

Senator Wayne A. Harper proposes the following substitute bill:

UNMANNED AIRCRAFT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill establishes provisions related to unmanned aircraft.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ reorganizes existing code related to unmanned aircraft;
- ▶ preempts local law;
- ▶ establishes limitations and safety and use requirements for the operation of an unmanned aircraft;
- ▶ prohibits a person from:
 - committing a trespass with an unmanned aircraft;
 - committing a privacy violation with an unmanned aircraft; or
 - committing voyeurism with an unmanned aircraft;
- ▶ allows a law enforcement officer to neutralize an unmanned aircraft in certain situations; and
- ▶ establishes criminal penalties.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63G-18-101**, as last amended by Laws of Utah 2015, Chapter 269

31 **63G-18-102**, as last amended by Laws of Utah 2015, Chapter 269

32 **76-6-206**, as last amended by Laws of Utah 2015, Chapter 412

33 **76-9-402**, as enacted by Laws of Utah 1973, Chapter 196

34 **76-9-702.7**, as last amended by Laws of Utah 2004, Chapter 52

35 ENACTS:

36 **63G-18-106**, Utah Code Annotated 1953

37 **63G-18-107**, Utah Code Annotated 1953

38 **63G-18-201**, Utah Code Annotated 1953

39 **63G-18-202**, Utah Code Annotated 1953

40 **63G-18-301**, Utah Code Annotated 1953

41 **63G-18-302**, Utah Code Annotated 1953

42 **63G-18-303**, Utah Code Annotated 1953

43 **63G-18-401**, Utah Code Annotated 1953

44 **63G-18-402**, Utah Code Annotated 1953

45 **63G-18-403**, Utah Code Annotated 1953

46 **63G-18-404**, Utah Code Annotated 1953

47 RENUMBERS AND AMENDS:

48 **63G-18-203**, (Renumbered from 63G-18-103, as last amended by Laws of Utah 2015,
49 Chapter 269)

50 **63G-18-204**, (Renumbered from 63G-18-104, as last amended by Laws of Utah 2015,
51 Chapter 269)

52 **63G-18-205**, (Renumbered from 63G-18-105, as last amended by Laws of Utah 2015,
53 Chapter 269)



55 *Be it enacted by the Legislature of the state of Utah:*

56 Section 1. Section **63G-18-101** is amended to read:

57 **CHAPTER 18. UNMANNED AIRCRAFT -- DRONES**

58 **63G-18-101. Title.**

59 This chapter is known as [~~the "Government Use of Unmanned Aircraft Systems Act."~~]
60 "Unmanned Aircraft -- Drones."

61 Section 2. Section **63G-18-102** is amended to read:

62 **63G-18-102. Definitions.**

63 As used in this chapter:

64 [~~(1) "Law enforcement agency" means an entity of the state or an entity of a political~~
65 ~~subdivision of the state, including an entity of a state institution of higher education, that exists~~
66 ~~primarily to prevent, detect, or prosecute crime and enforce criminal statutes or ordinances.]~~

67 [~~(2) "Nongovernment actor" means a person that is not:]~~

68 [~~(a) an agency, department, division, or other entity within state government;~~]

69 [~~(b) a person employed by or otherwise acting in an official capacity on behalf of the~~
70 ~~state;]~~

71 [~~(c) a political subdivision of the state; or]~~

72 [~~(d) a person employed by or otherwise acting in an official capacity on behalf of a~~
73 ~~political subdivision of the state.]~~

74 [~~(3) "Target" means a person upon whom, or a structure or area upon which, a person:]~~

75 [~~(a) has intentionally collected or attempted to collect information through the~~
76 ~~operation of an unmanned aircraft system; or]~~

77 [~~(b) plans to collect or attempt to collect information through the operation of an~~
78 ~~unmanned aircraft system.]~~

79 [~~(4) "Testing site" means an area that:]~~

80 [~~(a) has boundaries that are clearly identified using GPS coordinates;]~~

81 [~~(b) a law enforcement agency identifies in writing to the Department of Public Safety,~~
82 ~~including the boundaries identified under Subsection (4)(a);]~~

83 [~~(c) is not more than three square miles; and]~~

84 [~~(d) contains no occupied structures.]~~

85 (1) "Airport" means any area of land, water, or both that:

86 (a) is used or is made available for landing or takeoff by an aircraft;

87 (b) provides a facility for the shelter, supply, or repair of aircraft and the handling of

88 passengers and cargo;

89 (c) is identified in the current version of the Federal Aviation Administration's form
90 5010, Airport Master Record; and

91 (d) includes all land areas shown as part of the airport in the current airport layout plan
92 approved by the Federal Aviation Administration.

93 (2) (a) "Airport operator" means the entity that is authorized by statute to operate an
94 airport.

95 (b) "Airport operator" includes the department or division of a political subdivision
96 responsible for operating a specific airport.

97 (3) "Emergency" means:

98 (a) a natural or man-made disaster, a fire, a flood, or extreme weather; or

99 (b) a circumstance that presents an imminent threat to life or property, or public health,
100 safety, or welfare.

101 (4) "Law enforcement agency" means an entity of the state or an entity of a political
102 subdivision of the state, including an entity of a state institution of higher education, that exists
103 primarily to prevent, detect, or prosecute crime and enforce criminal statutes or ordinances.

104 (5) "Law enforcement officer" means a sworn and certified peace officer:

105 (a) who is an employee of a law enforcement agency that is part of, or administered by,
106 the state or a political subdivision of the state; and

107 (b) whose primary duties consist of the prevention and detection of crime and the
108 enforcement of criminal statutes or ordinances of the state or a political subdivision of the state.

109 ~~[(5)-(a)]~~ (6) "Unmanned aircraft [system]" means an aircraft that is:

110 ~~[(i) is]~~ (a) capable of sustaining flight; and

111 ~~[(ii) operates]~~ (b) operated with no possible direct human intervention from on or
112 within the aircraft.

113 ~~[(b)]~~ (7) "Unmanned aircraft system" [does not include an unmanned aircraft that is
114 flown] means the entire system used to operate an unmanned aircraft, including:

115 ~~[(i) within visual line of sight of the individual operating the aircraft; and]~~

116 ~~[(ii) strictly for hobby or recreational purposes.]~~

117 (a) the unmanned aircraft;

118 (b) communications equipment;

119 (c) navigation equipment;

120 (d) controllers;

121 (e) support equipment; and

122 (f) autopilot functionality.

123 Section 3. Section **63G-18-106** is enacted to read:

124 **63G-18-106. Preemption of local ordinance.**

125 (1) A political subdivision of the state, or an entity within a political subdivision of the
126 state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft
127 unless:

128 (a) authorized by this chapter; or

129 (b) the political subdivision or entity is an airport operator that enacts the law, rule, or
130 ordinance to govern:

131 (i) the operation of an unmanned aircraft within the geographic boundaries of the
132 airport over which the airport operator has authority; or

133 (ii) the takeoff or landing of an unmanned aircraft at the airport over which the airport
134 operator has authority.

135 (2) This chapter supercedes any law, ordinance, or rule enacted by a political
136 subdivision of the state before July 1, 2016.

137 (3) This section does not apply to an unmanned aircraft system that is operated for
138 commercial purposes in compliance with authorization granted by the Federal Aviation
139 Administration.

140 Section 4. Section **63G-18-107** is enacted to read:

141 **63G-18-107. Applicability.**

142 The following parts do not apply to a person who operates an unmanned aircraft system
143 under a Certificate of Waiver, Certificate of Authorization, or other exemption obtained from
144 the Federal Aviation Administration that specifically authorizes the operation of the unmanned
145 aircraft system:

146 (1) Title 63G, Chapter 18, Part 3, Criminal Use of Unmanned Aircraft, except for
147 Section [63G-18-304](#); and

148 (2) Title 63G, Chapter 18, Part 4, Safe Use of Unmanned Aircraft, except for Section
149 [63G-18-404](#).

150 Section 5. Section **63G-18-201** is enacted to read:

151 **Part 2. Government Use of Unmanned Aircraft**

152 **63G-18-201. Title.**

153 This part is known as "Government Use of Unmanned Aircraft."

154 Section 6. Section **63G-18-202** is enacted to read:

155 **63G-18-202. Definitions.**

156 As used in this part:

157 (1) "Nongovernment actor" means a person that is not:

158 (a) an agency, department, division, or other entity within state government;

159 (b) employed by or otherwise acting in an official capacity on behalf of the state;

160 (c) a political subdivision of the state; or

161 (d) employed by or otherwise acting in an official capacity on behalf of a political
162 subdivision of the state.

163 (2) "Target" means a person upon whom, or a structure or area upon which, a person:

164 (a) has intentionally collected or attempted to collect information through the operation
165 of an unmanned aircraft system; or

166 (b) plans to collect or to attempt to collect information through the operation of an
167 unmanned aircraft system.

168 (3) "Testing site" means an area that:

169 (a) has boundaries that are clearly identified using GPS coordinates;

170 (b) a law enforcement agency identifies in writing to the Department of Public Safety,
171 including the boundaries identified under Subsection (3)(a);

172 (c) is not more than three square miles;

173 (d) contains no occupied structures; and

174 (e) a law enforcement agency intends to use for the testing of an unmanned aircraft
175 system.

176 Section 7. Section **63G-18-203**, which is renumbered from Section 63G-18-103 is
177 renumbered and amended to read:

178 ~~[63G-18-103].~~ **63G-18-203. Unmanned aircraft system use requirements --**
179 **Exceptions -- Testing.**

180 (1) A law enforcement agency may not obtain, receive, or use data acquired through an

181 unmanned aircraft system unless the data is obtained:

- 182 (a) pursuant to a search warrant;
- 183 (b) in accordance with judicially recognized exceptions to warrant requirements;
- 184 (c) subject to Subsection (2), from a person who is a nongovernment actor;
- 185 (d) at a testing site; or
- 186 (e) to locate a lost or missing person in an area in which a person has no reasonable
- 187 expectation of privacy.

188 (2) A nongovernment actor may only disclose data acquired through an unmanned

189 aircraft system to a law enforcement agency if:

- 190 (a) the data appears to pertain to the commission of a crime; or
- 191 (b) the nongovernment actor believes, in good faith, that:
 - 192 (i) the data pertains to an imminent or ongoing emergency involving danger of death or
 - 193 serious bodily injury to an individual; and
 - 194 (ii) disclosing the data would assist in remedying the emergency.

195 (3) A law enforcement agency that obtains, receives, or uses data acquired under

196 Subsection (1)(d) or (e) shall destroy the data as soon as reasonably possible after the law

197 enforcement agency obtains, receives, or uses the data.

198 (4) A law enforcement agency that operates an unmanned aircraft system under

199 Subsection (1)(d) may not operate the unmanned aircraft system outside of the testing site.

200 Section 8. Section **63G-18-204**, which is renumbered from Section 63G-18-104 is

201 renumbered and amended to read:

202 ~~**63G-18-104.**~~ **63G-18-204. Data retention.**

203 (1) Except as provided in this section, a law enforcement agency:

- 204 (a) may not use, copy, or disclose data collected by an unmanned aircraft system on a
- 205 person, structure, or area that is not a target; and
- 206 (b) shall ensure that data described in Subsection (1)(a) is destroyed as soon as
- 207 reasonably possible after the law enforcement agency collects or receives the data.

208 (2) A law enforcement agency is not required to comply with Subsection (1) if:

- 209 (a) deleting the data would also require the deletion of data that:
 - 210 (i) relates to the target of the operation; and
 - 211 (ii) is requisite for the success of the operation;

- 212 (b) the law enforcement agency receives the data:
- 213 (i) through a court order that:
- 214 (A) requires a person to release the data to the law enforcement agency; or
- 215 (B) prohibits the destruction of the data; or
- 216 (ii) from a person who is a nongovernment actor;
- 217 (c) (i) the data was collected inadvertently; and
- 218 (ii) the data appears to pertain to the commission of a crime;
- 219 (d) (i) the law enforcement agency reasonably determines that the data pertains to an
- 220 emergency situation; and
- 221 (ii) using or disclosing the data would assist in remedying the emergency; or
- 222 (e) the data was collected through the operation of an unmanned aircraft system over
- 223 public lands outside of municipal boundaries.

224 Section 9. Section **63G-18-205**, which is renumbered from Section 63G-18-105 is

225 renumbered and amended to read:

226 ~~[63G-18-105]~~. **63G-18-205. Reporting.**

227 (1) Except as provided by Subsections (2) and (3), before March 31 of each year, a law

228 enforcement agency that operated an unmanned aircraft system in the previous calendar year

229 shall submit to the Utah Department of Public Safety, and make public on the law enforcement

230 agency's website, a written report containing:

- 231 (a) the number of times the law enforcement agency operated an unmanned aircraft
- 232 system in the previous calendar year;
- 233 (b) the number of criminal investigations aided by the use of an unmanned aircraft
- 234 system operated by the law enforcement agency in the previous calendar year;
- 235 (c) a description of how the unmanned aircraft system was helpful to each investigation
- 236 described in Subsection (1)(b);
- 237 (d) the frequency with which data was collected, and the type of data collected, by an
- 238 unmanned aircraft system operated by the law enforcement agency on any person, structure, or
- 239 area other than a target in the previous calendar year;
- 240 (e) the number of times a law enforcement agency received, from a person who is not a
- 241 law enforcement agency, data collected by an unmanned aircraft system; and
- 242 (f) the total cost of the unmanned aircraft system program operated by the law

243 enforcement agency in the previous calendar year, including the source of any funds used to
244 operate the program.

245 (2) (a) A law enforcement agency that submits a report described in Subsection (1) may
246 exclude from the report information pertaining to an ongoing investigation.

247 (b) A law enforcement agency that excludes information under Subsection (2)(a) from
248 the report shall report the excluded information to the Utah Department of Public Safety on the
249 annual report in the year following the year in which the investigation to which the information
250 pertains is concluded.

251 (3) A law enforcement agency is not required to submit, under Subsection (1), to the
252 Department of Public Safety information pertaining to the use of an unmanned aircraft system
253 operated at a testing site.

254 (4) Before May 31 of each year, the Utah Department of Public Safety shall, for all
255 reports received under Subsection (1) during the previous calendar year:

256 (a) transmit to the Government Operations Interim Committee and post on the
257 department's website a report containing:

258 (i) a summary of the information reported to the department;

259 (ii) the total number of issued warrants authorizing the operation of an unmanned
260 aircraft system; and

261 (iii) the number of denied warrants for the operation of an unmanned aircraft system;
262 and

263 (b) post on the department's website each report the department received.

264 Section 10. Section **63G-18-301** is enacted to read:

265 **Part 3. Criminal Use of Unmanned Aircraft**

266 **63G-18-301. Title.**

267 This part is known as "Criminal Use of Unmanned Aircraft."

268 Section 11. Section **63G-18-302** is enacted to read:

269 **63G-18-302. Reserved.**

270 Reserved

271 Section 12. Section **63G-18-303** is enacted to read:

272 **63G-18-303. Weapon attached to unmanned aircraft -- Penalties.**

273 (1) (a) As used in this section "weapon" means:

274 (i) a firearm; or
275 (ii) an object that in the manner of the object's use or intended use is capable of causing
276 death, serious bodily injury, or serious damage to property.

277 (b) The following factors are used in determining whether an object, other than a
278 firearm, is a dangerous weapon:

- 279 (i) the location and circumstances in which the object is used or possessed;
- 280 (ii) the primary purpose for which the object is made;
- 281 (iii) the character of the wound, if any, produced by the object's use;
- 282 (iv) the manner in which the object is used;
- 283 (v) whether the manner in which the object is used or possessed constitutes a potential
284 imminent threat to public safety; and
- 285 (vi) the lawful purposes for which the object may be used.

286 (2) (a) Except as provided in Subsection (3), a person may not fly an unmanned aircraft
287 that carries a weapon or to which a weapon is attached.

288 (b) A person that violates Subsection (2)(a) is guilty of a class B misdemeanor.

289 (3) A person may fly an unmanned aircraft that carries a weapon or to which a weapon
290 is attached if the person:

291 (a) (i) obtains a certificate of authorization, or other written approval, from the Federal
292 Aviation Administration authorizing the person to fly the unmanned aircraft that carries the
293 weapon or to which the weapon is attached; and

294 (ii) operates the unmanned aircraft in accordance with the certificate of authorization or
295 other written approval;

296 (b) (i) obtains a contract with the state or the federal government permitting the person
297 to fly the unmanned aircraft that carries the weapon or to which the weapon is attached; and

298 (ii) operates the unmanned aircraft in accordance with the contract; or

299 (c) operates the unmanned aircraft that carries the weapon or to which the weapon is
300 attached in airspace controlled by the United States Department of Defense, with the
301 permission of the United States Department of Defense.

302 Section 13. Section **63G-18-401** is enacted to read:

303 **Part 4. Safe Use of Unmanned Aircraft**

304 **63G-18-401. Title.**

305 This part is known as "Safe Use of Unmanned Aircraft."

306 Section 14. Section **63G-18-402** is enacted to read:

307 **63G-18-402. Reserved.**

308 Reserved

309 Section 15. Section **63G-18-403** is enacted to read:

310 **63G-18-403. Safe operation of unmanned aircraft.**

311 (1) A person that operates an unmanned aircraft system for recreational purposes shall:

312 (a) maintain continuous line of sight with the unmanned aircraft, without the assistance
313 of another person or instrumentation other than corrective lenses;

314 (b) yield right of way to a manned aircraft; and

315 (c) before flying within five miles of an airport, contact the airport's operator to
316 determine whether there are any restrictions relating to the operation of the unmanned aircraft.

317 (2) A person that operates an unmanned aircraft system for recreational purposes may
318 not fly an unmanned aircraft operated through the unmanned aircraft system:

319 (a) more than 400 feet above ground; or

320 (b) within 25 linear or vertical feet of an individual.

321 (3) (a) (i) Except as provided in Subsection (3)(b), a person that violates this section:

322 (A) is guilty of a class B misdemeanor; and

323 (B) is liable for any damages resulting from the violation.

324 (ii) In addition to a fine assessed under Subsection (3)(a)(i)(A), a court may impose a
325 civil penalty of not more than \$2,500 against a person that violates this section.

326 (b) (i) A person that recklessly violates this section is:

327 (A) guilty of a class A misdemeanor; and

328 (B) liable for any damages resulting from the violation.

329 (ii) In addition to a fine assessed under Subsection (3)(b)(i)(A), a court may impose a
330 civil penalty of not more than \$5,000 against a person that violates this section.

331 Section 16. Section **63G-18-404** is enacted to read:

332 **63G-18-404. Neutralizing unmanned aircraft.**

333 (1) As used in this section:

334 (a) "Law enforcement officer" includes a sworn and certified peace officer within:

335 (i) the Division of Forestry, Fire, and State Lands;

336 (ii) the United States Forest Service;
337 (iii) the Bureau of Land Management; or
338 (iv) the National Park Service.
339 (b) "Neutralize" means to force the termination of the flight of an unmanned aircraft
340 by:
341 (i) disabling or damaging the unmanned aircraft;
342 (ii) interfering with any portion of the unmanned aircraft system associated with the
343 unmanned aircraft; or
344 (iii) otherwise taking control of the unmanned aircraft or the unmanned aircraft system
345 associated with the unmanned aircraft.
346 (2) (a) A person may not operate an unmanned aircraft system in a manner that causes
347 an unmanned aircraft to:
348 (i) threaten the safety of an individual or property immediately affected by an
349 emergency;
350 (ii) threaten the safety or operation of a response vehicle or a person that is responding
351 to an emergency;
352 (iii) create unsafe congestion of aircraft above or around an emergency; or
353 (iv) obstruct the flight path of an aircraft being used to respond to an emergency.
354 (b) In accordance with this section, a law enforcement officer may neutralize an
355 unmanned aircraft that is operated in violation of Subsection (2)(a).
356 (3) A law enforcement officer may not neutralize an unmanned aircraft under this
357 section if neutralizing the unmanned aircraft:
358 (a) could reasonably cause or lead to the death of, or bodily injury to, an individual; or
359 (b) is likely to cause or lead to:
360 (i) the death of, or bodily injury to, an animal; or
361 (ii) damage to private property, other than the unmanned aircraft system, in an amount
362 greater than \$5,000.
363 (4) Except as provided in Subsection (3), a law enforcement officer may neutralize an
364 unmanned aircraft under Subsection (2) after:
365 (a) a law enforcement officer has made a reasonable effort to:
366 (i) locate the individual operating the unmanned aircraft system; and

367 (ii) warn the individual that the unmanned aircraft operated by the individual:
368 (A) is flying in violation of Subsection (2)(a); and
369 (B) may be neutralized if the individual continues to fly the unmanned aircraft in
370 violation of Subsection (2)(a); and
371 (b) the law enforcement officer, or the agency to which the law enforcement officer
372 belongs, receives approval to neutralize the unmanned aircraft from the director of the
373 governmental entity that is coordinating the response to the emergency or extreme emergency,
374 or the director's designee.

375 (5) A law enforcement officer who neutralizes an unmanned aircraft in accordance
376 with this section shall neutralize the unmanned aircraft:

377 (a) in the most safe and practicable manner available; and
378 (b) in a manner that causes as little damage or destruction as possible to the unmanned
379 aircraft system and other property.

380 Section 17. Section **76-6-206** is amended to read:

381 **76-6-206. Criminal trespass.**

382 (1) As used in this section[~~,"enter"~~]:

383 (a) "Enter" means intrusion of the entire body[:] or the entire unmanned aircraft.

384 (b) "Remains unlawfully," as that term relates to an unmanned aircraft, means
385 remaining on or over private property when:

386 (i) the private property or any portion of the private property is not open to the public;

387 and

388 (ii) the person operating the unmanned aircraft is not otherwise licensed or privileged
389 to fly the unmanned aircraft over the private property or any portion of the private property.

390 (2) A person is guilty of criminal trespass if, under circumstances not amounting to
391 burglary as defined in Section [76-6-202](#), [76-6-203](#), or [76-6-204](#) or a violation of Section
392 [76-10-2402](#) regarding commercial obstruction:

393 (a) the person enters or remains unlawfully on, or causes an unmanned aircraft to enter
394 or remain unlawfully over, property and:

395 (i) intends to cause annoyance or injury to any person or damage to any property,
396 including the use of graffiti as defined in Section [76-6-107](#);

397 (ii) intends to commit any crime, other than theft or a felony; or

398 (iii) is reckless as to whether ~~[his]~~ the person's or unmanned aircraft's presence will
399 cause fear for the safety of another;

400 (b) knowing the person's or unmanned aircraft's entry or presence is unlawful, the
401 person enters or remains on, or causes an unmanned aircraft to enter or remain unlawfully over,
402 property ~~[as]~~ to which notice against entering is given by:

403 (i) personal communication to the ~~[actor]~~ person by the owner or someone with
404 apparent authority to act for the owner;

405 (ii) fencing or other enclosure obviously designed to exclude intruders; or

406 (iii) posting of signs reasonably likely to come to the attention of intruders; or

407 (c) the person enters a condominium unit in violation of Subsection 57-8-7(8).

408 (3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless ~~[it was]~~
409 the violation is committed in a dwelling, in which event ~~[it]~~ the violation is a class A
410 misdemeanor.

411 (b) A violation of Subsection (2)(c) is an infraction.

412 (4) It is a defense to prosecution under this section that:

413 (a) the property was at the time open to the public; and

414 (b) the actor complied with all lawful conditions imposed on access to or remaining on
415 the property.

416 Section 18. Section **76-9-402** is amended to read:

417 **76-9-402. Privacy violation.**

418 (1) A person is guilty of privacy violation if, except as authorized by law, ~~[he]~~ the
419 person:

420 (a) ~~[Trespasses]~~ trespasses on property with intent to subject anyone to eavesdropping
421 or other surveillance in a private place; ~~[or]~~

422 (b) ~~[Installs in any]~~ installs, or uses after unauthorized installation, in a private place,
423 without the consent of the person or persons entitled to privacy ~~[there]~~ in the private place, any
424 device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or
425 events in the private place ~~[or uses any such unauthorized installation];~~ or

426 (c) ~~[Installs]~~ installs or uses outside of a private place ~~[any]~~ a device for observing,
427 photographing, hearing, recording, amplifying, or broadcasting sounds or events originating in
428 the private place which would not ordinarily be audible, visible, or comprehensible outside the

429 private place, without the consent of the person or persons entitled to privacy [~~there~~] in the
430 private place.

431 (2) Privacy violation is a class B misdemeanor.

432 Section 19. Section **76-9-702.7** is amended to read:

433 **76-9-702.7. Voyeurism offenses -- Penalties.**

434 (1) A person is guilty of voyeurism who intentionally uses a camcorder, motion picture
435 camera, photographic camera of any type, unmanned aircraft, or other equipment that is
436 concealed or disguised to secretly or surreptitiously videotape, film, photograph, record, or
437 view by electronic means an individual:

438 (a) for the purpose of viewing any portion of the individual's body regarding which the
439 individual has a reasonable expectation of privacy, whether or not that portion of the body is
440 covered with clothing;

441 (b) without the knowledge or consent of the individual; and

442 (c) under circumstances in which the individual has a reasonable expectation of
443 privacy.

444 (2) A violation of Subsection (1) is a class A misdemeanor, except that a violation of
445 Subsection (1) committed against a child under 14 years of age is a third degree felony.

446 (3) Distribution or sale of any images, including in print, electronic, magnetic, or
447 digital format, obtained under Subsection (1) by transmission, display, or dissemination is a
448 third degree felony, except that if the violation of this Subsection (3) includes images of a child
449 under 14 years of age, the violation is a second degree felony.

450 (4) A person is guilty of voyeurism who, under circumstances not amounting to a
451 violation of Subsection (1), views or attempts to view an individual, with or without the use of
452 any instrumentality:

453 (a) with the intent of viewing any portion of the individual's body regarding which the
454 individual has a reasonable expectation of privacy, whether or not that portion of the body is
455 covered with clothing;

456 (b) without the knowledge or consent of the individual; and

457 (c) under circumstances in which the individual has a reasonable expectation of
458 privacy.

459 (5) A violation of Subsection (4) is a class B misdemeanor, except that a violation of

460 Subsection (4) committed against a child under 14 years of age is a class A misdemeanor.