



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1062/P5
PJH:eev&kjf:jm

DOA:.....Wavrunek, BB0353 – GPS Tracking for Certain Restraining Orders
and Injunctions

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats may obtain a temporary restraining order against the person who has committed the acts of abuse, or harassment, or has made a threat. The restraining order bars the person from contacting the victim and requires the person to stay away from the victim's residence and other places temporarily occupied by the victim until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer-lasting injunction.

If the court determines that the person has engaged in, or may engage in, acts of abuse, harassment, or threats against the victim, the court may issue an injunction against the person. An injunction may stay in effect for up to four years and bars the person from contacting the victim, requires the person to stay away from the victim's residence, and may require the person to stay away from other locations temporarily occupied by the victim.

Under [2011 Wisconsin Act 266](#) (the Act), if the person violates certain restraining orders or an injunction, the court may require the person to submit, for the duration of the restraining order or injunction, to global positioning system (GPS) tracking by DOC.

The Act requires the court to find, before ordering GPS tracking, that the person who violated the restraining order or injunction is more likely than not to cause serious bodily harm to the victim. When the court orders GPS tracking, DOC develops a personalized exclusion zone into which the person may not enter in order to protect the victim. If the person enters the exclusion zone, DOC must immediately notify local law enforcement and the victim. Under the Act, a person who tampers with the GPS device is guilty of a Class I felony.

The bill requires DOJ to establish standards for local units of government, law enforcement agencies, or tribal law enforcement agencies that wish to administer their own GPS tracking program for persons who are subject to a restraining order or injunction and creates a grant program whereby DOJ may issue grants for that purpose. Under the bill, in a jurisdiction that operates a GPS tracking program, if a court issues a restraining order or injunction to protect a victim from abuse, harassment, or threats, a court may order the person to submit, for the duration of the restraining order or injunction, to GPS tracking. The bill requires the court to make the same findings as are required for a person who has violated a restraining order or injunction.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.455 (5) (br) of the statutes is created to read:

20.455 (5) (br) *Global positioning system tracking.* The amounts in the schedule to provide grants for global positioning system tracking programs under s. 165.94.

SECTION 2. 165.94 of the statutes is created to read:

165.94 Grants for global positioning system tracking. (1) From the appropriation under s. 20.455 (5) (br), the department of justice may provide grants to any eligible local unit of government, law enforcement agency, or tribal law enforcement agency whose plan for expending the grant moneys to fund a global positioning system tracking program for persons who are subject to an order under s. 813.129 is approved.

(2) The department of justice shall develop criteria which, notwithstanding s. 227.10 (1), need not be promulgated as rules under ch. 227, as guidelines to be followed by a local unit of government, law enforcement agency, or tribal law enforcement agency that wishes to establish a program for global positioning system tracking pursuant to s. 813.129 (6) for persons subject to an order under s. 813.129 (1) (a) and for use in awarding grants under this section.

SECTION 3. 813.12 (8) (a) of the statutes, as affected by [2011 Wisconsin Act 266](#), is amended to read:

813.12 (8) (a) Whoever knowingly violates a temporary restraining order or injunction issued under sub. (3) or (4) shall be fined not more than \$10,000 or imprisoned for not more than 9 months or both, and may be subject to an order under s. 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall report the violation to the department of corrections immediately upon the person's conviction.

SECTION 4. 813.125 (7) of the statutes, as affected by [2011 Wisconsin Act 266](#), is amended to read:

813.125 (7) PENALTY. Whoever violates a temporary restraining order or injunction issued under this section shall be fined not more than \$10,000 or imprisoned not more than ~~90 days~~ 9 months or both, and may be subject to an order under s. 813.129 (1) (b). If the court issues an order under s. 813.129 (1) (b), the court shall report the violation to the department of corrections immediately upon the person's conviction.

SECTION 5. 813.129 (1) of the statutes, as created by [2011 Wisconsin Act 266](#), is repealed and recreated to read:

813.129 (1) A court may order a person to submit to global positioning system tracking if any of the following occurs:

(a) In a jurisdiction that has established a program under sub. (6), the court issues a temporary restraining order or injunction under s. 813.12 or 813.125.

(b) The person is convicted of knowingly violating a temporary restraining order or injunction issued under s. 813.12 or 813.125.

SECTION 6. 813.129 (5) of the statutes, as created by [2011 Wisconsin Act 266](#), is amended to read:

813.129 (5) If, after weighing the factors set forth under sub. (2), the court determines that a person is more likely than not to cause serious bodily harm to the person who petitioned for the restraining order or injunction, and the court determines that another alternative, including imprisonment, is more likely to protect the person who petitioned for the restraining order or injunction, the court may not enter an order under sub. (1) (b).

SECTION 7. 813.129 (6) of the statutes is created to read:

813.129 (6) A local unit of government, a law enforcement agency, or a tribal law enforcement agency may establish a global positioning tracking program for persons subject to a temporary restraining order or injunction under s. 813.12 or 813.125. A local unit of government, a law enforcement agency, or a tribal law enforcement agency may apply for a grant under s. 165.94 (1) to establish and administer a program established pursuant to this subsection. Any program established pursuant to this subsection shall comply with the guidelines established under s. 165.94 (2), regardless of whether the local unit of government, law enforcement agency, or tribal law enforcement agency receives a grant under s. 165.94 (1).

SECTION 9308. Initial applicability; Correctional System.

(1) GLOBAL POSITIONING SYSTEM MONITORING. The treatment of section 813.129 (1) of the statutes first applies to persons who are subject to a restraining order or injunction on the effective date of this subsection.

SECTION 9426. Effective dates; Justice.

(1) GLOBAL POSITIONING SYSTEM MONITORING. The treatment of sections 20.455 (5) (br), 165.94 (1), 813.12 (8) (a), 813.125 (7), and 813.129 (1), (5), and (6) of the statutes and SECTION 9308 (1) of this act take effect on January 1, 2014.

(END)