

4187

2013-2014 Regular Sessions

I N S E N A T E

March 13, 2013

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to unlawful surveillance with the use of a GPS device

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 250.45 of the penal law is amended by adding a new
2 subdivision 5 to read as follows:
3 5. (A) WITHOUT THE CONSENT OF A PERSON HE OR SHE USES, INSTALLS OR
4 PERMITS THE UTILIZATION OR INSTALLATION OF AN ELECTRONIC TRACKING DEVICE
5 WITH THE INTENT TO DETERMINE THE LOCATION OR MOVEMENT OF A PERSON.
6 (B) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO THE LAWFUL
7 USE OF AN ELECTRONIC TRACKING DEVICE BY A LAW ENFORCEMENT AGENCY.
8 (C) FOR THE PURPOSES OF THIS SUBDIVISION, "ELECTRONIC TRACKING DEVICE"
9 MEANS ANY DEVICE THAT REVEALS ITS LOCATION OR MOVEMENT BY THE TRANS-
10 MISSION OF ELECTRONIC SIGNALS.
11 S 2. The penal law is amended by adding a new section 35.26 to read
12 as follows:
13 S 35.26 JUSTIFICATION; USE OF AN ELECTRONIC TRACKING DEVICE.
14 THE USE OF AN ELECTRONIC TRACKING DEVICE TO DETERMINE THE LOCATION OR
15 MOVEMENT OF A PERSON WHICH WOULD OTHERWISE CONSTITUTE AN OFFENSE IS
16 JUSTIFIABLE AND NOT CRIMINAL WHEN A PARENT, GUARDIAN OR OTHER PERSON
17 ENTRUSTED WITH THE CARE AND SUPERVISION OF A PERSON UNDER THE AGE OF
18 TWENTY-ONE OR AN INCOMPETENT PERSON, MAY USE, INSTALL OR PERMIT THE
19 UTILIZATION OF AN ELECTRONIC TRACKING DEVICE UPON SUCH PERSON WHEN, AND
20 TO THE EXTENT THAT HE OR SHE REASONABLY BELIEVES IT NECESSARY TO MAIN-
21 TAIN DISCIPLINE OR TO PROMOTE THE WELFARE OF SUCH PERSON.
22 S 3. This act shall take effect on the ninetieth day after it shall
23 have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD05409-03-3