

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 subdi-
3 vision 5 to read as follows:
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 TRANS-
13 MISSION OF ELECTRONIC SIGNALS.
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.