Introduced by Representatives Yantachka of Charlotte, Bock of Chester, Carr of Brandon, Chesnut-Tangeman 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, Sibilia of Dover, Squirrel 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) “Bona fide private investigator or bona fide security guard” means
an individual lawfully providing services, whether licensed or unlicensed,
pursuant to 26 V.S.A. §§ 3151 and 3151a.

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

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

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

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

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

(B) a place in which a reasonable person would expect to be safe
from unwanted intrusion or surveillance.
(6) “Sexual conduct” shall have the same meaning as in section 2821 of this title.

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

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

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

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

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

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

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

(d) No person shall intentionally conduct surveillance or intentionally photograph, film, or record in any format a person without that person’s
knowledge and consent while the person being surveilled, photographed, filmed, or recorded is in a place where he or she would have a reasonable expectation of privacy within a home or residence. Bona fide private investigators and bona fide security guards engaged in otherwise lawful activities within the scope of their employment are exempt from this subsection.

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

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

(g) This section shall not apply to:

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

(2) official activities of the Department of Corrections, a law enforcement agency, the Agency of Human Services, or a court for security purposes or during the investigation of alleged misconduct by a person in the custody of the Department of Corrections, a law enforcement agency, the Agency of Human Services, or a court.
(h) This section is not intended to infringe upon the freedom of the press to
gather and disseminate news as guaranteed by the First Amendment to the
Constitution of the United States.

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

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

(2) If the victim is a minor:

(A) For a first offense, a person who violates subsection (b), (d), or
(e) of this section shall be imprisoned not more than three years or fined not
more than $1,000.00, or both. For a second or subsequent offense, a person
who violates subsection (b), (d), or (e) of this section shall be imprisoned not
more than five years or fined not more than $5,000.00, or both.

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

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.