

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 720

Introduced by Kuehn, 38.

Read first time January 06, 2016

Committee:

- 1 A BILL FOR AN ACT relating to rights of privacy; to amend sections
- 2 20-201, 20-205, 20-206, 20-207, and 20-208, Reissue Revised Statutes
- 3 of Nebraska; to change certain invasion of privacy provisions to
- 4 include unmanned aircraft or unmanned aircraft systems; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 20-201, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 20-201 It is the intention of the Legislature to provide a right of
4 privacy as described and limited by sections 20-201 to 20-211 and section
5 6 of this act and 25-840.01, and to give to any natural person a legal
6 remedy in the event of violation of the right.

7 Sec. 2. Section 20-205, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 20-205 Any publication or intrusion otherwise actionable under
10 section 20-202, 20-203, or 20-204 shall be justified and not actionable
11 under sections 20-201 to 20-211 and section 6 of this act and 25-840.01
12 if the subject of such publication or intrusion expressly or by
13 implication consents to the publicity or intrusion so long as such
14 publication or intrusion does not differ materially in kind, extent, or
15 duration from that implicitly or expressly authorized by the consent as
16 fairly construed. If such person is a minor, such consent may be given by
17 a parent or guardian. If the subject of the alleged invasion of privacy
18 is deceased, such consent may be given by the surviving spouse, if any,
19 or by the personal representative.

20 Sec. 3. Section 20-206, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 20-206 In addition to any defenses and privileges created in
23 sections 20-201 to 20-211 and section 6 of this act and 25-840.01, the
24 statutory right of privacy created in sections 20-201 to 20-211 and
25 section 6 of this act and 25-840.01 shall be subject to the following
26 defenses and privileges:

27 (1) All applicable federal and Nebraska statutory and constitutional
28 defenses;

29 (2) As to communications alleged to constitute an invasion of
30 privacy, the defense that the communication was made under circumstances
31 that would give rise to an applicable qualified or absolute privilege

1 according to the law of defamation; and

2 (3) All applicable, qualified, and absolute privileges and defenses
3 in the common law of privacy in this state and other states.

4 Sec. 4. Section 20-207, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 20-207 The action for invasion of privacy created by sections 20-201
7 to 20-211 and section 6 of this act and 25-840.01 shall be personal to
8 the subject of the invasion and shall in no case be assignable.

9 Sec. 5. Section 20-208, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 20-208 The right of action for invasion of privacy created by
12 sections 20-201 to 20-211 and section 6 of this act and 25-840.01, with
13 the single exception of the action arising out of exploitation of a
14 person's name or likeness in section 20-202, shall not be deemed to
15 survive the death of the subject of any such invasion of privacy.

16 Sec. 6. (1) A person is presumed to be liable for invasion of
17 privacy if he or she operates an unmanned aircraft or unmanned aircraft
18 system (a) within the airspace overlaying privately owned real property
19 less than two hundred feet above the ground level of such real property,
20 (b) without the express permission of the owner of the real property or
21 the owner's agent, and (c) while capturing any type of visual image,
22 sound recording, or other representation or physical impression of the
23 plaintiff. Such person shall also be liable for reasonable damages for
24 the invasion of privacy.

25 (2) For purposes of this section:

26 (a) Aircraft means anything that is used or designed for flight or
27 navigation of flight;

28 (b) Unmanned aircraft means an aircraft that is operated without
29 direct human intervention from within or on the aircraft; and

30 (c) Unmanned aircraft system means an unmanned aircraft and
31 associated elements, including communication links and the components

1 that control the unmanned aircraft, that are required for an individual
2 to operate the aircraft.

3 (3) This section shall not be construed to impair or limit any
4 otherwise lawful activities of law enforcement personnel or employees of
5 governmental agencies or other public or private entities that have the
6 right to enter land by operating an unmanned aircraft or unmanned
7 aircraft system within the airspace overlaying the real property of
8 another.

9 (4) Nothing in this section is intended to limit the rights, duties,
10 liabilities, damages, or defenses available at common law under a claim
11 of liability for wrongful occupation of real property, invasion of
12 privacy, or nuisance.

13 (5) Nothing in this section is intended to limit any other rights,
14 duties, liabilities, damages, or defenses available under sections 20-201
15 to 20-211 and section 6 of this act and section 25-840.01.

16 Sec. 7. Original sections 20-201, 20-205, 20-206, 20-207, and
17 20-208, Reissue Revised Statutes of Nebraska, are repealed.