

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 197 — Tracking Devices or Tracking Applications

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Metz and others (CS/CS/SB 282 by Rules Committee; Criminal Justice Committee; and Senator Hukill)

The bill creates a new section of the Florida Statutes making it a second degree misdemeanor for a person to knowingly install a tracking device or tracking application on another's property without the other person's consent.

The bill creates the following definitions:

- “Business entity” means any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state;
- “Tracking application” means any software program whose primary purpose is to track or identify the location or movement of an individual;
- “Tracking device” means any device whose primary purpose is to reveal its location or movement by the transmission of electronic signals; and
- “Person” means an individual and does not mean a business entity.

The bill amends s. 493.6118, F.S., to add commission of the new offense as grounds for disciplinary action against persons regulated under ch. 493, F.S. (Private Investigative, Private Security, and Repossession Services), or who are engaged in activities regulated under that chapter.

The bill specifies that a person's consent to be tracked is presumed to be revoked in the following circumstances:

- When the consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other; or
- When the consenting person or the person to whom consent was given files an injunction for protection against the other person pursuant to s. 741.30, s. 741.315, s. 784.046, or s. 784.0485, F.S.

The prohibition against knowingly installing a tracking device or tracking application does not apply to:

- A law enforcement officer as defined in s. 943.10, F.S., or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or application on another person's property as part of a criminal investigation;
- A parent or legal guardian of a minor child who installs a tracking device or application on the minor's property (Note: when the parents or guardians are divorced, separated, or otherwise living apart from one another, this exception applies only if both parents or guardians consent to the installation of the device or application; however, if one parent or guardian has been granted sole custody, consent of the noncustodial parent is not required; the exemption also applies to the sole surviving parent or guardian.);

- A caregiver of an elderly person or disabled adult, if the elderly person or disabled adult's treating physician certifies that such installation is necessary to ensure the safety of the elderly person or disabled adult;
- A person acting in good faith on behalf of a business entity for a legitimate business purpose (Note: this exemption does not apply to a person engaged in private investigation for another person unless the person for whom the investigation is being conducted would otherwise be exempt from the bill's provisions.);
- An owner or lessor of a motor vehicle during the period of ownership or lease, provided that the device is removed before the vehicle title is transferred or the lease expires, or the new owner gives written consent for non-removal; or
- The original manufacturer of a vehicle.

If approved by the Governor, these provisions take effect October 1, 2015.

Vote: Senate 39-0; House 113-0