

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1039

AN ACT

AMENDING TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1424; AMENDING SECTION 13-3019, ARIZONA REVISED STATUTES; RELATING TO SURREPTITIOUS PHOTOGRAPHING, VIDEOTAPING, FILMING, DIGITALLY RECORDING OR VIEWING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 14, Arizona Revised Statutes, is amended
3 by adding section 13-1424, to read:

4 13-1424. Voyeurism; classification

5 A. IT IS UNLAWFUL TO KNOWINGLY INVADE THE PRIVACY OF ANOTHER PERSON
6 WITHOUT THE KNOWLEDGE OF THE OTHER PERSON FOR THE PURPOSE OF SEXUAL
7 STIMULATION.

8 B. IT IS UNLAWFUL FOR A PERSON TO DISCLOSE, DISPLAY, DISTRIBUTE OR
9 PUBLISH A PHOTOGRAPH, VIDEOTAPE, FILM OR DIGITAL RECORDING THAT IS MADE IN
10 VIOLATION OF SUBSECTION A OF THIS SECTION WITHOUT THE CONSENT OR KNOWLEDGE OF
11 THE PERSON DEPICTED.

12 C. FOR THE PURPOSES OF THIS SECTION, A PERSON'S PRIVACY IS INVADED IF
13 BOTH OF THE FOLLOWING APPLY:

14 1. THE PERSON HAS A REASONABLE EXPECTATION THAT THE PERSON WILL NOT BE
15 PHOTOGRAPHED, VIDEOTAPED, FILMED, DIGITALLY RECORDED OR OTHERWISE VIEWED OR
16 RECORDED.

17 2. THE PERSON IS PHOTOGRAPHED, VIDEOTAPED, FILMED, DIGITALLY RECORDED
18 OR OTHERWISE VIEWED, WITH OR WITHOUT A DEVICE, EITHER:

19 (a) WHILE THE PERSON IS IN A STATE OF UNDRRESS OR PARTIAL DRESS.

20 (b) WHILE THE PERSON IS ENGAGED IN SEXUAL INTERCOURSE OR SEXUAL
21 CONTACT.

22 (c) WHILE THE PERSON IS URINATING OR DEFECATING.

23 (d) IN A MANNER THAT DIRECTLY OR INDIRECTLY CAPTURES OR ALLOWS THE
24 VIEWING OF THE PERSON'S GENITALIA, BUTTOCK OR FEMALE BREAST, WHETHER CLOTHED
25 OR UNCLOTHED, THAT IS NOT OTHERWISE VISIBLE TO THE PUBLIC.

26 D. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

27 1. PHOTOGRAPHING, VIDEOTAPING, FILMING OR DIGITALLY RECORDING FOR
28 SECURITY PURPOSES WHERE NOTICE OF THE USE OF THE PHOTOGRAPHING, VIDEOTAPING,
29 FILMING OR DIGITAL RECORDING EQUIPMENT IS CLEARLY POSTED IN THE LOCATION.

30 2. PHOTOGRAPHING, VIDEOTAPING, FILMING OR DIGITALLY RECORDING BY
31 CORRECTIONAL OFFICIALS FOR SECURITY REASONS OR IN CONNECTION WITH THE
32 INVESTIGATION OF ALLEGED MISCONDUCT OF PERSONS ON THE PREMISES OF A JAIL OR
33 PRISON.

34 3. PHOTOGRAPHING, VIDEOTAPING, FILMING OR DIGITALLY RECORDING BY LAW
35 ENFORCEMENT OFFICERS PURSUANT TO AN INVESTIGATION, WHICH IS OTHERWISE LAWFUL.

36 4. THE USE OF A CHILD MONITORING DEVICE AS DEFINED IN SECTION 13-3001.

37 E. A VIOLATION OF SUBSECTION A OR B OF THIS SECTION IS A CLASS 5
38 FELONY, EXCEPT THAT A VIOLATION OF SUBSECTION B OF THIS SECTION IS A CLASS 4
39 FELONY IF THE PERSON DEPICTED IS RECOGNIZABLE.

40 Sec. 2. Section 13-3019, Arizona Revised Statutes, is amended to read:

41 13-3019. Surreptitious photographing, videotaping, filming or
42 digitally recording or viewing; exemptions;
43 classification; definitions

44 A. It is unlawful for any person to knowingly photograph, videotape,
45 film, digitally record or by any other means ~~use a device to~~ secretly view or

1 ~~record~~, WITH OR WITHOUT A DEVICE, another person without that person's
2 consent under ~~both~~ EITHER of the following circumstances:
3 1. In a restroom, bathroom, locker room, bedroom or other location
4 where the person has a reasonable expectation of privacy—
5 ~~2.—While~~ AND the person is urinating, defecating, dressing,
6 undressing, nude or involved in sexual intercourse or sexual contact.
7 2. IN A MANNER THAT DIRECTLY OR INDIRECTLY CAPTURES OR ALLOWS THE
8 VIEWING OF THE PERSON'S GENITALIA, BUTTOCK OR FEMALE BREAST, WHETHER CLOTHED
9 OR UNCLOTHED, THAT IS NOT OTHERWISE VISIBLE TO THE PUBLIC.
10 B. It is unlawful to disclose, display, distribute or publish a
11 photograph, videotape, film or digital recording made in violation of
12 subsection A of this section without the consent OR KNOWLEDGE of the person
13 depicted.
14 C. This section does not apply to:
15 1. Photographing, videotaping, filming or digitally recording for
16 security purposes where notice of the use of photographing, videotaping,
17 filming or digital recording equipment is clearly posted in the location.
18 2. Photographing, videotaping, filming or digitally recording by
19 correctional officials for security reasons or in connection with the
20 investigation of alleged misconduct of persons on the premises of a jail or
21 prison.
22 3. Photographing, videotaping, filming or digitally recording by law
23 enforcement officers pursuant to an investigation, which is otherwise lawful.
24 4. The use of a child monitoring device as defined in section 13-3001.
25 D. A violation of subsection A or B of this section is a class 5
26 felony.
27 E. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, A VIOLATION OF
28 SUBSECTION A OR B OF THIS SECTION THAT DOES NOT INVOLVE THE USE OF A DEVICE
29 IS A CLASS 6 FELONY, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION OF
30 SUBSECTION A OR B OF THIS SECTION THAT DOES NOT INVOLVE THE USE OF A DEVICE
31 IS A CLASS 5 FELONY.
32 F. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, A VIOLATION OF
33 SUBSECTION B OF THIS SECTION IS A CLASS 4 FELONY IF THE PERSON DEPICTED IS
34 RECOGNIZABLE.
35 ~~E.~~ G. For the purposes of this section, "sexual contact" and "sexual
36 intercourse" have the same meanings prescribed in section 13-1401.