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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 761 Session of  
2005

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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

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AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,  
OCTOBER 25, 2005

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AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 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

1 any person, knowingly [views] does any of the following:

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

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

14 (2) PHOTOGRAPHS, VIDEOTAPES, ELECTRONICALLY DEPICTS, <—  
15 FILMS OR OTHERWISE RECORDS, OR PERSONALLY VIEWS THE INTIMATE  
16 PARTS, WHETHER OR NOT COVERED BY CLOTHING, OF ANOTHER PERSON  
17 WITHOUT THAT PERSON'S KNOWLEDGE AND CONSENT AND WHICH  
18 INTIMATE PARTS THAT PERSON DOES NOT INTEND TO BE VISIBLE BY  
19 NORMAL PUBLIC OBSERVATION.

20 (3) ~~Transfers~~ VIEWS, TRANSFERS or transmits an image <—  
21 obtained in violation of paragraph (1) or (2) by live or  
22 recorded telephone message, electronic mail, the Internet or  
23 by any other transfer of the medium on which the image is  
24 stored.

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

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

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

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

8       (c) Commencement of prosecution.--Notwithstanding the  
9       provisions of 42 Pa.C.S. Ch. 55 Subch. C (relating to criminal  
10      proceedings), a prosecution under this section must be commenced  
11      within the following periods of limitation:

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

14           (2) if the [person who was viewed, photographed or  
15      filmed] victim did not realize at the time that [he was being  
16      viewed, photographed or filmed] there was an offense, within  
17      three years of the time the [person] victim first learns  
18      [that he was viewed, photographed or filmed] of the offense.

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

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

24           (2) [Viewing, photographing or filming by law] Law  
25      enforcement officers or by personnel of the Department of  
26      Corrections or a local correctional facility, prison or jail  
27      for security purposes or during investigation of alleged  
28      misconduct by a person in the custody of the department or  
29      local authorities.

30       (e) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this  
2 subsection:

3 "Full or partial nudity." Display of all or any part of the  
4 human genitals or pubic area or buttocks, or any part of the  
5 nipple of the breast of any female person, with less than a  
6 fully opaque covering.

7 "Intimate part." Any part of:

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

9 (2) the nipple of a female breast.

10 "Photographs" or "films." Making any photograph, motion  
11 picture film, videotape or any other recording or transmission  
12 of the image of a person. [for the purpose of arousing or  
13 gratifying the sexual desire of any person.]

14 "Place where a person would have a reasonable expectation of  
15 privacy." A location where a reasonable person would believe  
16 that he could disrobe in privacy without being concerned that  
17 his undressing was being viewed, photographed or filmed by  
18 another.

19 ["Same course of conduct." Filming more than one person in  
20 full or partial nudity under the same or similar circumstances  
21 pursuant to one scheme or course of conduct, whether at the same  
22 or different times.]

23 "Views." Looking upon another person with the unaided eye or  
24 with any device designed or intended to improve visual acuity.  
25 [for the purpose of arousing or gratifying the sexual desire of  
26 any person.]

27 Section 2. Title 42 is amended by adding a section to read:

28 § 8317. Actions involving products or services used to invade  
29 privacy.

30 No person shall have a cause of action against a manufacturer

1 of a device or a provider of a product or service that is used  
2 to commit a violation of 18 Pa.C.S. § 7507.1 (relating to  
3 invasion of privacy).

4       Section 3. This act shall take effect in 60 days.