

4187--B

Cal. No. 780

2013-2014 Regular Sessions

I N S E N A T E

March 13, 2013

Introduced by Sens. KENNEDY, ADAMS, BALL, BRESLIN, ESPAILLAT, FLANAGAN, GRISANTI, KRUEGER, MAZIARZ, NOZZOLIO, PARKER, TKACZYK -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

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. This act shall be known and may be cited as "Jackie's Law".
2 S 2. Section 250.45 of the penal law is amended by adding a new subdivision 5 to read as follows:
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4 5. (A) WITHOUT THE CONSENT OF A PERSON HE OR SHE USES, INSTALLS OR
5 PERMITS THE UTILIZATION OR INSTALLATION OF AN ELECTRONIC TRACKING DEVICE
6 WITH THE INTENT TO DETERMINE THE LOCATION OR MOVEMENT OF A PERSON AND
7 WITH THE PURPOSE OF COMMITTING A CRIME OR AN OFFENSE AGAINST SUCH PERSON
8 OR WITH THE INTENT TO HARASS, ALARM OR INTIMIDATE SUCH PERSON.
9 (B) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO THE LAWFUL
10 USE OF AN ELECTRONIC TRACKING DEVICE BY A LAW ENFORCEMENT AGENCY.
11 (C) FOR THE PURPOSES OF THIS SUBDIVISION, "ELECTRONIC TRACKING DEVICE"
12 MEANS ANY DEVICE THAT REVEALS ITS LOCATION OR MOVEMENT BY THE TRANSMISSION OF ELECTRONIC SIGNALS.
13
14 S 3. The penal law is amended by adding a new section 35.26 to read as
15 follows:
16 S 35.26 JUSTIFICATION; USE OF AN ELECTRONIC TRACKING DEVICE.
17 THE USE OF AN ELECTRONIC TRACKING DEVICE TO DETERMINE THE LOCATION OR
18 MOVEMENT OF A PERSON WHICH WOULD OTHERWISE CONSTITUTE AN OFFENSE IS
19 JUSTIFIABLE AND NOT CRIMINAL WHEN A PARENT, GUARDIAN OR OTHER PERSON

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

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1 ENTRUSTED WITH THE CARE AND SUPERVISION OF A PERSON UNDER THE AGE OF
2 TWENTY-ONE OR AN INCOMPETENT PERSON, MAY USE, INSTALL OR PERMIT THE
3 UTILIZATION OF AN ELECTRONIC TRACKING DEVICE UPON SUCH PERSON WHEN, AND
4 TO THE EXTENT THAT HE OR SHE REASONABLY BELIEVES IT NECESSARY TO MAIN-
5 TAIN DISCIPLINE OR TO PROMOTE THE WELFARE OF SUCH PERSON.

6 S 4. This act shall take effect on the ninetieth day after it shall
7 have become a law.