

## **126th MAINE LEGISLATURE**

## FIRST REGULAR SESSION-2013

**Legislative Document** 

No. 842

H.P. 593

House of Representatives, March 5, 2013

## An Act To Facilitate the Use of Electronic Monitoring To Prevent Domestic Violence

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative FREDETTE of Newport. Cosponsored by Senator CAIN of Penobscot and Representatives: CHASE of Wells, CLARK of Easton, KNIGHT of Livermore Falls, REED of Carmel, WEAVER of York, WILLETTE of Mapleton, Senator: LANGLEY of Hancock.

Be it enacted by the People of the State of Maine as follows:
Sec. 1. 4 MRSA §1060 is enacted to read:
<u>§1060. Electronic Monitoring Fund</u>
The Electronic Monitoring Fund is established in the judicial branch as an Other Special Revenue Funds program to provide funding for the use of electronic monitoring pursuant to Title 19-A, section 4007, subsection 1, paragraph D-1 and pursuant to Title 25, section 2917.
<b>1. Judicial powers.</b> The judicial branch may receive and use money donated for the purpose of this section.
<b>2. Electronic Monitoring Fund.</b> All funds received for the purpose of this section must be credited to the Electronic Monitoring Fund.
Sec. 2. 19-A MRSA §4002, sub-§3-B is enacted to read:
<b>3-B. Electronic monitoring.</b> "Electronic monitoring" means enrollment by a defendant in a program established by the Department of Public Safety pursuant to Title 25, section 2917.
Sec. 3. 19-A MRSA §4005, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:
<b>3. Forms.</b> The forms provided by the court must be uniform throughout the State and must include <u>language on the complaint form that allows the plaintiff to request</u> <u>electronic monitoring as a form of relief. The forms must also include</u> a summons and an affidavit for temporary emergency relief from abuse. The summons must include a section in which to list places where the defendant may be located or available to be served. The clerk shall inquire where the defendant may be located or available to be served and list those locations on the summons or direct the plaintiff to do so.
<b>Sec. 4. 19-A MRSA §4006, sub-§1,</b> as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:
<b>1. Full hearing.</b> Within 21 days of the filing of a complaint, a <u>full</u> hearing must be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. If a request for temporary, emergency or interim relief is denied, the hearing must be held as soon as practicable within the 21-day period.
If the plaintiff requests electronic monitoring as a form of relief on the complaint, the plaintiff may introduce evidence at the full hearing indicating that electronic monitoring is an appropriate form of relief. Electronic monitoring may not be a condition of temporary, emergency or interim relief and may only be granted after a full hearing.
Sec. 5. 19-A MRSA §4007, sub-§1, ¶D-1 is enacted to read:

1 2 3	D-1. Directing the defendant to take part in an electronic monitoring program established by the Department of Public Safety pursuant to Title 25, section 2917. The court may order electronic monitoring only after giving consideration to whether:
4 5	(1) Physical, sexual or emotional abuse by the defendant has recently increased in severity or frequency;
6	(2) The defendant has ever threatened suicide or has tried to commit suicide;
7 8	(3) The defendant has ever tried to kill, or has threatened to kill, the plaintiff or any member of the plaintiff's household;
9 10	(4) The defendant has ever tried to use, or has threatened to use, a weapon against the plaintiff or any member of the plaintiff's household;
11	(5) The defendant has previously attempted to avoid arrest;
12	(6) The defendant uses illegal drugs or abuses alcohol;
13	(7) The defendant has displayed controlling behavior toward the plaintiff;
14 15	(8) The defendant has stalked or spied on the plaintiff or any member of the plaintiff's household;
16	(9) The defendant has harmed or has threatened to harm children; and
17 18	(10) The defendant is engaged in regular employment or other meaningful activities, such as education:
19	Sec. 6. 25 MRSA §2917 is enacted to read:
20	§2917. Electronic monitoring program
21 22 23 24	<u>The Department of Public Safety shall establish and maintain an electronic</u> monitoring program to monitor a defendant ordered by a court to participate in the program pursuant to Title 19-A, section 4007, subsection 1, paragraph D-1. The program must include, but is not limited to, requirements that:
25 26 27 28	<b>1.</b> Device worn by defendant. A defendant must wear at all times an electronic device that is capable of monitoring the defendant's location and immediately alerting the plaintiff and the appropriate law enforcement agency when the defendant is within a certain distance of the protected person or prohibited premises;
29 30 31	<b>2.</b> Notification to court. An electronic device worn pursuant to subsection 1 must provide the court issuing the order under Title 15, chapter 12-A notification of an alert within 24 hours; and
32 33 34	3. Cost paid by defendant. The defendant may pay for the cost of the electronic monitoring device and the cost of the service required to monitor the defendant, except in the case of indigency.
35 36 37	<u>The Department of Public Safety shall establish and maintain the electronic</u> monitoring program within its existing resources except that it may receive funding from the Electronic Monitoring Fund established pursuant to Title 4, section 1060.

1 Sec. 7. 34-A MRSA §1218, as enacted by PL 2011, c. 655, Pt. EEE, §1, is 2 repealed.

3 Sec. 8. PL 2011, c. 655, Pt. EEE, §2 is repealed.

4 **Sec. 9. Selection of electronic monitoring vendor.** By January 1, 2015, the 5 Department of Public Safety shall develop and issue a request for proposals that will lead 6 to the selection of a vendor that can provide an electronic monitoring system that satisfies 7 the requirements of this Act. This section takes effect 90 days after the adjournment of 8 the First Regular Session of the 126th Legislature.

Sec. 10. Electronic monitoring pilot program. By July 1, 2015, the
Department of Public Safety shall begin operation of a pilot electronic monitoring
program pursuant to this Act within 4 of the State's 16 counties. By January 1, 2016, this
program must be expanded to statewide coverage. This section takes effect 90 days after
the adjournment of the First Regular Session of the 126th Legislature.

14 **Sec. 11. Effective date.** Except as otherwise provided, this Act takes effect 15 January 1, 2016.

16

## SUMMARY

17 This bill provides a new form of relief to Maine's existing protection from abuse laws 18 by allowing those seeking a protection from abuse order to request that the defendant be 19 subject to electronic monitoring. Electronic monitoring may be ordered only after a full 20 protection from abuse hearing and only after consideration of various domestic violence 21 It directs the Department of Public Safety to establish an electronic risk factors. monitoring program and authorizes the department to seek funding from the Electronic 22 23 Monitoring Fund to support the program. This bill repeals the electronic monitoring fund 24 within the Department of Corrections and places it in the judicial branch. These 25 provisions take effect January 1, 2016.

Beginning July 1, 2015, the electronic monitoring program would operate as a pilot program in 4 of Maine's counties, expanding to statewide coverage by January 1, 2016.