

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

AS RE-REPORTED FROM COMMITTEE ON INTERGOVERNMENTAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 9, 2005

AN ACT

1 Amending ~~Title~~ TITLES 18 (Crimes and Offenses) AND 42 (JUDICIARY <—
2 AND JUDICIAL PROCEDURE) of the Pennsylvania Consolidated
3 Statutes, further providing for the offense of invasion of
4 privacy; AND PROVIDING FOR ACTIONS INVOLVING PRODUCTS OR <—
5 SERVICES USED TO INVADE PRIVACY.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

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

10 § 7507.1. Invasion of privacy.

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

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

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

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

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

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

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

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

30 (c) Commencement of prosecution.--Notwithstanding the

1 provisions of 42 Pa.C.S. Ch. 55 Subch. C (relating to criminal
2 proceedings), a prosecution under this section must be commenced
3 within the following periods of limitation:

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

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

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

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

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

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

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

29 "Intimate part." Any part of:

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

1 (2) the nipple of a female breast.

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

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

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

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

19 SECTION 2. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ: <—
20 § 3817. ACTIONS INVOLVING PRODUCTS OR SERVICES USED TO INVADE
21 PRIVACY.

22 NO PERSON SHALL HAVE A CAUSE OF ACTION AGAINST A MANUFACTURER
23 OF A DEVICE OR A PROVIDER OF A PRODUCT OR SERVICE THAT IS USED
24 TO COMMIT A VIOLATION OF 18 PA.C.S. § 7507.1 (RELATING TO
25 INVASION OF PRIVACY).

26 Section ~~2~~ 3. This act shall take effect in 60 days. <—