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ALL STALK AND NO ACTION: A PROPOSAL FOR ARKANSAS GPS STALKING LEGISLATION

Erin Wadley*

I. INTRODUCTION

In 2000, Robert Sullivan, “America’s first documented GPS-enabled stalker,” was convicted with stalking after placing a global positioning device (“GPS”) on his then-wife’s car just six months after she filed for divorce.¹ At this time, GPS devices were primarily used for delivery trucks and rental cars, and private individuals were using them to be safe when hiking.² Sullivan had the idea to use the technology to track his wife, “help[ing] to steer stalking into the 21st century.”³ When Sullivan began asking his wife intrusive questions about her whereabouts, including details he would not have otherwise known, his wife became suspicious.⁴ After Sullivan followed his wife to her new home, burned her clothes, and shredded her diploma, she went to the police.⁵ Shortly thereafter, Sullivan

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1. Michael Rosenwald, *Every Step You Take . . . Every Move You Make . . . My GPS Unit Will Be Watching You*, POPULAR SCI. (Nov. 11, 2004, 10:00 PM), [<https://perma.cc/29CR-66FY>]; John Voelcker, *Stalked By Satellite: An Alarming Rise in GPS-Enabled Harassment*, IEEE SPECTRUM (July 1, 2006), [<https://perma.cc/78WT-NZGF>].

2. Rosenwald, *supra* note 1.

3. *Id.*

4. *Id.*

5. *Id.*; see also *People v. Sullivan*, 53 P.3d 1181, 1182 (Colo. App. 2002) (noting that Sullivan was convicted of second-degree arson in addition to harassment by stalking).

arrived at the police station and confessed to installing a GPS tracking device on his wife's vehicle.⁶

In 2020, the mayor of Alma, Arkansas, allegedly placed a tracking device on his wife's car.⁷ She completed an incident report with police upon finding the GPS tracking device magnetized to the bottom of her car.⁸ No charges were filed against him.⁹ A year later in 2021, a similar situation happened to another woman, except she was unable to identify who placed an Apple AirTag on her car.¹⁰ AirTags are much more inconspicuous as they are the size of a quarter and thus, much more difficult to find.¹¹ Entirely unaware AirTags even existed, she became aware of them when she received an alert on her iPhone when driving to work.¹² Upon finding the AirTag, she immediately took it to police and stated she would not be shopping by herself for a while.¹³

In 2019, prior to entering law school, my then-boyfriend attached a tracking device to the bottom of my vehicle. After going over a speed bump, I heard the screech of the device scrape against the concrete and knew something was wrong. I took my car to the dealership to get it checked out and was confronted with the fact he was tracking my every move. Although I presented video evidence of his confession to the prosecuting attorney, I was told there was nothing they could do. After researching this issue, I learned this is entirely legal, as this behavior is not prohibited under any criminal or civil law in Arkansas. This means not only is individual privacy at stake, so is individual safety. Arkansas's law on harassment specifically requires a physical presence and thus does not include a wireless, internet capability of harassment.¹⁴ The previous four scenarios are real-

6. Rosenwald, *supra* note 1.

7. Ty Thompson, *Alma Mayor Written Up on Domestic Calls, Tracking Device*, TIMES REC. (Nov. 21, 2020, 5:30 AM), [https://perma.cc/92NF-L77Y].

8. *Id.*

9. *Id.*; Alex Gladden, *Alma Council Member Complains of Hostile City Working Environment*, SW. TIMES REC. (June 1, 2022, 3:46 PM), [https://perma.cc/DVN7-PPB7].

10. Imani Williams, *Jonesboro Woman Finds Something Unexpected in Her Car*, KAIT8 (Nov. 17, 2021, 11:21 PM), [https://perma.cc/VE5T-FF8Q].

11. *Id.*

12. *Id.*

13. *Id.*

14. ARK. CODE ANN. § 5-71-208(a) (2017).

world examples of GPS stalking, three of which occurred in Arkansas with no remedy for the victims.

Unfortunately, the “general public has remained largely unaware of the problem,” because “[w]e don’t have a sense of moral outrage yet.”¹⁵ I was unaware of others’ experiences before it happened to me. When I share my story, people are repeatedly appalled, often apologizing and expressing sympathy. Sullivan’s ex-wife, the victim of America’s first cyberstalking case, described this experience of “know[ing] somebody knows where you are every second of the day and how many seconds you are at each stoplight and to yet not know how they were able to figure it out—it’s a frightening feeling.”¹⁶ When Sullivan arrived at the police station in Colorado, he “told the officer that he had installed the GPS device” and “insisted that it was legal because he owned the car.”¹⁷ While “installing the device was technically legal, . . . the way he used it to harass his wife was not,” and he was subsequently charged with stalking.¹⁸

The National Network to End Domestic Violence published a report that “more than 78% of participating domestic violence programs nationwide offer support or advocacy related to technology use, including cyberstalking.”¹⁹ This Comment will first explore the ever-changing technological landscape occurring between technology and domestic violence. It will propose a solution for how Arkansas can implement legislation to protect private citizens now and as technology evolves. Lastly, the various strategies legislators can implement in creating this law will be examined. This Comment will offer specific steps to circumvent the exploitation private individuals face when their safety is at stake due to GPS stalking.

This Comment argues that numerous aspects must be considered when addressing electronic stalking. In particular, the Arkansas State Legislature should consider the following: preventing abusers from taking advantage of current and future

15. Rosenwald, *supra* note 1.

16. *Id.*

17. *Id.*

18. *Id.*

19. *The Intersections of Stalking and Domestic Violence*, NAT’L NETWORK TO END DOMESTIC VIOLENCE (Jan. 11, 2023), [<https://perma.cc/7BKD-7ZN7>]; NAT’L NETWORK TO END DOMESTIC VIOLENCE, 16TH ANNUAL DOMESTIC VIOLENCE COUNTS REPORT 19 (2022).

technology to harm victims, including smart-home capabilities; implementing educational initiatives to educate legislators and the community about the safety risks of those who abuse technology; other areas of cyberstalking such as revenge porn;²⁰ and lastly, exceptions for legal uses of GPS devices.²¹ Finally, while a federal approach is worth evaluating, this Comment will solely focus on Arkansas, because it does not have legislation preventing this conduct.²²

II. BACKGROUND: THE STATES ON STALKING

Currently, twenty-seven states and the District of Columbia (“D.C.”) have laws regarding the placement of GPS tracking devices on vehicles.²³ Right now, those jurisdictions have codified their laws into one of several categories, such as stalking, cyberstalking, or trespass.²⁴ Delaware is unique and lists its law under a different category, “Offenses Against Public Health, Order and Decency.”²⁵ Eleven states and D.C. have codified this

20. See, e.g., *Cyberstalking: Two Federal Cases Illustrate the Consequences of Sextortion*, FED. BUREAU OF INVESTIGATION (Oct. 30, 2018), [<https://perma.cc/GVV4-45A7>].

21. See generally Kate Lanagan, Comment, *Smart Home Technology: Abusers Adapt to Technology Quicker Than Laws Do*, 3 J.L. & TECH. TEX. 81, 83-84 (2019).

22. *GPS Tracking Laws By State 2024*, WORLD POPULATION REV., [<https://perma.cc/YGC9-4T23>]; cf. *Private Use of Location Tracking Devices: State Statutes*, NAT’L CONF. OF STATE LEGISLATURES, [<https://perma.cc/57M6-4KJ8>] (Sept. 13, 2022) (explaining that a majority of states have addressed privacy concerns with mobile tracking devices). See also NEAL MILLER, NAT’L INST. OF JUST., *STALKING LAWS AND IMPLEMENTATION PRACTICES: A NATIONAL REVIEW FOR POLICYMAKERS AND PRACTITIONERS* 58 (2001), [<https://perma.cc/6DYN-SJ5Y>].

The issue of tracking with modern GPS devices has not yet been before the U.S. Supreme Court, but looking at the two most significant and on point federal cases on this issue—*U.S. v. Knotts* (1983) 460 U.S. 276 and *U.S. v. Maynard* (D.C. Cir. 2010) 615 F. 3d 544—it seems unlikely to be permitted without a warrant and/or substantial limitations to protect privacy rights. The rules and rights in the private arena, and what’s legislated by States in that regard, cannot ignore these privacy rights where sufficient similarities exist.

Mae Adkins, *Spying Spouses—Savvy Investigators or Criminal Stalkers?*, FAM. FIRST LEGAL (Apr. 17, 2011), [<https://perma.cc/Y793-KBKJ>].

23. *Private Use of Location Tracking Devices: State Statutes*, *supra* note 22. The current states are: Alaska, Arizona, California, Connecticut, Delaware, Florida, Hawaii, Illinois, Louisiana, Maryland, Michigan, Minnesota, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, Wyoming, and the District of Columbia. *Id.*

24. See *id.*

25. *Id.*

under stalking laws.²⁶ No states have added this under harassment laws.²⁷ Lastly, two states have created entirely new cyberstalking statutes.²⁸ The remaining states have codified this in various categories such as electronic eavesdropping, GPS device, or simply, “unlawful installation of a tracking device.”²⁹

All twenty-seven states and D.C. focus on privacy concerns.³⁰ Eleven states and D.C. added location tracking under stalking laws,³¹ nine states focus on the vehicle owner’s consent, and the remaining seven states go even further by prohibiting non-consensual tracking.³²

The language in these twenty-eight statutes tends to focus on the sole aspect of GPS devices. Exceptions to these laws typically include uses by law enforcement or private investigators, employers needing to know where their employees are, parents of minor children, guardians of elderly or incapacitated adults, or uses by commercial motor carriers or automobile manufacturers.³³

The absence of laws in the remaining twenty-three states raises privacy issues and the question as to why those states have not created laws preventing this act.³⁴ As it stands today, Arkansas has no laws—criminal or civil—preventing the act of placing GPS devices on another’s vehicle.³⁵ This means that not only is the privacy of private individuals at stake, but so is their safety. Arkansas needs this law, as well as the remaining states who have yet to pass a law, because not only does it prevent violence against women and men, but it also protects their privacy.³⁶

26. *Id.*

27. *See Private Use of Location Tracking Devices: State Statutes*, *supra* note 22.

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. *See Private Use of Location Tracking Devices: State Statutes*, *supra* note 22.

33. *Id.*

34. *Id.*; *GPS Tracking Laws by State 2024*, *supra* note 22.

35. *See Private Use of Location Tracking Devices: State Statutes*, *supra* note 22; *GPS Tracking Laws by State 2024*, *supra* note 22.

36. *See Violence Against Women Act (VAWA)*, DURHAM TECH, [https://perma.cc/P2E5-N3LZ]; *Abuse Using Technology: Ways Abusers Misuse Technology*, WOMENSLAW.ORG, [https://perma.cc/E367-UXWV] (Dec. 11, 2017).

Ultimately, Arkansas ought to be preventative rather than reactionary. Although, as more time continues to pass, this will become a reactionary measure if the Arkansas State Legislature does not address this swiftly.

A. Arkansas's Current Legal Landscape

Arkansas's third-degree stalking statute specifically states that the actor must "knowingly commit[] an act that would place a reasonable person in the victim's position under emotional distress and in fear for his or her safety or a third person's safety."³⁷ Like the exceptions discussed above, it excludes and allows affirmative defenses for a "law enforcement officer, licensed private investigator, attorney, process server, licensed bail bondsman, or a store detective acting within the reasonable scope of his or her duty while conducting surveillance on an official work assignment."³⁸ Although the stalking statute specifically uses the word "device" when defining what a "course of conduct" is for first- and second-degree stalking, it does not explicitly address GPS devices.³⁹ It defines course of conduct as "an act in which the actor directly, indirectly, or through a third party by any action, method, device, or means follows, monitors, observes, places under surveillance, threatens, or communicates to or about a person or interferes with a person's property."⁴⁰ Arkansas's stalking statute is insufficient because it also leaves the word "fear" open for interpretation.

Additionally, "a pattern of conduct composed of two (2) or more acts, separated by at least thirty-six (36) hours, but occurring within one (1) year" is still unclear for calculating digital, wireless, and broadcasting devices, because these items may track locations at all times.⁴¹ This only adds to confusion, requiring victims to wait to be stalked a second time before they can pursue legal action. But, what is a second time? The time calculation for the second act only leads to more questions: if digital stalking is continuous, is that one act? Does an internet connection loss

37. ARK. CODE ANN. § 5-71-229(c)(1) (2021).

38. ARK. CODE ANN. § 5-71-229(d).

39. ARK. CODE ANN. § 5-71-229(a)(1), (b)(1), (f)(1)(A).

40. ARK. CODE ANN. § 5-71-229(f)(1)(A).

41. ARK. CODE ANN. § 5-71-229 (f)(1)(A).

end the first act? Does a reconnection begin the second act? Is it each time the user looks at someone's location? If so, then digital stalking may never fall under this act. If the stalking has to last for thirty-six continuous hours, does someone have to wait until hour thirty-seven for it to be illegal?

Arkansas's harassment statute specifically requires a physical presence, which excludes wireless internet tracking from being harassment.⁴² The statute focuses on the phrase "[i]n a public place" and uses action verbs such as "[s]trikes, shoves, kicks, or otherwise touches a person."⁴³ Interestingly, the statute acknowledges privacy concerns of an individual being harassed by stating that harassment occurs if one "[p]laces a person under surveillance by remaining present outside that person's school, place of employment, vehicle, other place occupied by that person, or residence, other than the residence of the defendant," but it does not address the electronic surveillance of those same places.⁴⁴ It defines placing a person under surveillance by doing so physically, which is archaic given the ubiquitous digital world in which we live. Now, various forms of stalking can be done from virtually anywhere, "something that was not anticipated when the early stalking laws were drafted to prohibit physically following and pursuing another person."⁴⁵ Accordingly, Arkansas's statutes for stalking and harassment are unclear on whether the use of a GPS device on a vehicle to track another's every whereabouts would be included under Arkansas's stalking and harassment statutes given the statutory requirement of physical presence.⁴⁶

Additionally, the harassment statute states that it is illegal when someone "[e]ngages in conduct or repeatedly commits an act that alarms or seriously annoys another person and that serves no legitimate purpose."⁴⁷ Location tracking can certainly be argued to be a repeated act since tracking an individual's location can occur at all times. Moreover, the placing of such a device on

42. See ARK. CODE ANN. § 5-71-208(a)(6) (2017).

43. ARK. CODE ANN. § 5-71-208(a)(1)-(4).

44. ARK. CODE ANN. § 5-71-208(a)(6).

45. NAT'L CTR. FOR VICTIMS CRIME, THE MODEL STALKING CODE REVISITED: RESPONDING TO THE NEW REALITIES OF STALKING 15 (2007).

46. See *supra* text accompanying notes 1-4.

47. ARK. CODE ANN. § 5-71-208(a)(5).

a personal vehicle could certainly be argued to fall under the harassment statute; however, there are no cases in Arkansas giving clear guidance on what constitutes a repeated course of conduct under the harassment statute.⁴⁸ Even though it may seem like this conduct would fall under the current harassment statute, it is unclear if plaintiffs are bringing these claims, and if they are, the uncertainty of how this law may be applied makes it hard for them to get relief. The same affirmative defenses provided for under the stalking statute also apply to harassment.⁴⁹

There is limited case law in Arkansas, and what Arkansas does have, does not address the issue of GPS stalking. The case law on this issue in Arkansas focuses on (1) the use of GPS tracking by law enforcement within the context of Fourth Amendment searches and seizures,⁵⁰ and (2) the reasonable expectation of privacy when renting a vehicle.⁵¹ Arkansas only has one reported case which discusses a GPS tracking device being used outside the context of the lawful use by police.⁵² In *Dugas v. Kells*, the defendant admitted to placing a GPS tracking device on the victim's car.⁵³ The case did not center around tracking the victim's whereabouts, as this was one act out of many physical acts committed by the defendant.⁵⁴ Instead, this case was concerned with the granting of an order of protection and therefore focused on the alleged domestic abuse which included deleting the victim's work files, wrestling, name calling, removing weapons from the residence, and screaming.⁵⁵ The case record reflects that "[a]n ex parte order of protection was granted and filed . . . prohibiting [the defendant] from 'committing any criminal act against the victim(s) including, but not limited to: acts of violence or Domestic Abuse,'" harassment, harassing communications, stalking, or terroristic threatening.⁵⁶

48. See discussion *infra* Section II.A.

49. ARK. CODE ANN. § 5-71-208(c); ARK. CODE ANN. § 5-71-229(d) (2021).

50. See, e.g., *Thomas v. State*, 2020 Ark. 154, at 10, 598 S.W.3d 41, 46.

51. See, e.g., *Wilson v. State*, 2014 Ark. 8, at 5, 8, 2014 WL 197836, at *2, 5 (finding the defendant had no reasonable expectation of privacy in law enforcement's placement of a GPS tracking device on the rental vehicle that the defendant was not authorized to drive).

52. *Dugas v. Kells*, 2013 Ark. App. 384, at 2, 2013 WL 3149084, at *1.

53. *Id.* at 2, 2013 WL 3149084, at *1.

54. *Id.* at 2, 2013 WL 3149084, at *1.

55. *Id.* at 2, 2013 WL 3149084, at *1.

56. *Id.* at 2, 2013 WL 3149084, at *1.

Although not addressing GPS tracking specifically, another case deals with a defendant recording his ex-wife's phone calls at her home after orders of protection were filed and granted.⁵⁷ In *Lewis v. State*, the defendant placed a recording device on his ex-wife's telephone box and had the calls recorded and transmitted to himself.⁵⁸ The defendant was found to have violated Arkansas's law regarding interception and recording of communications.⁵⁹ This law makes it illegal to "intercept a wire, landline, oral, telephonic communication, or wireless communication, and to record or possess a recording of the communication unless the person is a party to the communication or one (1) of the parties to the communication has given prior consent to the interception and recording."⁶⁰ It follows that wireless communication is not referring to a communication from a wireless location but an actual phone call or conversation.⁶¹

A study conducted by the National Network to End Domestic Violence in 2021 found that roughly 75% of the "identified domestic violence programs in Arkansas participated in a national count of domestic violence services."⁶² Of these twenty-one programs audited, "[v]ictims made . . . requests for services—including emergency shelter, housing, transportation, childcare, legal representation, and other support needs—that programs could not provide because they lacked the resources."⁶³

All of this makes the case and argument clearer that Arkansas needs a law prohibiting electronic stalking because charges are not being brought forth, or more likely, charges are being considered but are not moving forward because electronic tracking is currently legal in Arkansas. Regardless of what prosecutors may believe about this behavior being wrong, we are

57. *Lewis v. State*, 336 Ark. 469, 476, 986 S.W.2d 95, 100 (1999).

58. *Id.* at 477, 986 S.W.2d at 100.

59. *Id.* at 478, 986 S.W.2d at 100. *See also* ARK. CODE ANN. § 5-60-120(a) (2003).

60. ARK. CODE ANN. § 5-60-120(a).

61. *See Lewis*, 336 Ark. at 478, 986 S.W.2d at 100 (noting it was unlawful to intercept his ex-wife's telephone conversations since the defendant was not a party to the telephone communications nor had consent); ARK. CODE ANN. § 5-60-120(a). *See also* Naomi Harlin Goodno, *Cyberstalking, a New Crime: Evaluating the Effectiveness of Current State and Federal Laws*, 72 MO. L. REV. 125, 141 (2007) (noting that telephone harassment statutes do not include electronic communications and thus do not cover cyberstalking).

62. *16th Annual Domestic Violence Counts Report: Arkansas Summary*, NAT'L NETWORK TO END DOMESTIC VIOLENCE (2022), [<https://perma.cc/38AE-P7F3>].

63. *Id.*

not seeing prosecutors prosecute this behavior perhaps due to a lack of resources, time, and creativity to prosecute this behavior under current statutes.⁶⁴ Even more likely is that the behavior of these individuals is dangerous but does not rise to the level of breaking the stalking or harassment laws. Additionally, victims of electronic stalking are not bringing suits against their abusers.⁶⁵

Arkansas needs a law addressing GPS tracking to protect its citizens and to criminalize this behavior. Since twenty-seven other states and the District of Columbia have codified this into law and see the danger of GPS tracking, it is disconcerting that Arkansas has not done the same, or at least, modified its current statutes to prohibit electronic stalking and harassment.⁶⁶

III. ANALYSIS

GPS tracking laws are generally codified under stalking, cyberstalking, or various other categories.⁶⁷ When drafting a bill or amending an existing law, simply adding terms such as “GPS tracking devices” or similar verbiage will not be enough to encompass the various ways technology can empower abusers to continue stalking, even if they change electronic methods.⁶⁸ Importantly, states have also carved out exceptions for certain circumstances where the law should not apply.⁶⁹

In 2014, New York passed “Jackie’s Law” to specifically prevent and illegalize GPS stalking after Jackie Wisniewski was killed by her stalker.⁷⁰ There are countless stories from people like me and Jackie who have “found . . . a GPS tracking device

64. See David Ruiz, *Stalkerware’s Legal Enforcement Problem*, MALWAREBYTES LABS (Nov. 18, 2019), [https://perma.cc/VJD2-BJRB]; Andrew Gumbel, *‘Victims Are Terrified’: Supreme Court Ruling on Stalking Cases Sparks Alarm*, GUARDIAN (June 28, 2023, 1:29 PM), [https://perma.cc/PH9H-SSSL].

65. See Ruiz, *supra* note 64. This is a not only a civil issue, but it is also a criminal one. See *id.*; *Abuse Using Technology: Responding to Technology Misuse*, WOMENSLAW.ORG, [https://perma.cc/XNK6-GF8J] (Mar. 15, 2017); *Arkansas Suing an Abuser for Money*, WOMENSLAW.ORG (Jan. 3, 2024), [https://perma.cc/C2HV-G5VW].

66. See *supra* notes 30-32 and accompanying text.

67. See *supra* text accompanying note 24.

68. Lee Hermiston, *Iowa Law Tackles Use of GPS for Stalking*, GAZETTE (Mar. 28, 2015, 8:00 AM), [https://perma.cc/98WK-QVS9].

69. See *supra* note 33 and accompanying text.

70. *Governor Signs ‘Jackie’s Law’ to Prevent GPS Stalking*, WBFO (July 23, 2014, 4:19 PM), [https://perma.cc/3C4L-Z759].

on [their] car, but the current law didn't protect" them.⁷¹ Now, New York law states that the act of following "shall include the unauthorized tracking of such person's movements or location through the use of a global positioning system or other device."⁷² However, there are others who think that this law has not done anything of significance for victims.⁷³ It took Jackie dying to get a law codified and prevent GPS stalking, and while worthwhile, it may not go far enough to protect victims of GPS tracking. While Arkansas should enact a law, Arkansas legislators should ensure the bill encompasses broader language than solely GPS tracking and expand it to include other means of electronic stalking.⁷⁴

In Indiana, no such law exists. Local Indiana news reported a story in early 2023 detailing how a woman escaped her abuser, believing she was entirely safe, only to later be stabbed to death after her abuser tracked her every move and knew exactly where to find her.⁷⁵ Now, as a result of this attack, Indiana Senator Liz Brown hopes to create a law to prevent this from occurring and punish those who track others.⁷⁶ Senator Brown stated that "[t]his is such a big issue and I think it'll only get bigger and more problematic and if you wouldn't have brought it to my attention I don't know if there would have been a bill filed. It was a glaring and disturbing loophole in the law."⁷⁷ Ideally, victims should not have to wait for events like this to gain public attention before the Arkansas State Legislature acts. It is debatable whether having a GPS stalking law could have prevented this death in Indiana from occurring had the abuser known of the law or was aware of potential sentencing, but regardless, if this law existed in Indiana, it would give victims and their families justice while holding abusers accountable.

Currently, Indiana Senate Bill #83 proposes to make it illegal to place a GPS device "on another person or someone else's

71. *Id.*

72. N.Y. PENAL LAW § 120.45 (McKinney 2014).

73. David Levine, *Breaking Down New York's GPS Stalking Law*, SUPER LAWS., [https://perma.cc/X26Z-AXD3] (July 10, 2023).

74. *See id.*

75. Steve Brown, *Lawmaker Takes Action After Woman Stabbed in GPS Stalking Case*, WTWO (Jan. 20, 2023, 4:54 PM), [https://perma.cc/VN2V-NKYH].

76. *Id.*

77. *Id.* (alteration in original).

property without permission.”⁷⁸ Notably, this bill also “restricts installing apps on another person’s cellphone.”⁷⁹ A violation of this law is a Class C misdemeanor carrying “a maximum penalty of 60 days in jail and a \$500 fine.”⁸⁰ Additionally, if a victim has a protective order against the accused, and the accused subsequently breaks this law, “the crime becomes a Class A misdemeanor with a maximum penalty of up to a year in jail and a \$5,000 fine.”⁸¹ Lastly, if the use of a GPS device “helps the accused facilitate a separate felony charge, then the prosecutor could seek up to an additional 6-year prison sentence.”⁸² As of today, this bill has not been passed in Indiana.⁸³

Like Indiana and Arkansas, Ohio does not have a GPS tracking law. In *Moran v. Lewis*, the Ohio Court of Appeals focused on privacy and held that the plaintiff did not plead enough facts “establishing that the defendant wrongfully intruded into the seclusion or private affairs of the plaintiff.”⁸⁴ The plaintiff sought civil justice and claimed that the act of being tracked by a private investigator was an invasion of his privacy and thus violated tort law.⁸⁵ The plaintiff advocated for the court to expand Ohio’s privacy law to include GPS devices, but the court held that the legislature would have to do so.⁸⁶ The court found traveling on a public roadway did not offer a realistic expectation of privacy.⁸⁷ Furthermore, while the plaintiff focused on the aspect of consent in the allegations, the court did not, partly because this involved a private investigator, and partly because the law did not address consent; instead, the court focused on the absence of an intrusion on the plaintiff’s private affairs.⁸⁸ Interestingly, other state statutes focus explicitly on consent with GPS tracking devices.⁸⁹

78. *Id.*

79. *Id.*

80. Brown, *supra* note 75.

81. *Id.*

82. *Id.*

83. *Id.*; S.B. 83, 123d Gen. Assemb., Reg. Sess. (Ind. 2023).

84. 114 N.E.3d 1254, 1259 (Ohio Ct. App. 2018). *See also* Edward X. Clinton, Jr., *Ohio Court Holds That Secretly Placing a GPS Device on Someone’s Car Is Not a Tortious Act*, CLINTON L. FIRM: BUS. L. BLOG (Jan. 26, 2019), [<https://perma.cc/38N9-TGK9>].

85. *Moran*, 114 N.E.3d at 1256-57.

86. *Id.* at 1257, 1259.

87. *Id.* at 1259.

88. *Id.*

89. *See Private Use of Location Tracking Devices: State Statutes*, *supra* note 22.

As of today, the Ohio legislature has not expanded to add consent to its criminal code, although a revised bill was presented to the legislature in 2023.⁹⁰

In 1993, the Model Anti-Stalking Code was developed for states to use as a template to create stalking laws or enhance existing laws.⁹¹ Creating this model statute was a positive step in the right direction as it “encourage[d] states to adopt anti-stalking measures and to provide them with direction in drafting such laws.”⁹² Now that it is 2024, it is something that should absolutely be revisited. Adding updates to the 1993 version was suggested in 2007⁹³ due to “an alarming rise in the use by stalkers of sophisticated—yet widely available—tracking and monitoring technology,” specifically referencing GPS devices.⁹⁴ This information was written to help states strengthen their stalking laws that were modeled after the 1993 version.⁹⁵ The 1993 model statute and the revisiting thereof in 2007 gives even more reason today that this update is needed thirty-one years later.

A. Various State Approaches and Verbiage

Arkansas need not start from scratch when drafting legislation. Before proposing how Arkansas should outline this new law, considering how other states have drafted their laws provides valuable insight. In California, “it [is] a misdemeanor for any person in the State to ‘use an electronic tracking device to

90. Carly D'Eon, *Ohio House, Senate Introduce Bills to Criminalize Use of Tracking Devices Without Consent*, 10 WBNS (May 4, 2023, 7:52 PM), [<https://perma.cc/DV5W-VWAG>]. See also H.B. 91, 135th Gen. Assemb., Reg. Sess. (Ohio 2023).

91. NAT'L CTR. FOR VICTIMS CRIME, *supra* note 45, at 11. The National Institute of Justice

[E]ntered into a cooperative agreement with the National Criminal Justice Association (NCJA) to research existing stalking laws and develop model legislative language. NCJA sought additional expertise and input from the National Conference of State Legislatures, the American Bar Association, the National Governors' Association, the Police Executive Research Forum, the National Center for Victims of Crime, and other national organizations.

Id.

92. *Id.*

93. See generally NAT'L INST. JUST., U.S. DEP'T JUST., PROJECT TO DEVELOP A MODEL ANTI-STALKING CODE FOR STATES (1993) (discussing the initial policy recommendations to state stalking statutes).

94. NAT'L CTR. FOR VICTIMS CRIME, *supra* note 45, at 12.

95. *Id.*

determine the location or movement’ of another person unless ‘the registered owner, lessor or lessee of the vehicle has consented to the use with respect to that vehicle.’”⁹⁶

The best approach may not be to create an entirely new statute but rather to add to an existing one.⁹⁷ Issues can arise when legislatures have distinct laws for different forms of stalking, causing confusion and problems for prosecutors when they are deciding which statute to use when prosecuting a case.⁹⁸ This also creates issues when collecting evidence.⁹⁹ Furthermore, laws focused on cyberstalking usually focus solely on internet stalking; therefore, “[i]nstead of a state passing a new law to cover each new method of stalking, the focus should be on drafting a single law that covers stalking by any method,” which would ideally encompass the technology we currently have in society and create enough breadth to include future capabilities of stalking.¹⁰⁰ This is important because there are several ways electronic surveillance and stalking may be referred to, such as GPS stalking, harassment, digital stalking, and other terms, all of which are “remarkably common, experts say, and it’s strongly linked to physical abuse, including murder.”¹⁰¹ Alternatively, in New Jersey, the definition of domestic violence includes stalking.¹⁰² Surprisingly, however, New Jersey does not currently have a statute specifically prohibiting GPS stalking.¹⁰³

Stalking Laws and Implementation Practices: A National Review for Policymakers and Practitioners includes several additional factors legislators need to consider when drafting stalking laws.¹⁰⁴ One of the key points is the language used in the

96. Adkins, *supra* note 22 (emphases omitted); CAL. PENAL CODE § 637.7 (2023).

97. See NAT’L CTR. FOR VICTIMS CRIME, *supra* note 45, at 9-10.

98. *Id.* at 64 (“For example, if a stalker makes a threatening phone call and sends a threatening e-mail in a jurisdiction which has both a stalking law and a cyberstalking law, the state must make a choice whether to prosecute under one or the other.”).

99. *Id.* at 15-16.

100. *Id.* at 16; see also *id.* at 18 (discussing constitutional challenges to consider).

101. Geoffrey A. Fowler, *Apple’s AirTag Trackers Made It Frighteningly Easy to ‘Stalk’ Me in a Test*, WASH. POST (May 5, 2021, 8:00 PM), [<https://perma.cc/RN9T-HQCB>].

102. N.J. STAT. ANN. § 2C:25-19(a)(14) (2016); see also *Domestic Violence, Stalking and Modern Technology in New Jersey*, BRONZINO L. FIRM, [<https://perma.cc/6R7F-7EQS>].

103. See N.J. STAT. ANN. § 2C:12-10(a)(1) (2009) (requiring a visual or physical proximity); Sophie Nieto-Munoz, *Using Tracking Devices Without Someone’s Consent Should Be a Crime, N.J. Lawmakers Say*, N.J. MONITOR (May 9, 2022, 7:04 AM), [<https://perma.cc/PCH3-BXQ6>].

104. MILLER, *supra* note 22, at 109-11.

statute to ensure “[e]limination of definitional language that restricts application of the stalking laws to situations involving physical presence.”¹⁰⁵

Not only does Arkansas need this law, but the state also needs to strongly consider proper language as well. As one drafter stated,

The goal is to find language that’s flexible enough to anticipate the misuse of technologies that don’t yet exist. “It should cover all forms of stalking we can contemplate—direct and indirect . . . and be written in a way that anticipates that there will be technology in the future that we can’t contemplate now, and we should not have to amend our laws every year to address the new technology.”¹⁰⁶

For example, Tennessee makes it “an offense for a person to knowingly install, conceal or otherwise place an electronic tracking device in or on a motor vehicle without the consent of all owners of the vehicle for the purpose of monitoring or following an occupant or occupants of the vehicle.”¹⁰⁷ Part of the discussion around passing Tennessee’s law included those seeking a divorce.¹⁰⁸ This view is crucial to consider when it comes to framing the intent aspect of the statute.¹⁰⁹

For example, if there is a married couple, a married couple seeking a divorce, or a divorced couple, and one of the partners places a tracking device on a vehicle they solely own, it technically would not be illegal since the statute states “without the consent of all owners.”¹¹⁰ Thus, if only one partner owns the vehicle, even though the law hinges upon consent and intent, it may still be legal to place a tracking device on the vehicle solely owned by the person who is placing the GPS device.¹¹¹ The potential issue with Tennessee’s statute is the fact that some spouses may not co-own their vehicles, thus making the tracking

105. *Id.* at 109 (alteration in original).

106. Rosenwald, *supra* note 1.

107. TENN. CODE ANN. § 39-13-606(a)(1)(A) (2016).

108. See Wade Davies & William Lay, *Crime & Punishment: Legislative Initiatives on Privacy and Criminal Law*, TENN. BAR J., Mar. 2015, at 35, [<https://perma.cc/9FQY-YDPK>].

109. *GPS Devices for Spying in Tennessee Divorces*, MILESMASON FAM. L. GRP., [<https://perma.cc/GQ56-BWQ2>].

110. *Id.*; TENN. CODE ANN. § 39-13-606(a)(1)(A).

111. *GPS Devices for Spying in Tennessee Divorces*, *supra* note 109.

legal in instances where the couple does not jointly own the vehicle.¹¹² This is why Arkansas should not make ownership a pillar of the law since ownership can still aid these abusers to legally stalk their victims.

There is a new term for some of these phone or computer installations called “stalkerware.”¹¹³ Abusers can download software onto their victims’ devices, and malware technology is often unable to detect its existence.¹¹⁴ Because phones are tracking locations all the time, GPS location is still trackable through the use of stalkerware on phones traveling with victims throughout the day, even while a physical GPS tracking device may not be on a vehicle.¹¹⁵

Thus, when contemplating the proper phrasing to use, the term “GPS device” is insufficient. For example, Apple “AirTags do not have a built-in GPS system and instead piggyback off the location data of nearby Apple devices by emitting a continuous Bluetooth signal, which is then viewable by the tag’s owner”; this means that if the only term used is “GPS,” it could potentially exclude AirTags, since they are technically not GPS devices.¹¹⁶ The difference between AirTags versus GPS devices purchased online is that iPhones are ubiquitous and can thus connect to an iPhone owner and alert them of the AirTag by playing a sound to locate precisely where it is.¹¹⁷ On the other hand, GPS devices do

112. *See id.*; Davies & Lay, *supra* note 108, at 35 (“Since the law only requires the consent of ‘owners’ of the vehicle, it may be possible for an owner to trace a non-owner.”).

113. Eva Galperin, *What You Need to Know About Stalkerware*, TED (Dec. 2019), [<https://perma.cc/NX5B-4NPM>].

114. *Id.*

115. *See id.*

116. Michael Levitt, *AirTags Are Being Used to Track People and Cars. Here’s What Is Being Done About It*, NPR (Feb. 18, 2022, 5:37 PM), [<https://perma.cc/8L65-V9VA>].

117. Fowler, *supra* note 101. In fact, the notification can be disabled to where the warning never alerts the victim. *See id.* This highlights the issue of how victims may not even know they are being tracked if they are never alerted. Thus, the issue also hinges on the knowledge aspect of the victim, which I will not address in this Comment as it deserves its own piece. *See id.* A positive aspect is that Apple has assigned a serial number to each AirTag it produces and can see who it is registered to, but again, this is only helpful if the victim has knowledge of the device. *See id.* Apple does have a disclaimer about using its products such as AirTags, AirPods, and other devices to track others, notifying purchasers that this behavior is illegal and Apple will work with law enforcement to support investigations. *An Update on AirTag and Unwanted Tracking*, APPLE, [<https://perma.cc/M7YY-CXKZ>].

not pair with iPhones, and thus, victims will not be alerted to the device's presence.¹¹⁸

There is a term for devices similar to AirTags called “internet of things (“IoT”) devices” which operate similarly by “talk[ing] to other related devices in the environment to automate home and industry tasks,” and “[t]hey can transmit sensor data to users, businesses and other intended parties.”¹¹⁹ These devices work by “extend[ing] internet connectivity beyond typical computing devices—such as desktops, laptops, smartphones and tablets—to any range of traditionally *dumb* or non-internet-enabled physical devices and everyday objects.”¹²⁰ Once these devices have technological capabilities, they can share data, communicate, and transfer information through the internet to impact an individual who is away from them, thus becoming “remotely monitored and controlled,” which is one of the ways GPS devices work.¹²¹

The expanding availability of IoT devices has equipped abusers with more tools to intensify and broaden the scope of domestic abuse tactics, “threatening the progress advocates have made in the past thirty years and creating novel dangers for survivors.”¹²² These devices “allow abusers to overcome geographic and spatial boundaries that would have otherwise prevented them from monitoring, controlling, harassing, and threatening survivors.”¹²³ This Comment supports the claim that the language of Arkansas’s proposed statute must be clear, since “courts may not interpret current laws in a way that protects survivors of IoT-facilitated abuse, and because the process of

118. Fowler, *supra* note 101. However, the sound produced by the AirTag is not the loudest notification as one reporter and tester of this technology has claimed. Depending on where it is placed, the sound may be easily muffled or even silent. *Id.* Despite the potential to not hear it, it also will not alert a user until three days have passed. *Id.* Additionally, if the abuser is living with their victim or sees them often enough, they can reset the three day window each time the abuser’s iPhone is near the AirTag, thus not allowing enough time for a notification to ever alert the victim. *Id.*

119. Alexander S. Gillis, *IoT Devices (Internet of Things Devices)*, TECHTARGET, [<https://perma.cc/4TRL-2S2A>] (Aug. 2023) (emphases omitted).

120. *Id.*

121. *Id.*

122. Madison Lo, Note, *A Domestic Violence Dystopia: Abuse via the Internet of Things and Remedies Under Current Law*, 109 CALIF. L. REV. 277, 277 (2021) (alteration in original).

123. *Id.*

seeking legal remedies (particularly in the criminal justice system) can re-traumatize or even endanger survivors and their communities.”¹²⁴

Abusers who are well-versed in technology can use IoT devices to stalk and surveil their victims without having to be anywhere near them.¹²⁵ These abusers of technology “likely implicate[] the same dangers associated with stalking, including death.”¹²⁶ An IoT comprehensive statute could include language that makes tracking an individual’s “movements or location through the use of ‘smart’ or internet-connected devices” illegal.¹²⁷ Moreover, language specifically referencing physical proximity ought to be removed, because it “would disqualify claims of IoT-facilitated abuse,” and should clearly incorporate “networked devices as instruments of stalking.”¹²⁸

Lastly, when thinking about the criminal aspect, elements such as “[w]illful behavior that [t]hreatens the safety of a victim and [r]esults in victim fear” are typically considered.¹²⁹ There is not as much progress on the civil elements, because precise wording is currently the major issue in drafting these laws.¹³⁰

B. Test Suite

When considering the various approaches to drafting a GPS tracking law, it is important to examine scenarios where the use of GPS tracking may be helpful in a specific instance or otherwise lawful use. Iowa, for example, has carved out several exceptions, including farming, parents and children, and law enforcement who are subject to the warrant requirements.¹³¹ Tennessee is similar and excludes the application of its statute for parents tracking their children, police officers using trackers in

124. *Id.* at 280.

125. *Id.* at 284.

126. *Id.* at 294.

127. Lo, Note, *supra* note 122, at 303.

128. *Id.*

129. MILLER, *supra* note 22, at 13.

130. *See id.* at 13, 109; *see, e.g.*, Lo, Note, *supra* note 122, at 297-98.

131. Hermiston, *supra* note 68.

compliance with state and federal laws, and devices tracking a stolen vehicle.¹³²

Of course, there are always exceptions, and there are certain instances where GPS tracking should be allowed. I will now address the following five scenarios.¹³³ First, with the issue of cop surveillance cases, the cases in Arkansas which cover this scenario concern Fourth Amendment claims.¹³⁴ Almost all GPS tracking statutes make lawful uses by law enforcement¹³⁵ an

132. Davies & Lay, *supra* note 108, at 36. Note that even Tennessee's language can be problematic in the situation where one spouse flees abuse in a vehicle solely owned by the other spouse, as the victim-spouse can be tracked because of the abuser-spouse's sole ownership of the vehicle rendering the vehicle "stolen."

133. While there are likely more scenarios and other test suites to explore, for the sake of length and time, I will only address these main ones, some of which are included in other states' legislation.

134. See, e.g., *Wilson v. State*, 2014 Ark. 8, at 7, 2014 WL 197836, at *4. See *supra* note 50 and accompanying text.

135. *Private Use of Location Tracking Devices: State Statutes*, *supra* note 22. *An Update on AirTag and Unwanted Tracking*, *supra* note 117. Apple released a statement in 2022 regarding the use of AirTag trackings, "condemn[ing] in the strongest possible terms any malicious use of [their] products"). *Id.* (describing how Apple keeps privacy secure and "hope[s] this starts an industry trend for others to also provide these sorts of proactive warnings in their products"). *Id.* It has gone as far as to issue this statement, take privacy seriously through more encryption and varying alerts, and it is working towards updating safety warnings, going as far as to work with law enforcement. *Id.* This sets the bar for other tech companies to follow suit as Apple agrees using technology in this way is wrong, making the point this should be put to a stop since even large corporations such as this one are on the side that this should not be happening. Additionally, the National Network to End Domestic Violence works with companies such as Apple, Google, Meta, and various others to address the intersection of safety and technology. Deborah J. Vagins, *NNDEV Celebrates Our 10th Annual Tech Summit*, NAT'L NETWORK TO END DOMESTIC VIOLENCE (Aug. 2, 2022), [https://perma.cc/LA5G-65MG]; Fowler, *supra* note 101 ("Wouldn't it be great if these companies partnered in a way where scanning for Bluetooth tracking devices is built into all phones?"). We have seen large tech companies work together and use their knowledge for good when it came to the Covid-19 pandemic. *Id.* But, unfortunately, Arkansas was not included in this list and was not included in technology alert systems. Brenda Baddam, *Technology and Its Danger to Domestic Violence Victims: How Did He Find Me?*, 28 ALB. L.J. SCI. & TECH. 73, 92-93 (2017) ("While electronic monitoring may be useful to track abusers' movements when in violation of protection orders, the same electronic monitoring technology may be used by abusers to further control their victim."). The ever-expanding field of technology can do so much good, but when it gets into the wrong hands, it can cause irreparable harm which presents a very real and very harmful future to domestic violence victims, which is exactly what this Comment strives to prevent. For an example of police GPS tracking in Arkansas, see *Two from Searcy Charged with Internet Stalking of Child After Note Handed to Teen Near School*, DAILY CITIZEN, [https://perma.cc/GCN9-8K99] (July 7, 2022). Arkansas has an instance of this technology almost being used to track criminals. Surprisingly, Arkansas has made it legal for law enforcement to track the location of those who violate orders of protection. ARK. CODE ANN. § 9-15-217(a)(1)(A) (2009).

exception.¹³⁶ For example, Tennessee’s statute lists this as an exception and states “[i]t shall not be a violation if the installing, concealing or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a law enforcement officer in furtherance of a criminal investigation.”¹³⁷

The second scenario is within the realm of parents tracking their underage kid’s whereabouts. Several states including Arizona,¹³⁸ Delaware,¹³⁹ Rhode Island,¹⁴⁰ and Tennessee¹⁴¹ discuss this as well. The third scenario is when an employee is driving a company vehicle for work purposes, such as with Uber, ADT Security, an HVAC company, or a car rental business. For example, businesses in Illinois can track company vehicles, as there is an exception for “businesses using tracking devices in fleet vehicles.”¹⁴² It is also worth noting that Illinois has two

136. *Private Use of Location Tracking Devices: State Statutes*, *supra* note 22. These exceptions help protect individuals as well as catch offenders who are committing this illegal activity by protecting victims with the same technology that they were or could be abused with. For example, GPS tracking devices have been suggested to be used by law enforcement to track abusers. Misha Valencia, *When a Restraining Order Fails, a GPS Tracker Can Save Lives*, N.Y. TIMES (July 30, 2019), [<https://perma.cc/LM4Q-XLAW>]. A model statute has been proposed to “require domestic violence offenders to wear a GPS tracking device.” Katlyn Kranik, Note, *Granting People Safety: GPS Tracking for Domestic Violence Offenders*, 115 VAL. L. REV. 113, 114 (2016); *see also* Jaime Kay Dahlstedt, *Notification and Risk Management for Victims of Domestic Violence*, 28 WIS. J.L., GENDER & SOC’Y 1, 12, 36-38 (2013) (explaining that GPS monitoring in civil cases has “greatly reduced the number of protection order violations” and why attorneys should advocate for GPS monitoring of domestic violence offenders).

137. TENN. CODE ANN. § 39-13-606 (2016). Oklahoma has a statute which includes GPS tracking devices, and in November 2022, it expanded the law to “allow officers to serve warnings” to stalkers, because “it is important for the law to reflect current trends because stalkers are finding new ways to threaten people or make them feel uncomfortable”. Brian D. King, *Law Enforcement Seeks to Curb Stalking with Updated Statute*, YAHOO! NEWS (Feb. 2, 2023), [<https://perma.cc/YE59-52A8>]; OKLA. STAT. tit. 21, § 1173(6) (2022). Oklahoma has recognized the college town of Norman to be predisposed to stalking because of the nature of the college environment. *Id.* These “warnings” will be delivered to the stalker after a victim fills out a form, detailing that if they do not stop the behavior, “legal consequences” may result. *Id.*

138. ARIZ. REV. STAT. ANN. § 13-2923(D)(1)(b) (2016).

139. DEL. CODE ANN. tit. 11, § 1335(a)(6) (2017).

140. 11 R.I. GEN. LAWS ANN. § 11-69-1(b)(2) (2016).

141. TENN. CODE ANN. § 39-13-606(b)(2) (2016).

142. Joni Taisey, *What You Need to Know About GPS Tracking Laws in Illinois*, FORCE (Feb. 10, 2022), [<https://perma.cc/9KDV-72FL>].

statutes that make tracking illegal under trespass and stalking laws.¹⁴³

Fourth, several of these statutes make an exception for vehicles with GPS already installed. For example, Tennessee includes an exception for “tracking system[s] installed by the manufacturer of a motor vehicle.”¹⁴⁴ Lastly, various statutes also encompass an exception to tracking the elderly, those suffering from dementia, or those who are serving as legal guardians for a disabled adult.¹⁴⁵

IV. CONCLUSION

Victims, including myself, develop immense anxiety when it comes to individual safety and, unfortunately, regularly experience fear for our lives.¹⁴⁶ Stalking is often “a precursor to serious violence”; thus, arming “[l]aw enforcement officials, prosecutors, and judges . . . with the legal tools to allow early and effective intervention that responds to the ever-expanding methods used by stalkers” can save lives.¹⁴⁷

Neither Arkansas nor the remaining twenty-three states need additional gruesome stories to explain and convince legislators that the issue of stalking has not been fixed.¹⁴⁸ No one should have to die to enact change leading to new legislation; not Jackie,¹⁴⁹ and certainly not me. Considerations are pervasive when it comes to domestic abuse, stalking, harassment, technology, and the law. By working together, we can develop resources, protective measures, and new laws. The ever-expanding field of technology can do so much good, but when it gets into the wrong hands, it can cause irreparable harm which presents a very real, damaging future to domestic violence victims, which is exactly what this Comment strives to prevent.

143. 720 ILL. COMP. STAT. 5/12-7.3(a-7)(c)(7) (2022); 720 ILL. COMP. STAT. 5/21-2.5(b) (2014).

144. TENN. CODE ANN. § 39-13-606(c).

145. *See, e.g.*, N.C. GEN. STAT. § 14-196.3(b)(5)(c) (2023); WASH. REV. CODE § 9A.90.130(4)(c) (2022).

146. NAT’L CTR. FOR VICTIMS CRIME, *supra* note 45, at 61.

147. *Id.*

148. *See* MILLER, *supra* note 22, at 47.

149. *See supra* text accompanying notes 70-71.

Thus, this Comment strongly urges the Arkansas State Legislature to enact a law to protect victims, provide justice, and preventatively deter the tracking of private citizens through GPS tracking while being broad enough to encompass future advances of IoT device tracking and cyberstalking.¹⁵⁰ This will prevent the proposed statute from requiring updates in the next several years to include other means of digital stalking and ensures Arkansas stays ahead of advancing technology.¹⁵¹ Additionally, this statute must encompass the above test suites and other carve outs that have not yet been addressed.¹⁵²

Of the discussed approaches, the solution that likely makes the most sense in Arkansas is adding this new, updated language to the existing stalking statute.¹⁵³ The sooner Arkansas has something proposed and passed, the sooner electronic stalking, specifically GPS stalking, is criminalized and punished. Whether the Arkansas State Legislature decides to adopt new language to either the existing stalking or harassment statutes or create a new statute entirely, the same point remains: the act of electronically stalking private individuals must be written into law and expanded to include people who, like Robert Sullivan, will use new technology for impermissible purposes.¹⁵⁴

150. *See supra* notes 119-128 and accompanying text.

151. *See supra* note 106 and accompanying text.

152. *See discussion supra* Section III.B.

153. *See supra* text accompanying notes 91-92, 97; *see discussion supra* Section III.A.

154. *See supra* text accompanying notes 1-6.