

As Passed by the House

126th General Assembly

Regular Session

2005-2006

H. B. No. 310

Representatives Oelslager, Fessler, C. Evans, Setzer, McGregor, J., Carano,
Gilb, Latta, Combs, Reidelbach, Schaffer, Perry, Collier, Fende, Webster,
Hughes, Evans, D., Seitz, Willamowski, Bubp, Aslanides, Barrett, Beatty,
Blessing, Book, Brown, Buehrer, Calvert, Cassell, DeBose, Distel, Domenick,
Flowers, Garrison, Gibbs, Harwood, Healy, Hood, Hoops, Key, Mason, Miller,
Mitchell, Otterman, Sayre, Skindell, Stewart, D., Stewart, J., Taylor, Williams,
Woodard, Yates, Yuko

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A BILL

To amend section 2907.08 of the Revised Code to	1
clarify that the prohibitions it sets forth that	2
refer to conduct involving the photographing of	3
another also apply to conduct involving the	4
videotaping, filming, or other recording of	5
another.	6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2907.08 of the Revised Code be	7
amended to read as follows:	8

Sec. 2907.08. (A) No person, for the purpose of sexually	9
arousing or gratifying the person's self, shall commit trespass or	10
otherwise surreptitiously invade the privacy of another, to spy or	11
eavesdrop upon another.	12

(B) No person, for the purpose of sexually arousing or	13
gratifying the person's self, shall commit trespass or otherwise	14

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 45
person in authority employed by or serving in a child day-care 46
center, type A family day-care home, or type B family day-care 47
home, and the minor is enrolled in or attends that center or home. 48

(6) The offender is the minor's athletic or other type of 49
coach, is the minor's instructor, is the leader of a scouting 50
troop of which the minor is a member, provides babysitting care 51
for the minor, or is a person with temporary or occasional 52
disciplinary control over the minor. 53

(E) No person shall secretly or surreptitiously videotape, 54
film, photograph, or otherwise record another person under or 55
through the clothing being worn by that other person for the 56
purpose of viewing the body of, or the undergarments worn by, that 57
other person. 58

(F)(1) Whoever violates this section is guilty of voyeurism. 59

(2) A violation of division (A) of this section is a 60
misdemeanor of the third degree. 61

(3) A violation of division (B) of this section is a 62
misdemeanor of the second degree. 63

(4) A violation of division (C) or (E) of this section is a 64
misdemeanor of the first degree. 65

(5) A violation of division (D) of this section is a felony 66
of the fifth degree. 67

(G) As used in this section: 68

(1) "Institution of higher education" means a state 69
institution of higher education as defined in section 3345.031 of 70
the Revised Code, a private nonprofit college or university 71
located in this state that possesses a certificate of 72
authorization issued by the Ohio board of regents pursuant to 73
Chapter 1713. of the Revised Code, or a school certified under 74

Chapter 3332. of the Revised Code.

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(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.

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

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

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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

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invalidating, any prior convictions for violating a prohibition 105
contained in any of those divisions prior to the effective date of 106
this act based on conduct that involved videotaping, filming, or 107
other recording of an image. 108

Section 4. Section 2907.08 of the Revised Code is presented 109
in this act as a composite of the section as amended by Sub. H.B. 110
332, Sub. H.B. 448, and Sub. H.B. 504 of the 123rd General 111
Assembly. The General Assembly, applying the principle stated in 112
division (B) of section 1.52 of the Revised Code that amendments 113
are to be harmonized if reasonably capable of simultaneous 114
operation, finds that the composite is the resulting version of 115
the section in effect prior to the effective date of the section 116
as presented in this act. 117