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SUPREME JUDICIAL COURT RULES

Order in re: COVID-19 (coronavirus) pandemic

Supreme Judicial Court Order concerning the imposition of global positioning system (GPS) monitoring as condition of release or of probation

EFFECTIVE DATE:

03/24/2020

UPDATES:

Added March 23, 2020, effective March 24, 2020 (https://www.mass.gov/media/2111091/download)

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Order

In light of the public health concerns regarding the COVID-19 (coronavirus) pandemic and the actions ordered by the Governor in connection therewith, the Supreme Judicial Court, pursuant to its superintendence authority, issues the following ORDER to protect the public health by reducing the risk of exposure to the virus and slow the spread of the disease.

WHEREAS, when a court orders global positioning system (GPS) monitoring as a condition of release or of probation, Probation Service personnel must affix a GPS "bracelet" to the ankle of the defendant, juvenile, or probationer;

WHEREAS, a GPS bracelet cannot be affixed without Probation Service personnel coming in close physical proximity with the defendant, juvenile, or probationer;

WHEREAS, the act of affixing a GPS bracelet cannot be accomplished while simultaneously engaging in “social distancing,” which has been recommended by the Massachusetts Department of Public Health and other governmental health agencies in an effort to limit the spread of the coronavirus; and

WHEREAS, the act of affixing a GPS bracelet therefore inherently poses a degree of risk of exposure for both Probation Service personnel and the defendant or probationer if either has contracted or been exposed to the coronavirus.

NOW THEREFORE, the Supreme Judicial Court, having balanced the public safety need for GPS monitoring with the potential risk to the public health from the act of affixing a GPS bracelet, hereby ORDERS that, effective March 24, 2020, and until further order of the court:

1. No court shall order GPS monitoring as a condition of release or of probation unless a judge finds that there is a compelling public safety need for GPS monitoring to protect a victim, a witness, a category of persons (e.g. children), or the general public. No such finding is warranted unless the order for GPS monitoring includes an inclusion zone (e.g., remain within the defendant's or juvenile's home either at all times or in accordance with a curfew) or an exclusion zone (e.g., stay no less than six hundred feet away from a specified area). Any new GPS order without an inclusion or exclusion zone shall be unlawful and therefore void.
2. A finding of a compelling public safety need shall be made in writing or orally on the record, unless the defendant or juvenile is charged with, admits to sufficient facts, or is convicted or adjudicated delinquent of: (1) a sexually violent offense or a sex offense involving a child, as both of those terms are defined in G.L. c. 6, § 178C; (2) assault or assault and battery on a family or household member in violation of G.L. c. 265, § 13M; (3) strangulation or suffocation as those terms are defined in G.L. c. 265, § 15D; (4) violation of an abuse prevention order or protection order issued by another jurisdiction, in violation of G.L. c. 209A, § 7; or (5) stalking, in violation of G.L. c. 265, § 43. In any of these five categories of cases, a finding of a compelling public safety need shall be presumed if GPS monitoring is ordered. Nothing in this Order bars a GPS order in categories of crimes other than these five, provided the judge supports the need for such an order by making a finding of a compelling public safety need in writing or orally on the record.
3. Nothing in this Order affects GPS monitoring that was ordered prior to the effective date of this Order.

Downloads

Order concerning the imposition of global positioning system (GPS) monitoring as condition of release or of probation

(https://www.mass.gov/doc/order-concerning-the-imposition-of-global-positioning-system-gps-monitoring-as-condition-of/download)

(PDF 93.44 KB)

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