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HOUSE BILL NO. 1602

Offered January 11, 2017

Prefiled January 3, 2017

A *BILL to amend the Code of Virginia by adding a section numbered 8.01-40.4, relating to invasion of privacy; civil action; damages; attorney fees and costs.*

Patron—Fariss

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 8.01-40.4 as follows:****§ 8.01-40.4. Invasion of privacy; civil action.**

A. Any person who with the intent to coerce, intimidate, or harass any person and without lawful authority enters onto the land or uses an unmanned aircraft system, as defined in § 19.2-60.1, to enter into the airspace above the land of another person to capture or attempt to capture an image, including the capture of a visual image, sound waves, or thermal, infrared, ultraviolet, or visible light waves or other electromagnetic waves, of private property or an individual located on such private property without the consent of the landowner or other person lawfully in charge of such property is liable for physical invasion of privacy.

B. Any person who with the intent to coerce, intimidate, or harass any person and without lawful authority uses any device, including an unmanned aircraft system as defined in § 19.2-60.1, to capture or attempt to capture an image, including the capture of a visual image, sound waves, or thermal, infrared, ultraviolet, or visible light waves or other electromagnetic waves, of private property or an individual located on such private property without the consent of the landowner or other person lawfully in charge of such property is liable for constructive invasion of privacy, regardless of whether there is physical entry onto the land or into the airspace above the land of another person, if such image could not have been obtained without such physical entry unless the device was used.

C. Any person who with the intent to engage in criminal activity enters onto the land or uses any device, including an unmanned aircraft system as defined in § 19.2-60.1, to enter into the airspace above the land of a landowner or other person lawfully in charge of such property is liable for physical invasion of privacy.

D. Any person who with the intent to engage in criminal activity uses any device, including an unmanned aircraft system as defined in § 19.2-60.1, to engage in criminal activity on the land or in the airspace above the land of a landowner or other person lawfully in charge of such property is liable for constructive invasion of property, regardless of whether there is physical entry onto the land or into the airspace above the land of another person, if such criminal activity could not be engaged in without such physical entry unless such device was used.

E. Any person found in violation of this section shall be liable to the plaintiff for actual damages or \$1,000, whichever is greater, in addition to reasonable attorney fees and costs.

F. If actual damages are awarded, the court may award punitive damages.

INTRODUCED

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