



H.B. 310*

126th General Assembly

(As Reported by S. Judiciary on Criminal Justice)

Reps. Oelslager, Fessler, C. Evans, Setzer, J. McGregor, Carano, Gilb, Latta, Combs, Reidelbach, Schaffer, Perry, Collier, Fende, Webster, Hughes, D. Evans, Seitz, Willamowski, Bulp, 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, D. Stewart, J. Stewart, Taylor, Williams, Woodard, Yates, Yuko

BILL 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.

CONTENT AND OPERATION

Voyeurism

The bill amends the Revised Code's prohibition against "voyeurism" to clarify 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. Thus, under the bill, a person commits the offense of voyeurism in any of the following five ways (R.C. 2907.08) (changes made by the bill are italicized):

(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 from current law.*)

* This analysis was prepared before the report of the Senate Judiciary on Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

(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 from current law.*)

Purpose of the General Assembly in amending the voyeurism statute

The bill 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 bill. In addition, the bill says that the General Assembly declares that it believes that the term "photograph," as used in those provisions as they exist prior to the effective date of the bill, 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; 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 bill, the term "photograph" as used in those provisions does 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" 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 bill 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 bill based on conduct that involved videotaping, filming, or other recording of an image. (Section 3.)

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	---

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