



Greg Schwab

*Final Analysis*  
Legislative Service Commission

## **H.B. 310**

126th General Assembly  
(As Passed by the General Assembly)

**Reps.** Oelslager, Fessler, Evans, C., Setzer, McGregor, J., Carano, Gilb, Latta, Combs, Reidelbach, Schaffer, Perry, Collier, Fende, Webster, Hughes, Evans, D., Seitz, Willamowski, Bupp, 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

**Sens.** Schuring, Dann, Kearney, Zurz, Amstutz, Carey, Cates, Goodman, Hagan, Padgett, Stivers, Wachtmann, Wilson

**Effective date:** \*

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### **ACT SUMMARY**

- Clarifies that the prohibitions described in the offense of voyeurism 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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### **CONTENT AND OPERATION**

#### **Voyeurism**

Under continuing law, among the activities described in the Revised Code's prohibition against "voyeurism" is conduct involving the photographing of another. The act clarifies that the law's reference to conduct involving the photographing of another includes conduct involving the videotaping, filming, or other recording of another. Thus, under the act, a person commits the offense of voyeurism in any of the following five ways (R.C. 2907.08) (changes made by the act are italicized):

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

(1) The person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades the privacy of another to spy or eavesdrop upon another. A violation of this prohibition is a misdemeanor of the third degree. (R.C. 2907.08(A) and (F)(2).) (*No change to continuing law.*)

(2) The person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades the privacy of another to *videotape, film, photograph, or otherwise record* the other person in a state of nudity. A violation of this prohibition is a misdemeanor of the second degree. (R.C. 2907.08(B) and (F)(3).)

(3) The person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades 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. A violation of this prohibition is a misdemeanor of the first degree. (R.C. 2907.08(C) and (F)(4).)

(4) The person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades 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: (a) the offender is the minor's natural or adoptive parent, stepparent, guardian, or custodian, or person in loco parentis of the minor, (b) 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, (c) 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, the minor is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school, (d) 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, (e) 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, or (f) 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. A violation of one of these prohibitions is a felony of the fifth degree. (R.C. 2907.08(D) and (F)(5).)

(5) The person secretly or surreptitiously videotapes, films, photographs, or otherwise records 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. A violation of this prohibition is a misdemeanor of the first degree. (R.C. 2907.08(E) and (F)(4).) (*No change to continuing law.*)

**Purpose of the General Assembly in amending the voyeurism statute**

The act states that the General Assembly declares that, in making the changes described above in "**Voyeurism**," its purpose is to clarify the meaning of "photograph" as it is used in the provisions of the voyeurism statute amended by the act. In addition, the act says that the General Assembly declares that it believes that the term "photograph," as used in those provisions as they existed prior to the effective date of the 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 the General Assembly's intent in amending those provisions to declare or otherwise give the impression that, prior to the effective date of the act, the term "photograph" as used in those provisions did not include within its scope videotaping, filming, or other recording of an image; and that the General Assembly believes that the amendments to those provisions are not substantive in nature and merely clarify the fact that the term "photograph" 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. Further, the act provides that the General Assembly declares that the amendments to those voyeurism provisions do not invalidate, and are not to be construed as invalidating, any prior convictions for violating a prohibition contained in any of those provisions prior to the effective date of the act based on conduct that involved videotaping, filming, or other recording of an image. (Section 3.)

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**HISTORY**

ACTION	DATE
Introduced	07-05-05
Reported, H. Criminal Justice	10-27-05
Passed House (94-0)	01-10-06
Reported, S. Judiciary on Criminal Justice	02-08-06
Passed Senate (33-0)	02-14-06

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