

Effective 5/7/2025

76-12-302 Unlawful privacy violation.

- (1)
 - (a) For purposes of this section, "expectation of privacy" means a property owner's expectation of privacy described in Subsection (6).
 - (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.
- (2) An actor commits unlawful privacy violation if, except as authorized by law, the actor:
 - (a) trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place;
 - (b) installs, or uses after unauthorized installation in a private place, without the consent of the person or persons entitled to privacy in the private place, a device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events in the private place;
 - (c) installs or uses outside of a private place a device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events originating in the private place that would not ordinarily be audible, visible, or comprehensible outside the private place, without the consent of the person or persons entitled to privacy in the private place; or
 - (d) uses ground-penetrating technology, without the consent of the property owner, to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property of another for which the property owner has an expectation of privacy.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) A court may order an actor who commits a violation of Subsection (2) to remove or destroy any data collected by the actor in the commission of the violation of Subsection (2).
- (5) An actor is not guilty of a violation of this section if:
 - (a) the device used is an unmanned aircraft;
 - (b) the actor is operating the unmanned aircraft for legitimate commercial or educational purposes in a manner consistent with applicable Federal Aviation Administration rules, exemptions, or other authorizations; and
 - (c) any conduct described in Subsection (2) that occurs via the unmanned aircraft is solely incidental to the lawful commercial or educational use of the unmanned aircraft.
- (6) A property owner has an expectation of property privacy regarding characteristics, data, or information pertaining to the owner's property that:
 - (a) is not immediately apparent through routine visual observation of the property; and
 - (b) requires ground-penetrating technology to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property.
- (7)
 - (a) This section does not apply to lawful practices of:
 - (i) a law enforcement agency; or
 - (ii) another government entity.
 - (b) Subsection (2)(d) does not apply to a land surveyor if:
 - (i) the land surveyor is performing a survey service in good faith pursuant to a bona fide contract; and
 - (ii) for any data pertaining to property not owned by a party to the contract described in Subsection (7)(b)(i) that is captured incidentally by the land surveyor, the land surveyor:
 - (A) does not share, publish, sell, or distribute any incidentally captured data pertaining to property that is not relevant to the contract described in Subsection (7)(b)(i); and

(B) upon completion of the contract, deletes or destroys any data pertaining to property that is not the subject of the contract.

(8)

- (a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.
- (b) If in the action described in Subsection (8)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.
- (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.
- (d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.
- (e) Exemplary damages may be awarded when the violation is found to be malicious.

Renumbered and Amended by Chapter 173, 2025 General Session