

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0065.01 Richard Sweetman x4333

HOUSE BILL 16-1213

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HOUSE SPONSORSHIP

Lawrence, Van Winkle, Wilson

SENATE SPONSORSHIP

Lundberg and Newell,

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING A CIVIL REMEDY FOR CERTAIN DAMAGES CAUSED BY AN  
102 INTRUSION COMMITTED THROUGH THE USE OF A DEVICE.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill states that, with certain exceptions, a person has a private civil right of action against another person if:

- ! With malicious intent, the other person intrudes, physically or otherwise, upon the person through the use of any device to capture, without the person's consent, a photograph, sound recording, or other physical impression or digital

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

- image of the person;
  - ! The person has a reasonable expectation of privacy at the time of the intrusion;
  - ! The intrusion is unreasonably offensive or objectionable; and
  - ! The person suffers emotional distress as a result of the intrusion.
- The bill makes legislative findings and declarations.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds that:

4 (a) "Emerging technological devices" refers to the current and  
5 future development of devices that permit greater intrusion of privacy due  
6 to an increased ability to capture photographs, sound recordings, and  
7 other physical impressions or digital images without committing a  
8 trespass;

9 (b) Emerging technological devices will pose significant public  
10 policy issues for the general assembly to resolve in the near future; and

11 (c) Foremost among these issues is the threat to individual privacy  
12 that is posed by a person who misuses an emerging technological device  
13 to unreasonably intrude upon another individual and capture, without the  
14 person's consent, a photograph, sound recording, or other physical  
15 impression or digital image of the person.

16 (2) Now, therefore, the general assembly hereby declares that  
17 because of the threat to individual privacy that is posed by a person who  
18 misuses an emerging technological device, it is appropriate at this time to  
19 provide additional protections for citizens from inappropriate and  
20 malicious use of these devices.

21 **SECTION 2.** In Colorado Revised Statutes, **add** 13-21-129 as

1 follows:

2 **13-21-129. Civil actions for intrusions using a device. (1) A**

3 PERSON HAS A PRIVATE CIVIL RIGHT OF ACTION AGAINST ANOTHER PERSON

4 IF:

5 (a) WITH MALICIOUS INTENT, THE OTHER PERSON INTRUDES,  
6 PHYSICALLY OR OTHERWISE, UPON THE PERSON THROUGH THE USE OF ANY  
7 DEVICE TO CAPTURE, WITHOUT THE PERSON'S CONSENT, A PHOTOGRAPH,  
8 SOUND RECORDING, OR OTHER PHYSICAL IMPRESSION OR DIGITAL IMAGE  
9 OF THE PERSON;

10 (b) THE PERSON HAS A REASONABLE EXPECTATION OF PRIVACY AT  
11 THE TIME OF THE INTRUSION;

12 (c) THE INTRUSION IS UNREASONABLY OFFENSIVE OR  
13 OBJECTIONABLE; AND

14 (d) THE PERSON SUFFERS EMOTIONAL DISTRESS AS A RESULT OF  
15 THE INTRUSION.

16 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, A  
17 PERSON DOES NOT HAVE A PRIVATE CIVIL RIGHT OF ACTION AGAINST  
18 ANOTHER PERSON FOR AN INTRUSION, AS DESCRIBED IN SAID SUBSECTION  
19 (1), IF THE INTRUSION IS:

20 (a) PERFORMED BY A STATE OR LOCAL GOVERNMENT AGENCY, OR  
21 ANY SUBDIVISION THEREOF, WHEN THE AGENCY OR SUBDIVISION IS ACTING  
22 WITHIN THE SCOPE OF ITS STATUTORY AUTHORITY;

23 (b) PERFORMED PURSUANT TO THE OPERATION OF A DEVICE IN  
24 COMPLIANCE WITH THE TERMS OF ANY CURRENT AND ENFORCEABLE  
25 AUTHORIZATION GRANTED BY THE FEDERAL AVIATION ADMINISTRATION;

26 OR

27 (c) (I) PERFORMED BY A PERSON OR ENTITY THAT IS ENGAGED IN

1 A BUSINESS OR PROFESSIONAL-RELATED ACTIVITY OR PERFORMED BY AN  
2 EMPLOYEE, CONTRACTOR, OR OTHER AGENT THEREOF; AND

3 (II) THE DEVICE IN QUESTION IS USED ONLY TO PERFORM  
4 REASONABLE TASKS THAT ARE WITHIN THE SCOPE OF THE BUSINESS OR  
5 PROFESSIONAL-RELATED ACTIVITY.

6 (3) NOTHING IN THIS SECTION PRECLUDES OR LIMITS A PERSON'S  
7 RIGHT TO PURSUE ANY OTHER REMEDY AVAILABLE UNDER LAW.

8 **SECTION 3. Act subject to petition - effective date.** This act  
9 takes effect at 12:01 a.m. on the day following the expiration of the  
10 ninety-day period after final adjournment of the general assembly (August  
11 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
12 referendum petition is filed pursuant to section 1 (3) of article V of the  
13 state constitution against this act or an item, section, or part of this act  
14 within such period, then the act, item, section, or part will not take effect  
15 unless approved by the people at the general election to be held in  
16 November 2016 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor.