

HOUSE No. 3934

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 6, 2014.

The committee on Ways and Means to whom was referred the message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2014 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3867), reports, in part, recommending that the accompanying bill (House, No. 3934) ought to pass.

For the committee,

BRIAN S. DEMPSEY.

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The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to unlawful sexual surveillance.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to strengthen forthwith the laws relative to the expectation of privacy of one’s person, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. Subsection (a) of section 105 of chapter 272 of the General Laws, as
2 appearing in the 2012 Official Edition, is hereby amended by adding the following definition:-

3 “Sexual or other intimate parts”, human genitals, buttocks, pubic area or female breast
4 below a point immediately above the tip of the areola, whether naked or covered by clothing or
5 undergarments.

6 SECTION 2. Subsection (b) of said section 105 of said chapter 272, as so appearing, is
7 hereby further amended by inserting the following 2 paragraphs-

8 Whoever willfully photographs, videotapes or electronically surveils, with the intent to
9 secretly conduct or hide such activity, the sexual or other intimate parts of a person under or
10 around the person’s clothing to view or attempt to view the person’s sexual or other intimate
11 parts when a reasonable person would believe that the person’s sexual or other intimate parts
12 would not be visible to the public and without the person’s knowledge and consent, shall be
13 punished by imprisonment in the house of correction for not more than 2 ½ years or by a fine of
14 not more than \$5,000, or by both fine and imprisonment.

15 Whoever willfully photographs, videotapes or electronically surveils, with the intent to
16 secretly conduct or hide such activity, the sexual or other intimate parts of a child under the age
17 of 18 under or around the child’s clothing to view or attempt to view the child’s sexual or other

18 intimate parts when a reasonable person would believe that the person's sexual or other intimate
19 parts would not be visible to the public shall be punished by imprisonment in the house of
20 correction for not more than 2 ½ years, by imprisonment in the state prison for not more than 5
21 years, or by a fine of not more than \$10,000, or by both such fine and imprisonment.

22 SECTION 3. Subsection (c) of said section 105 of said chapter 272, as so appearing, is
23 hereby further amended by striking out, in line 20, the words "who is nude or partially nude".

24 SECTION 4. Said subsection (c) of said section 105 of said chapter 272, as so appearing,
25 is hereby further amended by inserting after the word violation, in line 21, the following words:-
26 of the first and second paragraphs.

27 SECTION 5. Said subsection (c) of said section 105 of said chapter 272, as so appearing,
28 is hereby further amended by inserting the following paragraph:-

29 Whoever willfully disseminates the visual image of the sexual or other intimate parts of a
30 child under the age of 18, with knowledge that such visual image was unlawfully obtained in
31 violation of the third paragraph of subsection (b) shall be punished by imprisonment in the house
32 of correction for not more than 2 ½ years or in the state prison for not more than 10 years or by a
33 fine of not more than \$10,000, or by both such fine and imprisonment.

34 SECTION 6. Subsection (g) of said section 105 of said chapter 272, as so appearing, is
35 hereby further amended by inserting after the word "nude", the second time it appears in line 38,
36 the following words:- or which depicts a person's sexual or intimate parts.