

STATE OF NEW YORK

68

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

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:

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

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

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

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

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

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

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

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

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

52 § 4. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
53 criminal procedure law, paragraph (t) as amended and paragraph (u) as
54 added by section 4 of subpart B of part UU of chapter 56 of the laws of
55 2022, are amended and a new paragraph (v) is added to read as follows:

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

21 (u) criminal possession of a weapon in the third degree as defined in
22 subdivision three of section 265.02 of the penal law or criminal sale of
23 a firearm to a minor as defined in section 265.16 of the penal law~~[+]~~;
24 or
25 (v) tampering with electronic monitoring equipment as defined in
26 section 145.75 of the penal law.

27 § 5. This act shall take effect immediately.