

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 416 Session of 2023

INTRODUCED BY POWELL, SCHLOSSBERG, CIRESI, HILL-EVANS, KINSEY, SANCHEZ, PROBST, MADDEN, GUENST, BURGOS, HOWARD, D. WILLIAMS, KIM, FREEMAN, KINKEAD, N. NELSON, RABB, BOROWSKI, GUZMAN, SHUSTERMAN, WARREN, CERRATO, TAKAC, BRIGGS, HANBIDGE AND MAYES, MARCH 14, 2023

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 26, 2024

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in assault, providing for the offense <--
3 of unauthorized location tracking. FURTHER PROVIDING FOR THE <--
4 OFFENSE OF STALKING.

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 location tracking.

10 (a) Offense defined. A person commits the offense of
11 unauthorized location tracking when the person uses a
12 technological device to determine or monitor the location or
13 movement of another person or another person's property without
14 the prior authorization of the other person or, if the other
15 person is under 18 years of age, the other person's parent or
16 legal guardian.

1 ~~(b) Venue. An offense committed under this section may be~~
2 ~~deemed to have been committed where:~~

3 ~~(1) the information was received;~~

4 ~~(2) the victim resides; or~~

5 ~~(3) the property is located.~~

6 ~~(c) Grading. A violation of this section shall constitute a~~
7 ~~misdemeanor of the third degree.~~

8 SECTION 1. SECTION 2709.1(A), (B) AND (C) OF TITLE 18 OF THE <--
9 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED AND THE SECTION
10 IS AMENDED BY ADDING SUBSECTIONS TO READ:

11 § 2709.1. STALKING.

12 (A) [OFFENSE] STALKING OFFENSE DEFINED.--A PERSON COMMITS
13 THE CRIME OF STALKING WHEN THE PERSON EITHER:

14 (1) ENGAGES IN A COURSE OF CONDUCT OR REPEATEDLY COMMITS
15 ACTS TOWARD ANOTHER PERSON, INCLUDING FOLLOWING THE PERSON
16 WITHOUT PROPER AUTHORITY, UNDER CIRCUMSTANCES WHICH
17 DEMONSTRATE EITHER AN INTENT TO PLACE SUCH OTHER PERSON IN
18 REASONABLE FEAR OF BODILY INJURY OR TO CAUSE SUBSTANTIAL
19 EMOTIONAL DISTRESS TO SUCH OTHER PERSON; OR

20 (2) ENGAGES IN A COURSE OF CONDUCT OR REPEATEDLY
21 COMMUNICATES TO ANOTHER PERSON UNDER CIRCUMSTANCES WHICH
22 DEMONSTRATE OR COMMUNICATE EITHER AN INTENT TO PLACE SUCH
23 OTHER PERSON IN REASONABLE FEAR OF BODILY INJURY OR TO CAUSE
24 SUBSTANTIAL EMOTIONAL DISTRESS TO SUCH OTHER PERSON.

25 (B) VENUE FOR STALKING OFFENSE.--

26 (1) AN OFFENSE COMMITTED UNDER [THIS SECTION] SUBSECTION
27 (A) MAY BE DEEMED TO HAVE BEEN COMMITTED AT EITHER THE PLACE
28 AT WHICH THE COMMUNICATION OR COMMUNICATIONS WERE MADE OR AT
29 THE PLACE WHERE THE COMMUNICATION OR COMMUNICATIONS WERE
30 RECEIVED.

1 (2) [ACTS] FOR AN OFFENSE COMMITTED UNDER SUBSECTION
2 (A), ACTS INDICATING A COURSE OF CONDUCT WHICH OCCUR IN MORE
3 THAN ONE JURISDICTION MAY BE USED BY ANY OTHER JURISDICTION
4 IN WHICH AN ACT OCCURRED AS EVIDENCE OF A CONTINUING PATTERN
5 OF CONDUCT OR A COURSE OF CONDUCT.

6 (C) GRADING FOR STALKING OFFENSE.--

7 (1) EXCEPT AS OTHERWISE PROVIDED FOR IN PARAGRAPH (2), A
8 FIRST OFFENSE UNDER [THIS SECTION] SUBSECTION (A) SHALL
9 CONSTITUTE A MISDEMEANOR OF THE FIRST DEGREE.

10 (2) A SECOND OR SUBSEQUENT OFFENSE UNDER [THIS SECTION]
11 SUBSECTION (A) OR A FIRST OFFENSE UNDER SUBSECTION (A) IF THE
12 PERSON HAS BEEN PREVIOUSLY CONVICTED OF A CRIME OF VIOLENCE
13 INVOLVING THE SAME VICTIM, FAMILY OR HOUSEHOLD MEMBER,
14 INCLUDING, BUT NOT LIMITED TO, A VIOLATION OF SECTION 2701
15 (RELATING TO SIMPLE ASSAULT), 2702 (RELATING TO AGGRAVATED
16 ASSAULT), 2705 (RELATING TO RECKLESSLY ENDANGERING ANOTHER
17 PERSON), 2718 (RELATING TO STRANGULATION), 2901 (RELATING TO
18 KIDNAPPING), 3121 (RELATING TO RAPE) OR 3123 (RELATING TO
19 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE), AN ORDER ISSUED
20 UNDER SECTION 4954 (RELATING TO PROTECTIVE ORDERS) OR AN
21 ORDER ISSUED UNDER 23 PA.C.S. § 6108 (RELATING TO RELIEF)
22 SHALL CONSTITUTE A FELONY OF THE THIRD DEGREE.

23 (C.1) UNAUTHORIZED LOCATION TRACKING OFFENSE DEFINED.--

24 EXCEPT AS PROVIDED UNDER SUBSECTION (C.2), A PERSON COMMITS THE
25 OFFENSE OF UNAUTHORIZED LOCATION TRACKING WHEN THE PERSON
26 INSTALLS OR PLACES A TECHNOLOGICAL DEVICE OR CAUSES THE
27 TECHNOLOGICAL DEVICE TO BE PLACED ON THE PERSON OR PROPERTY OF
28 ANOTHER PERSON TO DETERMINE OR MONITOR THE LOCATION OR MOVEMENT
29 OF ANOTHER PERSON.

30 (C.2) EXCEPTIONS.--THE PROVISIONS OF SUBSECTION (C.1) SHALL

1 NOT APPLY TO THE INSTALLATION, PLACEMENT OR USE OF AN ELECTRONIC
2 TRACKING DEVICE:

3 (1) BY AN INVESTIGATIVE OFFICER, LAW ENFORCEMENT OFFICER
4 OR AGENCY WHILE CONDUCTING AN INVESTIGATION, WHEN THE
5 INVESTIGATIVE OFFICER, LAW ENFORCEMENT OFFICER OR AGENCY IS
6 ENGAGED IN THE LAWFUL PERFORMANCE OF OFFICIAL DUTIES AND IS
7 OTHERWISE IN ACCORDANCE WITH FEDERAL AND STATE LAW;

8 (2) PURSUANT TO A COURT ORDER OR AS PART OF SUPERVISION
9 FOR A PRETRIAL DIVERSIONARY PROGRAM, PROBATION OR PAROLE;

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

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

18 (II) THE PARENT OR LEGAL GUARDIAN IS THE SOLE
19 SURVIVING PARENT OR LEGAL GUARDIAN OF THE MINOR;

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

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

27 (4) BY A LEGALLY AUTHORIZED GUARDIAN OF AN INCAPACITATED
28 PERSON AS DEFINED IN 20 PA.C.S. § 5902 (RELATING TO
29 DEFINITIONS) OR BY A CAREGIVER OR FAMILY MEMBER OF A SENIOR
30 CITIZEN OR AN ADULT WITH A DISABILITY, IF A PHYSICIAN OF THE

1 SENIOR CITIZEN OR ADULT WITH A DISABILITY RECOMMENDS THE
2 INSTALLATION OF AN ELECTRONIC TRACKING DEVICE OR TRACKING
3 APPLICATION TO ENSURE THE SAFETY OF THE SENIOR CITIZEN OR
4 ADULT WITH A DISABILITY;

5 (5) BY THE OWNER, LESSEE OR CONTRACTOR OF A FLEET
6 VEHICLE WHO INSTALLS OR DIRECTS THE INSTALLATION OF THE
7 ELECTRONIC TRACKING DEVICE ON THE VEHICLE DURING THE PERIOD
8 OF OWNERSHIP, LEASE OR CONTRACT IF:

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

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

17 (III) THE OWNER OF THE VEHICLE AT THE TIME OF
18 INSTALLATION OF THE ELECTRONIC TRACKING DEVICE WAS THE
19 ORIGINAL MANUFACTURER OF THE VEHICLE;

20 (6) BY AN ELECTRONIC COMMUNICATIONS PROVIDER TO THE
21 EXTENT THAT THE INSTALLATION, PLACEMENT OR USE IS DISCLOSED
22 IN THE PROVIDER'S TERMS OF USE, PRIVACY POLICY OR SIMILAR
23 DOCUMENT AND ACCEPTED BY THE CUSTOMER; OR

24 (7) BY A PERSON ACTING IN GOOD FAITH ON BEHALF OF A
25 BUSINESS ENTITY FOR A LEGITIMATE BUSINESS INTEREST.

26 (C.3) VENUE FOR UNAUTHORIZED LOCATION TRACKING OFFENSE.--AN
27 OFFENSE COMMITTED UNDER SUBSECTION (C.1) MAY BE DEEMED TO HAVE
28 BEEN COMMITTED WHERE:

29 (1) THE INFORMATION WAS RECEIVED;

30 (2) THE VICTIM RESIDES; OR

1 (3) THE PROPERTY IS LOCATED.

2 (C.4) GRADING FOR UNAUTHORIZED LOCATION TRACKING OFFENSE.--A
3 VIOLATION UNDER SUBSECTION (C.1) SHALL CONSTITUTE A MISDEMEANOR
4 OF THE THIRD DEGREE.

5 * * *

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