

HOUSE BILL REPORT

ESHB 1001

As Passed Legislature

Title: An act relating to voyeurism.

Brief Description: Revising voyeurism laws.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Lantz, Chase, Ruderman, Fromhold, Dickerson, Conway, Schindler, Veloria, O'Brien, Kenney, Campbell, Nixon and Darneille).

Brief History:

Committee Activity:

Judiciary: 1/16/03, 1/17/03 [DPS].

Floor Activity:

Passed House: 2/5/03, 96-0.

Senate Amended.

Passed Senate: 4/17/03, 48-0.

House Concurred.

Passed House: 4/22/03, 97-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Amends the crime of voyeurism to include viewing, photographing or filming the portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view.
- Allows a court to destroy photographs or images made by a person convicted of voyeurism.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Edie Adams (786-7180).

Background:

In 1998 the Legislature created the new crime of voyeurism. A person commits voyeurism if the person views, photographs, or films a person without his or her consent, if done for the purpose of arousing or gratifying the sexual desire of anyone and when the person viewed is in a place where he or she would have a reasonable expectation of privacy.

The definition of a place of reasonable expectation of privacy has two components:

- a place where a reasonable person would believe he or she could disrobe without being photographed or filmed; or
- a place where a person can reasonably expect to be safe from casual or hostile intrusion or surveillance.

The voyeurism statute was recently interpreted by the Washington Supreme Court in the case State v. Glas. The Glas case involved the consolidation of two cases, both of which involved the conviction of men who photographed or videotaped under the skirts of unsuspecting women in public places.

The Supreme Court in Glas ruled that the voyeurism statute, as written, does not cover voyeuristic acts that take place in a public place. The court noted that the statute's definition of a place of reasonable expectation of privacy focuses entirely on the location of the person, not a part of the person's body or the nature of the conduct. The second part of the definition of place of reasonable expectation of privacy is any place where a person can reasonably expect to be free of casual or hostile intrusion or surveillance. The court held that since casual intrusions and surveillance happen all the time when people go into public places, public places cannot fit into the statute's definition of a place where a person can have a reasonable expectation of privacy.

Summary of Engrossed Substitute Bill:

The crime of voyeurism is amended to apply to a person who, for the private or commercial purpose of arousing or gratifying the sexual desires of anyone, knowingly views, photographs or films the intimate areas of another person, without that person's knowledge and consent and under circumstances where that person has a reasonable expectation of privacy, whether in a public or private place. "Intimate areas" means the portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view.

The court may order the destruction of any photographs, films, digital images, videotapes or other images that were taken by a person convicted of voyeurism.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill is needed to hold accountable people who are engaging in reprehensible, premeditated behavior that can be quite traumatic for victims. It is difficult and rare to catch voyeurs, so they need to be seriously punished so that there is more of a deterrent. There is a strong link between voyeurism and other offenses like rape. Voyeurism is often a precursor for more serious sex offenses. We need to stop the behavior before it escalates. It is important that the crime be classified as a felony so that it is a part of the offender's criminal history and is subject to DNA testing and sex offender registration. If it is not classified as a felony, it should at least be added to the DNA testing statute. There are some concerns with potential unintended consequences, for example the scenario of a young boy engaged in a prank. It would be too harsh to have that behavior punished as a felony.

Testimony Against: None.

Testified: (In support) Larry Erickson, Washington Association of Sheriffs and Police Chiefs; Suzanne Brown, Washington Coalition of Sexual Assault Programs; Bryan Suits, KVI Radio; and Jolene Jang.

(In support, with amendments) Tom McBride, Washington Association of Prosecuting Attorneys.

(In support, with concerns) Sherry Appleton, Washington Defender's Association and Washington Association of Criminal Defense Lawyers.