

Doug Owens proposes the following substitute bill:

Unlawful Tracking Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor:

LONG TITLE

General Description:

This bill addresses the unlawful tracking of an individual.

Highlighted Provisions:

This bill:

▸ amends the offense of unlawful installation of a tracking device by:

- renaming the offense to unlawful use of a tracking device or tracking application;
 - broadening the offense to include placing a tracking device on certain personal property and using a tracking application to track another individual's movements;
 - clarifying that an actor commits the offense if the victim had previously given consent for the actor to use the tracking device or tracking application and later revoked that consent, and the actor continued to use the tracking device or tracking application;
- and

- requiring statutory damages in a successful civil action brought by a victim if the victim elects to receive the statutory damages instead of compensatory damages; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-12-305, as renumbered and amended by Laws of Utah 2025, Chapter 173

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-12-305** is amended to read:

76-12-305 . Unlawful use of a tracking device or tracking application.

(1)(a) As used in this section:

(i) "Minor" means an individual who is younger than 18 years old.

~~[(+)]~~ (ii) "Motor vehicle" means the same as that term is defined in Subsection 41-12a-103(4).

~~[(+)]~~ (iii) "Private investigator" means an individual who is:

(A) licensed as a private investigator under Title 53, Chapter 9, Private Investigator Regulation Act; and

(B) acting in the capacity of a private investigator.

~~[(+)]~~ (iv) "Protective order" means a protective order, stalking injunction, or restraining order issued by a court of any jurisdiction.

(v)(A) "Tangible personal property" means a physical asset or object that can be seen, touched, and moved.

(B) "Tangible personal property" does not include a motor vehicle.

(vi) "Tracking application" means a software program that can be used to track or identify the location or movement of an individual.

~~[(+)]~~ (vii)(A) "Tracking device" means a device used for the primary purpose of revealing the device's location or movement by the transmission or recording of an electronic signal.

(B) "Tracking device" does not include location technology installed on a motor vehicle by the motor vehicle manufacturer or a commercial motor vehicle dealer that transmits electronic signals for the purpose of data collection, if the data collection is anonymized.

(viii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) ~~[Except as provided in Subsection (4), an-]~~ An actor commits unlawful [installation] use of a tracking device or tracking application if [the actor knowingly] :

(a)(i) ~~[-]~~ the actor knowingly installs or places, or directs another to install or place, a tracking device on or in a motor vehicle owned or leased by another [person,] individual; and

(ii) the actor:

(A) ~~[-without the]~~ did not receive permission [of] from the owner or lessee of the motor vehicle[-] to install or place the tracking device; or

(B) intentionally continued to use the tracking device with the purpose to track the

- owner's or lessee's movement after the owner or lessee revoked the owner's or lessee's permission for the actor to use the tracking device and the actor knew that the owner or lessee had revoked the owner's or lessee's permission;
- (b)(i) the actor knowingly places, or directs another to place, a tracking device:
- (A) on an individual's person;
 - (B) on or in an individual's tangible personal property; or
 - (C) on or in tangible personal property under the physical control of an individual;
- and
- (ii) the actor:
- (A) did not receive permission from the individual to place the tracking device; or
 - (B) intentionally continued to use the tracking device with the purpose to track the individual's movement after the individual revoked the individual's permission for the actor to use the tracking device and the actor knew that the individual had revoked the individual's permission; or
- (c)(i) the actor knowingly uses a tracking application installed or otherwise used on an electronic or other device in the possession or control of an individual to track the individual's movement; and
- (ii) the actor:
- (A) did not receive permission from the individual to use the tracking application;
 - or
 - (B) intentionally continued to use the tracking application with the purpose to track the individual's movement after the individual revoked the individual's permission for the actor to use the tracking application and the actor knew that the individual had revoked the individual's permission.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) ~~[An actor does not commit a violation of Subsection (2) if the actor]~~ Subject to Subsection (6), Subsection (2)(a) does not apply to an individual who:
- (a)(i) is a licensed private investigator installing or placing the tracking device for a legitimate business purpose; and
 - (ii) installs or places the tracking device on a motor vehicle that is not:
 - (A) owned or leased by an individual under the protection of a protective order; or
 - (B) operated by an individual under the protection of a protective order who resides with, or is an immediate family member of, the owner or lessee of the motor vehicle; or

(b) installs or places the tracking device on a motor vehicle pursuant to a court order.

(5) This section does not apply to:

(a) [-]a peace officer, acting in the peace officer's official capacity, who installs or places a tracking device, or causes another individual to install or place a tracking device, on an individual's person, on or in an individual's tangible personal property, on or in tangible personal property under the physical control of an individual, or on or in a motor vehicle owned or leased by an individual in the course of a criminal investigation or pursuant to a court order[-] ;

(b) a parent or legal guardian of a minor:

(i)(A) who installs or places a tracking device on the minor's person, on or in the minor's tangible personal property, on or in tangible personal property under the physical control of the minor, or on or in a motor vehicle owned or leased by the minor; or

(B) who uses a tracking application installed or otherwise used on an electronic or other device in the possession or control of the minor to track the minor's movement; and

(ii) who has received permission from any other parent or legal guardian of the minor to install or place the tracking device or use the tracking application;

(c) a caregiver of a vulnerable adult:

(i) who installs or places a tracking device on the vulnerable adult's person, on or in the vulnerable adult's tangible personal property, on or in tangible personal property under the physical control of the vulnerable adult, or on or in a motor vehicle owned or leased by the vulnerable adult; or

(ii) who uses a tracking application installed or otherwise used on an electronic or other device in the possession or control of the vulnerable adult to track the vulnerable adult's movement; and

(d) an individual who installs, places, or uses a tracking application at the direction of a court order.

(6)(a) Before installing or placing a tracking device on a motor vehicle under Subsection (4), a private investigator shall request confirmation from a state entity with access to updated protective order records, that:

~~[(a)]~~ (i) the owner or lessee of the vehicle is not under the protection of a protective order; and

~~[(b)]~~ (ii) ~~[an]~~ any individual who resides with, or is an immediate family member of,

the owner or lessee of the motor vehicle is not under the protection of a protective order.

~~[(7)]~~ (b) On request from a licensed private investigator, a state entity, including a law enforcement agency, with access to protective order records shall confirm or deny the existence of a protective order, disclosing only whether an individual named by the private investigator is under the protection of a protective order issued in any jurisdiction.

~~[(8)]~~ (c) A private investigator may not disclose the information obtained under Subsection ~~[(7)]~~ (6)(b) to any person, except as permitted by law.

~~[(9)]~~ (d) On request from the Bureau of Criminal Identification, a private investigator who installs or places a tracking device on a motor vehicle shall disclose the purpose of the tracking device to the Bureau of Criminal Identification.

~~[(10)]~~ (7)(a) ~~A person~~ An individual, or the heirs of a deceased ~~[person]~~ individual, who has been injured by a violation of ~~[this section]~~ Subsection (2) may bring an action against the actor who committed the violation.

~~[(b) If in the action described in Subsection (10)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.]~~

~~[(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.]~~

~~[(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.]~~

~~[(e) Exemplary damages may be awarded when the violation is found to be malicious.]~~

(8) If in the action described in Subsection (7) the court finds by a preponderance of the evidence that the defendant has committed a violation of Subsection (2), the court shall:

(a) enjoin the defendant from a continued violation; and

(b) if the plaintiff establishes that the violation has injured the plaintiff, award to the plaintiff, subject to Subsection (10)(b):

(i) reasonable attorney fees; and

(ii)(A) compensatory damages; or

(B) statutory damages of \$50 a day for each day the defendant violates a provision of this section, or \$5,000, whichever is greater.

(9)(a) A plaintiff may elect at any time before final judgment is entered by the court to

166 recover statutory damages under Subsection (8)(b)(ii)(B) instead of compensatory
167 damages.

168 (b) In addition to the damages described in Subsection (8), a court may award punitive
169 damages in accordance with Section 78B-8-201.

170 (10)(a) If an actor at trial is found not guilty of violating this section, the not guilty
171 verdict does not preclude a court from finding that the actor is liable under
172 Subsection (8).

173 (b) If restitution was ordered in the criminal action, the amount ordered shall be
174 deducted from any damages awarded under Subsection (8)(b)(ii).

175 **Section 2. Effective Date.**

176 This bill takes effect on May 6, 2026.