

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 246 Session of 2009

INTRODUCED BY GORDNER, WASHINGTON, BROWNE, ORIE, RAFFERTY,
STACK, O'PAKE AND ALLOWAY, FEBRUARY 19, 2009

REFERRED TO JUDICIARY, FEBRUARY 19, 2009

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, in
3 assault, further providing for probable cause arrests in
4 domestic violence cases; and, in protection from abuse,
5 providing for an electronic monitoring program.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 2711(c) of Title 18 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 2711. Probable cause arrests in domestic violence cases.

11 * * *

12 (c) Bail.--

13 (1) A defendant arrested pursuant to this section shall
14 be afforded a preliminary arraignment by the proper issuing
15 authority without unnecessary delay. In no case shall the
16 arresting officer release the defendant from custody rather
17 than taking the defendant before the issuing authority.

18 (2) In determining whether to admit the defendant to
19 bail, the issuing authority shall consider whether the

1 defendant poses a threat of danger to the victim. If the
2 issuing authority makes such a determination, it shall
3 require as a condition of bail that the defendant shall
4 refrain from entering the residence or household of the
5 victim and the victim's place of employment and shall refrain
6 from committing any further criminal conduct against the
7 victim and shall so notify the defendant thereof at the time
8 the defendant is admitted to bail. [Such condition]

9 (3) As a further condition of bail, the issuing
10 authority may order the defendant to participate in an
11 electronic monitoring program as set forth in 23 Pa.C.S. §
12 6114.2 (relating to electronic monitoring program) and to pay
13 the costs associated with participation in the program.

14 (4) The conditions of bail under this subsection shall
15 expire at the time of the preliminary hearing or upon the
16 entry or the denial of the protection of abuse order by the
17 court, whichever occurs first. A violation of [this] any
18 condition of bail under this subsection may be punishable by
19 the revocation of any form of pretrial release or the
20 forfeiture of bail and the issuance of a bench warrant for
21 the defendant's arrest or remanding him to custody or a
22 modification of the terms of the bail. The defendant shall be
23 provided a hearing on this matter.

24 * * *

25 Section 2. Title 23 is amended by adding a section to read:
26 § 6114.2. Electronic monitoring program.

27 (a) Participation in program.--

28 (1) Whenever the court issues a protection order or a
29 court-approved consent agreement under this chapter, it may
30 order the defendant to participate in and pay the costs of an

1 electronic monitoring program authorized by this section.

2 (2) Whenever a defendant is found to have violated a
3 protection order issued under this chapter, a foreign
4 protection order or a court-approved consent agreement, the
5 court shall, in addition to the penalties otherwise provided
6 by law, order the defendant to participate in an electronic
7 monitoring program authorized by this section until further
8 order of the court.

9 (b) Consent of protected person required.--The court shall
10 not order electronic monitoring without the consent of the
11 protected person.

12 (c) Program requirements.--An electronic monitoring program
13 shall:

14 (1) Alert the protected person and the appropriate law
15 enforcement unit when the defendant is on or near any
16 protected person or premises.

17 (2) Require the defendant to wear an electronic
18 monitoring device at all times.

19 (3) Require that a device be placed in the home of the
20 defendant so that compliance with the court's order may be
21 monitored.

22 (d) Administration.--When a court orders a defendant to
23 participate in an electronic monitoring program under this
24 section, it shall:

25 (1) Place the defendant under the supervision of the
26 county office of probation and parole for the purposes of
27 monitoring the device.

28 (2) Order the county office of probation and parole to
29 place an electronic monitoring device on the defendant and
30 install electronic monitoring equipment in the residence of

1 the defendant within 24 hours.

2 (3) Order the county office of probation and parole to
3 place an electronic monitoring device on the protected person
4 or install electronic monitoring equipment at any protected
5 premises, or both.

6 (4) Order the defendant to pay the costs associated with
7 the program to the county department of probation and parole
8 or program provider.

9 (e) Program provider.--The county department of probation
10 and parole may provide the electronic monitoring program
11 authorized by this section either directly or by contract with a
12 private provider.

13 Section 3. This act shall take effect in 60 days.