

SENATE  
STATE OF MINNESOTA  
NINETIETH SESSION

S.F. No. 2943

(SENATE AUTHORS: PAPPAS)

DATE	D-PG	OFFICIAL STATUS
03/05/2018	6266	Introduction and first reading Referred to Judiciary and Public Safety Finance and Policy

1.1

A bill for an act

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relating to public safety; criminalizing certain nonconsensual video recordings of

1.3

individuals; imposing criminal penalties; amending Minnesota Statutes 2016,

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sections 609.746, subdivision 1; 617.261, subdivision 2.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 1. Minnesota Statutes 2016, section 609.746, subdivision 1, is amended to read:

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Subdivision 1. **Surreptitious intrusion; observation device.** (a) A person is guilty of

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a gross misdemeanor who:

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(1) enters upon another's property;

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(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house

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or place of dwelling of another; and

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(3) does so with intent to intrude upon or interfere with the privacy of a member of the

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household.

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(b) A person is guilty of a gross misdemeanor who:

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(1) enters upon another's property;

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(2) surreptitiously installs or uses any device for observing, photographing, recording,

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amplifying, or broadcasting sounds or events through the window or any other aperture of

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a house or place of dwelling of another; and

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(3) does so with intent to intrude upon or interfere with the privacy of a member of the

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household.

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(c) A person is guilty of a gross misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, ~~as defined in section 327.70, subdivision 3,~~ a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, ~~as defined in section 609.341, subdivision 5,~~ or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a gross misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, ~~as defined in section 327.70, subdivision 3,~~ a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, ~~as defined in section 609.341, subdivision 5,~~ or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a misdemeanor who:

(1) takes a photograph, records a digital image, makes a video record, or otherwise captures a visual image of the intimate parts of another without the consent of the person and in a situation where that person would have a reasonable expectation of privacy; and

(2) does so with intent to intrude upon or interfere with the privacy of the person.

Under this paragraph, a person does not lose the person's reasonable expectation of privacy simply by consenting to sexual activity, or by entering the home or other location owned or controlled by another.

(f) A person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both, if the person:

(1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of 18, knowing or having reason to know that the minor is present.

~~(f)~~ (g) Paragraphs (b) ~~and~~ (d), and (e) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) ~~and~~ (d), and (e) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment

has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

(h) As used in this section:

(1) "hotel" has the meaning given in section 327.70, subdivision 3; and

(2) "intimate parts" includes the primary genital area, groin, inner thigh, or buttocks of a human being, or the breast of a female.

**EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2016, section 617.261, subdivision 2, is amended to read:

Subd. 2. **Penalties.** (a) Except as provided in paragraph (b), whoever violates subdivision 1 is guilty of a gross misdemeanor.

(b) Whoever violates subdivision 1 may be sentenced to imprisonment for not more than three years or to payment of a fine of \$5,000, or both, if one of the following factors is present:

(1) the person depicted in the image suffers financial loss due to the dissemination of the image;

(2) the actor disseminates the image with intent to profit from the dissemination;

(3) the actor maintains an Internet Web site, online service, online application, or mobile application for the purpose of disseminating the image;

(4) the actor posts the image on a Web site;

(5) the actor disseminates the image with intent to harass the person depicted in the image;

(6) the actor obtained the image by committing a violation of section 609.52<sup>2</sup>; 609.746, subdivision 1, paragraph (a), (b), (c), or (d); 609.89<sup>2</sup>; or 609.891; or

(7) the actor has previously been convicted under this chapter.

**EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes committed on or after that date.