As Introduced

134th General Assembly

Regular Session 2021-2022

H. B. No. 406

Representative Schmidt

Cosponsors: Representatives Gross, Fowler Arthur

A BILL

То	amend sections 2907.01 and 2907.08 of the	1
	Revised Code to make changes to the offense of	2
	voveurism.	3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2907.01 and 2907.08 of the	4
Revised Code be amended to read as follows:	5
Sec. 2907.01. As used in sections 2907.01 to 2907.38 and	6
2917.211 of the Revised Code:	7
(A) "Sexual conduct" means vaginal intercourse between a	8
male and female; anal intercourse, fellatio, and cunnilingus	9
between persons regardless of sex; and, without privilege to do	10
so, the insertion, however slight, of any part of the body or	11
any instrument, apparatus, or other object into the vaginal or	12
anal opening of another. Penetration, however slight, is	13
sufficient to complete vaginal or anal intercourse.	14
(B) "Sexual contact" means any touching of an erogenous	15
zone of another, including without limitation the thigh,	16
genitals, buttock, pubic region, or, if the person is a female,	17
a breast, for the purpose of sexually arousing or gratifying	1.8

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either person.	19
(C) "Sexual activity" means sexual conduct or sexual	20
contact, or both.	21
(D) "Prostitute" means a male or female who promiscuously	22
engages in sexual activity for hire, regardless of whether the	23
hire is paid to the prostitute or to another.	24
(E) "Harmful to juveniles" means that quality of any	25
material or performance describing or representing nudity,	26
sexual conduct, sexual excitement, or sado-masochistic abuse in	27
any form to which all of the following apply:	28
(1) The material or performance, when considered as a	29
whole, appeals to the prurient interest of juveniles in sex.	30
(2) The material or performance is patently offensive to	31
prevailing standards in the adult community as a whole with	32
respect to what is suitable for juveniles.	33
(3) The material or performance, when considered as a	34
whole, lacks serious literary, artistic, political, and	35
scientific value for juveniles.	36
(F) When considered as a whole, and judged with reference	37
to ordinary adults or, if it is designed for sexual deviates or	38
other specially susceptible group, judged with reference to that	39
group, any material or performance is "obscene" if any of the	40
following apply:	41
(1) Its dominant appeal is to prurient interest;	42
(2) Its dominant tendency is to arouse lust by displaying	43
or depicting sexual activity, masturbation, sexual excitement,	44
or nudity in a way that tends to represent human beings as mere	45
objects of sexual appetite;	46

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(3) Its dominant tendency is to arouse lust by displaying	47
or depicting bestiality or extreme or bizarre violence, cruelty,	48
or brutality;	49
(4) Its dominant tendency is to appeal to scatological	50
interest by displaying or depicting human bodily functions of	51
elimination in a way that inspires disgust or revulsion in	52
persons with ordinary sensibilities, without serving any genuine	53
scientific, educational, sociological, moral, or artistic	54
purpose;	55
(5) It contains a series of displays or descriptions of	56
sexual activity, masturbation, sexual excitement, nudity,	57
bestiality, extreme or bizarre violence, cruelty, or brutality,	58
or human bodily functions of elimination, the cumulative effect	59
of which is a dominant tendency to appeal to prurient or	60
scatological interest, when the appeal to such an interest is	61
primarily for its own sake or for commercial exploitation,	62
rather than primarily for a genuine scientific, educational,	63
sociological, moral, or artistic purpose.	64
(G) "Sexual excitement" means the condition of human male	65
or female genitals when in a state of sexual stimulation or	66
arousal.	67
(H) "Nudity" means the showing, representation, or	68
depiction of human male or female genitals, pubic area, or	69
buttocks with less than a full, opaque covering, or of a female	70
breast with less than a full, opaque covering of any portion	71
thereof below the top of the nipple, or of covered male genitals	72
in a discernibly turgid state.	73
(I) "Juvenile" means an unmarried person under the age of	74
eighteen.	75

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(J) "Material" means any book, magazine, newspaper,	76
pamphlet, poster, print, picture, figure, image, description,	77
motion picture film, phonographic record, or tape, or other	78
tangible thing capable of arousing interest through sight,	79
sound, or touch and includes an image or text appearing on a	80
computer monitor, television screen, liquid crystal display, or	81
similar display device or an image or text recorded on a	82
computer hard disk, computer floppy disk, compact disk, magnetic	83
tape, or similar data storage device.	84
(K) "Performance" means any motion picture, preview,	85
trailer, play, show, skit, dance, or other exhibition performed	86
before an audience.	87
(L) "Spouse" means a person married to an offender at the	88
time of an alleged offense, except that such person shall not be	89
considered the spouse when any of the following apply:	90
(1) When the parties have entered into a written	91
separation agreement authorized by section 3103.06 of the	92
Revised Code;	93
(2) During the pendency of an action between the parties	94
for annulment, divorce, dissolution of marriage, or legal	95
separation;	96
(3) In the case of an action for legal separation, after	97
the effective date of the judgment for legal separation.	98
(M) "Minor" means a person under the age of eighteen.	99
(N) "Mental health client or patient" has the same meaning	100
as in section 2305.51 of the Revised Code.	101
(O) "Mental health professional" has the same meaning as	102
in section 2305.115 of the Revised Code.	103

(P) "Sado-masochistic abuse" means flagellation or torture	104
by or upon a person or the condition of being fettered, bound,	105
or otherwise physically restrained.	106
(Q) "Place where a person has a reasonable expectation of	107
privacy" means a place where a reasonable person would believe	108
that the person could fully disrobe in private.	100
that the person could fully distobe in private.	103
(R) "Private area" means the genitals, pubic area,	110
buttocks, or female breast below the top of the areola, where	111
nude or covered by an undergarment.	112
Sec. 2907.08. (A) No person, for the purpose of sexually	113
arousing or gratifying the person's self, shall commit trespass	114
or otherwise surreptitiously invade the privacy of another, to	115
spy or eavesdrop upon another.	116
(B) No person, for the purpose of sexually arousing or	117
gratifying the person's self, shall knowingly commit trespass	118
or otherwise <u>secretly or</u> surreptitiously invade the privacy of	119
another to videotape, film, photograph, broadcast, stream, or	120
otherwise record the other person in a state of nudityanother	121
person, in a place where a person has a reasonable expectation	122
of privacy, for the purpose of viewing the private areas of that	123
person.	124
(C) No person, for the purpose of sexually arousing or	125
gratifying the person's self, shall knowingly commit trespass	126
or otherwise <u>secretly or</u> surreptitiously invade the privacy of	127
another to videotape, film, photograph, broadcast, stream, or	128
otherwise record, or spy or eavesdrop upon the other person in a	129
state of nudity if the other person is a minor, in a place where	130
a person has a reasonable expectation of privacy, for the	131
purpose of viewing the private areas of the minor.	132

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(D) No person shall secretly or surreptitiously videotape,	133
film, photograph, or otherwise record another person <u>above</u> ,	134
under $_{L}$ or through the clothing being worn by that other person	135
for the purpose of viewing the body of, or the undergarments	136
worn by, that other person.	137
(E)(1) Whoever violates this section is guilty of	138
voyeurism.	139
(2) A Except as otherwise provided in this division, a	140
violation of division (A) of this section is a misdemeanor of	141
the third degree. If the offender previously has been convicted	142
of or pleaded guilty to a violation of this section, a violation	143
of division (A) of this section is a misdemeanor of the second	144
degree. If the offender previously has been convicted of or	145
pleaded guilty to two or more violations of this section, a	146
violation of division (A) of this section is a misdemeanor of	147
the first degree.	148
(3) A Except as otherwise provided in this division, a	149
violation of division (B) or (D) of this section is a	150
misdemeanor of the second first degree. If the offender	151
previously has been convicted of or pleaded guilty to a	152
violation of this section, a violation of division (B) or (D) of	153
this section is a felony of the fifth degree. If the offender	154
previously has been convicted of or pleaded guilty to two or	155
more violations of this section, a violation of division (B) or	156
(D) of this section is a felony of the fourth degree.	157
(4) A violation of division (D) of this section is a	158
misdemeanor of the first degree.	159
(5) A Except as otherwise provided in this division, a	160
violation of division (C) of this section is a felony of the	161

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fifth degree. If the offender previously has been convicted of	162
or pleaded guilty to a violation of this section, a violation of	163
division (C) of this section is a felony of the fourth degree.	164
If the offender previously has been convicted of or pleaded	165
guilty to two or more violations of this section, a violation of	166
division (C) of this section is a felony of the third degree.	167
Section 2. That existing sections 2907.01 and 2907.08 of	168
the Revised Code are hereby repealed.	169