

HOUSE BILL REPORT

HB 1441

As Reported By House Committee On:

Law & Justice

Title: An act relating to the crime of voyeurism.

Brief Description: Penalizing voyeurism.

Sponsors: 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].

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 Substitute 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.

Substitute Bill Compared to Original Bill: The substitute bill splits the crime into class C felony and gross misdemeanor offenses. The substitute bill also adds the retail merchant dressing room provision.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: 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).