

# SENATE BILL REPORT

## SB 5106

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As of February 2, 2015

**Title:** An act relating to creating a civil action for webcam unauthorized remote access.

**Brief Description:** Creating a civil action for webcam unauthorized remote access.

**Sponsors:** Senators O'Ban, Padden, Fain and Roach.

**Brief History:**

**Committee Activity:** Law & Justice: 2/02/15.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Aldo Melchiori (786-7439)

**Background:** A webcam is a video camera that feeds or streams images through a computer or computer network. Many webcams have a light that indicates when the webcam is activated, but some do not. There is commercially available software that can enable a person to activate webcams on remote computers without the knowledge of the other computer owners. Under the federal Computer Fraud and Abuse Act, a private plaintiff may bring a civil suit for damages for unauthorized computer access, but must be able to show loss during a one-year period of at least \$5,000 to bring a suit under the statute.

In Washington it is a crime to, without authorization, intentionally gain access to a computer system or electronic database of another. It is computer trespass in the first degree, a class C felony ranked at level II on the sentencing grid, if the access is made with the intent to commit another crime or involves access to a governmental agency computer or database. Otherwise it is computer trespass in the second degree, a gross misdemeanor. An offender may be prosecuted separately for any other crime committed during the trespass.

**Summary of Bill:** A person who owns, rents, or leases a computer or computer network may bring a civil action against another person who gains unauthorized access to a webcam connected to the computer or network. If the unauthorized access is obtained by a computer in one jurisdiction to a computer in another jurisdiction, the access is considered to have occurred in both. Access means to intentionally enable, turn on, communicate with, or use without authority, permission, or consent.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The court may award general and special damages, injunctive relief, and other equitable relief, including costs to verify that the computer is not damaged or altered. A prevailing plaintiff may also be awarded attorney fees.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This is a growing problem. These people are accessing home computers and recording video of unsuspecting victims in compromising situations. This information can be used to demand payment from the victims. Making this a civil cause of action may help curb its abuse.

**Persons Testifying:** PRO: Senator O'Ban, prime sponsor.