

Enrolled
House Bill 2596

Sponsored by Representatives BUCKLEY, OLSON, HACK, Senator GELSER; Representatives BARTON, DOHERTY, EVANS, FAGAN, FREDERICK, GALLEGOS, GOMBERG, GORSEK, HELM, KENY-GUYER, LININGER, MCLAIN, NATHANSON, PILUSO, READ, REARDON, TAYLOR, VEGA PEDERSON, WILLIAMSON, Senators DEVLIN, JOHNSON, KNOPP, THATCHER (Pre-session filed.)

CHAPTER

AN ACT

Relating to personal privacy; creating new provisions; amending ORS 161.005 and 163.700; repealing section 1, chapter ___, Oregon Laws 2015 (Enrolled House Bill 2356); and declaring an emergency.

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

SECTION 1. ORS 163.700 is amended to read:

163.700. (1) Except as provided in ORS 163.702, a person commits the crime of invasion of personal privacy if:

(a)(A) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person in a state of nudity without the consent of the person being recorded; and

(B) At the time the visual recording is made or recorded the person being recorded is in a place and circumstances where the person has a reasonable expectation of personal privacy; [or]

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

(B) The other person is in a place and circumstances where the person has a reasonable expectation of personal privacy[.]; or

(c)(A) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person’s intimate area without the consent of the person being recorded; and

(B) The person being recorded has a reasonable expectation of privacy concerning the intimate area.

(2) As used in this section:

(a) “Intimate area” means nudity, or undergarments that are being worn by a person and are covered by clothing.

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

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

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

[(c)] (d) “Places and circumstances where the person has a reasonable expectation of personal privacy” includes, but is not limited to, a bathroom, dressing room, locker room that includes an enclosed area for dressing or showering, tanning booth and any area where a person undresses in an enclosed space that is not open to public view.

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

(f) “Reasonable expectation of privacy concerning the intimate area” means that the person intended to protect the intimate area from being seen and has not exposed the intimate area to public view.

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

SECTION 2. ORS 161.005 is amended to read:

161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737, 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433, 163.505 to 163.575, 163.665 to 163.693, **163.700**, 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002 to 165.102, 165.109, 165.118, 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.057, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340 and 167.350, 167.810 and 167.820 shall be known and may be cited as Oregon Criminal Code of 1971.

SECTION 3. If House Bill 2356 becomes law, section 1, chapter __, Oregon Laws 2015 (Enrolled House Bill 2356) (amending ORS 163.700), is repealed.

SECTION 4. If House Bill 2356 becomes law, ORS 163.700, as amended by section 1 of this 2015 Act, is amended to read:

163.700. (1) Except as provided in ORS 163.702, a person commits the crime of invasion of personal privacy **in the second degree** if:

[(a)(A)] *The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person in a state of nudity without the consent of the person being recorded; and]*

[(B)] *At the time the visual recording is made or recorded the person being recorded is in a place and circumstances where the person has a reasonable expectation of personal privacy;]*

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

(B) The other person is in a place and circumstances where the person has a reasonable expectation of personal privacy; or

[(c)(A)] (b)(A) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person’s intimate area without the consent of the **other** person [being recorded]; and

(B) The person being recorded has a reasonable expectation of privacy concerning the intimate area.

(2) As used in this section **and section 2, chapter __, Oregon Laws 2015 (Enrolled House Bill 2356):**

(a) “Intimate area” means nudity, or undergarments that are being worn by a person and are covered by clothing.

(b) “Makes or records a photograph, motion picture, videotape or other visual recording” includes, but is not limited to, making or recording or employing, authorizing, permitting, compelling

or inducing another person to make or record a photograph, motion picture, videotape or other visual recording.

(c) "Nudity" means any part of the uncovered or less than opaquely covered:

(A) Genitals;

(B) Pubic area; or

(C) Female breast below a point immediately above the top of the areola.

(d) "Places and circumstances where the person has a reasonable expectation of personal privacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an enclosed area for dressing or showering, tanning booth and any area where a person undresses in an enclosed space that is not open to public view.

(e) "Public view" means that an area can be readily seen and that a person within the area can be distinguished by normal unaided vision when viewed from a public place as defined in ORS 161.015.

(f) "Reasonable expectation of privacy concerning the intimate area" means that the person intended to protect the intimate area from being seen and has not exposed the intimate area to public view.

(3) Invasion of personal privacy in the second degree is a Class A misdemeanor.

SECTION 5. If House Bill 2356 becomes law, the amendments to ORS 163.700 by section 4 of this 2015 Act become operative January 1, 2016.

SECTION 6. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House April 2, 2015

Received by Governor:

Repassed by House May 28, 2015

.....M.,....., 2015

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2015

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate May 26, 2015

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State