

ASSEMBLY, No. 3806

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED OCTOBER 9, 2014

Sponsored by:

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

SYNOPSIS

Establishes four-year pilot program in Ocean County for electronic monitoring of certain domestic violence offenders; designated as “Lisa’s Law”; appropriates \$1 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/10/2014)

A3806 SINGLETON, DANCER

2

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 charged with or convicted of contempt of
20 a domestic violence order entered pursuant to the provisions of
21 P.L.1981, c.426 (C.2C:25-1 et al.) or P.L.1991, c.261 (C.2C:25-17
22 et al.).

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

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

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

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

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

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

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

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

40 c. A defendant ordered by the court to be placed on electronic
41 monitoring may be ordered to pay the costs and expenses related to
42 electronic monitoring and victim notification or a portion of the
43 costs and expenses, based on the defendant’s ability to pay.

44 d. In addition to the provisions of subsection c. of this section,
45 a defendant ordered by the court to be placed on electronic

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 monitoring shall be assessed a monitoring fee of \$250. The court
2 may waive the fee in cases of extreme financial hardship. The fee
3 shall be collected as provided by the Rules of Court and forwarded
4 to the "Domestic Violence Victim Notification Fund" established
5 pursuant to section 7 of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 e. The Attorney General, in consultation with the
8 Administrative Office of the Courts, shall develop procedures to
9 determine, investigate, and report on a 24-hour-per-day basis a
10 defendant's noncompliance with the terms and conditions of the
11 electronic monitoring program. All reports of noncompliance shall
12 be investigated by a law enforcement officer within a reasonable
13 period of time.

14 f. The Attorney General, the Administrative Office of the
15 Courts, the Superintendent of State Police, the State Parole Board,
16 and county and municipal law enforcement agencies shall share
17 information obtained pursuant to this act.

18

19 3. (New section) Pursuant to the pilot program established by
20 P.L. , c. (C.) (pending before the Legislature as this bill):

21 a. When a defendant is convicted of contempt of a domestic
22 violence order entered pursuant to P.L.1981, c.426 (C.2C:25-1 et
23 al.) or P.L.1991, c.261 (C.2C:25-17 et al.) the court may, in
24 addition to or in lieu of any other disposition:

25 (1) sentence the defendant to electronic monitoring with victim
26 notification; or

27 (2) sentence the defendant to probation or a suspension of
28 sentence and, as a condition of such probation or suspension, order
29 electronic monitoring with victim notification; and

30 b. When a defendant charged with contempt of a domestic
31 violence order entered pursuant to P.L.1981, c.426 (C.2C:25-1 et
32 al.) or P.L.1991, c.261 (C.2C:25-17 et al.) is released from custody
33 before trial on bail or personal recognizance pursuant to section 10
34 of P.L.1991, c.261 (C.2C:25-26), the court may as a condition of
35 release order electronic monitoring of the defendant with victim
36 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 this act, "informed consent"
44 means that the victim is given the following information before
45 consenting to participate in the electronic monitoring program
46 established by P.L. , c. (C.) (pending before the Legislature
47 as 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, and the
- 6 extent to which the system will track and record the victim's
- 7 location and movements;
- 8 c. The boundaries imposed on the defendant during the
- 9 electronic monitoring;
- 10 d. The sanctions that the court may impose on the defendant for
- 11 violating an order issued by the court;
- 12 e. The procedure that the victim is to follow if the defendant
- 13 violates an order or if electronic monitoring equipment fails;
- 14 f. Identification of support services available to assist the
- 15 victim in developing a safety plan to use if the defendant violates an
- 16 order or if electronic monitoring equipment fails;
- 17 g. Identification of community services available to assist the
- 18 victim in obtaining shelter, counseling, education, child care, legal
- 19 representation, and other help in addressing the consequences and
- 20 effects of domestic violence; and
- 21 h. The non-confidential nature of the victim's communications
- 22 with the court concerning electronic monitoring and the restrictions
- 23 to be imposed upon the defendant's movements.
- 24
- 25 6. (New section) a. From the implementation of the pilot
- 26 program established by P.L. , c. (C.) (pending before the
- 27 Legislature as this bill) through the fifth year thereafter, and, in
- 28 addition to the provisions of section 1 of P.L.2001, c.195 (C.2C:25-
- 29 29.1) any person found by the court in a final hearing pursuant to
- 30 section 13 of P.L.1991, c.261 (C.2C:25-29) to have committed an
- 31 act of domestic violence shall be ordered by the court to pay a civil
- 32 penalty of \$200. In imposing this civil penalty, the court shall take
- 33 into consideration the nature and degree of injury suffered by the
- 34 victim. The court may waive the penalty in cases of extreme
- 35 financial hardship.
- 36 b. In addition to any other disposition, the court shall impose a
- 37 civil penalty of \$250 on any person:
- 38 (1) convicted of a crime or offense involving domestic violence,
- 39 as defined in subsection a. of section 3 of P.L.1991, c.261
- 40 (C.2C:25-19); or
- 41 (2) convicted of contempt of a domestic violence order entered
- 42 pursuant to P.L.1981, c.426 (C.2C:25-1 et al.) or P.L.1991, c.261
- 43 (C.2C:25-17 et al.),
- 44 unless the person was previously assessed the monitoring fee
- 45 imposed pursuant to subsection d. of section 2 of
- 46 P.L. , c. (C.) (pending before the Legislature as this bill),
- 47 in which case the court shall not impose the civil penalty pursuant
- 48 to this subsection.

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

5
6 7. (New section) a. There is hereby established the “Domestic
7 Violence Victim Notification Fund,” a dedicated, non-lapsing fund
8 within the General Fund and administered by the Attorney General.
9 The fund shall be the depository of the following moneys:

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

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

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

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

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

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

28
29 8. (New section) Notwithstanding any other provision of law
30 to the contrary, no supplier of a product, system, or service used for
31 electronic monitoring with victim notification in the pilot program
32 established by P.L. , c. (C.) (pending before the Legislature
33 as this bill) shall be liable, directly or indirectly, for damages
34 arising from any injury or death associated with the use of the
35 product, system or service unless, and only to the extent that, such
36 action is based on a claim that the injury or death was proximately
37 caused by a manufacturing defect in the product or system.

38
39 9. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to
40 read as follows:

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

45 (1) The subject matter thereof consists of:

46 (a) (i) Professional services. The governing body shall in each
47 instance state supporting reasons for its action in the resolution
48 awarding each contract and shall forthwith cause to be printed once,

1 in the official newspaper, a brief notice stating the nature, duration,
2 service and amount of the contract, and that the resolution and
3 contract are on file and available for public inspection in the office
4 of the clerk of the county or municipality, or, in the case of a
5 contracting unit created by more than one county or municipality, of
6 the counties or municipalities creating such contracting unit; or (ii)
7 Extraordinary unspecifiable services. The application of this
8 exception shall be construed narrowly in favor of open competitive
9 bidding, whenever possible, and the Division of Local Government
10 Services is authorized to adopt and promulgate rules and regulations
11 after consultation with the Commissioner of Education limiting the
12 use of this exception in accordance with the intention herein
13 expressed. The governing body shall in each instance state
14 supporting reasons for its action in the resolution awarding each
15 contract and shall forthwith cause to be printed, in the manner set
16 forth in subsection (1) (a) (i) of this section, a brief notice of the
17 award of such contract;

18 (b) The doing of any work by employees of the contracting unit;

19 (c) The printing of legal briefs, records and appendices to be
20 used in any legal proceeding in which the contracting unit may be a
21 party;

22 (d) The furnishing of a tax map or maps for the contracting unit;

23 (e) The purchase of perishable foods as a subsistence supply;

24 (f) The supplying of any product or the rendering of any service
25 by a public utility, which is subject to the jurisdiction of the Board
26 of Public Utilities or the Federal Energy Regulatory Commission or
27 its successor, in accordance with tariffs and schedules of charges
28 made, charged or exacted, filed with the board or commission;

29 (g) The acquisition, subject to prior approval of the Attorney
30 General, of special equipment for confidential investigation;

31 (h) The printing of bonds and documents necessary to the
32 issuance and sale thereof by a contracting unit;

33 (i) Equipment repair service if in the nature of an extraordinary
34 unspecifiable service and necessary parts furnished in connection
35 with such service, which exception shall be in accordance with the
36 requirements for extraordinary unspecifiable services;

37 (j) The publishing of legal notices in newspapers as required by
38 law;

39 (k) The acquisition of artifacts or other items of unique intrinsic,
40 artistic or historical character;

41 (l) Those goods and services necessary or required to prepare
42 and conduct an election;

43 (m) Insurance, including the purchase of insurance coverage and
44 consultant services, which exception shall be in accordance with the
45 requirements for extraordinary unspecifiable services;

46 (n) The doing of any work by handicapped persons employed by
47 a sheltered workshop;

- 1 (o) The provision of any goods or services including those of a
2 commercial nature, attendant upon the operation of a restaurant by
3 any nonprofit, duly incorporated, historical society at or on any
4 historical preservation site;
- 5 (p) (Deleted by amendment, P.L.1999, c.440.)
- 6 (q) Library and educational goods and services;
- 7 (r) (Deleted by amendment, P.L.2005, c.212).
- 8 (s) The marketing of recyclable materials recovered through a
9 recycling program, or the marketing of any product intentionally
10 produced or derived from solid waste received at a resource
11 recovery facility or recovered through a resource recovery program,
12 including, but not limited to, refuse-derived fuel, compost materials,
13 methane gas, and other similar products;
- 14 (t) (Deleted by amendment, P.L.1999, c.440.)
- 15 (u) Contracting unit towing and storage contracts, provided that
16 all such contracts shall be pursuant to reasonable non-exclusionary
17 and non-discriminatory terms and conditions, which may include
18 the provision of such services on a rotating basis, at the rates and
19 charges set by the municipality pursuant to section 1 of P.L.1979,
20 c.101 (C.40:48-2.49). All contracting unit towing and storage
21 contracts for services to be provided at rates and charges other than
22 those established pursuant to the terms of this paragraph shall only
23 be awarded to the lowest responsible bidder in accordance with the
24 provisions of the "Local Public Contracts Law" and without regard
25 for the value of the contract therefor;
- 26 (v) The purchase of steam or electricity from, or the rendering
27 of services directly related to the purchase of such steam or
28 electricity from a qualifying small power production facility or a
29 qualifying cogeneration facility as defined pursuant to 16 U.S.C.
30 s.796;
- 31 (w) The purchase of electricity or administrative or dispatching
32 services directly related to the transmission of such purchased
33 electricity by a contracting unit engaged in the generation of
34 electricity;
- 35 (x) The printing of municipal ordinances or other services
36 necessarily incurred in connection with the revision and
37 codification of municipal ordinances;
- 38 (y) An agreement for the purchase of an equitable interest in a
39 water supply facility or for the provision of water supply services
40 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
41 an agreement entered into pursuant to **[P.L.1989, c.109 (**
42 **N.J.S.40A:31-1 et al. **])**, so long as such agreement is entered into
43 no later than six months after the effective date of P.L.1993, c.381
44 (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 recovered
48 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 Universal
13 Service Fund administered by the Federal Communications
14 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);
- 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 such 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; any such contract may then be
46 negotiated and may be awarded upon adoption of a resolution by a
47 two-thirds affirmative vote of the authorized membership of the
48 governing body authorizing such 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 of
13 competitive bidding pursuant to section 4 of P.L.1971, c.198
14 (C.40A:11-4), shall be stated in the resolution awarding such
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 such 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 such 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 less than the price the contracting unit would be charged for the
39 identical materials, supplies or equipment, in the same quantities,
40 under the State contract. Any such contract entered into pursuant to
41 this subsection may be awarded only upon adoption of a resolution
42 by the affirmative vote of two-thirds of the full membership of the
43 governing body of the contracting unit at a meeting thereof
44 authorizing such a contract. A copy of the purchase order relating
45 to any such 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 any such 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 such contracts on local contracting and shall consult with the State
10 Treasurer on the impact of such 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 such 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 said 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, or for the provision of administrative or dispatching services

1 related to the transmission of such electricity, provided that in lieu
2 of engaging in public advertising for bids and the bidding therefor,
3 the contracting unit shall, prior to commencing the procurement
4 process, submit for approval to the Director of the Division of Local
5 Government Services, a written detailed description of the process
6 to be followed in securing such services. Such process shall be
7 designed in a way that is appropriate to and commensurate with
8 industry practices, and the integrity of the government contracting
9 process. Within 30 days after receipt of the written description, the
10 director shall, if the director finds that the process provides for fair
11 competition and integrity in the negotiation process, approve, in
12 writing, the description submitted by the contracting unit. If the
13 director finds that the process does not provide for fair competition
14 and integrity in the negotiation process, the director shall advise the
15 contracting unit of the deficiencies that must be remedied. If the
16 director fails to respond in writing to the contracting unit within 30
17 days, the procurement process, as submitted to the director pursuant
18 to this section, shall be deemed approved.

19 (cf: P.L.2005, c.296, s.1)

20

21 10. (New section) There is appropriated from the General Fund
22 \$1 million to the "Domestic Violence Victim Notification Fund"
23 created by section 7 of P.L. , c. (C.) (pending before the
24 Legislature as this bill) to effectuate the provisions of this act.
25 Following the expiration of the four-year pilot program established
26 by P.L. , c. (C.) (pending before the Legislature as this
27 bill), any unexpended funds shall be returned to the General Fund.

28

29 11. (New section) On the first day of the sixth month following
30 the effective date of P.L. , c. (C.) (pending before the
31 Legislature as this bill), the Attorney General shall report to the
32 Governor and the Legislature as to the availability of appropriate
33 technology to facilitate the provisions of this act. If the Attorney
34 General determines that appropriate technology is not available, the
35 Attorney General, every six months thereafter, shall report to the
36 Governor and the Legislature as to the availability of appropriate
37 technology until such time as the Attorney General shall deem that
38 appropriate technology is available and so report to the Governor
39 and the Legislature. When appropriate technology is available the
40 Attorney General shall implement the pilot program established by
41 this act.

42

43 12. (New section) Not later than one year following the
44 implementation of the pilot program, and annually thereafter for a
45 total of four years, the Attorney General shall submit to the
46 Governor and to the Legislature pursuant to section 2 of P.L.1991,
47 c.164 (C.52:14-19.1), a report containing an evaluation of the pilot

1 program. The report shall recommend whether the pilot program
2 should be continued as a Statewide program.

3
4 13. (New section) The Attorney General, in conjunction with
5 the Administrative Office of the Courts, Division of Probation
6 Services, and the State Parole Board, and in consultation with the
7 Ocean County Prosecutor and Ocean County Sheriff and any other
8 entities that the Attorney General deems necessary, shall
9 promulgate rules and regulations to effectuate the provisions of this
10 act.

11
12 14. (New section) This act shall take effect immediately and
13 shall expire upon submission of the fourth annual report to the
14 Governor and Legislature pursuant to section 12 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill).

16
17
18 STATEMENT

19
20 This bill would establish a four-year pilot program in Ocean
21 County for electronic monitoring of domestic violence offenders
22 and notification to victims. The pilot program would be designated
23 as “Lisa’s Law” in remembrance of Letizia Zindell of Toms River,
24 a domestic violence victim murdered by her former fiancée.

25 The pilot program would apply to defendants charged with or
26 convicted of contempt of a domestic violence order entered
27 pursuant to the provisions of P.L.1981, c.426 (C.2C:25-1 et al.) or
28 P.L.1991, c.261 (C.2C:25-17 et al.).

29 In making the determination whether to place the defendant on
30 electronic monitoring, the court could hold a hearing to consider the
31 likelihood that the defendant's participation in electronic monitoring
32 would deter the defendant from injuring the victim. The court
33 would consider, among other factors, the seriousness of harm that
34 the defendant inflicted on the victim; the defendant’s previous
35 history of domestic violence and other criminal acts, if any; whether
36 the defendant has access to a weapon; and whether the defendant
37 has a history of mental illness or substance abuse.

38 A defendant ordered by the court to be placed on electronic
39 monitoring could be ordered to pay the costs and expenses related
40 to electronic monitoring and victim notification or a portion of the
41 costs and expenses, based on the defendant’s ability to pay.

42 In addition, the defendant would be assessed a monitoring fee of
43 \$250. The court could waive the fee in cases of extreme financial
44 hardship.

45 The bill requires the Attorney General, in consultation with the
46 Administrative Office of the Courts, to develop procedures to
47 determine, investigate, and report on a 24-hour-per-day basis a
48 defendant's noncompliance with the terms and conditions of the

1 electronic monitoring program. All reports of noncompliance would
2 be investigated by a law enforcement officer within a reasonable
3 period of time.

4 Under the pilot program, when a defendant is convicted of
5 contempt of a domestic violence order the court could, in addition
6 to or in lieu of 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
10 sentence and, as a condition of such probation or suspension, order
11 electronic monitoring with victim notification.

12 The bill also provides that when a defendant charged with
13 contempt of a domestic violence order is released from custody
14 before trial on bail or personal recognizance, the court could order
15 electronic monitoring as a condition of release.

16 It would be a crime of the third degree to tamper with, remove,
17 or vandalize an electronic monitoring device.

18 Monitoring could be ordered only with the victim's informed
19 consent, which would include being provided with information
20 concerning the victim's right to refuse to participate in electronic
21 monitoring and the process for requesting the court to terminate the
22 victim's participation after it has been ordered; the manner in which
23 the electronic monitoring technology functions and the risks and
24 limitations of that technology, and the extent to which the system
25 will track and record the victim's location and movements; the
26 boundaries imposed on the defendant during the electronic
27 monitoring; the sanctions that the court may impose on the
28 defendant for violating a court order; the procedure that the victim
29 is to follow if the defendant violates an order or if electronic
30 monitoring equipment fails; identification of support services
31 available to assist the victim in developing a safety plan; and other
32 information.

33 The bill provides that, from the implementation of the pilot
34 program through the fifth year thereafter, any person found by the
35 court in a final domestic violence hearing to have committed an act
36 of domestic violence would be required to pay a civil penalty of
37 \$200. The court may waive the penalty in cases of extreme financial
38 hardship.

39 In addition, the court would impose a civil penalty of \$250 on
40 any person convicted of a crime or offense involving domestic
41 violence, or convicted of contempt of a domestic violence order,
42 unless the person was previously assessed the monitoring fee.

43 The civil penalties imposed pursuant to the bill would expire at
44 the end of the fifth year following implementation of the pilot
45 program.

46 The bill establishes a "Domestic Violence Victim Notification
47 Fund," a dedicated, non-lapsing fund within the General Fund and
48 administered by the Attorney General, which would be the

1 depository of the costs and expenses imposed on the defendant for
2 electronic monitoring and victim notification, and the monitoring
3 fee and civil penalties established by the bill, as well as any other
4 monies that may be available to the fund through appropriation by
5 the Legislature or any public or private source.

6 All moneys deposited in the “Domestic Violence Victim
7 Notification Fund” would be used to defray the costs of electronic
8 monitoring with victim notification pursuant to the pilot program.

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

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

22 The bill appropriates \$1 million from the General Fund to the
23 “Domestic Violence Victim Notification Fund.” Following the
24 expiration of the four-year pilot program, any unexpended funds
25 would be returned to the General Fund.

26 Under the bill, on the first day of the sixth month following the
27 effective date, the Attorney General would report to the Governor
28 and the Legislature as to the availability of appropriate technology
29 to facilitate the provisions of the pilot program. If the Attorney
30 General determines that appropriate technology is not available, the
31 Attorney General, every six months thereafter, would report to the
32 Governor and the Legislature as to the availability of appropriate
33 technology until such time as the Attorney General deems it
34 available. When appropriate technology is available the Attorney
35 General would implement the pilot program.

36 The bill provides that not later than one year following the
37 implementation of the pilot program and annually thereafter for a
38 total of four years, the Attorney General would submit to the
39 Governor and the Legislature a report containing an evaluation of
40 the pilot program with a recommendation as to whether it should be
41 continued as a Statewide program.