

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4127

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 6b (MCL 765.6b), as amended by 2008 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6b. (1) A judge or district court magistrate may release
2 under this section a defendant subject to conditions reasonably
3 necessary for the protection of 1 or more named persons. If a judge
4 or district court magistrate releases under this section a
5 defendant subject to protective conditions, the judge or district
6 court magistrate shall make a finding of the need for protective
7 conditions and inform the defendant on the record, either orally or
8 by a writing that is personally delivered to the defendant, of the
9 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 **THE PENALTY PROVIDED**
4 **UNDER SECTION 3F OF CHAPTER XI AND** any other penalties that may be
5 imposed if the defendant is found in contempt of court.

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

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

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

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

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

15 (e) A statement of the conditions imposed.

16 (3) An order or amended order issued under this subsection and
17 subsection (1) may impose a condition that the defendant not
18 purchase or possess a firearm. However, if the court orders the
19 defendant to carry or wear ~~a global positioning system~~ **AN**
20 **ELECTRONIC MONITORING** device as a condition of release as described
21 in subsection (6), the court shall also impose a condition that the
22 defendant not purchase or possess a firearm.

23 (4) The judge or district court magistrate shall immediately
24 direct a law enforcement agency within the jurisdiction of the
25 court, in writing, to enter an order or amended order issued under
26 subsection (1) or subsections (1) and (3) into the law enforcement
27 information network as provided by the C.J.I.S. policy council act,

1 1974 PA 163, MCL 28.211 to 28.215. If the order or amended order is
2 rescinded, the judge or district court magistrate shall immediately
3 order the law enforcement agency to remove the order or amended
4 order from the law enforcement information network.

5 (5) A law enforcement agency within the jurisdiction of the
6 court shall immediately enter an order or amended order into the
7 law enforcement information network as provided by the C.J.I.S.
8 policy council act, 1974 PA 163, MCL 28.211 to 28.215, or shall
9 remove the order or amended order from the law enforcement
10 information network upon expiration of the order or as directed by
11 the court under subsection (4).

12 (6) If a defendant who is charged with a crime involving
13 domestic violence, **OR ANY OTHER ASSAULTIVE CRIME**, is released under
14 this section, the judge or district court magistrate may order the
15 defendant to ~~carry or wear a global positioning system~~ **AN**
16 **ELECTRONIC MONITORING** device as a condition of release. With the
17 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 **ELECTRONIC MONITORING**
21 device ~~carried or worn~~ by the defendant that notifies the victim if
22 the defendant is located within a proximity to the victim as
23 determined by the judge or district court magistrate in
24 consultation with the victim. The victim shall also be furnished
25 with a telephone contact with the local law enforcement agency to
26 request immediate assistance if the defendant is located within
27 that proximity to the victim. In addition, the victim may provide

1 the court with a list of areas from which he or she would like the
2 defendant excluded. The court shall consider the victim's request
3 and shall determine which areas the defendant shall be prohibited
4 from accessing. The court shall instruct the ~~global positioning~~
5 ~~ENTITY monitoring system~~ **THE DEFENDANT'S POSITION** to notify the
6 proper authorities if the defendant violates the order. In
7 determining whether to order a defendant to ~~participate in global~~
8 ~~positioning system~~ **WEAR AN ELECTRONIC monitoring DEVICE**, the court
9 shall consider the likelihood that the defendant's participation in
10 ~~global positioning system~~ **ELECTRONIC** monitoring will deter the
11 defendant from seeking to kill, physically injure, stalk, or
12 otherwise threaten the victim prior to trial. The victim may
13 request the court to terminate the victim's participation in ~~global~~
14 ~~positioning system~~ **THE** monitoring of the defendant at any time. The
15 court shall not impose sanctions on the victim for refusing to
16 participate in ~~global positioning system~~ monitoring under this
17 subsection. A defendant described in this subsection shall only be
18 released under this section if he or she agrees to pay the cost of
19 the device and any monitoring ~~of the device~~ as a condition of
20 release or to perform community service work in lieu of paying that
21 cost. **AN ELECTRONIC MONITORING DEVICE ORDERED TO BE WORN UNDER THIS**
22 **SECTION SHALL PROVIDE RELIABLE NOTIFICATION OF REMOVAL OR**
23 **TAMPERING.** As used in this subsection:

24 (A) "ASSAULTIVE CRIME" MEANS THAT TERM AS DEFINED IN SECTION
25 9A OF CHAPTER X.

26 (B) ~~(a)~~ "Domestic violence" means that term as defined in
27 section 1 of 1978 PA 389, MCL 400.1501.

~~1 (b) "Global positioning monitoring system" means a system that~~
~~2 electronically determines and reports the location of an individual~~
~~3 by means of an ankle bracelet transmitter or similar device worn by~~
~~4 the individual that transmits latitude and longitude data to~~
~~5 monitoring authorities through global positioning satellite~~
~~6 technology but does not contain or operate any global positioning~~
~~7 system technology or radio frequency identification technology or~~
~~8 similar technology that is implanted in or otherwise invades or~~
~~9 violates the corporeal body of the individual.~~

10 (C) "ELECTRONIC MONITORING DEVICE" INCLUDES ANY ELECTRONIC
11 DEVICE OR INSTRUMENT THAT IS USED TO TRACK THE LOCATION OF AN
12 INDIVIDUAL, BUT DOES NOT INCLUDE ANY TECHNOLOGY THAT IS IMPLANTED
13 OR VIOLATES THE CORPOREAL BODY OF THE INDIVIDUAL.

14 (D) ~~(e)~~ "Informed consent" means that the victim was given
15 information concerning all of the following before consenting to
16 participate in ~~global positioning system~~ **ELECTRONIC** monitoring:

17 (i) The victim's right to refuse to participate in ~~global~~
18 ~~positioning system~~ **THAT** monitoring and the process for requesting
19 the court to terminate the victim's participation after it has been
20 ordered.

21 (ii) The manner in which the ~~global positioning system~~
22 monitoring technology functions and the risks and limitations of
23 that technology, and the extent to which the system will track and
24 record the victim's location and movements.

25 (iii) The boundaries imposed on the defendant during the ~~global~~
26 ~~positioning system~~ monitoring **PROGRAM**.

27 (iv) Sanctions that the court may impose on the defendant for

1 violating an order issued under this subsection.

2 (v) The procedure that the victim is to follow if the
3 defendant violates an order issued under this subsection or if
4 ~~global positioning system~~ **MONITORING** equipment fails **TO OPERATE**
5 **PROPERLY**.

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 **THE MONITORING** equipment fails **TO OPERATE PROPERLY**.

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~~ **ELECTRONIC**
16 monitoring and the restrictions to be imposed upon the defendant's
17 movements.

18 (7) This section does not limit the authority of judges or
19 district court magistrates to impose protective or other release
20 conditions under other applicable statutes or court rules,
21 **INCLUDING ORDERING A DEFENDANT TO WEAR AN ELECTRONIC MONITORING**
22 **DEVICE**.