
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

SENATE AMENDMENTS TO HOUSE AMENDMENTS, OCTOBER 31, 2005

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 "Intimate part." Any part of:

1 (1) the human genitals, pubic area or buttocks; and
2 (2) the nipple of a female breast.

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

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

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

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

20 Section 2. Title 42 is amended by adding a section to read:
21 § 8317. Actions involving products or services used to invade
22 privacy.

23 No person shall have a cause of action against a manufacturer
24 of a device or a provider of a product or service that is used
25 to commit a violation of 18 Pa.C.S. § 7507.1 (relating to
26 invasion of privacy).

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