

# What We Know

## ARTICLES & INSIGHTS

### ABOUT THE AUTHORS



**A.T. Debnam** is a Board Certified Family Law Specialist by the *North Carolina State Bar Board of Legal Specialization* a certified family financial mediator through the *North Carolina Dispute Resolution Commission*. She concentrates her practice in the area of domestic law and represents clients in all aspects of family law, including divorce, custody, equitable distribution, child support, and alimony.



[Lynn Wilson McNally](#) is a partner in the firm and member of the firm's Family Law practice group. She is a Board Certified Family Law Specialist and certified Family Financial Settlement Mediator by the North Carolina Dispute Resolution Commission. She represents individuals in matters regarding separation, divorce, child custody, child support, alimony, equitable distribution, domestic violence, termination of parental rights, legitimation and other matters pertaining to family law.

## Spousal Spying

September 3, 2020 | by

All marriages have their challenges, but occasionally mistrust can become such an issue that one spouse may begin snooping or spying on the other. There are always various reasons for this type of behavior. Perhaps you suspect a cheating spouse, or maybe it is a child custody or child support issue. No matter the cause, spousal spying is rarely a good idea and could be illegal, depending on the actions taken while spying. If you believe your spouse or a family member is spying on you, or you believe you have cause to spy on your spouse, contact the divorce attorneys at Smith Debnam.

Our divorce lawyers are skilled at advising clients on matters of spousal spying and can help you ensure that your rights are protected or advise you on the appropriate course of action if you think you have cause for suspicion. There are both federal laws and state laws surrounding spousal spying. The laws in North Carolina vary, so speak with a qualified attorney to protect yourself.

### WHAT IS SPOUSAL SPYING?

The act of spousal spying can include a vast number of activities, such as:

- Installing spyware on a spouse's computer or mobile device
- Accessing social media accounts without permission
- Listening in on phone calls, reading text messages without authorization
- Accessing a spouse's email account without permission
- Wiretapping
- Installing a GPS tracking device to track your spouse's whereabouts
- Hiring a private investigator, and more

When you are married, there is a lot of sensitive information you lawfully have the right to view. However, the lines between viewing information you believe you have access to and getting pinned as a spying spouse can quickly become blurry. That is why it is important to contact a reputable law firm before you go digging. In today's technology era, many means of accessing spousal information are considered unlawful under the federal *Electronic Communications Privacy Act*.

### WHAT ARE THE LEGAL RAMIFICATIONS OF SPYING ON YOUR SPOUSE?

If you and your spouse are going through a separation or divorce, you may think that collecting as much information as possible on your spouse's wrongdoings will help your case. The reality is, depending on how you gathered the information, spousal spying could actually hurt your divorce case in North Carolina. Often material collected from snooping is not considered admissible evidence in family law courts or during divorce proceedings. Additionally, if any of the spying activities are determined to be illegal or an invasion of privacy, it could negatively impact your case in the eyes of the Court. Below are some specific examples of where spying on your spouse could get you into trouble.

### **Federal Wiretapping Act**

This federal law pertains to installing spyware on cell phones, computers, or recording phone calls without the consent of at least one person to that phone call. If found guilty, at a minimum, you would be federally required to cease all tapping and remove any spyware. However, you could face fines or, worst-case scenario, a prison sentence of not more than five years, depending on the circumstance. In addition to criminal penalties, recovery of civil damages is authorized under this Act, including injunctive relief, actual damages, punitive damages (in appropriate cases), and reasonable attorney's fees.

### **North Carolina Electronic Surveillance Act**

The state of North Carolina has its own regulations on electronic surveillance. Anyone found in violation of this law will be guilty of a Class H Felony. You could be fined up to \$100 per day to a maximum of \$1,000. The Court could also require you to pay punitive damages, including legal fees for your spouse/victim.

### **Civil Action (Lawsuit)**

Spouses can file a civil action if they feel their spouse is guilty of invasion of privacy. If found guilty by a judge in civil Court, you could be responsible for paying hefty fines in the thousands.

### **Protective Orders**

If a spouse feels that their safety is being threatened, they have the right to request a domestic violence order of protection (restraining order). This type of protective order makes it unlawful for a spouse to contact, follow, or harass the other spouse in any way. Violation of such an order could result in jail time.

## **ALWAYS SEEK LEGAL ADVICE FIRST**

If you think that you have cause to spy on your spouse, it is important to seek legal advice to avoid making a mistake that could hurt your case. There are some scenarios where hiring a private investigator may be beneficial, but a divorce lawyer or family law attorney will help you make that determination based on the merits of your particular case. The skilled attorneys at Smith Debnam can help. Our legal team has decades of experience in handling [divorce](#) cases, [alimony](#), and matters of [child custody](#). We understand the laws in North Carolina and can offer the legal advice you need.

Whether you feel the urge to spy or have a sinking suspicion that your spouse may be spying on you, we encourage you to [reach out to us today](#).

---

#### CONTACT US

919.250.2000  
mail@smithdebnamlaw.com

#### RALEIGH OFFICE

The Landmark Center  
4601 Six Forks Road, Suite 400  
Raleigh, NC 27609

Phone: 919.250.2000  
Fax: 919.250.2100

#### CHARLESTON OFFICE

171 Church Street  
Suite 120C  
Charleston, SC 29401

Phone: 843.714.2530  
Fax: 843.714.2541