

FIRST REGULAR SESSION

# HOUSE BILL NO. 512

96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LAIR.

0976L.02I

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 542, RSMo, by adding thereto one new section relating to unlawfully intercepting computer and electronic communication device information, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 542, RSMo, is amended by adding thereto one new section, to be known as section 542.500, to read as follows:

**542.500. 1. As used in this section the following terms shall mean:**

(1) "Information", includes but is not limited to data, images, sound, or any other type of information or communication;

(2) "Spying on another person", includes but is not limited to listening to, viewing, monitoring, locating, controlling, manipulating, stealing from, tracking, harassing, or intimidating another person.

2. A person commits the crime of unlawfully intercepting computer and electronic communication device information if such person knowingly and without the knowledge and consent of another person, and for the purpose of spying on another person:

(1) Uses or endeavors to use or procures any other person to use or endeavor to use a computer program, cellular phone, or any other electronic or mechanical device to intercept information stored in, received by, or sent from another person's computer, cellular phone, or other electronic communication device; or

(2) Installs, downloads, or otherwise attaches or procures any other person to install, download, or otherwise attach any type of computer software program or other electronic or mechanical device to another person's computer, cellular phone, or other

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

17 **electronic communication device to intercept information contained in, stored in, received**  
18 **by, or sent from such computer, cellular phone, or other electronic communication device.**

19 **3. The provisions of subsection 1 of this section shall not apply to:**

20 **(1) A law enforcement officer engaged in the performance of his or her official**  
21 **duties;**

22 **(2) A parent acting in regard to his or her child less than eighteen years of age;**

23 **(3) A school acting in regard to one of its students but only when the information**  
24 **is being intercepted from or the device is being attached to a computer, cellular phone, or**  
25 **other electronic communication device provided by the school to the student;**

26 **(4) An employer acting in regard to one of its employees but only when the**  
27 **employer has given written notice to the employee that the employer retains the right to**  
28 **intercept information from or attach a device to any computer, cellular phone, or other**  
29 **electronic communication device provided by the employer to that employee; or**

30 **(5) A person acting to protect another person in an emergency situation when a**  
31 **reasonable person would have probable cause to believe that the person whose information**  
32 **is being intercepted is in imminent danger of suffering death, serious physical injury,**  
33 **sexual assault, or kidnapping if immediate action is not taken. The defendant shall have**  
34 **the burden of injecting the issue of a defense under the provisions of this subdivision.**

35 **4. It shall not be a defense to a violation of the provisions of this section that the**  
36 **defendant was a spouse or relative of the victim or that the defendant owned, purchased,**  
37 **sold, loaned, or gave the computer, cellular phone, or other electronic communication**  
38 **device to the victim for his or her use.**

39 **5. In any case involving a violation of the provisions of this section if the**  
40 **prosecution introduces evidence showing that information was intercepted from or that**  
41 **something was installed, downloaded or otherwise attached to another person's computer,**  
42 **cellular phone, or other electronic communication device to intercept information from it**  
43 **by the defendant or someone the defendant procured to do so without the knowledge and**  
44 **consent of the victim, such evidence shall create a rebuttable presumption that the**  
45 **defendant's actions were done for the purpose of spying on another person, and the burden**  
46 **shall then be on the defendant to rebut that presumption by demonstrating that he or she**  
47 **did not act with that purpose.**

48 **6. Unlawfully intercepting computer and electronic communication device**  
49 **information is a class D felony.**