

**A-Engrossed**  
**Senate Bill 965**

Ordered by the Senate May 4  
Including Senate Amendments dated May 4

Sponsored by COMMITTEE ON RULES

**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.

Creates cause of action for invasion of personal privacy.  
**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to cause of action for invasion of personal privacy; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) A plaintiff has a cause of action for invasion of personal privacy if the**  
5 **plaintiff establishes any of the following:**

6 (a) **The defendant knowingly made or recorded a photograph, motion picture, videotape**  
7 **or other visual recording of the plaintiff in a state of nudity without the consent of the**  
8 **plaintiff, and at the time the visual recording was made or recorded the plaintiff was in a**  
9 **place and circumstances where the plaintiff had a reasonable expectation of personal privacy.**

10 (b) **For the purpose of arousing or gratifying the sexual desire of the defendant, the de-**  
11 **fendant was in a location to observe the plaintiff in a state of nudity without the consent of**  
12 **the plaintiff, and the plaintiff was in a place and circumstances where the plaintiff had a**  
13 **reasonable expectation of personal privacy.**

14 (c) **For the purpose of arousing or gratifying the sexual desire of any person, the de-**  
15 **fendant knowingly:**

16 (A) **Made or recorded a photograph, motion picture, videotape or other visual recording**  
17 **of an intimate area of the plaintiff without the consent of the plaintiff; or**

18 (B) **Viewed an intimate area of the plaintiff without the consent of the plaintiff.**

19 (d) **Without the consent of the plaintiff, the defendant disseminated a photograph, motion**  
20 **picture, videotape or other visual recording of the plaintiff in a state of nudity, and the de-**  
21 **fendant knew that at the time the visual recording was made or recorded the plaintiff was**  
22 **in a place and circumstances where the plaintiff had a reasonable expectation of personal**  
23 **privacy.**

24 (2) **A plaintiff who prevails in a cause of action for invasion of personal privacy under this**  
25 **section is entitled to receive:**

26 (a) **Compensatory damages;**

27 (b) **Liquidated damages in an amount not less than \$1,000 but not more than \$5,000; and**

28 (c) **Reasonable attorney fees.**

**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       **(3) An award of liquidated damages under this section is not subject to ORS 31.725, 31.730**  
2 **or 31.735.**

3       **(4) An action under this section must be commenced not later than two years after the**  
4 **conduct that gives rise to a claim for relief occurred.**

5       **(5) The remedy provided by this section is in addition to, and not in lieu of, any other**  
6 **claim for relief that may be available to a plaintiff by reason of conduct of a defendant de-**  
7 **scribed in subsection (1) of this section.**

8       **(6) As used in this section:**

9       **(a) “Intimate area” means:**

10       **(A) Undergarments that are being worn by a person, are covered by clothing and are**  
11 **intended to be protected from being seen; and**

12       **(B) Any of the following that are covered by clothing and are intended to be protected**  
13 **from being seen:**

14       **(i) Genitals;**

15       **(ii) Pubic areas; or**

16       **(iii) Female breasts below the point immediately above the top of the areola.**

17       **(b) “Made or recorded a photograph, motion picture, videotape or other visual**  
18 **recording” includes, but is not limited to, making or recording or employing, authorizing,**  
19 **permitting, compelling or inducing another person to make or record a photograph, motion**  
20 **picture, videotape or other visual recording.**

21       **(c) “Nudity” means uncovered, or less than opaquely covered, post-pubescent human**  
22 **genitals, pubic areas or a post-pubescent human female breast below a point immediately**  
23 **above the top of the areola. “Nudity” includes a partial state of nudity.**

24       **(d) “Places and circumstances where the plaintiff has a reasonable expectation of per-**  
25 **sonal privacy” includes, but is not limited to, a bathroom, dressing room, locker room that**  
26 **includes an enclosed area for dressing or showering, tanning booth and any area where a**  
27 **person undresses in an enclosed space that is not open to public view.**

28       **(e) “Public view” means that an area can be readily seen and that a person within the**  
29 **area can be distinguished by normal unaided vision when viewed from a public place as de-**  
30 **defined in ORS 161.015.**

31       **SECTION 2. Section 1 of this 2005 Act applies only to conduct that occurs on or after the**  
32 **effective date of this 2005 Act.**

33       **SECTION 3. This 2005 Act being necessary for the immediate preservation of the public**  
34 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**  
35 **on its passage.**

36