

Effective 9/1/2026

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

- (1)
- (a) As used in this section:
- (i) "Jail release court order" means the same as that term is defined in Section 78B-7-801.
 - (ii) "Minor" means an individual who is younger than 18 years old.
 - (iii) "Motor vehicle" means the same as that term is defined in Subsection 41-12a-103(4).
 - (iv) "Private investigator" means an individual who is:
 - (A) licensed as a private investigator under Title 58, Chapter 92, Private Investigation Licensing Act; and
 - (B) acting in the capacity of a private investigator.
 - (v) "Protective order" means a protective order, stalking injunction, restraining order, or jail release court order issued by a court of any jurisdiction.
 - (vi) "Rental company" means the same as that term is defined in Section 76-6-410.5.
 - (vii)
 - (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.
 - (viii) "Tracking application" means a software program that can be used to track or identify the location or movement of an individual.
 - (ix)
 - (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.
 - (x) "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) An actor commits unlawful use of a tracking device or tracking application if:
- (a)
- (i) the actor intentionally 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; and
 - (ii) the actor:
 - (A) did not receive permission 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 intentionally 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 intentionally 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) 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 the owner or lessee of the motor vehicle; or

(b) installs or places the tracking device on a motor vehicle in accordance with 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 in accordance with 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) an individual who was a parent or legal guardian of a minor if:

(i) the individual installed or placed a tracking device as described in Subsection (5)(b);

(ii) the minor described in Subsection (5)(b) is now 18 years old or older; and

(iii) the individual has not been expressly informed by the former minor that the actor does not have permission to continue to use the tracking device or tracking application;

(d) 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;
 - (e) an individual who installs, places, or uses a tracking application at the direction of a court order; or
 - (f) a peace officer who obtains information in accordance with Section 53-10-104.5.
- (6) Subsections (2)(a) and (c) do not apply to:
- (a) a rental company if the rental company is installing, placing, or using a tracking device or tracking application to track a motor vehicle owned by the rental company provided to a renter under the terms of a rental agreement; or
 - (b) any person who:
 - (i) owns a motor vehicle;
 - (ii) installs, places, or uses a tracking device or tracking application to track the motor vehicle; and
 - (iii) allows another person to use the motor vehicle, not including under a lease agreement.
- (7)
- (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, including a law enforcement agency, the Bureau of Criminal Identification, or a court, with access to protective order records, that:
 - (i) the owner or lessee of the vehicle is not under the protection of a protective order; and
 - (ii) any individual who resides with the owner or lessee of the motor vehicle is not under the protection of a protective order.
 - (b) On request from a licensed private investigator, a state entity, including a law enforcement agency, the Bureau of Criminal Identification, or a court, 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.
 - (c) A private investigator may not disclose the information obtained under Subsection (7)(b) to any person, except as permitted by law.
 - (d) On request from the Division of Professional Licensing, a private investigator who installs or places a tracking device on a motor vehicle shall disclose the purpose of the tracking device to the Division of Professional Licensing.
- (8) An individual, or the heirs of a deceased individual, who has been injured by a violation of Subsection (2) may bring an action against the actor who committed the violation.
- (9) If in the action described in Subsection (8) 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 (11)(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.
- (10)
- (a) A plaintiff may elect at any time before final judgment is entered by the court to recover statutory damages under Subsection (9)(b)(ii)(B) instead of compensatory damages.

- (b) In addition to the damages described in Subsection (9), a court may award punitive damages in accordance with Section 78B-8-201.
- (11)
- (a) If an actor at trial is found not guilty of violating this section, the not guilty verdict does not preclude a court from finding that the actor is liable under Subsection (9).
 - (b) If restitution was ordered in the criminal action, the amount ordered shall be deducted from any damages awarded under Subsection (9)(b)(ii).

Amended by Chapter 44, 2026 General Session