

# HOUSE BILL REPORT

## SHB 1441

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### As Amended by the Senate

**Title:** An act relating to the crime of voyeurism.

**Brief Description:** Penalizing voyeurism.

**Sponsors:** By House Committee on Law & Justice (originally sponsored by Representatives McDonald, Pennington, Ballasiotes, Mielke, Hatfield, Lambert, Doumit, Costa, Bush, Dickerson, O'Brien, Keiser, Kastama and Smith).

**Brief History:**

**Committee Activity:**

Law & Justice: 2/12/97, 2/18/97 [DPS].

**Floor Activity:**

Passed House: 3/11/97, 97-0;

Passed House: 1/12/98, 93-0.

Senate Amended.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

**Staff:** Bill Perry (786-7123).

**Background:** Civil sanctions may under certain circumstances be applicable to what might broadly be called invading someone else's privacy.

For instance, surreptitiously viewing or photographing someone may amount to the tort of "intrusion" on a person's privacy for which damages are recoverable. Generally, this tort is committed by one who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another, or his or her private affairs or concerns, if the intrusion would be highly offensive to a reasonable person. The interference with seclusion must be a substantial one resulting from conduct of a kind that would be offensive and objectionable to the ordinary person.

In some instances, an invasion of this sort may involve a criminal act such as trespassing or burglary. Generally, however, criminal sanctions would not come into play in the case of an "intrusion" of this kind absent additional circumstances. Surreptitious photography, for instance, might result in the subsequent possession or dissemination of material depicting a minor engaged in sexually explicit conduct.

**Summary of Bill:** The crime of "voyeurism" is created. It may be committed in either of two ways.

First, it is unlawful for anyone to view, photograph, or film a person without his or her consent, if done

- (1) for the purpose of arousing or gratifying the sexual desire of anyone;
- (2) when the person viewed is fully or partially nude; and
- (3) when the person viewed is in a place where an expectation of privacy is reasonable.

Second, it is also unlawful for a retail merchant to view, photograph, or film a patron in a dressing room, regardless of the patron's state of dress, unless done for legitimate theft prevention reasons and with a conspicuous warning notice posted in the dressing room.

Either offense is a gross misdemeanor if committed against an adult, and a class C felony if committed against a minor.

Definitions are provided for "full or partial nudity," "photographs," "films," and "views." A place of reasonable expectation of privacy is defined to mean a place where a reasonable person would believe he or she could disrobe without being photographed or filmed.

Exceptions are provided for criminal investigations and for security and investigatory measures in correctional facilities.

The statute of limitations for prosecuting the crime of voyeurism is two years from the date a person first learns that he or she was viewed, photographed, or filmed.

**EFFECT OF SENATE AMENDMENT(S):** The Senate amendment removes the requirement that the person viewed be nude or partially nude. The amendment removes the distinction between viewing minors and viewing adults, and makes the crime a class C felony in all instances. The amendment also removes the provision relating specifically to retail merchants viewing patrons in dressing rooms and removes the exception for criminal investigations outside of jails or correctional facilities.

The Senate amendment adds to the definition of a place of reasonable expectation of privacy. In addition to being a place where a person could reasonably believe he or she could disrobe in privacy, such a place is also defined as one where a person could reasonably expect to be safe from "casual or hostile intrusion or surveillance."

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The current law is inadequate, especially because of the requirement for sexually explicit behavior in the sexual exploitation law. Victims of voyeurism feel violated long after the event. Voyeurs often go on to commit more serious crimes. Seventeen other states have adopted voyeurism statutes.

**Testimony Against:** None.

**Testified:** Representative McDonald, prime sponsor; Jim Stonier, Cowlitz County Prosecuting Attorney (pro); Joe Wheeler, Grays Harbor County Prosecuting Attorney's Office (pro); Amber Bishop, citizen (pro); Senator Joseph Zarelli (pro); Deborah Ruggles, Washington Coalition of Sexual Assault Programs (pro); and John Neeb, Pierce County Deputy Prosecuting Attorney's Office (pro, with amendment).