

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1549

STATE OF NEW JERSEY

DATED: JUNE 2, 2022

The Assembly Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1549.

As reported by the committee, the Assembly Committee Substitute for Assembly Bill No. 1549 makes it a crime of the fourth degree to use a tracking device or tracking application to engage in certain tracking and location activities.

Under the bill, a person who uses an electronic tracking device or tracking application for an unlawful purpose to track or determine the location of another person commits a crime of the fourth degree. The bill provides that the following uses of an electronic tracking device or tracking application are considered lawful:

(1) by the parent or guardian of a minor child for the purpose of tracking or determining the location of the minor child;

(2) for the purpose of monitoring, tracking, or locating a person who, due to a physical or mental health condition, may be at risk of injury or death;

(3) by a person who has obtained the consent of the person to be tracked or located, in accordance with the bill's provisions;

(4) by a person in order to track or locate personal property during a lawful business transaction in which the person's personal property is in the temporary possession or otherwise under the control of a third party;

(5) by a person collecting consumer location data as part of a lawful business practice, and with notice to a consumer; and

(6) by a person acting in accordance with State or federal law or regulation.

The bill establishes a permissive inference that, except as otherwise provided, the use of an electronic tracking device or tracking application to conduct surreptitious surveillance of another person is for an unlawful purpose, including, but not limited to, stalking or harassment.

The bill provides that for the purposes of obtaining consent to use an electronic tracking device or a tracking application, the person to be tracked or located is required to provide consent:

(1) in writing, in the case of an electronic tracking device; or

(2) by opting-in to or otherwise affirmatively accepting the use of the application, in the case of a tracking application.

For the purposes of the bill, a person's consent is presumed to be revoked if:

(1) the person who gave consent and the person who obtained consent are spouses, civil union partners, or domestic partners, and one person has filed a petition for divorce, dissolution of the civil union, or termination of the domestic partnership; or

(2) the person who gave consent or the person who obtained consent has filed an application for a temporary or final restraining order.

Excepted from the bill's provisions are State or local government entities and equipment, leased, owned, or operated by those entities.

The bill defines "electronic tracking device" as any device used to track the location or movement of a person that reveals its location or movement by the transmission of electronic signals. "Tracking application" means any computer application software installed or otherwise operational on a computer or mobile device that may be used to track the movement or determine the location of the computer or mobile device.

A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.