



## ***BILL & AMENDMENT SUMMARY***

---

---

# **Invasion of Privacy HF 526**

Status of Bill: House Floor  
Committee: Public Safety (12-8)  
Lead Democrats: Rep. Gaines  
Floor Manager: Rep. Heartsill  
Research Analyst: Anna Hyatt 515-281-5939  
[anna.hyatt@legis.iowa.gov](mailto:anna.hyatt@legis.iowa.gov)

March 27, 2017

---

---

### **Current Law**

Under current law, a person is able to be charged with invasion of privacy if they knowingly view, photograph, or film another person, for the purpose of arousing or gratifying the sexual desire of any person, if all of the following apply:

- The other person does not have knowledge about and does not consent or is unable to consent to being viewed, photographed, or filmed.
- The other person is in a state of full or partial nudity.
- The other person has reasonable expectation of privacy while in a state of full or partial nudity.

A person who is found guilty of invasion of privacy is guilty of an aggravated misdemeanor, which is punishable by serving time in prison for not more than 2 years and a fine between \$625 and \$6,250. Additionally, the person is required to be on the sex offender registry (Tier 2), and serve a ten year special sentence.

### **Summary**

The bill adds new scenarios that would be considered invasion of privacy, makes a change to current law, and adds the same definition of "sex act" as used in other criminal statutes. Persons who commit invasion under one of these new scenarios would be guilty of an aggravated misdemeanor, but they would not be required to be on the sex offender registry or be subject to the ten year special sentence.

The requirement under current law that the other person doesn't have knowledge is taken out of the set of circumstances that make up the facts of the crime.

Below are the two new scenarios that will be considered a crime.

1. If a person, without the consent of the other person, knowingly disseminates, publishes, distributes, posts or causes to be disseminated, published, distributed, or posted a photograph or film showing the other person in a state of full or partial nudity or engaged in a sex act.
2. If a person knowingly photographs or films another person in a state of full or partial nudity or engaged in a sex act, if the other person doesn't consent, or is unable to consent to the creation of the photograph or film.

These new scenarios do not apply to a situation involving voluntary exposure by a person in a commercial or public setting. These new scenarios also don't apply to disclosures made in the public interest, including but not limited to the reporting of unlawful conduct, disclosures by law enforcement, news reporting, legal proceeding disclosures, or medical treatment disclosures. This will also not apply to disclosures by an interactive computer

service of information provided by another information content provider as those terms are defined in 47 U.S.C. chapter 230.

Language specifies that the juvenile court will have exclusive jurisdiction over a case involving a juvenile that is charged with invasion of privacy, under one of the two new scenarios.

## **Amendment Summary**

**H-1237 by Heartsill** - This amendment strikes all but one of the changes to the crime of invasion of privacy that is in the bill, and instead expands the definition of harassment in the first degree. If found guilty, a person would have committed an aggravated misdemeanor and would be subject to the sex offender registry if the judge or jury makes a determination that the offense was sexually motivated. They would not be subject to a special sentence.

The amendment maintains the change in the bill which removes the requirement that the person who was being viewed, photographed, etc. didn't have knowledge of the action for the crime of invasion of privacy.

Just as in the original bill, the juvenile court will have exclusive jurisdiction over a case involving a juvenile that is charged with this new crime of harassment.

A new crime of harassment is created if a person disseminates, publishes, distributes, posts, or causes to be disseminated, published, distributed, or posted a photograph or film that shows another person in a state of full or partial nudity or engaged in a sex act. The person who does this action must know that the other person has not consented to the dissemination, publication, distribution or posting. In addition to those actions, the person must have had the intent to intimidate, annoy, or alarm the other person.

There are three exemptions to this new definition of harassment:

1. A photograph or film involving voluntary exposure by a person in public or commercial settings.
2. Disclosures made in the public interest, including but not limited to the reporting of unlawful conduct, disclosures by law enforcement, news reporting, legal proceeding disclosures, or medical treatment disclosures.
3. Disclosures by an interactive computer service of information provided by another information content provider.