

March 12, 2003

H 408. AMEND SECRET PEEPING LAW. TO MODIFY THE SECRET PEEPING STATUTE AND TO MAKE CONFORMING CHANGES. Rewrites GS 14-202 to provide a substantially more detailed "secret peeping" statute. Amends GS 14-208.6(4) to make final conviction for specified violations of revised statute a "reportable conviction" for purposes of sex offender and public protection registration programs, but only if the court sentencing the individual issues an order pursuant to new GS 14-202(l) requiring him or her to register.

Revised GS 14-202 specifies following crimes: (1) Any person who peeps secretly into any room occupied by another person (now, female person) is guilty of a Class 1 misdemeanor; (2) Any person who, while in possession of any device that may be used to create a photographic image, secretly peeps into any room, is guilty of a Class A1 misdemeanor, unless covered by another provision of law providing greater punishment. Defines "room" and "photographic image" for purpose of statute; (3) Any person who, while secretly peeping into any room, uses any device to create a photographic image of another person in that room for the purpose of arousing or gratifying the sexual desire of any person, is guilty of a Class I felony, unless covered by another provision of law providing greater punishment; (4) Any person who secretly or surreptitiously uses any device to create a photographic image of another person underneath or through the clothing that person is wearing for the purpose of viewing that person's body or undergarments without their consent, is guilty of a Class I felony; (5) Any person who, for the purpose of arousing or gratifying the sexual desire of any person, secretly or surreptitiously uses or installs in a room any device that can be used to create a photographic image with the intent to capture another's image without their consent, is guilty of a Class I felony; (6) Any person who knowingly possesses a photographic image that the person knows, or has reason to believe, was obtained in violation of this section, or who disseminates or allows to be disseminated images that the person knows, or should have known, were obtained as a result of the violation of GS 14-202, is guilty of a Class I felony. Dissemination must be without the consent of the person in the photographic image.

If a defendant is placed on probation as a result of violation of Section 14-202, judge may require for a first conviction that defendant obtain a psychological evaluation and comply with any treatment recommended as a result. If defendant is placed on probation for second or subsequent conviction, judge must require evaluation and compliance with recommended treatment. Specifies that a second or subsequent conviction under act is to be punished as though convicted of an offense one class higher (applies to both misdemeanor and felony convictions). When a person violates (3), (4), (5), or (6), or is convicted of a second or subsequent violation of (1) or (2), the sentencing court is to consider whether the person is a danger to the community and whether requiring him or her to register as a sex offender under GS Ch. 14, Art. 27A, would further that article's purposes. If court rules affirmatively on both questions, an order is to be entered requiring the person to register.

Creates civil cause of action for any person whose image is captured or disseminated in violation of GS 14-202, against any person who captured or disseminated the image or procured any other person to do so. Person with cause of action is entitled to recover actual damages, punitive damages, and reasonable attorneys' fees and other litigation costs reasonably incurred.

Crimes (1), (2), (4), and (6), and civil action provisions, do not apply to law enforcement officers while discharging or attempting to discharge their official duties, nor to personnel of the Dep't of Correction or a local jail for security purposes or during investigation of alleged misconduct by a person in their custody. Effective Dec. 1, 2003, and applies to offenses committed on or after that date.

Intro. by Hackney.

Ref. to Judiciary I	GS 14
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March 27, 2003

H 408. AMEND SECRET PEEPING LAW. Intro. 3/12/03. House committee substitute makes the following changes to 1st edition. Makes it a Class H (was, Class I) felony to disseminate images that the person knows, or should have known, were obtained as a result of a violation of the statute.

June 9, 2003

H 408. AMEND SECRET PEEPING LAW. Intro. 03/12/03. Senate committee substitute makes the following changes to 2nd edition. Adds provision exempting the legal activities of those licensed pursuant to GS Chapters 74C (private protective services) or 74D (alarm systems), who are legally engaged in the discharge of their official duties and not engaged in an improper purpose described in the act.