

A RESOLUTION

21-741

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 20, 2016

To declare the existence of an emergency with respect to the need to amend the Omnibus Public Safety and Justice Amendment Act of 2009 to make it unlawful to tamper with a detection device required by any custodial or supervision entity with authority over an individual subject to monitoring.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Tampering with a Detection Device Emergency Declaration Resolution of 2016”.

Sec. 2. (a) In the 2014 case of *Jeffrey Hunt v. United States*, 109 A.3d 620 (D.C. 2014), the District of Columbia Court of Appeals (“Court”) was presented with the issue of whether an individual required to wear a Global Positioning System (“GPS”) device as a sanction from the Court Services and Offender Supervision Agency (“CSOSA”) was guilty of the criminal offense of removing or tampering with a detection device in violation of D.C. Official Code § 22-1211(a)(1)(A).

(b) The Court held that the trial court erred in interpreting D.C. Official Code § 22-1211 to include monitoring requirements imposed by CSOSA as sanctions and not only those imposed by the United States Parole Commission or the Superior Court of the District of Columbia as conditions of release.

(c) As a result of the *Hunt* decision, criminal sanctions may only be imposed under District law if the GPS device was ordered as a condition of a protection order, pretrial, presentence, or predisposition release, probation, supervised release, parole, or commitment, or if an individual was required to wear a GPS device while incarcerated.

(d) Permanent legislation, which is substantively identical to the emergency legislation, the Omnibus Public Safety and Justice Amendment Act of 2016, passed on 2nd reading on December 6, 2016 (Enrolled version of Bill 21-724), will shortly be transmitted to the Mayor for review. The bill will be subject to a 60-day period of congressional review and will likely not take effect before late April or May.

(e) This emergency legislation is necessary to immediately close the loophole in the law, illuminated by the *Hunt* decision, that limits the ability of custodial or supervision agencies from holding supervisees accountable for tampering with or removing a GPS device.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Tampering with a Detection Device Emergency Amendment Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.