

By: Eckhardt

S.B. No. 797

A BILL TO BE ENTITLED

AN ACT

relating to the unlawful installation or use of a tracking device.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 16.06, Penal Code, is amended to read as follows:

Sec. 16.06. UNLAWFUL INSTALLATION OR USE OF TRACKING DEVICE.

SECTION 2. Section 16.06, Penal Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (d-1) to read as follows:

(a) In this section:

(1) "Effective consent" includes consent by a person legally authorized to act on behalf of the person from whom consent is required. Consent is not effective if:

(A) induced by deception, coercion, fraud, force, or threat;

(B) given by a person the actor knows is not legally authorized to act regarding the matter; or

(C) given by a person who by reason of youth, mental illness, intellectual disability, or intoxication is known by the actor to be unable to make reasonable decisions.

(2) "Electronic or mechanical tracking device" means a device capable of emitting an electronic frequency or other signal that may be used by a person to identify, monitor, or record the

location of another person or object.

(3) "Minor" means a person younger than 18 years of age.

(4) [42] "Motor vehicle" has the meaning assigned by Section 501.002, Transportation Code.

(b) A person commits an offense if the person knowingly:

(1) installs an electronic or mechanical tracking device on a motor vehicle owned or leased by another person; or

(2) uses an electronic or mechanical tracking device to determine the location or movement of another person.

(d) It is an affirmative defense to prosecution under this section that the person:

(1) obtained the effective consent of:

(A) the owner or lessee of the motor vehicle before the electronic or mechanical tracking device was installed as described by Subsection (b)(1); or

(B) the person whose location or movement is being tracked as described by Subsection (b)(2);

(2) is a parent, guardian, conservator, or legal custodian of a minor and uses an electronic or mechanical tracking device as described by Subsection (b)(2) to track the location or movement of the minor;

(3) assisted another whom the person reasonably believed to be a peace officer authorized to install or use the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency; or

1 (4) [~~(3)~~] was a private investigator licensed under
2 Chapter 1702, Occupations Code, who:

3 (A) installed the device as described by
4 Subsection (b)(1) [~~+~~

5 [~~(A)~~] with written consent:

6 (i) to install the device given by the owner
7 or lessee of the motor vehicle; and

8 (ii) to enter private residential property,
9 if that entry was necessary to install the device, given by the
10 owner or lessee of the property; or

11 (B) installed or used a device pursuant to an
12 order of or other authorization from a court to gather information.

13 (d-1) The affirmative defense described by Subsection
14 (d)(1) is unavailable if the actor uses the electronic or
15 mechanical tracking device for a purpose other than the purpose for
16 which the consent was given.

17 (e) This section does not apply to a peace officer who
18 installed or used the device in the course of a criminal
19 investigation or pursuant to an order of a court to gather
20 information for a law enforcement agency.

21 SECTION 3. The change in law made by this Act applies only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 governed by the law in effect on the date the offense was committed,
25 and the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

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1 before that date.

2 SECTION 4. This Act takes effect September 1, 2025.