

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 159 Session of 2023

INTRODUCED BY LANGERHOLC, ROBINSON, MARTIN, LAUGHLIN, PHILLIPS-HILL, DUSH, J. WARD, STEFANO, COSTA, SANTARSIERO, SCHWANK, COMITTA, KANE, CAPPELLETTI AND BREWSTER, JANUARY 19, 2023

SENATOR BAKER, JUDICIARY, AS AMENDED, JUNE 6, 2023

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in assault, providing for the offense
3 of unauthorized use of an electronic tracking device; and
4 providing for penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 2709.2. Unauthorized use of an electronic tracking device.

10 (a) Offense defined.--A person commits the offense of
11 unauthorized use of an electronic tracking device when the
12 person installs or places an electronic tracking device without
13 consent, or causes an electronic tracking device to be installed
14 or placed ON THE PERSON OR PROPERTY OF ANOTHER PERSON without <--
15 consent, and uses the electronic tracking device to track the
16 location of another THE OTHER person within this Commonwealth. <--

17 (b) Exceptions.--The provisions of this section shall not
18 apply to the installation, placement or use of an electronic

1 tracking device by:

2 (1) An investigative officer, law enforcement officer or
3 agency while conducting an investigation, when the officer or
4 agency is engaged in the lawful performance of official
5 duties and in accordance with other Federal and State laws.

6 ~~(2) The parent or legal guardian of a minor when~~ <--
7 ~~tracking:~~

8 ~~(i) The minor.~~

9 ~~(ii) A person authorized by the parent or legal~~
10 ~~guardian as a caretaker of the minor at any time when the~~
11 ~~minor is under the caretaker's sole care.~~

12 (2) UNLESS PROHIBITED BY COURT ORDER, THE PARENT OR <--
13 LEGAL GUARDIAN OF A MINOR CHILD WHEN TRACKING THE MINOR, OR A
14 PERSON AUTHORIZED BY THE PARENT OR LEGAL GUARDIAN TO SERVE AS
15 A CARETAKER OF THE MINOR AT ANY TIME WHEN THE MINOR IS UNDER
16 THE CARETAKER'S SOLE CARE, IF:

17 (I) THE PARENTS OR LEGAL GUARDIANS ARE LAWFULLY
18 MARRIED TO EACH OTHER AND ARE NOT SEPARATED OR OTHERWISE
19 LIVING APART;

20 (II) THE PARENT OR LEGAL GUARDIAN IS THE SOLE
21 SURVIVING PARENT OR LEGAL GUARDIAN OF THE MINOR;

22 (III) THE PARENT OR LEGAL GUARDIAN HAS PRIMARY
23 PHYSICAL CUSTODY OF THE MINOR WHILE THE ELECTRONIC
24 TRACKING DEVICE IS INSTALLED AND MONITORED; OR

25 (IV) THE PARENTS OR LEGAL GUARDIANS ARE DIVORCED,
26 SEPARATED OR OTHERWISE LIVING APART AND BOTH CONSENT TO
27 THE INSTALLATION OF AND MONITORING BY THE ELECTRONIC
28 TRACKING DEVICE.

29 (3) A legally authorized guardian of an incapacitated
30 person as defined in 20 Pa.C.S. § 5902 (relating to

1 definitions)- OR A CAREGIVER OR FAMILY MEMBER OF AN ELDERLY <--
2 PERSON OR DISABLED ADULT, IF THE ELDERLY PERSON'S OR DISABLED
3 ADULT'S PHYSICIAN RECOMMENDS THE INSTALLATION OF A TRACKING
4 DEVICE OR TRACKING APPLICATION TO ENSURE THE SAFETY OF THE
5 ELDERLY PERSON OR DISABLED ADULT.

6 (4) The owner of fleet vehicles, when tracking the <--
7 owner's vehicles., LESSEE OR CONTRACTOR OF FLEET VEHICLES WHO <--
8 INSTALLS OR DIRECTS THE INSTALLATION OF AN ELECTRONIC
9 TRACKING DEVICE ON THE VEHICLE DURING THE PERIOD OF
10 OWNERSHIP, LEASE OR CONTRACT IF:

11 (I) THE ELECTRONIC TRACKING DEVICE IS REMOVED BEFORE
12 THE VEHICLE'S TITLE IS TRANSFERRED OR THE VEHICLE'S LEASE
13 EXPIRES;

14 (II) THE NEW OWNER OF THE VEHICLE, IN THE CASE OF A
15 SALE, THE LESSOR OF THE VEHICLE, IN THE CASE OF AN
16 EXPIRED LEASE OR THE CONTRACTOR, IN THE CASE OF AN
17 EXPIRED CONTRACTUAL AGREEMENT, CONSENTS IN WRITING TO THE
18 NONREMOVAL OF THE ELECTRONIC TRACKING DEVICE; OR

19 (III) THE OWNER OF THE VEHICLE AT THE TIME OF
20 INSTALLATION OF THE ELECTRONIC TRACKING DEVICE WAS THE
21 ORIGINAL MANUFACTURER OF THE VEHICLE.

22 (5) An electronic communications provider to the extent
23 that the installation, placement or use is disclosed in the
24 provider's terms of use, privacy policy or similar document
25 made available to the customer.

26 (6) A PERSON ACTING IN GOOD FAITH ON BEHALF OF A <--
27 BUSINESS ENTITY FOR A LEGITIMATE BUSINESS INTEREST. THIS
28 PARAGRAPH DOES NOT APPLY TO A PRIVATE DETECTIVE.

29 (7) A PRIVATE DETECTIVE ACTING IN GOOD FAITH WHILE
30 CONDUCTING PRIVATE DETECTIVE BUSINESS AS DEFINED BY THE ACT

1 OF AUGUST 21, 1953 (P.L.1273, NO.361), KNOWN AS THE PRIVATE
2 DETECTIVE ACT OF 1953, WHILE ACTING IN COMPLIANCE WITH ALL
3 RELEVANT AND EXISTING FEDERAL AND STATE LAWS. THIS PARAGRAPH
4 DOES NOT APPLY IF A COURT ORDER PROHIBITS THE INSTALLATION OF
5 A TRACKING DEVICE ON AN INDIVIDUAL OR THE INDIVIDUAL'S
6 PROPERTY BY THE INDIVIDUAL THAT EMPLOYS OR REQUESTS
7 ASSISTANCE FROM THE PRIVATE DETECTIVE.

8 (c) Grading.--

9 (1) A first offense under this section constitutes a
10 misdemeanor of the second degree.

11 (2) A second or subsequent offense under this section
12 constitutes a misdemeanor of the first degree.

13 (d) Definitions.--As used in this section, the following
14 words and phrases shall have the meanings given to them in this
15 subsection unless the context clearly indicates otherwise:

16 "Electronic tracking device." An electronic or mechanical
17 device that permits an individual to remotely determine or track
18 the position and movement of another individual OR THE PROPERTY <--
19 OF ANOTHER INDIVIDUAL.

20 "Fleet vehicle." One or more motor vehicles:

21 (1) ~~owned by an entity and operated by an employee or~~ <--
22 ~~agent of the,~~ LEASED OR CONTRACTED BY AN entity for business <--
23 or government purposes; OR: <--

24 (I) AN EMPLOYEE OF THE ENTITY;

25 (II) AN AGENT OF THE ENTITY; OR

26 (III) AN INDIVIDUAL AUTHORIZED TO OPERATE THE FLEET
27 VEHICLE IN COMPLIANCE WITH A CONTRACT BETWEEN THE ENTITY
28 AND ANOTHER PARTY;

29 (2) held for lease or rental to the general public; or

30 (3) held for sale by a motor vehicle dealer.

1 Section 2. This act shall take effect in 60 days.