

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH30074-LH-90 (3/5)

Short Title: Amend Secret Peeping Law.

(Public)

Sponsors: Representative Hackney.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE SECRET PEEPING STATUTE AND TO MAKE
CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-202 reads as rewritten:

"§ 14-202. Secretly peeping into room occupied by ~~female person~~ another person.

(a) Any person who shall peep secretly into any room occupied by ~~a female person~~ another person shall be guilty of a Class 1 misdemeanor.

(b) For purposes of this section:

(1) The term "photographic image" means any photograph or photographic reproduction, still or moving, or any videotape, motion picture or live television transmission, or any digital image, of any individual.

(2) The term "room" shall include, but is not limited to, a bedroom, a restroom, a bathroom, a shower, and a dressing room.

(c) Unless covered by another provision of law providing greater punishment, any person who, while in possession of any device which may be used to create a photographic image, shall secretly peep into any room shall be guilty of a Class A1 misdemeanor.

(d) Unless covered by another provision of law providing greater punishment, any person who, while secretly peeping into any room, uses any device to create a photographic image of another person in that room, for the purpose of arousing or gratifying the sexual desire of any person, shall be guilty of a Class I felony.

(e) Any person who secretly or surreptitiously uses any device to create a photographic image of another person underneath or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent, shall be guilty of a Class I felony.

1 (f) Any person who, for the purpose of arousing or gratifying the sexual desire of
2 any person, secretly or surreptitiously uses or installs in a room any device that can be
3 used to create a photographic image with the intent to capture the image of another
4 without their consent, shall be guilty of a Class I felony.

5 (g) Any person who knowingly possesses a photographic image that the person
6 knows, or has reason to believe, was obtained in violation of this section, shall be guilty
7 of a Class I felony.

8 (h) Any person who disseminates or allows to be disseminated images that the
9 person knows, or should have known, were obtained as a result of the violation of this
10 section, shall be guilty of a Class I felony, if the dissemination is without the consent of
11 the person in the photographic image.

12 (i) A second or subsequent felony conviction under this section shall be
13 punished as though convicted of an offense one class higher. A second or subsequent
14 conviction for a Class 1 misdemeanor shall be punished as a Class A1 misdemeanor. A
15 second or subsequent conviction for a Class A1 misdemeanor shall be punished as a
16 Class I felony.

17 (j) If the defendant is placed on probation as a result of violation of this section:

18 (1) For a first conviction under this section, the judge may impose a
19 requirement that the defendant obtain a psychological evaluation and
20 comply with any treatment recommended as a result of that evaluation.

21 (2) For a second or subsequent conviction under this section, the judge
22 shall impose a requirement that the defendant obtain a psychological
23 evaluation and comply with any treatment recommended as a result of
24 that evaluation.

25 (k) Any person whose image is captured or disseminated in violation of this
26 section has a civil cause of action against any person who captured or disseminated the
27 image or procured any other person to capture or disseminate the image, and is entitled
28 to recover from those persons, actual damages, punitive damages, and reasonable
29 attorneys' fees and other litigation costs reasonably incurred.

30 (l) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is
31 convicted of a second or subsequent violation of subsection (a) or (c) of this section, the
32 sentencing court shall consider whether the person is a danger to the community and
33 whether requiring the person to register as a sex offender pursuant to Article 27A of this
34 Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the
35 sentencing court rules that the person is a danger to the community and that the person
36 shall register, then an order shall be entered requiring the person to register.

37 (m) The provisions of subsections (a), (c), (e), (g), (h), and (k) of this section do
38 not apply to:

39 (1) Law enforcement officers while discharging or attempting to discharge
40 their official duties; or

41 (2) Personnel of the Department of Correction or of a local confinement
42 facility for security purposes or during investigation of alleged
43 misconduct by a person in the custody of the Department or the local
44 confinement facility."

1 **SECTION 2.** G.S. 14-208.6(4) reads as rewritten:

2 "(4) 'Reportable conviction' means:

- 3 a. A final conviction for an offense against a minor, a sexually
4 violent offense, or an attempt to commit any of those offenses
5 unless the conviction is for aiding and abetting. A final
6 conviction for aiding and abetting is a reportable conviction
7 only if the court sentencing the individual finds that the
8 registration of that individual under this Article furthers the
9 purposes of this Article as stated in G.S. 14-208.5.
- 10 b. A final conviction in another state of an offense, which if
11 committed in this State, is substantially similar to an offense
12 against a minor or a sexually violent offense as defined by this
13 section.
- 14 c. A final conviction in a federal jurisdiction (including a court
15 martial) of an offense, which is substantially similar to an
16 offense against a minor or a sexually violent offense as defined
17 by this section.
- 18 d. A final conviction for a violation of G.S. 14-202(d), (e), (f),
19 (g), or (h), or a second or subsequent conviction for violation of
20 G.S. 14-202(a) or (c), only if the court sentencing the individual
21 issues an order pursuant to G.S. 14-202(l) requiring the
22 individual to register."

23 **SECTION 3.** This act becomes effective December 1, 2003, and applies to
24 offenses committed on or after that date.