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# Act 266 – GPS For Certain Restraining Order Violators

# Act 266

- Bill 2011 Act 266 was enacted by the Wisconsin legislature on April 9<sup>th</sup>, 2012.
- Act 266 permits a court to order GPS tracking for certain restraining/TRO order violations.

# Act 266

- Act 266 is similar to a law that was passed in Illinois in 2008 – senate bill 2719, also known as Cindy’s law took effect in January of 2009.
- Cindy Bischoff was a real estate broker in suburban Chicago – she was killed by her ex-boyfriend.
- The Illinois law allows for GPS tracking for restraining order violators as a condition of bail, probation, or supervised release.

# Act 266

- **Michigan:** passed House Bill 4453 (Act 192) in 2008 – which allows the court to impose GPS as a condition of release if an offender violates a restraining order. The victim is provided an “electronic receptor” that notifies her of the presence of the offender.
- **Iowa:** presently has no statewide legislation requiring GPS tracking for restraining order violators.

# Act 266

- Wisconsin Act 266 provides that if a person **knowingly** violates a domestic abuse or harassment TRO or injunction, in addition to other penalties the court may place the individual on GPS, **for a maximum of 4 consecutive years, or a minimum of 9 months in jail.**
- **Violations of exclusion zones are new criminal offenses for each act.** Warning zone violations will be considered violations of the offenders rules of supervision.

# Act 266

- The court may direct DOC to conduct a validated risk assessment of the person or direct a domestic violence prevention or treatment center in the person's county to complete a danger assessment of the person in order to make the above finding.

# Act 266

- Courts will be allowed to direct the Department of Corrections to supervise an individual convicted at the misdemeanor level of violating an DV/Harassment/TRO.
- Prior to conviction the DOC will conduct a Risk Assessment of the person, and the results of that assessment will be forwarded to the court. (**note: the Compas Actuarial Risk Assessment tool does not accurately assess or predict the likelihood of an offender committing a DV offense**)

# Act 266

**Judicial Decision:** before issuing an order to require GPS tracking, the court must determine the restraining order violator is appropriate for community supervision.

- If the court finds that the offender is more likely than not to cause serious bodily harm to the victim – **the court will determine that another alternative, including imprisonment, is more likely to protect the victim, and not order GPS tracking.**

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**Judicial Decision:** In making its decision the court will weigh the following factors –

- Whether the person has allegedly caused physical injury, intentionally abused pets or damaged property, or committed sexual assault, an act of strangulation, or forcible entry to gain access to the victim/petitioner.
- Whether the person has threatened any individual, including the victim/petitioner, with harm.

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- Whether the person has a history of improperly using or threatening to use a firearm or other dangerous weapon.
- Whether the person has expressed suicidal ideation.
- Whether the person has exhibited obsessive or controlling behavior toward the victim/petitioner or any member of the victim/petitioner's family.

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## **Judicial Decision con't:**

- The person's mental health history.
- Whether the person has a history of abusing alcohol or a controlled substance

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- If a court enters an order requiring GPS tracking, it must provide the victim with a referral to a domestic violence or sexual assault victim service provider.
- A person who is ordered to be subject to GPS tracking is subject to the tracking requirement for the duration of his/her period of probation.
- If such a person is placed on extended supervision following incarceration, GPS tracking must be a condition of his or her extended supervision.

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**Additional Penalties:** The Act also creates a surcharge under which a person who is convicted of violating a TRO or injunction must pay a surcharge of \$200.00 for each offense.

- The act increases the maximum fine for violation of a domestic abuse or harassment restraining order from \$1,000 to \$10,000 dollars.

# Act 266

## Effective Dates

- Bifurcated effective dates: 7/1/13 & 1/1/14
- Surcharge component of the act began on 7/1/13.
- Imprisonment component is effective 1/1/14.

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## Other requirements

- Exclusion Zone – DOC is required to establish an exclusion zone, with the victim.
- Violation of an exclusion zone will be considered a new criminal act! (DOC will treat as a mandatory custody)
- If a victim refuses to cooperate with the establishment of an exclusion – DOC will use the address on the original TRO.
- DOC will also establish in an attempt to provide the victim an additional level of warning.

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- **Victim Safety**
- Agents will consult with victim; explain the Vine Protective Order notification and set up exclusion zones and warning zones.
- Agents will conduct a victim safety meeting with the victim.
- Agents will maintain regular victim contact.
- If a victim elects not to cooperate with the agent to establish an exclusion zone – the agent will use the address given at the time the original TRO was put in place.

# Act 266

## **Agent Responsibilities**

- At the direction of the court agents will conduct a Compas Core Assessment of the defendant.
- Agents will complete the Compas Core Assessment during the intake period.
- Agents will forward the Compas Risk Assessment, bar chart, and narrative to the court.

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## Timelines

- After the places an offender on GPS tracking – the court will notify the local DOC office.
- Act 266 agents will have up to 5 business days to place the offender on GPS tracking equipment.
- DOC will request that offenders be held in custody until the GPS tracking equipment and staff are available for installation.

# Act 266

- Agents will be required to meet with the victim within 48 hours of an offender being placed on GPS tracking.
- Agents will attempt to involve a local DV advocate in the process of meeting with victims and establishing exclusion zones.