

1-1 By: Herrero, et al. (Senate Sponsor - Hinojosa) H.B. No. 1506
1-2 (In the Senate - Received from the House April 29, 2009;
1-3 May 1, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 21, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 21, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1506 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the imposition of conditions on certain defendants
1-11 charged with an offense involving family violence.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Article 17.292, Code of Criminal Procedure, is
1-14 amended by adding Subsection (c-1) to read as follows:

1-15 (c-1) In addition to the conditions described by Subsection
1-16 (c), the magistrate in the order for emergency protection may
1-17 impose a condition described by Article 17.49(b) in the manner
1-18 provided by that article, including ordering a defendant's
1-19 participation in a global positioning monitoring system or allowing
1-20 participation in the system by an alleged victim or other person
1-21 protected under the order.

1-22 SECTION 2. Chapter 17, Code of Criminal Procedure, is
1-23 amended by adding Article 17.49 to read as follows:

1-24 Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE
1-25 INVOLVING FAMILY VIOLENCE. (a) In this article:

1-26 (1) "Family violence" has the meaning assigned by
1-27 Section 71.004, Family Code.

1-28 (2) "Global positioning monitoring system" means a
1-29 system that electronically determines and reports the location of
1-30 an individual through the use of a transmitter or similar device
1-31 carried or worn by the individual that transmits latitude and
1-32 longitude data to a monitoring entity through global positioning
1-33 satellite technology. The term does not include a system that
1-34 contains or operates global positioning system technology, radio
1-35 frequency identification technology, or any other similar
1-36 technology that is implanted in or otherwise invades or violates
1-37 the individual's body.

1-38 (b) A magistrate may require as a condition of release on
1-39 bond that a defendant charged with an offense involving family
1-40 violence:

1-41 (1) refrain from going to or near a residence, school,
1-42 place of employment, or other location, as specifically described
1-43 in the bond, frequented by an alleged victim of the offense;

1-44 (2) carry or wear a global positioning monitoring
1-45 system device and, except as provided by Subsection (h), pay the
1-46 costs associated with operating that system in relation to the
1-47 defendant; or

1-48 (3) except as provided by Subsection (h), if the
1-49 alleged victim of the offense consents after receiving the
1-50 information described by Subsection (d), pay the costs associated
1-51 with providing the victim with an electronic receptor device that:

1-52 (A) is capable of receiving the global
1-53 positioning monitoring system information from the device carried
1-54 or worn by the defendant; and

1-55 (B) notifies the victim if the defendant is at or
1-56 near a location that the defendant has been ordered to refrain from
1-57 going to or near under Subdivision (1).

1-58 (c) Before imposing a condition described by Subsection
1-59 (b)(1), a magistrate must afford an alleged victim an opportunity
1-60 to provide the magistrate with a list of areas from which the victim
1-61 would like the defendant excluded and shall consider the victim's
1-62 request, if any, in determining the locations the defendant will be
1-63 ordered to refrain from going to or near. If the magistrate imposes

2-1 a condition described by Subsection (b)(1), the magistrate shall
2-2 specifically describe the locations that the defendant has been
2-3 ordered to refrain from going to or near and the minimum distances,
2-4 if any, that the defendant must maintain from those locations.

2-5 (d) Before imposing a condition described by Subsection
2-6 (b)(3), a magistrate must provide to an alleged victim information
2-7 regarding:

2-8 (1) the victim's right to participate in a global
2-9 positioning monitoring system or to refuse to participate in that
2-10 system and the procedure for requesting that the magistrate
2-11 terminate the victim's participation;

2-12 (2) the manner in which the global positioning
2-13 monitoring system technology functions and the risks and
2-14 limitations of that technology, and the extent to which the system
2-15 will track and record the victim's location and movements;

2-16 (3) any locations that the defendant is ordered to
2-17 refrain from going to or near and the minimum distances, if any,
2-18 that the defendant must maintain from those locations;

2-19 (4) any sanctions that the court may impose on the
2-20 defendant for violating a condition of bond imposed under this
2-21 article;

2-22 (5) the procedure that the victim is to follow, and
2-23 support services available to assist the victim, if the defendant
2-24 violates a condition of bond or if the global positioning
2-25 monitoring system equipment fails;

2-26 (6) community services available to assist the victim
2-27 in obtaining shelter, counseling, education, child care, legal
2-28 representation, and other assistance available to address the
2-29 consequences of family violence; and

2-30 (7) the fact that the victim's communications with the
2-31 court concerning the global positioning monitoring system and any
2-32 restrictions to be imposed on the defendant's movements are not
2-33 confidential.

2-34 (e) In addition to the information described by Subsection
2-35 (d), a magistrate shall provide to an alleged victim who
2-36 participates in a global positioning monitoring system under this
2-37 article the name and telephone number of an appropriate person
2-38 employed by a local law enforcement agency whom the victim may call
2-39 to request immediate assistance if the defendant violates a
2-40 condition of bond imposed under this article.

2-41 (f) In determining whether to order a defendant's
2-42 participation in a global positioning monitoring system under this
2-43 article, the magistrate shall consider the likelihood that the
2-44 defendant's participation will deter the defendant from seeking to
2-45 kill, physically injure, stalk, or otherwise threaten the alleged
2-46 victim before trial.

2-47 (g) An alleged victim may request that the magistrate
2-48 terminate the victim's participation in a global positioning
2-49 monitoring system at any time. The magistrate may not impose
2-50 sanctions on the victim for requesting termination of the victim's
2-51 participation in or refusing to participate in a global positioning
2-52 monitoring system under this article.

2-53 (h) A magistrate may allow a defendant to perform community
2-54 service in lieu of paying the costs required by Subsection (b)(2) or
2-55 (3) if the magistrate determines that the defendant is indigent.

2-56 (i) A magistrate that imposes a condition described by
2-57 Subsection (b)(1) or (2) shall order the entity that operates the
2-58 global positioning monitoring system to notify the court and the
2-59 appropriate local law enforcement agency if a defendant violates a
2-60 condition of bond imposed under this article.

2-61 (j) A magistrate that imposes a condition described by
2-62 Subsection (b)(2) shall require the defendant to execute a bail
2-63 bond in the form of a surety bond and, notwithstanding any other
2-64 provision of this chapter, may not allow or require the defendant to
2-65 execute or be released under any other type of bond.

2-66 (k) At a hearing to determine whether a defendant violated a
2-67 condition of bond imposed under Subsection (b), if the magistrate
2-68 finds by a preponderance of the evidence that the violation
2-69 occurred, the magistrate shall revoke the defendant's bond and

3-1 order that the defendant be immediately returned to custody. Once
3-2 the defendant is placed in custody, the revocation of the
3-3 defendant's bond discharges the sureties on the bond from any
3-4 future liability on the bond. A discharge under this subsection
3-5 from any future liability on the bond does not discharge any surety
3-6 from liability for previous forfeitures on the bond.

3-7 (1) This article does not limit the authority of a
3-8 magistrate to impose any other reasonable conditions of bond or
3-9 enter any orders of protection under other applicable statutes.

3-10 SECTION 3. Articles 17.292(c-1) and 17.49, Code of Criminal
3-11 Procedure, as added by this Act, apply only to a defendant released
3-12 on bond, or to an order for emergency protection issued, in
3-13 connection with an offense committed on or after the effective date
3-14 of this Act. A defendant released on bond, or an order for
3-15 emergency protection issued, in connection with an offense
3-16 committed before the effective date of this Act is governed by the
3-17 law in effect when the offense was committed, and the former law is
3-18 continued in effect for that purpose. For purposes of this section,
3-19 an offense was committed before the effective date of this Act if
3-20 any element of the offense occurred before that date.

3-21 SECTION 4. This Act takes effect September 1, 2009.

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