

JAN 18 2013

---

---

# A BILL FOR AN ACT

RELATING TO TORT ACTIONS.

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

1           SECTION 1. The legislature finds that Hawai'i is home to  
2 many celebrities, particularly on Maui, who are subjected to  
3 harassment from photographers and reporters seeking photographs  
4 and news stories. The privacy of these celebrities endure  
5 unwarranted invasion into their personal lives. Although their  
6 celebrity status may justify a lower expectation of privacy, the  
7 legislature finds that sometimes the paparazzi go too far to  
8 disturb the peace and tranquility afforded celebrities who  
9 escape to Hawai'i for a quiet life.

10           Existing Hawai'i statutes are silent on a civil cause of  
11 action for constructive invasion of privacy. Therefore, many  
12 celebrities are deterred from buying property or vacationing in  
13 Hawai'i because the same paparazzi that harass them on the  
14 mainland are more likely to follow them to Hawai'i. However, a  
15 few celebrities are not discouraged from visiting or residing in  
16 our beautiful State. For example, Steven Tyler, the lead singer  
17 of Aerosmith for over forty years, former "American Idol" judge,



1 and world-renowned celebrity has recently purchased a home on  
2 Maui. He will now be sharing his time between Boston, Los  
3 Angeles, and his new home on Maui. In honor of Steven Tyler's  
4 contribution to the arts in Hawai'i and throughout the world,  
5 this Act shall be known as the Steven Tyler Act.

6 The purpose of this Act is to encourage celebrities to  
7 visit and reside in our State by creating a civil cause of  
8 action for the constructive invasion of privacy.

9 SECTION 2. Chapter 663, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12 **"§663- Constructive invasion of privacy; civil cause of**  
13 **action.** (a) This section shall be known and may be cited as  
14 the "Steven Tyler Act".

15 (b) A person is liable for a civil action of constructive  
16 invasion of privacy if the person captures or intends to  
17 capture, in a manner that is offensive to a reasonable person,  
18 through any means a visual image, sound recording, or other  
19 physical impression of another person while that person is  
20 engaging in a personal or familial activity with a reasonable  
21 expectation of privacy.



1        (c) Constructive invasion of privacy shall include an  
2 assault or false imprisonment committed with the capture of or  
3 intent to capture any type of visual image, sound recording, or  
4 other physical impression of another person.

5        (d) A person who commits constructive invasion of privacy  
6 shall be liable for the following damages proximately caused by  
7 a violation of this section:

8        (1) General damages;

9        (2) Special damages; and

10       (3) Punitive damages up to three times the amount of  
11 general and special damages combined.

12       (e) If the constructive invasion of privacy is committed  
13 for a commercial purpose, the person shall also be subject to  
14 disgorgement to the plaintiff of any proceeds or other  
15 consideration obtained as a result of the violation of this  
16 section.

17       (f) A person who directs, solicits, induces, or causes  
18 another person, regardless of whether there is an employer-  
19 employee relationship, to violate this section is liable for  
20 damages to the same extent as provided in subsection (d).

21       (g) Any person who transmits, publishes, broadcasts,  
22 sells, offers for sale, uses any visual image, sound recording,



1 or other physical impression, or who subsequently retransmits,  
2 republishes, rebroadcasts, resells, reoffers to sell, or reuses  
3 any visual image, sound recording, or other physical impression  
4 in any form, medium, format, or work of the same visual image,  
5 sound recording, or other physical impression that was taken or  
6 captured in violation of this section shall constitute a  
7 violation of this section if:

8       (1) The person had actual knowledge that the visual image,  
9       sound recording, or other physical impression was  
10       taken or captured in violation of this section; and

11       (2) The person received compensation, consideration, or  
12       remuneration, monetary or otherwise, for the rights to  
13       the unlawfully obtained visual image, sound recording,  
14       or other physical impression.

15       (h) This section shall also apply to a person who is  
16 situated within state marine waters, as defined in section  
17 187A-1.5, while engaging in constructive invasion of privacy.

18       (i) In any action pursuant to this section, the court  
19 additionally may grant equitable relief, including but not  
20 limited to an injunction and restraining order against further  
21 violation of this section.



1       (j) It is not a defense to a violation of this section  
2 that no image, recording, or physical impression was captured or  
3 sold.

4       (k) For the purposes of this section, "for a commercial  
5 purpose" means any act done with the expectation of a sale,  
6 financial gain, or other consideration. A visual image, sound  
7 recording, or other physical impression shall not be found to  
8 have been or intended to have been captured for a commercial  
9 purpose unless it is intended to be, or was in fact, sold,  
10 published, or transmitted.

11       (l) This section shall not be construed to supersede any  
12 criminal offense that may be related to a violation of this  
13 section.

14       (m) The rights and remedies provided in this section are  
15 cumulative and in addition to any other rights and remedies  
16 provided by law."

17       SECTION 3. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun before its effective date.

20       SECTION 4. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2013.

2

INTRODUCED BY:

J. Kalani Ghosh  
Nichelle Kadani  
Prossy P.  
AC. Kish-G...

Melina J...

Dan...

Mike...

Jill

Arvid...

Will...  
Ann...

Al...

Erzanne Chun Oakland

[Signature]

Arroyo H. Bell  
Michelle  
G...



# S.B. NO. 465

**Report Title:**

Invasion of Privacy; Civil Cause of Action; Steven Tyler

**Description:**

Creates a civil cause of action of constructive invasion of privacy if the person obtains any type of visual image, sound recording, or other physical impression of another person under circumstances in which another person has a reasonable expectation of keeping private their personal life under certain conditions.

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

