

HB4726



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4726

Introduced 1/27/2022, by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

720 ILCS 5/26-4.7 new

Amends the Criminal Code of 2012. Creates the offense of illegal electronic monitoring. Provides that a person commits the offense when he or she knowingly installs, conceals, or otherwise places an electronic tracking software or spyware on an electronic communication device or on a person or the person's belongings without the consent of all owners and primary users of the device for the purpose of monitoring or following the user or users of the software. Provides that a first violation is a Class 4 felony and a second or subsequent conviction is a Class 3 felony. Provides exceptions.

LRB102 24866 RLC 34114 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by adding
5 Section 26-4.7 as follows:

6 (720 ILCS 5/26-4.7 new)

7 Sec. 26-4.7. Illegal electronic monitoring.

8 (a) As used in this Section:

9 "Electronic communication device" means an electronic
10 device, including, but not limited to, a wireless
11 telephone, personal digital assistant, or a portable or
12 mobile computer, that is capable of transmitting images or
13 pictures.

14 "Electronic tracking software or spyware" means a
15 computer program that tracks computer activity and is
16 capable of recording and transmitting the information to
17 third parties or a device that tracks location activity of
18 a person or device.

19 "Person" does not include the manufacturer of the
20 electronic software or spyware or a retail mercantile
21 establishment as provided in paragraph (4) of subsection
22 (c) of this Section.

23 (b) Except as provided in subsection (c), a person commits

1 illegal electronic monitoring when he or she knowingly
2 installs, conceals, or otherwise places an electronic tracking
3 software or spyware on an electronic communication device or
4 on a person or the person's belongings without the consent of
5 all owners and primary users of the device for the purpose of
6 monitoring or following the user or users of the software.

7 (c) It is not a violation of this Section:

8 (1) if the installing, concealing, or placing of
9 electronic tracking software or spyware on an electronic
10 communication device is by, or at the direction of, a
11 peace officer in furtherance of a criminal investigation
12 and is carried out in accordance with applicable State and
13 federal law;

14 (2) if the installing, concealing, or placing of
15 electronic tracking software or spyware on an electronic
16 communication device is by, or at the direction of, a
17 parent or legal guardian who owns the device, and if the
18 device is used solely for the purpose of monitoring the
19 minor child of the parent or legal guardian when the child
20 is the user of the device;

21 (3) if the electronic tracking software or spyware was
22 installed by the manufacturer of the electronic
23 communication device; or

24 (4) for a retail mercantile establishment as defined
25 in Section 16-0.1 of this Code to track the location of
26 customers within its establishment for commercial

1 purposes.

2 (d) Sentence. Illegal electronic monitoring is a Class 4
3 felony. A second or subsequent conviction of illegal
4 electronic monitoring is a Class 3 felony.