

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 402
House Committee Substitute Favorable 7/30/02

Short Title: Secret Peeping Changes.

(Public)

Sponsors:

Referred to:

March 12, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE SECRET PEEPING STATUTE AND TO MAKE
3 CONFORMING CHANGES.

4 The General Assembly of North Carolina enacts:

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

6 "§ 14-202. **Secretly peeping into room occupied by ~~female person~~ another person.**

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

9 (b) For purposes of this section:

10 (1) The term "photographic image" means any photograph or
11 photographic reproduction, still or moving, or any videotape, motion
12 picture or live television transmission, or any digital image, of any
13 individual.

14 (2) The term "room" shall include, but is not limited to, a bedroom, a
15 restroom, a bathroom, a shower, and a dressing room.

16 (c) Unless covered by another provision of law providing greater punishment,
17 any person who, while in possession of any device which may be used to create a
18 photographic image, shall secretly peep into any room shall be guilty of a Class A1
19 misdemeanor.

20 (d) Unless covered by another provision of law providing greater punishment,
21 any person who, while secretly peeping into any room, uses any device to create a
22 photographic image of another person in that room, for the purpose of arousing or
23 gratifying the sexual desire of any person, shall be guilty of a Class I felony.

24 (e) Any person who secretly or surreptitiously uses any device to create a
25 photographic image of another person underneath or through the clothing being worn by
26 that other person for the purpose of viewing the body of, or the undergarments worn by,
27 that other person without their consent shall be guilty of a Class I felony.

28 (f) Any person who, for the purpose of arousing or gratifying the sexual desire of
29 any person, secretly or surreptitiously uses or installs in a room any device that can be

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

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

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

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

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

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

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

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

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

35 (m) This section does not apply to:

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

38 (2) Personnel of the Department of Correction or of a local confinement
39 facility for security purposes or during investigation of alleged
40 misconduct by a person in the custody of the Department or the local
41 confinement facility."

42 **SECTION 2.** G.S. 14-208.6(4) reads as rewritten:

43 "(4) 'Reportable conviction' means:

- 1 a. A final conviction for an offense against a minor, a sexually
2 violent offense, or an attempt to commit any of those offenses
3 unless the conviction is for aiding and abetting. A final
4 conviction for aiding and abetting is a reportable conviction
5 only if the court sentencing the individual finds that the
6 registration of that individual under this Article furthers the
7 purposes of this Article as stated in G.S. 14-208.5.
- 8 b. A final conviction in another state of an offense, which if
9 committed in this State, is substantially similar to an offense
10 against a minor or a sexually violent offense as defined by this
11 section.
- 12 c. A final conviction in a federal jurisdiction (including a court
13 martial) of an offense, which is substantially similar to an
14 offense against a minor or a sexually violent offense as defined
15 by this section.
- 16 d. A final conviction for a violation of G.S. 14-202(d), (e), (f),
17 (g), or (h), or a second or subsequent conviction for violation of
18 G.S. 14-202(a) or (c), only if the court sentencing the individual
19 issues an order pursuant to G.S. 14-202(l) requiring the
20 individual to register."

21 **SECTION 3.** This act becomes effective December 1, 2002, and applies to
22 offenses committed on or after that date.