

Regular Session, 2010

SENATE BILL NO. 193

BY SENATOR CLAITOR

CRIME/PUNISHMENT. Provides for GPS tracking of domestic violence offenders.
(8/15/10)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Art. 335.1, relative to bail; to provide for
3 the wearing or carrying of a GPS tracking device; to provide for certain conditions;
4 to provide for definitions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Art. 335.1 is hereby amended and reenacted
7 to read as follows:

8 Art. 335.1. Offenses against a family or household member or dating partner;
9 provisions for forfeiture, arrest, modification

10 A. In determining conditions of release of a defendant who is alleged to have
11 committed an offense against the defendant's family or household member, as
12 defined in R.S. 46:2132(4), or against the defendant's dating partner, as defined in
13 R.S. 46:2151, **or who is alleged to have committed the offense of involving**
14 **domestic abuse battery under the provisions of R.S. 14:35.3,** or who is alleged to
15 have committed the offense of stalking under the provisions of R.S. 14:40.2, the
16 court shall consider whether the defendant poses a threat or danger to the victim. If
17 the court determines that the defendant poses such a threat or danger, it shall require

1 as a condition of bail that the defendant refrain from going to the residence or
2 household of the victim, the victim's school, and the victim's place of employment
3 or otherwise contacting the victim in any manner whatsoever, and shall refrain from
4 having any further contact with the victim. **In addition the court may order the**
5 **defendant to carry or wear a global positioning system device as a condition of**
6 **release.**

7 **B. If the court orders the defendant to carry or wear a global positioning**
8 **system device as a condition of release, with the informed consent of the victim,**
9 **the court may also order the defendant to provide the victim of the charged**
10 **crime with an electronic receptor device capable of receiving the global**
11 **positioning system information from the device carried or worn by the**
12 **defendant that notifies the victim if the defendant is located within a proximity**
13 **to the victim as determined by the court in consultation with the victim. The**
14 **victim shall also be furnished with a telephone contact with the local law**
15 **enforcement agency to request immediate assistance if the defendant is located**
16 **within that proximity to the victim. In addition, the victim may provide the**
17 **court with a list of areas from which he or she would like the defendant**
18 **excluded. The court shall consider the victim's request and shall determine**
19 **which areas the defendant shall be prohibited from accessing. The court shall**
20 **instruct the global positioning monitoring system to notify the proper**
21 **authorities if the defendant violates the order. In determining whether to order**
22 **a defendant to participate in global positioning system monitoring, the court**
23 **shall consider the likelihood that the defendant's participation in global**
24 **positioning system monitoring will deter the defendant from seeking to kill,**
25 **physically injure, stalk, or otherwise threaten the victim prior to trial. The**
26 **victim may request the court to terminate the victim's participation in global**
27 **positioning system monitoring of the defendant at any time. The court shall not**
28 **impose sanctions on the victim for refusing to participate in global positioning**
29 **system monitoring under this Subsection. A defendant described in this**

1 Subsection shall only be released under this Section if he or she agrees to pay
2 the cost of the device and any monitoring of the device as a condition of release
3 or to perform community service work in lieu of paying that cost.

4 C. For the purpose of this Section:

5 (1) "Global positioning monitoring system" means a system that
6 electronically determines and reports the location of an individual by means of
7 an ankle bracelet transmitter or similar device worn by the individual that
8 transmits latitude and longitude data to monitoring authorities through global
9 positioning satellite technology but does not contain or operate any global
10 positioning system technology or radio frequency identification technology or
11 similar technology that is implanted in or otherwise invades or violates the
12 corporeal body of the individual.

13 (2) "Informed consent" means that the victim was given information
14 concerning all of the following before consenting to participate in global
15 positioning system monitoring:

16 (a) The victim's right to refuse to participate in global positioning system
17 monitoring and the process for requesting the court to determine the victim's
18 participation after it has been ordered.

19 (b) The manner in which the global positioning system monitoring
20 technology functions and the risks and limitations of that technology, and the
21 extent to which the system will track and record the victim's location and
22 movements.

23 (c) The boundaries imposed on the defendant during the global
24 positioning system monitoring.

25 (d) Sanctions that the court may impose on the defendant for violating
26 an order issued under this Subsection.

27 (e) The procedure that the victim is to follow if the defendant violates an
28 order issued under this Subsection or if global positioning system equipment
29 fails.

1 **(f) Identification of support services available to assist the victim to**
 2 **develop a safety plan to use if the court's order issued under this Subsection is**
 3 **violated or if global positioning system equipment fails.**

4 **(g) Identification of community services available to assist the victim in**
 5 **obtaining shelter, counseling, education, child care, legal representation, and**
 6 **other help in addressing the consequences and effects of domestic violence or**
 7 **stalking.**

8 **(h) The non-confidential nature of the victim's communications with the**
 9 **court concerning global positioning system monitoring and the restrictions to**
 10 **be imposed upon the defendant's movements.**

11 **B D.** A violation of the conditions of release may be punishable by the
 12 forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or
 13 remanding the defendant to custody or a modification of the terms of bail.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Michael Bell.

DIGEST

Claitor (SB 193)

Present law provides for the release of a defendant who is alleged to have committed an offense against his family or household member or dating partner under certain conditions, if the defendant poses a threat or danger to the victim.

Present law provides for consequences if the defendant violates the conditions of his release.

Proposed law maintains present law and provides for a defendant to carry or wear a global positioning system device as a condition of release.

Proposed law provides for the victim to give "informed consent" before consenting to participate in the global positioning system monitoring.

Proposed law provides for the following definitions:

- (1) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual by means of an ankle bracelet transmitter or similar device worn by the individual that transmits latitude and longitude data to monitoring authorities through global positioning satellite technology but does not contain or operate any global positioning system technology or radio frequency identification technology or similar technology that is implanted in or otherwise invades or violates the corporeal body of the individual.
- (2) "Informed consent" means that the victim was given information concerning all of the following before consenting to participate in global positioning system monitoring:

- (a) The victim's right to refuse to participate in global positioning system monitoring and the process for requesting the court to determine the victim's participation after it has been ordered.
- (b) The manner in which the global positioning system monitoring technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements.
- (c) The boundaries imposed on the defendant during the global positioning system monitoring.
- (d) Sanctions that the court may impose on the defendant for violating an order issued under proposed law.
- (e) The procedure that the victim is to follow if the defendant violates an order issued under proposed law or if global positioning system equipment fails.
- (f) Identification of support services available to assist the victim to develop a safety plan to use if the court's order issued under proposed law is violated or if global positioning system equipment fails.
- (g) Identification of community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other help in addressing the consequences and effects of domestic violence or stalking.
- (h) The non-confidential nature of the victim's communications with the court concerning global positioning system monitoring and the restrictions to be imposed upon the defendant's movements.

Effective August 15, 2010.

(Amends C.Cr.P. Art. 335.1)