

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 761 Session of
2005

INTRODUCED BY FAIRCHILD, BAKER, BARRAR, BASTIAN, BELFANTI,
BENNINGHOFF, BIRMELIN, BOYD, BROWNE, CALTAGIRONE, CASORIO,
CAUSER, CLYMER, CORRIGAN, COSTA, DENLINGER, FABRIZIO,
FORCIER, GABIG, GEIST, GILLESPIE, GINGRICH, GOODMAN, GRUCELA,
HARHAI, HARRIS, HENNESSEY, HERMAN, HERSHEY, HESS, W. KELLER,
LEACH, LEDERER, LEH, LESCOVITZ, MANN, MARKOSEK, METCALFE,
MILLARD, S. MILLER, MUSTIO, O'NEILL, PALLONE, PETRARCA,
PHILLIPS, READSHAW, REICHLEY, ROHRER, SATHER, SAYLOR,
SCHRODER, SHANER, B. SMITH, SOLOBAY, STERN, T. STEVENSON,
TANGRETTI, E. Z. TAYLOR, TIGUE, WALKO, WANSACZ, WASHINGTON,
WHEATLEY, WILT, YOUNGBLOOD, KAUFFMAN, ROSS AND MAHER,
MARCH 14, 2005

REFERRED TO COMMITTEE ON INTERGOVERNMENTAL AFFAIRS,
MARCH 14, 2005

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the offense of
3 invasion of privacy.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 7507.1 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 7507.1. Invasion of privacy.

9 (a) Offense defined.--[A] Except as set forth in subsection
10 (d), a person commits the offense of invasion of privacy if he,
11 for the purpose of arousing or gratifying the sexual desire of
12 any person, knowingly [views] does any of the following:

13 (1) Views, photographs [or], electronically depicts,

1 films or otherwise records another person without that
2 person's knowledge and consent while [the] that person [being
3 viewed, photographed or filmed] is in a state of full or
4 partial nudity and is in a place where the person would have
5 a reasonable expectation of privacy.

6 (2) Views, photographs, videotapes, electronically
7 depicts, films or otherwise records the intimate parts of
8 another person, whether or not covered by clothing or
9 undergarments, which that person does not intend to be
10 visible by normal public observation without that person's
11 knowledge and consent.

12 (3) Transfers or transmits an image obtained in
13 violation of paragraph (1) or (2) by live or recorded
14 telephone message, electronic mail, the Internet or by any
15 other transfer of the medium on which the image is stored.

16 (a.1) Separate violations.--A separate violation of this
17 section shall occur:

18 (1) for each victim [viewed, photographed or filmed
19 during] of an offense under subsection (a) under the same or
20 similar circumstances pursuant to one scheme or course of
21 conduct whether at the same or different times; or

22 (2) if a person is a victim [is viewed, photographed or
23 filmed] of an offense under subsection (a) on more than one
24 occasion during a separate course of conduct either
25 individually or otherwise.

26 (b) Grading.--Invasion of privacy is a misdemeanor of the
27 second degree if there is more than one violation. Otherwise, a
28 violation of this section is a misdemeanor of the third degree.

29 (c) Commencement of prosecution.--Notwithstanding the
30 provisions of 42 Pa.C.S. Ch. 55 Subch. C (relating to criminal

1 proceedings), a prosecution under this section must be commenced
2 within the following periods of limitation:

3 (1) two years from the date the [viewing, photographing
4 or filming] offense occurred; or

5 (2) if the [person who was viewed, photographed or
6 filmed] victim did not realize at the time that [he was being
7 viewed, photographed or filmed] there was an offense, within
8 three years of the time the [person] victim first learns
9 [that he was viewed, photographed or filmed] of the offense.

10 (d) Exceptions.--Subsection (a) shall not apply [to] if the
11 conduct proscribed by subsection (a) is done by any of the
12 following:

13 (1) [Viewing, photographing or filming by law] Law
14 enforcement officers during a lawful criminal investigation.

15 (2) [Viewing, photographing or filming by law] Law
16 enforcement officers or by personnel of the Department of
17 Corrections or a local correctional facility, prison or jail
18 for security purposes or during investigation of alleged
19 misconduct by a person in the custody of the department or
20 local authorities.

21 (e) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "Full or partial nudity." Display of all or any part of the
25 human genitals or pubic area or buttocks, or any part of the
26 nipple of the breast of any female person, with less than a
27 fully opaque covering.

28 "Intimate part." Any part of:

29 (1) the human genitals, pubic area or buttocks; and

30 (2) the nipple of a female breast.

1 "Photographs" or "films." Making any photograph, motion
2 picture film, videotape or any other recording or transmission
3 of the image of a person. [for the purpose of arousing or
4 gratifying the sexual desire of any person.]

5 "Place where a person would have a reasonable expectation of
6 privacy." A location where a reasonable person would believe
7 that he could disrobe in privacy without being concerned that
8 his undressing was being viewed, photographed or filmed by
9 another.

10 ["Same course of conduct." Filming more than one person in
11 full or partial nudity under the same or similar circumstances
12 pursuant to one scheme or course of conduct, whether at the same
13 or different times.]

14 "Views." Looking upon another person with the unaided eye or
15 with any device designed or intended to improve visual acuity.
16 [for the purpose of arousing or gratifying the sexual desire of
17 any person.]

18 Section 2. This act shall take effect in 60 days.