



House of Representatives

File No. 877

General Assembly

January Session, 2015

(Reprint of File No. 626)

House Bill No. 6921
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 21, 2015

AN ACT CONCERNING INVASIONS OF PRIVACY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-189a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) A person is guilty of voyeurism when, (1) with malice, such
4 person knowingly photographs, films, videotapes or otherwise records
5 the image of another person (A) without the knowledge and consent of
6 such other person, (B) while such other person is not in plain view, and
7 (C) under circumstances where such other person has a reasonable
8 expectation of privacy, [or] (2) with intent to arouse or satisfy the
9 sexual desire of such person or any other person, such person
10 knowingly photographs, films, videotapes or otherwise records the
11 image of another person (A) without the knowledge and consent of
12 such other person, (B) while such other person is not in plain view, and
13 (C) under circumstances where such other person has a reasonable
14 expectation of privacy, (3) with the intent to arouse or satisfy the
15 sexual desire of such person, commits simple trespass, as provided in

16 section 53a-110a, and observes, in other than a casual or cursory
17 manner, another person (A) without the knowledge or consent of such
18 other person, (B) while such other person is inside a dwelling, as
19 defined in section 53a-100, and not in plain view, and (C) under
20 circumstances where such other person has a reasonable expectation of
21 privacy, or (4) with intent to arouse or satisfy the sexual desire of such
22 person or any other person, such person knowingly photographs,
23 films, videotapes or otherwise records the genitals, pubic area or
24 buttocks of another person or the undergarments or stockings that
25 clothe the genitals, pubic area or buttocks of another person (A)
26 without the knowledge and consent of such other person, and (B)
27 while such genitals, pubic area, buttocks, undergarments or stockings
28 are not in plain view.

29 (b) Voyeurism is (1) a class D felony for a first offense, except as
30 provided in subdivision (3) of this subsection, (2) a class C felony for
31 any subsequent offense, and (3) a class C felony for a first offense when
32 (A) such person has been previously convicted of an offense
33 enumerated in subsection (f) of section 53a-29, as amended by this act,
34 or (B) the intended subject of the offense is a person under sixteen
35 years of age.

36 (c) Notwithstanding the provisions of section 54-193, no person may
37 be prosecuted for an offense under subdivision (1), (2) or (4) of
38 subsection (a) of this section except within five years from the date of
39 the offense, or within five years from the date the subject of the offense
40 discovers the existence of the photograph, film, videotape or other
41 recording that constitutes a violation of subdivision (1), (2) or (4) of
42 subsection (a) of this section, whichever is later.

43 Sec. 2. Subsection (f) of section 53a-29 of the general statutes is
44 repealed and the following is substituted in lieu thereof (*Effective*
45 *October 1, 2015*):

46 (f) The period of probation, unless terminated sooner as provided in
47 section 53a-32, shall be not less than ten years or more than thirty-five

48 years for conviction of a violation of subdivision (2) of subsection (a) of
49 section 53-21, [or] section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-
50 72b, 53a-90a [,] or subdivision (2), (3) or (4) of subsection (a) of section
51 53a-189a, as amended by this act, or section 53a-196b, 53a-196c, 53a-
52 196d, 53a-196e or 53a-196f.

53 Sec. 3. Subdivision (5) of section 54-250 of the general statutes is
54 repealed and the following is substituted in lieu thereof (*Effective*
55 *October 1, 2015*):

56 (5) "Nonviolent sexual offense" means (A) a violation of section 53a-
57 73a or subdivision (2), (3) or (4) of subsection (a) of section 53a-189a, as
58 amended by this act, or (B) a violation of any of the offenses specified
59 in subparagraph (A) of this subdivision for which a person is
60 criminally liable under section 53a-8, 53a-48 or 53a-49.

61 Sec. 4. Subsection (c) of section 54-251 of the general statutes is
62 repealed and the following is substituted in lieu thereof (*Effective*
63 *October 1, 2015*):

64 (c) Notwithstanding the provisions of subsection (a) of this section,
65 the court may exempt any person who has been convicted or found
66 not guilty by reason of mental disease or defect of a violation of
67 subdivision (2) of subsection (a) of section 53a-73a or subdivision (2),
68 (3) or (4) of subsection (a) of section 53a-189a, as amended by this act,
69 from the registration requirements of this section if the court finds that
70 registration is not required for public safety.

71 Sec. 5. Subdivision (3) of subsection (b) of section 1-210 of the
72 general statutes is repealed and the following is substituted in lieu
73 thereof (*Effective October 1, 2015*):

74 (3) Records of law enforcement agencies not otherwise available to
75 the public which records were compiled in connection with the
76 detection or investigation of crime, if the disclosure of said records
77 would not be in the public interest because it would result in the
78 disclosure of (A) the identity of informants not otherwise known or the

79 identity of witnesses not otherwise known whose safety would be
80 endangered or who would be subject to threat or intimidation if their
81 identity was made known, (B) the identity of minor witnesses, (C)
82 signed statements of witnesses, (D) information to be used in a
83 prospective law enforcement action if prejudicial to such action, (E)
84 investigatory techniques not otherwise known to the general public,
85 (F) arrest records of a juvenile, which shall also include any
86 investigatory files, concerning the arrest of such juvenile, compiled for
87 law enforcement purposes, (G) the name and address of the victim of a
88 sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b
89 or 53a-73a, voyeurism under section 53a-189a, as amended by this act,
90 or injury or risk of injury, or impairing of morals under section 53-21,
91 or of an attempt thereof, or (H) uncorroborated allegations subject to
92 destruction pursuant to section 1-216;

93 Sec. 6. Section 54-86d of the general statutes is repealed and the
94 following is substituted in lieu thereof (*Effective October 1, 2015*):

95 Any person who has been the victim of a sexual assault under
96 section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, voyeurism
97 under section 53a-189a, as amended by this act, or injury or risk of
98 injury, or impairing of morals under section 53-21, or of an attempt
99 thereof, shall not be required to divulge his or her address or telephone
100 number during any trial or pretrial evidentiary hearing arising from
101 the sexual assault, voyeurism or injury or risk of injury to, or impairing
102 of morals of, [children] a child; provided the judge presiding over such
103 legal proceeding [shall find] finds: (1) Such information is not material
104 to the proceeding, (2) the identity of the victim has been satisfactorily
105 established, and (3) the current address of the victim will be made
106 available to the defense in the same manner and time as such
107 information is made available to the defense for other criminal
108 offenses.

109 Sec. 7. Section 54-86e of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective October 1, 2015*):

111 The name and address of the victim of a sexual assault under
112 section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, voyeurism
113 under section 53a-189a, as amended by this act, or injury or risk of
114 injury, or impairing of morals under section 53-21, or of an attempt
115 thereof, and such other identifying information pertaining to such
116 victim as determined by the court, shall be confidential and shall be
117 disclosed only upon order of the Superior Court, except that (1) such
118 information shall be available to the accused in the same manner and
119 time as such information is available to persons accused of other
120 criminal offenses, and (2) if a protective order is issued in a
121 prosecution under any of said sections, the name and address of the
122 victim, in addition to the information contained in and concerning the
123 issuance of such order, shall be entered in the registry of protective
124 orders pursuant to section 51-5c.

125 Sec. 8. (NEW) (*Effective October 1, 2015*) (a) A person is guilty of
126 unlawful dissemination of an intimate image when (1) such person
127 intentionally disseminates by electronic or other means a photograph,
128 film, videotape or other recorded image of (A) the genitals, pubic area
129 or buttocks of another person with less than a fully opaque covering of
130 such body part, or the breast of such other person who is female with
131 less than a fully opaque covering of any portion of such breast below
132 the top of the nipple, or (B) another person engaged in sexual
133 intercourse, as defined in section 53a-193 of the general statutes, (2)
134 such person disseminates such image without the consent of such
135 other person, knowing that such other person understood that the
136 image would not be so disseminated, and (3) such other person suffers
137 harm as a result of such dissemination. For purposes of this subsection,
138 "disseminate" means to sell, give, provide, lend, trade, mail, deliver,
139 transfer, publish, distribute, circulate, present, exhibit, advertise or
140 otherwise offer.

141 (b) The provisions of subsection (a) of this subsection shall not apply
142 to:

143 (1) Any image described in subsection (a) of this section of such

144 other person if such image resulted from voluntary exposure or
145 engagement in sexual intercourse by such other person, in a public
146 place, as defined in section 53a-181 of the general statutes, or in a
147 commercial setting;

148 (2) Any image described in subsection (a) of this section of such
149 other person, if such other person is not clearly identifiable; or

150 (3) Any image described in subsection (a) of this section of such
151 other person, if the dissemination of such image serves the public
152 interest.

153 (c) Unlawful dissemination of an intimate image is a class A
154 misdemeanor.

155 (d) Nothing in this section shall be construed to impose liability on
156 the provider of an interactive computer service, as defined in 47 USC
157 230, an information service, as defined in 47 USC 153, or a
158 telecommunications service, as defined in section 16-247a of the
159 general statutes, for content provided by another person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	53a-189a
Sec. 2	October 1, 2015	53a-29(f)
Sec. 3	October 1, 2015	54-250(5)
Sec. 4	October 1, 2015	54-251(c)
Sec. 5	October 1, 2015	1-210(b)(3)
Sec. 6	October 1, 2015	54-86d
Sec. 7	October 1, 2015	54-86e
Sec. 8	October 1, 2015	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Resources of the General Fund	GF - Potential Revenue Gain	Less than 20,000	Less than 20,000
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the crime of voyeurism and increases the penalty under specified circumstances. The bill results in a potential revenue gain from expanding conduct that is considered voyeurism and increasing the penalty. However, in FY 13 and FY 14 no charges resulted in fine penalty. This bill also results in a potential revenue gain by creating a new crime of unlawful dissemination of an intimate image. While it is unknown how many violations of this new crime will be charged, it is anticipated that any fine revenue will be less than \$20,000.

The bill results in a potential cost to the Department of Correction or Judicial Department probation by increasing specified circumstances from a class D felony to a class C felony and increasing the term of probation from a maximum of five years to a minimum of 10 years and a maximum of 35 years. To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for incarceration or probation supervision in the community, or judicial revenue would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the community as

opposed to \$50,690 (including benefits) to incarcerate an offender. Currently there are three offenders incarcerated for violation of the current statute.

House "A" makes clarifying changes and does not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Department of Correction, Summary of Offenders by Controlling Offense, as of 1/1/2015
Judicial Department Offenses and Revenue Database*

OLR Bill Analysis**HB 6921 (as amended by House "A")******AN ACT CONCERNING INVASIONS OF PRIVACY.*****SUMMARY:**

This bill makes a number of changes regarding voyeurism crimes and their victims. It:

1. expands the conduct punishable as voyeurism and expands the sex offender registry requirements to cover this new conduct;
2. increases the penalty for voyeurism when the victim is under age 16 or the offender has a prior conviction of voyeurism or certain other crimes;
3. extends the statute of limitations for voyeurism under certain circumstances;
4. increases the possible probation term for certain types of voyeurism; and
5. extends to voyeurism victims three protections existing law gives to certain sexual assault victims regarding their names, addresses, and other identifying information.

It also creates a new crime of unlawful dissemination of an intimate image.

*House Amendment "A" makes a number of changes to the new crime of unlawful dissemination of an intimate image, including (1) adding the provision regarding interactive computer, information, and telecommunication services; (2) eliminating a requirement that the actor intend to harass, annoy, alarm, or terrorize the person; (3)

requiring that the actor disseminate the image knowing the other person understood the image would not be disseminated; (4) requiring the dissemination to harm the other person; (5) applying it to dissemination by any means, not just electronic dissemination, and adding a definition of dissemination; and (6) expanding exemptions from the crime to include disseminating images that serve the public interest and images of voluntarily engaging in sexual intercourse in public or commercial settings.

EFFECTIVE DATE: October 1, 2015

§§ 1-2 — VOYEURISM CRIME AND PENALTIES

Criminal Conduct

The bill expands the crime of voyeurism in two ways. First, it punishes someone who:

1. intends to arouse or satisfy his or her sexual desire;
2. commits simple trespass (entering property knowing he or she is not entitled to do so without intent to harm any property, which is punishable as an infraction);
3. observes another person who is inside a dwelling and not in plain view under circumstances where there is a reasonable expectation of privacy; and
4. does not have the other person's knowledge or consent and the observation is not casual or cursory.

Second, it punishes someone who:

1. intends to arouse or satisfy his or her or someone else's sexual desire;
2. knowingly photographs, films, videotapes, or records the victim's genitals, pubic area, buttocks, or undergarments or stockings used to clothe them, when they are not in plain view; and

3. records such an image without the victim's knowledge and consent.

Under existing law, a person commits voyeurism when (1) he or she knowingly photographs, films, videotapes, or records the victim's image; (2) he or she acts maliciously or intends to satisfy his or her or another's sexual desire; and (3) the victim is not in plain view, has a reasonable expectation of privacy under the circumstances, and does not know of, or consent to, the conduct.

Penalty

Under current law, voyeurism is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both. Under the bill, it is a class C felony when (1) the victim is under age 16 or (2) it is a subsequent voyeurism conviction or the offender has a prior conviction of:

1. risk of injury to a minor involving sexual contact with a child under age 16;
2. 1st, 2nd, or 3rd degree sexual assault; 1st degree aggravated sexual assault; 3rd degree sexual assault with a firearm; or sexual assault in a spousal or cohabiting relationship;
3. enticing a minor, promoting a minor in an obscene performance, or importing child pornography; or
4. 1st, 2nd, or 3rd degree possessing child pornography.

By law, a class C felony is punishable by up to 10 years in prison, a fine of up to \$10,000, or both.

Statute of Limitation

Currently, any voyeurism prosecution must begin within five years after the date of the offense. The bill extends the time period for prosecuting the types of voyeurism crimes involving recording the victim's image and allows these prosecutions to begin within five

years from the date the victim discovers the recording's existence.

Probation Term

Currently, a court can impose a three-year probation term after a voyeurism conviction, but the court has discretion to increase this term to five years. The bill increases the possible probation term to a minimum of 10 years, up to a maximum of 35 years, when the voyeurism conviction involves (1) the types of voyeurism added by the bill or (2) recording the victim's image when the victim is not in plain view with intent to satisfy the actor's or another's sexual desire.

§§ 3-4 — SEX OFFENDER REGISTRATION

The bill designates committing the types of voyeurism added by the bill as a "nonviolent sexual offense" subject to 10-years sex offender registration. The bill allows the court to exempt a person from registration if it is not required for public safety. Existing law subjects to this same requirement and possible exemption, voyeurism committed by recording the victim's image when the victim is not in plain view with intent to satisfy the actor's or another's sexual desire.

As under current law, lifetime registration is required for someone who commits a subsequent nonviolent sexual offense or a crime designated as a "criminal offense against a victim who is a minor."

§§ 5-7 — PROTECTIONS FOR VOYEURISM VICTIMS' NAMES AND ADDRESSES

The bill extends to voyeurism victims three protections existing law gives to certain sexual assault victims regarding their names and addresses.

First, the bill allows agencies to exempt from disclosure to the public, under the Freedom of Information Act (FOIA), law enforcement records that disclose the name and address of a voyeurism victim if the agency determines that:

1. the record was created in connection with detecting or investigating a crime and is not otherwise available to the public

and

2. disclosure would not be in the public interest because it discloses a victim's name and address.

Second, the bill prohibits requiring a voyeurism victim to divulge his or her address or phone number during a trial or pretrial evidentiary hearing arising from the voyeurism incident if the judge finds the (1) information is not material, (2) victim's identity is satisfactorily established, and (3) victim's current address will be given to the defense in the same way as with other offenses.

Third, the bill makes confidential a voyeurism victim's name, address, and other information the court determines is identifying but allows:

1. a court to order disclosure;
2. the accused to have access to the information in the same way as for other offenses; and
3. for a protective order issued in the prosecution, the victim's name and address and information may be entered in the protective order registry (which makes the information available to certain officials and others but it cannot otherwise be disclosed except under court order and a victim can place certain limitations on its use).

By law, these three protections already apply to the names, addresses, and information of victims of:

1. 1st, 2nd, 3rd, or 4th degree sexual assault;
2. 1st degree aggravated sexual assault;
3. 3rd degree sexual assault with a firearm;
4. risk of injury to a minor; or

5. an attempt to commit one of these crimes.

§ 8 — UNLAWFUL DISSEMINATION OF AN INTIMATE IMAGE

The bill creates a new crime to punish someone who harms another person by intentionally disseminating certain photos, film, videos, or other recorded images of the other person without that person's consent and knowing the person understood the images would not be disseminated. The disseminated image must be of the (1) other person engaged in sexual intercourse or (2) other person's genitals, pubic area, or buttocks with less than fully opaque covering or, if a female, breast with less than a fully opaque covering of any portion below the top of the nipple. The bill applies to using electronic or other means to sell, give, provide, lend, trade, mail, deliver, transfer, publish, circulate, present, exhibit, advertise, or otherwise offer the image.

The bill does not apply to disseminating an image if:

1. it serves the public interest,
2. the person voluntarily (a) exposed himself or herself or (b) engaged in sexual intercourse in a public place (a public or privately owned area used or held out for use by the public) or commercial setting, or
3. the person is not clearly identifiable.

The bill makes this crime a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both.

The bill specifies that it does not impose liability on certain service providers for content provided by another. This applies to anyone who provides:

1. an interactive computer service, which is an information service, system, or access software enabling computer access by multiple users to a computer server, such as an Internet access system or a system operated by a library or educational

institution;

2. an information service, which generally offers capability to generate, acquire, store, transform, process, retrieve, use, or make available information by telecommunications, such as electronic publishing; or
3. a telecommunication service, which is generally an electromagnetic transmission (such as through fiber optics or satellite) of information chosen by the user between points chosen by the user, without any change in the information's form or content.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 42 Nay 0 (03/27/2015)