

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Personal responsibility -- This bill encourages responsible behavior by increasing the severity of the sanctions that can be imposed for the offense of video voyeurism.

Provide limited government: The bill makes a first offense of video voyeurism a third degree felony rather than a first degree misdemeanor.

B. EFFECT OF PROPOSED CHANGES:

Video Voyeurism¹

Section 810.145, F.S., which became law in 2004, prohibits video voyeurism, video voyeurism dissemination, and commercial video voyeurism dissemination. The offense of video voyeurism may be committed in three ways.

- A person can commit the offense by intentionally using or installing an imaging device to secretly view, broadcast, or record a person who is dressing, undressing, or exposing a sexual organ without that person's knowledge and consent at a place and time when the person has a reasonable expectation of privacy. In order to violate this provision, the act must be done for the offender's own amusement, entertainment, sexual arousal, or profit, or for the purpose of degrading or abusing another person.
- A person can commit the offense by intentionally permitting the use or installation of an imaging device to secretly view, broadcast, or record a person who is dressing, undressing, or exposing a sexual organ without that person's knowledge consent at a place and time when the person has a reasonable expectation of privacy. In order to violate this provision, the act must be done for the amusement, entertainment, sexual arousal, gratification or profit of another or on behalf of another.
- A person can commit the offense by intentionally using an imaging device to secretly view, broadcast, or record under or through the clothing being worn by another person for the purpose of viewing the person's body or undergarments. The act must be done for the amusement, entertainment, sexual arousal, gratification, or profit of the offender or another person or on behalf of the offender or another person.

"Imaging device" is defined as any mechanical, digital, or electronic viewing device, still camera, camcorder, motion picture camera, or any other instrument, equipment, or format capable of recording, storing, or transmitting visual images of another person. The term "place and time when a person has a reasonable expectation of privacy" is defined as "a place and time when a reasonable person would believe that he or she could fully disrobe in privacy, without concern for being viewed, recorded, or broadcast by another, including but not limited to the interior of a bathroom, changing room, fitting room, dressing room, or tanning booth."

¹ Section 810.14, F.S. provides that the offense of voyeurism is committed when a person, having lewd, lascivious, or indecent intent, secretly observes another person when person is in a dwelling, structure, or conveyance that provides a reasonable expectation of privacy. The offense is a first degree misdemeanor. If a person violates the section and has two or more prior convictions for the offense, the offense is a third degree felony.

The offense of video voyeurism dissemination is committed when a person, knowing or having reason to believe that an image was created in a manner described above, intentionally disseminates, distributes or transfers the image to another for the purpose of amusement, entertainment, sexual arousal, gratification or profit or for the purpose of degrading or abusing another person.

The offense of commercial video voyeurism dissemination is committed when a person:

- knowing or having reason to believe that an image was created in a manner described above, sells the image to another person; or
- having created the image in a manner described above, disseminates, distributes or transfers the image to another person so that person can sell it to others.

The offenses of video voyeurism, video voyeurism dissemination, and commercial video voyeurism dissemination are first degree misdemeanors, punishable by up to one year in jail and a fine of \$1,000. A person who commits one of these offenses and has two prior convictions for one of these offenses, commits a third degree felony, punishable by up to five years in prison and a fine of up to \$5,000.

HB 709 makes a first offense of video voyeurism, video voyeurism dissemination, or commercial video voyeurism dissemination a third degree felony. If a person commits one of these offenses and has two prior convictions for one of these offenses, the offense will be a second degree felony, punishable by up to fifteen years in prison and a fine of up to \$10,000.

C. SECTION DIRECTORY:

Section 1. Amends s. 810.145, F.S., relating to video voyeurism.

Section 2. Provides effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

On March 6, 2007, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES