

Enrolled
Senate Bill 965

Sponsored by COMMITTEE ON RULES

CHAPTER

AN ACT

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

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

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

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

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

(c) For the purpose of arousing or gratifying the sexual desire of any person, the defendant knowingly:

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

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

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

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

(a) Compensatory damages; and

(b) Reasonable attorney fees.

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

(4) The remedy provided by this section is in addition to, and not in lieu of, any other claim for relief that may be available to a plaintiff by reason of conduct of a defendant described in subsection (1) of this section.

(5) As used in this section:

(a) "Intimate area" means:

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

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

(i) Genitals;

(ii) Pubic areas; or

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

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

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

(d) "Places and circumstances where the plaintiff has a reasonable expectation of personal privacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an enclosed area for dressing or showering, tanning booth and any area where a person undresses in an enclosed space that is not open to public view.

(e) "Public view" means that an area can be readily seen and that a person within the area can be distinguished by normal unaided vision when viewed from a public place as defined in ORS 161.015.

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

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

Passed by Senate May 6, 2005

Received by Governor:

Repassed by Senate July 5, 2005

.....M.,....., 2005

Approved:

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Secretary of Senate

.....M.,....., 2005

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President of Senate

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Governor

Passed by House June 30, 2005

Filed in Office of Secretary of State:

.....M.,....., 2005

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Speaker of House

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Secretary of State