

By the Committee on Criminal Justice; and Senator Hukill

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

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 934.425, Florida Statutes, is created to
16 read:

17 934.425 Installation of tracking devices or tracking
18 applications; exceptions; penalties.-

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

20 (a) "Business entity" means any form of corporation,
21 partnership, association, cooperative, joint venture, business
22 trust, or sole proprietorship that conducts business in this
23 state.

24 (b) "Person" means an individual and does not mean a
25 business entity.

26 (c) "Tracking application" means any software program whose
27 primary purpose is to track or identify the location or movement
28 of an individual.

29 (d) "Tracking device" means any device whose primary

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30 purpose is to reveal its location or movement by the
31 transmission of electronic signals.

32 (2) Except as provided in subsection (4), a person may not
33 knowingly install a tracking device or tracking application on
34 another person's property without the other person's consent.

35 (3) For purposes of this section, a person's consent is
36 presumed to be revoked if:

37 (a) The consenting person and the person to whom consent
38 was given are lawfully married and one person files a petition
39 for dissolution of marriage from the other; or

40 (b) The consenting person or the person to whom consent was
41 given files an injunction for protection against the other
42 person pursuant to s. 741.30, s. 741.315, s. 784.046, or s.
43 784.0485.

44 (4) This section does not apply to:

45 (a) A law enforcement officer as defined in s. 943.10, or
46 any local, state, federal, or military law enforcement agency,
47 that lawfully installs a tracking device or tracking application
48 on another person's property as part of a criminal
49 investigation.

50 (b) A parent or legal guardian of a minor child that
51 installs a tracking device or tracking application on the minor
52 child's property if:

53 1. The parents or legal guardians are lawfully married to
54 each other and are not separated or otherwise living apart, and
55 either parent or legal guardian consents to the installation of
56 the tracking device or tracking application;

57 2. The parent or legal guardian is the sole surviving
58 parent or legal guardian of the minor child;

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59 3. The parent or legal guardian has sole custody of the
60 minor child; or

61 4. The parents or legal guardians are divorced, separated,
62 or otherwise living apart and both consent to the installation
63 of the tracking device or tracking application.

64 (c) A caregiver of an elderly person or disabled adult, as
65 those terms are defined in s. 825.101, if the elderly person's
66 or disabled adult's treating physician certifies that the
67 installation of a tracking device or tracking application onto
68 the elderly person's or disabled adult's property is necessary
69 to ensure the safety of the elderly person or disabled adult.

70 (d) A person acting in good faith on behalf of a business
71 entity for a legitimate business purpose.

72 (5) A person who violates this section commits a
73 misdemeanor of the second degree, punishable as provided in s.
74 775.082 or s. 775.083.

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