

Fiscal Estimate Narratives

DOC 6/30/2011

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Assumptions Used in Arriving at Fiscal Estimate

Senate Amendment 1 modifies several provisions originally included in 2011 Senate Bill 104 related to requiring persons who violate certain restraining order or injunctions to be monitored by a global positioning system.

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] for the duration of the person's probation.

As ordered by the courts, this bill requires the Department to place violators on GPS for the duration of the offender's probation, as a condition of their extended supervision, and to monitor them while on GPS. DOC would be required to immediately notify law enforcement and the victim if the violator on GPS commits an exclusion zone violation.

According to data obtained from the Wisconsin Court System's Consolidated Court Automation Programs (commonly referred to as CCAP); in CY2010 there were approximately 830 individuals who violated a restraining order, an average of 69 per month.

Community Field & Monitoring Center Staff:

Under Senate Amendment 1, GPS for violators of domestic abuse or harassment restraining orders or injunctions would only be available as an alternative to incarceration and as a condition of probation/extended supervision. DOC agents would be able to collect information on each violator including the 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.

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. Because DOC would only be providing GPS monitoring to individuals who would be on community supervision, all of the individuals would be monitored by a Probation and Parole Agent. While these individuals could already be assumed to 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 permits the courts to request the Department provide a validated risk assessment of an individual who may be placed on GPS. This estimate assumes that all of the individuals requiring GPS monitoring for restraining orders and injunctions will also be required to participate in a risk assessment. The staffing required to complete risk assessments would be Probation and Parole Agents.

For illustrative purposes:

- Assuming 10% of subjects who violated orders and injunctions would be placed on GPS each month and need to undergo risk assessments, 83 restraining order violators will be on GPS after the first twelve months and 332 after four years. Using the same staffing ratios and staff projection methods used for sex offender GPS, DOC's costs would include 16.25 GPR FTE during the first 12 months and 58.50 GPR FTE after four years, at which time the FTE growth would stabilize.

Office of Victim Services & Programs Staff:

This bill requires the department to provide "immediate" notice to each petitioner when the Department receives an alert that the violator has committed an exclusion zone violation.

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 can assist with victim notification and technical assistance for 400 victims. This estimate does not provide any additional staff for OVSP.

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 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 \$112,800 (95% GPR and 5% PR) in the first year assuming 10% of the restraining order or injunctions violators are GPS-monitored. Based on the 10% GPS-monitored individuals, we estimate revenue collections will be \$5,600 in the first year. GPS equipment costs rise to \$739,900 (95% GPR and 5% PR) in the fourth year so we estimate revenue collections will be \$37,000 by the end of the fourth year if 10% of violators on restraining orders or injunctions 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 would continue to be minimal with the additional 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 who violated orders and injunctions are placed on GPS each month, 83 restraining order violators will be on GPS after the first twelve months and 332 after four years. Potentially, the DOC's costs increase by 16.25 GPR FTE, \$1,010,100 GPR and \$5,600 PR in the first year and 58.50 GPR FTE, \$4,628,100 GPR and \$37,000 PR in the fourth year.

- If 5% of the GPS equipment costs is collected from violators who are GPS-monitored, revenue is anticipated to be \$5,600 in the first year and \$37,000 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.

Long-Range Fiscal Implications