



Ohio Revised Code

Section 2903.216 Illegal use of a tracking device or application.

Effective: March 20, 2025

Legislation: Senate Bill 100 - 135th General Assembly

(A) As used in this section:

(1) "Business entity" means any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state.

(2) "Business of private investigation" and "private investigator" have the same meanings as in section 4749.01 of the Revised Code.

(3) "Disabled adult" and "elderly person" have the same meanings as in section 2913.01 of the Revised Code.

(4) "Electronic monitoring" and "electronic monitoring device" have the same meanings as in section 2929.01 of the Revised Code.

(5) "Law enforcement agency" means any organization or unit comprised of law enforcement officers, and also includes any federal or military law enforcement agency.

(6) "Person" means an individual, but does not include a business entity.

(7) "Ohio protection order" means a protection order filed or issued or a consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, a protection order filed or issued pursuant to section 2151.34, 2903.213, or 2903.214 of the Revised Code, or a no contact order issued as any of the following:

(a) As part of a person's sentence under a community control sanction imposed under section 2929.16, 2929.17, 2929.26, or 2929.27 of the Revised Code;

(b) As a term or condition of a person's release under section 2929.20 of the Revised Code;

(c) As a post-release control sanction imposed as a condition of a person's post-release control under section 2967.28 of the Revised Code;

(d) As a term of supervision for a person transferred to transitional control under section 2967.26 of the Revised Code;

(e) As a term or condition of the intervention plan of a person granted intervention in lieu of conviction under section 2951.041 of the Revised Code.



(8) "Protection order issued by a court of another state" has the same meaning as in section 2919.27 of the Revised Code.

(9) "Tracking application" means any software program that permits a person to remotely determine or track the position or movement of another person or another person's property.

(10) "Tracking device" means an electronic or mechanical device that permits a person to remotely determine or track the position or movement of another person or another person's property, including an electronic monitoring device.

(B) Except as otherwise provided in division (D) of this section, no person shall knowingly do either of the following:

(1) Install a tracking device or tracking application on another person's property without the other person's consent or cause a tracking device or tracking application to track the position or movement of another person or another person's property without the other person's consent;

(2) If the person installed a tracking device or tracking application on another's property with the other person's consent and the other person subsequently revokes that consent, fail to remove or ensure the removal of the device or application after the other person revokes the consent.

(C)(1) For purposes of this section, if a person has given consent for another to install a tracking device or tracking application on the consenting person's property, it is presumed that the consenting person has revoked that consent if any of the following applies:

(a) The consenting person and the person to whom consent was given are lawfully married and one of them files a complaint for divorce or a petition for dissolution of marriage from the other. Not later than seventy-two hours after being served with a complaint for divorce or a petition for dissolution of marriage, the person to whom consent was given shall lawfully uninstall or discontinue use of the tracking device or tracking application. If the person to whom consent was given cannot lawfully uninstall or discontinue use of the tracking device or tracking application, the person to whom consent was given shall notify the court in which the complaint for divorce or the petition for dissolution of marriage was filed in writing.

(b) The consenting person or the person to whom consent was given files an Ohio protection order against the other person or an Ohio protection order is issued against the other person, and the person to be protected under the order is the consenting person. Not later than seventy-two hours after being served with the Ohio protection order, the person to whom consent was given shall lawfully uninstall or discontinue use of the tracking device or tracking application. If the person to whom consent was given cannot lawfully uninstall or discontinue use of the tracking device or tracking application, the person to whom consent was given shall



notify the court that issued the Ohio protection order in writing that the person to whom consent was given has installed or is using a tracking device or tracking application on the previously consenting person's person or the person's property and cannot uninstall or discontinue its use without violating the Ohio protection order.

(2) Revocation of consent under this division is effective upon the service of the petition or motion or an Ohio protection order.

(D) This section does not apply to any of the following:

(1) A law enforcement officer, or any law enforcement agency, that installs a tracking device or tracking application on another person's property or causes a tracking device or tracking application to track the position or movement of another person or another person's property as part of a criminal investigation, or a probation officer, parole officer, or employee of the department of rehabilitation and correction, a halfway house, or a community-based correctional facility when engaged in the lawful performance of the officer's or employee's official duties;

(2) A parent or legal guardian of a minor child who installs or uses a tracking device or tracking application to track the minor child if any of the following applies:

(a) The parents or legal guardians of the child are lawfully married to each other and are not separated or otherwise living apart, and either of those parents or legal guardians consents to the installation of the tracking device or tracking application;

(b) The parent or legal guardian of the child is the sole surviving parent or legal guardian of the child;

(c) The parent or legal guardian of the child has sole custody of the child;

(d) The parents or legal guardians of the child are divorced, separated, or otherwise living apart and neither parent has sole custody of the child, and both consent to the installation of the tracking device or tracking application;

(e) The parents or legal guardians of the child are divorced, separated, or otherwise living apart, neither parent has sole custody of the child, and either only one parent consents to the installation of the tracking device or tracking application or one parent revokes consent, if the consenting parent only uses the tracking device or tracking application during that parent's parenting or custodial time and disables or removes the tracking device or application during the nonconsenting parent's parenting or custodial time.

(3) A caregiver of an elderly person or disabled adult, if the elderly person's or disabled adult's treating physician certifies that the installation of a tracking device or tracking



application onto the elderly person's or disabled adult's property is necessary to ensure the safety of the elderly person or disabled adult;

(4) A person acting in good faith on behalf of a business entity for a legitimate business purpose, provided that this division does not apply to a private investigator engaged in the business of private investigation on behalf of another person;

(5)(a) A private investigator or other person licensed under section 4749.03 of the Revised Code, who is acting in the normal course of the investigator's business of private investigation on behalf of another person and who has the consent of the owner of the property upon which the tracking device or tracking application is installed, for the purpose of obtaining information with reference to any of the following:

(i) Criminal offenses committed, threatened, or suspected against the United States, a territory of the United States, a state, or any person or legal entity;

(ii) Locating an individual known to be a fugitive from justice;

(iii) Locating lost or stolen property or other assets that have been awarded by the court;

(iv) Investigating claims related to workers' compensation.

(b) This division does not apply if the person on whose behalf the private investigator is working is the subject of an Ohio protection order or a protection order issued by a court of another state or if the private investigator knows or reasonably should know that the person on whose behalf the private investigator is working seeks the investigator's services to aid in the commission of a crime.

(6) An owner or lessee of a motor vehicle who installs, or directs the installation of, a tracking device or tracking application on the vehicle during the period of ownership or lease, if any of the following applies:

(a) The tracking device or tracking application is removed before the vehicle's title is transferred or the vehicle's lease expires;

(b) The new owner of the vehicle, in the case of a sale, or the lessor of the vehicle, in the case of an expired lease, consents in writing to the non-removal of the tracking device or tracking application;

(c) The owner of the vehicle at the time of the installation of the tracking device or tracking application was the original manufacturer of the vehicle.

(7) A person who installs a tracking device or application on property in which the person has an ownership or contractual interest, unless the person is the subject of a protective order and the property is likely to be used by the person who obtained the protective order;



(8) A person or business entity that installs a tracking device or tracking application on any fixed wing aircraft or rotorcraft operated or managed by the person or business entity pursuant to 14 C.F.R. part 91 or part 135 to track the position or movement of the fixed wing aircraft or rotorcraft;

(9) A surety bail bond agent, or any employee or contractor of a surety bail bond agent, that installs a tracking device or tracking application on another person's property or causes a tracking device or tracking application to track the position or movement of another person or another person's property as part of the surety bail bond agent's, employee's, or contractor's official responsibilities or duties.

(E) For purposes of division (D)(1) of this section, a probation officer, parole officer, or employee of the department of rehabilitation and correction, a halfway house, or a community-based correctional facility is engaged in the lawful performance of the officer's or employee's duties if both of the following apply:

(1) The court or the department of rehabilitation and correction imposes electronic monitoring on a person.

(2) The officer or employee installs or uses an electronic monitoring device on that person in accordance with the court's or department's imposition of electronic monitoring of that person.

(F) Whoever violates this section is guilty of illegal use of a tracking device or application.

(1) Except as otherwise provided in division (F)(2) of this section, illegal use of a tracking device or application is a misdemeanor of the first degree.

(2) Illegal use of a tracking device or application is a felony of the fourth degree if any of the following applies:

(a) The offender previously has been convicted of or pleaded guilty to a violation of this section or section 2903.211 of the Revised Code.

(b) At the time of the commission of the offense, the offender was the subject of a protection order issued under section 2903.213 or 2903.214 of the Revised Code, regardless of whether the person to be protected under the order is the victim of the offense or another person.

(c) Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.

(d) The offender has a history of violence toward the victim or a history of other violent acts towards the victim.

