

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2736

(SENATE AUTHORS: KENT, Pappas, Hawj, Dziedzic and Marty)

DATE	D-PG	OFFICIAL STATUS
03/17/2014	6284	Introduction and first reading Referred to Judiciary
03/24/2014	6630a 6800	Comm report: To pass as amended Second reading
04/23/2014	8252a 8253	Special Order: Amended Third reading Passed
05/01/2014	8542 8542 8568	Returned from House with amendment Senate not concur, conference committee of 3 requested Senate conferees Kent; Goodwin; Rosen
05/02/2014	8628	House conferees Johnson, C.; Hilstrom; O'Neill
05/12/2014	9054c 9058	Conference committee report, delete everything Senate adopted CC report and repassed bill Third reading
05/13/2014		House adopted SCC report and repassed bill

A bill for an act

1.1
 1.2 relating to public safety; authorizing counties to establish pilot projects to use
 1.3 GPS to monitor domestic abuse offenders; amending Minnesota Statutes 2012,
 1.4 sections 609.135, subdivision 5a; 629.72, subdivision 2a.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 609.135, subdivision 5a, is amended to read:

1.7 Subd. 5a. **Domestic abuse victims; electronic monitoring; pilot project.** (a) Until
 1.8 ~~the commissioner of corrections~~ a judicial district has adopted standards under section
 1.9 629.72, subdivision 2a, paragraph (b), governing electronic monitoring devices used to
 1.10 protect victims of domestic abuse, ~~the~~ a court within the judicial district, as a condition
 1.11 of a stay of imposition or execution of a sentence, may not order an offender convicted
 1.12 of a crime described in paragraph (b) to use an electronic monitoring device to protect a
 1.13 victim's safety.

1.14 (b) This subdivision applies to the following crimes, if committed by the defendant
 1.15 against a family or household member as defined in section 518B.01, subdivision 2:

- 1.16 (1) violations of orders for protection issued under chapter 518B;
 1.17 (2) assault in the first, second, third, or fifth degree under section 609.221, 609.222,
 1.18 609.223, or 609.224; or domestic assault under section 609.2242;
 1.19 (3) criminal damage to property under section 609.595;
 1.20 (4) disorderly conduct under section 609.72;
 1.21 (5) harassing telephone calls under section 609.79;
 1.22 (6) burglary under section 609.582;
 1.23 (7) trespass under section 609.605;

2.1 (8) criminal sexual conduct in the first, second, third, fourth, or fifth degree under
 2.2 section 609.342, 609.343, 609.344, 609.345, or 609.3451; and

2.3 (9) terroristic threats under section 609.713;

2.4 (10) stalking under section 609.749;

2.5 (11) violations of harassment restraining orders under section 609.748;

2.6 (12) violations of domestic abuse no contact orders under section 629.75; and

2.7 (13) interference with an emergency call under section 609.78, subdivision 2.

2.8 (c) ~~Notwithstanding paragraph (a), the judges in the Tenth Judicial District may~~
 2.9 ~~order, as a condition of a stay of imposition or execution of a sentence, a defendant~~
 2.10 ~~convicted of a crime described in paragraph (b), to use an electronic monitoring device~~
 2.11 ~~to protect the victim's safety. The judges shall make data on the use of electronic~~
 2.12 ~~monitoring devices to protect a victim's safety in the Tenth Judicial District available to~~
 2.13 ~~the commissioner of corrections to evaluate and to aid in development of standards for the~~
 2.14 ~~use of devices to protect victims of domestic abuse. The location data associated with the~~
 2.15 ~~victim and defendant are security information as defined in section 13.37. Location data~~
 2.16 ~~maintained by a law enforcement agency, probation authority, prosecutorial agency, or~~
 2.17 ~~court services department may be shared among those agencies to develop and monitor~~
 2.18 ~~conditions of a stayed sentence under this section.~~

2.19 **EFFECTIVE DATE; SUNSET.** (a) This section is effective the day following
 2.20 final enactment.

2.21 (b) The amendments to this section expire on June 30, 2015.

2.22 Sec. 2. Minnesota Statutes 2012, section 629.72, subdivision 2a, is amended to read:

2.23 Subd. 2a. **Electronic monitoring; condition of pretrial release; pilot project.**

2.24 (a) ~~Until the commissioner of corrections a judicial district has adopted standards under~~
 2.25 ~~paragraph (b) governing electronic monitoring devices used to protect victims of domestic~~
 2.26 ~~abuse, the a court within the judicial district, as a condition of release, may not order a~~
 2.27 ~~person arrested for a crime described in section 609.135, subdivision 5a, paragraph (b), to~~
 2.28 ~~use an electronic monitoring device to protect a victim's safety.~~

2.29 (b) ~~Notwithstanding paragraph (a), district courts in the Tenth Judicial District may~~
 2.30 ~~order, as a condition of a release, a person arrested on a charge of a crime described~~
 2.31 ~~in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring~~
 2.32 ~~device to protect the victim's safety. The courts shall make data on the use of electronic~~
 2.33 ~~monitoring devices to protect a victim's safety in the Tenth Judicial District available to~~
 2.34 ~~the commissioner of corrections to evaluate and to aid in development of standards for the~~
 2.35 ~~use of devices to protect victims of domestic abuse. The chief judge of a judicial district~~

3.1 may appoint and convene an advisory group to develop and biennially update standards
 3.2 for the use of electronic monitoring and global positioning system devices to protect
 3.3 victims of domestic abuse. The advisory group must be comprised of representatives
 3.4 from law enforcement, prosecutors, defense attorneys, corrections, court administrators,
 3.5 probation, judges, and crime victim organizations, and include an industry representative
 3.6 with expertise in global positioning system devices. At a minimum, the standards must:

3.7 (1) require a judge to order only the use of active, real-time monitoring;

3.8 (2) require that the victim and defendant be provided with information on the risks and
 3.9 benefits of using active, real-time monitoring and a notice outlining the district's standards;

3.10 (3) require informed, voluntary consent by the victim before the defendant may be
 3.11 released on electronic monitoring, and provide for time-sensitive procedures if a victim
 3.12 withdraws consent;

3.13 (4) address financial costs to the defendants and victims;

3.14 (5) promote policies and procedures that eliminate disproportionate impact adverse
 3.15 to underrepresented groups and populations;

3.16 (6) provide for ongoing training and consultation with the advisory group members
 3.17 to continually improve victim safety and defendant accountability; and

3.18 (7) require that in situations involving a victim and defendant who are both mobile,
 3.19 the monitoring entity, and not the victim, determines if a material violation may have
 3.20 occurred and how to respond.

3.21 (c) The location data associated with the victim and defendant are security
 3.22 information as defined in section 13.37. Location data maintained by a law enforcement
 3.23 agency, probation authority, prosecutorial agency, or court services department may be
 3.24 shared among those agencies to develop and monitor conditions of release under this
 3.25 section.

3.26 (d) A violation of a location restriction by a defendant in a situation involving a
 3.27 victim and defendant who are both mobile does not automatically constitute a violation of
 3.28 the conditions of the defendant's release.

3.29 **EFFECTIVE DATE; SUNSET.** (a) This section is effective retroactively from
 3.30 January 15, 2014.

3.31 (b) The amendments to this section expire on June 30, 2015.

3.32 **Sec. 3. REPORT REQUIRED.**

3.33 By January 15, 2015, the district court administrator of a judicial district participating
 3.34 in a pilot project authorized by this act shall report to the chairs and ranking minority

- 4.1 members of the senate and house of representatives committees having jurisdiction over
- 4.2 criminal justice policy on the district's pilot project.