



# Ohio Prosecuting Attorneys Association

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Senate Bill 100  
Proponent Testimony  
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Chair Abrams, Vice-Chair Williams, Ranking Member Brown and members of the House Criminal Justice Committee, my name is Morris Murray and I am the elected prosecutor in Defiance County and a past president of the Ohio Prosecuting Attorneys Association. I want thank you for the opportunity to offer proponent testimony today on Senate Bill 100 to prohibit the use of tracking devices and tracking applications without the consent of the person being tracked.

In February 2022 the Bureau of Justice Statistics released the results of a 2019 Supplemental Victimization Survey about their experiences with stalking during the 12 months preceding the survey.<sup>1</sup> This was a follow-up to a survey conducted in 2016.<sup>2</sup> Key findings from this survey show that about 3.4 million people age 16 or older were victims of stalking in 2019, that women were stalked more than twice as often as men, and that an estimated 67% of victims were fearful of being killed or physically harmed.

Most significantly, the report distinguishes between ‘traditional’ stalking – things like watching the victim and showing up at or driving by places where the offender had no business being – and stalking with technology – things like unwanted phone calls or text messages, monitoring use of social media and tracking the victims whereabouts with an electronic device or application. In the 2016 survey, 283,630 respondents, or 9.2% of victims, indicated that they had been tracked with an electronic device or application. In the 2019 survey, 394,000 respondents, or 14.4% of victims, indicated the same. Notably, both surveys preceded the release of Apple AirTags in April 2021 and the increase in tracking with an electronic device occurred despite an overall decrease in stalking between 2016 and 2019.

Use of this type of technology to track or stalk victims is a growing problem and it is incredibly dangerous for the victim. As this bill recognizes, however, tracking a person in this way is not, on its own, a criminal offense. Our menacing by stalking statute, R.C. 2903.211, prohibits engaging in a “pattern of conduct” that knowingly causes another person to believe that the offender will cause physical harm or mental distress to the other person or a family or household member of the other person. Two or more actions or incidents must be closely related in time in order to constitute a

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<sup>1</sup> <https://bjs.ojp.gov/content/pub/pdf/sv19.pdf>

<sup>2</sup> <https://bjs.ojp.gov/content/pub/pdf/sv16.pdf>

“pattern of conduct.” This is where the law surrounding the use of tracking devices is uncertain. If someone shows up at their ex-girlfriend’s home and follows her to work one day, and then shows up at her work and follows her somewhere else the next, they have arguably committed menacing by stalking because they’ve engaged in two or more actions that could be expected to cause mental distress. If, however, the same person places an Apple AirTag or some other tracking device on the ex-girlfriend’s car or in her purse, or without her knowledge installs an app on her phone, and then sits at home and tracks everywhere she goes, there will be difficulty establishing that this was a “pattern of conduct” within the meaning of our current menacing by stalking law. It is, however, at least as dangerous as traditional stalking.

Senate Bill 100 is critical legislation that will help ensure that the people who engage in these dangerous acts are held accountable and that will promote victim and public safety.

Ohio prosecutors appreciate the committee’s and bill sponsors’ time and attention to this important issue. We urge the committee’s favorable consideration of this bill. I would be happy to answer any questions.