

By Senator Hukill

8-00433-15

2015282__

1 A bill to be entitled
2 An act relating to tracking devices or applications;
3 creating s. 934.425, F.S.; providing definitions;
4 prohibiting the use of a tracking device or
5 application to determine the location or movement of a
6 person without the person's consent; creating a
7 presumption that consent is revoked upon initiation of
8 specified proceedings; providing exceptions; providing
9 criminal penalties; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 934.425, Florida Statutes, is created to
14 read:

15 934.425 Use of tracking devices or applications prohibited;
16 exceptions.-

17 (1) As used in this section, the term:

18 (a) "Tracking application" means any software program that,
19 once installed on an electronic device, enables the device to be
20 used as a tracking device.

21 (b) "Tracking device" means any device that reveals its
22 location or movement by the transmission of electronic signals.

23 (2) Except as provided in subsection (3), a person may not
24 use a tracking device or application to determine the location
25 or movement of another person without the consent of that
26 person. For purposes of this section, a person who files a
27 petition for dissolution of marriage or who seeks a restraining
28 order against another person is presumed to have revoked any
29 consent given before the initiation of such proceedings to his

8-00433-15

2015282__

30 or her spouse from whom the dissolution is sought or the person
31 sought to be restrained, respectively.

32 (3) This section does not apply to:

33 (a) The owner of a motor vehicle, including the owner of a
34 motor vehicle available for rent, who has consented to the use
35 of the tracking device or application with respect to such
36 vehicle.

37 (b) The lessor or lessee of a motor vehicle and the person
38 operating the motor vehicle who have consented to the use of a
39 tracking device or application with respect to such vehicle.

40 (c) Any law enforcement agency, including state, federal,
41 and military law enforcement agencies, that is acting pursuant
42 to a court order or lawfully using the tracking device or
43 application in an ongoing criminal investigation, if the law
44 enforcement officer employing the tracking device or application
45 creates a contemporaneous record describing in detail the
46 circumstances under which the tracking device or application is
47 being used.

48 (d)1. A parent or legal guardian of a minor child whose
49 location or movements are being tracked by the parent or legal
50 guardian.

51 2. When the parents of the minor child are divorced,
52 separated, or otherwise living apart from one another, this
53 exception applies only if both parents consent to the tracking
54 of the minor child's location and movements, unless one parent
55 has been granted sole custody, in which case consent of the
56 noncustodial parent is not required.

57 (e) The owner or operator of a correctional institution, as
58 defined in s. 944.241, that is tracking a prisoner or any person

8-00433-15

2015282__

59 detained under the immigration laws of the United States at any
60 such correctional institution who is under its custody or
61 supervision. For purposes of this paragraph, the term "prisoner"
62 means any person incarcerated or detained in any correctional
63 institution who is accused of, convicted of, sentenced for, or
64 adjudicated delinquent for a violation of criminal law or the
65 terms and conditions of parole, probation, community control,
66 pretrial release, or a diversionary program.

67 (f) Any provider of a commercial mobile radio service, such
68 as a mobile telephone service or vehicle safety or security
69 service, which allows the provider to determine the location or
70 movement of a device provided to a customer of such service.

71 (g) Any commercial motor carrier operation.

72 (h) Any commercial enterprise engaged in good faith
73 marketing or advertising to the public through the use of
74 tracking applications if the location of a member of the public,
75 as revealed to the commercial enterprise through the tracking
76 application, is used only for good faith marketing or
77 advertising and no other purpose.

78 (4) A person who violates this section commits a
79 misdemeanor of the second degree, punishable as provided in s.
80 775.082 or s. 775.083.

81 Section 2. This act shall take effect October 1, 2015.