

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4363

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4363.

This bill establishes the “Domestic Violence Victim Protection Pilot Program Act.”

The bill provides that the Attorney General shall establish a pilot program of up to three years in one or more counties for the continuous, satellite-based monitoring of no more than 500 persons charged with or convicted of a crime or offense involving domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19). The program, which would be implemented in coordination with the State Parole Board and the Administrative Office of the Courts, would be contingent upon the availability of federal funding.

The bill provides that the Attorney General may contract with one or more vendors to establish and maintain an electronic monitoring program which, at a minimum, shall provide:

(1) time-correlated or continuous tracking of the geographic location of the monitored person using a global positioning system based on satellite and other location technology; and

(2) immediate notification to law enforcement or other monitors of an entry into a defined geographic exclusion zone that the monitored person is barred from entering.

The bill provides that the Attorney General may promulgate guidelines to effectuate the provisions of the bill, and shall establish criteria governing a prosecutor’s determination of whether to seek to require a person charged with or convicted of a crime or offense involving domestic violence to submit to electronic monitoring.

The bill provides that, notwithstanding any other provision of law, rule or regulation to the contrary, the Attorney General, chairman of the State Parole Board, and federal, State, county and municipal law enforcement agencies may share criminal incident information with each other and the vendor selected to provide and administer the monitoring equipment for the program. In addition, the bill provides that the Superior Court may, pursuant to court rules or directives, share information regarding domestic violence defendants, restraint, and

violations with law enforcement agencies and the vendor selected to implement the pilot program.

The bill requires the Attorney General to submit a report evaluating the effectiveness of the pilot program to the Governor and the Legislature within 90 days upon completion of the pilot program. The report shall recommend whether the pilot program should be continued as a Statewide program.

The bill further provides that in addition to any other authorized disposition, a person charged with or convicted of a crime or offense involving domestic violence may, in addition to any other disposition, be required to submit to electronic monitoring by wearing a global positioning satellite tracking device designed to transmit and record the person's location data and be prohibited from having contact with the complainant or victim through the establishment of defined geographic exclusion zones as recommended by the prosecutor, including, but not limited to, the areas in and around the complainant's or victim's residence or place of employment, and the school attended by the complainant's or victim's child.

Under the bill, if a person subject to electronic monitoring enters a defined exclusion zone, the person's location data shall be immediately transmitted to the law enforcement agency having jurisdiction over the zone and to the complainant or victim, through an appropriate means including, but not limited to, the telephone, an electronic beeper or a paging device. A monitored person shall be subject to civil contempt, criminal contempt, revocation of bail, probation or parole, or any combination of these sanctions and any other sanctions authorized by law, for a violation of any prohibition or requirement imposed under the bill. A law enforcement officer may arrest a person when an officer has probable cause to believe that the monitored person has violated the terms of any order, condition of release, probation or parole, or other authorized disposition.

Under the bill, in addition to any other sanction that a court or the State Parole Board may impose, a monitored person who purposely or knowingly enters into a geographically defined exclusion zone established pursuant to the bill would be guilty of a crime of the fourth degree. Any person who tampers with, removes or vandalizes a device worn or utilized by a monitored person would be guilty of a crime of the third degree. A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months or a fine of up to \$10,000, or both; a crime of the third degree is punishable by a term of imprisonment of three to five years or a fine of up to \$15,000, or both.

The committee amended the bill to clarify that the electronic monitoring could be ordered by either the Superior Court or the municipal court. As introduced, the bill had referred only to "the court."

The bill provides that in the case of a person who has been convicted or found not guilty by reason of insanity for a crime or

offense involving domestic violence, the court may, in addition to any other appropriate disposition, order that the person submit to electronic monitoring via global positioning satellite technology in addition to prohibitions on contact with the victim through the establishment of defined geographic exclusion zones as recommended by the prosecutor and authorized under the bill.

The bill prohibits the court from considering the availability of electronic monitoring as a factor in determining whether to impose a sentence of imprisonment, suspend the imposition of sentence or sentence the defendant to be placed on probation.

This bill is part of a five-bill package proposed by the Office of the Attorney General concerning domestic violence.

COMMITTEE AMENDMENTS

Amend section 5 of the bill to provide that electronic monitoring may be ordered by either the Superior Court or the municipal court.