



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



8

226 Capitol Boulevard Bldg., Suite 508
Nashville, Tennessee 37243-0760
Phone: (615) 741-3012
Fax: (615) 532-2443
www.tn.gov/tacir

MEMORANDUM

TO: Commission Members

FROM: Lynnise Roehrich-Patrick
Executive Director

DATE: 29 January 2015

SUBJECT: Civil Protection Against Invasion of Privacy Using Enhanced Recording Devices—
Final Report

The attached Commission report is submitted for your approval. The report was prepared in response to House Bill 1855 by Representative Ryan Williams (Senate Bill 1840 by Norris), which was sent to the Commission by the House Civil Justice Committee of the 108th General Assembly. If passed, the bill would have expanded current common-law rights to sue for invasions of privacy by creating a new civil cause of action for capturing or attempting to capture an image, recording, or impression by using a visual or auditory enhancing device—what might be called a virtual invasion of privacy—regardless of whether the image or recording were published.

Other than this new right to sue, much of the conduct covered by the bill is already illegal in Tennessee under both common law and statutory actions for trespass, assault, false imprisonment, and intrusion upon seclusion. However, the bill would have increased penalties against those who profit from the conduct prohibited by the bill if committed for a commercial purpose. It would also have created an explicit right to sue third parties that use the illegally made image, recording, or impression under certain circumstances.

The report discusses the issues raised by the bill and the potential threats posed to personal privacy by the use of unmanned aircraft (drones) and explains the Commission's recommendation that legislative action may be necessary to ensure that damages can be recovered for "virtual" invasions of privacy as well as invasions using "drones."