

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 495

H.P. 388

House of Representatives, February 10, 2011

**An Act To Allow a Person Charged with or Convicted of Violating a
Protection from Abuse Order To Be Supervised by an Electronic
Tracking System**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative ROSEN of Bucksport.
Cosponsored by Senator ROSEN of Hancock and
Representatives: CUSHING of Hampden, HASKELL of Portland, HAYES of Buckfield,
HOGAN of Old Orchard Beach, MAKER of Calais, STRANG BURGESS of Cumberland,
VALENTINO of Saco, Senator: MASON of Androscoggin.

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

2 **Sec. 1. 15 MRSA §1026, sub-§3, ¶A**, as repealed and replaced by PL 2007, c.
3 518, §3, is amended to read:

4 A. If, after consideration of the factors listed in subsection 4, the judicial officer
5 determines that the release described in subsection 2-A will not reasonably ensure the
6 appearance of the defendant at the time and place required, will not reasonably ensure
7 that the defendant will refrain from any new criminal conduct, will not reasonably
8 ensure the integrity of the judicial process or will not reasonably ensure the safety of
9 others in the community, the judicial officer shall order the pretrial release of the
10 defendant subject to the least restrictive further condition or combination of
11 conditions that the judicial officer determines will reasonably ensure the appearance
12 of the defendant at the time and place required, will reasonably ensure that the
13 defendant will refrain from any new criminal conduct, will reasonably ensure the
14 integrity of the judicial process and will reasonably ensure the safety of others in the
15 community. These conditions may include that the defendant:

16 (1) Remain in the custody of a designated person or organization agreeing to
17 supervise the defendant, including a public official, public agency or publicly
18 funded organization, if the designated person or organization is able to
19 reasonably ensure the appearance of the defendant at the time and place required,
20 that the defendant will refrain from any new criminal conduct, the integrity of the
21 judicial process and the safety of others in the community. When it is feasible to
22 do so, the judicial officer shall impose the responsibility upon the defendant to
23 produce the designated person or organization. The judicial officer may
24 interview the designated person or organization to ensure satisfaction of both the
25 willingness and ability required. The designated person or organization shall
26 agree to notify immediately the judicial officer of any violation of release by the
27 defendant;

28 (2) Maintain employment or, if unemployed, actively seek employment;

29 (3) Maintain or commence an educational program;

30 (4) Abide by specified restrictions on personal associations, place of abode or
31 travel;

32 (5) Avoid all contact with a victim of the alleged crime, a potential witness
33 regarding the alleged crime or with any other family or household members of
34 the victim or the defendant or to contact those individuals only at certain times or
35 under certain conditions;

36 (5-A) If the defendant has been charged with violating Title 19-A, section 4011,
37 subsection 1, submit to supervision by an electronic tracking device and
38 monitoring system that does the following:

39 (i) Immediately notifies law enforcement officers or other monitors of any
40 breach by the defendant of a court-ordered restriction to remain within
41 certain physical boundaries;

42 (ii) Notifies the victim as soon as practicable of any breach;

- 1 (iii) Allows law enforcement officers or other monitors to speak to the
2 defendant through a cellular phone built into the electronic tracking device;
3 and
- 4 (iv) Has a loud alarm that can be activated to warn the victim of the
5 defendant's presence in an area from which the defendant is forbidden.
- 6 (6) Report on a regular basis to a designated law enforcement agency or other
7 governmental agency;
- 8 (7) Comply with a specified curfew;
- 9 (8) Refrain from possessing a firearm or other dangerous weapon;
- 10 (9) Refrain from use or excessive use of alcohol and from any use of drugs;
- 11 (10) Undergo, as an outpatient, available medical or psychiatric treatment, or
12 enter and remain, as a voluntary patient, in a specified institution when required
13 for that purpose;
- 14 (10-A) Enter and remain in a long-term residential facility for the treatment of
15 substance abuse;
- 16 (11) Execute an agreement to forfeit, in the event of noncompliance, such
17 designated property, including money, as is reasonably necessary to ensure the
18 appearance of the defendant at the time and place required, to ensure that the
19 defendant will refrain from any new criminal conduct, to ensure the integrity of
20 the judicial process and to ensure the safety of others in the community and post
21 with an appropriate court such evidence of ownership of the property or such
22 percentage of the money as the judicial officer specifies;
- 23 (12) Execute a bail bond with sureties in such amount as is reasonably necessary
24 to ensure the appearance of the defendant at the time and place required, to
25 ensure that the defendant will refrain from any new criminal conduct, to ensure
26 the integrity of the judicial process and to ensure the safety of others in the
27 community;
- 28 (13) Return to custody for specified hours following release for employment,
29 schooling or other limited purposes;
- 30 (14) Report on a regular basis to the defendant's attorney;
- 31 (15) Notify the court of any changes of address or employment;
- 32 (16) Provide to the court the name, address and telephone number of a
33 designated person or organization that will know the defendant's whereabouts at
34 all times;
- 35 (17) Inform any law enforcement officer of the defendant's condition of release
36 if the defendant is subsequently arrested or summonsed for new criminal
37 conduct; and
- 38 (18) Satisfy any other condition that is reasonably necessary to ensure the
39 appearance of the defendant at the time and place required, to ensure that the

1 defendant will refrain from any new criminal conduct, to ensure the integrity of
2 the judicial process and to ensure the safety of others in the community.

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

4 **2-B.** As a condition of probation, a court in its sentence may require a person
5 convicted of violating Title 19-A, section 4011, subsection 1 to be supervised by an
6 electronic tracking device and monitoring system that:

7 A. Immediately notifies law enforcement officers or other monitors of any breach by
8 the convicted person of a court-ordered restriction to remain within certain physical
9 boundaries;

10 B. Notifies the victim as soon as practicable of any breach under paragraph A;

11 C. Allows law enforcement officers and other monitors to speak to the convicted
12 person through a cellular phone built into the electronic tracking device; and

13 D. Has a loud alarm that can be activated to warn the victim of the convicted
14 person's presence in an area from which the convicted person is forbidden.

15 SUMMARY

16 This bill establishes as a condition of bail for a person charged with violating a
17 protection from abuse order under the Maine Revised Statutes, Title 19-A, section 4011,
18 subsection 1 that the person submit to supervision by an electronic tracking device with
19 specific features. This bill authorizes a court to impose as part of the sentencing
20 alternative for a person convicted of violating a protection from abuse order that the
21 person, while on probation, submit to supervision by an electronic tracking device with
22 the same special features. Those features consist of the following:

23 1. The electronic tracking device must immediately notify law enforcement officers
24 or other monitors of any breach by the offender of a court-ordered restriction to remain
25 within certain physical boundaries;

26 2. The electronic tracking device must notify the victim as soon as practicable of any
27 breach;

28 3. The electronic tracking device must allow law enforcement officers and other
29 monitors to speak to the offender through a cellular phone built into the electronic
30 tracking device; and

31 4. The electronic tracking device must have a loud alarm that can be activated to
32 warn the victim of the offender's presence in an area from which the offender is
33 forbidden.