

105TH CONGRESS
2D SESSION

H. R. 4425

To provide protection from personal intrusion for commercial purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 1998

Mr. CONYERS (for himself and Mr. McCOLLUM) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To provide protection from personal intrusion for commercial
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Personal Privacy Pro-
5 tection Act”.

6 **SEC. 2. CRIMINAL OFFENSE.**

7 (a) IN GENERAL.—Chapter 89 of title 18, United
8 States Code, is amended by adding at the end the follow-
9 ing:

1 **“§ 1822. Reckless endangerment; tortious invasion of**
2 **privacy**

3 “(a) RECKLESS ENDANGERMENT.—Whoever, in or
4 affecting interstate or foreign commerce and for commer-
5 cial purposes, persistently follows or chases a person, in
6 a manner that causes that person to have a reasonable
7 fear of bodily injury, in order to capture by a visual or
8 auditory recording instrument any type of visual image,
9 sound recording, or other physical impression of that per-
10 son shall—

11 “(1) if death or serious bodily injury results, be
12 fined under this title or imprisoned not more than
13 30 years, or both; and

14 “(2) be liable in a civil action for any appro-
15 priate relief.

16 “(b) TORTIOUS INVASION OF PRIVACY.—Whoever, in
17 or affecting interstate or foreign commerce and for com-
18 mercial purposes, engages in a tortious invasion of the pri-
19 vacy of another person in order to capture by a visual or
20 auditory recording instrument any type of visual image,
21 sound recording, or other physical impression of that per-
22 son shall in a civil action be liable to any party injured
23 for any appropriate relief.

24 “(c) DEFINITIONS.—For the purposes of this sec-
25 tion—

1 “(1) the term ‘for commercial purposes’ means
2 with the expectation of sale, financial gain, or other
3 consideration;

4 “(2) the term ‘tortious invasion of privacy’
5 means—

6 “(A) a capture of any type of visual image,
7 sound recording, or other physical impression of
8 a personal or familial activity through the use
9 of a visual or auditory enhancement device, if

10 “(i) the subject has a reasonable ex-
11 pectation of privacy with respect to that
12 activity; and

13 “(ii) the image, recording, or impres-
14 sion could not have been captured without
15 a trespass if not produced by the use of
16 the enhancement device; or

17 “(B) a trespass on private property in
18 order to capture any type of visual image,
19 sound recording, or other physical impression of
20 any person; and

21 “(3) the term ‘any appropriate relief’ may in-
22 clude compensatory damages, punitive damages, and
23 injunctive and declaratory relief.

24 “(d) LIMITATION ON DEFENSES.—It is not a defense
25 to a prosecution or civil action under subsection (a) that—

1 “(1) no image or recording was captured; or

2 “(2) no image or recording was sold.

3 “(e) USE OF IMAGES.—Nothing in this section makes
4 the sale, transmission, publication, broadcast, or use of
5 any image or recording of the type or under the cir-
6 cumstances described in this section in any otherwise law-
7 ful manner by any person subject to criminal charge or
8 civil liability.

9 “(f) LIMITATION.—Only a person physically present
10 at the time of, and engaging, or assisting another in en-
11 gaging, in a violation of this section is subject to criminal
12 charge or civil liability under this section. A person shall
13 not be subject to such charge or liability by reason of the
14 conduct of an agent, employee, or contractor of that per-
15 son or because images or recordings captured in violation
16 of this section were solicited, bought, used, or sold by that
17 person.

18 “(g) LAW ENFORCEMENT EXEMPTION.—The prohi-
19 bitions of this section do not apply with respect to official
20 law enforcement activities.

21 “(h) NONPREEMPTION.—Nothing in this section shall
22 be taken to preempt any right or remedy otherwise avail-
23 able under Federal, State or local law.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of chapter 89 of title 18, United States

- 1 Code, is amended by adding at the end the following new
- 2 item:

“1822. Reckless endangerment; tortious invasion of privacy.”.

