

ELECTRONIC MONITORING DEVICES

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<http://www.house.mi.gov/hfa>

House Bill 4525 as introduced
Sponsor: Rep. Sarah Lightner
House Committee: Judiciary
Complete to 9-3-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4525 would amend section 6b of Chapter V of the Code of Criminal Procedure to generally require judges and magistrates to order all defendants charged with aggravated domestic violence to wear an electronic monitoring device as a condition of release on bail.

Currently under section 6b, certain defendants may be released from custody on bail, typically subject to protective conditions determined by a judge or district court magistrate to be reasonably necessary for the protection of one or more other individuals. In cases involving a bailed defendant who is charged with a crime involving *domestic violence* or any other *assaultive crime*, the code currently authorizes, but does not require, the judge or magistrate to order the defendant to wear an *electronic monitoring device* as a condition of release.¹

Domestic violence means that term as defined in section 1 of 1978 PA 389.²

Assaultive crime means that term as defined in section 9a of Chapter X of the code.³

Electronic monitoring device includes any electronic device or instrument that is used to track the location of an individual or to monitor an individual's blood alcohol content, but does not include any technology that is implanted or violates the corporeal body of the individual.

The bill would require judges and magistrates to order *all* defendants charged with *aggravated domestic violence* to wear an electronic monitoring device. The bill also would provide for an exception to this generally applicable rule by allowing a judge or magistrate to instead make a written finding on both of the following:

- An electronic monitoring device is unnecessary to prevent the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the victim before trial.
- Other restrictions on the defendant are sufficient for the victim's safety.

Aggravated domestic violence would mean either of the following offenses in which the victim is the defendant's spouse or former spouse, an individual with whom the defendant has or has had a dating relationship, an individual with whom the defendant has had a child in common, or a resident or former resident of the same household:

- Assault without a weapon that inflicts serious or aggravated injury without intending to commit murder or to inflict great bodily harm less than murder.⁴

¹ Electronic monitoring devices are often colloquially referred to as "tethers" or "ankle monitors."

² <https://legislature.mi.gov/Laws/MCL?objectName=MCL-400-1501>

³ <https://legislature.mi.gov/Laws/MCL?objectName=MCL-770-9A>

⁴ Section 81a(2) or (3) of the Michigan Penal Code (<https://legislature.mi.gov/Laws/MCL?objectName=MCL-750-81A>).

- Assault with intent to do great bodily harm less than murder or assault by strangulation or suffocation.⁵

The bill would continue to allow judges and magistrates to exercise discretion when deciding whether to subject a defendant to electronic monitoring in cases involving non-aggravated domestic violence or a different assaultive crime, as long as the court considers the likelihood that the defendant's participation in electronic monitoring will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the victim before trial.

Finally, the bill would newly require the entity monitoring the defendant via an electronic monitoring device to notify the court of any violations of a geographic area the defendant is prohibited (by court order) from accessing, in addition to the existing requirement to notify the "proper authorities" (i.e., local law enforcement). Upon receiving notice of a violation of these geographic restrictions, the court would be required to issue a warrant for the defendant's arrest.⁶

The bill would take effect 90 days after being enacted.

MCL 765.6b

FISCAL IMPACT:

A fiscal analysis is in progress.

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Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

⁵ <https://legislature.mi.gov/Laws/MCL?objectName=MCL-750-84>

⁶ It is unclear whether the proposed provision requiring an arrest warrant for a violation of a prohibited area would supersede the existing language of subsection 6b(1), which generally requires a judge or magistrate setting protective conditions to inform a defendant that "if the defendant violates a condition of release, he or she will be subject to arrest *without* a warrant." In other words, as the bill is currently written, a judge or magistrate may be unsure about whether they are *required* to issue an arrest warrant for a defendant's violation of a prohibited area, insofar as these geographic restrictions are a subset of the more general protective conditions imposed under subsection 6b(1).