

SENATE BILL REPORT

SHB 1200

As Reported by Senate Committee On:
Law & Justice, March 29, 2017

Title: An act relating to the crime of voyeurism.

Brief Description: Concerning the crime of voyeurism.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives McCabe, Goodman, Klippert, Orwall, Hayes, Johnson, Griffey, Caldier, Dye, Sells, McDonald, Kilduff and Smith).

Brief History: Passed House: 3/02/17, 97-1.

Committee Activity: Law & Justice: 3/15/17, 3/29/17 [DPA].

Brief Summary of Amended Bill

- Creates the crime of Voyeurism in the second degree.
- Requires diversion of juvenile offenders for a first violation of Voyeurism in the second degree.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

Staff: Aldo Melchiori (786-7439)

Background: A person commits Voyeurism if, for the purpose of arousing or gratifying the sexual desire of any individual, the person knowingly views, photographs, or films:

- another person without that person's knowledge and consent while the person being viewed, photographed, or filmed is in a place where they would have a reasonable expectation of privacy; or
- the intimate areas of another person without the person's knowledge, consent, and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Voyeurism is a sex offense and a Class C felony ranked at level II on the sentencing grid.

If a juvenile is alleged to have committed a misdemeanor or gross misdemeanor, and it is the juvenile's first violation, the prosecutor is required to divert the case rather than file a complaint. In some circumstances, the prosecutor has discretion whether to allow the juvenile to enter into diversion or file the case.

A case is diverted when the juvenile enters into an agreement, which may include, among other things, a requirement that the juvenile attend counseling or educational or informational sessions at a community agency. A diversion agreement may be between a juvenile and a probation counselor, community accountability board, youth court under the supervision of the juvenile court, or other entity. If a juvenile violates their diversion agreement, then the case is referred back to the prosecuting attorney for the filing of criminal charges in court.

Except under certain circumstances, a juvenile may have no more than three diversions.

Summary of Amended Bill: Voyeurism is renamed Voyeurism in the first degree. Voyeurism in the second degree is created. A person commits the offense if the person intentionally photographs or films another person for the purpose of photographing or filming the person's intimate areas with the intent to distribute or disseminate the photograph or film, without that person's knowledge and consent, and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

Voyeurism in the second degree is a gross misdemeanor and it is not a sex offense for the purposes of sentencing and sex offender registration. A prosecutor must divert the case of a juvenile alleged to have committed Voyeurism in the second degree if it is the juvenile's first violation of Voyeurism in the second degree, and the juvenile is under 17 years of age, unless the juvenile has already received two diversions for any offense in the previous two years.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S): Diversion is required only if the alleged offender is 16 years of age or less.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill responds to unique situations created by advancements in technology. Technology can be used for good or for wrongful purposes. The issue is occurring throughout the nation. This is about upskirting and distribution of images. To account for the vagaries of youth, juveniles are not labeled as sex offenders.

Persons Testifying: PRO: Representative Gina McCabe, Prime Sponsor; Representative Morgan Irwin, 31st Legislative District.

Persons Signed In To Testify But Not Testifying: No one