

GPS Tracking of Domestic Violent Offenders

This Act is based on Michigan law. This Act:

- allows a judge or district court magistrate to order a defendant charged with a crime involving domestic violence, to carry or wear a global positioning system (GPS) device as a condition of release;
- allows the court, with the victim's informed consent, to order the defendant to give the victim a device to receive information from the defendant's GPS device;
- allows the victim to give the court a list of areas from which he or she wanted the defendant excluded, and require the court to consider the request;
- requires the court to instruct the global positioning monitoring system to notify the proper authorities if the defendant violated the order;
- allows the defendant to be released only if he or she agreed to pay the GPS costs or perform community service in lieu of payment;
- provides that the victim could request the court to terminate his or her participation in GPS monitoring of the defendant at any time; and
- requires the court to impose a condition that the defendant not purchase or possess a firearm.

Michigan's law is similar to Massachusetts Chapter 418, Acts of 2006. That Massachusetts law directs that when a defendant has been found in violation of an abuse prevention order or a protection order issued by another jurisdiction, the court may, as an alternative to incarceration and, as a condition of probation, prohibit contact with the victim through the establishment of court defined geographic exclusion zones including, but not limited to, the areas in and around the complainant's residence, place of employment, and the complainant's child's school, and order that the defendant to wear a global positioning satellite tracking device designed to transmit and record the defendant's location data. If the defendant enters a court defined exclusion zone, the defendant's location data shall be immediately transmitted to the complainant, and to the police, through an appropriate means including, but not limited to, the telephone, an electronic beeper or a paging device.

Submitted as:

Michigan

Act 192, Public Acts of 2008

Status: Enacted into law in 2008.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as "An Act to Protect Victims of
2 Domestic Violence."

3

4 Section 2. [*Conditions for Releasing Defendants to Protective Conditions.*]

5 (A) A judge or district court magistrate may release under this section a defendant subject
6 to conditions reasonably necessary for the protection of [one] or more named persons. If a judge
7 or district court magistrate releases under this section a defendant subject to protective
8 conditions, the judge or district court magistrate shall make a finding of the need for protective

9 conditions and inform the defendant on the record, either orally or by a writing that is personally
10 delivered to the defendant, of the specific conditions imposed and that if the defendant violates a
11 condition of release, he or she will be subject to arrest without a warrant and may have his or her
12 bail forfeited or revoked and new conditions of release imposed, in addition to any other
13 penalties that may be imposed if the defendant is found in contempt of court.

14 (B) An order or amended order issued under subsection (A) shall contain all of the
15 following:

16 (1) A statement of the defendant's full name.

17 (2) A statement of the defendant's height, weight, race, sex, date of birth, hair
18 color, eye color, and any other identifying information the judge or district court magistrate
19 considers appropriate.

20 (3) A statement of the date the conditions become effective.

21 (4) A statement of the date on which the order will expire.

22 (5) A statement of the conditions imposed.

23 (C) An order or amended order issued under this subsection and subsection (A) may
24 impose a condition that the defendant not purchase or possess a firearm. However, if the court
25 orders the defendant to carry or wear a global positioning system device as a condition of release
26 as described in subsection (F), the court shall also impose a condition that the defendant not
27 purchase or possess a firearm.

28 (D) The judge or district court magistrate shall immediately direct a law enforcement
29 agency within the jurisdiction of the court, in writing, to enter an order or amended order issued
30 under subsection (A) or subsections (A) and (C) into the law enforcement information network
31 as provided by [insert citation]. If the order or amended order is rescinded, the judge or district
32 court magistrate shall immediately order the law enforcement agency to remove the order or
33 amended order from the law enforcement information network.

34 (E) A law enforcement agency within the jurisdiction of the court shall immediately enter
35 an order or amended order into the law enforcement information network as provided by [insert
36 citation], or shall remove the order or amended order from the law enforcement information
37 network upon expiration of the order or as directed by the court under subsection (D).

38 (F) If a defendant who is charged with a crime involving domestic violence is released
39 under this section, the judge or district court magistrate may order the defendant to carry or wear
40 a global positioning system device as a condition of release. With the informed consent of the
41 victim, the court may also order the defendant to provide the victim of the charged crime with an
42 electronic receptor device capable of receiving the global positioning system information from
43 the device carried or worn by the defendant that notifies the victim if the defendant is located
44 within a proximity to the victim as determined by the judge or district court magistrate in
45 consultation with the victim. The victim shall also be furnished with a telephone contact with the
46 local law enforcement agency to request immediate assistance if the defendant is located within
47 that proximity to the victim. In addition, the victim may provide the court with a list of areas
48 from which he or she would like the defendant excluded. The court shall consider the victim's
49 request and shall determine which areas the defendant shall be prohibited from accessing. The
50 court shall instruct the global positioning monitoring system to notify the proper authorities if the
51 defendant violates the order. In determining whether to order a defendant to participate in global
52 positioning system monitoring, the court shall consider the likelihood that the defendant's
53 participation in global positioning system monitoring will deter the defendant from seeking to
54 kill, physically injure, stalk, or otherwise threaten the victim prior to trial. The victim may
55 request the court to terminate the victim's participation in global positioning system monitoring
56 of the defendant at any time. The court shall not impose sanctions on the victim for refusing to

57 participate in global positioning system monitoring under this subsection. A defendant described
58 in this subsection shall only be released under this section if he or she agrees to pay the cost of
59 the device and any monitoring of the device as a condition of release or to perform community
60 service work in lieu of paying that cost. As used in this subsection:

61 (1) “Domestic violence” means that term as defined in [insert citation].

62 (2) “Global positioning monitoring system” means a system that electronically
63 determines and reports the location of an individual by means of an ankle bracelet transmitter or
64 similar device worn by the individual that transmits latitude and longitude data to monitoring
65 authorities through global positioning satellite technology but does not contain or operate any
66 global positioning system technology or radio frequency identification technology or similar
67 technology that is implanted in or otherwise invades or violates the corporeal body of the
68 individual.

69 (3) “Informed consent” means that the victim was given information concerning
70 all of the following before consenting to participate in global positioning system monitoring:

71 (a) The victim’s right to refuse to participate in global positioning system
72 monitoring and the process for requesting the court to terminate the victim’s participation after it
73 has been ordered.

74 (b) The manner in which the global positioning system monitoring
75 technology functions and the risks and limitations of that technology, and the extent to which the
76 system will track and record the victim’s location and movements.

77 (c) The boundaries imposed on the defendant during the global positioning
78 system monitoring.

79 (d) Sanctions that the court may impose on the defendant for violating an
80 order issued under this subsection.

81 (e) The procedure that the victim is to follow if the defendant violates an
82 order issued under this subsection or if global positioning system equipment fails.

83 (f) Identification of support services available to assist the victim to
84 develop a safety plan to use if the court’s order issued under this subsection is violated or if
85 global positioning system equipment fails.

86 (g) Identification of community services available to assist the victim in
87 obtaining shelter, counseling, education, child care, legal representation, and other help in
88 addressing the consequences and effects of domestic violence.

89 (h) The nonconfidential nature of the victim’s communications with the
90 court concerning global positioning system monitoring and the restrictions to be imposed upon
91 the defendant’s movements.

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

94

95 Section 3. [*Severability.*] [Insert severability clause.]

96

97 Section 4. [*Repealer.*] [Insert repealer clause.]

98

99 Section 5. [*Effective Date.*] [Insert effective date.]