

AN ACT relating to criminal GPS tracking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 508.130 is amended to read as follows:

As used in KRS 508.130 to 508.150, unless the context requires otherwise:

- (1) (a) To "stalk" means to engage in an intentional course of conduct:
 1. Directed at a specific person or persons;
 2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
 3. Which serves no legitimate purpose.
- (b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.
- (2) "Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. One (1) or more of these acts may include the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device. Constitutionally protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.
- (3) "Protective order" means:
 - (a) An emergency protective order or domestic violence order issued under KRS 403.715 to 403.785;
 - (b) A foreign protective order, as defined in KRS 403.7521(1);
 - (c) An order issued under KRS 431.064;

- (d) A restraining order issued in accordance with KRS 508.155; and
- (e) Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

(4) "Global positioning monitoring system" means a system that electronically:

(a) Determines a person's location through:

- 1. Global positioning satellite technology;**
- 2. Radio frequency technology;**
- 3. Mobile tracking software;**
- 4. Tracking applications; or**
- 5. Any combination thereof ;and**

(b) Reports the location of an individual through the use of a transmitter or similar device that:

- 1. Is placed on the body of an individual or on his or her property; and**
- 2. Transmits latitude and longitude data to a monitoring entity.**

➔SECTION 2. A NEW SECTION OF KRS 508.130 TO 508.150 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of criminal GPS tracking when he or she intentionally uses or causes the use of any global positioning monitoring system to monitor or track the location of another person, except:

- (a) As authorized by court order;**
- (b) As authorized under KRS 67.374;**
- (c) Where the consent of the individual being monitored or tracked, including the consent of a parent or guardian of a minor or disabled person, is obtained or in an emergency situation, is implied; or**
- (d) Where the monitoring or tracking is done as part of the care for an adult as that term is defined in KRS Chapter 209;**
- (e) As used by a public school district to track the location of children as a**

safety measure during the school day, at school events, or while being transported to and from school or school events; or

(f) When the registered owner, lessor, or lessee of a motor vehicle or a subscriber of a related telematics service has consented, via an entity's terms and conditions or otherwise, to the use of a global positioning services device with respect to that vehicle. Consent by any such individual shall constitute consent for any other driver or passenger of that vehicle.

(2) Criminal GPS tracking is a Class A misdemeanor.