



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2971

by Rep. Mike Smiddy

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/26-4

from Ch. 38, par. 26-4

Amends the Criminal Code of 2012 concerning unauthorized video recording and live video transmission. Provides that a person also commits the offense when he or she knowingly makes a video record or transmits live video of another person in a residential dwelling (rather than that other person's residence) without that person's consent. Provides that if the defendant at the time of the commission of the offense was 18 years of age or over, the penalty is one class higher than if the offense was committed by a person under 18 years of age.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing  
5 Section 26-4 as follows:

6 (720 ILCS 5/26-4) (from Ch. 38, par. 26-4)

7 Sec. 26-4. Unauthorized video recording and live video  
8 transmission.

9 (a) It is unlawful for any person to knowingly make a video  
10 record or transmit live video of another person without that  
11 person's consent in a restroom, tanning bed, tanning salon,  
12 locker room, changing room, or hotel bedroom.

13 (a-5) It is unlawful for any person to knowingly make a  
14 video record or transmit live video of another person in a  
15 residential dwelling ~~that other person's residence~~ without  
16 that person's consent.

17 (a-6) It is unlawful for any person to knowingly make a  
18 video record or transmit live video of another person in a  
19 residential dwelling ~~that other person's residence~~ without  
20 that person's consent when the recording or transmission is  
21 made outside a residential dwelling ~~that person's residence~~ by  
22 use of an audio or video device that records or transmits from  
23 a remote location.

1           (a-10) It is unlawful for any person to knowingly make a  
2 video record or transmit live video of another person under or  
3 through the clothing worn by that other person for the purpose  
4 of viewing the body of or the undergarments worn by that other  
5 person without that person's consent.

6           (a-15) It is unlawful for any person to place or cause to  
7 be placed a device that makes a video record or transmits a  
8 live video in a restroom, tanning bed, tanning salon, locker  
9 room, changing room, or hotel bedroom with the intent to make a  
10 video record or transmit live video of another person without  
11 that person's consent.

12           (a-20) It is unlawful for any person to place or cause to  
13 be placed a device that makes a video record or transmits a  
14 live video with the intent to make a video record or transmit  
15 live video of another person in a residential dwelling ~~that~~  
16 ~~other person's residence~~ without that person's consent.

17           (a-25) It is unlawful for any person to, by any means,  
18 knowingly disseminate, or permit to be disseminated, a video  
19 record or live video that he or she knows to have been made or  
20 transmitted in violation of (a), (a-5), (a-6), (a-10), (a-15),  
21 or (a-20).

22           (b) Exemptions. The following activities shall be exempt  
23 from the provisions of this Section:

24           (1) The making of a video record or transmission of  
25 live video by law enforcement officers pursuant to a  
26 criminal investigation, which is otherwise lawful;

1           (2) The making of a video record or transmission of  
2           live video by correctional officials for security reasons  
3           or for investigation of alleged misconduct involving a  
4           person committed to the Department of Corrections; and

5           (3) The making of a video record or transmission of  
6           live video in a locker room by a reporter or news medium,  
7           as those terms are defined in Section 8-902 of the Code of  
8           Civil Procedure, where the reporter or news medium has been  
9           granted access to the locker room by an appropriate  
10          authority for the purpose of conducting interviews.

11          (c) The provisions of this Section do not apply to any  
12          sound recording or transmission of an oral conversation made as  
13          the result of the making of a video record or transmission of  
14          live video, and to which Article 14 of this Code applies.

15          (d) Sentence.

16           (1) A violation of subsection (a-10), (a-15), or (a-20)  
17           is a Class A misdemeanor if the defendant was under 18  
18           years of age at the time of the commission of the offense.  
19           A violation of subsection (a-10), (a-15), or (a-20) is a  
20           Class 4 felony if the defendant was 18 years of age or over  
21           at the time of the commission of the offense.

22           (2) A violation of subsection (a), (a-5), or (a-6) is a  
23           Class 4 felony if the defendant was under 18 years of age  
24           at the time of the commission of the offense. A violation  
25           of subsection (a), (a-5), or (a-6) is a Class 3 felony if  
26           the defendant was 18 years of age or over at the time of

1 the commission of the offense.

2 (3) A violation of subsection (a-25) is a Class 3  
3 felony if the defendant was under 18 years of age at the  
4 time of the commission of the offense. A violation of  
5 subsection (a-25) is a Class 2 felony if the defendant was  
6 18 years of age or over at the time of the commission of  
7 the offense.

8 (4) A violation of subsection (a), (a-5), (a-6),  
9 (a-10), (a-15) or (a-20) is a Class 3 felony if the victim  
10 is a person under 18 years of age or if the violation is  
11 committed by an individual who is required to register as a  
12 sex offender under the Sex Offender Registration Act and  
13 the defendant was under 18 years of age at the time of the  
14 commission of the offense. A violation of subsection (a),  
15 (a-5), (a-6), (a-10), (a-15) or (a-20) is a Class 2 felony  
16 if the victim is a person under 18 years of age or if the  
17 violation is committed by an individual who is required to  
18 register as a sex offender under the Sex Offender  
19 Registration Act and the defendant was 18 years of age or  
20 over at the time of the commission of the offense.

21 (5) A violation of subsection (a-25) is a Class 2  
22 felony if the victim is a person under 18 years of age or  
23 if the violation is committed by an individual who is  
24 required to register as a sex offender under the Sex  
25 Offender Registration Act and the defendant was under 18  
26 years of age at the time of the commission of the offense.

1       A violation of subsection (a-25) is a Class 1 felony if the  
2       victim is a person under 18 years of age or if the  
3       violation is committed by an individual who is required to  
4       register as a sex offender under the Sex Offender  
5       Registration Act and the defendant was 18 years of age or  
6       over at the time of the commission of the offense.

7       (e) For purposes of this Section:

8           (1) "Residential dwelling" ~~"Residence"~~ includes a  
9       rental dwelling, but does not include stairwells,  
10      corridors, laundry facilities, or additional areas in  
11      which the general public has access.

12          (2) "Video record" means and includes any videotape,  
13      photograph, film, or other electronic or digital recording  
14      of a still or moving visual image; and "live video" means  
15      and includes any real-time or contemporaneous electronic  
16      or digital transmission of a still or moving visual image.

17      (Source: P.A. 96-416, eff. 1-1-10; 97-813, eff. 7-13-12.)