

STATE OF NEW YORK

3043

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. RA, BLANKENBUSH, BRABENEC -- 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:

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

3 § 145.75 Tampering with electronic monitoring equipment.

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

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

15 Tampering with electronic monitoring equipment is a class E felony.

16 § 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the
17 criminal procedure law, paragraph (t) as amended and paragraph (u) as
18 added by section 2 of subpart B of part UU of chapter 56 of the laws of
19 2022, are amended and a new paragraph (v) is added to read as follows:

20 (t) any felony or class A misdemeanor involving harm to an identifi-
21 able person or property, or any charge of criminal possession of a
22 firearm as defined in section 265.01-b of the penal law, where such
23 charge arose from conduct occurring while the defendant was released on
24 his or her own recognizance, released under conditions, or had yet to be

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

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1 arraigned after the issuance of a desk appearance ticket for a separate
2 felony or class A misdemeanor involving harm to an identifiable person
3 or property, or any charge of criminal possession of a firearm as
4 defined in section 265.01-b of the penal law, provided, however, that
5 the prosecutor must show reasonable cause to believe that the defendant
6 committed the instant crime and any underlying crime. For the purposes
7 of this ~~subparagraph~~ paragraph, any of the underlying crimes need not
8 be a qualifying offense as defined in this subdivision. For the purposes
9 of this paragraph, "harm to an identifiable person or property" shall
10 include but not be limited to theft of or damage to property. However,
11 based upon a review of the facts alleged in the accusatory instrument,
12 if the court determines that such theft is negligible and does not
13 appear to be in furtherance of other criminal activity, the principal
14 shall be released on his or her own recognizance or under appropriate
15 non-monetary conditions; ~~or~~

16 (u) criminal possession of a weapon in the third degree as defined in
17 subdivision three of section 265.02 of the penal law or criminal sale of
18 a firearm to a minor as defined in section 265.16 of the penal law~~[-];~~
19 or

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

22 § 3. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of
23 section 530.20 of the criminal procedure law, subparagraph (xx) as
24 amended and subparagraph (xxi) as added by section 4 of subpart C of
25 part UU of chapter 56 of the laws of 2022, are amended and a new subpar-
26 agraph (xxii) is added to read as follows:

27 (xx) any felony or class A misdemeanor involving harm to an identifi-
28 able person or property, or any charge of criminal possession of a
29 firearm as defined in section 265.01-b of the penal law where such
30 charge arose from conduct occurring while the defendant was released on
31 his or her own recognizance, released under conditions, or had yet to be
32 arraigned after the issuance of a desk appearance ticket for a separate
33 felony or class A misdemeanor involving harm to an identifiable person
34 or property, provided, however, that the prosecutor must show reasonable
35 cause to believe that the defendant committed the instant crime and any
36 underlying crime. For the purposes of this subparagraph, any of the
37 underlying crimes need not be a qualifying offense as defined in this
38 subdivision. For the purposes of this paragraph, "harm to an identifi-
39 able person or property" shall include but not be limited to theft of or
40 damage to property. However, based upon a review of the facts alleged in
41 the accusatory instrument, if the court determines that such theft is
42 negligible and does not appear to be in furtherance of other criminal
43 activity, the principal shall be released on his or her own recognizance
44 or under appropriate non-monetary conditions; ~~or~~

45 (xxi) criminal possession of a weapon in the third degree as defined
46 in subdivision three of section 265.02 of the penal law or criminal sale
47 of a firearm to a minor as defined in section 265.16 of the penal
48 law~~[-];~~ or

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

51 § 4. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
52 criminal procedure law, paragraph (t) as amended and paragraph (u) as
53 added by section 4 of subpart B of part UU of chapter 56 of the laws of
54 2022, are amended and a new paragraph (v) is added to read as follows:

55 (t) any felony or class A misdemeanor involving harm to an identifi-
56 able person or property, or any charge of criminal possession of a

1 firearm as defined in section 265.01-b of the penal law, where such
2 charge arose from conduct occurring while the defendant was released on
3 his or her own recognizance, released under conditions, or had yet to be
4 arraigned after the issuance of a desk appearance ticket for a separate
5 felony or class A misdemeanor involving harm to an identifiable person
6 or property, or any charge of criminal possession of a firearm as
7 defined in section 265.01-b of the penal law, provided, however, that
8 the prosecutor must show reasonable cause to believe that the defendant
9 committed the instant crime and any underlying crime. For the purposes
10 of this ~~subparagraph~~ paragraph, any of the underlying crimes need not
11 be a qualifying offense as defined in this subdivision. For the purposes
12 of this paragraph, "harm to an identifiable person or property" shall
13 include but not be limited to theft of or damage to property. However,
14 based upon a review of the facts alleged in the accusatory instrument,
15 if the court determines that such theft is negligible and does not
16 appear to be in furtherance of other criminal activity, the principal
17 shall be released on his or her own recognizance or under appropriate
18 non-monetary conditions; ~~[ex]~~

19 (u) criminal possession of a weapon in the third degree as defined in
20 subdivision three of section 265.02 of the penal law or criminal sale of
21 a firearm to a minor as defined in section 265.16 of the penal law~~[+]~~;
22 or

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

25 § 5. This act shall take effect immediately.