



**Sub. H.B. 74\***

127th General Assembly

(As Reported by S. Judiciary - Criminal Justice)

**Reps. Schlichter, J. McGregor, Bacon, Wagoner, Setzer, Fende, Dodd, Combs, Adams, Collier, Aslanides, Batchelder, Boyd, Daniels, DeBose, Domenick, Dyer, Evans, Flowers, Gibbs, Goyal, J. Hagan, Harwood, Heard, Hughes, Luckie, Mandel, Patton, Schindel, Szollosi, B. Williams**

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**BILL SUMMARY**

- Modifies the elements of voyeurism committed for the purpose of sexual gratification or arousal when the victim is a minor in a state of nudity so that it prohibits a person, for the purpose of sexually arousing or gratifying the person's self, from trespassing or otherwise surreptitiously invading the privacy of a minor person to videotape, film, photograph, otherwise record, *or spy or eavesdrop upon* the minor person in a state of nudity.
- Increases the penalty for the offense of voyeurism committed in the manner described in the previous dot point to a felony of the fifth degree in all cases.

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**CONTENT AND OPERATION**

***Spying upon a minor in a state of nudity for the purpose of sexual gratification or arousal--committed by any person***

Current law provides a number of ways of committing the offense of voyeurism. One of the ways in which a person commits the offense of voyeurism is if the person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades the privacy of a minor person to videotape, film, photograph, or otherwise record the minor person in a

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

state of nudity (see **COMMENT** for other ways in which a person commits the offense of voyeurism). A violation of this prohibition is a misdemeanor of the first degree. (R.C. 2907.08(C) and (F)(4).)

The bill modifies this prohibition to instead prohibit a person, for the purpose of sexually arousing or gratifying the person's self, from trespassing or otherwise surreptitiously invading the privacy of a minor person to videotape, film, photograph, otherwise record, *or spy or eavesdrop upon* the minor person in a state of nudity. The bill also increases the penalty for a violation of this prohibition from a misdemeanor of the first degree to a felony of the fifth degree. (R.C. 2907.09(C) and (E).)

***Spying upon a minor in a state of nudity for the purpose of sexual gratification or arousal--committed by a person with authority over the minor***

Current law also provides that a person commits the offense of voyeurism when 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 (R.C. 2907.09(D)):

(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, 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.

A violation of this special prohibition is a felony of the fifth degree.

Because the bill increases the penalty for voyeurism to a felony of the fifth degree when the victim is a minor in a state of nudity in all cases, the bill removes this special prohibition from the offense of voyeurism. (Removal of existing R.C. 2907.09(D) and (G).)

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## COMMENT

A person also commits the offense of voyeurism, regardless of whether the victim is an adult or a minor, if the person does any of the following (existing R.C. 2907.09(A), (B), and (E)):

(1) 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 misdemeanor of the third degree);

(2) 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 misdemeanor of the second degree);

(3) 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 misdemeanor of the first degree).

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## HISTORY

ACTION	DATE
Introduced	02-27-07
Reported, H. Criminal Justice	05-15-08
Passed House (97-0)	05-21-08
Reported, S. Judiciary - Criminal Justice	---

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