STATE OF NEW YORK

8304

IN SENATE

February 10, 2022

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed 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 (s) and (t) of subdivision 4 of section 510.10 of the criminal procedure law, as added by section 2 of part UU of chapter 56 of the laws of 2020, are amended to read as follows:

(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; [~~or~~]

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the

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

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defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision**; or**

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

§ 3. Subparagraphs (xix) and (xx) of paragraph b of subdivision 1 of section 530.20 of the criminal procedure law, as amended by section 3 of part UU of chapter 56 of the laws of 2020, are amended to read as follows:

(xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; [~~or~~]

(xx) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision**; or**

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

§ 4. Paragraphs (s) and (t) of subdivision 4 of section 530.40 of the criminal procedure law, as added by section 4 of part UU of chapter 56 of the laws of 2020, are amended to read as follows:

(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; [~~or~~]

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision**; or**

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

§ 5. This act shall take effect immediately.