**South Carolina General Assembly**

125th Session, 2023-2024

**H. 5498**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Magnuson

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Introduced in the House on May 1, 2024

Currently residing in the House Committee on **Judiciary**

Summary: Eavesdropping, peeping

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 5/1/2024 House Introduced and read first time

 5/1/2024 House Referred to Committee on **Judiciary**

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**VERSIONS OF THIS BILL**

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5498_20240501.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16‑3‑1700, RELATING TO DEFINITIONS FOR PURPOSES OF THE OFFENSES OF HARASSMENT OR STALKING, SO AS TO INCLUDE IN THE DEFINITION OF “STALKING” THE CLANDESTINE VIEWING OF A PERSON VIA PHOTOGRAPHY OR VIDEO RECORDING; AND BY AMENDING SECTION 16‑17‑470, RELATING TO OFFENSES OF EAVESDROPPING, PEEPING, AND VOYEURISM, SO AS to provide that each violation of this section is a separate offense, and to provide that sentences imposed pursuant to this section must run consecutively.

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

SECTION 1. Section 16‑3‑1700(C) of the S.C. Code is amended to read:

 (C) “Stalking” means a pattern of words, whether verbal, written, or electronic, or a pattern of conduct that serves no legitimate purpose and is intended to cause and does cause a targeted person and would cause a reasonable person in the targeted person’s position to fear:

 (1) death of the person or a member of his family;

 (2) assault upon the person or a member of his family;

 (3) bodily injury to the person or a member of his family;

 (4) criminal sexual contact on the person or a member of his family;

 (5) kidnapping of the person or a member of his family; or

 (6) damage to the property of the person or a member of his family; or

 (7) the clandestine viewing of the person via photography or video recording.

SECTION 2. Section 16-17-470 of the S.C. Code is amended to read:

 Section 16-17-470. (A) 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) 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. 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) 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)(1) Each violation of the provisions of this section constitutes a separate offense, and sentences imposed pursuant to this section must run consecutively with and commence at the expiration of another sentence being served by the person sentenced.

 (2) A prior conviction for an offense under this section includes a conviction of any crime, in any state, containing among its elements those enumerated in, or substantially similar to, those enumerated in subsections (A) and (B).

 (D)(E) 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)(F) The provisions of subsection (A) 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)(G) 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.

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide.  After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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