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SENATE BILL 44

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO ORDERS OF PROTECTION; CREATING A PILOT PROJECT IN
THE SECOND JUDICIAL DISTRICT TO ASSESS THE EFFECTIVENESS OF
USING EXCLUSION ZONES MONITORED BY A GLOBAL POSITIONING
SATELLITE TRACKING SYSTEM UPON VIOLATION OF AN ORDER OF
PROTECTION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Family Violence
Protection Act is enacted to read:

"[NEW MATERIAL] ELECTRONICALLY MONITORED EXCLUSION ZONES
PILOT PROJECT.--

A. The second judicial district shall undertake a
pilot project to assess the effectiveness of using a global
positioning tracking system to monitor exclusion zones
established upon violation of an order of protection. The

underscored material = new
~~[bracketed material] = delete~~

1 exclusions zones shall be established and monitored pursuant to
2 Subsections B through G of this section.

3 B. When a restrained party has been found to have
4 violated an order of protection, the court may, in addition to
5 other remedies, establish geographic exclusion zones into which
6 the restrained party shall not enter for, at a minimum, the
7 duration of the order of protection. The scope and area
8 encompassed by the exclusion zone shall be determined by the
9 court and may include:

- 10 (1) the protected party's residence;
- 11 (2) the protected party's place of employment;
- 12 (3) the protected party's school, college or
13 other place for education or training;
- 14 (4) the protected party's child's or
15 children's school, college or other place for education or
16 training, taking into account the underlying order of
17 protection; and
- 18 (5) other areas that the court determines are
19 necessary for the safety of the protected party.

20 C. If a restrained party enters an exclusion zone,
21 the restrained party shall be considered to have violated the
22 order of protection, unless the court finds that the entry into
23 the exclusion zone was inadvertent or otherwise permissible.

24 D. An order establishing an exclusion zone issued
25 by the court involving custody or support shall be effective

1 for a fixed period of time not to exceed six months. The order
2 may be extended for good cause upon motion of the protected
3 party for an additional period of time not to exceed six
4 months.

5 E. To enforce the exclusion zones, the court may
6 order that the restrained party wear a global positioning
7 satellite tracking device designed to transmit and record the
8 restrained party's location data. If the restrained party
9 enters a court-defined exclusion zone, the restrained party's
10 location data shall be immediately transmitted to the protected
11 party, law enforcement and the corrections department.

12 F. The second judicial district court shall
13 operate, or contract with a third party to operate, a global
14 positioning satellite tracking system. The global positioning
15 satellite tracking system used pursuant to this section shall
16 use the best available global positioning satellite technology
17 with the capability to:

18 (1) immediately notify law enforcement or
19 other monitors of any breach of the court-ordered exclusion
20 zone boundaries;

21 (2) notify the protected party in near-real
22 time of any breach;

23 (3) allow monitors to speak to the restrained
24 party through a cell phone or similar technology implanted in
25 the global positioning system device; and

underscoring material = new
[bracketed material] = delete

1 (4) activate a loud alarm to warn the
2 protected party of the restrained party's presence in an
3 exclusion zone.

4 G. Notwithstanding the provisions of Sections
5 40-13-5 and 40-13-6 NMSA 1978, a judge of the second judicial
6 district may, in addition to other sanctions, order a person
7 who has violated an order of protection to monitoring by a
8 global positioning satellite tracking system pursuant to
9 Subsection A of this section.

10 H. The second judicial district may seek federal
11 funding or other funding to support the global positioning
12 tracking system monitoring of exclusion zones pilot project.

13 I. After the pilot project has been established for
14 two years, the legislative finance committee shall undertake an
15 evaluation of the effectiveness of the program."

16 **SECTION 2. APPROPRIATION.**--One hundred fifty thousand
17 dollars (\$150,000) is appropriated from the general fund to the
18 second judicial district for expenditure in fiscal years 2017
19 through 2019 to carry out the global positioning tracking
20 system monitoring of exclusion zones pilot project. Any
21 unexpended or unencumbered balance remaining at the end of
22 fiscal year 2019 shall revert to the general fund.

23 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
24 provisions of this act is July 1, 2016.