

SENATE BILL No. 420

By Committee on Judiciary

1-29

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to crimes involving violations of personal rights; eliminating the
3 element of concealment from the crime of breach of privacy related to
4 installing or using a device to photograph or record another identifiable
5 person under or through the clothing being worn by that other person or
6 another identifiable person who is nude or in a state of undress;
7 amending K.S.A. 21-6101 and repealing the existing section.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 21-6101 is hereby amended to read as follows: 21-
11 6101. (a) Breach of privacy is knowingly and without lawful authority:

12 (1) Intercepting, without the consent of the sender or receiver, a
13 message by telephone, telegraph, letter or other means of private
14 communication;

15 (2) divulging, without the consent of the sender or receiver, the
16 existence or contents of such message if such person knows that the
17 message was illegally intercepted, or if such person illegally learned of the
18 message in the course of employment with an agency in transmitting—
19 *such message;*

20 (3) entering with intent to listen surreptitiously to private
21 conversations in a private place or to observe the personal conduct of any
22 other person or persons entitled to privacy therein;

23 (4) installing or using outside or inside a private place any device for
24 hearing, recording, amplifying or broadcasting sounds originating in such
25 place, which sounds would not ordinarily be audible or comprehensible
26 without the use of such device, without the consent of the person or
27 persons entitled to privacy therein;

28 (5) installing or using any device or equipment for the interception of
29 any telephone, telegraph or other wire or wireless communication without
30 the consent of the person in possession or control of the facilities for such
31 communication;

32 (6) installing or using a ~~concealed~~ camcorder, motion picture camera
33 or photographic camera of any type to ~~secretly~~ videotape, film, photograph
34 or record, by electronic or other means, another identifiable person under
35 or through the clothing being worn by that other person or another
36 identifiable person who is nude or in a state of undress, for the purpose of

1 viewing the body of, or the undergarments worn by, that other person,
2 without the consent or knowledge of that other person, with the intent to
3 invade the privacy of that other person, under circumstances in which that
4 other person has a reasonable expectation of privacy;

5 (7) disseminating or permitting the dissemination of any videotape,
6 photograph, film or image obtained in violation of subsection (a)(6); or

7 (8) disseminating any videotape, photograph, film or image of
8 another identifiable person 18 years of age or older who is nude or
9 engaged in sexual activity and under circumstances in which such
10 identifiable person had a reasonable expectation of privacy, with the intent
11 to harass, threaten or intimidate such identifiable person, and such
12 identifiable person did not consent to such dissemination.

13 (b) Breach of privacy as defined in:

14 (1) Subsection (a)(1) through (a)(5) is a class A nonperson
15 misdemeanor;

16 (2) subsection (a)(6) or (a)(8) is a:

17 (A) Severity level 8, person felony, except as provided in subsection
18 (b)(2)(B); and

19 (B) severity level 5, person felony upon a second or subsequent
20 conviction within the previous five years; and

21 (3) subsection (a)(7) is a severity level 5, person felony.

22 (c) Subsection (a)(1) shall not apply to messages overheard through a
23 regularly installed instrument on a telephone party line or on an extension.

24 (d) The provisions of this section shall not apply to:

25 (1)- An operator of a switchboard, or any officer, employee or agent
26 of any public utility providing telephone communications service, whose
27 facilities are used in the transmission of a communication, to intercept,
28 disclose or use that communication in the normal course of employment
29 while engaged in any activity which is incident to the rendition of public
30 utility service or to the protection of the rights of property of such public
31 utility;

32 (2)- a provider of an interactive computer service, as defined in 47
33 U.S.C. § 230, for content provided by another person;

34 (3)- a radio common carrier, as defined in K.S.A. 66-1,143, and
35 amendments thereto; and

36 (4)- a local exchange carrier or telecommunications carrier as defined
37 in K.S.A. 66-1,187, and amendments thereto.

38 (e) The provisions of subsection (a)(8) shall not apply to a person
39 acting with a bona fide and lawful scientific, educational, governmental,
40 news or other similar public purpose.

41 (f) As used in this section, "private place" means a place where one
42 may reasonably expect to be safe from uninvited intrusion or surveillance.

43 Sec. 2. K.S.A. 21-6101 is hereby repealed.

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.