STATE OF NEW YORK

9820

IN ASSEMBLY

February 13, 2020

Introduced by M. of A. RA -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to creating the crime of tampering with electronic monitoring equipment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is amended by adding a new section 145.75 to read as follows:

§ 145.75 Tampering with electronic monitoring equipment.

1. For purposes of this section, "electronic monitoring equipment" means an instrument or device utilized as a condition of a securing order pursuant to article five hundred ten or five hundred thirty of the criminal procedure law, or in accordance with subdivision four of section 65.10 of this chapter.

2. A person is guilty of tampering with electronic monitoring equipment when, having no right to do so nor any reasonable grounds to believe that he or she has such right, he or she tampers with electronic monitoring equipment, or damages or otherwise alters such electronic monitoring equipment in an effort to interfere with any signal, impulse or data being transmitted by such electronic monitoring equipment.

Tampering with electronic monitoring equipment is a class E felony.

§ 2. Paragraphs (h) and (i) of subdivision 4 of section 510.10 of the criminal procedure law, as added by section 2 of part JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of

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

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the defendant's same family or household as defined in subdivision one of section 530.11 of this [~~article~~] title; [~~or~~]

(i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law; or

(j) tampering with electronic monitoring equipment as defined in section 145.75 of the penal law.

§ 3. Subparagraphs (viii) and (ix) of paragraph b of subdivision 1 of section 530.20 of the criminal procedure law, as added by section 16 of part JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

(viii) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article; [~~or~~]

(ix) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law; or

(x) tampering with electronic monitoring equipment as defined in section 145.75 of the penal law.

§ 4. Paragraphs (h) and (i) of subdivision 4 of section 530.40 of the criminal procedure law, as added by section 18 of part JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article; [~~or~~]

(i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law; or

(j) tampering with electronic monitoring equipment as defined in section 145.75 of the penal law.

§ 5. This act shall take effect immediately.