

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB61

Hearing Date: Friday January 21, 2011
Committee On: Judiciary
Introducer: Heidemann
One Liner: Change and provide penalties relating to unlawful intrusion

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Ashford, Coash, Council, Harr, Larson, Lathrop, Lautenbaugh, McGill
Nay:
Absent:
Present Not Voting:

Proponents: ROBYN ROBLES JOHN FREUDENBERG	Representing: SELF ATTORNEY GENERAL'S OFFICE
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Opponents:	Representing:
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Neutral:	Representing:
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Summary of purpose and/or changes:

LB 61 would amend 28-311.08 (Unlawful Intrusion) of the state statutes by providing that it now would be a class I misdemeanor for a person to knowingly intrude upon another person without their consent in a place of solitude or seclusion. Currently a violation of this statute is a Class III misdemeanor.

LB 61 removes the enhancement to a class II misdemeanor for a violation of this statute, when the victim is under 18 years of age.

LB 61 also provides that a violation of this statute is a Class IV felony if the intrusion is video, audio, or electronically recorded and a Class III felony if the intrusion is video, audio, or electronically recorded and distributed to another person or made public in any manner which would allow it to be viewed by another person.

(Note: The exceptions provided under 3(b) and 3(c) of this act limits the misdemeanor penalty under this act to "intrusions without consent by viewing".

Definitions:

Intrude means-- The viewing or recording, either by video, audio, or other electronic means of a person in a state of undress; and

Place of Solitude or seclusion means-- A place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room or dressing room.

Explanation of amendments:

Committee Amendment 211 to LB 61 makes the following changes:

1. Revises the definition of the word "Intrude" to clarify that it means either :
 - The viewing of another person in a state of undress; or
 - The recording by video or other electronic means of another person in a state of undress.

2. Revises the newly created subsection 3(a) to clarify that an intrusion under this section is for a violation as defined under subdivision 2(a)(i) of section 1 of this act, which is a Class I misdemeanor.

3. Revises the newly created 3(b) to clarify that an intrusion for purposes of this subdivision is as defined under subdivision 2(a) (ii) of section 1 of this act, which shall be a Class IV felony.

4. Revises the newly created 3(c) to include that an "image" from the intrusion, that is distributed or otherwise made public shall be a Class III felony. It should be noted that this section was revised to encompass video live streaming as a means for being penalized under this section via the live streaming being "distributed" or being made public in some other manner.

5. Implements a three year statute of limitations period to begin from the later of:
 - The commission of the crime;
 - Law enforcement or a victim receives notice of either a video or other electronic recording of the intrusion or notice of the distribution of an image, video, or other electronic recording of the unlawful intrusion; or
 - The youngest victim of the intrusion reaches the age of twenty-one.

6. Strikes a reference to the "unlawful intrusion on a minor" from section 29-4003 as this distinction was removed from current statute by the original bill.

7. Removes the word "audio" as it was found throughout 28-311.08.

Brad Ashford, Chairperson