

As Reported by the Senate Judiciary--Criminal Justice Committee

126th General Assembly

Regular Session

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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
Senators Schuring, Dann, Kearney, Zurz

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A B I L L

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.

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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:

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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.

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

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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.	75
(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.	76 77 78
(3) "Babysitting care" means care provided for a child while the parents, guardian, or legal custodian of the child is are temporarily away.	79 80 81
Section 2. That existing section 2907.08 of the Revised Code is hereby repealed.	82 83
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	84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104

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