

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1168

INTRODUCER: Senator Leek

SUBJECT: Installation or Use of Tracking Devices or Applications

DATE: March 10, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1168 amends s. 934.425, F.S., to provide that a person who, in furtherance of a dangerous crime as defined in s. 907.041(5)(a)¹, F.S., knowingly installs or places a tracking device or tracking application on another person’s property without consent or uses such a device or application to determine a person’s location or their property’s location or movement without consent, commits a second degree felony.²

The bill has a positive indeterminate fiscal impact. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

II. Present Situation:

In recent years, compact tracking devices like Apple AirTags have changed the way that we locate lost items. These devices have also opened avenues for misuse in the area of personal surveillance. Tracking devices and tracking applications can be used to follow the location or movement of another person, potentially without that person’s knowledge or consent. Some applications have legitimate uses, but may be accessed by third parties without the user’s consent. Other applications are developed and marketed as surveillance applications, commonly targeting potential customers interested in using the technology to track the movements and communication of another without consent.

¹ Section 907.041(5)(a), F.S., defines “dangerous crime” to mean any of the follow: offenses: Arson, Aggravated assault, Aggravated battery, Illegal use of explosives, Child abuse or aggravated child abuse, Abuse of an elderly person or disabled adult, Aircraft piracy, Kidnapping; Homicide, Manslaughter, Sexual battery, Robbery, carjacking, and the remaining offenses listed under this section.

² A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of \$10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

Bluetooth trackers like Apple AirTag, Google's Nest tags and Tile devices work by transmitting a signal to nearby phones or tablets, which report the tracker's location for the tracker's owner and display its moves in real time on a map.³

Location Tracking Technology

Global Positioning System

The Global Positioning System (GPS) is a space-based radio navigation system, owned by the United States Government and operated by the United States Space Force. GPS consists of three segments, including the:

- Space Segment: A constellation of 31 operational satellites that circle the Earth at an altitude of approximately 11,000 miles every 12 hours;
- Control Segment: Stations on Earth that monitor and maintain the GPS satellites; and
- User Segment: Receivers that process the navigation signals from the GPS satellites and calculate position and time.⁴

Each GPS satellite transmits its position and time at regular intervals and the signals are intercepted by GPS receivers. The receiver is then able to determine its position by calculating how long it took for the signal to reach the receiver. GPS currently provides two levels of service: standard positioning service and precise positioning service. Access to precise positioning service is restricted to the United States Armed Forces, Federal agencies, and select allied armed forces and governments. Standard positioning service is available to all users on a continuous basis, free of any direct charge to users.⁵

GPS is widely used in a variety of applications because its capabilities are accessible using small, inexpensive equipment.⁶

Wi-Fi Positioning

Wi-Fi is a radio-frequency technology for wireless communication that is used by nearly all devices and network infrastructure, including smartphones, computers, Internet of Things devices, routers, and more can be used to transmit data between devices using radio waves.⁷ Wi-Fi can be leveraged to detect and track the location of people, devices, and assets, and can be easily activated for indoor positioning with existing Wi-Fi access points. The most commonly used Wi-Fi positioning techniques determine a device's location by using a measure called received signal strength indicator (RSSI). In RSSI applications, multiple existing Wi-Fi access points or Wi-Fi enabled sensors deployed in a fixed position detect transmitting Wi-Fi devices

³ WUFT, *Florida cracking down on cyber stalking with Apple AirTags, other hidden tracking devices*, (April 7, 2024), available at: <https://www.wusf.org/politics-issues/2024-04-07/florida-cracking-down-on-cyber-stalking-with-apple-airtags-other-hidden-tracking-devices> (last visited March 5, 2025).

⁴ NASA, *GPS-What is GPS*, Catherine G. Manning, September 25, 2023, available at: <https://www.nasa.gov/directorates/somd/space-communications-navigation-program/gps/> (last visited on March 5, 2025).

⁵ *Id.*

⁶ Federal Aviation Administration, *Satellite Navigation- Global Positioning System (GPS)*, available at: https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/navservices/gnss/gps (last visited on March 5, 2025).

⁷ Inpixon Indoor Intelligence, *Wi-Fi RTLS, Location Tracking and Positioning, What is Wi-Fi Positioning*, available at: <https://www.inpixon.com/technology/standards/wifi> (last visited on March 5, 2025).

and the received signal strength of a device's signal. The location data collected by the access points or sensors is sent to the central indoor positioning or realtime location system, which analyzes the data to estimate the position of the transmitting device. Alternatively, the signal strength of nearby access points can be used to determine a device's location.⁸ Wi-Fi positioning technology is particularly popular in providing location services in indoor spaces where GPS may not work as effectively.

Unlawful Installation of a Tracking Device or Application

Section 934.425, F.S., provides that the installation or placement of a tracking device or tracking application on another person's property without that person's consent; or use of a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent is a third degree felony.⁹

A person's consent to be tracked is presumed to be revoked if:

- 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;¹⁰ or
- The consenting person or the person to whom consent was given files an injunction for protection against the other person.¹¹

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

- A law enforcement officer, or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or tracking application on another person's property as part of a criminal investigation;¹²
- A parent or legal guardian of a minor child who installs a tracking device or tracking application on the minor child's property if:
 - The parents or legal guardians are lawfully married to each other and are not separated or otherwise living apart, and either parent or legal guardian consents to the installation of the tracking device or tracking application;¹³
 - The parent or legal guardian is the sole surviving parent or legal guardian of the minor child;¹⁴
 - The parent or legal guardian has sole custody of the minor child;¹⁵ or
 - The parents or legal guardians are divorced, separated, or otherwise living apart and both consent to the installation of the tracking device or tracking application.¹⁶

⁸ *Id.*

⁹ A third degree felony is punishable by a term of imprisonment of not exceeding 5 years and a fine of \$5,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

¹⁰ Section 934.425(3)(a), F.S.

¹¹ Section 934.425(3)(b), F.S., references the following injunctions for protection: s. 741.30, F.S., relating to domestic violence; s. 741.315, F.S., relating to foreign protection orders; s. 784.046, F.S., relating to repeat violence, sexual violence, or dating violence; s. 784.048, F.S., relating to stalking.

¹² Section 934.425(4)(a), F.S.

¹³ Section 934.425(4)(b)1., F.S.

¹⁴ Section 934.425(4)(b)2., F.S.

¹⁵ Section 934.425(4)(b)3., F.S.

¹⁶ Section 934.425(4)(b)4., F.S.

- A caregiver of an elderly person¹⁷ or disabled adult,¹⁸ if the elderly person or disabled adult’s treating physician certifies that the installation of a tracking device or tracking application onto the elderly person or disabled adult’s property is necessary to ensure the safety of the elderly person or disabled adult;¹⁹
- A person acting in good faith on behalf of a business entity for a legitimate business purpose;²⁰ or
- An owner or lessee of a motor vehicle that installs, or directs the installation of, a tracking device or tracking application on such vehicle during the period of ownership or lease, provided that:²¹
 - The tracking device or tracking application is removed before the vehicle’s title is transferred or the vehicle’s lease expires;²²
 - The new owner or lessor of the vehicle consents in writing for the tracking device or tracking application to remain installed;²³ or
 - The owner of the vehicle at the time of the installation of the tracking device or tracking application was the original manufacturer of the vehicle.²⁴

III. Effect of Proposed Changes:

SB 1168 amends s. 934.425, F.S., to provide that a person who, in furtherance of a dangerous crime as defined in s. 907.041(5)(a), F.S., knowingly installs or places a tracking device or tracking application on another person’s property without consent or uses such a device or application to determine a person’s location or their property’s location or movement without consent, commits a second degree felony.²⁵

Section 907.041(5)(a), F.S., defines “dangerous crime” to mean any of the following:

- Arson;
- Aggravated assault;
- Aggravated battery;
- Illegal use of explosives;
- Child abuse or aggravated child abuse;

¹⁷ Section 825.101(4), F.S., defines “Elderly person” to mean a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.

¹⁸ Section 825.101(3), F.S., defines “Disabled adult” to mean a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.

¹⁹ Section 934.425(4)(c), F.S.

²⁰ Section 934.425(4)(d), F.S., This paragraph does not apply to a person engaged in private investigation, as defined in s. 493.6101, F.S., on behalf of another person unless such activities would otherwise be exempt under this subsection if performed by the person engaging the private investigator.

²¹ Section 934.425(4)(e), F.S.

²² Section 934.425(4)(e)1., F.S.

²³ Section 934.425(4)(e)2., F.S.

²⁴ Section 934.425(4)(e)3., F.S.

²⁵ A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of \$10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

- Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
- Aircraft piracy;
- Kidnapping;
- Homicide;
- Manslaughter, including DUI manslaughter and BUI manslaughter;
- Sexual battery;
- Robbery;
- Carjacking;
- Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
- Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority.
- Burglary of a dwelling;
- Stalking and aggravated stalking;
- Act of domestic violence as defined in s. 741.28, F.S.;
- Home invasion robbery;
- Act of terrorism as defined in s. 775.30, F.S.;
- Manufacturing any substances in violation of chapter 893, F.S.;
- Attempting or conspiring to commit any such crime;
- Human trafficking;
- Trafficking in any controlled substance described in s. 893.135(1)(c)4, F.S.;
- Extortion in violation of s. 836.05, F.S.; and
- Written threats to kill in violation of s. 836.10, F.S.

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is estimated that the bill will have a “positive indeterminate” fiscal impact on the Department of Corrections due to the enhanced criminal penalties created in the bill that have the potential for an unquantifiable increase in prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 934.425 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.