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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 91
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Patton

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SUMMARY

- Prohibits a person from knowingly installing a tracking device or tracking application on another person's property without the other person's consent.
- Specifies that the penalty for a violation of the offense of "illegal use of a tracking device or application" is a first degree misdemeanor.
- Specifies circumstances in which previously granted consent to the installation of a tracking device or application on the consenting person's property is presumed to be revoked.
- Provides situations in which specified persons are exempt from the prohibition.

DETAILED ANALYSIS

Illegal use of a tracking device or application

The bill prohibits a "person" from knowingly installing a "tracking device" or "tracking application" (the bill defines these terms, see "**Definitions**," below) on another person's property without the other person's consent.¹ The penalty for a violation of the offense of "illegal use of a tracking device or application" is a first degree misdemeanor.²

¹ R.C. 2903.211(B)(1).

² R.C. 2903.211(D).

Presumption of revocation of prior consent

The bill provides that a person's prior consent to the installation of a tracking device or application on the consenting person's property is presumed to be revoked if either of the following applies:³

- The consenting person and the person to whom consent was given are lawfully married and one of them files a petition for divorce or dissolution of marriage from the other.
- The consenting person or the person to whom consent was given files a petition or motion requesting a protection order or temporary protection order be issued against the other person.

Exceptions

The bill provides exceptions to the prohibition against knowingly installing a tracking device or application on another person's property without the other person's consent in the following situations:⁴

- A law enforcement officer, or any "law enforcement agency," (see "**Definitions**," below) 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 child's property if any of the following applies:
 - The parents or legal guardians of the child are lawfully married to each other and are not separated or otherwise living apart, and either of those parents or legal guardians consents to the installation of the tracking device or application;
 - The parent or legal guardian of the child is the sole surviving parent or legal guardian of the child;
 - The parent or legal guardian of the child has sole custody of the child;
 - The parents or legal guardians of the child are divorced, separated, or otherwise living apart and both consent to the installation of the tracking device or application.
- A caregiver of an "elderly person" (see "**Definitions**," below) or disabled adult, if the elderly person's or disabled adult's treating physician certifies that the installation of a tracking device or application onto the elderly person's or disabled adult's property 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, with the exception that this does not apply to a "private investigator" engaged in the "business of private investigation" (the bill defines these terms, see

³ R.C. 2903.211(B)(2).

⁴ R.C. 2903.211(B)(3).

“Definitions,” below) on behalf of another person unless the activities would otherwise be exempt if performed by the person engaging the private investigator.

- An owner or lessee of a motor vehicle who installs, or directs the installation of, a tracking device or application on the vehicle during the period of ownership or lease if any of the following applies:
 - The tracking device or application is removed before the vehicle’s title is transferred or the lease expires;
 - The new owner of the vehicle, in the case of a sale, or the lessor of the vehicle, in the case of an expired lease, consents in writing to the nonremoval of the tracking device or application;
 - The owner of the vehicle at the time of the installation of the tracking device or application was the original manufacturer of the vehicle.

Definitions

The bill defines the following terms:⁵

“Business entity” means any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in Ohio.

“Business of private investigation” means, except under specified circumstances, the conducting, for hire, in person or through a partner or employees, of any investigation relevant to any crime or wrong done or threatened, or to obtain information on the identity, habits, conduct, movements, whereabouts, affiliations, transactions, reputation, credibility, or character of any person, or to locate and recover lost or stolen property, or to determine the cause of or responsibility for any libel or slander, or any fire, accident, or damage to property, or to secure evidence for use in any legislative, administrative, or judicial investigation or proceeding.

“Private investigator” means any person who engages in the business of private investigation.

“Disabled adult” means a person who is 18 or older and has some impairment of body or mind that makes the person unable to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least 12 months without any present indication of recovery from the impairment, or who is 18 or older and has been certified as permanently and totally disabled by an Ohio agency or the United States.

“Elderly person” means a person who is 65 or older.

“Law enforcement agency” means any organization or unit comprised of law enforcement officers, and also includes any federal or military law enforcement agency.

⁵ R.C. 2903.211(F)(13) through (19), including by reference to R.C. 4749.01 and 2913.01, not in the bill.

“Person” means an individual, but does not include a business entity.

“Tracking application” means any software program, the primary purpose of which is to track or identify the location or movement of an individual.

“Tracking device” means any device, the primary purpose of which is to reveal its location or movement by the transmission of electronic signals.

HISTORY

Action	Date
Introduced	03-07-23
