

By: Herrero

H.B. No. 1506

A BILL TO BE ENTITLED

AN ACT

relating to conditions of release on bond for certain defendants charged with an offense involving family violence.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.49 to read as follows:

Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE. (a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1) refrain from going to or near a residence, school,

1 place of employment, or other location, as specifically described
2 in the bond, frequented by an alleged victim of the offense;

3 (2) carry or wear a global positioning monitoring
4 system device and, except as provided by Subsection (h), pay the
5 costs associated with operating that system in relation to the
6 defendant; or

7 (3) if the alleged victim of the offense consents
8 after receiving the information described by Subsection (d) and,
9 except as provided by Subsection (h), pay the costs associated with
10 providing the victim with an electronic receptor device that:

11 (A) is capable of receiving the global
12 positioning monitoring system information from the device carried
13 or worn by the defendant; and

14 (B) notifies the victim if the defendant is at or
15 near a location that the defendant has been ordered to refrain from
16 going to or near under Subdivision (1).

17 (c) Before imposing a condition described by Subsection
18 (b)(1), a magistrate must afford an alleged victim an opportunity
19 to provide the magistrate with a list of areas from which the victim
20 would like the defendant excluded and shall consider the victim's
21 request, if any, in determining the locations the defendant will be
22 ordered to refrain from going to or near. If the magistrate imposes
23 a condition described by Subsection (b)(1), the magistrate shall
24 specifically describe the locations that the defendant has been
25 ordered to refrain from going to or near and the minimum distances,
26 if any, that the defendant must maintain from those locations.

27 (d) Before imposing a condition described by Subsection

1 (b)(3), a magistrate must provide to an alleged victim information
2 regarding:

3 (1) the victim's right to participate in a global
4 positioning monitoring system or to refuse to participate in that
5 system and the procedure for requesting that the magistrate
6 terminate the victim's participation;

7 (2) the manner in which the global positioning
8 monitoring system technology functions and the risks and
9 limitations of that technology, and the extent to which the system
10 will track and record the victim's location and movements;

11 (3) any locations that the defendant is ordered to
12 refrain from going to or near and the minimum distances, if any,
13 that the defendant must maintain from those locations;

14 (4) any sanctions that the court may impose on the
15 defendant for violating a condition of bond imposed under this
16 article;

17 (5) the procedure that the victim is to follow, and
18 support services available to assist the victim, if the defendant
19 violates a condition of bond or if the global positioning
20 monitoring system equipment fails;

21 (6) community services available to assist the victim
22 in obtaining shelter, counseling, education, child care, legal
23 representation, and other assistance available to address the
24 consequences of family violence; and

25 (7) the fact that the victim's communications with the
26 court concerning the global positioning monitoring system and any
27 restrictions to be imposed on the defendant's movements are not

1 confidential.

2 (e) In addition to the information described by Subsection
3 (d), a magistrate shall provide to an alleged victim who
4 participates in a global positioning monitoring system under this
5 article the name and telephone number of an appropriate person
6 employed by a local law enforcement agency who the victim may call
7 to request immediate assistance if the defendant violates a
8 condition of bond imposed under this article.

9 (f) In determining whether to order a defendant's
10 participation in a global positioning monitoring system under this
11 article, the magistrate shall consider the likelihood that the
12 defendant's participation will deter the defendant from seeking to
13 kill, physically injure, stalk, or otherwise threaten the alleged
14 victim before trial.

15 (g) An alleged victim may request that the magistrate
16 terminate the victim's participation in a global positioning
17 monitoring system at any time. The magistrate may not impose
18 sanctions on the victim for requesting termination of the victim's
19 participation in or refusing to participate in a global positioning
20 monitoring system under this article.

21 (h) A magistrate may allow a defendant to perform community
22 service in lieu of paying the costs required by Subsection (b)(2) or
23 (3) if the magistrate determines that the defendant is indigent.

24 (i) A magistrate that imposes a condition described by
25 Subsection (b)(1) or (2) shall order the entity that operates the
26 global positioning monitoring system to notify the court and the
27 appropriate local law enforcement agency if a defendant violates a

1 condition of bond imposed under this article.

2 (j) This article does not limit the authority of a
3 magistrate to impose any other reasonable conditions of bond or
4 enter any orders of protection under other applicable statutes.

5 SECTION 2. Article 17.49, Code of Criminal Procedure, as
6 added by this Act, applies only to a defendant released on bond in
7 connection with an offense committed on or after the effective date
8 of this Act. A defendant released on bond in connection with an
9 offense committed before the effective date of this Act is covered
10 by the law in effect when the offense was committed, and the former
11 law is continued in effect for that purpose. For purposes of this
12 section, an offense was committed before the effective date of this
13 Act if any element of the offense occurred before that date.

14 SECTION 3. This Act takes effect September 1, 2009.