

By Senator Joyner

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1 A bill to be entitled
2 An act relating to the offense of video voyeurism;
3 amending s. 810.145, F.S.; increasing the penalty for
4 conducting video voyeurism in a residential dwelling
5 from a first-degree misdemeanor to a third-degree
6 felony; defining the term "residential dwelling";
7 providing an effective date.

8

9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Section 810.145, Florida Statutes, is amended to
12 read:

13 810.145 Video voyeurism.—

14 (1) As used in this section, the term:

15 (a) "Broadcast" means electronically transmitting a visual
16 image with the intent that it be viewed by another person.

17 (b) "Imaging device" means any mechanical, digital, or
18 electronic viewing device; still camera; camcorder; motion
19 picture camera; or any other instrument, equipment, or format
20 capable of recording, storing, or transmitting visual images of
21 another person.

22 (c) "Place and time when a person has a reasonable
23 expectation of privacy" means a place and time when a reasonable
24 person would believe that he or she could fully disrobe in
25 privacy, without being concerned that the person's undressing
26 was being viewed, recorded, or broadcasted by another,
27 including, but not limited to, the interior of a bathroom,
28 changing room, fitting room, dressing room, or tanning booth.

29 (d) "Privately exposing the body" means exposing a sexual

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30 organ.

31 (e) "Residential dwelling" means a building or conveyance
32 of any kind which has a roof over it and is designed to be
33 occupied by people lodging therein at night, regardless of
34 whether the building or conveyance is temporary or permanent or
35 mobile or immobile.

36 (2) A person commits the offense of video voyeurism if that
37 person:

38 (a) For his or her own amusement, entertainment, sexual
39 arousal, gratification, or profit, or for the purpose of
40 degrading or abusing another person, intentionally uses or
41 installs an imaging device to secretly view, broadcast, or
42 record a person, without that person's knowledge and consent,
43 who is dressing, undressing, or privately exposing the body, at
44 a place and time when that person has a reasonable expectation
45 of privacy;

46 (b) For the amusement, entertainment, sexual arousal,
47 gratification, or profit of another, or on behalf of another,
48 intentionally permits the use or installation of an imaging
49 device to secretly view, broadcast, or record a person, without
50 that person's knowledge and consent, who is dressing,
51 undressing, or privately exposing the body, at a place and time
52 when that person has a reasonable expectation of privacy; or

53 (c) For the amusement, entertainment, sexual arousal,
54 gratification, or profit of oneself or another, or on behalf of
55 oneself or another, intentionally uses an imaging device to
56 secretly view, broadcast, or record under or through the
57 clothing being worn by another person, without that person's
58 knowledge and consent, for the purpose of viewing the body of,

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59 or the undergarments worn by, that person.

60 (3) A person commits the offense of video voyeurism
61 dissemination if that person, knowing or having reason to
62 believe that an image was created in a manner described in this
63 section, intentionally disseminates, distributes, or transfers
64 the image to another person for the purpose of amusement,
65 entertainment, sexual arousal, gratification, or profit, or for
66 the purpose of degrading or abusing another person.

67 (4) A person commits the offense of commercial video
68 voyeurism dissemination if that person:

69 (a) Knowing or having reason to believe that an image was
70 created in a manner described in this section, sells the image
71 for consideration to another person; or

72 (b) Having created the image in a manner described in this
73 section, disseminates, distributes, or transfers the image to
74 another person for that person to sell the image to others.

75 (5) This section does not apply to any:

76 (a) Law enforcement agency conducting surveillance for a
77 law enforcement purpose;

78 (b) Security system when a written notice is conspicuously
79 posted on the premises stating that a video surveillance system
80 has been installed for the purpose of security for the premises;

81 (c) Video surveillance device that is installed in such a
82 manner that the presence of the device is clearly and
83 immediately obvious; or

84 (d) Dissemination, distribution, or transfer of images
85 subject to this section by a provider of an electronic
86 communication service as defined in 18 U.S.C. s. 2510(15), or a
87 provider of a remote computing service as defined in 18 U.S.C.

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88 s. 2711(2). For purposes of this section, the exceptions to the
89 definition of "electronic communication" set forth in 18 U.S.C.
90 s. 2510(12)(a), (b), (c), and (d) do not apply, but are included
91 within the definition of the term.

92 (6) Except as provided in subsections (7), ~~and~~ (8), and
93 (9), a person who violates this section commits a misdemeanor of
94 the first degree, punishable as provided in s. 775.082 or s.
95 775.083.

96 (7) A person who violates this section and who has
97 previously been convicted of or adjudicated delinquent for any
98 violation of this section commits a felony of the third degree,
99 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

100 (8) (a) A person who is:

101 1. Eighteen years of age or older who is responsible for
102 the welfare of a child younger than 16 years of age, regardless
103 of whether the person knows or has reason to know the age of the
104 child, and who commits an offense under this section against
105 that child;

106 2. Eighteen years of age or older who is employed at a
107 private school as defined in s. 1002.01; a school as defined in
108 s. 1003.01; or a voluntary prekindergarten education program as
109 described in s. 1002.53(3)(a), (b), or (c) and who commits an
110 offense under this section against a student of the private
111 school, school, or voluntary prekindergarten education program;
112 or

113 3. Twenty-four years of age or older who commits an offense
114 under this section against a child younger than 16 years of age,
115 regardless of whether the person knows or has reason to know the
116 age of the child

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117
118 commits a felony of the third degree, punishable as provided in
119 s. 775.082, s. 775.083, or s. 775.084.

120 (b) A person who violates this subsection and who has
121 previously been convicted of or adjudicated delinquent for any
122 violation of this section commits a felony of the second degree,
123 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

124 (9) A person who commits the offense of video voyeurism
125 within a residential dwelling commits a felony of the third
126 degree, punishable as provided in s. 775.082, s. 775.083, or s.
127 775.084.

128 (10)~~(9)~~ For purposes of this section, a person has
129 previously been convicted of or adjudicated delinquent for a
130 violation of this section if the violation resulted in a
131 conviction that was sentenced separately, or an adjudication of
132 delinquency entered separately, prior to the current offense.

133 Section 2. This act shall take effect July 1, 2012.