

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 842

H.P. 593

House of Representatives, March 5, 2013

An Act To Facilitate the Use of Electronic Monitoring To Prevent 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 FREDETTE of Newport.
Cosponsored by Senator CAIN of Penobscot and
Representatives: CHASE of Wells, CLARK of Easton, KNIGHT of Livermore Falls, REED of Carmel, WEAVER of York, WILLETTE of Mapleton, Senator: LANGLEY of Hancock.

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

2 **Sec. 1. 4 MRSA §1060** is enacted to read:

3 **§1060. Electronic Monitoring Fund**

4 The Electronic Monitoring Fund is established in the judicial branch as an Other
5 Special Revenue Funds program to provide funding for the use of electronic monitoring
6 pursuant to Title 19-A, section 4007, subsection 1, paragraph D-1 and pursuant to Title
7 25, section 2917.

8 **1. Judicial powers.** The judicial branch may receive and use money donated for the
9 purpose of this section.

10 **2. Electronic Monitoring Fund.** All funds received for the purpose of this section
11 must be credited to the Electronic Monitoring Fund.

12 **Sec. 2. 19-A MRSA §4002, sub-§3-B** is enacted to read:

13 **3-B. Electronic monitoring.** "Electronic monitoring" means enrollment by a
14 defendant in a program established by the Department of Public Safety pursuant to Title
15 25, section 2917.

16 **Sec. 3. 19-A MRSA §4005, sub-§3,** as enacted by PL 1995, c. 694, Pt. B, §2 and
17 affected by Pt. E, §2, is amended to read:

18 **3. Forms.** The forms provided by the court must be uniform throughout the State
19 and must include language on the complaint form that allows the plaintiff to request
20 electronic monitoring as a form of relief. The forms must also include a summons and an
21 affidavit for temporary emergency relief from abuse. The summons must include a
22 section in which to list places where the defendant may be located or available to be
23 served. The clerk shall inquire where the defendant may be located or available to be
24 served and list those locations on the summons or direct the plaintiff to do so.

25 **Sec. 4. 19-A MRSA §4006, sub-§1,** as enacted by PL 1995, c. 694, Pt. B, §2 and
26 affected by Pt. E, §2, is amended to read:

27 **1. Full hearing.** Within 21 days of the filing of a complaint, a full hearing must be
28 held at which the plaintiff must prove the allegation of abuse by a preponderance of the
29 evidence. If a request for temporary, emergency or interim relief is denied, the hearing
30 must be held as soon as practicable within the 21-day period.

31 If the plaintiff requests electronic monitoring as a form of relief on the complaint, the
32 plaintiff may introduce evidence at the full hearing indicating that electronic monitoring
33 is an appropriate form of relief. Electronic monitoring may not be a condition of
34 temporary, emergency or interim relief and may only be granted after a full hearing.

35 **Sec. 5. 19-A MRSA §4007, sub-§1, ¶D-1** is enacted to read:

1 D-1. Directing the defendant to take part in an electronic monitoring program
2 established by the Department of Public Safety pursuant to Title 25, section 2917.
3 The court may order electronic monitoring only after giving consideration to whether:

4 (1) Physical, sexual or emotional abuse by the defendant has recently increased
5 in severity or frequency;

6 (2) The defendant has ever threatened suicide or has tried to commit suicide;

7 (3) The defendant has ever tried to kill, or has threatened to kill, the plaintiff or
8 any member of the plaintiff's household;

9 (4) The defendant has ever tried to use, or has threatened to use, a weapon
10 against the plaintiff or any member of the plaintiff's household;

11 (5) The defendant has previously attempted to avoid arrest;

12 (6) The defendant uses illegal drugs or abuses alcohol;

13 (7) The defendant has displayed controlling behavior toward the plaintiff;

14 (8) The defendant has stalked or spied on the plaintiff or any member of the
15 plaintiff's household;

16 (9) The defendant has harmed or has threatened to harm children; and

17 (10) The defendant is engaged in regular employment or other meaningful
18 activities, such as education;

19 **Sec. 6. 25 MRSA §2917** is enacted to read:

20 **§2917. Electronic monitoring program**

21 The Department of Public Safety shall establish and maintain an electronic
22 monitoring program to monitor a defendant ordered by a court to participate in the
23 program pursuant to Title 19-A, section 4007, subsection 1, paragraph D-1. The program
24 must include, but is not limited to, requirements that:

25 **1. Device worn by defendant.** A defendant must wear at all times an electronic
26 device that is capable of monitoring the defendant's location and immediately alerting the
27 plaintiff and the appropriate law enforcement agency when the defendant is within a
28 certain distance of the protected person or prohibited premises;

29 **2. Notification to court.** An electronic device worn pursuant to subsection 1 must
30 provide the court issuing the order under Title 15, chapter 12-A notification of an alert
31 within 24 hours; and

32 **3. Cost paid by defendant.** The defendant may pay for the cost of the electronic
33 monitoring device and the cost of the service required to monitor the defendant, except in
34 the case of indigency.

35 The Department of Public Safety shall establish and maintain the electronic
36 monitoring program within its existing resources except that it may receive funding from
37 the Electronic Monitoring Fund established pursuant to Title 4, section 1060.

1 **Sec. 7. 34-A MRSA §1218**, as enacted by PL 2011, c. 655, Pt. EEE, §1, is
2 repealed.

3 **Sec. 8. PL 2011, c. 655, Pt. EEE, §2** is repealed.

4 **Sec. 9. Selection of electronic monitoring vendor.** By January 1, 2015, the
5 Department of Public Safety shall develop and issue a request for proposals that will lead
6 to the selection of a vendor that can provide an electronic monitoring system that satisfies
7 the requirements of this Act. This section takes effect 90 days after the adjournment of
8 the First Regular Session of the 126th Legislature.

9 **Sec. 10. Electronic monitoring pilot program.** By July 1, 2015, the
10 Department of Public Safety shall begin operation of a pilot electronic monitoring
11 program pursuant to this Act within 4 of the State's 16 counties. By January 1, 2016, this
12 program must be expanded to statewide coverage. This section takes effect 90 days after
13 the adjournment of the First Regular Session of the 126th Legislature.

14 **Sec. 11. Effective date.** Except as otherwise provided, this Act takes effect
15 January 1, 2016.

16 **SUMMARY**

17 This bill provides a new form of relief to Maine's existing protection from abuse laws
18 by allowing those seeking a protection from abuse order to request that the defendant be
19 subject to electronic monitoring. Electronic monitoring may be ordered only after a full
20 protection from abuse hearing and only after consideration of various domestic violence
21 risk factors. It directs the Department of Public Safety to establish an electronic
22 monitoring program and authorizes the department to seek funding from the Electronic
23 Monitoring Fund to support the program. This bill repeals the electronic monitoring fund
24 within the Department of Corrections and places it in the judicial branch. These
25 provisions take effect January 1, 2016.

26 Beginning July 1, 2015, the electronic monitoring program would operate as a pilot
27 program in 4 of Maine's counties, expanding to statewide coverage by January 1, 2016.