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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 406  
134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Schmidt

Sarah A. Maki, Attorney

### SUMMARY

- Modifies the offense of voyeurism.
- Increases the penalty for a violation of the offense of voyeurism.

### DETAILED ANALYSIS

#### Voyeurism

##### **Spying or eavesdropping on another person**

The bill retains the current law offense of “voyeurism” relating to spying or eavesdropping on another person. Under current law, “voyeurism” prohibits a person, for the purpose of sexually arousing or gratifying the person’s self, from committing trespass or otherwise surreptitiously invading the privacy of another, to spy or eavesdrop upon another.<sup>1</sup>

The bill retains the current law penalty for a violation of the offense as a third degree misdemeanor. The bill increases the penalty for a violation of the offense as follows:<sup>2</sup>

- If the offender previously has been convicted of or pleaded guilty to a violation of any voyeurism offense, a second degree misdemeanor;
- If the offender previously has been convicted of or pleaded guilty to two or more violations of any voyeurism offense, a first degree misdemeanor.

<sup>1</sup> R.C. 2907.08(A).

<sup>2</sup> R.C. 2907.08(E)(2).

## Recording another person

The bill modifies the offense of “voyeurism” relating to recording another person. Under the bill, the offense of “voyeurism” prohibits a person from knowingly committing trespass or otherwise secretly or surreptitiously videotaping, filming, photographing, broadcasting, streaming, or otherwise recording another person, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person. Under current law, the offense of “voyeurism” prohibits a person, for the purpose of sexually arousing or gratifying the person’s self, from committing trespass or otherwise surreptitiously invading the privacy of another to videotape, film, photograph, otherwise record the other person in a state of nudity.<sup>3</sup>

The bill increases the penalty for a violation of the offense as follows:<sup>4</sup>

- Generally, a first degree misdemeanor;
- If the offender previously has been convicted of or pleaded guilty to a violation of any voyeurism offense, a fifth degree felony;
- If the offender previously has been convicted of or pleaded guilty to two or more violations of any voyeurism offense, a fourth degree felony.

Under current law, the penalty for a violation of the offense is a second degree misdemeanor.

## Recording another person – minor

The bill modifies the offense of “voyeurism” relating to recording another person who is a minor. Under the bill, the offense of “voyeurism” prohibits a person from knowingly committing trespass or otherwise secretly or surreptitiously videotaping, filming, photographing, broadcasting, streaming, or otherwise recording a minor, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of the minor. Under current law, the offense of “voyeurism” prohibits a person, for the purpose of sexually arousing or gratifying the person’s self, from committing trespass or otherwise surreptitiously invading the privacy of another to videotape, film, photograph, otherwise record, or spy or eavesdrop upon the other person in a state of nudity if the other person is a minor.<sup>5</sup>

The bill retains the current law penalty for a violation of the offense as a fifth degree felony. The bill increases the penalty for a violation of the offense as follows:<sup>6</sup>

- If the offender previously has been convicted of or pleaded guilty to a violation of any voyeurism offense, a fourth degree felony;
- If the offender previously has been convicted of or pleaded guilty to two or more violations of any voyeurism offense, a third degree felony.

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<sup>3</sup> R.C. 2907.08(B).

<sup>4</sup> R.C. 2907.08(E)(3).

<sup>5</sup> R.C. 2907.08(C).

<sup>6</sup> R.C. 2907.08(E)(4).

## Recording another person – clothing

The bill modifies the offense of “voyeurism” relating to recording another person above, under, or through clothing. Under the bill, the offense of “voyeurism” prohibits a person from secretly or surreptitiously videotaping, filming, photographing, or otherwise recording another person above, under, or through the clothing worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person. Under current law, the offense of “voyeurism” prohibits a person from secretly or surreptitiously videotaping, filming, photographing, or otherwise recording another person under or through the clothing worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.<sup>7</sup>

The bill retains the current law penalty for a violation of the offense as a first degree misdemeanor. The bill increases the penalty for a violation of the offense as follows:<sup>8</sup>

- If the offender previously has been convicted of or pleaded guilty to a violation of any voyeurism offense, a fifth degree felony;
- If the offender previously has been convicted of or pleaded guilty to two or more violations of any voyeurism offense, a fourth degree felony.

## Definitions

The bill defines the following terms:<sup>9</sup>

- **“Place where a person has a reasonable expectation of privacy”** means a place where a reasonable person would believe that the person could fully disrobe in private.
- **“Private area”** means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.

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## HISTORY

Action	Date
Introduced	08-30-21

ANHB0406IN-134/ts

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<sup>7</sup> R.C. 2907.08(D).

<sup>8</sup> R.C. 2907.08(E)(3).

<sup>9</sup> R.C. 2907.01(Q) and (R).