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H.8

Introduced by Representative Yantachka of Charlotte

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:

* * *

(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

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

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

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

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

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

21 (g) This section shall not apply to:

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

3 (2) official activities of the Department of Corrections, a law
4 enforcement agency, the Agency of Human Services, or a court for security
5 purposes or during the investigation of alleged misconduct by a person in the
6 custody of the Department of Corrections, a law enforcement agency, the
7 Agency of Human Services, or a court.

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

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

17 (j)(1) For a first offense, a person who violates subsection (b), (d), or (e) of
18 this section shall be imprisoned not more than two years or fined not more than
19 \$1,000.00, or both. For a second or subsequent offense, a person who violates
20 subsection (b), (d), or (e) of this section shall be imprisoned not more than
21 three years or fined not more than \$5,000.00, or both. A person who violates

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

3 (2) If the victim is a minor:

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

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

12 Sec. 2. EFFECTIVE DATE

13 This act shall take effect on passage.