(127th General Assembly)
(Substitute House Bill Number 74)

AN ACT

To amend section 2907.08 of the Revised Code to make spying or eavesdropping upon a minor in a state of nudity for the purpose of sexual gratification or arousal a felony of the fifth degree under all circumstances.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 2907.08 of the Revised Code be amended to read as follows:

Sec. 2907.08. (A) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(B) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.

(C) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, ~~or~~ otherwise record, or spy or eavesdrop upon the other person in a state of nudity if the other person is a minor.

(D) ~~No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity if the other person is a minor and any of the following applies:~~

~~(1) The offender is the minor's natural or adoptive parent, stepparent, guardian, or custodian, or person in loco parentis of the minor.~~

~~(2) The minor is in custody of law or is a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the minor.~~

~~(3) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of~~

~~education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the minor is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.~~

~~(4) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the minor is enrolled in or attends that institution.~~

~~(5) The offender is a caregiver, administrator, or other person in authority employed by or serving in a child day-care center, type A family day-care home, or type B family day-care home, and the minor is enrolled in or attends that center or home.~~

~~(6) The offender is the minor's athletic or other type of coach, is the minor's instructor, is the leader of a scouting troop of which the minor is a member, provides babysitting care for the minor, or is a person with temporary or occasional disciplinary control over the minor.~~

~~(E)~~ No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person under 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.

~~(F)~~(E)(1) Whoever violates this section is guilty of voyeurism.

(2) A violation of division (A) of this section is a misdemeanor of the third degree.

(3) A violation of division (B) of this section is a misdemeanor of the second degree.

(4) A violation of division ~~(C) or (E)~~(D) of this section is a misdemeanor of the first degree.

(5) A violation of division ~~(D)~~(C) of this section is a felony of the fifth degree.

~~(G) As used in this section:~~

~~(1) "Institution of higher education" means a state institution of higher education as defined in section 3345.031 of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or a school certified under Chapter 3332. of the Revised Code.~~

~~(2) "Child day-care center," "type A family day-care home," and "type B family day-care home" have the same meanings as in section 5104.01 of the Revised Code.~~

~~(3) "Babysitting care" means care provided for a child while the parents, guardian, or legal custodian of the child is temporarily away.~~

SECTION 2. That existing section 2907.08 of the Revised Code is hereby repealed.

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Speaker _____ of the House of Representatives.

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President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____