
HOUSE BILL 2042

State of Washington

64th Legislature

2015 Regular Session

By Representatives McCabe, Cody, Harris, Dent, Fagan, McBride, Kochmar, Wilson, Johnson, Klippert, and Pike

Read first time 02/09/15. Referred to Committee on Public Safety.

1 AN ACT Relating to establishing the crime of voyeurism in the
2 second degree; amending RCW 9A.44.115; reenacting and amending RCW
3 9.94A.515; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9A.44.115 and 2003 c 213 s 1 are each amended to
6 read as follows:

7 (1) As used in this section:

8 (a) "Intimate areas" means any portion of a person's body or
9 undergarments that is covered by clothing and intended to be
10 protected from public view;

11 (b) "Photographs" or "films" means the making of a photograph,
12 motion picture film, videotape, digital image, or any other recording
13 or transmission of the image of a person;

14 (c) "Place where he or she would have a reasonable expectation of
15 privacy" means:

16 (i) A place where a reasonable person would believe that he or
17 she could disrobe in privacy, without being concerned that his or her
18 undressing was being photographed or filmed by another; or

19 (ii) A place where one may reasonably expect to be safe from
20 casual or hostile intrusion or surveillance;

1 (d) "Surveillance" means secret observation of the activities of
2 another person for the purpose of spying upon and invading the
3 privacy of the person;

4 (e) "Views" means the intentional looking upon of another person
5 for more than a brief period of time, in other than a casual or
6 cursory manner, with the unaided eye or with a device designed or
7 intended to improve visual acuity.

8 (2)(a) A person commits the crime of voyeurism in the first
9 degree if, for the purpose of arousing or gratifying the sexual
10 desire of any person, he or she knowingly views, photographs, or
11 films:

12 (~~(a)~~) (i) Another person without that person's knowledge and
13 consent while the person being viewed, photographed, or filmed is in
14 a place where he or she would have a reasonable expectation of
15 privacy; or

16 (~~(b)~~) (ii) The intimate areas of another person without that
17 person's knowledge and consent and under circumstances where the
18 person has a reasonable expectation of privacy, whether in a public
19 or private place.

20 (~~(3)~~) (b) Voyeurism in the first degree is a class C felony.

21 (3)(a) A person commits the crime of voyeurism in the second
22 degree if he or she knowingly views, photographs, or films:

23 (i) Another person without that person's knowledge and consent
24 while the person being viewed, photographed, or filmed is in a place
25 where he or she would have a reasonable expectation of privacy; or

26 (ii) The intimate areas of another person without that person's
27 knowledge and consent and under circumstances where the person has a
28 reasonable expectation of privacy, whether in a public or private
29 place.

30 (b) Voyeurism in the second degree is a gross misdemeanor.

31 (4) This section does not apply to viewing, photographing, or
32 filming by personnel of the department of corrections or of a local
33 jail or correctional facility for security purposes or during
34 investigation of alleged misconduct by a person in the custody of the
35 department of corrections or the local jail or correctional facility.

36 (5) If a person is convicted of a violation of this section, the
37 court may order the destruction of any photograph, motion picture
38 film, digital image, videotape, or any other recording of an image
39 that was made by the person in violation of this section.

1 **Sec. 2.** RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8, 2013
2 c 267 s 2, and 2013 c 153 s 2 are each reenacted and amended to read
3 as follows:

4 TABLE 2

5 CRIMES INCLUDED WITHIN
6 EACH SERIOUSNESS LEVEL

- 7 XVI Aggravated Murder 1 (RCW
8 10.95.020)
- 9 XV Homicide by abuse (RCW 9A.32.055)
10 Malicious explosion 1 (RCW
11 70.74.280(1))
12 Murder 1 (RCW 9A.32.030)
- 13 XIV Murder 2 (RCW 9A.32.050)
14 Trafficking 1 (RCW 9A.40.100(1))
- 15 XIII Malicious explosion 2 (RCW
16 70.74.280(2))
17 Malicious placement of an explosive 1
18 (RCW 70.74.270(1))
- 19 XII Assault 1 (RCW 9A.36.011)
20 Assault of a Child 1 (RCW 9A.36.120)
21 Malicious placement of an imitation
22 device 1 (RCW 70.74.272(1)(a))
23 Promoting Commercial Sexual Abuse
24 of a Minor (RCW 9.68A.101)
25 Rape 1 (RCW 9A.44.040)
26 Rape of a Child 1 (RCW 9A.44.073)
27 Trafficking 2 (RCW 9A.40.100((2)))
28 (3)
- 29 XI Manslaughter 1 (RCW 9A.32.060)
30 Rape 2 (RCW 9A.44.050)
31 Rape of a Child 2 (RCW 9A.44.076)
32 Vehicular Homicide, by being under
33 the influence of intoxicating liquor
34 or any drug (RCW 46.61.520)

1 X Child Molestation 1 (RCW 9A.44.083)
2 Criminal Mistreatment 1 (RCW
3 9A.42.020)
4 Indecent Liberties (with forcible
5 compulsion) (RCW
6 9A.44.100(1)(a))
7 Kidnapping 1 (RCW 9A.40.020)
8 Leading Organized Crime (RCW
9 9A.82.060(1)(a))
10 Malicious explosion 3 (RCW
11 70.74.280(3))
12 Sexually Violent Predator Escape
13 (RCW 9A.76.115)
14 IX Abandonment of Dependent Person 1
15 (RCW 9A.42.060)
16 Assault of a Child 2 (RCW 9A.36.130)
17 Explosive devices prohibited (RCW
18 70.74.180)
19 Hit and Run—Death (RCW
20 46.52.020(4)(a))
21 Homicide by Watercraft, by being
22 under the influence of intoxicating
23 liquor or any drug (RCW
24 79A.60.050)
25 Inciting Criminal Profiteering (RCW
26 9A.82.060(1)(b))
27 Malicious placement of an explosive 2
28 (RCW 70.74.270(2))
29 Robbery 1 (RCW 9A.56.200)
30 Sexual Exploitation (RCW 9.68A.040)
31 VIII Arson 1 (RCW 9A.48.020)
32 Commercial Sexual Abuse of a Minor
33 (RCW 9.68A.100)

1 Homicide by Watercraft, by the
2 operation of any vessel in a
3 reckless manner (RCW
4 79A.60.050)
5 Manslaughter 2 (RCW 9A.32.070)
6 Promoting Prostitution 1 (RCW
7 9A.88.070)
8 Theft of Ammonia (RCW 69.55.010)
9 Vehicular Homicide, by the operation
10 of any vehicle in a reckless
11 manner (RCW 46.61.520)
12 VII Burglary 1 (RCW 9A.52.020)
13 Child Molestation 2 (RCW 9A.44.086)
14 Civil Disorder Training (RCW
15 9A.48.120)
16 Dealing in depictions of minor engaged
17 in sexually explicit conduct 1
18 (RCW 9.68A.050(1))
19 Drive-by Shooting (RCW 9A.36.045)
20 Homicide by Watercraft, by disregard
21 for the safety of others (RCW
22 79A.60.050)
23 Indecent Liberties (without forcible
24 compulsion) (RCW 9A.44.100(1)
25 (b) and (c))
26 Introducing Contraband 1 (RCW
27 9A.76.140)
28 Malicious placement of an explosive 3
29 (RCW 70.74.270(3))
30 Negligently Causing Death By Use of a
31 Signal Preemption Device (RCW
32 46.37.675)
33 Sending, bringing into state depictions
34 of minor engaged in sexually
35 explicit conduct 1 (RCW
36 9.68A.060(1))

1 Unlawful Possession of a Firearm in
2 the first degree (RCW
3 9.41.040(1))
4 Use of a Machine Gun in Commission
5 of a Felony (RCW 9.41.225)
6 Vehicular Homicide, by disregard for
7 the safety of others (RCW
8 46.61.520)
9 VI Bail Jumping with Murder 1 (RCW
10 9A.76.170(3)(a))
11 Bribery (RCW 9A.68.010)
12 Incest 1 (RCW 9A.64.020(1))
13 Intimidating a Judge (RCW 9A.72.160)
14 Intimidating a Juror/Witness (RCW
15 9A.72.110, 9A.72.130)
16 Malicious placement of an imitation
17 device 2 (RCW 70.74.272(1)(b))
18 Possession of Depictions of a Minor
19 Engaged in Sexually Explicit
20 Conduct 1 (RCW 9.68A.070(1))
21 Rape of a Child 3 (RCW 9A.44.079)
22 Theft of a Firearm (RCW 9A.56.300)
23 Unlawful Storage of Ammonia (RCW
24 69.55.020)
25 V Abandonment of Dependent Person 2
26 (RCW 9A.42.070)
27 Advancing money or property for
28 extortionate extension of credit
29 (RCW 9A.82.030)
30 Bail Jumping with class A Felony
31 (RCW 9A.76.170(3)(b))
32 Child Molestation 3 (RCW 9A.44.089)
33 Criminal Mistreatment 2 (RCW
34 9A.42.030)

1 Custodial Sexual Misconduct 1 (RCW
2 9A.44.160)
3 Dealing in Depictions of Minor
4 Engaged in Sexually Explicit
5 Conduct 2 (RCW 9.68A.050(2))
6 Domestic Violence Court Order
7 Violation (RCW 10.99.040,
8 10.99.050, 26.09.300, 26.10.220,
9 26.26.138, 26.50.110, 26.52.070,
10 or 74.34.145)
11 Driving While Under the Influence
12 (RCW 46.61.502(6))
13 Extortion 1 (RCW 9A.56.120)
14 Extortionate Extension of Credit (RCW
15 9A.82.020)
16 Extortionate Means to Collect
17 Extensions of Credit (RCW
18 9A.82.040)
19 Incest 2 (RCW 9A.64.020(2))
20 Kidnapping 2 (RCW 9A.40.030)
21 Perjury 1 (RCW 9A.72.020)
22 Persistent prison misbehavior (RCW
23 9.94.070)
24 Physical Control of a Vehicle While
25 Under the Influence (RCW
26 46.61.504(6))
27 Possession of a Stolen Firearm (RCW
28 9A.56.310)
29 Rape 3 (RCW 9A.44.060)
30 Rendering Criminal Assistance 1
31 (RCW 9A.76.070)
32 Sending, Bringing into State
33 Depictions of Minor Engaged in
34 Sexually Explicit Conduct 2
35 (RCW 9.68A.060(2))

1 Sexual Misconduct with a Minor 1
2 (RCW 9A.44.093)
3 Sexually Violating Human Remains
4 (RCW 9A.44.105)
5 Stalking (RCW 9A.46.110)
6 Taking Motor Vehicle Without
7 Permission 1 (RCW 9A.56.070)
8 IV Arson 2 (RCW 9A.48.030)
9 Assault 2 (RCW 9A.36.021)
10 Assault 3 (of a Peace Officer with a
11 Projectile Stun Gun) (RCW
12 9A.36.031(1)(h))
13 Assault by Watercraft (RCW
14 79A.60.060)
15 Bribing a Witness/Bribe Received by
16 Witness (RCW 9A.72.090,
17 9A.72.100)
18 Cheating 1 (RCW 9.46.1961)
19 Commercial Bribery (RCW
20 9A.68.060)
21 Counterfeiting (RCW 9.16.035(4))
22 Endangerment with a Controlled
23 Substance (RCW 9A.42.100)
24 Escape 1 (RCW 9A.76.110)
25 Hit and Run—Injury (RCW
26 46.52.020(4)(b))
27 Hit and Run with Vessel—Injury
28 Accident (RCW 79A.60.200(3))
29 Identity Theft 1 (RCW 9.35.020(2))
30 Indecent Exposure to Person Under
31 Age Fourteen (subsequent sex
32 offense) (RCW 9A.88.010)
33 Influencing Outcome of Sporting Event
34 (RCW 9A.82.070)

1 Malicious Harassment (RCW
2 9A.36.080)
3 Possession of Depictions of a Minor
4 Engaged in Sexually Explicit
5 Conduct 2 (RCW 9.68A.070(2))
6 Residential Burglary (RCW
7 9A.52.025)
8 Robbery 2 (RCW 9A.56.210)
9 Theft of Livestock 1 (RCW 9A.56.080)
10 Threats to Bomb (RCW 9.61.160)
11 Trafficking in Stolen Property 1 (RCW
12 9A.82.050)
13 Unlawful factoring of a credit card or
14 payment card transaction (RCW
15 9A.56.290(4)(b))
16 Unlawful transaction of health
17 coverage as a health care service
18 contractor (RCW 48.44.016(3))
19 Unlawful transaction of health
20 coverage as a health maintenance
21 organization (RCW 48.46.033(3))
22 Unlawful transaction of insurance
23 business (RCW 48.15.023(3))
24 Unlicensed practice as an insurance
25 professional (RCW 48.17.063(2))
26 Use of Proceeds of Criminal
27 Profiteering (RCW 9A.82.080 (1)
28 and (2))
29 Vehicle Prowling 2 (third or
30 subsequent offense) (RCW
31 9A.52.100(3))
32 Vehicular Assault, by being under the
33 influence of intoxicating liquor or
34 any drug, or by the operation or
35 driving of a vehicle in a reckless
36 manner (RCW 46.61.522)

1 Viewing of Depictions of a Minor
2 Engaged in Sexually Explicit
3 Conduct 1 (RCW 9.68A.075(1))
4 Willful Failure to Return from
5 Furlough (RCW 72.66.060)
6 III Animal Cruelty 1 (Sexual Conduct or
7 Contact) (RCW 16.52.205(3))
8 Assault 3 (Except Assault 3 of a Peace
9 Officer With a Projectile Stun
10 Gun) (RCW 9A.36.031 except
11 subsection (1)(h))
12 Assault of a Child 3 (RCW 9A.36.140)
13 Bail Jumping with class B or C Felony
14 (RCW 9A.76.170(3)(c))
15 Burglary 2 (RCW 9A.52.030)
16 Communication with a Minor for
17 Immoral Purposes (RCW
18 9.68A.090)
19 Criminal Gang Intimidation (RCW
20 9A.46.120)
21 Custodial Assault (RCW 9A.36.100)
22 Cyberstalking (subsequent conviction
23 or threat of death) (RCW
24 9.61.260(3))
25 Escape 2 (RCW 9A.76.120)
26 Extortion 2 (RCW 9A.56.130)
27 Harassment (RCW 9A.46.020)
28 Intimidating a Public Servant (RCW
29 9A.76.180)
30 Introducing Contraband 2 (RCW
31 9A.76.150)
32 Malicious Injury to Railroad Property
33 (RCW 81.60.070)
34 Mortgage Fraud (RCW 19.144.080)

1 Negligently Causing Substantial
2 Bodily Harm By Use of a Signal
3 Preemption Device (RCW
4 46.37.674)
5 Organized Retail Theft 1 (RCW
6 9A.56.350(2))
7 Perjury 2 (RCW 9A.72.030)
8 Possession of Incendiary Device (RCW
9 9.40.120)
10 Possession of Machine Gun or Short-
11 Barreled Shotgun or Rifle (RCW
12 9.41.190)
13 Promoting Prostitution 2 (RCW
14 9A.88.080)
15 Retail Theft with Special
16 Circumstances 1 (RCW
17 9A.56.360(2))
18 Securities Act violation (RCW
19 21.20.400)
20 Tampering with a Witness (RCW
21 9A.72.120)
22 Telephone Harassment (subsequent
23 conviction or threat of death)
24 (RCW 9.61.230(2))
25 Theft of Livestock 2 (RCW 9A.56.083)
26 Theft with the Intent to Resell 1 (RCW
27 9A.56.340(2))
28 Trafficking in Stolen Property 2 (RCW
29 9A.82.055)
30 Unlawful Hunting of Big Game 1
31 (RCW 77.15.410(3)(b))
32 Unlawful Imprisonment (RCW
33 9A.40.040)
34 Unlawful Misbranding of Food Fish or
35 Shellfish 1 (RCW 69.04.938(3))

1 Unlawful possession of firearm in the
2 second degree (RCW 9.41.040(2))
3 Unlawful Taking of Endangered Fish
4 or Wildlife 1 (RCW
5 77.15.120(3)(b))
6 Unlawful Trafficking in Fish, Shellfish,
7 or Wildlife 1 (RCW
8 77.15.260(3)(b))
9 Unlawful Use of a Nondesignated
10 Vessel (RCW 77.15.530(4))
11 Vehicular Assault, by the operation or
12 driving of a vehicle with disregard
13 for the safety of others (RCW
14 46.61.522)
15 Willful Failure to Return from Work
16 Release (RCW 72.65.070)
17 II Commercial Fishing Without a License
18 1 (RCW 77.15.500(3)(b))
19 Computer Trespass 1 (RCW
20 9A.52.110)
21 Counterfeiting (RCW 9.16.035(3))
22 Engaging in Fish Dealing Activity
23 Unlicensed 1 (RCW 77.15.620(3))
24 Escape from Community Custody
25 (RCW 72.09.310)
26 Failure to Register as a Sex Offender
27 (second or subsequent offense)
28 (RCW 9A.44.132)
29 Health Care False Claims (RCW
30 48.80.030)
31 Identity Theft 2 (RCW 9.35.020(3))
32 Improperly Obtaining Financial
33 Information (RCW 9.35.010)
34 Malicious Mischief 1 (RCW
35 9A.48.070)

1 Organized Retail Theft 2 (RCW
2 9A.56.350(3))
3 Possession of Stolen Property 1 (RCW
4 9A.56.150)
5 Possession of a Stolen Vehicle (RCW
6 9A.56.068)
7 Retail Theft with Special
8 Circumstances 2 (RCW
9 9A.56.360(3))
10 Scrap Processing, Recycling, or
11 Supplying Without a License
12 (second or subsequent offense)
13 (RCW 19.290.100)
14 Theft 1 (RCW 9A.56.030)
15 Theft of a Motor Vehicle (RCW
16 9A.56.065)
17 Theft of Rental, Leased, or Lease-
18 purchased Property (valued at one
19 thousand five hundred dollars or
20 more) (RCW 9A.56.096(5)(a))
21 Theft with the Intent to Resell 2 (RCW
22 9A.56.340(3))
23 Trafficking in Insurance Claims (RCW
24 48.30A.015)
25 Unlawful factoring of a credit card or
26 payment card transaction (RCW
27 9A.56.290(4)(a))
28 Unlawful Participation of Non-Indians
29 in Indian Fishery (RCW
30 77.15.570(2))
31 Unlawful Practice of Law (RCW
32 2.48.180)
33 Unlawful Purchase or Use of a License
34 (RCW 77.15.650(3)(b))

1 Unlawful Trafficking in Fish, Shellfish,
2 or Wildlife 2 (RCW
3 77.15.260(3)(a))
4 Unlicensed Practice of a Profession or
5 Business (RCW 18.130.190(7))
6 Voyeurism 1 (RCW 9A.44.115)
7 I Attempting to Elude a Pursuing Police
8 Vehicle (RCW 46.61.024)
9 False Verification for Welfare (RCW
10 74.08.055)
11 Forgery (RCW 9A.60.020)
12 Fraudulent Creation or Revocation of a
13 Mental Health Advance Directive
14 (RCW 9A.60.060)
15 Malicious Mischief 2 (RCW
16 9A.48.080)
17 Mineral Trespass (RCW 78.44.330)
18 Possession of Stolen Property 2 (RCW
19 9A.56.160)
20 Reckless Burning 1 (RCW 9A.48.040)
21 Spotlighting Big Game 1 (RCW
22 77.15.450(3)(b))
23 Suspension of Department Privileges 1
24 (RCW 77.15.670(3)(b))
25 Taking Motor Vehicle Without
26 Permission 2 (RCW 9A.56.075)
27 Theft 2 (RCW 9A.56.040)
28 Theft of Rental, Leased, or Lease-
29 purchased Property (valued at two
30 hundred fifty dollars or more but
31 less than one thousand five
32 hundred dollars) (RCW
33 9A.56.096(5)(b))
34 Transaction of insurance business
35 beyond the scope of licensure
36 (RCW 48.17.063)

1 Unlawful Fish and Shellfish Catch
2 Accounting (RCW
3 77.15.630(3)(b))
4 Unlawful Issuance of Checks or Drafts
5 (RCW 9A.56.060)
6 Unlawful Possession of Fictitious
7 Identification (RCW 9A.56.320)
8 Unlawful Possession of Instruments of
9 Financial Fraud (RCW 9A.56.320)
10 Unlawful Possession of Payment
11 Instruments (RCW 9A.56.320)
12 Unlawful Possession of a Personal
13 Identification Device (RCW
14 9A.56.320)
15 Unlawful Production of Payment
16 Instruments (RCW 9A.56.320)
17 ~~((Unlawful Release of Deleterious
18 Exotic Wildlife (RCW
19 77.15.250(2)(b))))~~
20 Unlawful Trafficking in Food Stamps
21 (RCW 9.91.142)
22 Unlawful Use of Food Stamps (RCW
23 9.91.144)
24 Unlawful Use of Net to Take Fish 1
25 (RCW 77.15.580(3)(b))
26 Unlawful Use of Prohibited Aquatic
27 Animal Species (RCW
28 77.15.253(3))
29 Unlawfully Releasing, Planting,
30 Possessing, or Placing Deleterious
31 Exotic Wildlife (RCW
32 77.15.250(2)(b))
33 Vehicle Prowl 1 (RCW 9A.52.095)
34 Violating Commercial Fishing Area or
35 Time 1 (RCW 77.15.550(3)(b))

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