

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11-1532/2	Introduction Number SB-104	
Description Requiring persons who violate certain restraining orders or injunctions to be monitored by a global positioning system, granting rule-making authority, making an appropriation, and providing a penalty		
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input checked="" type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input checked="" type="checkbox"/> Others <u>Jails</u> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.410 (gL) and 20.410 (b)		
Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives
DOC 6/3/2011

LRB Number	11-1532/2	Introduction Number	SB-104	Estimate Type	Original
Description Requiring persons who violate certain restraining orders or injunctions to be monitored by a global positioning system, granting rule-making authority, making an appropriation, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Current Law:

Currently, courts may grant temporary restraining orders or permanent injunctions to victims of domestic abuse, child abuse, vulnerable adult or adults at risk and 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 [harassment only] or fined \$1,000 and imprisoned for up to 9 months [all other violations].

Description of Active GPS:

Active GPS technology involves a person carrying a small unit that tracks and records the whereabouts of the person once per minute. Under an active GPS system, every 10 minutes the tracking device sends the cumulative data to the Department. The periodic whereabouts of the person can also be tracked on a computer screen. The Department currently places GPS on certain sex offenders and, on a discretionary basis, non-sex offenders at an equipment cost of \$6.90/per day/per offender. The Department also requires staff [Probation and Parole Agents, Corrections Field Supervisors, Office Operations Associates, Program Support Supervisors, Corrections Communication Operators and Communication Operator Supervisors] to create inclusion and exclusion zones, maintain the offender's approved daily schedules, prepare and issue warrants for offenders who tamper with equipment or violate exclusion zones, and issue alerts to law enforcement as necessary. Currently Probation and Parole Agents spend approximately 13 hours of work per month, per offender, for the first three months an offender is placed on GPS.

GPS Staff and Costs:

This bill allows a court to order a person who violates a domestic abuse or harassment restraining order or injunction to be placed on active global positioning tracking [GPS] and requires courts to consider a district attorney or a victim's recommendations for GPS. This bill also allows a court to place a restraining order violator on GPS as a condition of release from prison.

This bill requires the Department to place a violator ordered by the courts to be placed on GPS, for the duration of the restraining order or injunction [up to four years], to 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 the Department of Justice (DOJ), in CY2010 the total number of new restraining orders and injunctions filed each year was 15,338, an average of 1,278 per month.

Community Field & Monitoring Center Staff:

There is no current procedure in place for courts to notify DOC 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.

DOC would not necessarily have the violator on supervision; thus it is assumed each Wisconsin and municipal court will provide information for every violator placed on GPS, along with victims' names and contact information, legal descriptions of prohibited areas, and appropriate law enforcement contact information via fax or email to the appropriate community corrections office. It should be noted that the DOC will be unable to provide GPS alerts for violations using a 'distance from' criteria [e.g., person must maintain a distance of 200 feet from the victim at all times].

The assigned agent would disseminate the information to the monitoring center, GPS vendor, Office of Victim Services & Programs (OVSP), community corrections ledgerkeeper, and assign a DOC offender number linking the offender to his/her victim and pertinent data. Since the bill requires GPS monitoring of individuals who would not also be on community supervision and therefore not assigned to a Probation and Parole Agent, the department will utilize Corrections Program Specialist to assist in the monitoring of these individuals. It is estimated that 50% of individuals who are GPS-monitored will be monitored by a Probation and Parole Agent and the remaining 50% would be monitored by a Corrections Program Specialist. The 50% of individuals requiring monitoring by a Probation and Parole Agent are estimated to already be supervised by the department; adding the GPS monitoring requirement will require enhanced supervision and will account for an increased caseload for these agents.

This bill also allows the courts to request for the department to provide a validated danger assessment of an individual who may be placed on GPS. The department does not currently utilize a tool as described in the bill. Therefore, this will require the department to develop and validate, or procure, a danger assessment, train staff on proper usage and maintain staffing to provide the danger assessment. This estimate assumes that half of the individuals requiring GPS monitoring for restraining orders and injunctions will also be required to participate in a danger assessment. The staffing required to complete danger assessments would be Probation and Parole Agents. Workload is estimated to be comparable to the Special Bulletin Notification process that Probation and Parole Agents currently complete.

For illustrative purposes:

- If 10% of subjects named in orders and injunctions violate and are placed on GPS each month and half of those individuals must undergo a danger assessment, 1,534 restraining order violators will be on GPS after the first twelve months (767 would require danger assessments) and 6,135 after four years. Using the same staffing ratios and staff projection methods used for sex offender GPS, DOC's costs would include 233.00 GPR FTE during the first 12 months and 908.00 GPR FTE after four years, at which time the FTE growth would stabilize.

- If 20% were placed on GPS each month then 3,068 restraining order violators would be on GPS after the first twelve months (1,534 would require danger assessments) and 12,270 after four years. Staffing would increase by 461.00 FTE in the first twelve months and 1,734.00 FTE after four years.

- If 30% were placed on GPS each month then 4,601 restraining order violators would be on GPS after the first twelve months (2,300 would require danger assessments) and 18,406 after four years. Staffing would increase by 690.00 FTE in the first twelve months and 2,601.00 FTE after four years.

- If 40% were placed on GPS each month then 6,135 restraining order violators would be on GPS after the first twelve months (3,068 would require danger assessments) and 24,541 after four years. Staffing would increase by 919.50 FTE in the first twelve months and 3,469.00 FTE after four years.

Office of Victim Services & Programs Staff:

This bill requires the department to provide notice to each petitioner when the person who is ordered by the court to submit to monitoring is released from incarceration and provide "immediate" notice of any exclusion zone violations.

Currently, the DOC's Office of Victim Services and Programs provides a point of contact for victims who wish to know of an offender's escape, transfer or release to another prison or state facility, parole eligibility and the like. OVSP currently compiles and enters enrollment data accessible to victims so that the offender status information is accessible via the web. OVSP notifies victims of status changes via U.S. mail or email and, in the cases of escape from prison or jail, the prison warden or designee makes a personal telephone call to victims enrolled with OVSP. OVSP also educates victims, law enforcement, victim advocates, criminal justice partners and DOC staff on processes, answers questions and addresses concerns, enters and maintains data, and accompanies victims to parole hearings, revocation hearings or restorative justice meetings.

It is estimated that each OVSP staff will be able to assist with victim notification and technical assistance for 400 victims. This results in 4.00 GPR FTE Victim Service Specialists in the 1st year and increases to 15.00 GPR FTEs by the end of the fourth year if 10% of the individuals placed on restraining orders are required to be GPS-monitored.

Surcharge:

This bill requires courts to impose a domestic violence surcharge of \$200 per violation if a domestic abuse

or harassment order or injunction is violated. The bill also creates a new DOC appropriation into which the surcharges collected are deposited.

This assumes the courts will collect and track all of the surcharges. The DOC is unable to predict the number of surcharges that will be assessed, the collection success rate, or the funds that will ultimately transfer from the courts to DOC. It should be noted that each \$200 surcharge collected will pay for 25 days of GPS equipment [not staff] for a single offender. It should also be noted that courts can place violators on GPS for the remainder of the order or injunction [up to four years]. It is assumed that the DOC will be required to pay for the GPS equipment costs not covered by the surcharge.

For illustrative purposes only, DOC is assuming a 5% total revenue collection [rate assumed for sex offender GPS], thus, DOC's GPS equipment costs total \$2,087,900 (95% GPR and 5% PR) in the first year assuming 10% of those placed on restraining orders or injunctions are GPS-monitored. Based on the 10% GPS-monitored individuals, we estimate revenue collections will be \$104,400 in the first year. GPS equipment costs rise to \$13,693,100 (95% GPR and 5% PR) in the fourth year so we estimate revenue collections will be \$684,700 by the end of the fourth year if 10% of individuals placed on restraining orders are GPS-monitored.

Collection of GPS Costs by Individual:

This bill requires the department to track GPS costs per individual and determine their ability to pay for these costs. If the individual is determined to be able to pay for the GPS costs, the department is required to calculate how much an individual must pay and then collect the moneys from the individual. This bill creates a new appropriation for collection of these fees. Staffing will be required to complete the accounts receivable and calculate the fee for each individual. The department is unable to estimate the amount of fees collected as part of this bill.

Tampering:

This bill also creates a penalty for a violator's tampering with a GPS unit (Class I felony, punishable by a fine up to \$10,000, imprisonment for up to three years and six months, or both). Tampering by sex offenders requiring GPS monitoring has been very minimal. Between January 2008 and May 2009, only nine offenders tampered with GPS; only one of those nine was convicted of the crime and was subsequently sentenced to 90 days in jail. We anticipate that the tampering will continue to be minimal even with the added GPS-monitored individuals included as part of this bill.

The DOC cannot predict the number of violators who will tamper with GPS. If sentenced to prison, the average FY10 annual cost for an inmate in a DOC institution is approximately \$32,100. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$5,100, based on FY10 costs. When there is no excess capacity in DOC facilities, the Department uses contract beds at a rate of \$18,800 annually per person. The average FY10 annual cost to supervise one offender is approximately \$2,800

Summary:

The DOC can not predict how many violators courts will place on GPS. For illustrative purposes,

- If 10% of subjects named in orders and injunctions violate and are placed on GPS each month, 1,534 restraining order violators will be on GPS after the first twelve months and 6,135 after 4 years. Potentially, the DOC's costs increase by 233.00 GPR FTE, \$14,617,700 GPR and \$104,400 PR in the first year and 908.00 GPR FTE, \$73,120,700 GPR and \$684,700 PR in the fourth year.

- If 40% of subjects named in orders and injunctions violate and are placed on GPS each month, 6,135 restraining order violators will be on GPS after the first twelve months and 24,541 after 4 years. Potentially, the DOC's costs increase by 919.50 GPR FTE, \$57,655,400 GPR and \$416,800 PR in the first year and 3,469.00 GPR FTE, \$283,380,400 GPR and \$2,733,300 PR in the fourth year.

- If 5% of the GPS equipment costs is collected from 10% of people required to be GPS-monitored, revenue is anticipated to be \$104,400 in the first year and \$684,700 in the fourth year plus any revenue collected based on the ability of the GPS-monitored individual to pay the costs of being GPS-monitored.

- If 5% of the GPS equipment costs is collected from 40% of people required to be GPS-monitored, revenue is anticipated to be \$416,800 in the first year and \$2,733,300 in the fourth year plus any revenue collected based on the ability of the GPS-monitored individual to pay the costs of being GPS-monitored.

Local costs:

It is assumed that law enforcement, having timely alert information and proof of a violation will jail more violators. Additionally, those found to have tampered with equipment may be placed in jail or prison. While the number of additional jail bed days cannot be predicted, there will be increased costs to local county jails as a result of this legislation.

Long-Range Fiscal Implications