

Senate Bill 855

Sponsored by Senator KNOPP, Representative CONGER; Senators CLOSE, GEORGE, OLSEN, STARR, THOMSEN, Representatives DAVIS, HANNA, HICKS, HUFFMAN, KENNEMER, LIVELY, WHISNANT (at the request of Chrystal Stutesman)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies crime of invasion of personal privacy by prohibiting observation by device or electronic means regardless of whether recording is made. Increases penalty for crime of invasion of personal privacy to maximum of five years' imprisonment, \$125,000 fine, or both, when victim is under 18 years of age.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to invasion of privacy; amending ORS 163.700 and 163.702; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 163.700 is amended to read:

5 163.700. (1) Except as provided in ORS 163.702, a person commits the crime of invasion of per-
6 sonal privacy if:

7 (a)(A) The person knowingly **observes by device or electronic means, or** makes or records a
8 photograph, motion picture, videotape or other visual recording of, another person in a state of
9 nudity without the consent of the person being **observed or** recorded; and

10 (B) At the time the **observation by device or electronic means occurs, or the** visual re-
11 cording is made or recorded, the person being **observed or** recorded is in a place and circumstances
12 where the person has a reasonable expectation of personal privacy; or

13 (b)(A) For the purpose of arousing or gratifying the sexual desire of the person, the person is
14 in a location to observe another person in a state of nudity without the consent of the other person;
15 and

16 (B) The other person is in a place and circumstances where the person has a reasonable ex-
17 pectation of personal privacy.

18 (2) As used in this section:

19 (a) **“Device” means an instrument that magnifies, enhances or otherwise augments a**
20 **visual image but does not include ordinary eyeglasses or contact lenses.**

21 (b) **“Electronic means” includes, but is not limited to, a surveillance camera or other**
22 **electronic device that magnifies, enhances, displays or transmits a visual image, regardless**
23 **of whether a recording is made.**

24 [(a)] (c) “Makes or records a photograph, motion picture, videotape or other visual recording”
25 includes, but is not limited to, making or recording or employing, authorizing, permitting, compelling
26 or inducing another person to make or record a photograph, motion picture, videotape or other
27 visual recording.

28 [(b)] (d) “Nudity” means any part of the uncovered, or less than opaquely covered,:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

- 1 (A) Genitals;
- 2 (B) Pubic area; or
- 3 (C) Female breast below a point immediately above the top of the areola.

4 [(c)] (e) “[Places] **Place** and circumstances where the person has a reasonable expectation of
 5 personal privacy” includes, but is not limited to, a bathroom, dressing room, locker room that in-
 6 cludes an enclosed area for dressing or showering, tanning booth and any area where a person un-
 7 dresses in an enclosed space that is not open to public view.

8 [(d)] (f) “Public view” means that an area can be readily seen and that a person within the area
 9 can be distinguished by normal unaided vision when viewed from a public place as defined in ORS
 10 161.015.

11 (3)(a) Invasion of personal privacy is a Class A misdemeanor.

12 **(b) Notwithstanding paragraph (a) of this subsection, invasion of personal privacy is a**
 13 **Class C felony when the person being observed or recorded is under 18 years of age at the**
 14 **time of the observation or recording.**

15 **SECTION 2.** ORS 163.702 is amended to read:

16 163.702. (1) The provisions of ORS 163.700 do not apply to:

17 (a) Any legitimate medical procedure performed by or under the direction of a person licensed
 18 to provide medical service for the purpose of medical diagnosis, treatment, education or research,
 19 including, but not limited to, the recording of medical procedures; and

20 (b) Any activity undertaken in the course of bona fide law enforcement or corrections activity
 21 or necessary to the proper functioning of the criminal justice system, including but not limited to
 22 the operation and management of jails, prisons and other youth and adult corrections facilities.

23 (2) The provisions of ORS 163.700 (1)(a) do not apply **to an observation by device or electronic**
 24 **means, or** to a visual recording, of a person under 12 years of age if:

25 (a) The person who **makes the observation by device or electronic means, or who** makes
 26 or records the visual recording, is the father, mother, sibling, grandparent, aunt, uncle or first
 27 cousin, by blood, adoption or marriage, of the person under 12 years of age; and

28 (b) **The observation by device or electronic means occurs, or** the visual recording is made
 29 or recorded, for a purpose other than arousing or gratifying the sexual desire of the person or an-
 30 other person.

31 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
 32 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
 33 **on its passage.**