



## Fact Sheet Series for the 134<sup>th</sup> General Assembly

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### House Bill 406 Revise the offense of voyeurism

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Sponsor: Representative Jean Schmidt  
Introduced: 8/30/2021

#### Under Current Law:

O.R.C. § 2907.08 (“Voyeurism”) prohibits efforts to trespass or surreptitiously invade the privacy of another person by videotaping, filming, or otherwise recording them when they are nude, for the purpose of sexually arousing or gratifying oneself.

#### This Bill Would:

- Eliminate the requirement that the perpetrator engage in voyeurism for their own sexual gratification, replacing with a requirement that the perpetrator engage in the conduct for the purpose of viewing the victim’s “private area” (see bill’s definition below).
- Define “private area” to mean “the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.”
- Add a requirement that at the time of the offense, the victim be in a “place where a person has a reasonable expectation of privacy” (see bill’s definition below).
- Define a “place where a person has a reasonable expectation of privacy” to mean a place where a reasonable person would believe they can undress without intrusion.
- Add broadcasting and streaming to the current list of prohibited activities (currently videotape, film, or photograph).
- Where the current law does not specify a mental state the perpetrator must be acting with at the time of the offense, the bill would apply the “knowingly” mental state. For charges involving a “knowingly” mental state, a prosecutor must prove that the perpetrator was acting knowing that their conduct is (or likely is) legally prohibited.
- Increase penalties for repeat offenders of criminal voyeurism. Depending on the underlying facts and number of prior voyeurism convictions, subsequent offenses can range from a 2<sup>nd</sup> degree misdemeanor to a 4<sup>th</sup> degree felony.

#### Survivor Impact:

Digital sex crimes have a profound and lifelong impact on survivors; after a non-consensual image is captured the fear of the image appearing or reappearing can follow the survivor indefinitely. Once images or videos are shared on the web, it can be difficult, if not impossible, to remove them permanently. Viewers of non-consensual images can save, upload, and send the images in whole or in part, to any location they choose, which could lead to an uncontrollable spread of the image. House Bill 406 removes the requirement that the perpetrator act to facilitate their own sexual gratification or arousal. This current requirement precludes charging for voyeurism pursued for economic gain or other purposes. As technology evolves, it is critical for our state code to adapt to cover increasingly harmful conduct that implicates privacy and safety.

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