

DRAFT – RESOURCE MATERIAL

State Laws Addressing Use Cases Presented in UAS

Voyeurism, Stalking, Data Security, Nuisance, Surveillance

Unmanned Aerial Systems (UAS) and “Surveillance” under State Law¹

With respect to the recording of persons, some state laws and proposals prohibit any capture of images or recordings while others prohibit surveillance by drones. Surveillance can be generally defined as the systematic monitoring or investigation of some target and can include visual monitoring as well as sound beyond the human auditory range and to other parts of the electromagnetic spectrum. Surveillance generally will require some level of frequent, continual, or continuous image capture or recording and would need a degree of specificity in targeting.

The levels to which state drone laws and proposals define this area vary widely. Some states have proposed that commercial activities otherwise regulated by the state, including real estate, insurance, and surveying, not be included in the prohibition. These proposals would then exempt using drones in these state-regulated actions from any legal definition of surveillance. Some other drone prohibitions include a requirement that the drone recording be done without the knowledge of the person being recorded.

State UAS surveillance provisions vary widely in the most basic questions:

WHO – Some state surveillance laws limit the prohibition to state agencies, but others include any “person” which – depending on the state - may apply to individuals, companies and other legal entities. Some states exempt practices conducted under state regulated activities.

WHAT – Some state provisions apply to taking images or recording individual persons, while other state provisions apply to privately owned real property, as well.

^{1 1} This paper is being produced for and submitted to the National Telecommunications and Information Administration Multi-Stakeholder Meeting on Privacy, Transparency, and Accountability Regarding Commercial and Private UAS by NAMIC General Counsel Federal Tom Karol, for the sole use of the group. It is the work of Mr. Karol and does not represent any official position of NAMIC or its members or legal advice.

WHEN – As noted above, “surveillance” normally requires some level of frequent, continual or continuous image capture or recording, but there is very little specificity in state laws in this regard. Whether single or multiple images captures are needed, and during what span of time, to constitute “surveillance” is most often unclear.

WHERE – Some provisions require that the “surveillance” be on private property, in a home or where a person would have a reasonable expectation of privacy, while other provisions are more expansive.

WHY – Similarly, some state provisions require that the “surveillance” be a willful and/or intentional collection, while other states seem to indicate that inadvertent collection of images or information may be a violation.

HOW – Some states require that the information collected needs to be recognizable to a specific individual or property and others are more general.

States also vary in whether the “surveillance” constitutes a criminal or civil offense. Where a civil liability, the state laws vary in the relief that may be sought, the damages that may be obtained and the imposition of legal fees and costs that may be imposed.

In many cases, “surveillance” may be prohibited, but the definition of what actually constitutes “surveillance” is not included in statutory language. Two states that do attempt to provide a definition of UAS surveillance are New Hampshire and Florida.

New Hampshire’s H HB 602 does attempt to define surveillance as:

- 1) “The willful act of tracking or following while photographing, taking images of, listening to, or making a recording of a recognizable individual or a group of individuals, including their movements, activities, or communications; or
- 2) Photographing, taking images of, listening in, or making a recording in the interior of a building or structure in which there is a reasonable expectation of privacy.”

Florida’s Section 934.50 passed in 2015 also creates a statutory definition for the term “surveillance,” as follows:

- 1) With respect to an owner, tenant, occupant, invitee, or licensee of privately owned real property, the observation of such persons with sufficient visual clarity to be able to obtain information about their identity, habits, conduct, movements, or whereabouts; or
- 2) With respect to privately owned real property, the observation of such property's physical improvements with sufficient visual clarity to be able to determine unique identifying features or its occupancy by one or more persons

Other state UAS surveillance provisions that have been enacted include:

- Louisiana SB 183 Act No. 166 regulates the use of UAS in agricultural commercial operations. The state enacted HB 1029, creating the crime of unlawful use of UAS. The new law defines the unlawful use of an unmanned aircraft system as the intentional use of a UAS to conduct surveillance of a targeted facility without the owner's prior written consent.
- North Carolina enacted SB 744, creating regulations for the public, private, and commercial use of UAS. The new law prohibits any entity from conducting UAS surveillance of a person or private property and also prohibits taking a photo of a person without his or her consent for the purpose of distributing it. North Carolina SB 402 placed a moratorium in 2013 on drone use by state and local personnel unless the use is approved by the Chief Information Officer for the Department of Transportation.
- North Dakota HB 1328 provides limitations for the governmental use of UAS for surveillance.
- Tennessee HB 153 prohibits using a drone to capture an image over certain open-air events and fireworks displays. The state enacted SB 1777, which prohibits any private entity from using a drone to conduct video surveillance of a person who is hunting or fishing without their consent, and SB 1892, which prohibits drone use to intentionally conduct surveillance of an individual or their property.
- FL S0766 prohibits using a drone to capture an image of privately owned real property or of the owner, tenant, or occupant with the intent to conduct surveillance.

- ND 1328 provides for limitations on the use of an unmanned aerial vehicle for surveillance.

Some legislative UAS surveillance provisions that have been proposed but not enacted include:

- MS HB719 – An Act to Amend Section 49-7-147, Mississippi Code of 1972, To Prohibit the Use of Unmanned Systems to Conduct Video Surveillance.
- NM SB303 - Freedom from unwarranted surveillance act.
- HI SB579 - Authorizes the use of unmanned aircraft systems by private, commercial, and law enforcement agencies to conduct surveillance.
- HI SB1329 - Creating the Freedom from Unwarranted Surveillance Act; defining the terms unmanned aircraft system.
- HI HB609 - Prohibits private surveillance or observation or photographs to sell, allows photos of public gatherings.
- IL HB3996 – “Disorderly conduct” includes using a drone to “harass or conduct surveillance.” R if the drone enters upon the property for a lewd or unlawful purpose.
- MD HB620 - Prohibiting, except under specified circumstances, a person from using a specified unmanned aircraft system to intentionally conduct surveillance.
- NC S622 - UAS/No LEO Surveillance of Private Property
- NJ A4344 - Criminalizes using drones to conduct surveillance of or fly over critical infrastructures; requires certain drones to be registered and insured.
- NY A02683 - Relates to protection against unwarranted surveillance.
- NY S01841 - Relates to protection against unwarranted surveillance/

- NY S00411 - No person shall use a drone to conduct surveillance/monitor any individual inside a home/closed confines of their property or other locations where a person would have an expectation of privacy.
- NY A01247 - Prohibit drone surveillance/monitor any individual in a home/closed confines of their property or other locations where a person would have an expectation of privacy.
- OK HB1295 - Aircraft; creating the Oklahoma Unmanned Aerial Surveillance Act; effective date

State Video Voyeurism Laws

Voyeurism laws, also known as peeping tom laws, criminalize the secret viewing of a person in a place where that person would have a reasonable expectation of privacy, for the purposes of the viewer's sexual arousal. This increased prevalence of this illegal practice caused by drones is a major concern for many.

Facts:

- All 50 states and the District of Columbia have laws that prohibit non-consensual recording of persons in a state of undress or nudity where the individual has a reasonable expectation of privacy.
- 29 states and the District of Columbia also prohibit “upskirting” and “down-blousing,” the surreptitious or concealed recording of an individual’s body, under or through that person’s clothing, without the individual’s knowledge or consent regardless of whether the individual is in a private or public space.

- These states include Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Hawaii, Idaho, Illinois, Kansas, Kentucky, Louisiana, Maine, Maryland, Missouri, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Vermont, Virginia, Washington, and Wyoming.

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STATE TRESPASS & SIGNAGE LAWS

State	Sign Required	Description	Statute
Nevada	Yes	<p>NRS 207.200 states that anyone who willfully goes upon or remains on land where they not authorized to be is guilty of trespassing and will be charged with a misdemeanor.</p> <p>This occurs after having been warned, which means some kind of generic no trespassing signage needs to be present.</p>	<p>NRS 207.200 Unlawful trespass upon land; warning against trespassing.</p> <p>1. Unless a greater penalty is provided pursuant to <u>NRS 200.603</u>, any person who, under circumstances not amounting to a burglary:</p> <p>(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or</p> <p>(b) Willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass, È is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections 2 and 4.</p> <p>2. A sufficient warning against trespassing, within the meaning of this section, is given by any of the following methods:</p> <p>(a) If the land is used for agricultural purposes or for herding or grazing livestock, by painting with fluorescent orange paint:</p> <p>(1) Not less than 50 square inches of the exterior portion of a structure or natural object or the top 12 inches of the exterior portion of a post, whether made of wood, metal or other material, at:</p> <p>(I) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 1,000 feet; and</p> <p>(II) Each corner of the land, upon or near the boundary; and</p> <p>(2) Each side of all gates, cattle guards and openings that are designed to allow human ingress to the area;</p> <p>(b) If the land is not used in the manner specified in paragraph (a), by painting with fluorescent orange paint not less than 50 square inches of the exterior portion of a structure or natural object or the top 12 inches of the exterior portion of a post, whether made of wood, metal or other material, at:</p> <p>(1) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing</p>

			<p>next to another such structure, natural object or post, but at intervals of not more than 200 feet; and</p> <p>(2) Each corner of the land, upon or near the boundary;</p> <p>(c) Fencing the area; or</p> <p>(d) By the owner or occupant of the land or building making an oral or written demand to any guest to vacate the land or building.</p> <p>3. It is prima facie evidence of trespass for any person to be found on private or public property which is posted or fenced as provided in subsection 2 without lawful business with the owner or occupant of the property.</p> <p>4. An entryman on land under the laws of the United States is an owner within the meaning of this section.</p> <p>5. As used in this section:</p> <p>(a) "Fence" means a barrier sufficient to indicate an intent to restrict the area to human ingress, including, but not limited to, a wall, hedge or chain link or wire mesh fence. The term does not include a barrier made of barbed wire.</p> <p>(b) "Guest" means any person entertained or to whom hospitality is extended, including, but not limited to, any person who stays overnight. The term does not include a tenant as defined in <u>NRS 118A.170</u>.</p>
<p>North Carolina</p>	<p>Yes</p>	<p>Trespassing is defined by entering or remaining without authorization.</p> <p>For most situations signage "that is posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises" is</p>	<p>§ 14-159.11. Definitions for Trespass.</p> <p>As used in this Article, "building" means any structure or part of a structure, other than a conveyance, enclosed so as to permit reasonable entry only through a door and roofed to protect it from the elements. (1987, c. 700, s. 1.)</p> <p>§ 14-159.12. First degree trespass.</p> <p>(a) Offense. - A person commits the offense of first degree trespass if, without authorization, he enters or remains:</p> <p>(1) On premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders; or</p> <p>(2) In a building of another.</p> <p>§ 14-159.13. Second degree trespass.</p> <p>(a) Offense. - A person commits the offense of second degree trespass if, without authorization, he enters or remains on premises of another:</p>

		<p>sufficient notice.</p> <p>Though for “posted” property with the intent to prevent hunting, fishing, trapping or the removal of pine needles/straw the signage requirements are much more stringent and laid out below. These are found in § 14-159.7.</p>	<p>(1) After he has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person; or</p> <p>(2) That are posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises.</p>
<p>California</p>	<p>Non-residential→ Yes</p>	<p>The law states that any person who enters onto private property that is enclosed or cultivated without written permission from the owner or authorized agent is guilty of trespassing.</p> <p>Uncultivated and unenclosed land with signs forbidding trespass “at intervals not less than three to the mile along all</p>	<p>§ 602.8. Lands under cultivation, enclosed by fence or posted; entry without written permission; punishment; exemptions</p> <p>(a) Any person who without the written permission of the landowner, the owner's agent, or the person in lawful possession of the land, willfully enters any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or who willfully enters upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands, is guilty of a public offense.</p> <p>(b) Any person convicted of a violation of subdivision (a) shall be punished as follows:</p> <p>(1) A first offense is an infraction punishable by a fine of seventy-five dollars (\$75).</p> <p>(2) A second offense on the same land or any contiguous land of the same landowner, without the permission of the landowner, the landowner's agent, or the person in lawful possession of the land, is an infraction punishable by a fine of two hundred fifty dollars (\$250).</p>

		<p>exterior roads and trails entering the land” is also considered trespassing.</p>	<p>(3) A third or subsequent offense on the same land or any contiguous land of the same landowner, without the permission of the landowner, the landowner's agent, or the person in lawful possession of the land, is a misdemeanor.</p> <p>Cal. Penal Code § 602.8 (West)</p>
<p>Florida</p>	<p>Construction site → Yes</p>	<p>Florida defines in great detail different structures and circumstances in which trespassing would be applicable. Notwithstanding, it occurs primarily when someone enters and remains without being authorized to do so. It is also unlawful to damage or remove no trespassing signage.</p>	<p>810.011. Definitions for Burglary and Trespass 810.011(5)(a) “Posted land” is that land upon which:</p> <p>1. Signs are placed not more than 500 feet apart along, and at each corner of, the boundaries of the land, upon which signs there appears prominently, in letters of not less than 2 inches in height, the words “no trespassing” and in addition thereto the name of the owner, lessee, or occupant of said land. Said signs shall be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line; or</p> <p>2. a. Conspicuous no trespassing notice is painted on trees or posts on the property, provided that the notice is:</p> <p>(I) Painted in an international orange color and displaying the stenciled words “No Trespassing” in letters no less than 2 inches high and 1 inch wide either vertically or horizontally;</p> <p>(II) Placed so that the bottom of the painted notice is not less than 3 feet from the ground or more than 5 feet from the ground; and</p> <p>(III) Placed at locations that are readily visible to any person approaching the property and no more than 500 feet apart on agricultural land.</p> <p>b. Beginning October 1, 2007, when a landowner uses the painted no trespassing posting to identify a “no trespassing” area, those painted notices shall be accompanied by signs complying with subparagraph 1. and placed conspicuously at all places where entry to the property is normally expected or known to occur.</p>

			<p>(b) It shall not be necessary to give notice by posting on any enclosed land or place not exceeding 5 acres in area on which there is a dwelling house in order to obtain the benefits of ss. 810.09 and 810.12 pertaining to trespass on enclosed lands.</p> <p>Fla. Stat. Ann. § 810.011 (West)</p> <p>810.09. Trespass on property other than structure or conveyance</p> <p>(1)(a) A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:</p> <ol style="list-style-type: none"> 1. As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011; or 2. If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass, commits the offense of trespass on property other than a structure or conveyance. <p>(b) As used in this section, the term “unenclosed curtilage” means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling.</p> <p>(2)(a) Except as provided in this subsection, trespass on property other than a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.</p> <ol style="list-style-type: none"> (b) If the offender defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom; unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance, the offender commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. <p>Fla. Stat. Ann. § 810.09 (West)</p>
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			<p>Posted land</p> <p>Evidence did not support finding that officer had probable cause to arrest juvenile for trespass at shopping plaza, where there was no evidence that any prior “actual communication” of a trespass warning had been given to juvenile; photographs of, and testimony concerning, “no trespassing” signs posted at front of building were insufficient to establish that the property was “posted” within the meaning of governing statute. <i>D.T. v. State, App. 4 Dist., 87 So.3d 1235 (2012).</i></p>
<p>New York</p>		<p>In New York, regardless of intent, criminal trespassing is constituted by entering and remaining when the intruder is neither licensed nor privileged to do so.</p> <p>Signage plays a critical role in trespassing as unposted or insufficient notice can absolve trespassers of guilt in certain situations. Signage needs to be based in a conspicuous manner on the property to ensure that proper notice is given. Based off</p>	<p>§ 140.00 Criminal trespass and burglary; definitions of terms.</p> <p>§140.00(5) “Enter or remain unlawfully.”</p> <p>A person “enters or remains unlawfully” in or upon premises when he is not licensed or privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of such premises or other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public.</p> <p>A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of such land or other authorized person, or unless such notice is given by posting in a conspicuous manner. . . .</p> <p>§ 140.05. Trespass.</p> <p>A person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises.</p> <p>Notice against trespass</p> <p>Where automobile owner found that it was difficult to park in facilities provided at his apartment house due to snowstorm, where automobile owner parked across street in private parking lot of shopping center,</p>

		the circumstances, trespassing can result in misdemeanors of varying degrees and even a felony for the worst cases.	and where there were clear notices that cars parked in lot would be towed away if left overnight, automobile owner was trespassing and snowstorm did not justify trespass. Rossi v. Ventresca Bros. Const. Co., Inc., 1978, 94 Misc.2d 756, 405 N.Y.S.2d 375.
Illinois	Residential → Yes Non-Residential→ Yes	Trespassing occurs when someone knowingly enters without consent or authorization from the owner or an agent. The owner or occupant, amongst other things, must ensure that written notice forbidding entry is posted in a visible way at the main entrance to the land or property or forbidden part. Other markings can include use “purple marks” on poles or trees to prevent trespassing.	§ 21-3. Criminal trespass to real property. (a) A person commits criminal trespass to real property when he or she: (1) knowingly and without lawful authority enters or remains within or on a building; (2) enters upon the land of another, after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden; (3) remains upon the land of another, after receiving notice from the owner or occupant to depart; (3.5) presents false documents or falsely represents his or her identity orally to the owner or occupant of a building or land in order to obtain permission from the owner or occupant to enter or remain in the building or on the land; (3.7) intentionally removes a notice posted on residential real estate as required by subsection (1) of Section 15-1505.8 of Article XV of the Code of Civil Procedure before the date and time set forth in the notice; or (4) enters a field used or capable of being used for growing crops, an enclosed area containing livestock, an agricultural building containing livestock, or an orchard in or on a motor vehicle (including an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle) after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden or remains upon or in the area after receiving notice from the owner or occupant to depart. [* * * *] (b) A person has received notice from the owner or occupant within the meaning of Subsection (a) if he or she has been notified personally, either orally or in writing including a valid court order as defined by subsection (7) of Section 112A-3 of the Code of Criminal Procedure of 1963 granting remedy (2) of subsection (b) of Section 112A-14 of

		<p>This is only applicable to municipalities of under 2,000,000 inhabitants.</p>	<p>that Code, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to the land or the forbidden part thereof.</p> <p>[* * * *]</p> <p>(b-5) Subject to the provisions of subsection (b-10), as an alternative to the posting of real property as set forth in subsection (b), the owner or lessee of any real property may post the property by placing identifying purple marks on trees or posts around the area to be posted. Each purple mark shall be:</p> <p>(1) A vertical line of at least 8 inches in length and the bottom of the mark shall be no less than 3 feet nor more than 5 feet high. Such marks shall be placed no more than 100 feet apart and shall be readily visible to any person approaching the property; or</p> <p>(2) A post capped or otherwise marked on at least its top 2 inches. The bottom of the cap or mark shall be not less than 3 feet but not more than 5 feet 6 inches high. Posts so marked shall be placed not more than 36 feet apart and shall be readily visible to any person approaching the property. Prior to applying a cap or mark which is visible from both sides of a fence shared by different property owners or lessees, all such owners or lessees shall concur in the decision to post their own property.</p> <p>[* * * *]</p> <p>(b-10) Any owner or lessee who marks his or her real property using the method described in subsection (b-5) must also provide notice as described in subsection (b) of this Section.</p> <p>(b-15) Subsections (b-5) and (b-10) do not apply to real property located in a municipality of over 2,000,000 inhabitants.</p> <p>[* * * *]</p> <p>(h) Sentence. A violation of subdivision (a)(1), (a)(2), (a)(3), or (a) (3.5) is a Class B misdemeanor. A violation of subdivision (a)(4) is a Class A misdemeanor.</p>
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			<p>(i) Civil liability. A person may be liable in any civil action for money damages to the owner of the land he or she entered upon with a motor vehicle as prohibited under paragraph (4) of subsection (a) of this Section. A person may also be liable to the owner for court costs and reasonable attorney's fees.</p> <p>720 Ill. Comp. Stat. Ann. 5/21-3</p>
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STATE NUISANCE LAWS

State	Description	Statute
<p>Florida</p>	<p>Florida has adopted a general nuisance statute, which provides that places and groups that annoy or injure the community, are places of prostitution or lewdness, gambling institutions, or where the law is violated, shall be declared a nuisance.</p> <p>Evidence of the general reputation of an alleged nuisance and place is admissible to prove the existence of a nuisance.</p> <p>In the context of a takings claim, a Florida District Court of Appeals found that manned jet aircraft flying at between 250 feet and 500 feet above the plaintiffs'</p>	<p>60.05 Abatement of nuisances.—</p> <p>(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.</p> <p>(2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or affidavit that a temporary injunction should issue, the court, pending the determination on final hearing, may enjoin:</p> <p>(a) The maintaining of a nuisance;</p> <p>(b) The operating and maintaining of the place or premises where the nuisance is maintained;</p> <p>(c) The owner or agent of the building or ground upon which the nuisance exists;</p> <p>(d) The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.</p> <p>The injunction shall specify the activities enjoined and shall not preclude the operation of any lawful business not conducive to the maintenance of the nuisance complained of. At least 3 days' notice in writing shall be given defendant of the time and place of application for the temporary injunction.</p>

properties substantially interfered with the plaintiffs' use and enjoyment of their properties. *Hillsborough Cnty. Aviation Auth. V. Benitez*, 200 So. d 194 (Fla. Dist. Ct. App. 1967).

(3) Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of the nuisance. No action filed by a citizen shall be dismissed unless the court is satisfied that it should be dismissed. Otherwise the action shall continue and the state attorney notified to proceed with it. If the action is brought by a citizen and the court finds that there was no reasonable ground for the action, the costs shall be taxed against the citizen.

(4) On trial if the existence of a nuisance is shown, the court shall issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance and shall adjudge that the costs are a lien on all personal property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. No lien shall attach to the real estate of any other than said persons unless 5 days' written notice has been given to the owner or his or her agent who fails to begin to abate the nuisance within said 5 days. In a proceeding abating a nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has been convicted of an offense under chapter 893 or s. 796.07, the court may order the tenant to vacate the property within 72 hours if the tenant and owner of the premises are parties to the nuisance abatement action and the order will lead to the abatement of the nuisance.

(5) If the action was brought by the Attorney General, a state attorney, or any other officer or agency of state government; if the court finds either before or after trial that there was no reasonable ground for the action; and if judgment is rendered for the defendant, the costs and reasonable attorney's fees shall be taxed against the state.

History.—ss. 2, 3, 4, ch. 7367, 1917; RGS 3223-3226; CGL 5029-5032; s. 1, ch. 20467, 1941; s. 2, ch. 29737, 1955; s. 15, ch. 67-254; s. 1, ch. 71-268; s. 14, ch. 73-334; s. 1, ch. 77-268; s. 8, ch. 87-243; s. 318, ch. 95-147; s. 1, ch. 96-237.

Note.—Former ss. 64.11-64.14.

823.05 Places and groups engaged in criminal gang-related activity declared a nuisance; may be abated and enjoined.—

(1) Whoever shall erect, establish, continue, or maintain, own or lease any building, booth, tent or place which tends to annoy the community or injure the health of the community, or become manifestly injurious to the morals or manners of the people as described in s. 823.01, or any house or place of prostitution, assignation, lewdness or place or building where games of chance are engaged in violation of law or any place where any law of the state is violated, shall be deemed guilty of maintaining a nuisance, and the building, erection, place, tent or

		<p>booth and the furniture, fixtures, and contents are declared a nuisance. All such places or persons shall be abated or enjoined as provided in ss. <u>60.05</u> and <u>60.06</u>.</p> <p>(2)(a) As used in this subsection, the terms “criminal gang,” “criminal gang member,” “criminal gang associate,” and “criminal gang-related activity” have the same meanings as provided in s. <u>874.03</u>.</p> <p>...</p> <p>History.—s. 1, ch. 7367, 1917; RGS 5639; CGL 7832; s. 24, ch. 57-1; s. 66, ch. 74-383; s. 1, ch. 75-24; s. 41, ch. 75-298; s. 4, ch. 2008-238.</p>
<p>North Carolina</p>	<p>North Carolina General Statute § 1-539</p> <p>North Carolina has adopted a general nuisance statute. North Carolina has declared as public nuisances the ownership or maintenance of places whereon breaches of the peace occur.</p> <p>It is worth noting that, in 1970, the Supreme Court of North Carolina found that evidence against an airport regarding recurring noises, vibrations, air pollution, air currents, and so on by commercial jet flights flying at 80 feet to 500 feet above ground was sufficient for a jury to conclude that the flights substantially and adversely affected the reasonable market</p>	<p>§ 19-1. What are nuisances under this Chapter.</p> <p>(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of controlled substances as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance. The activity sought to be abated need not be the sole purpose of the building or place in order for it to constitute a nuisance under this Chapter.</p> <p>(b) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated acts which create and constitute a breach of the peace shall constitute a nuisance.</p> <p>(b1) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated activities or conditions which violate a local ordinance regulating sexually oriented businesses so as to contribute to adverse secondary impacts shall constitute a nuisance.</p> <p>(b2) The erection, establishment, continuance, maintenance, use, ownership, or leasing of any building or place for the purpose of carrying on, conducting, or engaging in any activities in violation of G.S. 14-72.7.</p> <p>(c) The building, place, vehicle, or the ground itself, in or upon which a nuisance as defined in subsection (a), (b), or (b1) of this section is carried on, and the furniture, fixtures, and contents, are also declared a nuisance, and shall be enjoined and abated as hereinafter provided.</p>

	<p>value of the plaintiff's property. <i>Hoyle v. City of Charlotte</i>, 276 N.C. 292, 303 (1970).</p>	<p>(d) No nuisance action under this Article may be brought against a place or business which is subject to regulation under Chapter 18B of the General Statutes when the basis for the action constitutes a violation of laws or regulations under that Chapter pertaining to the possession or sale of alcoholic beverages. (Pub. Loc. 1913, c. 761, s. 25; 1919, c. 288; C.S., s. 3180; 1949, c. 1164; 1967, c. 142; 1971, c. 655; 1977, c. 819, ss. 1, 2; 1981, c. 412, s. 4; c. 747, s. 66; 1998-46, s. 7; 1999-371, s. 1; 2007-178, s. 3; 2013-229, s. 1.)</p> <p>North Carolina General Statute § 1-539: Remedy for Nuisance Injuries remediable by the old writ of nuisance are subjects of action as other injuries; and in such action there may be judgment for damages, or for the removal of the nuisance, or both. (C.C.P., s. 387; Code, s. 630; Rev., s. 825; C.S., 894.)</p>
<p>New Jersey</p>	<p>New Jersey has adopted a general nuisance statute.</p> <p>Nuisances may be addressed as a public health nuisance under authority provides by the statute known as Health and Vital Statistics (N.J.S.A. 26:3-45 et seq.), which is enforced by the local health agency. Nuisances may also be addressed under the Code of Criminal Justice as a disorderly persons offense (N.J.S.A. 2C: 33-12), which is enforced by the local police.</p>	<p>New Jersey Stat. § 2A:54A-1 In addition to any criminal prosecution brought for violation of N.J.S. 2C:33-12, whenever a nuisance as defined in subsection c. of N.J.S. 2C:33-12 exists, the Attorney General or the prosecutor of the county in which the nuisance exists may bring a civil action in the name of the State to abate the nuisance and to permanently enjoin the person from maintaining the nuisance.</p> <p>L.1983, c. 234, s. 3, eff. June 30, 1983.</p> <p>2C:33-12 Maintaining a Nuisance A person is guilty of maintaining a nuisance when:</p> <ol style="list-style-type: none"> a. By conduct either unlawful in itself or unreasonable under all the circumstances, he knowingly or recklessly creates or maintains a condition which endangers the safety or health of a considerable number of persons; b. He knowingly conducts or maintains any premises, place or resort where persons gather for purposes of engaging in unlawful conduct; or c. He knowingly conducts or maintains any premises, place or resort as a house of prostitution or as a place where obscene material, as defined in N.J.S. 2C:34-2 and N.J.S. 2C:34-3, is sold, photographed, manufactured, exhibited or otherwise prepared or shown, in violation of N.J.S. 2C:34-2, N.J.S. 2C:34-3, and N.J.S. 2C:34-4. <p>A person is guilty of a disorderly persons offense if the person is convicted under subsection</p>

		<p>a. or b. of this section. A person is guilty of a crime of the fourth degree if the person is convicted under subsection c. of this section.</p> <p>Upon conviction under this section, in addition to the sentence authorized by this code, the court may proceed as set forth in section 2C:33-12.1.</p> <p>L.1978, c. 95, s. 2C:33-12, eff. Sept. 1, 1979. Amended by L.1979, c. 178, s. 64, eff. Sept. 1, 1979; L.1982, c. 233, s. 1, eff. Jan. 7, 1983; L.1983, c. 234, s. 1, eff. June 30, 1983.</p> <p>2C:33-12.1. Abating nuisance</p> <p>2C:33-12.1. Abating Nuisance. a. In addition to the penalty imposed in case of conviction under N.J.S.2C:33-12 or under section 2 of P.L.1995, c.167 (C.2C:33-12.2), the court may order the immediate abatement of the nuisance, and for that purpose may order the seizure and forfeiture or destruction of any chattels, liquors, obscene material or other personal property which may be found in such building or place, and which the court is satisfied from the evidence were possessed or used with a purpose of maintaining the nuisance. Any such forfeiture shall be in the name and to the use of the State of New Jersey, and the court shall direct the forfeited property to be sold at public sale, the proceeds to be paid to the treasurer of the county wherein conviction was had.</p> <p>b. If the owner of any building or place is found guilty of maintaining a nuisance, the court may order that the building or place where the nuisance was maintained be closed and not used for a period not exceeding one year from the date of the conviction.</p> <p>L.1979, c.178, s.66; amended 1982,c.233,s.2; 1983,c.234,s.2; 1995,c.167,s.1</p>
<p>California</p>	<p>California provides a general nuisance statute which defines anything that is offensive to the senses, obstructs the free use of property, or interferes with the comfortable enjoyment of life or property as a nuisance.</p>	<p>CIVIL CODE SECTION 3479</p> <p>3479. Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.</p> <p>3484. The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.</p>

		<p>3493. A private person may maintain an action for a public nuisance, if it is specially injurious to himself, but not otherwise.</p>
Washington	<p>Washington defines as an actionable nuisance acts that are offensive to the senses or obstruct the free use of property such that they “essentially interfere” with the enjoyment of life and property.</p>	<p>RCW 7.48.010 Actionable nuisance defined. The obstruction of any highway or the closing of the channel of any stream used for boating or rafting logs, lumber or timber, or whatever is injurious to health or indecent or offensive to the senses, or an obstruction to the free use of property, so as to essentially interfere with the comfortable enjoyment of the life and property, is a nuisance and the subject of an action for damages and other and further relief. [Code 1881 § 605; 1877 p 126 § 610; 1869 p 144 § 599; 1854 p 207 § 405; RRS § 943.]</p> <p>RCW 7.48.020 Who may sue — Judgment for damages — Warrant for abatement — Injunction. Such action may be brought by any person whose property is, or whose patrons or employees are, injuriously affected or whose personal enjoyment is lessened by the nuisance. If judgment be given for the plaintiff in such action, he or she may, in addition to the execution to enforce the same, on motion, have an order allowing a warrant to issue to the sheriff to abate and to deter or prevent the resumption of such nuisance. Such motion shall be allowed, of course, unless it appear on the hearing that the nuisance has ceased, or that such remedy is inadequate to abate or prevent the continuance of the nuisance, in which latter case the plaintiff may have the defendant enjoined. [1994 c 45 § 5; 1891 c 50 § 1; Code 1881 § 606; 1877 p 126 § 611; 1869 p 144 § 560; 1854 p 207 § 406; RRS § 944.]</p>

STATE VIDEO VOYEURISM LAWS

Florida		<p>Title XLVI Chapter 810 § 145 VIDEO VOYEURISM</p> <p>(2) A person commits the offense of video voyeurism if that person:</p> <p>(a) For his or her own amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person, intentionally uses or installs an</p>
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		<p>imaging device to secretly view, broadcast, or record a person, without that person's knowledge and consent, who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy;</p> <p>(c) For the amusement, entertainment, sexual arousal, gratification, or profit of oneself or another, or on behalf of oneself or another, intentionally uses an imaging device to secretly view, broadcast, or record under or through the clothing being worn by another person, without that person's knowledge and consent, for the purpose of viewing the body of, or the undergarments worn by, that person.</p>
Idaho		<p>Title 18 Chapter 66 09 CRIME OF VIDEO VOYEURISM</p> <p>(2) A person is guilty of video voyeurism when:</p> <p>(a) With the intent of arousing, appealing to or gratifying the lust or passions or sexual desires of such person or another person, or for his own or another person's lascivious entertainment or satisfaction of prurient interest, or for the purpose of sexually degrading or abusing any other person, he uses, installs or permits the use or installation of an imaging device at a place where a person would have a reasonable expectation of privacy, without the knowledge or consent of the person using such place; or</p>
South Dakota		<p>S.D. Codified Laws § 22-21-4 TAKING PICTURES WITHOUT CONSENT</p> <p>Taking of pictures without consent as misdemeanor. No person may use a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, any other person without clothing, or any other person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.</p>
Arkansas		<p>Title 5 Chapter 16 § 101 CRIME OF VIDEO VOYEURISM</p> <p>(a) It is unlawful to use any camera, videotape, photo-optical, photoelectric, or any other image recording device for the purpose of secretly observing, viewing, photographing, filming, or videotaping a person present in a residence, place of business, school, or other structure, or any room or particular location within that structure, if that person:</p> <p>(1) Is in a private area out of public view;</p>

		(2) Has a reasonable expectation of privacy; and (3) Has not consented to the observation.
Minnesota		Chapter 609 § 746 INTERFERENCE WITH PRIVACY. (d) A person is guilty of a gross misdemeanor who: (1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and (2) does so with intent to intrude upon or interfere with the privacy of the occupant.

DATA SECURITY

All but three US States have some law about data security: Alabama, New Mexico, and South Dakota.

- States In Which Definition for “Personal Information” is Broader Than the General Definition
- States That Trigger Notification by Access
- States That Require a Risk of Harm Analysis
- States That Require Notice to Attorney General or State Agency
- States That Require Notification Within a Specific Time Frame
- States That Permit a Private Cause of Action
- States With an Encryption Safe Harbor
- States Where the Statute is Triggered By a Breach of Security in Electronic and/or Paper

State	Citation
Alaska	Alaska Stat. § 45.48.010 <i>et seq.</i>
Arizona	Ariz. Rev. Stat. § 44-7501
Arkansas	Ark. Code § 4-110-101 <i>et seq.</i>
California	Cal. Civ. Code §§ 1798.29, 1798.80 <i>et seq.</i>
Colorado	Colo. Rev. Stat. § 6-1-716
Connecticut	Conn. Gen Stat. § 36a-701b
Delaware	Del. Code tit. 6, § 12B-101 <i>et seq.</i>
Florida	Fla. Stat. §§ 501.171, 282.0041, 282.318(2)(i)
Georgia	Ga. Code §§ 10-1-910, -911, -912; § 46-5-214
Hawaii	Haw. Rev. Stat. § 487N-1 <i>et seq.</i>
Idaho	Idaho Stat. §§ 28-51-104 to -107
Illinois	815 ILCS §§ 530/1 to 530/25
Indiana	Ind. Code §§ 4-1-11 <i>et seq.</i> , 24-4.9 <i>et seq.</i>
Iowa	Iowa Code §§ 715C.1, 715C.2
Kansas	Kan. Stat. § 50-7a01 <i>et seq.</i>
Kentucky	KRS § 365.732, KRS §§ 61.931 to 61.934
Louisiana	La. Rev. Stat. §§ 51:3071 <i>et seq.</i> , 40:1300.111 to .116
Maine	Me. Rev. Stat. tit. 10 § 1347 <i>et seq.</i>
Maryland	Md. Code Com. Law §§ 14-3501 <i>et seq.</i> , Md. State Govt. Code §§ 10-1301 to -1308

State	Citation
Massachusetts	Mass. Gen. Laws § 93H-1 <i>et seq.</i>
Michigan	Mich. Comp. Laws §§ 445.63, 445.72
Minnesota	Minn. Stat. §§ 325E.61, 325E.64
Mississippi	<i>Miss. Code</i> § 75-24-29
Missouri	Mo. Rev. Stat. § 407.1500
Montana	Mont. Code § 2-6-504, 30-14-1701 <i>et seq.</i> , 2015 H.B. 74, 2015 H.B. 123
Nebraska	Neb. Rev. Stat. §§ 87-801, -802, -803, -804, -805, -806, -807
Nevada	Nev. Rev. Stat. §§ 603A.010 <i>et seq.</i> , 242.183
New Hampshire	N.H. Rev. Stat. §§ 359-C:19, -C:20, -C:21
New Jersey	<i>N.J. Stat.</i> § 56:8-161, -163
New York	<i>N.Y. Gen. Bus. Law</i> § 899-aa, <i>N.Y. State Tech. Law</i> 208
North Carolina	N.C. Gen. Stat §§ 75-61, 75-65
North Dakota	N.D. Cent. Code § 51-30-01 <i>et seq.</i> , 2015 S.B. 2214, S.B. 2326
Ohio	Ohio Rev. Code §§ 1347.12, 1349.19, 1349.191, 1349.192
Oklahoma	Okla. Stat. §§ 74-3113.1, 24-161 to -166
Oregon	Oregon Rev. Stat. § 646A.600 to .628, 2015 S.B. 601
Pennsylvania	<i>73 Pa. Stat.</i> § 2301 <i>et seq.</i>
Rhode Island	R.I. Gen. Laws § 11-49.2-1 <i>et seq.</i>
South Carolina	S.C. Code § 39-1-90, 2013 H.B. 3248

State	Citation
Tennessee	Tenn. Code § 47-18-2107, 2015 S.B. 416
Texas	Tex. Bus. & Com. Code §§ 521.002 , 521.053 , Tex. Ed. Code § 37.007(b)(5)
Utah	Utah Code §§ 13-44-101 et seq. , 2015 H.B. 163
Vermont	Vt. Stat. tit. 9 § 2430 , 2435
Virginia	Va. Code § 18.2-186.6 , § 32.1-127.1:05 , 2015 H.B. 2350
Washington	Wash. Rev. Code § 19.255.010 , 42.56.590 , 2015 H.B. 1078
West Virginia	W.V. Code §§ 46A-2A-101 et seq.
Wisconsin	Wis. Stat. § 134.98
Wyoming	Wyo. Stat. § 40-12-501 et seq. , 2015 S.B. 35, 2015 S.B. 36
District of Columbia	D.C. Code § 28- 3851 <i>et seq.</i>
Guam	9 GCA § 48-10 <i>et seq.</i>
Puerto Rico	10 Laws of Puerto Rico § 4051 <i>et seq.</i>
Virgin Islands	V.I. Code tit. 14, § 2208

National Council of State Legislatures, Data Breach and Security Laws

<http://www.ncsl.org/research/telecommunications-and-information-technology/security-breach-notification-laws.aspx>

Division V. Local Business Affairs.
Title 28. Commercial Instruments and Transactions.
Subtitle II. Other Commercial Transactions.
Chapter 38. Consumer Protections.
Subchapter II. Consumer Security Breach Notification.

D.C. Code § 28-3851 (2015)

§ 28-3851. Definitions.

For purposes of this subchapter, the term:

(1) "Breach of the security of the system" means unauthorized acquisition of computerized or other electronic data, or any equipment or device storing such data, that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. The term "breach of the security system" shall not include a good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business if the personal information is not used improperly or subject to further unauthorized disclosure. Acquisition of data that has been rendered secure, so as to be unusable by an unauthorized third party, shall not be deemed to be a breach of the security of the system.

(2) "Notify" or "notification" means providing information through any of the following methods:

(A) Written notice;

(B) Electronic notice, if the customer has consented to receipt of electronic notice consistent with the provisions regarding electronic records and signatures set forth in the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 641; 15 U.S.C. § 7001); or

(C) (i) Substitute notice, if the person or business demonstrates that the cost of providing notice to persons subject to this subchapter would exceed \$ 50,000, that the number of persons to receive notice under this subchapter exceeds 100,000,

or that the person or business does not have sufficient contact information.

(ii) Substitute notice shall consist of all of the following:

(I) E-mail notice when the person or business has an e-mail address for the subject persons;

(II) Conspicuous posting of the notice on the website page of the person or business if the person or business maintains one; and

(III) Notice to major local and, if applicable, national media.

(3) (A) "Personal information" means:

(i) An individual's first name or first initial and last name, or phone number, or address, and any one or more of the following data elements:

(I) Social security number;

(II) Driver's license number or District of Columbia Identification Card number; or

(III) Credit card number or debit card number; or

(ii) Any other number or code or combination of numbers or codes, such as account number, security code, access code, or password, that allows access to or use of an individual's financial or credit account.

(B) For purposes of this paragraph, the term "personal information" shall not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

§ 28-3852. Notification of security breach.

(a) Any person or entity who conducts business in the District of Columbia, and who, in the course of such business, owns or licenses computerized or other electronic data that includes personal information, and who discovers a breach of the security of

the system, shall promptly notify any District of Columbia resident whose personal information was included in the breach. The notification shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (d) of this section, and with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) Any person or entity who maintains, handles, or otherwise possesses computerized or other electronic data that includes personal information that the person or entity does not own shall notify the owner or licensee of the information of any breach of the security of the system in the most expedient time possible following discovery.

(c) If any person or entity is required by subsection (a) or (b) of this section to notify more than 1,000 persons of a breach of security pursuant to this subsection, the person shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by section 603(p) of the Fair Credit Reporting Act, approved October 26, 1970 (84 Stat. 1128; 15 U.S.C. § 1681a(p)), of the timing, distribution and content of the notices. Nothing in this subsection shall be construed to require the person to provide to the consumer reporting agency the names or other personal identifying information of breach notice recipients. This subsection shall not apply to a person or entity who is required to notify consumer reporting agencies of a breach pursuant to Title V of the Gramm-Leach-Bliley Act, approved November 12, 1999 (113 Stat. 1436; 15 U.S.C. § 6801 et seq[.]).

(d) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation but shall be made as soon as possible after the law enforcement agency determines that the notification will not compromise the investigation.

(e) Notwithstanding subsection (a) of this section, a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this subchapter shall be deemed to be in compliance with the notification requirements of this section if the person or business provides notice, in accordance with its policies, reasonably calculated to give actual notice to persons to whom notice is otherwise required to be given under this subchapter. Notice under this section may be given by electronic mail if the person or entity's primary method of communication with the resident is by electronic means.

(f) A waiver of any provision of this subchapter shall be void and unenforceable.

(g) A person or entity who maintains procedures for a breach notification system under Title V of the Gramm-Leach-Bliley Act, approved November 12, 1999 (113 Stat. 1436; 15 U.S.C. § 6801 et seq.) ("Act"), and provides notice in accordance with the

Act, and any rules, regulations, guidance and guidelines thereto, to each affected resident in the event of a breach, shall be deemed to be in compliance with this section.

§ 28-3853. Enforcement.

(a) Any District of Columbia resident injured by a violation of this subchapter may institute a civil action to recover actual damages, the costs of the action, and reasonable attorney's fees. Actual damages shall not include dignitary damages, including pain and suffering.

(b) The Attorney General may petition the Superior Court of the District of Columbia for temporary or permanent injunctive relief and for an award of restitution for property lost or damages suffered by District of Columbia residents as a consequence of the violation of this subchapter. In an action under this subsection, the Attorney General may recover a civil penalty not to exceed \$ 100 for each violation, the costs of the action, and reasonable attorney's fees. Each failure to provide a District of Columbia resident with notification in accordance with this section shall constitute a separate violation.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

STALKING

A. From the Stalking Resource Center (<https://www.victimsofcrime.org/our-programs/stalking-resource-center/about-us>)

1. California

Cal Pen Code § 646.9. Stalking. (2008):

- (a) Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

For the purposes of this section, "harasses" means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose.

...

- (f) For the purposes of this section, "course of conduct" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."
- (g) For the purposes of this section, "credible threat" means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section. Constitutionally protected activity is not included within the meaning of "credible threat."
- (h) For purposes of this section, the term "electronic communication device" includes, but is not limited to, telephones, cellular phones, computers, video recorders, fax machines, or pagers. "Electronic communication"

has the same meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.

2. Florida

Fla. Stat. § 784.048. Stalking; definitions; penalties. (2012):

- (1) As used in this section, the term:
 - (a) "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
 - (b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.
 - (c) "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.
 - (d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.
- (2) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (3) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (4) A person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, or an injunction for protection against domestic violence pursuant to s. 741.30, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly,

willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (5) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child under 16 years of age commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (6) A law enforcement officer may arrest, without a warrant, any person that he or she has probable cause to believe has violated this section.

§ 934.425 Installation of tracking devices or tracking 21 applications; exceptions; penalties:

This act shall take effect October 1, 2015.

Section 1. Section 934.425, Florida Statutes, is created 19 to read:

934.425 Installation of tracking devices or tracking applications; exceptions; penalties.—

- (1) As used in this section, the term:
 - (a) "Business entity" means any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state.
 - (b) "Tracking application" means any software program whose primary purpose is to track or identify the location or movement of an individual.
 - (c) "Tracking device" means any device whose primary purpose is to reveal its location or movement by the transmission of electronic signals.
 - (d) "Person" means an individual but does not include a business entity.
- (2) Except as provided in subsection (4), a person may not knowingly install a tracking device or tracking application on another person's property without the other person's consent.
- (3) For purposes of this section, a person's consent is presumed to be revoked if:

- (a) The consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other; or
- (b) The consenting person or the person to whom consent was given files an injunction for protection against the other person pursuant to s. 741.30, s. 741.315, s. 784.046, or s. 784.0485.

3. Texas

Tex. Penal Code § 42.072. Stalking. (2014)

- (a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:
 - (1) constitutes an offense under Section 42.07, or the actor knows or reasonably believes the other person will regard as threatening:
 - (A) bodily injury or death for the other person;
 - (B) bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - (C) that an offense will be committed against the other person's property;
 - (2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property; and
 - (3) would cause a reasonable person to fear:
 - (A) bodily injury or death for himself or herself;
 - (B) bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship; or
 - (C) that an offense will be committed against the person's property.

4. **Virginia**

Va. Code Ann. § 18.2-60.3.

- A. Any person, except a law-enforcement officer, as defined in § 9.1-101, and acting in the performance of his official duties, and a registered private investigator, as defined in § 9.1-138, who is regulated in accordance with § 9.1-139 and acting in the course of his legitimate business, who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor.
- B. From Safe Horizon website (<http://www.safehorizon.org/page/new-york-state-stalking-laws-28.html>)

5. **New York**

Penal Code § 120.45. Stalking in the fourth degree. 1999:

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

Stalking in the fourth degree is a class B misdemeanor.

Penal Code § 120.50. Stalking in the third degree. 1999.

A person is guilty of stalking in the third degree when he or she:

1. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or
2. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or
4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the third degree is a class A misdemeanor.

NY CLS Penal § 120.55. Stalking in the second degree. 1999. Amended 2003.

A person is guilty of stalking in the second degree when he or she:

1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sand bag, sandclub, slingshot, [fig 1] slungshot, shirken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
2. Commits the crime of stalking in the third degree in violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section 120.50 of this article against any person; or
4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death [fig 1]; or
5. (Added, L 2003) Commits the crime of stalking in the third degree, as defined in subdivision three of section 120.50 of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the second degree is a class E felony.

Penal Code § 120.60. Stalking in the first degree. 1999. Amended 2000.

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or
2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, 130.40 or 130.85 of this chapter, or a class D felony defined in section 130.30 or 130.45 of this chapter.

Stalking in the first degree is a class D felony.

Penal Code § 120.13. Menacing in the first degree. 1992.

A person is guilty of menacing in the first degree when he or she commits the crime of menacing in the second degree and has been previously convicted of the crime of menacing in the second degree within the preceding ten years.

Menacing in the first degree is a class E felony.

Penal Code § 120.14. Menacing in the second degree. 1992. Amended 1998.

A person is guilty of menacing in the second degree when:

1. He or she intentionally places or attempts to place another person in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
2. He or she repeatedly follows a person or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place another person in reasonable fear of physical injury, serious physical injury or death; or
3. He or she commits the crime of menacing in the third degree in violation of that part of a duly served order of protection, or such order which the defendant has actual knowledge of because he or she was present in court when such order was issued, pursuant to article eight of the family court act, section 530.12 of the criminal procedure law, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, which directed the respondent or defendant to stay away from the person or persons on whose behalf the order was issued.

Menacing in the second degree is a class A misdemeanor.

Penal Code § 120.15. Menacing in the third degree. 1967. Amended 1992.

A person is guilty of menacing in the third degree when, by physical menace, he or she intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury.

Menacing in the third degree is a class B misdemeanor.

Penal Code § 240.25. Harassment in the first degree. 1992. Amended 1994.

A person is guilty of harassment in the first degree when he or she intentionally and repeatedly harasses another person by following such person in or about a public place or places or by engaging in a course of conduct or by repeatedly committing acts which places such person in reasonable fear of physical injury.

This section shall not apply to activities regulated by the national labor relations act, as amended, the railway labor act, as amended, or the federal employment labor management act, as amended.

Harassment in the first degree is a class B misdemeanor.

Penal Code § 240.26. Harassment in the second degree. 1965. Amended 1994.

A person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person:

1. He or she strikes, shoves, kicks or otherwise subjects such other person to physical contact, or attempts or threatens to do the same; or
2. He or she follows a person in or about a public place or places; or
3. He or she engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

Subdivisions two and three of this section shall not apply to activities regulated by the national labor relations act, as amended, the railway labor act, as amended, or the federal employment labor management act, as amended.

Harassment in the second degree is a violation.

Penal Code § 240.30. Aggravated harassment in the second degree. 1965. Amended 2001.

A person is guilty of aggravated harassment in the second degree when, with intent to harass, annoy, threaten or alarm another person, he or she:

1. Either
 - (a) communicates with a person, anonymously or otherwise, by telephone, or by telegraph, mail or any other form of written communication, in a manner likely to cause annoyance or alarm; or
 - (b) causes a communication to be initiated by mechanical or electronic means or otherwise with a person, anonymously or otherwise, by telephone, or by telegraph, mail or any other form of written communication, in a manner likely to cause annoyance or alarm; or
2. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication; or
3. Strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender,

religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or

4. Commits the crime of harassment in the first degree and has previously been convicted of the crime of harassment in the first degree as defined by section 240.25 of this article within the preceding ten years.

Aggravated harassment in the second degree is a class A misdemeanor

Penal Code § 240.31. Aggravated harassment in the first degree. 1982. Amended 2000.

A person is guilty of aggravated harassment in the first degree when with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she:

1. Damages premises primarily used for religious purposes, or acquired pursuant to section six of the religious corporation law and maintained for purposes of religi
2. Commits the crime of aggravated harassment in the second degree in the manner proscribed by the provisions of subdivision three of section 240.30 of this article and has been previously convicted of the crime of aggravated harassment in the second degree for the commission of conduct proscribed by the provisions of subdivision three of section 240.30 or he has been previously convicted of the crime of aggravated harassment in the first degree within the preceding ten years.

Aggravated harassment in the first degree is a class E felony.