

# HOUSE BILL REPORT

## ESSB 5656

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**As Reported By House Committee On:**

Law & Justice

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

**Brief Description:** Penalizing voyeurism.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Zarelli, Kline, Hargrove, Stevens, McCaslin, Oke and Goings).

**Brief History:**

**Committee Activity:**

Law & Justice: 4/2/97, 4/4/97 [DPA].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended. 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:** Edie Adams (786-7180).

**Background:** It is generally not a crime for a person to surreptitiously view, photograph, or film another person without that person's consent. However, surreptitious viewing or photographing of another person could lead to civil sanctions for invasion of the person's privacy under the tort of intrusion on a person's affairs or seclusion.

The tort of intrusion is committed when a person intentionally intrudes, physically or otherwise, upon another person's solitude, seclusion, or private affairs or concerns, if the intrusion would be highly offensive to a reasonable person. The interference with a person's seclusion must be a substantial one resulting from conduct of a kind that would be offensive and objectionable to the ordinary person.

**Summary of Amended Bill:** A new crime of "voyeurism" is created. 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.

The crime of voyeurism is a gross misdemeanor if the victim is an adult, and a class C felony if the victim is 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.

A prosecution for the crime of voyeurism must be commenced within two years of the date the victim learns that he or she was viewed, filmed, or photographed.

**Amended Bill Compared to Engrossed Substitute Bill:** The engrossed substitute bill does not require that the person being viewed be nude or partially nude. The engrossed substitute bill contains a second means of committing the crime -- if while trespassing, the person views, films, or photographs the victim without the victim's knowledge or consent while the victim is inside his or her private residence. The engrossed substitute bill makes the crime a class C felony if the victim is an adult, as well as if the victim is a minor, and contains an exception for law enforcement officers and personnel of correctional institutions for security purposes or for investigation of alleged misconduct by an inmate.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** There is a loophole in current law that allows the victimization of people without legal consequence for the perpetrator. Victims of voyeurism are particularly traumatized because they are not aware that their privacy is being invaded until later. They feel extreme levels of embarrassment and shame and can continually be revictimized if the film or photographs are distributed. The exception for law enforcement officers and correctional facility personnel should be removed.

**Testimony Against:** None.

**Testified:** Senator Zarelli, prime sponsor; Tom Bader, American Privacy Protection Association (pro, with suggested amendment); and Lori Delaney, Washington Coalition of Sexual Assault Programs (pro).