

ASSEMBLY, No. 3647

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Establishes four-year pilot program in Ocean County for electronic monitoring of certain domestic violence offenders; designated as “Lisa’s Law”; appropriates \$2.5 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/16/2020)

1 AN ACT establishing a pilot program for domestic violence
2 offenders, designated “Lisa’s Law,” supplementing Title 2C of
3 the New Jersey Statutes, amending P.L.1971, c.198, and making
4 an appropriation.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. (New section) The Attorney General and the State Parole
10 Board shall establish a four-year pilot program in Ocean County for
11 electronic monitoring of defendants and notification of domestic
12 violence victims as ordered by the court.

13
14 2. (New section) a. Pursuant to the pilot program established
15 by P.L. , c. (C.) (pending before the Legislature as this
16 bill), electronic monitoring may be ordered only with the victim’s
17 informed consent as defined in section 5 of P.L. , c. (C.)
18 (pending before the Legislature as this bill). The pilot program
19 shall apply to defendants convicted of contempt of a domestic
20 violence order entered pursuant to the provisions of P.L.1981, c.426
21 (C.2C:25-1 et al.) or P.L.1991, c.261 (C.2C:25-17 et al.).

22 b. In making the determination whether to place the defendant
23 on electronic monitoring, the court may hold a hearing to consider
24 the likelihood that the defendant's participation in electronic
25 monitoring will deter the defendant from injuring the victim. The
26 court shall consider the following factors:

27 (1) the gravity and seriousness of harm that the defendant
28 inflicted on the victim in the commission of the act of domestic
29 violence;

30 (2) the defendant’s previous history of domestic violence, if
31 any;

32 (3) the defendant’s history of other criminal acts, if any;

33 (4) whether the defendant has access to a weapon;

34 (5) whether the defendant has threatened suicide or homicide;

35 (6) whether the defendant has a history of mental illness or has
36 been civilly committed; and

37 (7) whether the defendant has a history of alcohol abuse or
38 substance abuse.

39 c. Any electronic monitoring device and tracking system worn
40 or utilized by a defendant pursuant to P.L. , c. (C.)
41 (pending before the Legislature as this bill) shall be in compliance
42 with Offender Tracking Systems NIJ Standard 1004.00, issued by
43 the National Institute of Justice in July 2016, and any successor
44 standards adopted by the National Institute of Justice.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 d. A defendant ordered by the court to be placed on electronic
2 monitoring may be ordered to pay the costs and expenses related to
3 electronic monitoring and victim notification or a portion of the
4 costs and expenses, based on the defendant's ability to pay.

5 e. In addition to the provisions of subsection d. of this section,
6 a defendant ordered by the court to be placed on electronic
7 monitoring shall be assessed a monitoring fee of \$250. The court
8 may waive the fee in cases of extreme financial hardship. The fee
9 shall be collected as provided by the Rules of Court and forwarded
10 to the "Domestic Violence Victim Notification Fund" established
11 pursuant to section 7 of P.L. , c. (C.) (pending before the
12 Legislature as this bill).

13 f. The Attorney General, in consultation with the
14 Administrative Office of the Courts, shall develop procedures to
15 determine, investigate, and report on a 24-hour-per-day basis a
16 defendant's noncompliance with the terms and conditions of the
17 electronic monitoring program. All reports of noncompliance shall
18 be investigated by a law enforcement officer within a reasonable
19 period of time.

20 g. The Attorney General, the Administrative Office of the
21 Courts, the Superintendent of State Police, the State Parole Board,
22 and county and municipal law enforcement agencies shall share
23 information obtained pursuant to P.L. , c. (C.) (pending
24 before the Legislature as this bill).

25
26 3. (New section) Pursuant to the pilot program established by
27 P.L. , c. (C.) (pending before the Legislature as this bill),
28 whenever a defendant is convicted of contempt of a domestic
29 violence order entered pursuant to P.L.1981, c.426 (C.2C:25-1 et
30 al.) or P.L.1991, c.261 (C.2C:25-17 et al.) the court may, in
31 addition to or in lieu of any other disposition:

32 a. sentence the defendant to electronic monitoring with victim
33 notification; or

34 b. sentence the defendant to probation or a suspension of
35 sentence and, as a condition of such probation or suspension, order
36 electronic monitoring with victim notification.

37
38 4. (New section) Any person who tampers with, removes, or
39 vandalizes an electronic monitoring device worn or utilized by a
40 defendant pursuant to P.L. , c. (C.) (pending before the
41 Legislature as this bill) is guilty of a crime of the third degree.

42
43 5. (New section) As used in P.L. , c. (C.) (pending
44 before the Legislature as this bill), "informed consent" means that
45 the victim is given the following information before consenting to
46 participate in the electronic monitoring program established
47 by P.L. , c. (C.) (pending before the Legislature as this
48 bill):

- 1 a. The victim's right to refuse to participate in electronic
2 monitoring and the process for requesting the court to terminate the
3 victim's participation after it has been ordered;
- 4 b. The manner in which the electronic monitoring technology
5 functions and the risks and limitations of that technology, the
6 operational procedures of the device and the applicable instructions
7 regarding the device, and the extent to which the system will track
8 and record the victim's location and movements;
- 9 c. The boundaries imposed on the defendant during the
10 electronic monitoring;
- 11 d. The sanctions that the court may impose on the defendant for
12 violating an order issued by the court;
- 13 e. The procedure that the victim is to follow if the defendant
14 violates an order or if electronic monitoring equipment fails;
- 15 f. Identification of support services available to assist the
16 victim in developing a safety plan to use if the defendant violates an
17 order or if electronic monitoring equipment fails;
- 18 g. Identification of community services available to assist the
19 victim in obtaining shelter, counseling, education, child care, legal
20 representation, and other help in addressing the consequences and
21 effects of domestic violence; and
- 22 h. The non-confidential nature of the victim's communications
23 with the court concerning electronic monitoring and the restrictions
24 to be imposed upon the defendant's movements.
- 25
- 26 6. (New section) a. From the implementation of the pilot
27 program established by P.L. , c. (C.) (pending before the
28 Legislature as this bill) through the fifth year thereafter, and, in
29 addition to the provisions of section 1 of P.L.2001, c.195 (C.2C:25-
30 29.1) any person found by the court in a final hearing pursuant to
31 section 13 of P.L.1991, c.261 (C.2C:25-29) to have committed an
32 act of domestic violence shall be ordered by the court to pay a civil
33 penalty of \$200. In imposing this civil penalty, the court shall take
34 into consideration the nature and degree of injury suffered by the
35 victim. The court may waive the penalty in cases of extreme
36 financial hardship.
- 37 b. In addition to any other disposition, the court shall impose a
38 civil penalty of \$250 on any person:
- 39 (1) convicted of a crime or offense involving domestic violence,
40 as defined in subsection a. of section 3 of P.L.1991, c.261
41 (C.2C:25-19); or
- 42 (2) convicted of contempt of a domestic violence order entered
43 pursuant to P.L.1981, c.426 (C.2C:25-1 et al.) or P.L.1991, c.261
44 (C.2C:25-17 et al.),
- 45 unless the person was previously assessed the monitoring fee
46 imposed pursuant to subsection e. of section 2 of
47 P.L. , c. (C.) (pending before the Legislature as this bill),

1 in which case the court shall not impose the civil penalty pursuant
2 to this subsection.

3 c. The civil penalties imposed pursuant to this section shall
4 expire at the end of the fifth year following implementation of the
5 pilot program established pursuant to P.L. , c. (C.) (pending
6 before the Legislature as this bill).

7
8 7. (New section) a. There is hereby established the
9 “Domestic Violence Victim Notification Fund,” a dedicated, non-
10 lapsing fund within the General Fund and administered by the
11 Attorney General. The fund shall be the depository of the following
12 moneys:

13 (1) the costs and expenses imposed on the defendant for
14 electronic monitoring and victim notification pursuant to subsection
15 d. of section 2 of P.L. , c. (C.) (pending before the
16 Legislature as this bill);

17 (2) the \$250 monitoring fee assessed pursuant to subsection e.
18 of section 2 of P.L. , c. (C.) (pending before the Legislature
19 as this bill);

20 (3) the \$200 civil penalty set forth in subsection a. of section 6
21 of P.L. , c. (C.) (pending before the Legislature as this bill);

22 (4) the \$250 civil penalty set forth in subsection b. of section 6
23 of P.L. , c. (C.) (pending before the Legislature as this bill);
24 and

25 (5) any other monies that may be available to the fund through
26 appropriation by the Legislature or any public or private source.

27 b. All moneys deposited in the “Domestic Violence Victim
28 Notification Fund” shall be used to defray the costs of electronic
29 monitoring with victim notification pursuant to P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31
32 8. (New section) Notwithstanding any other provision of law
33 to the contrary, no supplier of a product, system, or service used for
34 electronic monitoring with victim notification in the pilot program
35 established by P.L. , c. (C.) (pending before the Legislature
36 as this bill) shall be liable, directly or indirectly, for damages
37 arising from any injury or death associated with the use of the
38 product, system or service unless, and only to the extent that, such
39 action is based on a claim that the injury or death was proximately
40 caused by a manufacturing defect in the product or system.

41
42 9. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to
43 read as follows:

44 5. Any contract the amount of which exceeds the bid threshold,
45 may be negotiated and awarded by the governing body without
46 public advertising for bids and bidding therefor and shall be
47 awarded by resolution of the governing body if:

48 (1) The subject matter thereof consists of:

- 1 (a) (i) Professional services. The governing body shall in each
2 instance state supporting reasons for its action in the resolution
3 awarding each contract and shall forthwith cause to be printed once,
4 in the official newspaper, a brief notice stating the nature, duration,
5 service and amount of the contract, and that the resolution and
6 contract are on file and available for public inspection in the office
7 of the clerk of the county or municipality, or, in the case of a
8 contracting unit created by more than one county or municipality, of
9 the counties or municipalities creating the contracting unit; or (ii)
10 Extraordinary unspecifiable services. The application of this
11 exception shall be construed narrowly in favor of open competitive
12 bidding, whenever possible, and the Division of Local Government
13 Services is authorized to adopt and promulgate rules and regulations
14 after consultation with the Commissioner of Education limiting the
15 use of this exception in accordance with the intention herein
16 expressed. The governing body shall in each instance state
17 supporting reasons for its action in the resolution awarding each
18 contract and shall forthwith cause to be printed, in the manner set
19 forth in subsection (1) (a) (i) of this section, a brief notice of the
20 award of the contract;
- 21 (b) The doing of any work by employees of the contracting unit;
- 22 (c) The printing of legal briefs, records, and appendices to be
23 used in any legal proceeding in which the contracting unit may be a
24 party;
- 25 (d) The furnishing of a tax map or maps for the contracting unit;
- 26 (e) The purchase of perishable foods as a subsistence supply;
- 27 (f) The supplying of any product or the rendering of any service
28 by a public utility, which is subject to the jurisdiction of the Board
29 of Public Utilities or the Federal Energy Regulatory Commission or
30 its successor, in accordance with tariffs and schedules of charges
31 made, charged or exacted, filed with the board or commission;
- 32 (g) The acquisition, subject to prior approval of the Attorney
33 General, of special equipment for confidential investigation;
- 34 (h) The printing of bonds and documents necessary to the
35 issuance and sale thereof by a contracting unit;
- 36 (i) Equipment repair service if in the nature of an extraordinary
37 unspecifiable service and necessary parts furnished in connection
38 with the service, which exception shall be in accordance with the
39 requirements for extraordinary unspecifiable services;
- 40 (j) The publishing of legal notices in newspapers as required by
41 law;
- 42 (k) The acquisition of artifacts or other items of unique intrinsic,
43 artistic or historical character;
- 44 (l) Those goods and services necessary or required to prepare
45 and conduct an election;
- 46 (m) Insurance, including the purchase of insurance coverage
47 and consultant services, which exception shall be in accordance
48 with the requirements for extraordinary unspecifiable services;

- 1 (n) The doing of any work by persons with disabilities
2 employed by a sheltered workshop;
- 3 (o) The provision of any goods or services including those of a
4 commercial nature, attendant upon the operation of a restaurant by
5 any nonprofit, duly incorporated, historical society at or on any
6 historical preservation site;
- 7 (p) (Deleted by amendment, P.L.1999, c.440.)
- 8 (q) Library and educational goods and services;
- 9 (r) (Deleted by amendment, P.L.2005, c.212).
- 10 (s) The marketing of recyclable materials recovered through a
11 recycling program, or the marketing of any product intentionally
12 produced or derived from solid waste received at a resource
13 recovery facility or recovered through a resource recovery program,
14 including, but not limited to, refuse-derived fuel, compost materials,
15 methane gas, and other similar products;
- 16 (t) (Deleted by amendment, P.L.1999, c.440.)
- 17 (u) Contracting unit towing and storage contracts, provided that
18 all of the contracts shall be pursuant to reasonable non-exclusionary
19 and non-discriminatory terms and conditions, which may include
20 the provision of the services on a rotating basis, at the rates and
21 charges set by the municipality pursuant to section 1 of
22 P.L.1979, c.101 (C.40:48-2.49). All contracting unit towing and
23 storage contracts for services to be provided at rates and charges
24 other than those established pursuant to the terms of this paragraph
25 shall only be awarded to the lowest responsible bidder in
26 accordance with the provisions of the "Local Public Contracts
27 Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and without regard for
28 the value of the contract therefor;
- 29 (v) The purchase of steam or electricity from, or the rendering
30 of services directly related to the purchase of steam or electricity
31 from a qualifying small power production facility or a qualifying
32 cogeneration facility as defined pursuant to 16 U.S.C. s.796;
- 33 (w) The purchase of electricity or administrative or dispatching
34 services directly related to the transmission of purchased electricity
35 by a contracting unit engaged in the generation of electricity;
- 36 (x) The printing of municipal ordinances or other services
37 necessarily incurred in connection with the revision and
38 codification of municipal ordinances;
- 39 (y) An agreement for the purchase of an equitable interest in a
40 water supply facility or for the provision of water supply services
41 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
42 an agreement entered into pursuant to N.J.S.40A:31-1 et al., so long
43 as the agreement is entered into no later than six months after the
44 effective date of P.L.1993, c.381 (C.58:28-1 et al.);
- 45 (z) A contract for the provision of water supply services entered
46 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);
- 47 (aa) The cooperative marketing of recyclable materials
48 recovered through a recycling program;

- 1 (bb) A contract for the provision of wastewater treatment
2 services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et
3 al.);
- 4 (cc) Expenses for travel and conferences;
- 5 (dd) The provision or performance of goods or services for the
6 support or maintenance of proprietary computer hardware and
7 software, except that this provision shall not be utilized to acquire
8 or upgrade non-proprietary hardware or to acquire or update non-
9 proprietary software;
- 10 (ee) The management or operation of an airport owned by the
11 contracting unit pursuant to R.S.40:8-1 et seq.;
- 12 (ff) Purchases of goods and services at rates set by the
13 Universal Service Fund administered by the Federal
14 Communications Commission;
- 15 (gg) A contract for the provision of water supply services or
16 wastewater treatment services entered into pursuant to section 2 of
17 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
18 construction, operation, or maintenance, or any combination
19 thereof, of a water supply facility as defined in subsection (16) of
20 section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater
21 treatment system as defined in subsection (19) of section 15 of
22 P.L.1971, c.198 (C.40A:11-15), or any component part or parts
23 thereof, including a water filtration system as defined in subsection
24 (16) of section 15 of P.L.1971, c.198 (C.40A:11-15); or
- 25 (hh) The purchase of electricity generated from a power
26 production facility that is fueled by methane gas extracted from a
27 landfill in the county of the contracting unit;
- 28 (ii) For the duration of the four-year pilot program established
29 by P.L. , c. (C.) (pending before the Legislature as this
30 bill), services and equipment necessary for the implementation of
31 the program.
- 32 (2) It is to be made or entered into with the United States of
33 America, the State of New Jersey, county, or municipality, or any
34 board, body, officer, agency, or authority thereof, or any other state
35 or subdivision thereof.
- 36 (3) Bids have been advertised pursuant to section 4 of
37 P.L.1971, c.198 (C.40A:11-4) on two occasions and (a) no bids
38 have been received on both occasions in response to the
39 advertisement, or (b) the governing body has rejected the bids on
40 two occasions because it has determined that they are not
41 reasonable as to price, on the basis of cost estimates prepared for or
42 by the contracting agent prior to the advertising therefor, or have
43 not been independently arrived at in open competition, or (c) on one
44 occasion no bids were received pursuant to (a) and on one occasion
45 all bids were rejected pursuant to (b), in whatever sequence; a
46 contract may then be negotiated and may be awarded upon adoption
47 of a resolution by a two-thirds affirmative vote of the authorized

1 membership of the governing body authorizing the contract;
2 provided, however, that:

3 (i) A reasonable effort is first made by the contracting agent to
4 determine that the same or equivalent goods or services, at a cost
5 which is lower than the negotiated price, are not available from an
6 agency or authority of the United States, the State of New Jersey or
7 of the county in which the contracting unit is located, or any
8 municipality in close proximity to the contracting unit;

9 (ii) The terms, conditions, restrictions, and specifications set
10 forth in the negotiated contract are not substantially different from
11 those which were the subject of competitive bidding pursuant to
12 section 4 of P.L.1971, c.198 (C.40A:11-4); and

13 (iii) Any minor amendment or modification of any of the terms,
14 conditions, restrictions, and specifications, which were the subject
15 of competitive bidding pursuant to section 4 of P.L.1971, c.198
16 (C.40A:11-4), shall be stated in the resolution awarding the
17 contract; provided further, however, that if on the second occasion
18 the bids received are rejected as unreasonable as to price, the
19 contracting agent shall notify each responsible bidder submitting
20 bids on the second occasion of its intention to negotiate, and afford
21 each bidder a reasonable opportunity to negotiate, but the governing
22 body shall not award the contract unless the negotiated price is
23 lower than the lowest rejected bid price submitted on the second
24 occasion by a responsible bidder, is the lowest negotiated price
25 offered by any responsible vendor, and is a reasonable price for
26 goods or services.

27 Whenever a contracting unit shall determine that a bid was not
28 arrived at independently in open competition pursuant to subsection
29 (3) of this section it shall thereupon notify the county prosecutor of
30 the county in which the contracting unit is located and the Attorney
31 General of the facts upon which its determination is based, and
32 when appropriate, it may institute appropriate proceedings in any
33 State or federal court of competent jurisdiction for a violation of
34 any State or federal antitrust law or laws relating to the unlawful
35 restraint of trade.

36 (4) The contracting unit has solicited and received at least three
37 quotations on materials, supplies, or equipment for which a State
38 contract has been issued pursuant to section 12 of P.L.1971, c.198
39 (C.40A:11-12), and the lowest responsible quotation is at least 10
40 percent less than the price the contracting unit would be charged for
41 the identical materials, supplies, or equipment, in the same
42 quantities, under the State contract. A contract entered into
43 pursuant to this subsection may be awarded only upon adoption of a
44 resolution by the affirmative vote of two-thirds of the full
45 membership of the governing body of the contracting unit at a
46 meeting thereof authorizing the contract. A copy of the purchase
47 order relating to the contract, the requisition for purchase order, if

1 applicable, and documentation identifying the price of the materials,
2 supplies or equipment under the State contract and the State
3 contract number shall be filed with the director within five working
4 days of the award of the contract by the contracting unit. The
5 director shall notify the contracting unit of receipt of the material
6 and shall make the material available to the State Treasurer. The
7 contracting unit shall make available to the director upon request
8 any other documents relating to the solicitation and award of the
9 contract, including, but not limited to, quotations, requests for
10 quotations, and resolutions. The director periodically shall review
11 material submitted by contracting units to determine the impact of
12 the contracts on local contracting and shall consult with the State
13 Treasurer on the impact of the contracts on the State procurement
14 process. The director may, after consultation with the State
15 Treasurer, adopt rules in accordance with the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to limit the
17 use of this subsection, after considering the impact of contracts
18 awarded under this subsection on State and local contracting, or
19 after considering the extent to which the award of contracts
20 pursuant to this subsection is consistent with and in furtherance of
21 the purposes of the public contracting laws.

22 (5) Notwithstanding any provision of law, rule, or regulation to
23 the contrary, the subject matter consists of the combined collection
24 and marketing, or the cooperative combined collection and
25 marketing of recycled material recovered through a recycling
26 program, or any product intentionally produced or derived from
27 solid waste received at a resource recovery facility or recovered
28 through a resource recovery program including, but not limited to,
29 refuse-derived fuel, compost materials, methane gas, and other
30 similar products, provided that in lieu of engaging in public
31 advertising for bids and the bidding therefor, the contracting unit
32 shall, prior to commencing the procurement process, submit for
33 approval to the Director of the Division of Local Government
34 Services, a written detailed description of the process to be
35 followed in securing the services. Within 30 days after receipt of
36 the written description the director shall, if the director finds that
37 the process provides for fair competition and integrity in the
38 negotiation process, approve, in writing, the description submitted
39 by the contracting unit. If the director finds that the process does
40 not provide for fair competition and integrity in the negotiation
41 process, the director shall advise the contracting unit of the
42 deficiencies that must be remedied. If the director fails to respond
43 in writing to the contracting unit within 30 days, the procurement
44 process as described shall be deemed approved. As used in this
45 section, "collection" means the physical removal of recyclable
46 materials from curbside or any other location selected by the
47 contracting unit.

(6) Notwithstanding any provision of law, rule, or regulation to the contrary, the contract is for the provision of electricity by a contracting unit engaged in the distribution of electricity for retail sale, for the provision of wholesale electricity by a municipal shared services energy authority as defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), or for the provision of administrative or dispatching services related to the transmission of electricity, provided that in lieu of engaging in public advertising for bids and the bidding therefor, the contracting unit shall, prior to commencing the procurement process, submit for approval to the Director of the Division of Local Government Services, a written detailed description of the process to be followed in securing these services. The process shall be designed in a way that is appropriate to and commensurate with industry practices, and the integrity of the government contracting process. Within 30 days after receipt of the written description, the director shall, if the director finds that the process provides for fair competition and integrity in the negotiation process, approve, in writing, the description submitted by the contracting unit. If the director finds that the process does not provide for fair competition and integrity in the negotiation process, the director shall advise the contracting unit of the deficiencies that must be remedied. If the director fails to respond in writing to the contracting unit within 30 days, the procurement process, as submitted to the director pursuant to this section, shall be deemed approved.

(cf: P.L.2017, c.131, s.174)

10. (New section) There is appropriated from the General Fund \$2.5 million to the “Domestic Violence Victim Notification Fund” created by section 7 of P.L. , c. (C.) (pending before the Legislature as this bill) to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill). Following the expiration of the four-year pilot program established by P.L. , c. (C.) (pending before the Legislature as this bill), any unexpended funds shall be returned to the General Fund.

11. (New section) Not later than one year following the implementation of the pilot program, and annually thereafter for a total of four years, the Attorney General shall submit to the Governor and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report containing an evaluation of the pilot program. The report shall recommend whether the pilot program should be continued as a Statewide program.

12. (New section) The Attorney General, in conjunction with the Administrative Office of the Courts, Division of Probation Services, and the State Parole Board, and in consultation with the Ocean County Prosecutor and Ocean County Sheriff and any other

1 entities that the Attorney General deems necessary, shall
2 promulgate rules and regulations to effectuate the provisions of
3 P.L. , c. (C.) (pending before the Legislature as this bill).

4
5 13. This act shall take effect immediately and shall expire upon
6 submission of the fourth annual report to the Governor and
7 Legislature pursuant to section 11 of P.L. , c. (C.) (pending
8 before the Legislature as this bill).

9
10
11 STATEMENT

12
13 This bill establishes a four-year pilot program in Ocean County for
14 electronic monitoring of certain domestic violence offenders and
15 notification to victims. The pilot program would be designated as
16 “Lisa’s Law” in remembrance of Letizia Zindell of Toms River, a
17 domestic violence victim murdered by her former fiancée.

18 The pilot program would be ordered only with the victim’s
19 informed consent and would apply to defendants convicted of
20 contempt of a domestic violence order entered pursuant to the
21 provisions of P.L.1981, c.426 (C.2C:25-1 et al.) or P.L.1991, c.261
22 (C.2C:25-17 et al.).

23 The bill provides that the court may, in making the determination
24 whether to place the defendant on electronic monitoring, hold a
25 hearing to consider the likelihood that the defendant's participation in
26 electronic monitoring would deter the defendant from injuring the
27 victim. The court would consider the following factors: the gravity and
28 seriousness of harm that the defendant inflicted on the victim; the
29 defendant’s previous history of domestic violence and other criminal
30 acts, if any; whether the defendant has access to a weapon; and
31 whether the defendant has threatened suicide or homicide or has a
32 history of mental illness or substance abuse.

33 This bill requires that any electronic monitoring device and
34 tracking system worn or utilized by a defendant be in compliance with
35 “Offender Tracking Systems NIJ Standard 1004.00,” issued by the
36 National Institute of Justice in July 2016, and any successor standards
37 adopted by the National Institute of Justice. The NIJ Standard
38 encompasses protocols for performance, safety, software requirements,
39 and testing of electronic monitoring devices. The National Institute of
40 Justice is the research, development, and evaluation agency of the
41 United States Department of Justice.

42 Under the bill, a defendant ordered by the court to be placed on
43 electronic monitoring may be ordered to pay the costs and expenses
44 related to electronic monitoring and victim notification or a portion of
45 the costs and expenses, based on the defendant’s ability to pay. In
46 addition, the defendant would be assessed a monitoring fee of \$250.
47 The court could waive the fee in cases of extreme financial hardship.
48 The fee would be forwarded to the “Domestic Violence Victim

1 Notification Fund” established under the bill. This fund, a dedicated,
2 non-lapsing fund within the General Fund, would be administered by
3 the Attorney General. The fund is to be the depository of the costs and
4 expenses imposed on the defendant and any other monies that may be
5 available to the fund through appropriation by the Legislature or any
6 public or private source. All moneys deposited in the fund would be
7 used to defray the costs of the pilot program.

8 The bill provides that when a defendant is convicted of contempt
9 of a domestic violence order the court may, in addition to or in lieu of
10 any other disposition:

11 (1) sentence the defendant to electronic monitoring with victim
12 notification; or

13 (2) sentence the defendant to probation or a suspension of
14 sentence and, as a condition of such probation or suspension, order
15 electronic monitoring with victim notification.

16 The bill would also make it a crime of the third degree to tamper
17 with, remove, or vandalize an electronic monitoring device. A crime
18 of the third degree is punishable by a term of imprisonment of three to
19 five years or a fine of up to \$15,000 or both.

20 The bill requires the victim to be given the following information
21 before providing informed consent: (1) information concerning the
22 victim's right to refuse to participate in electronic monitoring and
23 the process for requesting the court to terminate the victim's
24 participation after it has been ordered; (2) the manner in which the
25 electronic monitoring technology functions and the risks and
26 limitations of that technology, the operational procedures of the
27 device and the applicable instructions regarding the device, and the
28 extent to which the system will track and record the victim's
29 location and movements; (3) the boundaries imposed on the
30 defendant during the electronic monitoring; (4) the sanctions that
31 the court may impose on the defendant for violating a court order;
32 (5) the procedure that the victim is to follow if the defendant
33 violates an order or if the electronic monitoring equipment fails; (6)
34 identification of support services available to assist the victim in
35 developing a safety plan; (7) identification of community services
36 available to assist the victim in obtaining shelter, counseling, child
37 care, legal representation and other assistance; and (8) the non-
38 confidential nature of the victim's communications with the court
39 concerning electronic monitoring and the restrictions to be imposed
40 upon the defendant's movements.

41 The bill also provides for the following civil penalties which
42 would expire at the end of the fifth year following implementation
43 of the pilot program: (1) any person found by the court in a final
44 domestic violence hearing to have committed an act of domestic
45 violence is to be required to pay a civil penalty of \$200, similar to
46 the monitoring fee this penalty may be waived in cases of extreme
47 financial hardship; and (2) in addition to any other disposition, the
48 court would impose a civil penalty of \$250 on any person convicted

1 of a crime or offense involving domestic violence, or convicted of
2 contempt of a domestic violence order, unless the person was
3 previously assessed the \$250 monitoring fee.

4 The bill further provides that no supplier of a product, system,
5 or service used for electronic monitoring with victim notification in
6 the pilot program would be liable, directly or indirectly, for
7 damages arising from any injury or death associated with the use of
8 the product, system or service unless, and only to the extent that,
9 such action is based on a claim that the injury or death was
10 proximately caused by a manufacturing defect in the product or
11 system.

12 The bill also amends the “Local Public Contracts Law,”
13 P.L.1971, c.198 (C.40A:11-1 et seq.), to provide that services and
14 equipment necessary for the implementation of the pilot program
15 could be negotiated and awarded by a governing body without
16 public advertising for bids and bidding, and be awarded by
17 resolution of the governing body.

18 The bill appropriates \$2.5 million from the General Fund to the
19 “Domestic Violence Victim Notification Fund,” and provides that
20 following the expiration of the four-year pilot program, any
21 unexpended funds are to be returned to the General Fund.

22 The bill provides that not later than one year following the
23 implementation of the pilot program and annually thereafter for four
24 years, the Attorney General is to submit a report to the Governor and
25 Legislature containing an evaluation of the pilot program with a
26 recommendation as to whether it should be continued as a Statewide
27 program.

28 In addition, the bill requires the Attorney General, in consultation
29 with the Administrative Office of the Courts, to develop procedures to
30 determine, investigate, and report on a 24-hour-per-day basis a
31 defendant's noncompliance with the terms and conditions of the
32 electronic monitoring program. All reports of noncompliance would
33 be investigated by a law enforcement officer within a reasonable
34 period of time.