

# SENATE BILL No. 83

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-31.5-2; IC 35-45-10-7; IC 35-50-2-19.

**Synopsis:** Unlawful tracking of another individual. Provides that a person who, with the intent to track an individual, and without the individual's knowledge, places a tracking device on an individual or the individual's property commits remote criminal tracking, a Class C misdemeanor. Provides certain exceptions. Increases the penalty to a Class A misdemeanor if the person is the subject of a protective order issued on behalf of the individual. Establishes a sentence enhancement if a person uses a tracking device to commit or facilitate the commission of a felony.

**Effective:** July 1, 2023.

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January 9, 2023, read first time and referred to Committee on Corrections and Criminal Law.

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First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## SENATE BILL No. 83

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-31.5-2-255.3 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2023]: **Sec. 255.3. "Protective order", for**  
4 **purposes of IC 35-45-10-7, has the meaning set forth in**  
5 **IC 35-45-10-7.**

6 SECTION 2. IC 35-31.5-2-337.5, AS ADDED BY P.L.170-2014,  
7 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2023]: Sec. 337.5. "Tracking device", for purposes of  
9 IC 35-33-5, **IC 35-45-10-7, IC 35-50-2-19**, and this chapter, means an  
10 electronic or mechanical device that allows a person to remotely  
11 determine or track the position or movement of another person or an  
12 object. The term includes the following:

- 13 (1) A device that stores geographic data for subsequent access or  
14 analysis.
- 15 (2) A device that allows real-time monitoring or movement.
- 16 (3) An unmanned aerial vehicle.
- 17 (4) A cellular telephone or other wireless or cellular



1 communications device, or an electronic device that  
 2 communicates with a cellular telephone or other wireless or  
 3 cellular communications device, including by means of an  
 4 application installed on or accessed through a cellular  
 5 telephone or other wireless or cellular communications device.

6 SECTION 3. IC 35-45-10-7 IS ADDED TO THE INDIANA CODE  
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 8 1, 2023]: Sec. 7. (a) This section does not apply to the following:

9 (1) A parent who uses a tracking device to determine the  
 10 location of the parent's minor child.

11 (2) A person who places a tracking device on property in  
 12 which the person has an ownership or contractual interest,  
 13 unless the person is the subject of a valid protection order  
 14 issued on behalf of an individual who may use the property.

15 (3) A tracking device placed on a person or the property of a  
 16 person:

17 (A) who is incarcerated;

18 (B) as a condition of probation, parole, home detention,  
 19 community corrections, bail, prosecutorial diversion, or  
 20 supervised release; or

21 (C) pursuant to a court order.

22 (4) A law enforcement officer lawfully engaged in the  
 23 execution of the officer's duties.

24 (b) As used in this section, "protective order" means an order  
 25 described in IC 35-46-1-15.1(a).

26 (c) A person who:

27 (1) with the intent to remotely determine or track the position  
 28 or movement of an individual; and

29 (2) without the knowledge of the individual;

30 places a tracking device on the individual or on property owned or  
 31 used by the individual, commits remote criminal tracking, a Class  
 32 C misdemeanor. However, the offense is a Class A misdemeanor if  
 33 the person is the subject of a valid protective order issued on behalf  
 34 of the individual.

35 SECTION 4. IC 35-50-2-19 IS ADDED TO THE INDIANA CODE  
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 37 1, 2023]: Sec. 19. (a) The state may seek, on a page separate from

38 the rest of a charging instrument, to have a person who allegedly  
 39 committed a felony sentenced to an additional fixed term of  
 40 imprisonment if the state can show beyond a reasonable doubt that  
 41 the person knowingly or intentionally used a tracking device:

42 (1) in the commission of the felony; or



- 1           **(2) to facilitate the commission of the felony.**  
2           **(b) If the person was convicted of the felony in a jury trial, the**  
3 **jury shall reconvene to hear evidence in the enhancement hearing.**  
4 **If the trial was to the court, or the judgment was entered on a**  
5 **guilty plea, the court alone shall hear evidence in the enhancement**  
6 **hearing.**  
7           **(c) If the jury (if the hearing is by jury) or the court (if the**  
8 **hearing is to the court alone) finds that the state has proved beyond**  
9 **a reasonable doubt that the person knowingly or intentionally used**  
10 **a tracking device in the commission of the felony, or to facilitate**  
11 **the commission of the felony, the court may sentence the person to**  
12 **an additional fixed term of imprisonment of:**  
13           **(1) if the felony did not result in serious bodily injury to**  
14 **another person, between six (6) months and two and one-half**  
15 **(2 1/2) years; or**  
16           **(2) if the felony resulted in serious bodily injury to another**  
17 **person, between one (1) and six (6) years.**  
18           **(d) A person who commits more than one (1) felony comprising**  
19 **a single episode of criminal conduct may be sentenced to only one**  
20 **(1) additional fixed term under this section.**

