

FEB 4 2004
Place On Calendar

HOUSE FILE 2151
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 2037)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating a criminal offense for using any type of
2 equipment capable of taking a photograph including but not
3 limited to a cellular telephone with a fitted camera in
4 certain areas, and providing a penalty.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2151

1 Section 1. NEW SECTION. 709.19A INVASION OF PRIVACY --
2 PHOTOGRAPH EQUIPMENT INCLUDING A CELLULAR TELEPHONE WITH A
3 FITTED CAMERA.

4 1. A person shall not use any type of equipment capable of
5 taking a photograph, including but not limited to a cellular
6 telephone with a fitted camera, in a place where another
7 person has a reasonable expectation of privacy.

8 2. As used in this section:

9 a. "Reasonable expectation of privacy" means a location
10 where a person can disrobe and be in a state of full or
11 partial nudity with the reasonable expectation that the person
12 would not be photographed while in a state of full or partial
13 nudity.

14 b. "Use" means to operate any type of equipment capable of
15 taking a photograph or to operate a cellular telephone with a
16 fitted camera in any manner.

17 3. The following uses of any type of equipment capable of
18 taking a photograph, including but not limited to a cellular
19 telephone with a fitted camera, in a place where another has a
20 reasonable expectation of privacy are not violations of this
21 section:

22 a. A certified peace officer as defined in section 724.2A,
23 acting within the scope of the lawful authority of that
24 officer.

25 b. A private investigator licensed pursuant to chapter
26 80A, acting within the scope of a legitimate investigation.

27 c. A person in an emergency situation or under exigent
28 circumstances.

29 d. A person in a place where the other person consents to
30 the use of the cellular telephone or other equipment and the
31 person with authority over the place where it is being used
32 consents to its use.

33 4. A person who violates this section commits a simple
34 misdemeanor punishable as a scheduled violation under section
35 805.8C, subsection 4.

1 Sec. 2. Section 805.8C, Code 2003, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4. PRIVACY VIOLATIONS. For violations of
4 section 709.19A, the scheduled fine is one hundred dollars.

5 EXPLANATION

6 This bill creates a criminal offense for using any type of
7 equipment capable of taking a photograph, including but not
8 limited to a cellular telephone with a fitted camera in a
9 place where another person has a reasonable expectation of
10 privacy.

11 The bill defines "reasonable expectation of privacy" to
12 mean a location where a person can disrobe and be in a state
13 of full or partial nudity with the reasonable expectation that
14 the person would not be photographed while in a state of full
15 or partial nudity. The bill also defines "use" to mean
16 operating any type of equipment capable of taking a photograph
17 or to operate a cellular telephone with a fitted camera in any
18 manner.

19 Under the bill, the following uses of photography equipment
20 including a cellular telephone with a fitted camera in a place
21 where another has a reasonable expectation of privacy are not
22 violations: a certified peace officer acting within the scope
23 of the lawful authority of that officer, a licensed private
24 investigator acting within the scope of a legitimate
25 investigation, a person in an emergency or under exigent
26 circumstances, and a person in a place where the other person
27 consents to the use of the cellular telephone and the person
28 with authority over the place where it is being used consents
29 to its use.

30 A person who violates the bill commits a simple misdemeanor
31 punishable as a scheduled violation, with a scheduled fine of
32 \$100.

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HOUSE FILE 2151

H-8035

1 Amend House File 2151 as follows:

2 1. Page 1, line 8, by inserting after the word
3 "section" the following: "unless the context
4 otherwise requires".

5 2. Page 1, by striking lines 14 through 16, and
6 inserting the following:

7 "b. "Use" means to take a photograph."

8 3. Page 1, by inserting after line 35, the
9 following:

10 "5. A political subdivision of the state or a
11 private business or organization may set standards and
12 requirements which are higher or more stringent than
13 the standards and requirements imposed by this
14 section."

By McCARTHY of Polk

KLEMME of Plymouth

HORBACH of Tama

HUNTER of Polk

TJEPKES of Webster

T. TAYLOR of Linn

FORD of Polk

J. R. VAN FOSSEN of Scott

H-8035 FILED FEBRUARY 17, 2004

**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

HF 2151 Cameras and Privacy Penalty (LSB 5490 HV)

Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)

Fiscal Note Version - New

Description

House File 2151 creates a criminal offense for using a cellular telephone with a fitted camera in certain areas. House File 2151 also provides that a violation of this Bill would be a simple misdemeanor punishable by a scheduled fine of \$100.

Assumptions

1. The Bill establishes a scheduled fine of \$100.
2. The law will become effective July 1, 2004. A lag effect of six month is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
3. The cost for Court and Clerk time to process one simple misdemeanor case is \$14 per case.
4. The cost for the State Public Defender to represent one simple misdemeanor case is \$250. This would occur in about 50.0% of the cases at this level.

Correctional Impact

No significant correctional impact is anticipated under HF 2151 based on the fine-only penalty for the proposed new offense.

Fiscal Impact

The fiscal impact for HF 2151 is anticipated to be minimal.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Judicial Branch

Dennis C Prouty

February 10, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
