

Restatement (2d) Torts § 652A

General Principle

- (1) One who invades the right of privacy of another is subject to liability for the resulting harm to the interests of the other.
- (2) The right to privacy is invaded by:
 - (a) unreasonable intrusion upon the seclusion of another, as stated in § 652B; or
 - (b) appropriation of the other's name or likeness, as stated in § 652C; or
 - (c) unreasonable publicity given to the other's private life, as stated in § 652D; or
 - (d) publicity that unreasonably places the other in a false light before the public, as stated in § 652E.

Restatement (2d) Torts § 652B Intrusion Upon Seclusion

One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.

Comment *a*.

The form of invasion of privacy covered by this Section does not depend upon any publicity given to the person whose interest is invaded or to his affairs. . . .

Comment *b*.

. . . The intrusion itself makes the defendant subject to liability even though there is no publication or other use of any kind of the photograph or information outlined.

O.R.S. 163.700

(1) Except as provided in ORS 163.702, a person commits the crime of invasion of personal privacy if:

(a)(A) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person in a state of nudity without the consent of the person being recorded; and

(B) At the time the visual recording is made or recorded the person being recorded is in a place and circumstances where the person has a reasonable expectation of personal privacy;

or

(b)(A) For the purpose of arousing or gratifying the sexual desire of the person, the person is in a location to observe another person in a state of nudity without the consent of the other person; and

(B) The other person is in a place and circumstances where the person has a reasonable expectation of personal privacy.

.....

Restatement (2d) Torts § 652D
Public Disclosure of Private Facts

One who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his privacy, if the matter publicized is of a kind that

- (a) would be highly offensive to a reasonable person, and
- (b) is not of legitimate concern to the public.

Comment *a*.

Publicity . . . means that the matter is made public, by communicating it to the public at large, or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge. The difference is not one of the means of communication. . . . It is one of a communication that reaches, or is sure to reach, the public.

Thus it is not an invasion of the right of privacy . . . to communicate a fact concerning the plaintiff's private life to a single person or even to a small group of persons.