

No. 2005-69

AN ACT

HB 761

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the offense of invasion of privacy; and providing for actions involving products or services used to invade privacy.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7507.1 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 7507.1. Invasion of privacy.

(a) Offense defined.—[A] *Except as set forth in subsection (d), a person commits the offense of invasion of privacy if he, for the purpose of arousing or gratifying the sexual desire of any person, knowingly [views] does any of the following:*

(1) *Views, photographs [or], videotapes, electronically depicts, films or otherwise records another person without that person's knowledge and consent while [the] that person [being viewed, photographed or filmed] is in a state of full or partial nudity and is in a place where [the] that person would have a reasonable expectation of privacy.*

(2) *Photographs, videotapes, electronically depicts, films or otherwise records or personally views the intimate parts, whether or not covered by clothing, of another person without that person's knowledge and consent and which intimate parts that person does not intend to be visible by normal public observation.*

(3) *Transfers or transmits an image obtained in violation of paragraph (1) or (2) by live or recorded telephone message, electronic mail or the Internet or by any other transfer of the medium on which the image is stored.*

(a.1) *Separate violations.*—A separate violation of this section shall occur:

(1) *for each victim [viewed, photographed or filmed during] of an offense under subsection (a) under the same or similar circumstances pursuant to one scheme or course of conduct whether at the same or different times; or*

(2) *if a person is a victim [is viewed, photographed or filmed] of an offense under subsection (a) on more than one occasion during a separate course of conduct either individually or otherwise.*

(b) Grading.—Invasion of privacy is a misdemeanor of the second degree if there is more than one violation. Otherwise, a violation of this section is a misdemeanor of the third degree.

(c) Commencement of prosecution.—Notwithstanding the provisions of 42 Pa.C.S. Ch. 55 Subch. C (relating to criminal proceedings), a prosecution under this section must be commenced within the following periods of limitation:

(1) two years from the date the [viewing, photographing or filming] *offense* occurred; or

(2) if the [person who was viewed, photographed or filmed] *victim* did not realize at the time that [he was being viewed, photographed or filmed] *there was an offense*, within three years of the time the [person] *victim* first learns [that he was viewed, photographed or filmed] *of the offense*.

(d) Exceptions.—Subsection (a) shall not apply [to] *if the conduct proscribed by subsection (a) is done by any of* the following:

(1) [Viewing, photographing or filming by law] *Law enforcement officers during a lawful criminal investigation.*

(2) [Viewing, photographing or filming by law] *Law enforcement officers or by personnel of the Department of Corrections or a local correctional facility, prison or jail for security purposes or during investigation of alleged misconduct by a person in the custody of the department or local authorities.*

(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Full or partial nudity.” Display of all or any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of any female person, with less than a fully opaque covering.

“*Intimate part.*” *Any part of:*

(1) *the human genitals, pubic area or buttocks; and*

(2) *the nipple of a female breast.*

“Photographs” or “films.” Making any photograph, motion picture film, videotape or any other recording or transmission of the image of a person [for the purpose of arousing or gratifying the sexual desire of any person].

“Place where a person would have a reasonable expectation of privacy.” A location where a reasonable person would believe that he could disrobe in privacy without being concerned that his undressing was being viewed, photographed or filmed by another.

“Same course of conduct.” *Filming more than one person in full or partial nudity under the same or similar circumstances pursuant to one scheme or course of conduct, whether at the same or different times.*

“Views.” Looking upon another person with the unaided eye or with any device designed or intended to improve visual acuity. [for the purpose of arousing or gratifying the sexual desire of any person.]

Section 2. Title 42 is amended by adding a section to read:

§ 8317. *Actions involving products or services used to invade privacy.*

No person shall have a cause of action against a manufacturer of a device or a provider of a product or service that is used to commit a violation of 18 Pa.C.S. § 7507.1 (relating to invasion of privacy).

Section 3. This act shall take effect in 60 days.

APPROVED—The 16th day of November, A.D. 2005.

EDWARD G. RENDELL