

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 793
Apr 14, 2015
HOUSE PRINCIPAL CLERK

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HOUSE DRH20252-LR-127 (03/31)

Short Title: Privacy/Up Secret Peeping Punishment.

(Public)

Sponsors: Representative Bryan.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE CRIMINAL LAW AGAINST SECRET PEEPING BY
MAKING IT A FELONY TO DO SO FOR THE PURPOSE OF HARMING,
INTIMIDATING, EXTORTING, THREATENING, OR DEFRAUDING ANOTHER
PERSON.

The General Assembly of North Carolina enacts:

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

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

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

(a1) Unless covered by another provision of law providing greater punishment, any person who secretly or surreptitiously peeps underneath or through the clothing being worn by another person, through the use of a mirror or other device, 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 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 rest room, 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 or for the purpose of harming, intimidating, extorting, threatening, or defrauding another 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.

(f) Any person who, for the purpose of arousing or gratifying the sexual desire of any person, person or for the purpose of harming, intimidating, extorting, threatening, or defrauding another person, secretly or surreptitiously uses or installs in a room any device that can be used



1 to create a photographic image with the intent to capture the image of another without their
2 consent shall be guilty of a Class I felony.

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

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

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

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

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

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

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

26 (l) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is
27 convicted of a second or subsequent violation of subsection (a), (a1), or (c) of this section, the
28 sentencing court shall consider whether the person is a danger to the community and whether
29 requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would
30 further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that
31 the person is a danger to the community and that the person shall register, then an order shall be
32 entered requiring the person to register.

33 (m) The provisions of subsections (a), (a1), (c), (e), (g), (h), and (k) of this section do
34 not apply to:

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

37 (2) Personnel of the Division of Adult Correction of the Department of Public
38 Safety, the Division of Juvenile Justice of the Department of Public Safety,
39 or of a local confinement facility for security purposes or during
40 investigation of alleged misconduct by a person in the custody of the
41 Division or the local confinement facility.

42 (n) This section does not affect the legal activities of those who are licensed pursuant to
43 Chapter 74C, Private Protective Services, or Chapter 74D, Alarm Systems, of the General
44 Statutes, who are legally engaged in the discharge of their official duties within their respective
45 professions, and who are not engaging in activities for an improper purpose as described in this
46 section."

47 **SECTION 2.** This act becomes effective December 1, 2015, and applies to
48 offenses committed on or after that date.