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## A BILL FOR AN ACT

RELATING TO VIOLATION OF PRIVACY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that technological  
2 advances have provided new and unique equipment that may be utilized  
3 for unauthorized or harassing surveillance purposes. These  
4 technological advances often outpace statutory protections and  
5 present a substantial privacy risk potentially contrary to the  
6 strong privacy protections enshrined in the Hawaii State  
7 Constitution. The legislature also finds that the proliferation  
8 of accessibility and use of unmanned aerial vehicles or "drones"  
9 creates uncertainty of privacy protections for citizens throughout  
10 Hawaii, and that such privacy protections need to be clarified.

11           The purpose of this Act is to amend the offenses of violation of  
12 privacy in the first and second degrees to specifically address the  
13 use of drones in the commission of these offenses.

14           SECTION 2. Section 711-1100, Hawaii Revised Statutes, is  
15 amended by adding a new definition to be appropriately inserted  
16 and to read as follows:



1        "Unmanned aerial vehicle" means an aircraft that is  
2 operated without the possibility of direct human intervention  
3 from within or on the aircraft."

4        SECTION 3. Section 711-1110.9, Hawaii Revised Statutes, is  
5 amended by amending subsection (1) to read as follows:

6        **"§711-1110.9 Violation of privacy in the first degree.**

7        (1) A person commits the offense of violation of privacy in the  
8 first degree if, except in the execution of a public duty or as  
9 authorized by law:

10        (a) The person intentionally or knowingly installs or  
11 uses, or both, in or on the premises of any private  
12 place, without consent of the person or persons  
13 entitled to privacy therein, any device, including an  
14 unmanned aerial vehicle, for observing, recording,  
15 amplifying, or broadcasting another person in a stage  
16 of undress or sexual activity in that place; or

17        (b) The person knowingly discloses an image or video of  
18 another identifiable person either in the nude, as  
19 defined in section 712-1210, or engaging in sexual  
20 conduct, as defined in section 712-1210, without the  
21 consent of the depicted person, with intent to harm



1 substantially the depicted person with respect to that  
2 person's health, safety, business, calling, career,  
3 financial condition, reputation, or personal  
4 relationships; provided that:

5 (i) This paragraph shall not apply to images or  
6 videos of the depicted person made:

7 (A) When the person was voluntarily nude in  
8 public or voluntarily engaging in sexual  
9 conduct in public; or

10 (B) Pursuant to a voluntary commercial  
11 transaction; and

12 (ii) Nothing in this paragraph shall be construed to  
13 impose liability on a provider of "electronic  
14 communication service" or "remote computing  
15 service" as those terms are defined in section  
16 803-41, for an image or video disclosed through  
17 the electronic communication service or remote  
18 computing service by another person."

19 SECTION 4. Section 711-1111, Hawaii Revised Statutes, is  
20 amended by amending subsection (1) to read as follows:



1           "§711-1111 Violation of privacy in the second degree. (1)

2 A person commits the offense of violation of privacy in the  
3 second degree if, except in the execution of a public duty or as  
4 authorized by law, the person intentionally:

5           (a) Trespasses on property for the purpose of subjecting  
6                anyone to eavesdropping or other surveillance in a  
7                private place;

8           (b) Peers or peeps into a window or other opening of a  
9                dwelling or other structure adapted for sojourn or  
10               overnight accommodations for the purpose of spying on  
11               the occupant thereof or invading the privacy of  
12               another person with a lewd or unlawful purpose, under  
13               circumstances in which a reasonable person in the  
14               dwelling or other structure would not expect to be  
15               observed;

16           (c) Trespasses on property for the sexual gratification of  
17               the actor;

18           (d) Installs or uses, or both, in or on the premises of  
19               any private place, without consent of the person or  
20               persons entitled to privacy therein, any means or  
21               device, including an unmanned aerial vehicle, for



- 1           observing, recording, amplifying, or broadcasting  
2           sounds or events in that place other than another  
3           person in a stage of undress or sexual activity;
- 4           (e)   Installs or uses outside a private place any device,  
5                including an unmanned aerial vehicle, for hearing,  
6                recording, amplifying, or broadcasting sounds  
7                originating in that place which would not ordinarily  
8                be audible or comprehensible outside, without the  
9                consent of the person or persons entitled to privacy  
10              therein;
- 11           (f)   Covertly records or broadcasts an image of another  
12                person's intimate area underneath clothing, by use of  
13                any device, including an unmanned aerial vehicle, and  
14                that image is taken while that person is in a public  
15                place and without that person's consent;
- 16           (g)   Intercepts, without the consent of the sender or  
17                receiver, a message or photographic image by  
18                telephone, telegraph, letter, electronic transmission,  
19                or other means of communicating privately; but this  
20                paragraph does not apply to:



- 1           (i) Overhearing of messages through a regularly  
2           installed instrument on a telephone party line or  
3           an extension; or
- 4           (ii) Interception by the telephone company, electronic  
5           mail account provider, or telephone or electronic  
6           mail subscriber incident to enforcement of  
7           regulations limiting use of the facilities or  
8           incident to other operation and use;
- 9           (h) Divulges, without the consent of the sender or the  
10          receiver, the existence or contents of any message or  
11          photographic image by telephone, telegraph, letter,  
12          electronic transmission, or other means of  
13          communicating privately, if the accused knows that the  
14          message or photographic image was unlawfully  
15          intercepted or if the accused learned of the message  
16          or photographic image in the course of employment with  
17          an agency engaged in transmitting it; or
- 18          (i) Knowingly possesses materials created under  
19          circumstances prohibited in section 711-1110.9."

20          SECTION 5.   New statutory material is underscored.





1 SECTION 6. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 7. This Act shall take effect on July 1, 2015.

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INTRODUCED BY:

JAN 23 2015



# H.B. NO. 637

**Report Title:**

Violation of Privacy; Unmanned Aerial Vehicles

**Description:**

Amend the offenses of violation of privacy in the first and second degrees to specifically address the use of unmanned aerial vehicles or "drones" in the commission of these offenses.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

