

HOUSE BILL No. 2151

AN ACT concerning crimes, criminal procedure and punishment; relating to breach of privacy and blackmail; amending sections 64 and 171 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections.

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

Section 1. Section 171 of Chapter 136 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 171. (a) Breach of privacy is knowingly and without lawful authority:

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

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

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

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

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

(6) installing or using a concealed camcorder, motion picture camera or photographic camera of any type, to secretly videotape, film, photograph or record by electronic *or other* means, another, identifiable person under or through the clothing being worn by that other person or another, identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy; *or*

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

(b) Breach of privacy ~~is a class A nonperson misdemeanor.~~ *as defined in:*

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

(2) *subsection (a)(6) is a severity level 8, person felony; and*

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

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

(d) The provisions of this section shall not apply to an operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility.

(e) As used in this section, "private place" means a place where one may reasonably expect to be safe from uninvited intrusion or surveillance; ~~but does not include a place to which the public has lawful access.~~

Sec. 2. Section 64 of chapter 136 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 64. (a) Blackmail is gaining or attempting to gain anything of value or compelling or attempting to compel another to act against such person's will, by threatening to:

(1) Communicate accusations or statements; about any person that would subject such person or any other person to public ridicule, contempt or degradation; *or*

(2) *disseminate any videotape, photograph, film, or image obtained in violation of subsection (a)(6) of section 171 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.*

~~(b) Blackmail is a severity level 7, nonperson felony.~~

(b) *Blackmail as defined in:*

(1) *Subsection (a)(1) is a severity level 7, nonperson felony; and*

(2) subsection (a)(2) is a severity level 4, person felony.

Sec. 3. Sections 64 and 171 of chapter 136 of the 2010 Session Laws of Kansas are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.