



# HOUSE BILL 187: Stalking by GPS/Criminal Offense

**This Bill Analysis  
reflects the contents  
of the bill as it was  
presented in  
committee.**

2015-2016 General Assembly

<b>Committee:</b>	House Judiciary II	<b>Date:</b>	March 31, 2015
<b>Introduced by:</b>	Reps. Glazier, Horn, Faircloth, McGrady	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition H187-CSRN-6		Committee Counsel

**SUMMARY:** *House Bill 187 would provide that a person commits the offense of cyberstalking if the person knowingly installs or places a tracking device without consent and uses the device to track the location of an individual. The Proposed Committee Substitute (PCS) makes modifications to the definition of fleet vehicle and the exception for private investigators.*

[As introduced, this bill was identical to S238, as introduced by Sens. Stein, Hartsell, which is currently in Senate Judiciary II.]

**CURRENT LAW:** Cyberstalking is punishable as a Class 2 misdemeanor and includes any of the following:

- Use in electronic mail or electronic communication language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or things of value from any person.
- Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing, or embarrassing any person.
- Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person or of any member of the person's family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass.
- Knowingly permit an electronic communication device under the person's control to be used for any purpose prohibited by this section.

Any offense under this section may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received in this State, or first viewed by any person in this State. These provisions do not impair any constitutionally protected activity, including speech, protest, or assembly.

**BILL ANALYSIS:** The PCS for House Bill 187 would provide that the following is also cyberstalking and punishable as a Class 2 misdemeanor: "Knowingly install or place an electronic tracking device without consent, or to cause an electronic tracking device to be installed without consent, and use the device to track the location of any person."

The new provision does not apply to the installation, placement, or use or an electronic tracking device by any of the following:



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- A law enforcement officer, judicial officer, probation or parole officer, or employee of the Division of Corrections, Department of Public Safety, when the person is lawfully performing official duties.
- The parent or legal guardian of a minor when tracking (i) the minor or (ii) any person authorized by the parent or legal guardian as a caretaker of the minor at any time when the minor is under the person's sole care provided that the tracking device is not located on the physical person of the caretaker.
- A legally authorized representative of a disabled adult.
- The owner of fleet vehicles, when tracking such vehicles.
- A private investigator who is acting in the normal course of his or her business and in accordance with State law. However, this exception does not apply if the private investigator is working on behalf of a client who is subject to a domestic violence protective order under Chapter 50B, or if the private investigator knows or should reasonably know that the client seeks the private investigator's services to aid in the commission of a crime.
- The installation, placement, or use of an electronic tracking device authorized by an order of a State or federal court.

**EFFECTIVE DATE:** This act becomes effective December 1, 2015, and applies to offenses occurring on or after that date.