

As Reported by the House Criminal Justice Committee

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**

—

A B I L L

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, 15
photograph, or otherwise record the other person in a state of 16
nudity. 17

(C) No person, for the purpose of sexually arousing or 18

gratifying the person's self, shall commit trespass or otherwise 19
surreptitiously invade the privacy of another to videotape, film, 20
photograph, or otherwise record the other person in a state of 21
nudity if the other person is a minor. 22

(D) No person, for the purpose of sexually arousing or 23
gratifying the person's self, shall commit trespass or otherwise 24
surreptitiously invade the privacy of another to videotape, film, 25
photograph, or otherwise record the other person in a state of 26
nudity if the other person is a minor and any of the following 27
applies: 28

(1) The offender is the minor's natural or adoptive parent, 29
stepparent, guardian, or custodian, or person in loco parentis of 30
the minor. 31

(2) The minor is in custody of law or is a patient in a 32
hospital or other institution, and the offender has supervisory or 33
disciplinary authority over the minor. 34

(3) The offender is a teacher, administrator, coach, or other 35
person in authority employed by or serving in a school for which 36
the state board of education prescribes minimum standards pursuant 37
to division (D) of section 3301.07 of the Revised Code, the minor 38
is enrolled in or attends that school, and the offender is not 39
enrolled in and does not attend that school. 40

(4) The offender is a teacher, administrator, coach, or other 41
person in authority employed by or serving in an institution of 42
higher education, and the minor is enrolled in or attends that 43
institution. 44

(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. 75

(2) "Child day-care center," "type A family day-care home," 76
and "type B family day-care home" have the same meanings as in 77
section 5104.01 of the Revised Code. 78

(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 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