

# House Bill 2596

Sponsored by Representative BUCKLEY (Pre-session filed.)

## 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**.

Provides that person who records another person's intimate areas commits crime of invasion of personal privacy.

Creates crime of unlawful dissemination of an intimate image. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both for first offense, and five years' imprisonment, \$125,000 fine, or both for subsequent offense.

## A BILL FOR AN ACT

Relating to personal privacy; creating new provisions; and amending ORS 161.005 and 163.700.

**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) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person's intimate areas without the consent of the person being recorded.**

(2) As used in this section:

**(a) "Intimate areas" means undergarments that are being worn by a person, are covered by clothing and are intended to be protected from being seen.**

*[(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.

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

5        [(d)] (e) “Public view” means that an area can be readily seen and that a person within the area  
6 can be distinguished by normal unaided vision when viewed from a public place as defined in ORS  
7 161.015.

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

9        **SECTION 2. (1) A person commits the crime of unlawful dissemination of an intimate  
10 image if:**

11        (a) **The person, with the intent to harass, humiliate or injure another person, knowingly  
12 causes to be disclosed through an electronic means an identifiable image of the other person  
13 whose intimate parts are visible;**

14        (b) **The person knows or reasonably should have known that the other person does not  
15 consent to the disclosure;**

16        (c) **The other person is harassed, humiliated or injured by the disclosure; and**

17        (d) **A reasonable person would be harassed, humiliated or injured by the disclosure.**

18        (2)(a) **Except as provided in paragraph (b) of this subsection, unlawful dissemination of  
19 an intimate image is a Class A misdemeanor.**

20        (b) **Unlawful dissemination of an intimate image is a Class C felony if the person has a  
21 prior conviction under this section at the time of the offense.**

22        (3) **As used in this section:**

23        (a) **“Disclose” includes, but is not limited to, transfer, publish, distribute, exhibit, adver-  
24 tise and offer.**

25        (b) **“Image” includes, but is not limited to, a photograph, film, videotape, recording, dig-  
26 ital picture and other visual reproduction, regardless of the manner in which the image is  
27 stored.**

28        (c) **“Intimate parts” means:**

29        (A) **Uncovered or less than opaquely covered human genitals, pubic areas or female  
30 nipples; or**

31        (B) **Undergarments that are being worn by a person, are covered by clothing and are in-  
32 tended to be protected from being seen.**

33        (4) **This section does not apply to:**

34        (a) **Activity by law enforcement agencies investigating and prosecuting criminal offenses;**

35        (b) **Legitimate medical, scientific or educational activities;**

36        (c) **Legal proceedings, when disclosure is consistent with common practice in civil pro-  
37 ceedings or necessary for the proper functioning of the criminal justice system;**

38        (d) **The reporting of unlawful conduct to a law enforcement agency;**

39        (e) **Disclosures that serve a lawful public interest; or**

40        (f) **Disclosures of images:**

41        (A) **Depicting the other person voluntarily displaying, in a public area, the other person’s  
42 intimate parts or engaging in sexual conduct; or**

43        (B) **Originally created for a commercial purpose with the consent of the other person.**

44        **SECTION 3. ORS 161.005 is amended to read:**

45        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

1 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,  
2 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to  
3 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to  
4 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433,  
5 163.505 to 163.575, 163.665 to 163.693, **163.700**, 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205  
6 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,  
7 165.118, 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.057,  
8 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340, [*and*] 167.350,  
9 167.810 and 167.820 **and section 2 of this 2015 Act** shall be known and may be cited as Oregon  
10 Criminal Code of 1971.

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