

Fiscal Estimate Narratives

DOC 5/22/2009

LRB Number	09-1284/2	Introduction Number	AB-0263	Estimate Type	Original
Description Requiring persons who violate certain restraining orders or injunctions to be monitored by a global positioning system, 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 \$7.99/per day/per offender. The Department also requires staff [Probation & 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 P&P 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], an average of 1,557 new harassment and domestic abuse temporary restraining orders and injunctions are filed each month [CY2008 average].

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 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 [ex. 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.

For illustrative purposes, if 10% of subjects named in orders and injunctions violate and are placed on GPS each month, 1,872 restraining order violators will be on GPS after the first twelve months and 7,488 after 4 years. Using the same staffing ratios and staff projection methods used for sex offender GPS, DOC's costs would include 381.00 GPR FTE [146.75 Agents, 14.75 Corrections Field Supervisors, 42.25 Office Operations Associates, 6.50 Program Support Supervisors, 160.00 Corrections Communications Operators, and 10.75 Corrections Communications Supervisors] during the first 12 months and 1,410.00 GPR FTE [507.00 Agents, 51.00 Corrections Field Supervisors, 146.00 Office Operations Associates, 23.00 Program Support Supervisors, 640.00 Corrections Communications Operators, and 43.00 Corrections Communications Supervisors] after 4 years, at which time the FTE growth would stabilize.

Office of Victim Services & Programs Staff:

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 OVSP staff will devote 4 hours during the first month for each newly enrolled victim providing education to the victim on how GPS works, where exclusion zones are set, providing support and advocacy, and entering GPS violator and victim data into the data system so the victim can be notified of GPS violations. It is also estimated that 10% of the new enrollments will require an average of 8 additional hours per year for the 4 year time period the violator could be on GPS. Assuming each violator has only a single victim, 156 victims will be enrolled each month. This results in 4.00 GPR FTE Victim Service Specialists in the 1st year and continues growing by approximately 0.75 FTE annually until it annualizes at 6.50 GPR FTEs during the 5th year.

The subjects and the victims of restraining orders and injunctions are not necessarily known to the Department. In order to electronically store the new violator and victim information, and to allow immediate alerts to the victim in the case of an ongoing violation, the DOC would either need to adjust its design of an ongoing multi-year data project-Wisconsin Integrated Corrections System [WICS] or contract with the DOC's current vendor [Appris] that provides victim notifications. The Department estimates its one-time costs at approximately \$113,700 with ongoing costs of approximately \$15,000 annually to redesign WICS [\$173,700 over 4 years]. Appris estimates its one-time costs would be less than \$50,000. Since each GPS restraining order violator could be on GPS for up to 4 years [7,488 GPS violators after 4 years], the DOC's annual costs for Appris could be expected to grow from \$20,000 the first year to more than \$80,000 when annualized during the 5th year.

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; thus the DOC need not develop an accounts receivable tracking system or hire staff for this function. 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 \$2,799,300 GPR in the first year [\$147,300 PR] and \$18,258,600 GPR [\$966,200 PR] in the fourth year.

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].

While the DOC can not predict the number of violators who will tamper with GPS, it should be noted that nine GPS sex offenders have tampered with GPS since January 2008; only one of those nine was convicted of the crime and was subsequently sentenced to 90 days in jail. If sentenced to prison, the average FY08 annual cost for an inmate in a DOC institution is approximately \$30,700. 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 \$4,600, based on FY08 costs. When there is no excess capacity in DOC facilities, as is currently the case, the Department uses contract beds at a rate of \$18,800 annually per person.

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, 1,872 restraining order violators will be on GPS after the first twelve months and 7,488 after 4 years. Potentially, the DOC's costs increase by \$ [385.00 GPR FTE, \$21,760,500 GPR and \$147,300 PR in the first year and 1,415.50 GPR FTE, \$98,415,200 GPR and \$966,200 PR in the fourth year.

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