

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 584

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO SEX CRIMES; AMENDING SECTION 18-6609, IDAHO CODE, TO REVISE A DEFINITION, TO DEFINE A TERM, TO REVISE PROVISIONS REGARDING WHEN A PERSON IS GUILTY OF VIDEO VOYEURISM, TO PROVIDE EXCEPTIONS AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-6609, Idaho Code, be, and the same is hereby amended to read as follows:

18-6609. CRIME OF VIDEO VOYEURISM. (1) As used in this section:

(a) "Broadcast" means the electronic transmittal of a visual image with the intent that it be viewed by a person or persons.

(b) "Disseminate" means to make available by any means to any person.

(c) "Imaging device" means any instrument capable of recording, storing, viewing or transmitting visual images.

(d) "Intimate areas" means the ~~buttocks, nude genitals or genital areas of males or females, and the breast area of females,~~ nude pubic area, nude buttocks or nude female nipple.

(e) "Person" means any natural person, corporation, partnership, firm, association, joint venture or any other recognized legal entity or any agent or servant thereof.

(f) "Place where a person has a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he could undress, be undressed or engage in sexual activity in privacy, without concern that he is being viewed, photographed, filmed or otherwise recorded by an imaging device; or

(ii) A place where a person might reasonably expect to be safe from casual or hostile surveillance by an imaging device; or

(iii) Any public place where a person, by taking reasonable steps to conceal intimate areas, should be free from the viewing, recording, storing or transmitting of images obtained by imaging devices designed to overcome the barriers created by a person's covering of intimate areas.

(g) "Publish" means to:

(i) Disseminate with the intent that such image or images be made available by any means to any person; or

(ii) Disseminate with the intent that such images be sold by another person; or

(iii) Post, present, display, exhibit, circulate, advertise or allow access by any means so as to make an image or images available to the public; or

1 (iv) Disseminate with the intent that an image or images be
 2 posted, presented, displayed, exhibited, circulated, advertised
 3 or made accessible by any means and to make such image or images
 4 available to the public.

5 (h) "Sell" means to disseminate to another person, or to publish, in ex-
 6 change for something of value.

7 (i) "Sexual act" includes, but is not limited to, masturbation; gen-
 8 ital, anal or oral sex; sexual penetration with an object; or the
 9 transfer or transmission of semen upon any part of the depicted person's
 10 body.

11 (2) A person is guilty of video voyeurism when:

12 ~~(a) W~~, with the intent of arousing, appealing to or gratifying the lust
 13 or passions or sexual desires of such person or another person, or for
 14 his own or another person's lascivious entertainment or satisfaction of
 15 prurient interest, or for the purpose of sexually degrading or abusing
 16 any other person, he uses, installs or permits the use or installation
 17 of an imaging device at a place where a person would have a reasonable
 18 expectation of privacy, without the knowledge or consent of the person
 19 using such place; ~~or~~

20 ~~(b) He either intentionally or with reckless disregard disseminates,~~
 21 ~~publishes or sells or conspires to disseminate, publish or sell any im-~~
 22 ~~age or images of the intimate areas of another person or persons without~~
 23 ~~the consent of such other person or persons and he knows or reasonably~~
 24 ~~should have known that one (1) or both parties agreed or understood that~~
 25 ~~the images should remain private.~~

26 (3) A person is guilty of video voyeurism when:

27 (a) With the intent to annoy, terrify, threaten, intimidate, harass,
 28 offend, humiliate or degrade, he intentionally disseminates, publishes
 29 or sells or conspires to disseminate, publish or sell any image of an-
 30 other person who is identifiable from the image itself or information
 31 displayed in connection with the image and whose intimate areas are ex-
 32 posed, in whole or in part, or who is engaged in a sexual act;

33 (b) He knew or reasonably should have known that the person depicted in
 34 the image understood that the image should remain private; and

35 (c) He knew or reasonably should have known that the person depicted in
 36 the image did not consent to the dissemination, publication or sale of
 37 the image.

38 (4) A violation of this section is a felony.

39 (45) This section does not apply to:

40 (a) aAn interactive computer service, as defined in 47 U.S.C. section
 41 230(f)(2), an information service, as defined in 47 U.S.C. section
 42 153 or a telecommunication service, as defined in section 61-121(2) or
 43 62-603(13), Idaho Code, for content provided by another person, unless
 44 the provider intentionally aids or abets video voyeurism;

45 (b) Images involving voluntary exposure in public or commercial set-
 46 tings; or

47 (c) Disclosures made in the public interest including, but not limited
 48 to, the reporting of unlawful conduct or the lawful and common practices
 49 of law enforcement, criminal reporting, legal proceedings or medical
 50 treatment.