

SENATE, No. 918

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

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.



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-
30 1 et 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
48 this 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 “Domestic
9 Violence Victim Notification Fund,” a dedicated, non-lapsing fund
10 within the General Fund and administered by the Attorney General.
11 The fund shall be the depository of the following moneys:

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

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

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

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

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

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

30
31 8. (New section) Notwithstanding any other provision of law
32 to the contrary, no supplier of a product, system, or service used for
33 electronic monitoring with victim notification in the pilot program
34 established by P.L. , c. (C.) (pending before the Legislature
35 as this bill) shall be liable, directly or indirectly, for damages
36 arising from any injury or death associated with the use of the
37 product, system or service unless, and only to the extent that, such
38 action is based on a claim that the injury or death was proximately
39 caused by a manufacturing defect in the product or system.

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

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

47 (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 and
47 consultant services, which exception shall be in accordance with the
48 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 P.L.1979,
22 c.101 (C.40:48-2.49). All contracting unit towing and storage
23 contracts for services to be provided at rates and charges other than
24 those established pursuant to the terms of this paragraph shall only
25 be awarded to the lowest responsible bidder in accordance with the
26 provisions of the "Local Public Contracts Law," P.L.1971, c.198
27 (C.40A:11-1 et seq.) and without regard for the value of the
28 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-
3 19 et 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 P.L.1971,
37 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
38 received on both occasions in response to the advertisement, or (b)
39 the governing body has rejected the bids on two occasions because
40 it has determined that they are not reasonable as to price, on the
41 basis of cost estimates prepared for or by the contracting agent prior
42 to the advertising therefor, or have not been independently arrived
43 at in open competition, or (c) on one occasion no bids were received
44 pursuant to (a) and on one occasion all bids were rejected pursuant
45 to (b), in whatever sequence; a contract may then be negotiated and
46 may be awarded upon adoption of a resolution by a two-thirds
47 affirmative vote of the authorized membership of the governing
48 body authorizing the contract; provided, however, that:

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

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

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

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

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

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

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

45 (6) Notwithstanding any provision of law, rule, or regulation to
46 the contrary, the contract is for the provision of electricity by a
47 contracting unit engaged in the distribution of electricity for retail
48 sale, for the provision of wholesale electricity by a municipal

1 shared services energy authority as defined pursuant to section 3 of
2 P.L.2015, c.129 (C.40A:66-3), or for the provision of administrative
3 or dispatching services related to the transmission of electricity,
4 provided that in lieu of engaging in public advertising for bids and
5 the bidding therefor, the contracting unit shall, prior to commencing
6 the procurement process, submit for approval to the Director of the
7 Division of Local Government Services, a written detailed
8 description of the process to be followed in securing these services.
9 The process shall be designed in a way that is appropriate to and
10 commensurate with industry practices, and the integrity of the
11 government contracting process. Within 30 days after receipt of the
12 written description, the director shall, if the director finds that the
13 process provides for fair competition and integrity in the
14 negotiation process, approve, in writing, the description submitted
15 by the contracting unit. If the director finds that the process does
16 not provide for fair competition and integrity in the negotiation
17 process, the director shall advise the contracting unit of the
18 deficiencies that must be remedied. If the director fails to respond
19 in writing to the contracting unit within 30 days, the procurement
20 process, as submitted to the director pursuant to this section, shall
21 be deemed approved.

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

23

24 10. (New section) There is appropriated from the General Fund
25 \$2.5 million to the "Domestic Violence Victim Notification Fund"
26 created by section 7 of P.L. , c. (C.) (pending before the
27 Legislature as this bill) to effectuate the provisions of
28 P.L. , c. (C.) (pending before the Legislature as this bill).
29 Following the expiration of the four-year pilot program established
30 by P.L. , c. (C.) (pending before the Legislature as this
31 bill), any unexpended funds shall be returned to the General Fund.

32

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

40

41 12. (New section) The Attorney General, in conjunction with
42 the Administrative Office of the Courts, Division of Probation
43 Services, and the State Parole Board, and in consultation with the
44 Ocean County Prosecutor and Ocean County Sheriff and any other
45 entities that the Attorney General deems necessary, shall
46 promulgate rules and regulations to effectuate the provisions of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

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

5
6
7 STATEMENT

8
9 This bill establishes a four-year pilot program in Ocean County for
10 electronic monitoring of certain domestic violence offenders and
11 notification to victims. The pilot program would be designated as
12 “Lisa’s Law” in remembrance of Letizia Zindell of Toms River, a
13 domestic violence victim murdered by her former fiancée.

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

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

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

38 Under the bill, a defendant ordered by the court to be placed on
39 electronic monitoring may be ordered to pay the costs and expenses
40 related to electronic monitoring and victim notification or a portion of
41 the costs and expenses, based on the defendant’s ability to pay. In
42 addition, the defendant would be assessed a monitoring fee of \$250.
43 The court could waive the fee in cases of extreme financial hardship.
44 The fee would be forwarded to the “Domestic Violence Victim
45 Notification Fund” established under the bill. This fund, a dedicated,
46 non-lapsing fund within the General Fund, would be administered by
47 the Attorney General. The fund is to be the depository of the costs and
48 expenses imposed on the defendant and any other monies that may be

1 available to the fund through appropriation by the Legislature or any
2 public or private source. All moneys deposited in the fund would be
3 used to defray the costs of the pilot program.

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

7 (1) sentence the defendant to electronic monitoring with victim
8 notification; or

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

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

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

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

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

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

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

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

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