

**ELECTRONIC MONITORING OF
PROBATIONERS - CRIMINAL
INTERFERENCE**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Katherine M. Bryson

This act modifies the Criminal Code by providing for the offense of interfering with an electronic device used in the supervision of a person on probation, parole, or other form of detention. The act provides definitions, a penalty, and an affirmative defense for persons acting in their capacity as employees of the supervising agency.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

76-8-309.7, Utah Code Annotated 1953

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

Section 1. Section **76-8-309.7** is enacted to read:

76-8-309.7. Interference with an electronic supervision device -- Definitions --
Penalties -- Defense.

(1) As used in this section:

(a) "Detention" means any diversion agreement, plea in abeyance agreement, condition of probation or parole, pretrial supervision, work release, home confinement, sentence, or other release, court order, or agreement that requires the monitoring of the location of a person.

(b) "Electronic supervision device" or "device" means any device used to monitor the location of a person on detention, including any:

(i) sending or receiving device;

(ii) wire, radio, or telephone device or connection;

(iii) antenna;

(iv) mechanical device; or



28 (v) computer equipment, including hardware or software.

29 (c) (i) "Interferes with" means to:

30 (A) remove, disconnect, damage, destroy, disable, or tamper with any electronic
31 supervision device; or

32 (B) interfere with the signal transmitted or received by a device.

33 (ii) "Interferes with" includes the theft of a device.

34 (2) Any person who interferes with an electronic supervision device is guilty of a class A
35 misdemeanor.

36 (3) Any sentence imposed under this section shall be consecutive to any other sentence,
37 unless the court states in writing or on the record the reasons why a consecutive sentence would
38 be unjust.

39 (4) It is an affirmative defense to a charge under this section that the person charged was:

40 (a) an employee of the agency or private contractor providing supervision for the
41 detention; and

42 (b) acting within the scope of his employment in the removal, disconnection, or handling
43 of the electronic supervision device.

44 (5) If the act committed as a violation of this section amounts to an offense subject to a
45 greater penalty under another provision of state law than is provided under this section, the section
46 with the greater penalty applies.

Legislative Review Note

as of 12-28-01 1:36 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel