

Act No. 192
Public Acts of 2008
Approved by the Governor
July 9, 2008
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Reps. Caul, Meadows, Booher, Hansen, Moolenaar, Rick Jones, Moore, Gaffney, Hune, Nofs, Emmons, Miller, Angerer, Ball, Brown, Calley, Caswell, Clack, Clemente, Condino, Espinoza, Gonzales, Griffin, Hammel, Hammon, Hildenbrand, Horn, Johnson, Robert Jones, Kathleen Law, LeBlanc, Lindberg, Mayes, McDowell, Melton, Opsommer, Palsrok, Pearce, Polidori, Sak, Schuitmaker, Sheltroun, Simpson, Spade, Stahl and Wenke

ENROLLED HOUSE BILL No. 4453

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 6b of chapter V (MCL 765.6b), as amended by 1994 PA 335.

The People of the State of Michigan enact:

CHAPTER V

Sec. 6b. (1) A judge or district court magistrate may release under this section a defendant subject to conditions reasonably necessary for the protection of 1 or more named persons. If a judge or district court magistrate releases under this section a defendant subject to protective conditions, the judge or district court magistrate shall make a finding of the need for protective conditions and inform the defendant on the record, either orally or by a writing that is personally delivered to the defendant, of the specific conditions imposed and that if the defendant violates a condition of release, he or she will be subject to arrest without a warrant and may have his or her bail forfeited or revoked and new conditions of release imposed, in addition to any other penalties that may be imposed if the defendant is found in contempt of court.

(2) An order or amended order issued under subsection (1) shall contain all of the following:

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

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

(c) A statement of the date the conditions become effective.

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

(e) A statement of the conditions imposed.

(3) An order or amended order issued under this subsection and subsection (1) may impose a condition that the defendant not purchase or possess a firearm. However, if the court orders the defendant to carry or wear a global positioning system device as a condition of release as described in subsection (6), the court shall also impose a condition that the defendant not purchase or possess a firearm.

(4) The judge or district court magistrate shall immediately direct a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (1) or subsections (1) and (3) into the law enforcement information network as provided by the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the law enforcement agency to remove the order or amended order from the law enforcement information network.

(5) A law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into the law enforcement information network as provided by the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215, or shall remove the order or amended order from the law enforcement information network upon expiration of the order or as directed by the court under subsection (4).

(6) If a defendant who is charged with a crime involving domestic violence is released under this section, the judge or district court magistrate may order the defendant to carry or wear a global positioning system device as a condition of release. With the informed consent of the victim, the court may also order the defendant to provide the victim of the charged crime with an electronic receptor device capable of receiving the global positioning system information from the device carried or worn by the defendant that notifies the victim if the defendant is located within a proximity to the victim as determined by the judge or district court magistrate in consultation with the victim. The victim shall also be furnished with a telephone contact with the local law enforcement agency to request immediate assistance if the defendant is located within that proximity to the victim. In addition, the victim may provide the court with a list of areas from which he or she would like the defendant excluded. The court shall consider the victim's request and shall determine which areas the defendant shall be prohibited from accessing. The court shall instruct the global positioning monitoring system to notify the proper authorities if the defendant violates the order. In determining whether to order a defendant to participate in global positioning system monitoring, the court shall consider the likelihood that the defendant's participation in global positioning system monitoring will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the victim prior to trial. The victim may request the court to terminate the victim's participation in global positioning system monitoring of the defendant at any time. The court shall not impose sanctions on the victim for refusing to participate in global positioning system monitoring under this subsection. A defendant described in this subsection shall only be released under this section if he or she agrees to pay the cost of the device and any monitoring of the device as a condition of release or to perform community service work in lieu of paying that cost. As used in this subsection:

(a) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(b) "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.

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

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

(ii) 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.

(iii) The boundaries imposed on the defendant during the global positioning system monitoring.

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

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

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

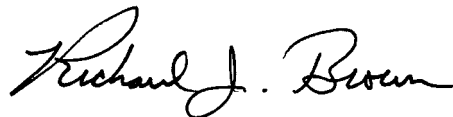
(vii) Identification of community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other help in addressing the consequences and effects of domestic violence.

(viii) The nonconfidential 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.

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

Enacting section 1. This amendatory act shall be known and may be cited as "Mary's Law".

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor