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

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

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

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

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



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

21   matured, penalties that were incurred, and proceedings that were

22   begun before its effective date.

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1           SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 4. This Act shall take effect on July 1, 2012.

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INTRODUCED BY: Calvin K. Day  
By Request  
JAN 13 2012

# H.B. NO. 1772

**Report Title:**

Violation of Privacy; Prosecuting Attorney Package

**Description:**

Amends the offense of violation of privacy in the second degree under section 711-1111, HRS, to exclude surveillance of another person in a stage of undress or sexual activity because that conduct is prohibited by the offense of privacy in the first degree under section 711-1110.9, HRS.

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