

HOUSE No. 1477

The Commonwealth of Massachusetts

PRESENTED BY:

Tricia Farley-Bouvier

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act updating and clarifying the statute relating to “upskirting”.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tricia Farley-Bouvier</i>	<i>2nd Berkshire</i>	<i>1/17/2023</i>
<i>Smitty Pignatelli</i>	<i>3rd Berkshire</i>	<i>1/18/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/18/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/1/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/6/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/23/2023</i>
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>2/23/2023</i>

HOUSE No. 1477

By Representative Farley-Bouvier of Pittsfield, a petition (accompanied by bill, House, No. 1477) of Tricia Farley-Bouvier and others relative to photographing, videotaping or electronically surveilling certain persons. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act updating and clarifying the statute relating to “upskirting”.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 272 Section 105 of the 2020 General Laws, as appearing in the 2020 edition, is
2 here by amended by striking subsections (a) and (b) and inserting in their place the following 2
3 subsections:

4
5 (a) As used in this section, the following words shall have the following meanings unless
6 the context clearly requires otherwise:

7
8 “Electronically surveils” or “electronically surveilled”, to view, obtain, or record a
9 person’s visual image by the use or aid of a camera, cellular or other wireless communications
10 device, computer, television, or other electronic device.

11

12 “Partially nude”, partially unclothed, such that one or more sexual or other intimate parts
13 as defined herein is exposed.

14

15 “Sexual or other intimate parts”, human genitals, buttocks, pubic area, or female nipples
16 and areola, or any part thereof.

17

18 (b) Whoever:

19

20 (i) willfully photographs, videotapes, or electronically surveils another person who is
21 nude or partially nude, with the intent to secretly conduct or hide such activity, when the other
22 person in such place and circumstance would have a reasonable expectation of privacy in not
23 being so photographed, videotaped, or electronically surveilled, or;

24

25 (ii) willfully photographs, videotapes, or electronically surveils the sexual or other
26 intimate parts of another person, whether or not such parts are clothed, with the intent to secretly
27 conduct or hide such activity, and with the intent to focus on or otherwise invade the privacy of
28 the person’s sexual or other intimate parts;

29

30 shall be punished by imprisonment in the house of correction for not more than 2 1/2
31 years or by a fine of not more than \$5,000, or by both, if the victim is 18 years or older; or by

32 imprisonment in the house of correction for not more than 2 1/2 years, or by imprisonment in the
33 state prison for not more than 5 years, or by a fine of not of not more than \$10,000, or by both
34 such fine and imprisonment, if the victim is less than 18 years of age or is otherwise
35 incompetent. The actual knowledge and consent of the person so photographed, videotaped, or
36 electronically surveilled shall be an affirmative defense to the offense stated herein provided that
37 the person is competent to grant consent.