

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 416 Session of 2023

INTRODUCED BY GALLOWAY, 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.

17 (b) Venue. An offense committed under this section may be

1 ~~deemed to have been committed where:~~

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

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

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

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

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

10 § 2709.1. STALKING.

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

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

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

24 (B) VENUE FOR STALKING OFFENSE.--

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

30 (2) [ACTS] FOR AN OFFENSE COMMITTED UNDER SUBSECTION

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

5 (C) GRADING FOR STALKING OFFENSE.--

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

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

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

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

29 (C.2) EXCEPTIONS.--THE PROVISIONS OF SUBSECTION (C.1) SHALL
30 NOT APPLY TO THE INSTALLATION, PLACEMENT OR USE OF AN ELECTRONIC

1 TRACKING DEVICE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) THE INFORMATION WAS RECEIVED;

29 (2) THE VICTIM RESIDES; OR

30 (3) THE PROPERTY IS LOCATED.

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

4 * * *

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