

AN ACT

To amend section 2907.08 of the Revised Code to clarify that the prohibitions it sets forth that refer to conduct involving the photographing of another also apply to conduct involving the videotaping, filming, or other recording of another.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 2907.08 of the Revised Code be amended to read as follows:

Sec. 2907.08. (A) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(B) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.

(C) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity if the other person is a minor.

(D) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity if the other person is a minor and any of the following applies:

(1) The offender is the minor's natural or adoptive parent, stepparent, guardian, or custodian, or person in loco parentis of the minor.

(2) The minor is in custody of law or is a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the minor.

(3) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of

education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the minor is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

(4) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the minor is enrolled in or attends that institution.

(5) The offender is a caregiver, administrator, or other person in authority employed by or serving in a child day-care center, type A family day-care home, or type B family day-care home, and the minor is enrolled in or attends that center or home.

(6) The offender is the minor's athletic or other type of coach, is the minor's instructor, is the leader of a scouting troop of which the minor is a member, provides babysitting care for the minor, or is a person with temporary or occasional disciplinary control over the minor.

(E) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another 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.

(F)(1) Whoever violates this section is guilty of voyeurism.

(2) A violation of division (A) of this section is a misdemeanor of the third degree.

(3) A violation of division (B) of this section is a misdemeanor of the second degree.

(4) A violation of division (C) or (E) of this section is a misdemeanor of the first degree.

(5) A violation of division (D) of this section is a felony of the fifth degree.

(G) As used in this section:

(1) "Institution of higher education" means a state institution of higher education as defined in section 3345.031 of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or a school certified under Chapter 3332. of the Revised Code.

(2) "Child day-care center," "type A family day-care home," and "type B family day-care home" have the same meanings as in section 5104.01 of the Revised Code.

(3) "Babysitting care" means care provided for a child while the parents, guardian, or legal custodian of the child is ~~are~~ temporarily away.

SECTION 2. That existing section 2907.08 of the Revised Code is hereby repealed.

SECTION 3. The General Assembly hereby declares that its purpose in amending divisions (B), (C), and (D) of section 2907.08 of the Revised Code in Section 1 of this act is to clarify the meaning of the term "photograph" as used in those divisions. The General Assembly declares that it believes that the term "photograph," as used in those divisions as they existed prior to the effective date of this act, included within its scope all types of the recording of an image, including, but not limited to, videotaping, filming, photographing, or otherwise recording an image; that it is not its intent in amending those divisions to declare or otherwise give the impression that, prior to the effective date of this act, the term "photograph" as used in those divisions did not include within its scope videotaping, filming, or other recording of an image; and that it believes that the amendments to those divisions are not substantive in nature and merely clarify the fact that the term "photograph" as used in those divisions includes within its scope all types of the recording of an image, including, but not limited to, videotaping, filming, photographing, or otherwise recording an image. Further, the General Assembly hereby declares that the amendments to those divisions do not invalidate, and shall not be construed as invalidating, any prior convictions for violating a prohibition contained in any of those divisions prior to the effective date of this act based on conduct that involved videotaping, filming, or other recording of an image.

SECTION 4. Section 2907.08 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 332, Sub. H.B. 448, and Sub. H.B. 504 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

H. B. No. 310

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____