



House of Representatives

General Assembly

File No. 630

February Session, 2014

Substitute House Bill No. 5485

House of Representatives, April 17, 2014

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING VOYEURISM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-189a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) A person is guilty of voyeurism when, (1) with malice, such
4 person knowingly photographs, films, videotapes or otherwise records
5 the image of another person (A) without the knowledge and consent of
6 such other person, (B) while such other person is not in plain view, and
7 (C) under circumstances where such other person has a reasonable
8 expectation of privacy, or (2) with intent to arouse or satisfy the sexual
9 desire of such person or any other person, such person knowingly
10 photographs, films, videotapes or otherwise records the image of
11 another person (A) without the knowledge and consent of such other
12 person, (B) while such other person is not in plain view, and (C) under
13 circumstances where such other person has a reasonable expectation of
14 privacy, or (3) with intent to arouse or satisfy the sexual desire of such
15 person, such person commits simple trespass, as provided in section

16 53a-110a, and observes, in other than a casual or cursory manner,
17 another person (A) without the knowledge or consent of such other
18 person, (B) while such other person is inside a dwelling, as defined in
19 section 53a-100, and not in plain view, and (C) under circumstances
20 where such other person has a reasonable expectation of privacy, or (4)
21 with intent to arouse or satisfy the sexual desire of such person or any
22 other person, such person knowingly photographs, films, videotapes
23 or otherwise records the genitals, pubic area or buttocks of another
24 person or the undergarments or stockings that clothe the genitals,
25 pubic area or buttocks of another person (A) without the knowledge
26 and consent of such other person, and (B) while such genitals, pubic
27 area, buttocks, undergarments or stockings are not in plain view.

28 (b) Voyeurism is (1) a class D felony for a first offense, except as
29 provided in subdivision (3) of this subsection, (2) a class C felony for
30 any subsequent offense, and (3) a class C felony for a first offense when
31 (A) such person has been previously convicted of an offense
32 enumerated in subsection (f) of section 53a-29, as amended by this act,
33 or (B) the intended subject of the offense is a person under sixteen
34 years of age.

35 (c) Notwithstanding the provisions of section 54-193, no person may
36 be prosecuted for an offense under subdivision (1), (2) or (4) of
37 subsection (a) of this section except within five years from the date of
38 the offense, or within five years from the date the subject of the offense
39 discovers the existence of the photograph, film, videotape or other
40 recording that constitutes a violation of subdivision (1), (2) or (4) of
41 subsection (a) of this section, whichever is later.

42 Sec. 2. Subsection (f) of section 53a-29 of the 2014 supplement to the
43 general statutes is repealed and the following is substituted in lieu
44 thereof (*Effective October 1, 2014*):

45 (f) The period of probation, unless terminated sooner as provided in
46 section 53a-32, shall be not less than ten years or more than thirty-five
47 years for conviction of a violation of subdivision (2) of subsection (a) of
48 section 53-21, [or] section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-

49 72b [,] or 53a-90a, subdivision (2), (3) or (4) of subsection (a) of section
50 53a-189a, as amended by this act, or section 53a-196b, 53a-196c, 53a-
51 196d, 53a-196e or 53a-196f.

52 Sec. 3. Subdivision (5) of section 54-250 of the 2014 supplement to
53 the general statutes is repealed and the following is substituted in lieu
54 thereof (*Effective October 1, 2014*):

55 (5) "Nonviolent sexual offense" means (A) a violation of section 53a-
56 73a or subdivision (2), ~~(3) or (4)~~ of subsection (a) of section 53a-189a, as
57 amended by this act, or (B) a violation of any of the offenses specified
58 in subparagraph (A) of this subdivision for which a person is
59 criminally liable under section 53a-8, 53a-48 or 53a-49.

60 Sec. 4. Subsection (c) of section 54-251 of the general statutes is
61 repealed and the following is substituted in lieu thereof (*Effective*
62 *October 1, 2014*):

63 (c) Notwithstanding the provisions of subsection (a) of this section,
64 the court may exempt any person who has been convicted or found
65 not guilty by reason of mental disease or defect of a violation of
66 subdivision (2) of subsection (a) of section 53a-73a or subdivision (2),
67 (3) or (4) of subsection (a) of section 53a-189a, as amended by this act,
68 from the registration requirements of this section if the court finds that
69 registration is not required for public safety.

70 Sec. 5. Subdivision (3) of subsection (b) of section 1-210 of the 2014
71 supplement to the general statutes is repealed and the following is
72 substituted in lieu thereof (*Effective October 1, 2014*):

73 (3) Records of law enforcement agencies not otherwise available to
74 the public which records were compiled in connection with the
75 detection or investigation of crime, if the disclosure of said records
76 would not be in the public interest because it would result in the
77 disclosure of (A) the identity of informants not otherwise known or the
78 identity of witnesses not otherwise known whose safety would be
79 endangered or who would be subject to threat or intimidation if their

80 identity was made known, (B) the identity of minor witnesses, (C)
81 signed statements of witnesses, (D) information to be used in a
82 prospective law enforcement action if prejudicial to such action, (E)
83 investigatory techniques not otherwise known to the general public,
84 (F) arrest records of a juvenile, which shall also include any
85 investigatory files, concerning the arrest of such juvenile, compiled for
86 law enforcement purposes, (G) the name and address of the victim of a
87 sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b
88 or 53a-73a, voyeurism under section 53a-189a, as amended by this act,
89 or injury or risk of injury, or impairing of morals under section 53-21,
90 or of an attempt thereof, or (H) uncorroborated allegations subject to
91 destruction pursuant to section 1-216;

92 Sec. 6. Section 54-86d of the general statutes is repealed and the
93 following is substituted in lieu thereof (*Effective October 1, 2014*):

94 Any person who has been the victim of a sexual assault under
95 section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, voyeurism
96 under section 53a-189a, as amended by this act, or injury or risk of
97 injury, or impairing of morals under section 53-21, or of an attempt
98 thereof, shall not be required to divulge his or her address or telephone
99 number during any trial or pretrial evidentiary hearing arising from
100 the sexual assault, voyeurism or injury or risk of injury to, or impairing
101 of morals of, [children;] a child, provided the judge presiding over
102 such legal proceeding [shall find] finds: (1) Such information is not
103 material to the proceeding, (2) the identity of the victim has been
104 satisfactorily established, and (3) the current address of the victim will
105 be made available to the defense in the same manner and time as such
106 information is made available to the defense for other criminal
107 offenses.

108 Sec. 7. Section 54-86e of the general statutes is repealed and the
109 following is substituted in lieu thereof (*Effective October 1, 2014*):

110 The name and address of the victim of a sexual assault under
111 section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, voyeurism
112 under section 53a-189a, as amended by this act, or injury or risk of

113 injury, or impairing of morals under section 53-21, or of an attempt
 114 thereof, and such other identifying information pertaining to such
 115 victim as determined by the court, shall be confidential and shall be
 116 disclosed only upon order of the Superior Court, except that (1) such
 117 information shall be available to the accused in the same manner and
 118 time as such information is available to persons accused of other
 119 criminal offenses, and (2) if a protective order is issued in a
 120 prosecution under any of said sections, the name and address of the
 121 victim, in addition to the information contained in and concerning the
 122 issuance of such order, shall be entered in the registry of protective
 123 orders pursuant to section 51-5c.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	53a-189a
Sec. 2	October 1, 2014	53a-29(f)
Sec. 3	October 1, 2014	54-250(5)
Sec. 4	October 1, 2014	54-251(c)
Sec. 5	October 1, 2014	1-210(b)(3)
Sec. 6	October 1, 2014	54-86d
Sec. 7	October 1, 2014	54-86e

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Correction, Dept.	GF - Potential Cost	See Below	See Below

Municipal Impact: None

Explanation

The bill results in potential costs to the Department of Correction by expanding the definition of voyeurism as well as increasing the penalties for the offense in certain circumstances. On average 10 offenders are convicted or accept plea bargains under this statute annually. On average, it costs the agency \$50,690 (including benefits) to incarcerate an offender.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sHB 5485*****AN ACT CONCERNING VOYEURISM.*****SUMMARY:**

This bill makes a number of changes regarding voyeurism crimes and their victims. It:

1. expands the conduct punishable as voyeurism and expands the sex offender registry requirements to cover this new conduct;
2. increases the penalty for voyeurism when the victim is under age 16 or the offender has a prior conviction of voyeurism or certain other crimes;
3. extends the statute of limitations for voyeurism under certain circumstances;
4. increases the possible probation term for certain types of voyeurism; and
5. extends to voyeurism victims three protections existing law gives to certain sexual assault victims regarding their names, addresses, and other identifying information.

EFFECTIVE DATE: October 1, 2014

§§ 1-2 — VOYEURISM CRIME AND PENALTIES***Criminal Conduct***

The bill expands the crime of voyeurism in two ways. First, it punishes someone who:

1. intends to arouse or satisfy his or her sexual desire,

2. commits simple trespass (entering premises knowing he or she is not entitled to do so without intent to harm any property, which is punishable as an infraction),
3. observes another person who is inside a dwelling and not in plain view under circumstances where there is a reasonable expectation of privacy, and
4. does not have the other person's knowledge or consent and the observation is not casual or cursory.

Second, it punishes someone who:

1. intends to arouse or satisfy his or her or someone else's sexual desire;
2. knowingly photographs, films, videotapes, or records the victim's genitals, pubic area, buttocks, or undergarments or stockings used to clothe them, when they are not in plain view; and
3. records such an image without the victim's knowledge and consent.

Under existing law, a person commits voyeurism when (1) he or she knowingly photographs, films, videotapes, or records the victim's image; (2) he or she acts maliciously or intends to satisfy his or her or another's sexual desire; and (3) the victim is not in plain view, has a reasonable expectation of privacy under the circumstances, and does not know of, or consent to, the conduct.

Penalty

Under current law, voyeurism is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both. Under the bill, it is a class C felony when (1) the victim is under age 16 or (2) it is a subsequent voyeurism conviction or the offender has a prior conviction of:

1. risk of injury to a minor involving sale of a child under age 16;
2. 1st degree sexual assault, 1st degree aggravated sexual assault, sexual assault in a spousal or cohabiting relationship, 2nd degree sexual assault, 3rd degree sexual assault, or 3rd degree sexual assault with a firearm;
3. enticing a minor, promoting a minor in an obscene performance, or importing child pornography; or
4. 1st, 2nd, or 3rd degree possessing child pornography.

By law, a class C felony is punishable by one to 10 years in prison, a fine of up to \$10,000, or both.

Statute of Limitation

Currently, any voyeurism prosecution must begin within five years after the date of the offense. The bill extends the time period for prosecuting the types of voyeurism crimes involving recording the victim's image and allows these prosecutions to begin within five years from the date the victim discovers the recording's existence.

Probation Term

Currently, a court can impose a three-year probation term after a voyeurism conviction, but the court has discretion to increase this term to five years. The bill increases the possible probation term to 10 to 35 years when the voyeurism conviction involves (1) the types of voyeurism added by the bill or (2) recording the victim's image when the victim is not in plain view with intent to satisfy the actor's or another's sexual desire.

§§ 3-4 — SEX OFFENDER REGISTRATION

The bill designates committing the types of voyeurism added by the bill as a "nonviolent sexual offense" subject to 10-years sex offender registration. The bill allows the court to exempt a person from registration if it is not required for public safety. Existing law subjects to this same requirement and possible exemption, voyeurism

committed by recording the victim's image when the victim is not in plain view with intent to satisfy the actor's or another's sexual desire.

As under current law, someone who commits a subsequent nonviolent sexual offense must register for life.

§§ 5-7 — PROTECTIONS FOR VOYEURISM VICTIMS' NAMES AND ADDRESSES

The bill extends to voyeurism victims three protections existing law gives to certain sexual assault victims regarding their names and addresses.

First, the bill allows agencies to exempt from disclosure to the public under the Freedom of Information Act (FOIA) law enforcement records that disclose the name and address of a voyeurism victim if the:

1. record was created in connection with detecting or investigating a crime and is not otherwise available to the public and
2. agency determines that disclosure would not be in the public interest because it discloses a victim's name and address.

Second, the bill prohibits requiring a voyeurism victim to divulge his or her address or phone number during a trial or pretrial evidentiary hearing arising from the voyeurism incident if the judge finds the (1) information is not material, (2) victim's identity is satisfactorily established, and (2) victim's current address will be given to the defense in the same way as with other offenses.

Third, the bill makes confidential a voyeurism victim's name, address, and other information the court determines is identifying but allows:

1. a court to order disclosure;
2. the accused to have access to the information in the same way as for other offenses; and

3. for a protective order issued in the prosecution, the victim’s name and address and information contained in and concerning the order’s issuance to be entered in the protective order registry (this information is generally available to certain court and criminal justice officials and others but is not otherwise disclosed except under court order and a victim can place certain limitations on its use).

By law, these three protections already apply to the names, addresses, and information of victims of:

1. 1st, 2nd, 3rd, or 4th degree sexual assault;
2. 1st degree aggravated sexual assault;
3. 3rd degree sexual assault with a firearm;
4. risk of injury to a minor; or
5. an attempt to commit one of these crimes.

BACKGROUND

Related Bills

sSB 381 (File 425), favorably reported by the Government Administration and Elections Committee, and sSB 388, favorably reported by the Judiciary Committee, both change exemptions under FOIA for certain law enforcement records.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (04/02/2014)