

BILL ANALYSIS

C.S.H.B. 36
By: Bowers
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to research provided by the National Domestic Violence Hotline, one in four women and one in seven men in the United States have been the victim of severe physical violence by an intimate partner in their lifetime. The bill's author has informed the committee that family violence remains a critical issue affecting the safety and well-being of Texas residents and requires legislation that strengthens the monitoring of high-risk family violence offenders and enhances victim safety. C.S.H.B. 36 seeks to address this issue by providing for the required use of global positioning monitoring system devices for certain family violence offenders and by providing victims with access to information from the monitoring systems.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 36 sets out legislative findings regarding family violence remaining a critical issue affecting the safety and well-being of Texas residents and the rate at which women and men in the United States experience family violence. The bill establishes that its purpose is to strengthen monitoring of family violence offenders, implement monitoring for high-risk offenders, enhance victim safety, and prevent further acts of family violence.

Conditions of Bond for Defendants Charged With Offense Involving Family Violence

C.S.H.B. 36 amends the Code of Criminal Procedure to require a magistrate to require as a condition of release on bond for a defendant charged with an offense involving family violence that the defendant wear a global positioning monitoring system device if the defendant poses a continuing threat to the victim. The bill establishes that a defendant is considered to pose a continuing threat to the victim if the defendant meets the following conditions:

- the defendant has a history of:
 - conduct violating a statutory provision relating to offenses against the person;
 - violating a previous protective order issued to protect any person; or
 - making threats to or against the victim; or
- the defendant has been convicted of an offense involving the use or threatened use of a firearm.

The bill requires a magistrate who issues an order for emergency protection under state law, if applicable, to impose a condition in the order that the defendant wear a global positioning monitoring system device under the bill's provisions.

C.S.H.B. 36 revises provisions relating to the use of a global positioning monitoring system as a required condition of release on bond for a defendant charged with an offense involving family violence as follows:

- removes as an option to satisfy the condition the carrying of the global positioning monitoring system device by the defendant;
- provides for the use of notification software installed on the victim's personal electronic device as an alternative to an electronic receptor device for purposes of receiving information from the global positioning monitoring system and of notifying the victim and accordingly authorizes a magistrate to require the defendant to pay a reimbursement fee for the costs associated with providing the victim with that notification software; and
- specifies that the notification to the victim from the electronic receptor device or notification software must be contemporaneously provided.

Accordingly, the bill updates the requirement for the magistrate to provide an alleged victim with information regarding the global positioning monitoring system to reflect the use of the notification software and that the global positioning monitoring system's tracking and recording of the victim's location and movements occurs contemporaneously. The bill also requires the magistrate to provide an alleged victim with information regarding any criminal penalties for violating a condition of bond.

C.S.H.B. 36 clarifies that the requirement for a magistrate who imposes certain conditions of release on bond on such a defendant to order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if the defendant violates a condition of bond applies with respect to a magistrate who imposes a condition of release requiring the wearing of a global positioning monitoring system device on such a defendant. However, the bill makes the following changes with respect to the requirement:

- includes the Department of Public Safety (DPS) and the victim among the required recipients of the notification;
- requires the entity to be capable of providing an immediate, automatic electronic notification, by text message or otherwise, on the defendant's violation; and
- requires the notification to state with specificity the location of the defendant if the defendant violates the condition of bond by entering a prohibited location.

C.S.H.B. 36 requires a magistrate, as soon as possible but not later than the next business day after the date the magistrate issues an order imposing a condition of bond relating to a global positioning monitoring system on a defendant charged with an offense involving family violence, to send a copy of the order to the following individuals:

- the appropriate state's attorney and either:
 - the chief of police in the municipality where the victim of the offense resides, if the victim resides in a municipality; or
 - the sheriff of the county where the victim resides, if the victim does not reside in a municipality; and
- the victim at the victim's last known address.

The bill requires the local law enforcement agency, on receipt of such a copy of the order, to immediately, but not later than the third business day after the date the order is received, enter information about an applicable defendant subject to active conditions of bond as required by the bill into the statewide law enforcement information system maintained by DPS.

These provisions apply only to a person who is arrested on or after the bill's effective date. A person arrested before that date is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

Requirements for Protective Order for Family Violence

C.S.H.B. 36 amends the Family Code to require a court to require as a condition of a protective order for family violence that the respondent wear a device to allow monitoring by a global positioning monitoring system and pay a reimbursement fee for the costs associated with operating that system in relation to the respondent if the respondent poses a continuing threat to a person protected by the order. The bill establishes that a respondent is considered to pose a continuing threat to a person protected by the order if any of the following conditions are met:

- the respondent has a history of:
 - conduct violating a provision relating to offenses against the person;
 - violating a previous protective order issued to protect any person; or
 - making threats to or against a person protected by the order;
- the respondent has been convicted of an offense involving the use or threatened use of a firearm; or
- in the five-year period preceding the date of the order, the respondent was convicted of an offense for which an affirmative finding of family violence was made.

C.S.H.B. 36 authorizes the court, if the person protected by the order consents after receiving the information as required by the bill, to order the respondent to pay a reimbursement fee for the costs associated with providing the person protected by the order with an electronic receptor device or with notification software installed on the person's personal electronic device that, as follows:

- is capable of receiving the global positioning monitoring system information from the device worn by the respondent; and
- contemporaneously notifies the person if the respondent is at or near a location that the respondent has been ordered to refrain from going to or near.

The bill requires the court, before imposing such a reimbursement fee condition, to provide to the person protected by the order information regarding the following:

- the person's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the court terminate the person's participation;
- the manner in which the global positioning monitoring system technology functions, and the risks and limitations of that technology, and the extent to which the system will contemporaneously track and record the person's location and movements;
- any locations that the respondent is ordered to refrain from going to or near and the minimum distances, if any, that the respondent must maintain from those locations;
- any sanctions that the court may impose on the respondent for violating the protective order and any criminal penalties for the violation;
- the procedure that the person protected by the order is to follow, and support services available to assist the person, if the respondent violates a condition of bond or if the global positioning monitoring system equipment or the person's electronic receptor device or notification software fails;
- community services available to assist the person in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and
- the fact that the person's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the respondent's movements are not confidential.

C.S.H.B. 36 authorizes the court, if the court finds that the respondent is indigent, based on a sliding scale established by local rule, to require the respondent to pay a reimbursement fee in an amount that is less than the full amount of the costs associated with the following:

- operating the global positioning monitoring system in relation to the respondent; or
- providing the person protected by the order with an electronic receptor device or with notification software installed on the person's personal electronic device, as applicable.

If an indigent respondent pays to an entity that operates a global positioning monitoring system the partial amount ordered by the court, the entity must accept the partial amount as payment in full. The bill establishes that the county in which the court that enters an order under the bill's provisions is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent respondent.

C.S.H.B. 36 requires a court that imposes a condition requiring the wearing of a global positioning monitoring system device to order the entity that operates the global positioning monitoring system to notify the court, DPS, the victim, and the appropriate local law enforcement agency if a respondent violates a condition of a protective order issued for family violence. The bill requires the entity to be capable of providing an immediate, automatic electronic notification, by text message or otherwise, on the respondent's violation of a condition of the protective order and, if the respondent violates the protective order by entering a prohibited location, requires the notification to state with specificity the location of the respondent.

These provisions apply only to costs incurred by counties as a result of monitoring that occurs on or after the bill's effective date. Costs incurred by counties as a result of monitoring that occurs before that date are governed by the law in effect on the date the costs were incurred, and the former law is continued in effect for that purpose.

Family Violence Victim Assistance Program

C.S.H.B. 36 requires DPS, in consultation or in conjunction with other appropriate state agencies, to administer a victim assistance program to do the following:

- provide resources to victims of family violence to assist in accessing necessary services; and
- facilitate direct communications among victims of family violence, victim service providers, family violence centers, and law enforcement.

The bill requires DPS to create and administer a searchable database of assistance programs for victims of family violence that may be used to connect victims with necessary services. The bill defines "family violence" by reference to statutory provisions governing protective orders for family violence and defines "family violence center" and "victim of family violence" by reference to Human Resources Code provisions governing family violence centers.

Information Collected by Bureau of Identification and Records

C.S.H.B. 36 amends the Government Code to include the following among the information that must be collected by the bureau of identification and records in the statewide law enforcement information system for all persons subject to active protective orders or magistrate's orders for emergency protection:

- whether a global positioning monitoring system device is required for the person to whom the order is directed; and
- if applicable, the method by which the person protected by the order receives contemporaneous notifications of any violations.

The bill clarifies that the requirement for the bureau to collect pertinent information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case applies with respect to defendants subject to active conditions of bond imposed for the protection of the victim in such cases. The bill specifies that the information must include the following information for each defendant:

- the name, sex, race, date of birth, personal descriptors, address, and county of residence of the defendant;
- any known identifying number of the defendant, including the defendant's social security number or driver's license number;
- the name and county of residence of the victim of the offense;

- any locations that the defendant must refrain from going to or near under the conditions of bond;
- whether a global positioning monitoring system device is required for the defendant and, if applicable, the method by which the victim receives contemporaneous notifications of any violations; and
- any other conditions of bond imposed.

C.S.H.B. 36 requires DPS, based on data collected for persons subject to protective orders and magistrate's orders for emergency protection and defendants subject to active conditions of bond, to submit an annual report to the legislature on the effectiveness of using a global positioning monitoring system to reduce repeat offenses but establishes that DPS is not required to submit the initial report before December 1, 2026.

Grant Program

C.S.H.B. 36 requires the governor's criminal justice division to establish and administer a grant program to reimburse counties for all or part of the costs incurred by counties as a result of monitoring in cases involving persons who participate in a global positioning monitoring system as a condition of a protective order for family violence imposed under the bill's provisions. This requirement applies only to costs incurred by counties as a result of monitoring that occurs on or after the bill's effective date. Costs incurred by counties as a result of monitoring that occurs before that date are governed by the law in effect on the date the costs were incurred, and the former law is continued in effect for that purpose.

Tampering With Electronic Monitoring Device

C.S.H.B. 36 amends the Penal Code to expand the conduct constituting the offense of tampering with an electronic monitoring device to include applicable conduct by a person who is required to submit to electronic monitoring of the person's location as a condition of a magistrate's order for emergency protection or a protective order for family violence. This provision applies only to an offense committed on or after the bill's effective date. An offense committed before that date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 36 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the introduced and substitute require a magistrate to require as a condition of release on bond for a defendant charged with an offense involving family violence that the defendant wear a global position monitoring system device if the defendant poses a continuing threat to the victim, the substitute omits the requirement present in the introduced for the magistrate to require as condition of release on bond for such a defendant that the defendant, unless the magistrate determines that the defendant is indigent, pay a reimbursement fee for the costs associated with operating that system.

Both the introduced and the substitute establish the criteria for which such a defendant is considered to pose a continuing threat to the victim. However, the substitute revises those criteria by replacing the condition that the defendant has a history of the use of firearms outside

a professional, sporting, recreational, or hunting context, as in the introduced, with the condition that the defendant has been convicted of an offense involving the use or threatened use of a firearm.

Both the introduced and the substitute establish the criteria for which a respondent is considered to pose a continuing threat to a person protected by a protective order for purposes of the requirement for the court to require as a condition of the order that the respondent wear a device to allow monitoring by global positioning monitoring system and, unless the court finds the respondent indigent, pay a reimbursement fee for the costs associated with operating that system in relation to the respondent if the respondent poses a continuing threat to a person protected by the order. However, the substitute revises that criteria by replacing the condition that the respondent has a history of the use of firearms outside a professional, sporting, recreational, or hunting context, as in the introduced, with the condition that the respondent has been convicted of an offense involving the use or threatened use of a firearm

With respect to the requirement for the court to provide to the person protected by the order information regarding the extent to which the global positioning monitoring system will track and record the person's location and movements, the substitute includes a specification absent from the introduced that the tracking and recording by the system occurs contemporaneously.