**A** **BILL**

TO AMEND SECTION 16-17-470 OF THE 1976 CODE, RELATING TO EAVESDROPPING, PEEPING, AND VOYEURISM, TO PROVIDE THAT IT IS UNLAWFUL TO ENGAGE IN VOYEURISM, TO PROVIDE PENALTIES, AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑17‑470 of the 1976 Code is amended to read:

“Section 16-17-470. (A) As used in this section:

(1) ‘Intimate parts’ include the primary genital area, anus, groin, inner thighs, or buttocks of a male or female human being or the breasts of a female human being, including any portion of a person’s body or undergarments that are covered or partially covered by clothing, are not normally visible by the public, and are not intended to be visible for normal public observation.

(2) ‘Peeping tom’ means a person who peeps through windows, doors, or other like places, on or about the premises of another, in person or with the use of audio, video, or other equipment, for the purpose of spying upon or invading the privacy of others and any other conduct of a similar nature that tends to invade the privacy of others.

(3) ‘Surveillance’ means secret observation of the activities of another person for the purpose of spying upon or invading the privacy of the person.

(4) ‘View’ means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(5) ‘Voyeurism’ means knowingly viewing, photographing, audio recording, video recording, producing or creating a digital electronic file, or filming another person without that person’s knowledge and consent for the purposes of arousing or gratifying the sexual desire of any person or for the purpose of economic gain under circumstances in which the victim would not expect to have his privacy violated. This includes, but is not limited to, viewing or recording a person’s intimate parts.

(B) It is unlawful for a person to be an eavesdropper or a peeping tom on or about the premises of another or to go upon the premises of another for the purpose of becoming an eavesdropper or a peeping tom. ~~The term ‘peeping tom’, as used in this section, is defined as a person who peeps through windows, doors, or other like places, on or about the premises of another, for the purpose of spying upon or invading the privacy of the persons spied upon and any other conduct of a similar nature, that tends to invade the privacy of others. The term ‘peeping tom’ also includes any person who employs the use of video or audio equipment for the purposes set forth in this section.~~ A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both.

~~(B)~~(C) ~~A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person, without that person’s knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy.~~ It is unlawful for a person to engage in voyeurism. A person who violates ~~the provisions of~~ this subsection:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both; or

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than five years, or both.

~~(C)~~(D) A person commits the crime of aggravated voyeurism if he or she knowingly sells or distributes any photograph, audio recording, video recording, digital electronic file, or film of another person taken or made in violation of this section. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than ten years, or both.

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

~~(1)~~ ~~‘Place where a person would have a reasonable expectation of privacy’ means:~~

~~(a)~~ ~~a place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or~~

~~(b)~~ ~~a place where one would reasonably expect to be safe from hostile intrusion or surveillance.~~

~~(2)~~ ~~‘Surveillance’ means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person.~~

~~(3)~~ ~~‘View’ means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.~~

(E) The provisions of subsection ~~(A)~~(B) do not apply to:

(1) viewing, photographing, videotaping, or filming by personnel of the Department of Corrections or of a county, municipal, or local jail or detention center or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Department of Corrections or a county, municipal, or local jail or detention center or correctional facility;

(2) security surveillance for the purposes of decreasing or prosecuting theft, shoplifting, or other security surveillance measures in bona fide business establishments;

(3) any official law enforcement activities conducted pursuant to Section 16‑17‑480;

(4) private detectives and investigators conducting surveillance in the ordinary course of business; or

(5) any bona fide news gathering activities.

(F) In addition to any other punishment prescribed by this section or other provision of law, a person procuring photographs, audio recordings, video recordings, digital electronic files, or films in violation of this section shall immediately forfeit all items. These items must be destroyed when no longer required for evidentiary purposes.

(G) A person who violates the provisions of this section when the victim is a minor is guilty of a felony and, upon conviction, must be imprisoned not more than five years, fined not more than ten thousand dollars, or both.”

SECTION 2. This act takes effect upon approval by the Governor.

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