

HOUSE BILL No. 4127

January 29, 2013, Introduced by Reps. Johnson, Jacobsen, Schmidt, Daley, Hooker and Schor and referred to the Committee on Criminal Justice.

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 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 C.J.I.S. policy council act,
27 1974 PA 163, MCL 28.211 to 28.215. If the order or amended order is

1 rescinded, the judge or district court magistrate shall immediately
2 order the law enforcement agency to remove the order or amended
3 order from the law enforcement information network.

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

11 (6) If a defendant who is charged with a crime involving
12 domestic violence, **OR ANY OTHER ASSAULTIVE CRIME**, is released under
13 this section, the judge or district court magistrate may order the
14 defendant to carry or wear a global positioning system device as a
15 condition of release. With the informed consent of the victim, the
16 court may also order the defendant to provide the victim of the
17 charged crime with an electronic receptor device capable of
18 receiving the global positioning system information from the device
19 carried or worn by the defendant that notifies the victim if the
20 defendant is located within a proximity to the victim as determined
21 by the judge or district court magistrate in consultation with the
22 victim. The victim shall also be furnished with a telephone contact
23 with the local law enforcement agency to request immediate
24 assistance if the defendant is located within that proximity to the
25 victim. In addition, the victim may provide the court with a list
26 of areas from which he or she would like the defendant excluded.
27 The court shall consider the victim's request and shall determine

1 which areas the defendant shall be prohibited from accessing. The
2 court shall instruct the global positioning monitoring system to
3 notify the proper authorities if the defendant violates the order.
4 In determining whether to order a defendant to participate in
5 global positioning system monitoring, the court shall consider the
6 likelihood that the defendant's participation in global positioning
7 system monitoring will deter the defendant from seeking to kill,
8 physically injure, stalk, or otherwise threaten the victim prior to
9 trial. The victim may request the court to terminate the victim's
10 participation in global positioning system monitoring of the
11 defendant at any time. The court shall not impose sanctions on the
12 victim for refusing to participate in global positioning system
13 monitoring under this subsection. A defendant described in this
14 subsection shall only be released under this section if he or she
15 agrees to pay the cost of the device and any monitoring of the
16 device as a condition of release or to perform community service
17 work in lieu of paying that cost. As used in this subsection:

18 (A) "ASSAULTIVE CRIME" MEANS THAT TERM AS DEFINED IN SECTION
19 9A OF CHAPTER X.

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

22 (C) ~~(b)~~ "Global positioning monitoring system" means a system
23 that electronically determines and reports the location of an
24 individual by means of an ankle bracelet transmitter or similar
25 device worn by the individual that transmits latitude and longitude
26 data to monitoring authorities through global positioning satellite
27 technology but does not contain or operate any global positioning

1 system technology or radio frequency identification technology or
2 similar technology that is implanted in or otherwise invades or
3 violates the corporeal body of the individual.

4 (D) ~~(e)~~—"Informed consent" means that the victim was given
5 information concerning all of the following before consenting to
6 participate in global positioning system monitoring:

7 (i) The victim's right to refuse to participate in global
8 positioning system monitoring and the process for requesting the
9 court to terminate the victim's participation after it has been
10 ordered.

11 (ii) The manner in which the global positioning system
12 monitoring technology functions and the risks and limitations of
13 that technology, and the extent to which the system will track and
14 record the victim's location and movements.

15 (iii) The boundaries imposed on the defendant during the global
16 positioning system monitoring.

17 (iv) Sanctions that the court may impose on the defendant for
18 violating an order issued under this subsection.

19 (v) The procedure that the victim is to follow if the
20 defendant violates an order issued under this subsection or if
21 global positioning system equipment fails.

22 (vi) Identification of support services available to assist the
23 victim to develop a safety plan to use if the court's order issued
24 under this subsection is violated or if global positioning system
25 equipment fails.

26 (vii) Identification of community services available to assist
27 the victim in obtaining shelter, counseling, education, child care,

1 legal representation, and other help in addressing the consequences
2 and effects of domestic violence.

3 (viii) The nonconfidential nature of the victim's communications
4 with the court concerning global positioning system monitoring and
5 the restrictions to be imposed upon the defendant's movements.

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