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H.569

Introduced by Representatives Yantachka of Charlotte, Bock of Chester, Carr
of Brandon, Chesnut-Tangerman of Middletown Springs,
Christensen of Weathersfield, Dunn of Essex, Forguites of
Springfield, Gannon of Wilmington, Joseph of North Hero,
Masland of Thetford, Morris of Bennington, Parent of St.
Albans Town, Sabilia of Dover, Squirrell of Underhill, Sullivan
of Dorset, Townsend of South Burlington, Van Wyck of
Ferrisburgh, Viens of Newport City, Walz of Barre City, and
Yacovone of Morristown

Referred to Committee on

Date:

Subject: Crimes; voyeurism; penalty

Statement of purpose of bill as introduced: This bill proposes to increase the
penalty for voyeurism when the victim is a minor.

An act relating to voyeurism

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 2605 is amended to read:

§ 2605. VOYEURISM

(a) As used in this section:

1 (1) “Bona fide private investigator or bona fide security guard” means
2 an individual lawfully providing services, whether licensed or unlicensed,
3 pursuant to 26 V.S.A. §§ 3151 and 3151a.

4 (2) “Female breast” means any portion of the female breast below the
5 top of the areola.

6 (3) “Circumstances in which a person has a reasonable expectation of
7 privacy” means circumstances in which a reasonable person would believe that
8 his or her intimate areas would not be visible to the public, regardless of
9 whether that person is in a public or private area. This definition includes
10 circumstances in which a person knowingly disrobes in front of another, but
11 does not expect nor give consent for the other person to photograph, film, or
12 record his or her intimate areas.

13 (4) “Intimate areas” means the naked or undergarment-clad genitals,
14 pubic area, buttocks, or female breast of a person.

15 (5) “Place where a person has a reasonable expectation of privacy”
16 means:

17 (A) a place in which a reasonable person would believe that he or she
18 could disrobe in privacy; without his or her undressing being viewed by
19 another; or

20 (B) a place in which a reasonable person would expect to be safe
21 from unwanted intrusion or surveillance.

1 (6) “Sexual conduct” shall have the same meaning as in section 2821 of
2 this title.

3 (7) “Surveillance” means secret observation of the activities of another
4 person for the purpose of spying upon and invading the privacy of the person.

5 (8) “View” means the intentional looking upon another person for more
6 than a brief period of time, in other than a casual or cursory manner, with the
7 unaided eye or a device designed or intended to improve visual acuity.

8 (9) “Minor” means any person under 18 years of age.

9 (b) No person shall intentionally view, photograph, film, or record in any
10 format:

11 (1) the intimate areas of another person without that person’s knowledge
12 and consent while the person being viewed, photographed, filmed, or recorded
13 is in a place where he or she would have a reasonable expectation of
14 privacy; or

15 (2) the intimate areas of another person without that person’s knowledge
16 and consent and under circumstances in which the person has a reasonable
17 expectation of privacy.

18 (c) No person shall display or disclose to a third party any image recorded
19 in violation of subsection (b), (d), or (e) of this section.

20 (d) No person shall intentionally conduct surveillance or intentionally
21 photograph, film, or record in any format a person without that person’s

1 knowledge and consent while the person being surveilled, photographed,
2 filmed, or recorded is in a place where he or she would have a reasonable
3 expectation of privacy within a home or residence. Bona fide private
4 investigators and bona fide security guards engaged in otherwise lawful
5 activities within the scope of their employment are exempt from this
6 subsection.

7 (e) No person shall intentionally photograph, film, or record in any format
8 a person without that person's knowledge and consent while that person is in a
9 place where a person has a reasonable expectation of privacy and that person is
10 engaged in sexual conduct.

11 (f) This section shall apply to a person who intentionally views,
12 photographs, films, or records the intimate areas of a person as part of a
13 security or theft prevention policy or program at a place of business.

14 (g) This section shall not apply to:

15 (1) a law enforcement officer conducting official law enforcement
16 activities in accordance with State and federal law; or

17 (2) official activities of the Department of Corrections, a law
18 enforcement agency, the Agency of Human Services, or a court for security
19 purposes or during the investigation of alleged misconduct by a person in the
20 custody of the Department of Corrections, a law enforcement agency, the
21 Agency of Human Services, or a court.

1 (h) This section is not intended to infringe upon the freedom of the press to
2 gather and disseminate news as guaranteed by the First Amendment to the
3 Constitution of the United States.

4 (i) It shall be an affirmative defense to a violation of subsection (b) of this
5 section that the defendant was a bona fide private investigator or bona fide
6 security guard conducting surveillance in the ordinary course of business, and
7 the violation was unintentional and incidental to otherwise legal surveillance.
8 However, an unintentional and incidental violation of subsection (b) of this
9 section shall not be a defense to a violation of subsection (c).

10 (j)(1) For a first offense, a person who violates subsection (b), (d), or (e) of
11 this section shall be imprisoned not more than two years or fined not more than
12 \$1,000.00, or both. For a second or subsequent offense, a person who violates
13 subsection (b), (d), or (e) of this section shall be imprisoned not more than
14 three years or fined not more than \$5,000.00, or both. A person who violates
15 subsection (c) of this section shall be imprisoned not more than five years or
16 fined not more than \$5,000.00, or both.

17 (2) If the victim is a minor:

18 (A) For a first offense, a person who violates subsection (b), (d), or
19 (e) of this section shall be imprisoned not more than three years or fined not
20 more than \$1,000.00, or both. For a second or subsequent offense, a person

1 who violates subsection (b), (d), or (e) of this section shall be imprisoned not
2 more than five years or fined not more than \$5,000.00, or both.

3 (B) A person who violates subsection (c) of this section shall be
4 imprisoned not more than seven years or fined not more than \$5,000.00, or
5 both.

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on passage.