

# FINAL BILL REPORT

## HB 1958

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**C 254 L 24**  
Synopsis as Enacted

**Brief Description:** Concerning nonconsensual removal of or tampering with a sexually protective device.

**Sponsors:** Representatives Berry, Orwall, Ryu, Fitzgibbon, Leavitt, Ramel, Reed, Simmons, Ormsby, Fosse, Lekanoff, Reeves, Pollet, Davis and Doglio.

**House Committee on Civil Rights & Judiciary**  
**Senate Committee on Law & Justice**

### **Background:**

"Stealthing" generally refers to the intentional removal or destruction of a condom or another sexually protective device during sexual intercourse by one partner without the other partner's consent. Stealthing may result in unintended pregnancy and the transmission of sexually transmitted infections.

Stealthing is not explicitly prohibited under state law. Depending on the specific circumstances, the underlying conduct may qualify as a criminal offense, such as intentional transmission of HIV, or an actionable civil tort, such as the intentional tort of battery.

### **Summary:**

A person who engaged in sexual contact or sexual penetration with another person may bring a civil action against that other person if the other person engaged in sexual contact or penetration after:

- removing the sexually protective device without the plaintiff's consent;
- becoming aware that the sexually protective device had been unintentionally removed, but not obtaining the plaintiff's consent to engage or continue engaging in sexual contact or penetration without the use of a sexually protective device; or
- tampering with the sexually protective device without the plaintiff's consent in a manner likely to render the device ineffective.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

Evidence that the plaintiff consented to previous sexual contact or penetration without a sexually protective device does not by itself establish consent to any subsequent sexual contact or penetration without a sexually protective device.

A person who engaged in sexual contact or sexual penetration with another person may also bring a civil action against that other person if the other person:

- misled the plaintiff into believing that a sexually protective device was used by the other person; and
- knew that the device was not used, had been tampered with, or was otherwise inoperable.

Subject to applicable state law and procedural rules, a plaintiff may use a pseudonym in place of the plaintiff's true name in an action for nonconsensual removal of or tampering with a sexually protective device or for misleading regarding the use of a sexually protective device.

A prevailing plaintiff may recover compensatory and punitive damages, statutory damages of \$5,000 per violation, injunctive relief, and any other relief the court deems appropriate.

In determining punitive damages, the court may take into consideration any previous findings of liability against the defendant for nonconsensual removal of, tampering with, or misleading about the use of a sexually protective device. The court must award costs and reasonable attorneys' fees to a prevailing plaintiff.

**Votes on Final Passage:**

House	64	33
Senate	43	6

**Effective:** July 1, 2024