

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 567

H.P. 405

House of Representatives, February 17, 2009

**An Act To Provide Increased Protection for Victims of Domestic
Violence**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative ROSEN of Bucksport.
Cosponsored by Senator ROSEN of Hancock and
Representatives: CAMPBELL of Newfield, DUCHESNE of Hudson, WALSH INNES of
Yarmouth, KNAPP of Gorham, PRATT of Eddington, SAVIELLO of Wilton, STRANG
BURGESS of Cumberland, SYKES of Harrison.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 15 MRSA §1026, sub-§4-A** is enacted to read:

3 **4-A. Domestic abuse offenses.** If a person is charged with an offense under Title
4 17-A, section 207-A, 209-A, 210-B, 210-C or 211-A or Title 19-A, section 4011, the
5 court shall order an assessment of the dangerousness of the defendant to identify risk
6 factors for a future assault; act of abuse, harassment or violence; violation of bail or
7 protective order; or homicide and to recommend appropriate bail conditions to protect the
8 safety of the victim and the administration of justice. Based upon the results of an
9 assessment under this subsection, the court may order as a condition of bail that the
10 defendant be placed under electronic monitoring pursuant to Title 34-A, section 5406.

11 **Sec. 2. 17-A MRSA §1204, sub-§2-B** is enacted to read:

12 **2-B.** In addition to the conditions under subsection 2-A, for a person convicted of a
13 violation of Title 19-A, section 4011, the court shall order electronic monitoring under
14 Title 34-A, section 5406.

15 **Sec. 3. 17-A MRSA §1301, sub-§7** is enacted to read:

16 **7.** In addition to any other authorized sentencing alternative, the court shall impose a
17 minimum fine of \$200, none of which may be suspended, for a person convicted of a
18 crime under section 207-A, 209-A, 210-B, 210-C or 211-A or Title 19-A, section 4011.
19 The proceeds from a fine imposed under this subsection must be paid to the Electronic
20 Monitoring Fund under Title 34-A, section 5406, subsection 6.

21 **Sec. 4. 34-A MRSA §5406** is enacted to read:

22 **§5406. Electronic Monitoring Program**

23 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
24 following terms have the following meanings.

25 **A.** "Fund" means the Electronic Monitoring Fund established under subsection 6.

26 **B.** "Participant" means a client under order to participate in the program from a court
27 under Title 15, section 1026, subsection 4-A or Title 17-A, section 1204, subsection
28 2-B.

29 **C.** "Program" means the Electronic Monitoring Program established under this
30 section.

31 **2. Administration.** The commissioner shall develop standards for and administer
32 the Electronic Monitoring Program. The commissioner shall execute the program with
33 monitors who are field probation and parole officers or personnel of a law enforcement
34 agency, county jail, department facility or judicial agency or other officials determined
35 qualified by the commissioner.

36 **3. Conditions of participation.** A participant must wear a tamper-proof anklet or
37 bracelet under subsection 5 and follow all conditions of bail or probation including any

1 contact restriction and all requirements of the program under subsection 4, including
2 staying in contact with the program and responding to all program communications.

3 **4. Program requirements.** The commissioner shall establish an exclusion zone
4 creating an area surrounding the victim in which the participant may not enter based upon
5 the contact restrictions in the court order under Title 15, section 1026, subsection 4-A or
6 Title 17-A, section 1204, subsection 2-B. The commissioner may establish other
7 forbidden areas or restrictions on the participant's movements that reasonably ensure the
8 safety of the victim.

9 **5. Best technology.** The program must use the best available global positioning
10 technology to track a participant under subsection 3. This technology must be a tamper-
11 proof anklet or bracelet that:

12 A. Immediately notifies the program of a breach by the participant of an exclusion
13 zone boundary;

14 B. Promptly notifies the victim of a breach by the participant of an exclusion zone
15 boundary;

16 C. Allows the program monitor to speak to the participant through a
17 telecommunication device implanted in the anklet or bracelet; and

18 D. Has a loud alarm that can be activated to warn the victim of the offender's
19 presence in an exclusion zone or forbidden area under subsection 4.

20 **6. Electronic Monitoring Fund.** The Electronic Monitoring Fund is established as
21 an interest-bearing account to pay for reasonable expenses of the commissioner in the
22 administration of this section. All fees collected pursuant to this chapter as well as
23 income from any other source directed to the fund must be deposited into the fund. All
24 interest earned by the fund becomes part of the fund. Any balance remaining in the fund
25 at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal
26 years. After covering reasonable expenses for the administration of this section, the
27 commissioner may use proceeds of the fund for the purchase of equipment or for the
28 training or payment of personnel of any law enforcement agency, county jail, department
29 facility or judicial agency or any other person to carry out the purposes of this section.

30 **7. Rules.** The commissioner may adopt rules to carry out the purposes of this
31 section. Rules adopted pursuant to this subsection are routine technical rules as defined
32 in Title 5, chapter 375, subchapter 2-A.

33 **SUMMARY**

34 This bill:

35 1. Requires a person charged with a domestic violence crime or violation of a
36 protective order to undergo a dangerousness assessment;

37 2. Allows a court to order as a condition of bail that a person charged with a domestic
38 violence crime or a violation of a protective order wear an electronic monitoring device;

1 3. Requires a court to order as a condition of probation that a person convicted of a
2 violation of a protective order wear an electronic monitoring device;

3 4. Sets a minimum fine of \$200 for any person convicted of a domestic violence
4 crime or violation of a protective order to be paid to the Electronic Monitoring Fund;

5 5. Establishes the Electronic Monitoring Program under the Department of
6 Corrections that requires a participant to wear a global positioning anklet or bracelet that
7 alerts the program and the victim if the participant is violating restricted area boundaries;
8 and

9 6. Establishes the Electronic Monitoring Fund, which uses the proceeds of fines from
10 domestic violence and protective order offenders to help pay the expenses of the
11 Electronic Monitoring Program.