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## Judiciary Committee

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### HB 1001

**Title:** An act relating to voyeurism.

**Brief Description:** Revising voyeurism laws.

**Sponsors:** Representative Lantz.

#### Brief Summary of Bill

- Creates the crime of voyeurism in the second degree involving viewing, photographing or filming under or through a person's clothing.

**Hearing Date:** 1/16/03

**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.

Voyeurism is a class C felony and is sentenced under the Sentencing Reform Act (SRA). However, since voyeurism has not been given a seriousness ranking under the SRA, it is not subject to the sentencing grid. Rather, the court may impose a penalty of up to one year in jail.

The voyeurism statute was recently interpreted by the Washington Supreme Court in the case

State v. Glas, 147 Wn.2d 410 (2002). 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 can not fit into the statute's definition of a place where a person can have a reasonable expectation of privacy.

There are time periods specified in statute, called statutes of limitations, after which crimes may not be prosecuted. Generally, a class C felony may not be prosecuted more than three years after its commission. However, for the crime of voyeurism, if the victim did not realize that he or she was being viewed, photographed or filmed, the prosecution must be commenced within two years of the victim's discovery that he or she was viewed, photographed or filmed. The general statute of limitations for gross misdemeanors is two years.

#### **Summary of Bill:**

The voyeurism statute is amended to include viewing, photographing or filming under or through a person's clothing. The current crime of voyeurism is renamed voyeurism in the first degree and the crime of voyeurism in the second degree is created.

Voyeurism in the second degree is committed if a person, for the purpose of the sexual arousal or gratification of anyone, knowingly views, photographs or films under or through another person's clothing for the purpose of viewing, photographing or filming the body or undergarments of that person, without that person's knowledge and consent and under circumstances where that person has a reasonable expectation of privacy.

Voyeurism in the second degree is a gross misdemeanor.

The two-year statute of limitations for gross misdemeanors is amended to provide an exception for voyeurism in the second degree. If the victim did not realize that he or she was being viewed, photographed or filmed, the prosecution must be commenced within one year of the victim's discovery that he or she was viewed, photographed or filmed.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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