

ACT 59

H.B. NO. 1772

A Bill for an Act Relating to Violation of Privacy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 711-1111, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of violation of privacy in the second degree if, except in the execution of a public duty or as authorized by law, the person intentionally:

- (a) Trespasses on property for the purpose of subjecting anyone to eavesdropping or other surveillance in a private place;
- (b) Peers or peeps into a window or other opening of a dwelling or other structure adapted for sojourn or overnight accommodations for the purpose of spying on the occupant thereof or invading the privacy of another person with a lewd or unlawful purpose, under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed;
- (c) Trespasses on property for the sexual gratification of the actor;
- (d) Installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any means or device for observing, recording, amplifying, or broadcasting sounds or events in that place, ~~including~~ other than another person in a stage of undress or sexual activity;
- (e) Installs or uses outside a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein;
- (f) Covertly records or broadcasts an image of another person’s intimate area underneath clothing, by use of any device, and that image is taken while that person is in a public place and without that person’s consent;
- (g) Intercepts, without the consent of the sender or receiver, a message or photographic image by telephone, telegraph, letter, electronic

transmission, or other means of communicating privately; but this paragraph does not apply to:

- (i) Overhearing of messages through a regularly installed instrument on a telephone party line or an extension; or
 - (ii) Interception by the telephone company, electronic mail account provider, or telephone or electronic mail subscriber incident to enforcement of regulations limiting use of the facilities or incident to other operation and use;
- (h) Divulges, without the consent of the sender or the receiver, the existence or contents of any message or photographic image by telephone, telegraph, letter, electronic transmission, or other means of communicating privately, if the accused knows that the message or photographic image was unlawfully intercepted or if the accused learned of the message or photographic image in the course of employment with an agency engaged in transmitting it; or
- (i) Knowingly possesses materials created under circumstances prohibited in section 711-1110.9.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2012.

(Approved April 24, 2012.)