

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 358 (Alvarez) – As Amended April 10, 2025

Policy Committee:	Public Safety	Vote:	6 - 0
	Privacy and Consumer Protection		10 - 0

Urgency: No      State Mandated Local Program: No      Reimbursable: No

**SUMMARY:**

This bill allows a law enforcement agency (LEA) to access information on a tracking or surveillance device without a warrant if a person finds the device in their residence, automobile, or personal property, and the device is reasonably believed to have been used for the purpose of recording or tracking the person without their permission.

**FISCAL EFFECT:**

No significant state costs.

**COMMENTS:**

- 1) **Purpose.** This bill is sponsored by the Office of the San Diego County District Attorney, which argues that obtaining a warrant for a tracking or surveillance device takes too long and impedes investigation of crimes related to such devices. According to the sponsor:

Giving authorization to the victims in these very narrow circumstances — a tracking device is found and being used to commit the crime, and the victim has a reasonable expectation of privacy where the device is located — empowers the victim, speeds up investigations, and brings CalECPA closer in line with Fourth Amendment jurisprudence.

- 2) **Background.** Generally, courts have held that the Fourth Amendment requires an LEA to get a warrant before searching a person's property, including searching a person's cell phone or obtaining information from an electronic communications provider. Without a warrant, an LEA may conduct these searches only if specified exceptions apply. The warrant requirement is also codified in the California Electronic Communications Privacy Act (CalECPA), which prohibits a government entity from compelling production of or access to electronic communication or electronic device information without a warrant or wiretap order, subject to certain exceptions. The warrant requirement provides court oversight over LEA searches of electronic devices and communications.

This bill adds an exception to CalECPA's warrant requirement, allowing an LEA to access information from a tracking or surveillance device if a person finds the device in their home or property and the device is reasonably believed to be tracking or surveilling the person without their consent.