the institution or a change of address. In order for the Department to immediately notify the victim if a violator enters a prohibited area as this bill requires, the victim would need to be enrolled with the Office of Victim Services and Programs so that an automated message can be queued from our current web application. Assuming each violator has only a single victim, 156 victims will be enrolled each month. This results in 4 GPR FTE Victim Services Specialists in the first year and continues growing by approximately .75 FTE annually until it stabilizes at 6.50 GPR FTEs during the 5th year.

Surcharge:

This bill requires courts to impose a domestic violence surcharge of \$200 per violation of a domestic abuse or harassment order or injunction. It should be noted that each \$200 surcharge collected will pay for 25 days of GPS equipment (not staff) for a single offender. The Department assumes that we will be required to pay for the GPS equipment costs and staff not covered by the surcharge. We further assume, as with sex offender GPS fees, a 5% total revenue collection.

I thank you for the opportunity to address this committee on this bill and welcome any questions you might have.



Testimony



307 South Paterson Street, Suite 1
Madison, Wisconsin 53703
Phone: (608) 255-0539 Fax: (608) 255-3560

To: Members of the Assembly Committee on Criminal Justice
From: Tony Gibart, Policy Coordinator, Wisconsin Coalition Against Domestic Violence
Date: Tuesday, May 28, 2009
Re: Assembly Bill 263

Thank you very much for the opportunity to provide testimony on AB 263. My name is Tony Gibart, and I represent the Wisconsin Coalition Against Domestic Violence (WCADV). WCADV is the statewide voice for local domestic abuse service providers. In principle, WCADV supports the idea of allowing courts to require violators of restraining orders to submit to GPS monitoring. Indeed, GPS technology can be an important tool as part of a comprehensive law enforcement response to domestic violence. Since the introduction of AB 263, WCADV has been working with the lead sponsors to ensure that the legislation will enable Wisconsin to have a GPS monitoring system that is most effective for victims. The focus of our discussions has been to make certain that the courts, law enforcement and victims do not view—or come to mistakenly rely on—GPS monitoring as a panacea for violations of restraining orders.

Risk Assessment

First, WCADV has worked with the sponsors to craft an amendment that would integrate risk assessment into courts' decisions to order GPS monitoring. WCADV believes that risk assessment is critically important to correctly identify appropriate offenders for GPS monitoring. Because GPS monitoring is both not cost free and not a panacea for future violence, it cannot be used on every offender and definitely should not be used in place of incarceration on offenders who are determined to harm victims. If released, even while on GPS monitoring, these very high risk offenders may be able to harass or harm victims.

Therefore, WCADV has proposed that the sponsors put forth an amendment which would prompt courts contemplating an order of GPS monitoring to use a validated risk assessment tool and consider factors that are indicative of high risk cases.¹ Some characteristics that indicate a high risk of lethality include acts of strangulation, harm to pets, a history of improperly using deadly weapons, obsessive or controlling behaviors, and expressions of suicidal or homicidal ideations.

Victim Safety and Notification

Second, WCADV is concerned that GPS monitoring will give victims a false sense of security. As I said earlier, GPS monitoring can be an important crime prevention tool, but it certainly does not guarantee that offenders will not attempt to harass or harm victims. GPS monitoring will be most effective if victims understand the limitations of the technology and take additional steps to remain safe while the offender is out in the

¹ Illinois's GPS legislation provides for the use of a risk assessment tool. 725 ICS 5/110-5 (f)(12).

community. Therefore, WCADV has asked the sponsors to amend the bill so that victims are given information about the GPS monitoring program. It is critically important that victims understand the applicable exclusion zones, the system's failure rate and if there are situations in which the offender's position may not be detectable. In addition, victims should be explicitly told that GPS monitoring does not guarantee their safety, and victims should be referred to the local domestic violence or sexual assault victim service provider. Local programs can help the victim take other precautions during the offender's release.

Implementation

Third, WCADV has a strong desire to see that the GPS program is well implemented. GPS monitoring will only provide safety if there are systems in place to notify victims of violations and trigger immediate law enforcement responses. WCADV believes the bill should provide appropriate latitude to DOC, local law enforcement and victim advocates, so that they may develop policies and practices that ensure a timely emergency response. The specifics of these best practices will vary among localities and jurisdictions. WCADV has asked the sponsors to allow DOC and counties to stagger implementation of the bill so that DOC, local courts, law enforcement and victim advocates have time to consider the unique issues in each community, learn from other jurisdictions and develop appropriate policies.

Funding

Lastly, WCADV has asked the sponsors to carefully consider the costs of the program and address some technical points regarding the creation of a surcharge.

WCADV has a general concern that assessing a \$200 surcharge on top of other surcharges and fines in some case will hinder violators' ability to pay child support. The possible economic impact of the surcharge on abused families needs to be considered in relation to the benefits of the GPS program. Under section 973.05 (4m), certain child support wage assignments take priority over wage assignments for criminal fines and surcharges. At a minimum, the priority of the new surcharge should be limited in the same way as other surcharges and fines.

WCADV has also asked the sponsors to rename the surcharge created under the bill. As drafted the bill terms the new surcharge the *domestic violence surcharge*. The existing surcharge, which currently funds domestic violence programs, is called the *domestic abuse surcharge*. WCADV is concerned that court officials could inadvertently treat the two surcharges as one. Moreover, because restraining orders under sections 813.122, 813.123, and 813.125 (child abuse, individual at risk and harassment restraining orders) may not relate to domestic violence, a general name for the GPS monitoring surcharge would be more appropriate.

In addition, Wisconsin Statute section 973.05 (2m) specifies the order in which payments from defendants are applied to the outstanding surcharges. As many defendants do not pay the full amount owed, the position of a surcharge in section 973.05 (2m) can greatly affect the amount of funds available for specific programs. It does not appear that the bill currently specifies the rank order of the GPS program surcharge. The new surcharge should not take priority over the domestic abuse surcharge.

In conclusion, thank you for the opportunity to provide testimony on AB 263. I believe that WCADV, the sponsors and members of this committee can work together to improve AB 263 and thereby ensure that victims are effectively protected through GPS monitoring in Wisconsin.



McAdams, Nancy

From: Reader, Chris
Sent: Wednesday, October 07, 2009 2:04 PM
To: George, Lorna; McAdams, Nancy
Subject: AB263, Cindy's Law

Nancy & Lorna,

Just want to update you on Rep. Zipperer's AB 263, the bill to make GPS tracking for repeat domestic abusers an option for judges. Rich talked to your boss earlier this week on it, and told him that we have a substitute amendment almost ready to go on the bill. I talked to the drafter this morning, and we should have it back in introducible form within 7-10 days.

Rep. Turner had mentioned that the committee will have an exec session again later this month or early November, and we're hopeful that AB 263 can be added to that agenda. Once we get the draft back with the analysis from LRB I'll be in touch to run through the changes with you.

Thanks!

Chris Reader
Office of Rep. Rich Zipperer
Wisconsin State Assembly
(608) 266-5120 office



McAdams, Nancy

From: George, Lorna
Sent: Wednesday, October 07, 2009 2:38 PM
To: Reader, Chris; McAdams, Nancy
Subject: RE: AB263, Cindy's Law

Chris,

Thanks for the information. Nancy is out but will return Friday.

Lorna J. George

Office of State Representative Robert L. Turner

Room 223 North, State Capitol

P.O. Box 8953

Madison, WI 53708

Tel: 608-266-0731 Toll Free: 888-529-0061

Fax: 608-282-3661

lorna.george@legis.wi.gov

From: Reader, Chris
Sent: Wednesday, October 07, 2009 2:04 PM
To: George, Lorna; McAdams, Nancy
Subject: AB263, Cindy's Law

Nancy & Lorna,

Just want to update you on Rep. Zipperer's AB 263, the bill to make GPS tracking for repeat domestic abusers an option for judges. Rich talked to your boss earlier this week on it, and told him that we have a substitute amendment almost ready to go on the bill. I talked to the drafter this morning, and we should have it back in introducible form within 7-10 days.

Rep. Turner had mentioned that the committee will have an exec session again later this month or early November, and we're hopeful that AB 263 can be added to that agenda. Once we get the draft back with the analysis from LRB I'll be in touch to run through the changes with you.

Thanks!

Chris Reader
Office of Rep. Rich Zipperer
Wisconsin State Assembly
(608) 266-5120 office



McAdams, Nancy

From: Reader, Chris
Sent: Monday, October 12, 2009 9:32 AM
To: McAdams, Nancy
Subject: RE: Assembly Criminal Justice Executive Session Published

Attachments: LRB s0145_1

Hi Nancy,

Attached is our sub amendment to AB263. The jacket is on the way to the Chief Clerk, and I'll get a copy/memo out to committee members later today. I didn't quite get the memo all wrapped up this weekend as I had hoped, but am working on it now.

Thanks!

Chris Reader
Office of Rep. Rich Zipperer
Wisconsin State Assembly
(608) 266-5120 office



09s01451.pdf (43
KB)

From: Rep.Turner
Sent: Monday, October 12, 2009 9:14 AM
To: Inabnet, Kay; Vesperat, Jeryn; *Legislative All Assembly; *Legislative All Senate; Alice O'Connor; Ashley Berka; Dyke, Don; Inabnet, Kay; Pete Christianson; Rinehart, Mark W - DOJ; Schmidt, Melissa; Tonnon Byers, Anne; Vesperat, Jeryn; Vicky Jackson; Wheeler Report
Subject: Assembly Criminal Justice Executive Session Published

<< File: E20091015-12401.doc >> The Assembly Criminal Justice Committee has scheduled an Executive Session for Thursday, October 15, 2009, beginning at 10:45 a.m.

Nancy McAdams, Committee Clerk
Office of State Rep. Robert Turner
223 North Capitol
P.O. Box 8953
Madison, WI 53708-8953
Phone: 608-266-0731
Fax: 608-282-3661



McAdams, Nancy

From: Reader, Chris
Sent: Wednesday, October 14, 2009 9:23 AM
To: Rep.Turner; Rep.Kessler; Rep.Staskunas; Rep.Hraychuck; Rep.Soletski; Rep.Pasch;
Rep.Kleefisch; Rep.Friske; Rep.Kramer; Rep.Brooks; Rep.Ripp
Cc: McAdams, Nancy; 'Tony Gibart'; Margolies, Robert S - DOC; Rep.Suder; Rep.Kerkman;
Hilgemann, Luke
Subject: AB 263
Importance: High
Attachments: LRB s0145_3; AB263 exec vote memo.pdf

Packet

Member offices of the Criminal Justice Committee:

Attached is an updated substitute amendment and memo on AB 263. This has been jacketed and sent to the chief clerk. After further feedback from the Wisconsin Coalition Against Domestic Violence, we have altered the bill (section 6) to tighten the language around our intended application of the GPS program, and there are technical fixes from LRB.

Please call our office with any questions.

Chris Reader
Office of Rep. Rich Zipperer
Wisconsin State Assembly
(608) 266-5120 office



09s01453.pdf (44 KB)



AB263 exec vote memo.pdf (48 K...



STATE REPRESENTATIVE

RICH ZIPPERER

MEMO

TO: Committee Members, Committee on Criminal Justice
FROM: Rep. Rich Zipperer
RE: Assembly Bill 263, Cindy's Law
DATE: October 13, 2009

Assembly Bill 263 has been scheduled for committee executive action on Thursday, October 15th. A substitute amendment has been introduced to address concerns raised over certain provisions of the original bill, including narrowing the application, funding, implementation, and various other items. This memo discusses provisions contained within the substitute amendment that have been altered from the original bill. If after reviewing the amendment and memo you have questions on a particular provision, please contact Chris in Rep. Zipperer's office at 6-5120.

What the Bill Does

The bill permits a court to order a person who knowingly violates a restraining order or injunction to GPS monitoring for the duration of the restraining order or injunction. **Section 6**

The goal of the bill is to apply only to the highest risk offenders who are likely a danger to the community, yet a court deems other options, such as incarceration, not an option. To find that narrow subgroup of offenders, the bill creates the following "danger assessment factors" for a court to consider. **Section 6**

- 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 access to a firearm or other dangerous weapon and 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 and the petitioner have recently separated, divorced, or otherwise terminated their relationship.
- Whether the person has exhibited obsessive or controlling behavior toward the petitioner or any member of the petitioner's family, including stalking, surveillance, or isolation.
- The person's mental health history.
- Whether the person has a history of abusing alcohol or a controlled substance.

To help make those findings, the court may request the Department of Corrections to provide a validated danger assessment of the person using the same criteria. **Section 6**

If a court finds a person as likely to cause serious bodily harm to the petitioner, poses a serious threat to public safety, or is likely to intimidate witnesses based on the listed danger assessment

factors, and the court determines that an available alternative, such as imprisonment, is more likely to prevent those actions, the bill does not allow the court to issue GPS monitoring in place of the alternative option. **Section 6**

Additionally, if a person is released under s.969.02 and has been charged with violating a restraining order or injunction, a court is authorized under this bill to order the person to GPS monitoring, participate in mental health treatment, a batterer's intervention program, or individual counseling. **Section 9**

Notices Given to Victims

Under the bill, upon ordering GPS monitoring the court shall provide the petitioner with a referral to a domestic violence or sexual assault victim provider. **Section 6**

Also under the bill, the department is required to make the following notices to each petitioner:

- Notice if a person ordered to monitoring is released from incarceration (and thus put on monitoring) **Section 5**
- The exclusion zones the convicted person must avoid and the amount of time the person is allowed to stay within an exclusion zone before law enforcement and the petitioner are alerted **Section 5**
- An explanation of failure rates and situations in which a person may not be detected by the GPS program **Section 5**

Funding of the Program

The goal of the bill is to make it entirely self-funding and not a burden to taxpayers. The following steps have been taken to reach that goal.

- First, the Department shall determine each offender's financial ability to pay for the tracking him/herself. **Section 5**
- For all violators of domestic restraining orders, a \$200 Global positioning system tracking surcharge shall also be imposed to fund the costs not paid by the offenders themselves. **Section 13**
- If the program costs are higher than the combination of what the court orders offenders to pay and the surcharge account balance, the Department may by rule increase the surcharge up to 5% annually. **Section 13**

Another funding goal of the substitute amendment is to ensure the new surcharge does not compete with the current domestic abuse surcharge for funding:

- The surcharge has been renamed the Global positioning system tracking surcharge to avoid any confusion. **Section 13**
- If a person is ordered to pay the GPS surcharge as part of a deferred prosecution agreement, they shall also be ordered to pay the current domestic abuse surcharge. **Section 10**
- The bill delineates that payments to the current domestic abuse surcharge take precedence over the GPS tracking surcharge. **Section 12** *NOTE: a concern was also raised over child support payments taking preference to this surcharge. It is our understanding that child support payments already take preference over items like this.*

- Finally, if the surcharge account runs a balance of \$100,000 at the end of a fiscal year, the bill orders the transfer of the excess amount to current domestic abuse grants. *Section 4*

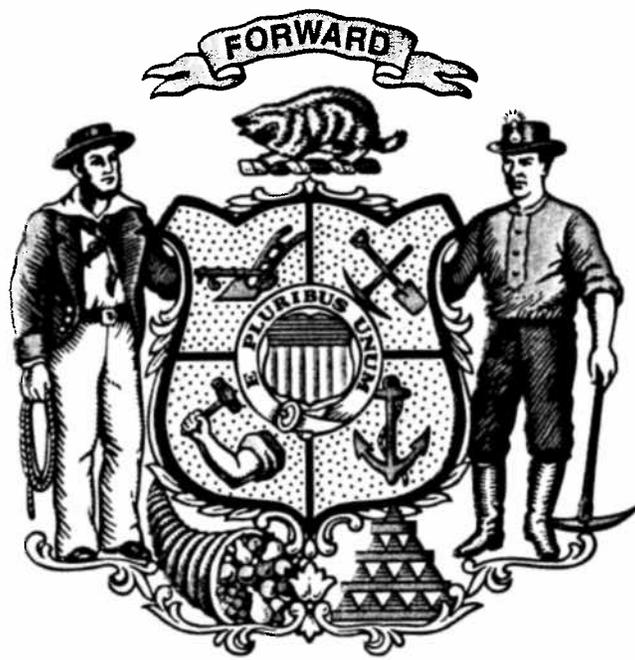
Other Provisions:

Exclusion zone definition: The substitute amendment clarifies that a monitored person is prohibited from entering exclusion zones even just to travel through. *Section 5*

Implementation: The bill directs the Department of Corrections to promulgate rules required to implement the bill, and to consult with the Wisconsin Coalition Against Domestic Violence, law enforcement agencies, judges, district attorneys, and probation officers to develop an implementation plan. *Section 14*

The \$200 surcharge begins the day after publication of the Act. *Section 16*

To allow the Department time to develop the implementation plan, the Global positioning system program takes effect six months following publication, and first applies to violations of restraining orders after that time. *Section 15*



**George, Lorna**

From: Tony Gibart [tonyg@wcadv.org]
Sent: Wednesday, October 14, 2009 5:30 PM
To: Reader, Chris; Rep.Turner; Rep.Kessler; Rep.Staskunas; Rep.Hraychuck; Rep.Soletski; Rep.Pasch; Rep.Kleefisch; Rep.Friske; Rep.Kramer; Rep.Brooks; Rep.Ripp
Cc: McAdams, Nancy; Margolies, Robert S - DOC; Rep.Suder; Rep.Kerkman; Hilgemann, Luke
Subject: RE: AB 263
Attachments: Committee Memo Oct15.pdf

Please find the Wisconsin Coalition Against Domestic Violence's memo attached in support of AB 263 as amended by the substitute amendment.

Thank you,

Tony Gibart

From: Reader, Chris [mailto:Chris.Reader@legis.wisconsin.gov]
Sent: Wednesday, October 14, 2009 9:23 AM
To: Rep.Turner; Rep.Kessler; Rep.Staskunas; Rep.Hraychuck; Rep.Soletski; Rep.Pasch; Rep.Kleefisch; Rep.Friske; Rep.Kramer; Rep.Brooks; Rep.Ripp
Cc: McAdams, Nancy; Tony Gibart; Margolies, Robert S - DOC; Rep.Suder; Rep.Kerkman; Hilgemann, Luke
Subject: AB 263
Importance: High

Member offices of the Criminal Justice Committee:

Attached is an updated substitute amendment and memo on AB 263. This has been jacketed and sent to the chief clerk. After further feedback from the Wisconsin Coalition Against Domestic Violence, we have altered the bill (section 6) to tighten the language around our intended application of the GPS program, and there are technical fixes from LRB.

Please call our office with any questions.

Chris Reader
Office of Rep. Rich Zipperer
Wisconsin State Assembly
(608) 266-5120 office

<<LRB s0145_3>> <<AB263 exec vote memo.pdf>>

Memo



307 South Paterson Street, Suite 1
Madison, Wisconsin 53703
Phone: (608) 255-0539 Fax: (608) 255-3560

To: Members of the Assembly Committee on Criminal Justice
From: Tony Gibart, Policy Coordinator, Wisconsin Coalition Against Domestic Violence
Date: October 15, 2009
Re: Assembly Bill 263—Assembly Substitute Amendment 1

When the Committee heard Assembly Bill 263 in May, the Wisconsin Coalition Against Domestic Violence (WCADV) expressed support for the intent of the legislation, but asked the sponsors to consider amendment of the bill to address a number of concerns. I have provided original testimony below for your reference.

The substitute amendment offered by Representative Zipperer addresses these concerns, and, therefore, WCADV supports the bill as amended. WCADV thanks Rep. Zipperer for his work to improve this legislation. I encourage you to adopt the substitute amendment and recommend passage.

Testimony from May 28, 2009:

Thank you very much for the opportunity to provide testimony on AB 263. My name is Tony Gibart, and I represent the Wisconsin Coalition Against Domestic Violence (WCADV). WCADV is the statewide voice for local domestic abuse service providers. In principle, WCADV supports the idea of allowing courts to require violators of restraining orders to submit to GPS monitoring. Indeed, GPS technology can be an important tool as part of a comprehensive law enforcement response to domestic violence. Since the introduction of AB 263, WCADV has been working with the lead sponsors to ensure that the legislation will enable Wisconsin to have a GPS monitoring system that is most effective for victims. The focus of our discussions has been to make certain that the courts, law enforcement and victims do not view—or come to mistakenly rely on—GPS monitoring as a panacea for violations of restraining orders.

Risk Assessment

First, WCADV has worked with the sponsors to craft an amendment that would integrate risk assessment into courts' decisions to order GPS monitoring. WCADV believes that risk assessment is critically important to correctly identify appropriate offenders for GPS monitoring. Because GPS monitoring is both not cost free and not a panacea for future violence, it cannot be used on every offender and definitely should not be used in place of incarceration on offenders who are determined to harm victims. If released, even while on GPS monitoring, these very high risk offenders may be able to harass or harm victims.

Therefore, WCADV has proposed that the sponsors put forth an amendment which would prompt courts contemplating an order of GPS monitoring to use a validated risk assessment tool and consider factors that are indicative of high risk cases.¹ Some characteristics that indicate a high

¹ Illinois's GPS legislation provides for the use of a risk assessment tool. 725 ILCS 5/110-5 (f)(12).

risk of lethality include acts of strangulation, harm to pets, a history of improperly using deadly weapons, obsessive or controlling behaviors, and expressions of suicidal or homicidal ideations.

Victim Safety and Notification

Second, WCADV is concerned that GPS monitoring will give victims a false sense of security. As I said earlier, GPS monitoring can be an important crime prevention tool, but it certainly does not guarantee that offenders will not attempt to harass or harm victims. GPS monitoring will be most effective if victims understand the limitations of the technology and take additional steps to remain safe while the offender is out in the community. Therefore, WCADV has asked the sponsors to amend the bill so that victims are given information about the GPS monitoring program. It is critically important that victims understand the applicable exclusion zones, the system's failure rate and if there are situations in which the offender's position may not be detectable. In addition, victims should be explicitly told that GPS monitoring does not guarantee their safety, and victims should be referred to the local domestic violence or sexual assault victim service provider. Local programs can help the victim take other precautions during the offender's release.

Implementation

Third, WCADV has a strong desire to see that the GPS program is well implemented. GPS monitoring will only provide safety if there are systems in place to notify victims of violations and trigger immediate law enforcement responses. WCADV believes the bill should provide appropriate latitude to DOC, local law enforcement and victim advocates, so that they may develop policies and practices that ensure a timely emergency response. The specifics of these best practices will vary among localities and jurisdictions. WCADV has asked the sponsors to allow DOC and counties to stagger implementation of the bill so that DOC, local courts, law enforcement and victim advocates have time to consider the unique issues in each community, learn from other jurisdictions and develop appropriate policies.

Funding

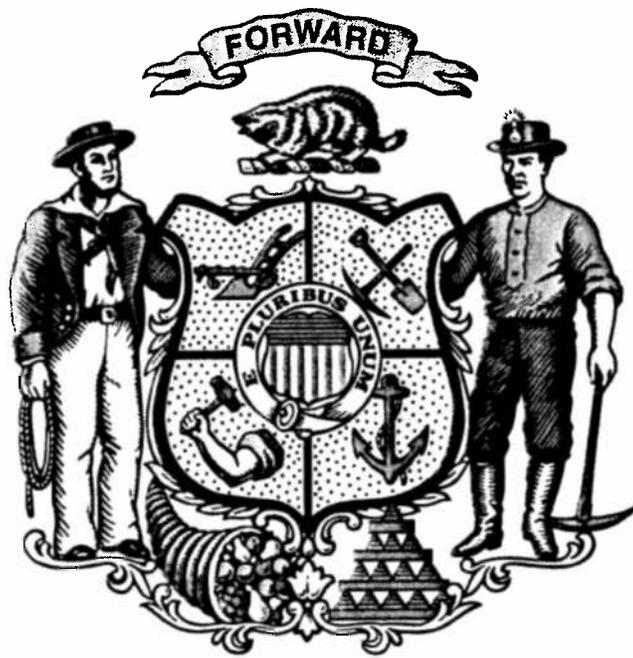
Lastly, WCADV has asked the sponsors to carefully consider the costs of the program and address some technical points regarding the creation of a surcharge.

WCADV has a general concern that assessing a \$200 surcharge on top of other surcharges and fines in some case will hinder violators' ability to pay child support. The possible economic impact of the surcharge on abused families needs to be considered in relation to the benefits of the GPS program. Under section 973.05 (4m), certain child support wage assignments take priority over wage assignments for criminal fines and surcharges. At a minimum, the priority of the new surcharge should be limited in the same way as other surcharges and fines.

WCADV has also asked the sponsors to rename the surcharge created under the bill. As drafted the bill terms the new surcharge the *domestic violence surcharge*. The existing surcharge, which currently funds domestic violence programs, is called the *domestic abuse surcharge*. WCADV is concerned that court officials could inadvertently treat the two surcharges as one. Moreover, because restraining orders under sections 813.122, 813.123, and 813.125 (child abuse, individual at risk and harassment restraining orders) may not relate to domestic violence, a general name for the GPS monitoring surcharge would be more appropriate.

In addition, Wisconsin Statute section 973.05 (2m) specifies the order in which payments from defendants are applied to the outstanding surcharges. As many defendants do not pay the full amount owed, the position of a surcharge in section 973.05 (2m) can greatly affect the amount of funds available for specific programs. It does not appear that the bill currently specifies the rank order of the GPS program surcharge. The new surcharge should not take priority over the domestic abuse surcharge.

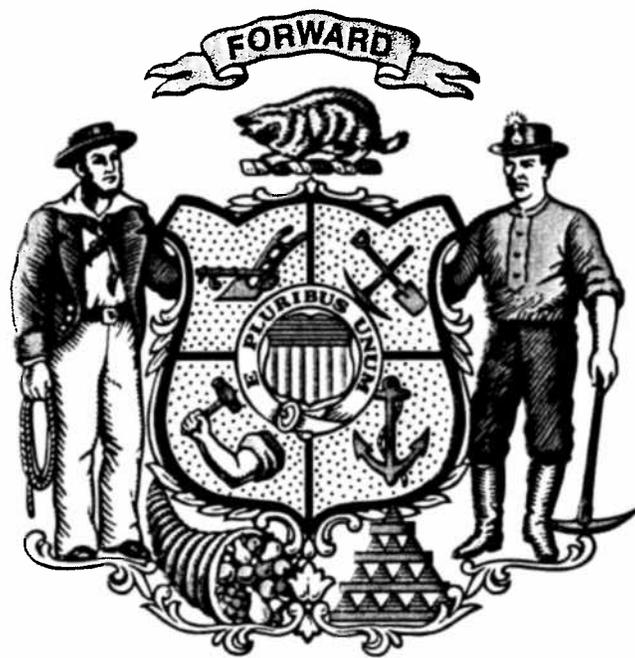
In conclusion, thank you for the opportunity to provide testimony on AB 263. I believe that WCADV, the sponsors and members of this committee can work together to improve AB 263 and thereby ensure that victims are effectively protected through GPS monitoring in Wisconsin.



To: Bob
From: Pam Travis
Date: October 15, 2009
Re: AB 263, Rep. Zipperer's bill

Pam left a voice mail just after we got back from the hearing. She wanted to thank you for hearing this bill and allowing it to pass your committee. She is from Neillsville, WI, and Cindy Bischof, who was the inspiration for this bill, was her cousin who was stalked and killed by her ex-husband.

Pam had wanted to be at the hearing today, but she had to work and was in Minneapolis. But she watched the hearing on WI Eye on her computer. She thanks you very much for your support of this important legislation.



Date?

TESTIMONY ON AB 263, RELATING TO REQUIRING PERSONS WHO VIOLATE CERTAIN RESTRAINING ORDERS OR INJUNCTIONS TO BE MONITORED BY A GLOBAL POSITIONING SYSTEM.

Appearing in Favor: 5

Rep. Zipperer
Sherry Scopp, Angies' Hope for You, Mayville, WI
Michael Bischof, Barrington, IL
Miles Littlefield, Genoa City, WI
Pam Travis, Neillsville, WI

Registering in Favor: 5

Rep. Tom Lothian
Rep. Scott Suder
Sen. Tim Carpenter
Jeff Wiswell, WI Sheriffs & Deputy Sheriffs Assn.
Rep. Samantha Kerkman

Registering Against: 1

Sen. Glenn Grothman

Appearing for Information Only: 2

Melissa Roberts, WI Department of Corrections
Tony Gibart, WI Coalition Against Domestic Violence