

HOUSE BILL No. 2080

By Committee on Corrections and Juvenile Justice

1-22

Proposed Amendments to HB 2080  
February 8, 2016  
House Judiciary  
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Office of Revisor of Statutes

1 AN ACT concerning crimes, punishment and criminal procedure, relating  
2 to blackmail; breach of privacy; amending K.S.A. 2014 Supp. 21-5428  
3 and 21-6101 and repealing the existing sections.  
4

2015

5 *Be it enacted by the Legislature of the State of Kansas:*

2015

6 Section 1. K.S.A. 2014 Supp. 21-5428 is hereby amended to read as  
7 follows: 21-5428.(a) Blackmail is intentionally gaining or attempting to  
8 gain anything of value or compelling or attempting to compel another to  
9 act against such person's will, by threatening to:

10 (1) Communicate accusations or statements about any person that  
11 would subject such person or any other person to public ridicule, contempt  
12 or degradation; or

or

13 (2) disseminate any videotape, photograph, film, or image obtained in  
14 violation of subsection (a)(6) of K.S.A. 2014 Supp. 21-6101(a)(6), and  
15 amendments thereto; or

or (a)(8)

2015

16 ~~(3) disseminate any videotape, photograph, film, or image obtained in~~  
17 ~~violation of K.S.A. 2014 Supp. 21-6101(a)(8), and amendments thereto.~~

Strike in lines 15-17

18 (b) Blackmail as defined in:

19 (1) Subsection (a)(1) is a severity level 7, nonperson felony; and

20 (2) subsection (a)(2) or (a)(3) is a severity level 4, person felony.

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21 Sec. 2. K.S.A. 2014 Supp. 21-6101 is hereby amended to read as  
22 follows: 21-6101. (a) Breach of privacy is knowingly and without lawful  
23 authority.

24 (1) Intercepting, without the consent of the sender or receiver, a  
25 message by telephone, telegraph, letter or other means of private  
26 communication;

27 (2) divulging, without the consent of the sender or receiver, the  
28 existence or contents of such message if such person knows that the  
29 message was illegally intercepted, or if such person illegally learned of the  
30 message in the course of employment with an agency in transmitting it;

31 (3) entering with intent to listen surreptitiously to private  
32 conversations in a private place or to observe the personal conduct of any  
33 other person or persons entitled to privacy therein;

34 (4) installing or using outside or inside a private place any device for  
35 hearing, recording, amplifying or broadcasting sounds originating in such  
36 place, which sounds would not ordinarily be audible or comprehensible

1 without the use of such device, without the consent of the person or  
 2 persons entitled to privacy therein;

3 (5) installing or using any device or equipment for the interception of  
 4 any telephone, telegraph or other wire or wireless communication without  
 5 the consent of the person in possession or control of the facilities for such  
 6 communication;

7 (6) installing or using a concealed camcorder, motion picture camera  
 8 or photographic camera of any type, to secretly videotape, film,  
 9 photograph or record, by electronic or other means, another, identifiable  
 10 person under or through the clothing being worn by that other person or  
 11 another, identifiable person who is nude or in a state of undress, for the  
 12 purpose of viewing the body of, or the undergarments worn by, that other  
 13 person, without the consent or knowledge of that other person, with the  
 14 intent to invade the privacy of that other person, under circumstances in  
 15 which ~~that~~ other person has a reasonable expectation of privacy; ~~or~~

16 (7) disseminating or permitting the dissemination of any videotape,  
 17 photograph, film or image obtained in violation of subsection (a)(6); ~~or~~

18 (8) ~~disseminating or permitting the dissemination of any videotape,~~  
 19 ~~photograph, film or image of another person who is 18 or more years of~~  
 20 ~~age under or through the clothing being worn by that other person or~~  
 21 ~~another person who is 18 or more years of age who is nude or in a state of~~  
 22 ~~undress, when the videotape, photograph, film or image was taken with~~  
 23 ~~consent of that other person, but that other person did not consent to the~~  
 24 ~~dissemination of such videotape, photograph, film or image; or~~

25 (9) ~~committing the offense described in subsection (a)(8) and~~  
 26 ~~(4) Gaining anything of value from committing the offense;~~

27 (B) ~~maintaining an internet website, online service, online~~  
 28 ~~application or mobile application that contains such videotape,~~  
 29 ~~photograph, film or image;~~

30 (C) ~~acting with the intent to harass, annoy or alarm that other~~  
 31 ~~person; or~~

32 (D) ~~passing personally identifiable information of that other person~~  
 33 ~~with such videotape, photograph, film or image.~~

34 (b) Breach of privacy as defined in:

35 (1) Subsection (a)(1) through (a)(5) is a class A nonperson  
 36 misdemeanor;

37 (2) Subsection (a)(6) or (a)(8) is a:

38 (A) Severity level 8, person felony, except as provided in subsection  
 39 (b)(2)(B); and

40 (B) severity level 5, person felony upon a second or subsequent  
 41 conviction within the previous five years; and

42 (3) subsection (a)(7) ~~or (a)(9)~~ is a severity level 5, person felony.

43 (c) Subsection (a)(1) shall not apply to messages overheard through a

OR

Strike in lines 19-33

identifiable person 18 years of age or older who is  
 nude or in a state of undress and such identifiable  
 person did not consent to such dissemination

Strike in line 42

1 regularly installed instrument on a telephone party line or on an extension.

2 (d) The provisions of this section shall not apply to an operator of a  
3 switchboard, or any officer, employee or agent of any public utility  
4 providing telephone communications service, whose facilities are used in  
5 the transmission of a communication, to intercept, disclose or use that  
6 communication in the normal course of employment while engaged in any  
7 activity which is incident to the rendition of public utility service or to the  
8 protection of the rights of property of such public utility;

9 (e) As used in this section, "private place" means a place where one  
10 may reasonably expect to be safe from uninvited intrusion or surveillance.

11 Sec. 3. K.S.A. 2014 Supp. 21-5428 and 21-6101 are hereby repealed.

12 Sec. 4. This act shall take effect and be in force from and after its  
13 publication in the statute book.

: (1)

; (2) a provider of an interactive computer service, as defined in 47 U.S.C.  
§ 230, for content provided by another person; (3) a radio common carrier,  
as defined in K.S.A. 66-1,143, and amendments thereto; and (4) a local  
exchange carrier or telecommunications carrier as defined in K.S.A.  
66-1,187, and amendments thereto

The provisions of subsection (a)(8) shall not apply to a person  
acting with a bona fide and lawful scientific, educational,  
governmental, news or other similar public purpose.

(1)

