

Frelich, Kathy

From: Alm, Jonathan E. <jealm@nd.gov>
Sent: Friday, April 11, 2025 7:25 AM
To: Frelich, Kathy
Subject: RE: SB 2070

Representative Frelich

Sorry for the delayed response.

I was able to listen to the conference committee's conversation regarding Engrossed Senate Bill No. 2070 (ESB 2070). Some of the concerns of the committee members might already be addressed in ESB 2070 and in existing law.

1. ESB 2070 changes to N.D.C.C. § 50-10.2-02.1(11) states: "~~A person~~ An individual that places an electronic ~~monitoring~~ recording device in the room of a resident or which uses or discloses a type or other recording made by the device may be guilty of a crime or civilly liable for any unlawful violation of the privacy rights of another."
2. N.D.C.C. § 12.1-31-14 addresses surreptitious intrusion or interference with privacy. You might want to check with Legislative Council if N.D.C.C. § 12.1-31-14 should be updated based on the concerns raised during the conference committee regarding the posting of a video of a staff member at a long-term care facility and if that section of law can be added to ESB 2070 since it has not been part of this Bill as of this date. Legislative Council might also want to consider if the prohibition of posting of a video of a staff member at a long-term care facility would infringe upon the individual's 1st Amendment rights who posted the video or if the staff member has an expectation of privacy while providing a public accommodation.
3. As far as the use of the video recording or what is on the video, N.D.C.C. § 12.1-17-07 addresses harassment, N.D.C.C. § 12.1-17-07.1 addresses stalking, and N.D.C.C. § 12.1-17-07.2 addresses the distribution of intimate images without or against consent.
4. My interpretation of N.D.C.C. § 50-10.2-02.1(12) is that this subsection only applies to intercepted communications of an authorized electronic recording device or virtual monitoring device.

Thank you,

Jonathan Alm

*Department of Health & Human Services
Legal Division – Chief Legal Officer*

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From: Frelich, Kathy <kfrelich@ndlegis.gov>
Sent: Wednesday, April 9, 2025 2:44 PM
To: Alm, Jonathan E. <jealm@nd.gov>
Subject: RE: SB 2070

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Thank you



Kathy Frelich
ND House of Representatives
District 15

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From: Alm, Jonathan E. <jealm@nd.gov>
Sent: Wednesday, April 9, 2025 2:22 PM
To: Frelich, Kathy <kfrelich@ndlegis.gov>
Subject: RE: SB 2070

Representative Frelich

Sorry for the delayed response. I will listen to the hearing and let you know if this is something that I can assist with.

Thank you,

Jonathan Alm
Department of Health & Human Services
Legal Division – Chief Legal Officer

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