



Senate

General Assembly

File No. 805

January Session, 2019

Senate Bill No. 1100

Senate, April 25, 2019

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING "UPSKIRTING".

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 Section 53a-189a of the general statutes is repealed and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, 2019*):

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, (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, (3) with the intent to arouse or satisfy the sexual desire of such
15 person, commits simple trespass, as provided in section 53a-110a, and

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

30 (b) For purposes of this section, "in plain view" does not include any
31 view that is achieved by photographing, filming, videotaping or
32 otherwise recording under or around a person's clothing, and "public
33 place" means public place, as defined in section 53a-186.

34 [(b)] (c) Voyeurism is (1) a class D felony for a first offense, except as
35 provided in subdivision (3) of this subsection, (2) a class C felony for
36 any subsequent offense, and (3) a class C felony for a first offense when
37 (A) such person has been previously convicted of an offense
38 enumerated in subsection (f) of section 53a-29, or (B) the intended
39 subject of the offense is a person under sixteen years of age.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	53a-189a

JUD *Joint Favorable*

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 20 \$	FY 21 \$
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the crime of voyeurism to include a reasonable expectation of privacy and results in a potential cost for incarceration or probation supervision and a potential revenue gain from fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800¹ while the average marginal cost for supervision in the community is less than \$700² each year.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

¹ Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

² Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

OLR Bill Analysis**SB 1100*****AN ACT CONCERNING "UPSKIRTING".*****SUMMARY**

Under current law, the crime of voyeurism includes when someone, intending to arouse or satisfy his or her or someone else's sexual desire, knowingly photographs, films, videotapes, or otherwise records ("records") the victim's genitals, pubic area, buttocks, or undergarments or stockings used to clothe them, when they are not in plain view, and does so without the victim's knowledge and consent. (This conduct is sometimes referred to as "upskirting.")

This bill specifies that this crime applies when the victim has a reasonable expectation of privacy, regardless of whether the victim is in a public place.

It also specifies that, for purposes of all conduct constituting voyeurism (see BACKGROUND), a person is not "in plain view" if the view is achieved by photographing or recording under or around a person's clothing.

By law, depending on the circumstances, voyeurism is either a class D or class C felony.

EFFECTIVE DATE: October 1, 2019

BACKGROUND***Voyeurism***

By law, in addition to the conduct described above, a person commits voyeurism if he or she, intending to arouse or satisfy his or her sexual desire:

1. commits simple trespass;

2. observes another person who is inside a dwelling and not in plain view under circumstances where there is a reasonable expectation of privacy; and
3. does not have the other person’s knowledge or consent and the observation is not casual or cursory.

A person also commits voyeurism when, with malice or intending to satisfy his or her or another’s sexual desire, the person:

1. knowingly photographs or records the victim’s image, without the victim’s knowledge or consent; and
2. does so when the victim is not in plain view and has a reasonable expectation of privacy under the circumstances (CGS § 53a-189a).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 38 Nay 0 (04/08/2019)