

JAN 19 2024

A BILL FOR AN ACT

RELATING TO HARASSMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 711, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§711- Harassment by use of location tracker. (1) A
5 person commits the offense of harassment by use of location
6 tracker if that person uses a location tracker with the intent
7 to harass, stalk, or perpetuate a crime against another person
8 without their knowledge.

9 (2) For purposes of this section, "location tracker" means
10 an electronic or mechanical device that allows a person to
11 remotely determine or track the position or movement of another
12 person or an object. The term includes the following:

13 (a) A device that stores geographic data for subsequent
14 access or analysis;

15 (b) A device that allows real-time monitoring or movement;

16 (c) An unmanned aerial vehicle as defined in section
17 188-23.5; or



1 (d) A cellular telephone or other wireless or cellular
 2 communications device, or an electronic device that
 3 communicates with a cellular telephone or other
 4 wireless or cellular communications device, including
 5 by means of an application installed on or accessed
 6 through a cellular telephone or other wireless or
 7 cellular communications device.

8 (3) Harassment by use of location tracker is a
 9 misdemeanor."

10 SECTION 2. Section 711-1111, Hawaii Revised Statutes, is
 11 amended by amending subsection (1) to read as follows:

12 "(1) A person commits the offense of violation of privacy
 13 in the second degree if, except in the execution of a public
 14 duty or as authorized by law, the person intentionally:

15 (a) Trespasses on property for the purpose of subjecting
 16 anyone to eavesdropping or other surveillance in a
 17 private place;

18 (b) Peers or peeps into a window or other opening of a
 19 dwelling or other structure adapted for sojourn or
 20 overnight accommodations for the purpose of spying on
 21 the occupant [~~thereof~~] or invading the privacy of



1 another person with a lewd or unlawful purpose, under
2 circumstances in which a reasonable person in the
3 dwelling or other structure would not expect to be
4 observed;

5 (c) Trespasses on property for the sexual gratification of
6 the actor;

7 (d) Installs or uses, or both, in any private place,
8 without consent of the person or persons entitled to
9 privacy therein, any means or device for observing,
10 recording, amplifying, or broadcasting sounds or
11 events in that place other than another person in a
12 stage of undress or sexual activity; provided that
13 this paragraph shall not prohibit a person from making
14 a video or audio recording or taking a photograph of a
15 law enforcement officer while the officer is in the
16 performance of the officer's duties in a public place
17 or under circumstances in which the officer has no
18 reasonable expectation of privacy and the person is
19 not interfering with the officer's ability to maintain
20 safety and control, secure crime scenes and accident
21 sites, protect the integrity and confidentiality of



1 investigations, and protect the public safety and
2 order;

3 (e) Installs or uses outside a private place any device
4 for hearing, recording, amplifying, or broadcasting
5 sounds originating in that place which would not
6 ordinarily be audible or comprehensible outside,
7 without the consent of the person or persons entitled
8 to privacy therein;

9 (f) Covertly records or broadcasts an image of another
10 person's intimate area underneath clothing, by use of
11 any device, and that image is taken while that person
12 is in a public place and without that person's
13 consent;

14 (g) Intercepts, without the consent of the sender or
15 receiver, a message or photographic image by
16 telephone, telegraph, letter, electronic transmission,
17 or other means of communicating privately; but this
18 paragraph does not apply to:

19 (i) Overhearing of messages through a regularly
20 installed instrument on a telephone party line or
21 an extension; or



- 1 (ii) Interception by the telephone company, electronic
- 2 mail account provider, or telephone or electronic
- 3 mail subscriber incident to enforcement of
- 4 regulations limiting use of the facilities or
- 5 incident to other operation and use;

- 6 (h) Divulges, without the consent of the sender or the
- 7 receiver, the existence or contents of any message or
- 8 photographic image by telephone, telegraph, letter,
- 9 electronic transmission, or other means of
- 10 communicating privately, if the accused knows that the
- 11 message or photographic image was unlawfully
- 12 intercepted or if the accused learned of the message
- 13 or photographic image in the course of employment with
- 14 an agency engaged in transmitting it; ~~[or]~~

- 15 (i) Knowingly possesses materials created under
- 16 circumstances prohibited in section 711-1110.9[-]; or

- 17 (j) Commits harassment by use of location tracker
- 18 prohibited in section 711- ."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



S.B. NO. 2310

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

INTRODUCED BY: _____

A handwritten signature in black ink, consisting of several loops and a long tail, is written over a horizontal line.

S.B. NO. 2310

Report Title:

Location Tracker; Harassment; Criminal Law; Penalty

Description:

Prohibits a person from using a location tracker to harass, stalk, or perpetuate a crime against another person without their knowledge.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

