89R20707 JSC-F

By:  Bowers, Allen, Rose, Hull, Talarico, H.B. No. 36

     et al.

Substitute the following for H.B. No. 36:

By:  Bowers C.S.H.B. No. 36

A BILL TO BE ENTITLED

AN ACT

relating to the monitoring of certain family violence offenders, the provision of resources for family violence victims, and the collection of information about conditions of bond imposed in family violence cases and certain other criminal cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  This Act shall be known as the Sharon Radebaugh Family Violence Protection Act.

SECTION 2.  (a) The legislature finds that:

(1)  family violence remains a critical issue affecting the safety and well-being of Texas residents; and

(2)  one in four women and one in seven men in this country will experience family violence.

(b)  The purpose of this Act is to:

(1)  strengthen monitoring of family violence offenders;

(2)  implement monitoring through a global positioning monitoring system for high-risk offenders;

(3)  enhance victim safety; and

(4)  prevent further acts of family violence.

SECTION 3.  Article 17.292(c-1), Code of Criminal Procedure, is amended to read as follows:

(c-1)  In addition to the conditions described by Subsection (c), the magistrate in the order for emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant's participation in a global positioning monitoring system or allowing participation in the system by an alleged victim or other person protected under the order. If applicable, the magistrate shall impose the condition described by Article 17.49(b-1).

SECTION 4.  Article 17.49(a)(2), Code of Criminal Procedure, is amended to read as follows:

(2)  "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device [~~carried or~~] worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

SECTION 5.  Article 17.49, Code of Criminal Procedure, is amended by amending Subsections (b), (d), (f), (h), (j), and (k) and adding Subsections (b-1), (m), and (n) to read as follows:

(b)  Except as provided by Subsection (b-1), a [~~A~~] magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1)  refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(2)  [~~carry or~~] wear a global positioning monitoring system device and, except as provided by Subsection (h), pay a reimbursement fee for the costs associated with operating that system in relation to the defendant;

(3)  except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), pay a reimbursement fee for the costs associated with providing the victim with an electronic receptor device or with notification software installed on the victim's personal electronic device that:

(A)  is capable of receiving the global positioning monitoring system information from the device [~~carried or~~] worn by the defendant; and

(B)  contemporaneously notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1); or

(4)  refrain from tracking or monitoring personal property or a motor vehicle in the possession of the alleged victim of the offense, without the victim's effective consent, including by:

(A)  using a tracking application on a personal electronic device in the possession of the victim or using a tracking device; or

(B)  physically following the victim or causing another to physically follow the victim.

(b-1)  A magistrate shall require as a condition of release on bond that a defendant wear a global positioning monitoring system device as provided by Subsection (b)(2) if the defendant poses a continuing threat to the victim. A defendant is considered to pose a continuing threat to the victim if the defendant:

(1)  has a history of:

(A)  conduct violating a provision of Title 5, Penal Code;

(B)  violating a previous protective order issued to protect any person; or

(C)  making threats to or against the victim; or

(2)  has been convicted of an offense involving the use or threatened use of a firearm.

(d)  Before imposing a condition described by Subsection (b)(3), a magistrate must provide to an alleged victim information regarding:

(1)  the victim'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 magistrate terminate the victim's participation;

(2)  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 victim's location and movements;

(3)  any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

(4)  any sanctions that the court may impose on the defendant for violating a condition of bond imposed under this article and any criminal penalties for the violation;

(5)  the procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment or the victim's electronic receptor device or notification software fails;

(6)  community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and

(7)  the fact that the victim's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(f)  In determining whether to order a defendant's participation in a global positioning monitoring system under Subsection (b) [~~this article~~], the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(h)  If the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay a reimbursement fee under Subsection (b)(2) or (3) in an amount that is less than the full amount of the costs associated with:

(1)  operating the global positioning monitoring system in relation to the defendant; or

(2)  providing the victim with an electronic receptor device or with notification software installed on the victim's personal electronic device, as applicable.

(j)  A magistrate who [~~that~~] imposes a condition requiring the wearing of a global positioning monitoring system device [~~described by Subsection (b)(1) or (2)~~] shall order the entity that operates the global positioning monitoring system to notify the court, the Department of Public Safety, the victim, and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this article. The entity must be capable of providing an immediate, automatic electronic notification, by text message or otherwise, on the defendant's violation of a condition of bond. If the defendant violates the condition of bond by entering a prohibited location, the notification must state with specificity the location of the defendant.

(k)  A magistrate who [~~that~~] imposes a condition described by Subsection (b) or (b-1) may only allow or require the defendant to execute or be released under a type of bond that is authorized by this chapter.

(m)  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 involving a global positioning monitoring system, the magistrate shall send a copy of the order to:

(1)  the appropriate attorney representing the state and either:

(A)  the chief of police in the municipality where the victim of the offense resides, if the victim resides in a municipality; or

(B)  the sheriff of the county where the victim resides, if the victim does not reside in a municipality; and

(2)  the victim at the victim's last known address.

(n)  On receipt of the order under Subsection (m), the local law enforcement agency shall immediately, but not later than the third business day after the date the order is received, enter the information required by Section 411.042(b)(7), Government Code, into the statewide law enforcement information system maintained by the Department of Public Safety.

SECTION 6.  Section 85.022, Family Code, is amended by adding Subsections (b-1), (f), (g), (h), (i), and (j) and amending Subsection (e) to read as follows:

(b-1)  For purposes of Subsection (b)(6), "firearm" has the meaning assigned by Section 46.01, Penal Code.

(e)  The court shall require as a condition of the protective order that the respondent wear a device to allow monitoring by a global positioning monitoring system, as defined by Article 17.49, Code of Criminal Procedure, and, except as provided by Subsection (h), 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. A respondent is considered to pose a continuing threat to a person protected by the order if:

(1)  the respondent has a history of:

(A)  conduct violating a provision of Title 5, Penal Code;

(B)  violating a previous protective order issued to protect any person; or

(C)  making threats to or against a person protected by the order;

(2)  the respondent has been convicted of an offense involving the use or threatened use of a firearm; or

(3)  in the five-year period preceding the date of the order, the respondent was convicted of an offense for which an affirmative finding was made under Article 42.013, Code of Criminal Procedure [~~In this section, "firearm" has the meaning assigned by Section 46.01, Penal Code~~].

(f)  Except as provided by Subsection (h), and if the person protected by the order consents after receiving the information described by Subsection (g), the court may 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:

(1)  is capable of receiving the global positioning monitoring system information from the device worn by the respondent; and

(2)  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 under Subsection (b)(3) or (4).

(g)  Before imposing a condition described by Subsection (f), the court must provide to the person protected by the order information regarding:

(1)  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;

(2)  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;

(3)  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;

(4)  any sanctions that the court may impose on the respondent for violating a protective order issued under this section and any criminal penalties for the violation;

(5)  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;

(6)  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

(7)  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.

(h)  If the court finds that the respondent is indigent, the court may, based on a sliding scale established by local rule, require the respondent to pay a reimbursement fee in an amount that is less than the full amount of the costs associated with:

(1)  operating the global positioning monitoring system in relation to the respondent; or

(2)  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.

(i)  If an indigent respondent pays to an entity that operates a global positioning monitoring system the partial amount ordered by the court under Subsection (h), the entity shall accept the partial amount as payment in full. The county in which the court that enters an order under Subsection (h) is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent respondent.

(j)  A court that imposes a condition requiring the wearing of a global positioning monitoring system device shall order the entity that operates the global positioning monitoring system to notify the court, the Department of Public Safety, the victim, and the appropriate local law enforcement agency if a respondent violates a condition of a protective order issued under this section. The entity must 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. If the respondent violates the protective order by entering a prohibited location, the notification must state with specificity the location of the respondent.

SECTION 7.  Subtitle C, Title 4, Family Code, is amended by adding Chapter 94 to read as follows:

CHAPTER 94. VICTIM SERVICES

Sec. 94.001.  DEFINITIONS. In this chapter:

(1)  "Department" means the Department of Public Safety.

(2)  "Family violence" has the meaning assigned by Section 71.004.

(3)  "Family violence center" has the meaning assigned by Section 51.002, Human Resources Code.

(4)  "Victim of family violence" has the meaning assigned by Section 51.002, Human Resources Code.

Sec. 94.002.  VICTIM ASSISTANCE PROGRAM. (a) The department, in consultation or in conjunction with other appropriate state agencies, shall administer a victim assistance program to:

(1)  provide resources to victims of family violence to assist in accessing necessary services; and

(2)  facilitate direct communications among victims of family violence, victim service providers, family violence centers, and law enforcement.

(b)  The department shall create and administer a searchable database of assistance programs for victims of family violence that may be used to connect victims with necessary services.

SECTION 8.  Section 411.042, Government Code, is amended by amending Subsection (b) and adding Subsection (k) to read as follows:

(b)  The bureau of identification and records shall:

(1)  procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2)  collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including information that enables the bureau to create a statistical breakdown of:

(A)  offenses in which family violence was involved;

(B)  offenses under Sections 22.011 and 22.021, Penal Code; and

(C)  offenses under Sections 20A.02, 43.02, 43.021, 43.03, 43.031, 43.04, 43.041, and 43.05, Penal Code;

(3)  make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;

(4)  cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5)  maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check as required by that chapter, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense;

(6)  collect information concerning the number and nature of protective orders and magistrate's orders for [~~of~~] emergency protection and all other pertinent information about all persons subject to active orders, including, for each [~~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. Information in the law enforcement information system relating to an~~] active order [~~shall include~~]:

(A)  the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

(B)  any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

(C)  the name and county of residence of the person protected by the order;

(D)  the residence address and place of employment or business of the person protected by the order;

(E)  the child-care facility or school where a child protected by the order normally resides or which the child normally attends;

(F)  the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed;

(G)  the conditions of bond imposed on the person to whom the order is directed, if any, for the protection of a victim in any family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case;

(H)  any minimum distance the person subject to the order is required to maintain from the protected places or persons;

(I)  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; and

(J) [~~(I)~~]  the date the order expires;

(7)  collect information about defendants subject to active conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case, including, for each defendant:

(A)  the name, sex, race, date of birth, personal descriptors, address, and county of residence of the defendant;

(B)  any known identifying number of the defendant, including the defendant's social security number or driver's license number;

(C)  the name and county of residence of the victim of the offense;

(D)  any locations that the defendant must refrain from going to or near under the conditions of bond;

(E)  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

(F)  any other conditions of bond imposed;

(8)  grant access to criminal history record information in the manner authorized under Subchapter F;

(9) [~~(8)~~]  collect and disseminate information regarding offenders with mental impairments in compliance with Chapter 614, Health and Safety Code; and

(10) [~~(9)~~]  record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system that serves:

(A)  as the record creation point for criminal history record information and juvenile justice information maintained by the state; and

(B)  as the control terminal for the entry of records, in accordance with federal law and regulations, federal executive orders, and federal policy, into the federal database maintained by the Federal Bureau of Investigation.

(k)  Based on data collected under Subsections (b)(6) and (7), the department shall submit an annual report to the legislature on the effectiveness of using a global positioning monitoring system to reduce repeat offenses.

SECTION 9.  Section 411.0845(i), Government Code, is amended to read as follows:

(i)  The release under this section of any criminal history record information maintained by the Federal Bureau of Investigation, including the computerized information submitted to the federal database maintained by the Federal Bureau of Investigation as described by Section 411.042(b)(10)(B) [~~411.042(b)(9)(B)~~], is subject to federal law and regulations, federal executive orders, and federal policy.

SECTION 10.  Section 772.0077(b), Government Code, is amended to read as follows:

(b)  The criminal justice division shall 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 family violence defendants and victims who participate in a global positioning monitoring system under Article 17.292 or 17.49, Code of Criminal Procedure, or persons who participate in a global positioning monitoring system as a condition of a protective order issued under Title 4, Family Code. A grant recipient may use funds from a grant awarded under the program only for monitoring conducted for the purpose of restoring a measure of security and safety for a victim of family violence.

SECTION 11.  Section 38.112(a), Penal Code, is amended to read as follows:

(a)  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 under Article 17.292, Code of Criminal Procedure, or a protective order under Section 85.022, Family Code, as part of an electronic monitoring program under Article 42.035, Code of Criminal Procedure, or as a condition of community supervision, parole, mandatory supervision, or release on bail commits an offense if the person knowingly removes or disables, or causes or conspires or cooperates with another person to remove or disable, a tracking device that the person is required to wear to enable the electronic monitoring of the person's location.

SECTION 12.  The changes in law made by this Act to Articles 17.292 and 17.49, Code of Criminal Procedure, apply only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act 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.

SECTION 13.  The changes in law made by this Act to Section 85.022, Family Code, and Section 772.0077(b), Government Code, apply only to costs incurred by counties as a result of monitoring that occurs on or after the effective date of this Act. Costs incurred by counties as a result of monitoring that occurs before the effective date of this Act 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.

SECTION 14.  The Department of Public Safety of the State of Texas is not required to submit the initial report described by Section 411.042(k), Government Code, as added by this Act, before December 1, 2026.

SECTION 15.  The change in law made by this Act to Section 38.112, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act 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 purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 16.  This Act takes effect September 1, 2025.