

# Victim's Rights

## **40-38-118 Informing victim of Tennessee statewide automated victim information and notification services**

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(a) When a law enforcement officer responds to a report of a crime, and the crime is one (1) of the crimes listed in subsection (b), the officer shall inform the alleged victim of the Tennessee statewide automated victim information and notification service created by part 5 of this chapter, provided by the Tennessee sheriffs' association. The officer shall provide written informational materials, if available, and briefly explain the purpose of the program and the requirements for participating. If the alleged victim is injured or otherwise unable to understand the officer, the officer shall leave materials, if available, regarding the notification system with the alleged victim.

(b) The offenses to which this section applies are:

(1) Domestic assault, as prohibited by § 39-13-111;

(2) Vandalism, as prohibited by § 39-14-408, or false imprisonment, as prohibited by § 39-13-302, where the victim of the offense is a domestic abuse victim, as defined in § 36-3-601;

(3) Violation of an order of protection or restraining order, as prohibited by § 39-13-113; and

(4) Stalking, as prohibited by § 39-17-315.

(c) Any law enforcement agency that does not already have written informational materials regarding the Tennessee statewide automated victim information and notification service shall, by July 1, 2016, obtain a supply, if available, from the victim witness coordinator in the district attorneys general office or from the Tennessee sheriffs' association.

## **40-11-152. Global positioning monitoring system as a condition of bail.**

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(a) As used in this part:

(1) "Global positioning monitoring system":

(A) Means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology; and

(B) Does not include a system that contains or operates **global positioning system** technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body; and

(2) "Qualified contract service provider" means a private or public entity that:

(A) Meets the qualifications of § 55-10-426;

(B) Has a written agreement with the issuing court that designates specific persons to receive notifications and alerts as required by subsection (i); and

(C) Maintains a monitoring center that is staffed twenty-four (24) hours a day, seven (7) days a week and capable of immediately notifying the law enforcement employee designee and the appropriate emergency communications dispatch center of violations by call, text message, or electronic mail as required by subsection (i).

(b)

(1) Pursuant to § 40-11-150, the court or magistrate may order a defendant who is arrested for the offense 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), (11), or (12), or is in violation of an order of protection as authorized by title 36, chapter 3, part 6, to do the following as a condition of bail:

(A) Wear a global positioning monitoring system device and pay the costs associated with operating that system in relation to the defendant; and

(B) If the alleged victim of the offense consents after receiving the information described by subsection (d), pay the costs associated with providing the victim with a cellular device application or an electronic receptor device that:

(i) Is capable of receiving the global positioning monitoring system information from the device worn by the defendant;

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**(ii)** Notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under § 40-11-150; and

**(iii)** Notifies the victim if the defendant is within a prescribed proximity of the victim's cellular device or electronic receptor device.

**(2)** Pursuant to § 40-11-150(n), if the court or magistrate finds probable cause to believe that one (1) or more of the circumstances in § 40-11-150(n)(1) did occur, then unless the court or magistrate finds the offender no longer poses a threat to the alleged victim or public safety and makes such a finding in a written order, the court or magistrate shall order a defendant who is charged with the offense of aggravated assault, as defined in § 39-13-102(a)(1)(A)(i), (a)(1)(A)(iii), or (a)(1)(A)(iv), in which the alleged victim of the offense is a domestic abuse victim, as defined in § 36-3-601, to do the following as a condition of bail:

**(A)** Wear a global positioning monitoring system device and pay the costs associated with operating that system in relation to the defendant; and

**(B)** If the alleged victim of the offense consents after receiving the information described in subsection (d), pay the costs associated with providing the victim with a cellular device application or an electronic receptor device that:

**(i)** Is capable of receiving the global positioning monitoring system information from the device worn by the defendant;

**(ii)** Notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under § 40-11-150; and

**(iii)** Notifies the victim if the defendant is within a prescribed proximity of the victim's cellular device or electronic receptor device.

**(3)** If a defendant is released without a global positioning monitoring system device, then the court shall make reasonable efforts to directly contact the victim and notify the victim that the offender will be released without a global positioning monitoring system device and the victim will not be provided with access to notifications of the offender's proximity.

**(c)** Before imposing a condition described by subsection (b), the magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by subsection (b), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

**(d)** Before imposing a condition described by subdivision (b)(2), the magistrate must provide to an alleged victim information regarding:

**(1)** The victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

**(2)** The manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

**(3)** Any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

**(4)** Any sanctions that the magistrate may impose on the defendant for violating a condition of bond imposed under this section;

**(5)** The procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;

**(6)** Community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of domestic violence; and

**(7)** The fact that the victim's communications with the magistrate concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

**(e)** In addition to the information described by subsection (d), the magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this section the name and telephone number of an appropriate person employed by a local law enforcement agency who the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this section.

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**(f)** In determining whether to order a defendant's participation in a global positioning monitoring system under this section, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

**(g)** An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this section. If a victim voluntarily chooses not to utilize a cellular device application that supports offender proximity monitoring or is noncompliant with correct usage of the application, then the special duty exception to the public duty doctrine does not apply, and the qualified contract service provider and the manufacturer of the global positioning monitoring system device are immune from civil or criminal liability resulting from the victim's choice or noncompliance.

**(h)** A defendant ordered to wear a global positioning monitoring system device or to provide the victim with a cellular device application or an electronic receptor device pursuant to subsection (b) shall pay all costs associated with operating that system in relation to the defendant and all costs associated with providing the victim with a cellular device application or an electronic receptor device. The defendant is not eligible for assistance from the electronic monitoring indigency fund, as established pursuant to § 55-10-419, regardless of whether the defendant is indigent.

**(i)** The magistrate who imposes a condition described by subsection (b) shall order the entity that operates the global positioning monitoring system to notify the law enforcement employee designated in subsection (e) and the appropriate emergency communications dispatch center if a defendant violates a condition of bond imposed under this section.

**(j)** This section shall not limit the authority of the magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

**(k)** The global positioning monitoring of any defendant ordered pursuant to this section shall be provided by the county or municipality in which the court ordering the monitoring is located and shall not be provided by the board of parole. Each such county or municipality shall enter into a written agreement with a qualified contract service provider.

**(l)** When arresting a person for an offense described in subsection (b), the arresting officer shall provide the alleged victim with a document that notifies the alleged victim of the following regarding the global positioning monitoring system:

**(1)** When considering bail, the magistrate may order the person who is arrested to carry or wear a global positioning monitoring system device;

**(2)** The victim's right to participate in a global positioning monitoring system or to refuse to participate in the system and the procedure for requesting the magistrate to terminate the victim's participation;

**(3)** The manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

**(4)** The victim's right to provide the magistrate with a list of areas from which the victim would like the defendant excluded from going to or near;

**(5)** The fact that the victim's communications with the magistrate concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential; and

**(6)** Any other information that the administrative office of the courts finds necessary to properly inform an alleged victim about the global positioning monitoring system.

**(m)** A qualified contract service provider and the manufacturer of the global positioning monitoring system device are not civilly or criminally liable for injuries or damages resulting from actions of the defendant when the actions of those entities and the entities' employees are in accordance with this section and done in good faith and without gross negligence or malice.