

Research Plan: House Bill 849, Senate Bill 1133, GPS Monitoring as a Condition of Bail for Stalking and Domestic Abuse Offenders

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Due: January 1, 2020 Support: Nathan Shaver

Deputy Executive Director Approval: Initial: *NMB* Date: *4-27-18*

Executive Director Approval: Initial: *[Signature]* Date: *4/27/18*

Purpose

To study the implementation of global positioning system (GPS) monitoring as a condition of bail for defendants accused of stalking, domestic abuse, sexual assault, or protection order violations in Tennessee.

Background

House Bill 849 by Representative Hardaway and its companion, Senate Bill 1133 by Senator Kyle, directs the Commission to study the implementation and effects of GPS monitoring as a condition of bail for defendants accused of stalking, aggravated stalking, especially aggravated stalking, domestic abuse, sexual assault, or a violation of an order of protection. The bill has been sent to the Governor for his action. According to Representative Hardaway, the House sponsor, the Memphis police department's GPS monitoring pilot program has been successful, and the existing technology effectively keeps victims safe from potentially threatening domestic and sexual abusers while they are awaiting trial. The Commission will report its findings and recommendations, including any proposed legislation, to the speakers of the Senate and House of Representatives, the chair of the Senate Judiciary Committee, and the chairs of the House of Representatives Criminal Justice and Civil Justice Committees on or before January 1, 2020.

In 2004, the Tennessee General Assembly passed Public Chapter 899, allowing GPS monitoring of sexual offenders. Since the passage of Public Chapter 406, Acts of 2011, judges in Tennessee have had discretion to order a defendant to wear a GPS monitoring

device as a condition of bail for stalking, domestic abuse, sexual assault, or protection order violations. The defendant is responsible for the cost of the GPS device and monitoring unless the judge determines the defendant indigent; in that case the judge may allow the defendant to perform community service in lieu of paying the costs. The city or county where the court is located is responsible for providing the GPS monitoring system.

Step 1. Define the Problem

How effective are GPS monitoring programs for stalking, domestic violence, sexual assault, and protection order violation offenses? Should Tennessee implement GPS monitoring programs across the state, and if so how should they be funded?

Step 2. Assemble Some Evidence

- Review referred legislation.
 - Review committee hearings on the bill and summarize comments and concerns of committee members, the bill sponsors, and others speaking for or against the bill.
 - Interview the bill sponsors, proponents, and other stakeholders to determine what is driving this issue, including, but not limited to:
 - Administrative office of the courts,
 - Tennessee bureau of investigation,
 - Tennessee sheriff's association,
 - Tennessee association of chiefs of police,
 - Office of criminal justice programs, and
 - The Tennessee Association of Professional Bail Agents.
 - Review the fiscal note. Consult with Fiscal Review Committee staff and follow up with agencies submitting support forms to determine the estimated cost and the method and rationale for the estimates.
- Review similar bills from previous general assemblies.
- Review current relevant statutes, case law, and attorney generals opinions.
- Review similar laws and regulations in other states.
- Review relevant federal statutes and regulations.

- Review potential Constitutional issues.
- Review relevant literature and seek opinions of subject matter experts.
- Gather and review relevant data from existing GPS monitoring programs in Tennessee including number of defendants monitored with GPS, number of indigent defendants, number of defendants who perform community service in lieu of paying fees, total fee collections, and the use of collected fees.
- Review the pilot program in Memphis and any other jurisdictions in Tennessee or other states that have similar GPS monitoring programs.

Step 3. Construct Alternatives

Alternatives will be based on

- current law,
- proposed changes in the current law, and
- any additional alternatives drawn from the research and analysis in Step 2.

Each alternative will be described specifically enough to project outcomes in Step 5.

Step 4. Select Criteria

- Ease of administration for
 - state government,
 - local governments,
 - courts, and
 - law enforcement.
- Cost, direct and indirect, to
 - offenders,
 - victims,
 - state government,
 - local governments,
 - courts, and
 - law enforcement.
- Receptiveness of

- victims,
- offenders,
- state government,
- local governments,
- courts,
- law enforcement, and
- general public.
- Effectiveness at solving problem:
 - Keeps victims safe.
 - Offender can stay out of jail.

Step 5. Project Outcomes

- Estimate cost.
- Estimate the effectiveness.
- Estimate the acceptability to the state and local governments, the general public, victims, and other affected stakeholders.

Step 6. Confront Trade-offs

- How will the differences between the current law and the other alternatives affect the offenders, victims, law enforcement, and state and local governments?
- What are the pros and cons of the potential solutions?

Step 7. Decide which alternatives to present to the Commission

Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem.

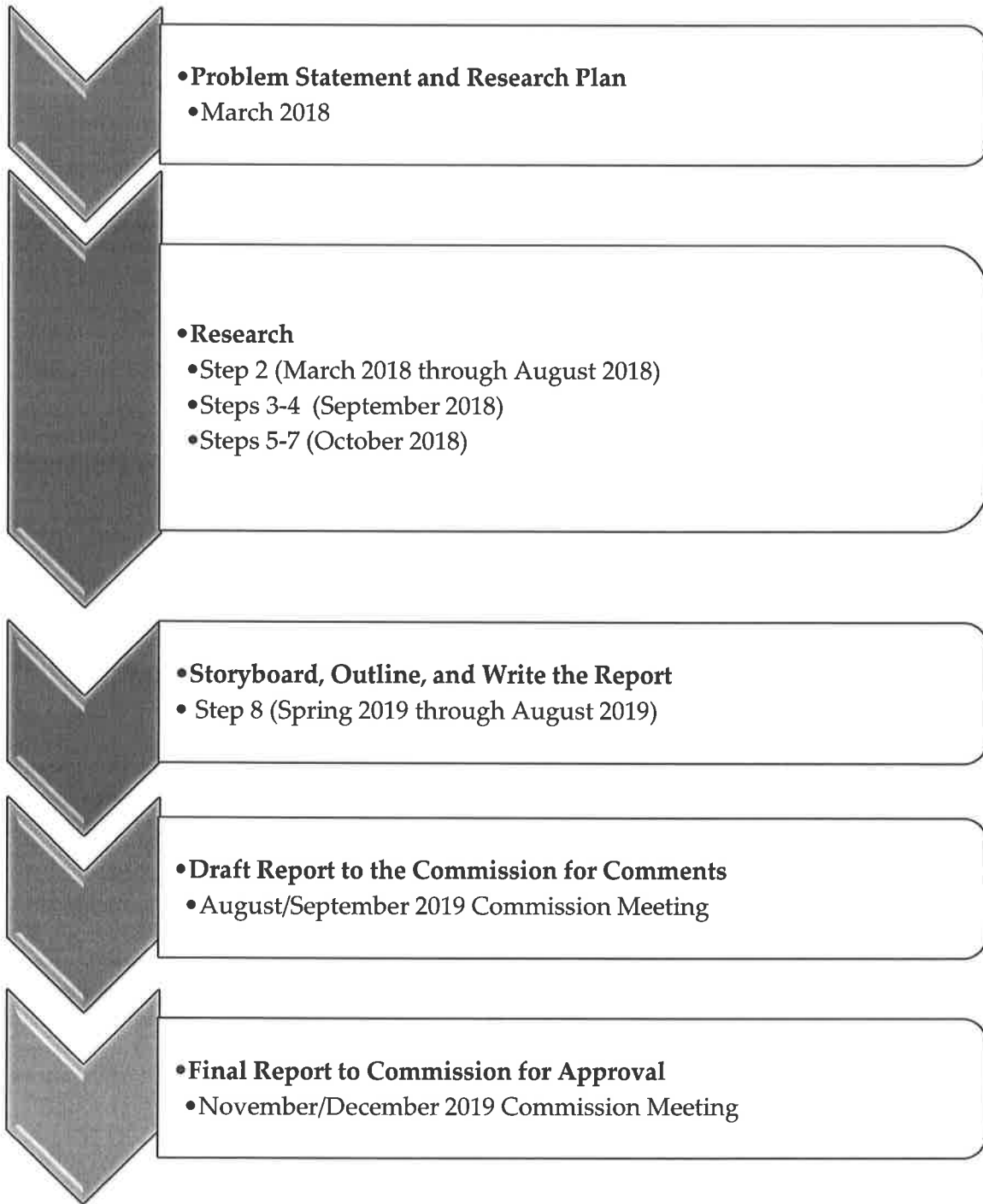
Step 8. Produce the Draft Report

Develop and present a draft for review and comment to the Commission.

Revisit Steps 5-8.

- Respond to feedback from Commission regarding outcome projections, trade-offs, and selection of alternatives.

- Revise and edit the draft to reflect comments of the Commission.
- Submit final report to the Commission for approval.



Amendment No. 1 to HB0849

Lamberth
Signature of Sponsor

AMEND Senate Bill No. 1133

House Bill No. 849*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1.

(a) The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to perform a study of the implementation and effects of global positioning monitoring as a condition of bail for defendants accused of stalking, aggravated stalking, or especially aggravated stalking, as defined in § 39-17-315; any criminal offense defined in title 39, chapter 13, in which the alleged victim of the offense is a victim as defined in § 36-3-601(5), § 36-3-601(10), or § 36-3-601(11); or a violation of an order of protection as authorized by title 36, chapter 3, part 6.

(b) All appropriate state departments and agencies shall provide assistance to TACIR in connection with the study required by subsection (a). TACIR shall seek input from interested groups including, but not limited to, the following:

- (1) Administrative office of the courts;
- (2) Tennessee bureau of investigation;
- (3) Tennessee sheriff's association;
- (4) Tennessee association of chiefs of police;
- (5) Office of criminal justice programs;
- (6) Memphis police department;
- (7) Shelby county sheriff's department;
- (8) The Exchange Club Family Center of the Mid-South;
- (9) Family Safety Center of Memphis and Shelby County;

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- (10) Memphis Area Women's Council;
- (11) Shelby county crime victims center; and
- (12) The Tennessee Association of Professional Bail Agents.

(c) TACIR shall report its findings and recommendations, including any proposed legislation, upon conclusion of its study.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.