

SUBSTITUTE FOR
HOUSE BILL NO. 4453

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 6b of chapter V (MCL 765.6b), as amended by
1994 PA 335.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER V

2 Sec. 6b. (1) A judge or district court magistrate may release
3 under this section a defendant subject to conditions reasonably
4 necessary for the protection of 1 or more named persons. If a judge
5 or district court magistrate releases under this section a
6 defendant subject to protective conditions, the judge or district
7 court magistrate shall make a finding of the need for protective
8 conditions and inform the defendant on the record, either orally or
9 by a writing that is personally delivered to the defendant, of the
10 specific conditions imposed and that if the defendant violates a

1 condition of release, he or she will be subject to arrest without a
2 warrant and may have his or her bail forfeited or revoked and new
3 conditions of release imposed, in addition to any other penalties
4 that may be imposed if the defendant is found in contempt of court.

5 (2) An order or amended order issued under subsection (1)
6 shall contain all of the following:

7 (a) A statement of the defendant's full name.

8 (b) A statement of the defendant's height, weight, race, sex,
9 date of birth, hair color, eye color, and any other identifying
10 information the judge or district court magistrate considers
11 appropriate.

12 (c) A statement of the date the conditions become effective.

13 (d) A statement of the date on which the order will expire.

14 (e) A statement of the conditions imposed.

15 (3) An order or amended order issued under this subsection and
16 subsection (1) may impose a condition that the defendant not
17 purchase or possess a firearm. **HOWEVER, IF THE COURT ORDERS THE**
18 **DEFENDANT TO CARRY OR WEAR A GLOBAL POSITIONING SYSTEM DEVICE AS A**
19 **CONDITION OF RELEASE AS DESCRIBED IN SUBSECTION (6), THE COURT**
20 **SHALL ALSO IMPOSE A CONDITION THAT THE DEFENDANT NOT PURCHASE OR**
21 **POSSESS A FIREARM.**

22 (4) The judge or district court magistrate shall immediately
23 direct a law enforcement agency within the jurisdiction of the
24 court, in writing, to enter an order or amended order issued under
25 subsection (1) or subsections (1) and (3) into the law enforcement
26 information network as provided by the ~~L.E.I.N.-C.J.I.S.~~ policy
27 council act, ~~of 1974, Act No. 163 of the Public Acts of 1974, being~~

House Bill No. 4453 (H-1) as amended May 1, 2008

1 ~~sections 28.211 to 28.216 of the Michigan Compiled Laws 1974 PA~~
2 **163, MCL 28.211 TO 28.215.** If the order or amended order is
3 rescinded, the judge or district court magistrate shall immediately
4 order the law enforcement agency to remove the order or amended
5 order from the law enforcement information network.

6 (5) A law enforcement agency within the jurisdiction of the
7 court shall immediately enter an order or amended order into the
8 law enforcement information network as provided by ~~Act No. 163 of~~
9 ~~the Public Acts of 1974~~ **THE C.J.I.S. POLICY COUNCIL ACT, 1974 PA**
10 **163, MCL 28.211 TO 28.215,** or shall remove the order or amended
11 order from the law enforcement information network upon expiration
12 of the order or as directed by the court under subsection (4).

13 (6) **IF A DEFENDANT WHO IS CHARGED WITH A CRIME INVOLVING**
14 **DOMESTIC VIOLENCE IS RELEASED UNDER THIS SECTION, THE JUDGE OR**
15 **DISTRICT COURT MAGISTRATE MAY ORDER THE DEFENDANT TO CARRY OR WEAR**
16 **A GLOBAL POSITIONING SYSTEM DEVICE AS A CONDITION OF RELEASE. WITH**
17 **THE INFORMED CONSENT OF THE VICTIM, THE COURT MAY ALSO ORDER THE**
18 **DEFENDANT TO PROVIDE THE VICTIM OF THE CHARGED CRIME WITH AN**
19 **ELECTRONIC RECEPTOR DEVICE CAPABLE OF RECEIVING THE GLOBAL**
20 **POSITIONING SYSTEM INFORMATION FROM THE DEVICE CARRIED OR WORN BY**
21 **THE DEFENDANT THAT NOTIFIES THE VICTIM IF THE DEFENDANT IS LOCATED**
22 **WITHIN A PROXIMITY TO THE VICTIM AS DETERMINED BY THE JUDGE OR**
23 **DISTRICT COURT MAGISTRATE IN CONSULTATION WITH THE VICTIM. THE**
24 **VICTIM SHALL ALSO BE FURNISHED WITH A TELEPHONE CONTACT WITH THE**
25 **LOCAL LAW ENFORCEMENT AGENCY TO REQUEST IMMEDIATE ASSISTANCE IF THE**
26 **DEFENDANT IS LOCATED WITHIN THAT PROXIMITY TO THE VICTIM. [IN ADDITION,**
THE VICTIM MAY PROVIDE THE COURT WITH A LIST OF AREAS FROM WHICH HE OR
SHE WOULD LIKE THE DEFENDANT EXCLUDED. THE COURT SHALL CONSIDER THE
VICTIM'S REQUEST AND SHALL DETERMINE WHICH AREAS THE DEFENDANT SHALL BE
PROHIBITED FROM ACCESSING. THE COURT SHALL INSTRUCT THE GLOBAL
POSITIONING MONITORING SYSTEM TO NOTIFY THE PROPER AUTHORITIES IF THE
DEFENDANT VIOLATES THE ORDER.] IN
27 **DETERMINING WHETHER TO ORDER A DEFENDANT TO PARTICIPATE IN GLOBAL**

House Bill No. 4453 (H-1) as amended May 1, 2008

1 POSITIONING SYSTEM MONITORING, THE COURT SHALL CONSIDER THE
2 LIKELIHOOD THAT THE DEFENDANT'S PARTICIPATION IN GLOBAL POSITIONING
3 SYSTEM MONITORING WILL DETER THE DEFENDANT FROM SEEKING TO KILL,
4 PHYSICALLY INJURE, STALK, OR OTHERWISE THREATEN THE VICTIM PRIOR TO
5 TRIAL. THE VICTIM MAY REQUEST THE COURT TO TERMINATE THE VICTIM'S
6 PARTICIPATION IN GLOBAL POSITIONING SYSTEM MONITORING OF THE
7 DEFENDANT AT ANY TIME. THE COURT SHALL NOT IMPOSE SANCTIONS ON THE
8 VICTIM FOR REFUSING TO PARTICIPATE IN GLOBAL POSITIONING SYSTEM
9 MONITORING UNDER THIS SUBSECTION. A DEFENDANT DESCRIBED IN THIS
10 SUBSECTION SHALL ONLY BE RELEASED UNDER THIS SECTION IF HE OR SHE
11 AGREES TO PAY THE COST OF THE DEVICE AND ANY MONITORING OF THE
12 DEVICE AS A CONDITION OF RELEASE OR TO PERFORM COMMUNITY SERVICE
13 WORK IN LIEU OF PAYING THAT COST. AS USED IN THIS SUBSECTION:

14 (A) "DOMESTIC VIOLENCE" MEANS THAT TERM AS DEFINED IN SECTION
15 1 OF 1978 PA 389, MCL 400.1501.

[(B) "GLOBAL POSITIONING MONITORING SYSTEM" MEANS A SYSTEM THAT
ELECTRONICALLY DETERMINES AND REPORTS THE LOCATION OF AN INDIVIDUAL BY
MEANS OF AN ANKLE BRACELET TRANSMITTER OR SIMILAR DEVICE WORN BY THE
INDIVIDUAL THAT TRANSMITS LATITUDE AND LONGITUDE DATA TO MONITORING
AUTHORITIES THROUGH GLOBAL POSITIONING SATELLITE TECHNOLOGY BUT DOES NOT
CONTAIN OR OPERATE ANY GLOBAL POSITIONING SYSTEM TECHNOLOGY OR RADIO
FREQUENCY IDENTIFICATION TECHNOLOGY OR SIMILAR TECHNOLOGY THAT IS
IMPLANTED IN OR OTHERWISE INVADES OR VIOLATES THE CORPOREAL BODY OF THE
INDIVIDUAL.

16 (C) "INFORMED CONSENT" MEANS THAT THE VICTIM WAS GIVEN
17 INFORMATION CONCERNING ALL OF THE FOLLOWING BEFORE CONSENTING TO
18 PARTICIPATE IN GLOBAL POSITIONING SYSTEM MONITORING:

19 (i) THE VICTIM'S RIGHT TO REFUSE TO PARTICIPATE IN GLOBAL
20 POSITIONING SYSTEM MONITORING AND THE PROCESS FOR REQUESTING THE
21 COURT TO TERMINATE THE VICTIM'S PARTICIPATION AFTER IT HAS BEEN
22 ORDERED.

23 (ii) THE MANNER IN WHICH THE GLOBAL POSITIONING SYSTEM
24 MONITORING TECHNOLOGY FUNCTIONS AND THE RISKS AND LIMITATIONS OF
25 THAT TECHNOLOGY[, AND THE EXTENT TO WHICH THE SYSTEM WILL TRACK AND
RECORD THE VICTIM'S LOCATION AND MOVEMENTS].

26 (iii) THE BOUNDARIES IMPOSED ON THE DEFENDANT DURING THE GLOBAL
27 POSITIONING SYSTEM MONITORING.

1 (iv) SANCTIONS THAT THE COURT MAY IMPOSE ON THE DEFENDANT FOR
2 VIOLATING AN ORDER ISSUED UNDER THIS SUBSECTION.

3 (v) THE PROCEDURE THAT THE VICTIM IS TO FOLLOW IF THE
4 DEFENDANT VIOLATES AN ORDER ISSUED UNDER THIS SUBSECTION OR IF
5 GLOBAL POSITIONING SYSTEM EQUIPMENT FAILS.

6 (vi) IDENTIFICATION OF SUPPORT SERVICES AVAILABLE TO ASSIST THE
7 VICTIM TO DEVELOP A SAFETY PLAN TO USE IF THE COURT'S ORDER ISSUED
8 UNDER THIS SUBSECTION IS VIOLATED OR IF GLOBAL POSITIONING SYSTEM
9 EQUIPMENT FAILS.

10 (vii) IDENTIFICATION OF COMMUNITY SERVICES AVAILABLE TO ASSIST
11 THE VICTIM IN OBTAINING SHELTER, COUNSELING, EDUCATION, CHILD CARE,
12 LEGAL REPRESENTATION, AND OTHER HELP IN ADDRESSING THE CONSEQUENCES
13 AND EFFECTS OF DOMESTIC VIOLENCE.

14 (viii) THE NONCONFIDENTIAL NATURE OF THE VICTIM'S COMMUNICATIONS
15 WITH THE COURT CONCERNING GLOBAL POSITIONING SYSTEM MONITORING AND
16 THE RESTRICTIONS TO BE IMPOSED UPON THE DEFENDANT'S MOVEMENTS.

17 (7) ~~(6)~~—This section does not limit the authority of judges or
18 district court magistrates to impose protective or other release
19 conditions under other applicable statutes or court rules.

20 Enacting section 1. This amendatory act shall be known and may
21 be cited as "Mary's Law".