

Legislative History for Connecticut Act

SB 1078 PA 143 1999

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Senate

Thursday, May 20, 1999

THE CHAIR:

Calendar 133 previously marked passed temporarily now marked Go.

SEN. JEPSEN:

Page 18, Calendar 106 which had been passed temporarily should be marked PR.

THE CHAIR:

Calendar 106 previously marked passed temporarily to be marked passed retaining.

SEN. JEPSEN:

Page 22, Calendar 255 previously marked Go should be PR.

THE CHAIR:

Calendar 255 previously marked for Go now marked passed retaining.

SEN. JEPSEN:

And finally, Page 25, Calendar 312 previously marked Go should be marked PR.

THE CHAIR:

Calendar 312 previously marked as Go, now marked passed retaining. Thank you, Senator Jepsen. Mr. Clerk, I believe now we would begin with Calendar 133.

THE CLERK:

Turning to Calendar Page 1, Favorable Reports, Calendar 133, File 103, Substitute for SB1078 An Act

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Concerning Voyeurism. Favorable Report of the Committee on Judiciary. The Clerk is in possession of amendments.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Mr. President. I move adoption of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Motion is on adoption and passage of the bill.

Will you remark? Senator Williams.

SEN. WILLIAMS:

Thank you, Mr. President. This bill would create the crime of voyeurism. In that regard, the Judiciary Committee, we had a public hearing and heard significant compelling testimony in terms of the terrible invasion of privacy, certain individuals, in particular, one particular high school girl in the State of Connecticut who came and testified as to another student at her school coming to her house and surreptitiously videotaping through windows, including through bathroom windows.

And while the testimony was shocking, in terms of looking at our statutes, we didn't have anything that could specifically address this situation to a

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satisfactory extent. So in that regard, the Committee did some good work and I would also like to thank Representative Klarides who helped spearhead the effort on this and many other people on the Judiciary Committee, as well as some folks in the circle here today.

And what this bill would do, would be to make it a crime for a person to photograph or videotape another person without their consent when that person is not in plain view and there will be an amendment in that regard, Mr. President. And also when there are circumstances where such other person has a reasonable expectation of privacy.

It is also important to note that the person who is taking that photograph or videotape must be doing so with the intent to satisfy the sexual desire of that person or another person. And in an amendment that I'll call in a second, we will have an additional crime for those who disseminate such photographs or videotapes to other individuals.

So with that, I would like to call LC07069.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LC07069 which will be designated Senate Amendment

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Schedule "A". It is offered by Senator Williams.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Mr. President, I move adoption.

THE CHAIR:

Motion is on adoption. Will you remark?

SEN. WILLIAMS:

Thank you, Mr. President. This amendment would specify that the crime of voyeurism is a Class A misdemeanor and as well, that the crime must occur, or the photograph must be, or videotape, must be taken without the consent, which is part of the underlying bill, but also in an area not in plain view. And I would move, again, move adoption.

THE CHAIR:

Will you remark on the amendment? If not, I'll try your minds. All those in favor please say "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Those opposed? The amendment is adopted. Senator Williams.

SEN. WILLIAMS:

Thank you, Mr. President. I'd like to call

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LC08612.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LC08612 which will be designated Senate Amendment
Schedule "B". It is offered by Senator Sullivan of the
5th District et al.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Mr. President. This amendment would make disseminating such photographs or videotapes a crime. So that a person who took that photograph or videotape passed that along to another individual or group of individuals, if they put it on the Internet, if they in any way made that available to additional people, that would also be a crime and that would be punishable as a Class D felony which is up to five years in jail and up to a \$5,000 fine. And I would move adoption.

THE CHAIR:

Will you remark further on the amendment? Senator McKinney.

SEN. MCKINNEY:

Thank you, Mr. President. I certainly rise in

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support of this amendment. Just a question to the proponent, to make sure that we are covering what we need to be covering here.

A violation of this new section, section 2, is when someone has taken the, let's just say photograph in violation of section 1, which means that they took it when someone had a reasonable expectation of privacy. Is that sufficiently concrete enough? In other words, will someone be able to say, I didn't know I was violating their privacy, therefore, I didn't know I disseminated a picture that was taken in violation of section 1. Does that make sense? Through you, Mr. President.

SEN. WILLIAMS:

Mr. President, through you, to Senator McKinney.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you. Through you to Senator McKinney. I'll rephrase it a different way. Yes, you would need to be, you'd need to fall into the parameters of section 1 so that the photograph or videotape would have to have been taken without the consent of the other person in a place not in public view, or where other circumstances would confer a reasonable expectation of privacy.

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It would also have to have been, the photograph or videotape would have to have been taken with the intent to sexually gratify the actor or another person. And if that photograph or videotape were then disseminated, then this amendment would kick in with a Class D felony penalty.

SEN. MCKINNEY:

Thank you, Mr. President. One more question, through you.

THE CHAIR:

Senator McKinney, please proceed.

SEN. MCKINNEY:

Thank you, Mr. President. Would this section also, would it be a violation for somebody to disseminate the photograph even though they did not take that photograph?

SEN. WILLIAMS:

Mr. President, can we stand at ease for a minute.

THE CHAIR:

The Senate will stand at ease. Senator Williams.

SEN. WILLIAMS:

Thank you, Mr. President. I would request that we pass this temporarily.

THE CHAIR:

The item will be marked passed temporarily. Mr.

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SEN. JEPSEN:

Madam President, I would ask that this item be passed temporarily and that at this time we go back to Page 1, Calendar 133 which had been passed temporarily.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Turning to Calendar Page 1, Calendar 133,
Substitute for SB1078 An Act Concerning Voyeurism.
Favorable Report of the Committee on Judiciary. The bill was previously before the Senate. The Chamber adopted Senate Amendment Schedule "A", which is LC07069. Senate Amendment Schedule "B", LC08612 was called and designated Schedule "B".

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. Madam President, I voted in the affirmative for LC07069, an amendment which passed. I would request that we reconsider that amendment at this time.

THE CHAIR:

Senator Williams, would you first once again move the bill and then we'll deal with Senate Amendment "B" that was designated. So just do the Joint Committee,

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please.

SEN. WILLIAMS:

Thank you, Madam President. Madam President, I move adoption of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

The question is on passage. Senator Williams.

SEN. WILLIAMS:

Thank you. Madam President, now I would like to move reconsideration of the amendment that I just mentioned, which is LC07069 and I voted in the affirmative for that amendment.

THE CHAIR:

Before we deal with that, Sir, Senate Amendment "B" had been called and designated. Would you like to withdraw that?

SEN. WILLIAMS:

Yes, I would like to withdraw that.

THE CHAIR:

And now, without objection.

SEN. WILLIAMS:

And now, Madam President, I would like to once again move reconsideration of 7069.

THE CHAIR:

Without objection, the motion is before us. So

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ordered. Senator Williams.

SEN. WILLIAMS:

I would request that we vote against the amendment inasmuch as it was an outdated amendment. We have another amendment in its place.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Madam President, I would request that this amendment be rejected.

THE CHAIR:

The motion before us is the rejection of Senate Amendment "A". May I have a roll call vote, excuse me, not a roll call, a voice vote. All those in favor of rejection indicate by saying "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Opposed, "nay"? The ayes have it. The motion is rejected. Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. I would yield at this time to Senator McDermott.

THE CHAIR:

Senator McDermott, do you accept the yield?

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SEN. MCDERMOTT:

Yes, Madam President, I accept the yield. Thank you very much. The Clerk has in his possession, LCO9218. I would ask him to call it at this time.

THE CLERK:

LCO9218 which will be designated Senate Amendment Schedule "C". It is offered by Senator McDermott of the 34th District et all.

THE CHAIR:

Senator McDermott.

SEN. MCDERMOTT:

Thank you, Madam President. I move its adoption and ask permission to summarize.

THE CHAIR:

The question is on adoption. Please proceed.

SEN. MCDERMOTT:

Thank you, Madam President. This bill simply makes some clarifications to the underlying bill, to be better able to clarify the intention of the voyeurism statute.

It also adds malice to the definition of the bill as well and it creates, it takes out the Class D felony and substitutes that with a Class A misdemeanor for simple voyeurism.

THE CHAIR:

The question is on adoption of Senate Amendment

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"C". Will you remark further? Will you remark further? If not, I will try your minds. All those in favor indicate by saying "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Opposed, "nay"? The ayes have it. Senate "C" is adopted. Will you remark further on the bill as amended? Senator McDermott.

SEN. MCDERMOTT:

Thank you very much, Madam President. I'd like to recall Senate Amendment "B", LCO8612.

THE CLERK:

LCO8612 which was previously designated Senate Amendment Schedule "B". It is offered by Senator McDermott of the 34th District et al.

THE CHAIR:

Senator McDermott.

SEN. MCDERMOTT:

Thank you, Madam President. I move its adoption and ask for permission to summarize.

THE CHAIR:

The question is on adoption. Please proceed.

SEN. MCDERMOTT:

Thank you very much, Madam President. What this

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amendment simply does is to reclassify or classify dissemination of material that's done in a voyeuristic nature to be penalized by a Class D felony. So dissemination of voyeuristic material will be a Class D felony.

THE CHAIR:

The question is on adoption of Senate Amendment "B". Will you remark further? Will you remark further? If not, all those in favor indicate by saying "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Those opposed, "nay"? The ayes have it. Senate "B" is adopted. Will you remark further on the bill as amended. Senator McDermott.

SEN. MCDERMOTT:

Thank you very much, Madam President. I'd just like to speak to the bill now as amended. That I would strongly encourage my colleagues to support this bill before us. I've had instances in Cheshire where we've had some cases where it's been offensive on cases of voyeurism where we have not had the penalties or laws on the books to enforce penalties for this kind of nature and I would urge all of my colleagues to support this bill. Thank you very much, Madam President.

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THE CHAIR:

The question is on passage of the bill. Will you remark further on the bill as amended? Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. Again, I'd like to thank Senator McDermott, Representative Klarides, all those who have worked on this bill. I believe it's probably a bill, probably a privacy bill that we can all agree on today.

So with that, if there's no objection, I would move this to the Consent Calendar.

THE CHAIR:

Motion is to refer this item to the Consent Calendar. Without objection, so ordered.

THE CLERK:

Calendar Page 15, Calendar 501, File, correction, File 346 and 723, HB5109 An Act Concerning Health Benefits for Survivors of Public Safety Employees Killed in the Line of Duty as amended by House Amendment Schedules "A", "B" and "C". Favorable Report of the Committees on Public Safety, Labor and Public Employees and Appropriations.

THE CHAIR:

Senator Penn.

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on Calendar Page 1, Calendar 133, Substitute for SB1078.

Calendar Page 2, Calendar 295, HB6857.

Calendar Page 6, Calendar 403, Substitute for
HB6976.

Calendar 408, Substitute for HB6741.

Calendar 7, Calendar 416, Substitute for HB5468.

Calendar 417, HB6640.

Calendar 424, Substitute for HB5337.

Calendar Page 9, Calendar 449, Substitute for
SB1109.

Calendar Page 10, Calendar 456, Substitute for
SB457.

Calendar Page 11, Calendar 466, SB1179.

Calendar Page 12, Calendar 470, Substitute for
SB1334.

Calendar 472, Substitute for SB1345.

Calendar Page 14, Calendar 499, HB5336.

Calendar Page 15, Calendar 500, Substitute for
HB7028.

Calendar 504, Substitute for HB6994.

Calendar Page 16, Calendar 506, HB6868.

Calendar 507, Substitute for HB6709.

Calendar Page 17, Calendar 514, Substitute for
HB5876.

Calendar 516, Substitute for HB7049.

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Calendar 517, Substitute for HB5764, HB 5765

Calendar 518, Substitute for HB6685.

Calendar Page 18, Calendar 94, Substitute for
SB993.

Calendar Page 19, Calendar 112, Substitute for
SB1048.

Calendar 147, Substitute for SB942.

Calendar Page 20, Calendar 160, SB1289.

Calendar Page 21, Calendar 223, Substitute for
SB112.

Calendar 230, Substitute for SB1245.

Calendar 232, Substitute for SB1015.

Calendar Page 23, Calendar 256, Substitute for
SB994.

Calendar Page 24, Calendar 294, Substitute for
HB6835.

Calendar 302, Substitute for SB1092.

Calendar Page 25, Calendar 320, Substitute for
SB1019.

Calendar Page 26, Calendar 349, Substitute for
HB6659.

Calendar 351, HB5725. HB 6725

Calendar Page 27, Calendar 362, Substitute for
HB6639.

Calendar 376, Substitute for SB1139.

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Calendar Page 28, Calendar 269, Substitute for SB1228.

Madam President, that completes the First Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. Would you once again announce a roll call vote. The machine will be opened,.

THE CLERK:

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

Total number voting, 35; those voting yea, 35; those voting nay, 0. Those absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted. Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. This concludes our

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CLERK:

Senate Bill Number 1263 in concurrence with the
Senate

Total Number Voting	138
Necessary for Passage	70
Those voting Yea	138
Those voting Nay	0
Those absent and not Voting	13

SPEAKER PRO TEMPORE HARTLEY:

The bill is passed.

Would the Clerk please call Calendar 572?

CLERK:

On page 15, Calendar 572, Substitute for Senate
Bill Number 1078, AN ACT CONCERNING VOYEURISM.

Favorable Report of the Committee on Judiciary.

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor, you have the floor, sir.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. I move acceptance of the
Joint Committee's favorable report and passage of the
bill in concurrence with the Senate.

SPEAKER PRO TEMPORE HARTLEY:

The motion is acceptance and passage in concurrence
with the Senate. Will you remark, sir?

REP. LAWLOR: (99TH)

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Thank you, Madam Speaker. I will. I will just point out that the Senate adopted two amendments which I'll call in a moment.

Madam Speaker, this bill is intended to fill in what turns out to be sort of a blank in our criminal statutes. There have been a variety of incidents over the last few years in our state when persons who at the time they were recorded had a reasonable expectation of privacy. In some cases they were in their own home or in someone else's home and it turns out that someone video taped them and was apprehended, but there was not an appropriate charge available to the prosecutors.

This bill establishes a new crime entitled "voyeurism" and limits the application of this penalty to a very narrow set of circumstances, but I think everyone would agree that in these circumstances it ought to be a crime.

First of all, if you are video taping another person without their knowledge and consent, and while they are inside a building or another structure, and it is under circumstances when that person has a reasonable expectation of privacy, and you are doing it for your own sexual gratification as opposed to a private investigator investigating someone's misconduct in connection with a divorce proceeding or a contemplated

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divorce proceeding, then and only then would it become a crime.

Madam Speaker, the Clerk has LCO Number 8612 previously designated as Senate Amendment "B". I would ask that the Clerk call and I be permitted to summarize.

SPEAKER PRO TEMPORE HARTLEY:

The Clerk is in possession of LCO 8612, previously designated Senate Amendment "B". Will the Clerk please call?

CLERK:

LCO Number 8612, Senate "A" offered by Senator Sullivan, et al. Senate "B"

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor has asked leave to summarize and without objection, you may proceed.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. This amendment adds a second new crime which would apply not to simply the recording of this private moment, but instead the dissemination of the recording. In other words, if you tape record or video tape such an event and then turn around and distribute it, sell it or give it out, then that, in and of itself, would become a Class D felony.

I would urge adoption, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

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The motion is adoption of Senate Amendment "B".
Will you remark further? Will you remark on Senate
Amendment "B"?

Representative Tulisano, you have the floor, sir.

REP. TULISANO: (29TH)

Yes. A question, through you to the proponent of
the amendment.

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, sir.

REP. TULISANO: (29TH)

In order -- just so I understand this, what would
the State have to prove, through you, Madam Speaker, for
a person to be found guilty under this proposal, would
they have to show that whoever took the material had to
do so for their own sexual gratification before they
would have to -- before they could go forward against
this other party so that the underlying offense seems to
be that you have to prove something and the mere fact
that the image exists is not criminal. The only criminal
action is if somebody disseminates it and it was taken
for the purpose of individual sexual gratification?

Through you, Madam Speaker, I don't know what the
State's burden would be.

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

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REP. LAWLOR: (99TH)

Thank you, Madam Speaker. This amendment establishes a new crime, obviously and the elements of the new crime include all of the elements of the crime that appears in the file copy plus the addition of the requirement that you would have to prove that you were distributing it or disseminating it as well.

I don't think this would require that you would have been the person who recorded it in the first place. In other words, someone could make such a recording, meet all the elements of the file copy crime and then another person could take that product and then further distribute it and then would be violating the crime that's contained in this amendment, Madam Speaker.

So I think the answer is no, the person distributing the tape would not have to have been doing so for his or her own sexual gratification.

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

Representative Tulisano.

REP. TULISANO: (29TH)

Just so I can understand this clearly. So that a person who disseminates material which could be voyeuristic, would have to first make inquiry of the

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individual who gave it to them whether it or not they were sexually or took the pictures for sexual gratification or not. And if the answer was the person who gives it to them says no, then that would be a defense?

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Through you, Madam Speaker. Yes, it would be a defense. Of course, they would have to prove it and I just point out that it would be an element of the crime that's contained in the amendment, the element would be that you would have to have known that the tape was recorded in violation of the crime that's contained in the file copy. In other words, you would have to prove not only that they did it, but they knew that the circumstances under which it had been originally recorded.

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Lawlor.

Representative Tulisano, you have the floor.

REP. TULISANO: (29TH)

Thank you.

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SPEAKER PRO TEMPORE HARTLEY:

Will you remark further on Senate Amendment "B"?

Will you remark further on Senate Amendment "B"?

If not, I will try your minds. All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER PRO TEMPORE HARTLEY:

Those opposed, nay. The ayes have it. The

REPRESENTATIVES:

The Chair is in doubt. I will try your minds again. All those in favor of Senate Amendment "B", please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER PRO TEMPORE HARTLEY:

Those opposed, nay.

REPRESENTATIVES:

No.

SPEAKER PRO TEMPORE HARTLEY:

The ayes have it. The amendment is adopted and ruled technical.

Will you remark further on the bill, as now amended? Representative Lawlor.

REP. LAWLOR: (99TH)

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Thank you, Madam Speaker. The Clerk has LCO Number 9218, previously designated Senate Amendment "C". I would ask the Clerk call and I be permitted to summarize.

SPEAKER PRO TEMPORE HARTLEY:

The Clerk is in possession of LCO 9218, previously designated Senate Amendment "C". Would the Clerk please call?

CLERK:

LCO Number 9218, Senate "C" offered by Senator Sullivan, et al.

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor has asked leave to summarize, and without objection, please proceed, sir.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. The most significant part of this amendment is it would change the underlying crime, the first crime, the actual recording of the actual voyeuristic recording would become an A misdemeanor and the dissemination of that material would remain as a D felony.

So, in other words, it's a misdemeanor to tape someone without their knowledge under the circumstances outlined in the file copy, but if you further distributed it knowing that it had been taped under

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those circumstances, you would be guilty of a felony.

I urge adoption, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

The question is adoption of Senate Amendment "C".

Will you remark further? Will you remark further?

If not, I will try your minds. All those in favor of the adoption of Senate Amendment "C", please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER PRO TEMPORE HARTLEY:

Those opposed, nay. The ayes have it. The amendment is adopted and ruled technical.

Will you remark further on the bill, as amended?

Will you remark further on the bill?

Representative Tulisano, you have the floor.

REP. TULISANO: (29TH)

Just another question, through you, Madam Speaker, to the proponent of the bill. As I read the original file copy, and it relates to some of our earlier discussion, there was a question and I thought I heard Representative Lawlor indicate that the images had to be taken in order for an individual sexual gratification which is a difficult thing, I think you will acknowledge, to prove in and of itself. But I think

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there's another two words in there -- I don't have the file copy immediately in front of me, I think it also adds another person.

Can you, through you, Madam Speaker, can you tell us what the State would be -- unless that was taken out, what the State is expected to prove should the defense -- I didn't take it from me. I took it from somebody else who said they wouldn't be gratified?

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. I think what the State would be required to prove in order establish that element would be that the person who was tape recording whatever the situation was, was either doing it for his or her own private benefit to fulfill their sexual fantasy or whatever, or didn't really derive any satisfaction from that in and of itself, but intended to sell it to people who would be buying it for that purpose in the same way most people purchase pornography for, as I understand it.

So I think, Madam Speaker, that's what they mean. If you're taping it either because you want to watch the video or you want to sell it to people who would like to watch the video for their own sexual gratification, then

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you would be guilty, but that would have to be demonstrated beyond a reasonable doubt.

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Lawlor.

Representative Tulisano.

REP. TULISANO: (29TH)

Through you, Madam Speaker. Just because of the response, it raised another question in my head. The fact is that this material may not, in and of itself, be pornographic, I gather. I mean, you could, I suppose, get certain kinds of gratification from somebody dressed from head to toe in a hood. I guess. I don't know.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano, is that a question or is that a rhetorical remark?

REP. TULISANO: (29TH)

That's a rhetorical question, through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Oh, rhetorical question. Representative Lawlor, do you choose to respond to the rhetorical question? Would you remark further, Representative Tulisano?

REP. TULISANO: (29TH)

My question is if the situation is not

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pornographic, how do we impute some kind of criminal activity in the third party? I mean, in response, I think Representative Lawlor indicated that and probably true, most of it might be pornographic in nature, but it might not, in fact, be pornographic which is a different issue that has to be shown and I'm still concerned about -- we have statutes in similar language, but we don't use it to a third party or another person. So I'm not sure we have any history on this and how this is to be prosecuted and I think maybe because it could help us in that area.

Thank you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. You know, obviously the real crime here is the invasion of privacy more so than the obscenity aspect of this and I think that each of us has an expectation under certain circumstances we won't be filmed and whether we're engaged in an obscene act or some other type of very private moments, we're just hoping or assuming that people won't be snooping around our house with a hidden camera tape recording that and then re-broadcasting it for people's entertainment and I think the crime that we're highlighting here is the

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invasion of privacy more than the peddling of pornography which is, of course, already against the law.

And I think in our nation's recent past, we've seen some examples where people have claimed that their privacy was invaded unnecessarily and I think given the new technologies available to do that, it's important we set out some standards and I think that's what we're doing today.

So, through you, Madam Speaker, I hope that responds to Representative Tulisano's questions.

SPEAKER PRO TEMPORE HARTLEY:

Thank you very much, Representative Lawlor. Will you remark further? Representative Diaz.

REP. DIAZ: (130TH)

Thank you, Madam Speaker. A question to the proponent of the bill.

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, sir.

REP. DIAZ: (130TH)

What would happen in the case of a male and female who together made a tape when they were madly in love and then all of a sudden fell out, hate each other, and now that tape is sitting somewhere and I mean, is there -- what would they do in that case?

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SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. That would not be a violation of this statute. The statute would require that the original tape recording would have been recorded without the person's consent and where they had a reasonable expectation of privacy. And I think if the person actually making the tape was another participant in whatever activity was being tape recorded, it would not meet the standards set out in the statutes.

So, it would not apply in that case.

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir. Representative Diaz, you have the floor.

REP. DIAZ: (130TH)

So that means -- another question, through you to the proponent.

Would that then mean that -- I mean, how would he be able to prove that this was done maliciously or in -- I'm looking for a word. How would you be able to prove that this was done in order to hurt -- I mean, it would be for sexual gratification, but how would you be able to prove that? How would you be able to prove that they

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did it after or before or during?

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Well, Madam Speaker, there are other crimes where an element of that crime is to prove that the person accused of the crime engaged in whatever conduct that he or she engaged in for their own sexual gratification.

Although the words are slightly different in this proposed statute, it's essentially the same thing. It's a well established thing and decorum probably wouldn't allow me to go into the specifics of how you would prove that, but I certainly do it, but it would involve some rather graphic description of what was being conveyed and the circumstances under which the tape was found and things like that.

But I think the heart of the question deals with a tape recording that took place consensually at the outset, perhaps in the context of a marriage or another type of relationship but was subsequently used to embarrass one of the two persons involved. Obviously, part of the proof would be that one of the two people in the tape would be the person charged and that goes some way to defeat a claim that it was done without consent.

Madam Speaker, I think that would not cover this

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particular situation.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

Representative Diaz.

REP. DIAZ: (130TH)

But we do have other laws that would cover the other instances, don't we already in place? I think that if someone were sneaking around making tapes or there are laws that cover that, aren't there?

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Through you, Madam Speaker. Yes, there are other crimes that would cover this. And I think more appropriate under those circumstances, but this -- again, I think it's important to emphasize this bill is intended to punish invasions of privacy more so than to get into what is or is not acceptable sexual conduct or whatever and I think, in essence, the person who is prosecuted in these situations would, by and large, be strangers. Although I do know that in one of the recent cases it involved someone who was a homeowner taping guests in their own home when they were changing to go swimming in the pool or something like that and obviously, it would cover that, as well.

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But I don't think it would be -- I do not think it would cover the fact pattern that Representative Diaz outlined.

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Lawlor.

Representative Diaz.

REP. DIAZ: (130TH)

Okay, thank you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

Will you remark further? Representative Cafero.

REP. CAFERO: (142ND)

Thank you, Madam Speaker. Madam Speaker, a question, through you, to the proponent of the bill.

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, sir.

REP. CAFERO: (142ND)

Thank you, Madam Speaker. To Representative Lawlor, in this sort of -- this question is generated by the question of Representative Diaz. In the situation that he indicated where a couple makes a film when they're in love. They fall out of love. The fact the tape is hanging around is not in violation of this bill, but if one of the participants or whomever, disseminated

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that tape without the consent of the other participant, would they not be in violation of what we just passed, what Senate Amendment "B"?

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. No, I don't think they would because Senate Amendment "B" refers back to the file copy and to be guilty of the underlying crime you would have to have video taped the initial situation without the knowledge and consent of such other person.

So I'm assuming if a couple, for example, video tapes their own sexual relations, for example, and then subsequently one of the two decides to disseminate the tape, they may be committing other crimes, but they wouldn't be violating this one because the initial taping, I'm assuming, was consensual and it seems like the requirement is that that would have had to have been without the consent of the party.

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Lawlor.

Representative Cafero.

Will you remark further? Representative Klarides.

You have the floor, Madam.

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REP. KLARIDES: (114TH)

Thank you, Madam Speaker. Madam Speaker, I would like to speak in favor of this bill as I think a lot of people know, I've been working on this bill since last summer, actually, when for two reasons. One, because the State Attorney's office came out with the fact that there was a big loophole in our bill - in our laws in Connecticut and I think that's all the examples we've had today I think are all valid and I think most of them fall within the purview of other statutes and other laws.

But the loophole in our statutes say that people who go outside your house or some place where you have a reasonable expectation of privacy that is not in plain view and you have not consented to, don't have the right to take your pictures and it doesn't matter if it's "pornographic" or obscene. It could just be you standing there in your underwear which, quite obviously, isn't necessarily obscene. I mean, you probably wear less clothes when you're on a beach. But you have a reasonable expectation of privacy and that's what this is about. It's a pure privacy issue.

What we, as citizens of Connecticut, as citizens of the United States, what our constitutional rights are to privacy and that's why the difference between the Class A misdemeanor for taking the pictures and the Class D

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felony for disseminating the pictures is there.

Because when you have somebody who decides to go and take a picture of some unsuspecting man or woman in various states of undress for their own sexual gratification, that's one thing. He or she is going to go home and look at that picture, do whatever they're going to do, nobody really knows about that. But when somebody has the intent to take pictures of somebody else when they have no consent, when they don't know about it, and when it is sure to embarrass them or degrade them and then either sell them, pass them out, put them on the Internet, whatever they're going to do with them and typically now a days that's what's happening. Things are going on the Internet.

I am having my own problems with unauthorized use of my name, understand that and until you have had the problem yourself, or have dealt with somebody personally who has had the problem, you don't understand what an invasion that is and how you're put on the defensive to defend yourself.

I think this is important for our police officers and prosecutors to be able to enforce the law as it should be. I urge everyone's support of it. During the Judiciary public hearing we had a 17 year old girl come in who is still in high school and I mean the bravery of

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her was just unbelievable to me and I expressed that and I think most people on Judiciary did also.

She came in and expressed how some kid she went to high school with stood outside her window, took pictures of her in various states of undress and then eventually ended up breaking into her house leaving a semen stained hat on her bed and leaving. They ended up DNA testing the hat and catching him doing it to numerous other people in Woodbridge, Orange, New Haven, Hamden areas in addition to the Cheshire incident. I mean, this is ridiculous and those are the cases we know about. Imagine how many cases there are that we don't know about.

I just think it's time that we do something about it, punish these people with the penalties that they should be punished with and allow prosecutors and police officers to do the job that we put them out there to do.

And I urge everyone's support of this bill.

Thank you.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

Will you remark further? Representative Andinolfi, you have the floor, sir.

REP. ADINOLFI: (103RD)

Thank you, Madam Speaker. I would like to rise in

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support of this bill also. We had an incident in Cheshire last year where at one of the band parties that the bands had every now and then in Cheshire a young man with a camera took video pictures of some of the young ladies that he shouldn't have taken. I don't want to go into the minute details, but I don't think we're a bunch of novices here. He shouldn't have taken those pictures. It was without their knowledge and then later on he would get together with gatherings of his friends, his buddies, and show these pictures, obviously for sexual arousal.

These girls', their privacy was violated. It did finally come out into the open. The young man was arrested and all he got was a slap on the hand that his breach of peace of violating and embarrassing these young ladies. I think that's wrong and I strongly ask my colleagues to support this bill.

Thank you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir. Will you remark further?

Representative Fritz of the 90th. You have the floor, Madam.

REP. FRITZ: (90TH)

Thank you, Madam Speaker. I too rise in support of this bill. And unfortunately, that pool party happened

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to take place in my part of the town of Cheshire and I did talk to the Chief State's Attorney's office during the summer and when the loophole was discovered in the law.

And as Representative Adinolfi so clearly stated, these tapes were made and were passed around among the young people. They were also brought to the high school and they were being sold there.

The violation again of the privacy of these young women is without bounds. I believe that this law or this bill, as it appears before us today, will go a long way to protect the little privacy that we now have left.

I urge passage.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Fritz. Will you remark further? Representative Carter.

REP. CARTER: (7TH)

Thank you, Madam Speaker. Madam Speaker, through you to the proponent of the bill. I am for anything that will close the loopholes in our law, but I guess I need you to clarify for me is what is our expectation of privacy and the reason I ask that is I think our President of the United States had the expectation that he had a whole lot of privacy until a dress appeared.

So I would like to know what we can consider an

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expectation of privacy.

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. And I think that's an excellent question and a very important point. And my sense is over the years to come we'll be dealing with all aspects of this privacy in the computer age issue and you know, since the development of the silicon chip, it's been clear that it's easy to convey information very quickly and now that we're coming, as Representative Klarides has found out, sometimes not accurate information can be conveyed instantly over the Internet and be very misleading or out and out false and I think it's very important that we begin to explore how do we police this appropriately and one way, obviously, is when people are collecting information by violating other people's privacy, they should be held not just to a standard to where they're told it's wrong, but also that it's a crime and I think in the months and years to come we're going to confront this in a variety of context where information that we believe is private and personal is distributed and we see this already with medical information, etc. I mean, this is an issue that here to stay and I think we need to establish clear

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standards, Representative Carter, so that when people violate this expectation in the future, that they're appropriately punished.

So, private sexual conduct is one thing and that's dealt with in this amendment, but there are a lot of other things that we need to talk about. Medical information is just at the top of the list, as well.

So, I'm sure this is an issue that's here to stay and I welcome everyone's participation in helping to craft rules that we can live with for the future.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Lawlor. Will you remark further?

Representative Klarides.

REP. KLARIDES: (114TH)

Thank you, Madam Speaker. Just another brief point. I echo Representative Lawlor's comments on the Internet and the privacy issues and I think that everybody can agree that the Internet has grown in leaps and bounds above what everybody thought it would be and the laws have, in no way, caught up to them. And the federal government needs to really take charge and do something about it as far as accountability issues, but I think this law with the dissemination part to it, at least lets us to out part from what we can do in

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Connecticut and put us in the forefront of what's going on as far as Internet dissemination goes. And in privacy issues.

Thank you.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam. Will you remark further?

Representative Samowitz.

REP. SAMOWITZ: (129TH)

Through you, Madam Speaker, a question to the proponent.

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, sir.

REP. SAMOWITZ: (129TH)

Thank you. In many campaigns and in the context of the political arena, following through Representative Carter's question, there has been incidents or there are ways that you can take a picture of somebody and put them in a less compromising position or frame them in a -- of a person who is in a political context that is a caricature and sometimes in places where you wouldn't have a reasonable -- it portrays you in a less favorable and sometimes border line maybe unfavorable light. Is this the type of thing that this is trying to reach or is it or could it reach when we start doing -- when we're looking at other expressions or free speech? How

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do we balance these two types of concepts, particularly when, as pointed out, under new technology you can take somebody's image and put them into other places and other things that they may or may not want to be?

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Samowitz. Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. Through you, first of all, I don't think this would apply to the campaign context. If it's -- if whatever is being done is motivated politically, then it wouldn't fall under the outlines of this bill. Maybe it should. Maybe that's something we should consider in the future. But again, let me just emphasize, that there are questions we're going to have to answer and we can't even figure out what the questions are yet.

This is a whole new world where information is instantly available to everyone and it's, in most cases, not traceable to its source. So you could say whatever you want and put it out there. You can electronically alter photographs, for example, and send it out.

So I'm sure there are some creative political consultants out there right now who are trying to figure out how to use the Internet to bring down political

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elected officials and candidates and certainly there's been a couple incidents in the recent past where that's been done, false stories attributed to a newspaper, distributed over the Internet and the newspaper never published the story, for example.

So, these are the kinds of things which I'm sure we will be grappling with as the years play out and the tough part is it would be easy just to prohibit it, but on the other hand we do have our First Amendment privileges under the federal Constitution to engage in free speech.

So, we'll have to figure out the balance here and I'm sure it's going to -- we're not going to do it this year in a complete way and we'll have to work on that.

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Lawlor.

Will you remark further? Will you remark further on the bill?

If not, would staff and guests please come to the Well? Will members take their seats? The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by

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roll call. Members to the Chamber, please.

SPEAKER PRO TEMPORE HARTLEY:

Have all the members voted? Please check the roll call machine to see that your vote is properly recorded.

If so, the machine will now be locked and the Clerk will please take a tally.

The Clerk will please announce the tally.

CLERK:

Senate Bill Number 1078, as amended by Senate Amendment Schedules "B" and "C" in concurrence with the Senate

Total Number Voting	139
Necessary for Passage	70
Those voting Yea	138
Those voting Nay	1
Those absent and not Voting	12

SPEAKER PRO TEMPORE HARTLEY:

The bill, as amended is passed.

Are there any announcements or points of personal privilege? Representative Gerratana.

REP. GERRATANA: (23RD)

Thank you, Madam Speaker. I would like to announce that the Human Services Committee will be meeting immediately following the House session in Room 2A of the LOB. As soon as we're through here we will be

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HEARINGS

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PART 3
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JACK CRONAN: Sorry, Mr. Chairman. I was at a State Attorney's meeting where a legislator was kind of dominating the agenda.

I'm Jack Cronan from the Chief State's Attorney's office. I asked Assistant State's Attorney Jim Turcotte to come today to explain a particular problem that a bill on the agenda today addresses and that is raised SB1078, AN ACT CONCERNING VOYEURISM.

JAMES TURCOTTE: Ladies and gentlemen, I'm a prosecutor in Meriden, Connecticut out of the New Haven Judicial District. Our office currently has two cases pending which has received some publicity lately relating to people who have been video taped in their privacy of their own dwelling or in the privacy of another person's dwelling where they had an expectation of privacy and they were later video taped.

We have had a great deal of difficulty in determining what crime, if any, they could be charged with for the actual voyeurism and video taping of these individuals.

We spoke to a number of prosecutors across the state who had similar problems and we've had a great deal of difficulty alleging an offense in court, punishable for the act of voyeurism.

We have two cases pending now where, unfortunately, the acts that we have charged them with, were acts not set in the actual video taping of voyeurism, but was done subsequently either with the video tapes or other acts they committed while committing the voyeurisms, such as burglary.

These people, when they commit these offenses, do not, on their face, violate any of the existing criminal laws under the penal code of the State of Connecticut.

Common sense tells us that when someone comes onto your property, sometimes in the early evening and they climb up and they look in your window, it

tells us that that is wrong, but the law in the State of Connecticut does not cover that act and it certainly does not cover the act while they're being video taped.

If they are not eaves dropping under the statute by way of electronically overhearing conversations though property is not posted or fenced or they do not actually enter the dwelling, then it is not illegal in the State of Connecticut for someone to peep in your window and to observe and/or video tape your most private acts.

We have a number of victims in the greater New Haven area where crimes could not be charged. Period. End. Because of the fact that the person committed no other offense while doing this. It did not violate the stalking statute because the person did not know they were there outside their window peeping in. They did not violate the trespass statute or burglary statute or breach of the peace statute.

This is a great hole that must be filled especially in the age and time of increased technological advances. I fear today when the video voyeurs are going to have great access to the internet and these poor victims are going to be victimized not one, not twice, but three times. One, having it seen by the person. One, having themselves video taped and who knows who they're going to show it to, and third, putting it out over the internet because that internet is not carefully controlled as to what information, obviously, can go on it.

I know people who have had other private moments or pictures put out over that internet and it is devastating to those individuals.

The case -- I don't want to go into too much of the details of the case we have now pending, but one of our cases, the person has entered a guilty plea because they actually entered into the dwelling of the victim -- of one of the victims.

But that same person went back to five, ten, twenty different homes, went to private schools and video

taped. And for that, they could not be charged. And I think that something needs to be addressed to fill this gap.

SEN. WILLIAMS: Chairman Lawlor.

REP. LAWLOR: Hi, Jim. Is this your draft, this language?

JAMES TURCOTTE: It's not mine, no.

REP. LAWLOR: Because my only technical question was the requirement that it would be with lewd, lascivious or indecent intent and I think - I don't think there's any precedent for those words. Maybe for sexual gratification and the act or something that's already in the statutes.

JAMES TURCOTTE: I agree with you that -- when I saw the bill that I had some concern and I believe this was -- Mr. Cronan maybe able to comment on that. I had some concern about that language that it was perhaps a little bit too broad. I know some of the statutes in other states using lewd and lascivious have been struck down. I feel, as a prosecutor, more comfortable with the terms sexual arousal or sexual gratification as used in the sexual assault statute.

In fact, voyeurs are now being treated as sex offenders by many of the sex offender programs.

JACK CRONAN: Mr. Chairman, I thought that lascivious carriage was an interesting law that we could look at.

REP. LAWLOR: Is that still on the books?

JACK CRONAN: I don't think so. This was just an attempt to bring the issue out for discussion, Chairman Lawlor. In fact, I have seen other drafts that I think address the problem to a better degree than this.

REP. LAWLOR: So the key elements, in your opinion, would then be to distinguish this from other forms of video taping by requiring some type of

lascivious or sexual gratification-type element.

JAMES TURCOTTE: Yes. Assuming that is the bulk of the majority of the cases that come to our court with this type of referral is for that purpose. It is not the situation where somebody is just watching over another person or that. That maybe covered by the stalking statutes.

REP. LAWLOR: And do you support the idea of limiting this to a building or some other type of structure where there's an expectation of privacy rather than broadly to public places, etc?

JAMES TURCOTTE: Right. As long as that person -- and it's an objective standard that that person would have a reasonable expectation of privacy. If they're in their own home, obviously, they have an expectation of privacy. If you're in the home of another person, but you're in a location where a normal human being would have the reasonable expectation to privacy such as a closed bedroom where they're changing or a bathroom where they're changing and they've been told they can use that facility for that purpose and it's only for the purpose where they're lured into that location for the purposes of having them undress and to be video taped.

And in addition, it's not just the video taping, but I think it's important that the legislation include just observing as well because we don't want a situation where a person goes out there, is able to peep into somebody's window for the same purposes, and they're not using a video camera or a regular camera and they're not prosecutor punished. I don't think that's appropriate.

REP. LAWLOR: And finally, one concern that was expressed to me was, I guess, it's being recommended that people have questions about baby sitters they have to install a hidden video system just to make sure that there's not abuse taking place.

So this would not apply to someone doing that because it wouldn't include that sexual

gratification-type aspect?

JAMES TURCOTTE: That's correct.

REP. LAWLOR: Is that correct?

JAMES TURCOTTE: That's correct.

SEN. WILLIAMS: To follow up on that, would this law capture professional photographers using long lenses shooting into someone's home through a window or something along those lines? Because here again, I think the publication of those types of pictures may cause all the same harm that you were talking about earlier in your testimony and yet, at the same time, the intent of the photographer is to make money as a professional as opposed to be gratified sexually.

JAMES TURCOTTE: I agree with you. I don't think -- in most instances that I've seen this activity applied, the person is going to have a reasonable expectation of privacy in the activities. And they're not going to be subject to the same sort of the Papparazzi or however you want to refer to it.

That is not the intent of this legislation. Most of the people, 99% of the cases that have come to court and for referrals to determine whether we can prosecute was specifically for that type of purpose. It was clear based upon the application of the statute - that was the case.

SEN. WILLIAMS: So let me be clear on your answer. The purpose of the law, from your point of view, would not be to have it reach to professional photographers?

JAMES TURCOTTE: Unless it was for the purpose of catching that person in a situation that was embarrassing to that victim in the sense that it was for the sexual gratification of a person. They could be a professional photographer, but yet still doing it for their jollies, so to speak, as opposed to a current and legitimate and proper means or idea.

SEN. WILLIAMS: So then the invasion of privacy would not be covered by this law unless there were some sort of sexual activity either demonstrated or intimated by whatever was captured on film?

JAMES TURCOTTE: That's correct.

SEN. WILLIAMS: Okay. Chairman Lawlor.

REP. LAWLOR: I just have one other follow-up along those lines. I know that from time to time it does happen that a private investigator is hired, let's say in a divorce case to follow someone around on the suspicion that they're involved in an extra-marital affair, for example. So, it wouldn't be the intent of -- I'm asking you, but it's not your intent to categorize someone who is taking photos, even though they're of a sexual encounter, as long as it's not clear that it's for the sexual gratification of the person taking the photos. That's the key element you're discussing?

JAMES TURCOTTE: That's clear, yes.

SEN. WILLIAMS: Further questions? Senator Looney.

SEN. LOONEY: Thank you, Mr. Chairman. Good afternoon, Mr. Turcotte.

JAMES TURCOTTE: Good afternoon, Senator Looney.

SEN. LOONEY: Just to follow up on the Chairman's question a little bit. On the -- the expectation is that this would be a specific intent crime, then. Is that right?

JAMES TURCOTTE: That's correct.

SEN. LOONEY: In other words, the specific intent would have to be some sort of sexual gratification and that would be something that the prosecution would have to prove beyond a reasonable doubt? In other words, that would be part of the prosecutor's burden of proof --

JAMES TURCOTTE: Absolutely.

SEN. LOONEY: -- that the reason was that and not another reason --

JAMES TURCOTTE: That's correct.

SEN. LOONEY: -- in order to undertake a prosecution under this intent and without that specific burden being met, then a prosecution would not be possible under this section?

JAMES TURCOTTE: That's correct. The prosecution would fail unless we could prove that intent beyond a reasonable doubt.

SEN. LOONEY: Right. Thank you.

SEN. WILLIAMS: Senator Kissel.

SEN. KISSEL: Thank you very much, Mr. Chairman and State's Attorney Turcotte. It's nice to see you. A law school classmate coming to testify before the committee. Thank you very much.

In particular, if we go forward with legislation such as this, one of the things that I see because of the nature of this particular offense, it would seem to me that it's also in the State's interest to get a hold of these video tapes and films as soon as possible and also to seal any court proceedings because the whole idea, unlike regular voyeurism where it's an alleged activity, but there's nothing tangible there that could be disseminated to the public, it would seem to me that what you would get upon an arrest is something that the victim would certainly would not want opened up to media scrutiny and because, again, part of what you had stated that was access to the internet and that just doubles the damage to the victim.

Is there anything above and beyond what we have here that would be necessary to proceed along these grounds that would make sure that the State has the authority to seize these materials that would have a greater ability to go out very quickly if there was evidence that this is taking place to obtain any other tapes or things of that nature and also,

would we need to do anything legislatively to make sure the courts have the authority to make sure that this evidence is not brought out before the public and disseminated that way?

JAMES TURCOTTE: There's a number of things, very quickly. One we could look at the (inaudible) statute and we could seize the video tape equipment, the vcr's they're being displayed upon and/or computers or scanners that are being used to disseminate the information over the internet. If the current (inaudible) statute does not provide for it, then that should be enhanced to allow for it. That's the first thing.

Number two. Similarly in the sexual assault cases where the name of the victim is not disclosed - 54-86e I believe is the statute, we could perhaps use something similar where the victim is -- in those sorts of cases the name cannot be disclosed because obviously it's a sexual assault sort of offense. They are treated as sex offenders by the treating clinicians in this day and age and perhaps we could incorporate it into the existing legislation involving 54-86e or a new statute which would prohibit the name of the victim from being disclosed.

SEN. KISSEL: Okay. And the last part is what about making sure that what the evidence that's obtained, the tapes and things like that are not exposed to the public via some sort of judicial proceeding?

JAMES TURCOTTE: Often times, even in regular criminal proceedings where there is information that would not be in the best interest of the public to have disclosed, the courts have the discretion to seal that information from the public so I'm sure a court could make a judicial decision in viewing this material in-camera to determine whether or not it could be disseminated or not.

SEN. KISSEL: Thank you very much, State's Attorney Turcotte. Thank you very much, Mr. Chairman.

SEN. WILLIAMS: Thank you. Representative Dillon.

REP. DILLON: Thank you. This may duplicate some other questions, but I just want to have fixed in my mind exactly -- I'm familiar with some of the cases and they're real heart breaking if you're a mom or a dad.

But this language we're looking at doesn't restrict its -- it doesn't matter what the age of the victim is?

JAMES TURCOTTE: That is correct.

REP. DILLON: And the language I need to get clear in my mind here. The word "secretly" is that a term of art?

JAMES TURCOTTE: No, it is not.

REP. DILLON: And what standard is there for that word? Would we leave that to the court?

JAMES TURCOTTE: I believe you would have to speak to Attorney Cronan as to the language that was used in that. I didn't write the bill.

JACK CRONAN: The intent, Representative Dillon, was in the sense that the victim, so to speak, did not know that this conduct was being undertaken at that point in time.

REP. DILLON: Without the knowledge of the victim -- do a better job? I don't know that, by the way.

And I'm still curious - I don't know what the best way to get at this would be, but establishing a -- let's say, you're dating someone. You're 17 years old. You break up with him. You go out with someone else. He takes photographs through your window. He distributes them to people. We're assuming that the perpetrator is male, but that obviously isn't always the case.

And we bring him on this and his defense is that his motive was no -- there was no lewd or indecent intent. It wasn't vicious. It was revenge. I guess I'm curious about how these cases would land on the ground. Let's say if they said, "that was not my

intent. I was not titillated at all. I was angry because of "x", "y", "z". What standards exist now for establishing that intent and what direction could we provide?

JAMES TURCOTTE: Basically, it's based upon the circumstantial nature of the case. Often intent -- we can't look into the person's mind and determine what their intent was other than looking at what their activities were and the materials that were actually recorded.

In one of the cases in which a person has entered a guilty plea, the majority of the video taping that that person did was only sexual in nature at a variety of different locations where they would put mirrors under doors so they could view shower rooms. They could -- they were looking in the windows of only the bathroom or the bedroom of the victim. They would go there repeatedly to catch them in compromising situations. So you have to look at the circumstantial nature of the case in order for us to establish our intent.

If it's a one time thing where there is evidence of other motives, then we may not be successful in that case if it's only for the sexual gratification of the perpetrator.

JACK CRONAN: Representative Dillon, the victim in one of these cases that Mr. Turcotte is here to testify on in the public side today. She is coming forward to --

REP. DILLON: Well, I'm not -- I'm aware of some of the cases and they're very painful. I'm thinking about the law and how it would be written and how it would be applied in other cases, not specifically the -- not drawing attention to any one particular thing that already happened, but wondering how it would be applied in other kinds of cases.

So I'm sure that there are -- it's a dreadful, dreadful, painful situation. But I'm just worrying how we write the law. And that - I don't know how you establish lewd intent. It would be by the content of the photographs that we would deduce the

intent. Is that what you're saying?

JAMES TURCOTTE: And the conduct of the perpetrator.

REP. DILLON: And the conduct of the perpetrator?

JAMES TURCOTTE: Yes.

REP. DILLON: Well, let's say if you sell pictures of your ex-husband after a bitter divorce. Would that be --

JAMES TURCOTTE: No.

REP. DILLON: How would you establish -- I'm just worrying about how it would be --

JAMES TURCOTTE: No. That's not the type of case that this bill would cover.

REP. DILLON: Well, we don't know that.

JAMES TURCOTTE: Well, I think it would be if -- if it's not for sexual gratification of the person who was doing the observing, but doing it for some other malicious reason, then this would not be covered under the law.

JACK CRONAN: Representative Dillon, there was a civil standard of invasion of privacy. It's called "the quasi-intentional tort". It sets up certain standards. This is an attempt to have a criminal aspect to what is already existing civil --

REP. DILLON: (INAUDIBLE -MICROPHONE NOT ON)

SEN. WILLIAMS: Senator Cappiello.

SEN. CAPPIELLO: Thank you. Just a brief question for intent. If someone is in their own home or their apartment and they're looking out of their window and they're looking at someone else's window, for whatever reason, could they then be charged with this?

JAMES TURCOTTE: Not unless it was for the purpose of sexual gratification of the --

SEN. CAPPIELLO: So, if they were looking out of their window on a regular basis and it just so happens that right across the way there's another apartment and their blinds are open, they can be charged with this then?

JAMES TURCOTTE: Not if it's by happen-stance, but if they continue to do it, and they are observed by that other victim, continuously looking in them when they're going into the bathroom or whatever, obviously if the person sees that one of their neighbors is looking in their windows, they're probably going to use common sense and draw the blinds.

So the conduct won't be continuous. But like I said, we're going to have to establish the intent, specific intent, but if that person continues to look out their windows specifically at nine o'clock every night when that person knows when they go in to take a shower, then they fall underneath that -- the umbrella of the statute.

SEN. CAPPIELLO: Okay. Thank you.

SEN. WILLIAMS: Further questions? Representative Powers.

REP. POWERS: Thank you, Mr. Chairman. Is there any case law or are there cases going through the courts now that deal with the internet with this kind of a global problem that we can look at for any kind of guidance?

JAMES TURCOTTE: Not that I'm aware of. I mean there are computer crime laws, but I don't think it always means the requirements of what's out there today.

REP. POWERS: Alright. So we're kind of on our own on this?

JAMES TURCOTTE: I --

JACK CRONAN: Representative Powers, we have submitted a proposal on child pornography this year to the committee that would cover aspects of that if it

involves a child. That bill is before the Judiciary Committee this year.

REP. POWERS: But what - I guess my basic question is, we're writing new law here. In other words, there is no precedent or any other cases we can look to?

JAMES TURCOTTE: I know a number of other states have struggled with this same problem.

REP. POWERS: Right. I just wondered if anybody solved even a little piece of it. No?

JAMES TURCOTTE: Not that I'm aware of.

REP. POWERS: Okay. Thank you.

JACK CRONAN: And they're relatively new, Representative Powers. Indiana, Tennessee and Florida, I believe, in the last year, just within the last year, have adopted statutes that cover this type of situation.

I have copies if you would like.

SEN. WILLIAMS: Representative Klarides.

REP. KLARIDES: Thank you, Mr. Chairman. I have a lot of things to say, a lot of points to address, but first and foremost, I think a lot of people are familiar with the fact that I was actually a victim of certain internet problems and that's where I got involved with this whole thing and working with the State's Attorneys' Office and other people around who have been very, very helpful on the subject. I think number one, one of our bigger problems which we're not dealing with here today, but a bigger problem overall, whether it's a voyeurism statute or whatever we're concerned with is the internet and obviously, that's a federally regulated situation and it's something I know Representative O'Neill had an issue or a constituent issue last year or the year before on that and he submitted a bill and that's something we're all going to have to work very closely on in the years to come because it's a severe, severe problem and things have grown in such leaps and bounds in the internet than anybody ever anticipated happening and laws

are no where near, no where near narrow enough to do any justice with that.

But I think our first concern with this bill is that we have to make sure it's not too broad which is always a concern with anything and I think sexual arousal or gratification, hopefully, is narrow enough. It seems to me Tennessee, Florida and Indiana, I believe, Attorney Cronan has stated, we have done a lot of research on that. I've done a lot of research on it throughout the country and what states had what and what worked, what didn't work.

I think that that's -- I think that the malicious intent component maybe something we need to work into this. It's something that could be possible. Maybe it's not possible. But I think that the bottom line is we have to look at people who, for some sort of sexual gratification or arousal goes into somebody who has a reasonable expectation of privacy and not only that, but what results is would be embarrassing to the reasonable person.

I would use the example when I've been talking to my colleagues about this why it's good, why it's bad, why it's not too broad, why it's not too narrow is if you're in Central Park and you're taking a video just of the day's events. You're walking through, you're with your kids, you're on your own, just because you like the scenery, you like the pictures and some lady, say hypothetically, bends over to pick something up and her undergarments show. Now that would be embarrassing to a reasonable person. However, number one she did have reasonable expectation of privacy and number two, nobody did that with any intent, malicious or sexual.

So, I think that to keep it narrow enough is, obviously, our number one concern.

And I think that the State's Attorney's bill plus other language that I've researched and we've all talked about is very important, but I think also which is just as important is not only somebody should be punished for taking these pictures, but

distributing these pictures. And I think we should have an enhanced penalty provision of this and we should consider that if they're distributed enhancing the penalty because a lot of people, I'm sure, in this room can't understand the feeling of having something that is -- that you consider private in your own home or things that are only personal to you all over the internet showing other kids at school, friends of yours and I know these girls that Attorney Turcotte dealt with in this case. They were victims from Woodbridge and Orange and New Haven and Hamden. You know, we have a victim here today that's going to speak in a little while. And she's going to explain exactly how embarrassing it is to her personally, to her family, how you have to deal with that, how you can't walk out every day wondering whose looking at you, whose saying what about you and God forbid, where it's going to end up. Whether it's going to be in school or in the newspapers or on the internet which we can't control at all.

And I think that having an enhanced penalty for that is very, very important. In addition to having the enhanced penalty for a minor.

JAMES TURCOTTE: I agree.

REP. KLARIDES: Because as Attorney Cronan has said, they've had the child pornography cases and we've all seen that. We've seen that on t.v., in the newspapers and the tabloid and it's a serious problem and I think we have to make sure we address all those.

SEN. WILLIAMS: I think Representative Klarides raises a good point in terms of the difference between the bill that we have here before us and then which would be the recording of, in some fashion, some embarrassing moment for someone when they had their expectation of privacy and then the publication by some means of that photograph or video tape or what have you which is not addressed by this bill.

However, it does raise the question I started out with where I still, after listening to everything over the last couple of minutes, I still have some

questions about whether you have a professional photographer who captures an embarrassing moment where someone is half clothed or whatever and that professional photographer does not have the same intent that say, someone would have secretly video taping something in their home of someone else who had the expectation of privacy and then viewing that video tape themselves for their own gratification. Professional photographers are not going to have that intent. They're just there to do a job, sell that picture to a magazine, put it on the internet and get paid for it or whatever.

And yet I think that that is probably just as bad, if not worse a situation and yet, may not be covered by this legislation. I am wondering if you have any reaction to that.

JAMES TURCOTTE: We have to be concerned about the first amendment rights of the photographer. We don't want to over-reach and go to places where it's not proper for criminal prosecution. Again, that person may have a civil remedy where they can sue them in civil court for money damages, but the question becomes as to whether or not -- again, some of that, obviously, would be prosecutorial discretion, but clearly you don't want to go places where people have proper and legitimate means or reasons for doing what they're doing. That's not the intent of our legislation. We're looking for the person who is most often a person who is doing it for their sexual gratification as opposed to for other reasons, more legitimate reasons.

SEN. WILLIAMS: I agree and I'm a defender of the First Amendment myself. But you can see the irony that could result holding someone who within their own home photographs or records the activities of another person being held liable and someone else who takes a picture with a long lense through a window and is able to sell that picture and make money off of it, then it's published to a wide audience not be covered by this law.

JACK CRONAN: A tort case, I believe the New York Times vs. Sullivan in my distant memory of tort law once again, established a civil standard for expectation

of privacy of a public person versus a private person in those types of cases.

SEN. WILLIAMS: Yes, I'm familiar with that case.

JACK CRONAN: I'm surprised I remembered it.

SEN. WILLIAMS: However, back then in the mid 1960's they weren't dealing with a situation that we see now in terms of publication of what we would consider to be embarrassing sexually driven material on the internet in the form of photographs or videos.

Further questions? Representative O'Neill.

REP. O'NEILL: It's really not so much a question, but Representative Klarides mentioned that I had a bill which went over to General Law and it really addresses the point, I think, that you're getting at which is the exploitation for commercial gain via the internet. That was the limitation that I put on it of taking photographs of people or using their likeness without their permission.

So it would be a different kind of approach, I think than what is basically here which is a criminal law approach, but rather treating it as an unfair practice or giving someone the right to seek financial damages against who are trying to gain financially from this kind of activity. I think there is a distinction in terms of the motivations and perhaps the distinction in the kind of remedy that we might seek. I just thought I'd throw that in.

SEN. WILLIAMS: Thank you, Representative O'Neill. Further questions or comments?

Thank you very much.

JACK CRONAN: Mr. Chairman, If I could very quickly address one more bill that's before you.

SEN. WILLIAMS: Yes.

JACK CRONAN: SB1013, AN ACT CONCERNING DOMESTIC

computer and one of them I have here says, "watch our hidden cameras in girls' locker rooms, showers, toilets. Join for free." And as I mentioned before, it's just a much bigger problem that we have and at least if we can start with this video voyeurism I think that that's a great beginning to cover the much, much larger picture and the bigger problems that we have.

I think it's very important to remember a couple of the words that she has used in her testimony that she was afraid, she was embarrassed, she was obsessed about going outside or going out to socialize or where she was going and who was looking at her and who wasn't looking at her.

And we have to remember that that's the bottom line here. How it makes you feel and trust me, you really have no idea of it makes you feel until it happens to you. And like I said, I just commend her for doing this and bringing it to the attention of this committee the feelings that she expressed and she did it very articulately and very calmly and I applaud that.

REP. LAWLOR: Senator Upson.

SEN. UPSON: Yes. If I may. And your parents, they can answer by -- was this person arrested for burglary?

HUGH MANKE: Yes. The answer is yes.

SEN. UPSON: Were there any other things that person was arrested for? I'm just curious.

HUGH MANKE: I don't believe so.

REP. LAWLOR: Mr. Manke, could you just identify yourself because there is a transcript of this.

HUGH MANKE: Yes. I'm sorry. I'm Hugh Manke, Elizabeth's father. And on the other side is Nancy Manke, Elizabeth's mother.

SEN. UPSON: There's a Cheshire incident too. This is not the Cheshire incident?

REP. LAWLOR: Next is Elizabeth Manke.

ELIZABETH MANKE: Good afternoon. My name is Elizabeth Manke. Thank you, Senator Williams, Representative Lawlor, and Senator Coleman, Representative Doyle, and distinguished members of the Judiciary Committee for the opportunity to testify in support of SB1078, AN ACT CONCERNING VOYEURISM.

With me today are my mother and my father. On April 25, 1997 when I was sixteen years old I was a victim of video voyeurism. That evening my friend and I went to a cafe in downtown New Haven. When I returned home a few hours later I went into my bedroom and noticed a black woolen hat resting on my bed.

Later, after my friend left, when I was washing up before going to sleep, I heard noise coming from outside. My bathroom is on the second floor of our house. Outside the window of my bathroom there's a roof of a one-story family room at the back of my house. A few minutes later I heard a noise again that directed my attention out the window. I saw a blur of a person moving out of view in the darkness. In shock I stood in my hallway for a few minutes. I heard a car start up outside and I ran to the window at the front of my house. I watched in disbelief as the car sped down my street.

The next morning I woke up to the police who were called to my house by my parents after they noticed a metal ladder in our backyard.

That day I discovered that this intruder had stolen my personal journal. The black hat that I found on my bed the previous night was taken by police to be examined and tested. At first I felt afraid. I had no idea who this person was or if it was more than one person or perhaps it was one of the people that I trusted.

After that night I worried about my safety and I wondered if this was not the beginning of a more serious chain of events that would invade my life.

The way I felt inside and outside my house changed.

I was scared to walk alone at night and obsessed over exactly how much this person saw of my personal thoughts, my body, and my house.

Later that spring a few more girls approached me telling me stories about ladders, cigarette butts, and noises at night. We figured out a person who we had suspected in common and the school approached the man who completely denied any involvement.

That August the results came back from the testing of the black hat. It was covered in semen. Combined with our suspicions, police obtained a confession from the man I suspected. He admitted to entering into my home and stealing my diary. That same month he went off to college where several months later he was caught video taping a woman in a shower in a college dorm.

This opened up a whole new issue. Police discovered he had been video taping me and many other women for years. He created his own pornographic video that showed many women living their lives unknowing that a video camera was recording them.

This effected me more than what he did inside my house. I felt that every time he watched the tape he was standing outside my window which I feel is violating me over and over again.

Our private moments were used as a tool for sexual pleasure. I think he had gotten away with it for so long that he felt he could take it one step further. At my house he (inaudible) window and the tapes were not enough.

I feel that such acts of video voyeurism are only a stepping stone in some cases to even more detrimental sexual deviant behavior. A house is a place where a person assumes that they can do whatever they want. Simply pulling down the shade of my window to me was not an imperative action.

The place where I lived my whole life was no longer comfortable and relaxing and at the same time I learned at a young age that even my peers cannot be

trusted. It forced me to grow up and take responsibility.

This responsibility overwhelmed me when I found out that I was the only one who could charge him with burglary and could not address the main problem, sexual deviancy.

I believe that the only way to prevent people from video taping others for their own sexual gratification is by making it a criminal offense. The act of finding a person out or therapy is not going to change to stop a person from doing something, but the criminal justice system can.

I can't help but think about the people who have been violated by a video voyeur who cannot, at this moment in time, without SB1078, claim that a law has been violated. Those helpless victims can do nothing and the offender can virtually continue on unscathed the way the law is now.

With the proposed law, he or she would be forced to confront their problem, realizing the affects of their behavior on the victims. Punishment will lessen the chance that the voyeur will do it again in the future.

Thank you.

REP. LAWLOR: Thank you. Representative Klarides wanted to ask a question.

REP. KLARIDES: Thank you, Mr. Chairman. First, I'd like to just commend Ms. Manke. I think I speak for the entire Judiciary Committee. It took a lot of bravery and a lot of courage for you to come up here, especially at such a young age and it's because of with the contact I've had with you for the past couple of months is because you want to make a difference, you want to help people that have been afflicted by this and will be afflicted by this in the future. And I think that's very commendable and you should be very proud of yourself and your parents should be very proud of you.

Secondly, the Mankes brought up with them today a letter, actually from one of the other victims, a short letter, from one of my constituents which I would just like to read into the record briefly.

"Dear Representative Klarides and members of State Congress: We are writing to you today in support of your legislative efforts to make it illegal to videotape someone without their knowledge. Unauthorized wiretaps are illegal, as are recordings of phone conversations made without the speaker's knowledge, and we feel that videotaping in this manner is no different, and should therefore be illegal, as well.

We recently found ourselves the victim of someone's videotaping and, what made the whole thing much worse, we were powerless to take any recourse. We were told by our local police department, as well as by the state prosecutor handling the case, that there was no effective avenue for us to press charges against him for videotaping our daughter from outside her bathroom and bedroom windows. The numerous girls that were caught on his videotape had no recourse, no way of making sure he couldn't continue to secretly videotape them or others.

When your privacy is violated in this manner, it feels wrong and it is wrong. It's almost impossible to believe in this day and age of abundant lawsuits and lawyers that no one has thought to make videotaping in this manner illegal. Hopefully, you will remedy this situation and we applaud your efforts to do so.

Sincerely yours, Betsy and Richard Fiske and Darcy Marks."

I think that just brings to our attention the seriousness of this and the fact that we think it can happen, but you don't realize it's happening until it happens to you or it happens to somebody you know or it's your wife or your daughter or your brother or sister. And just to reiterate something I said before, Elizabeth had brought some things that she found on her computer that now she's getting all these pornographic e-mails on her

computer and one of them I have here says, "watch our hidden cameras in girls' locker rooms, showers, toilets. Join for free." And as I mentioned before, it's just a much bigger problem that we have and at least if we can start with this video voyeurism I think that that's a great beginning to cover the much, much larger picture and the bigger problems that we have.

I think it's very important to remember a couple of the words that she has used in her testimony that she was afraid, she was embarrassed, she was obsessed about going outside or going out to socialize or where she was going and who was looking at her and who wasn't looking at her.

And we have to remember that that's the bottom line here. How it makes you feel and trust me, you really have no idea of it makes you feel until it happens to you. And like I said, I just commend her for doing this and bringing it to the attention of this committee the feelings that she expressed and she did it very articulately and very calmly and I applaud that.

REP. LAWLOR: Senator Upson.

SEN. UPSON: Yes. If I may. And your parents, they can answer by -- was this person arrested for burglary?

HUGH MANKE: Yes. The answer is yes.

SEN. UPSON: Were there any other things that person was arrested for? I'm just curious.

HUGH MANKE: I don't believe so.

REP. LAWLOR: Mr. Manke, could you just identify yourself because there is a transcript of this.

HUGH MANKE: Yes. I'm sorry. I'm Hugh Manke, Elizabeth's father. And on the other side is Nancy Manke, Elizabeth's mother.

SEN. UPSON: There's a Cheshire incident too. This is not the Cheshire incident?

HUGH MANKE: No, it's not.

SEN. UPSON: But that's a -- that's different, I guess.
In what respect?

ELIZABETH MANKE: The tape was distributed to other
people.

SEN. UPSON: Okay. And we're not talking about video
voyeurism. We're just talking about someone who
goes to the photographs, films, video tapes,
records, etc. We're not talking about someone who
sends something over on a computer or that sort of
thing. Correct.

HUGH MANKE: No. We're talking about someone who
actually does the filming.

SEN. UPSON: The filming, alright. So that would be --

ELIZABETH MANKE: With a video camera.

SEN. UPSON: We're not talking about any situation
dealing with computers?

ELIZABETH MANKE: We don't know, but I assume --

HUGH MANKE: No. I think the computer would only come in
as part of the distribution and I think under one
of the proposed bills the level of punishment would
increase if the video voyeur was also distributing
the material.

SEN. UPSON: But you're sure that just burglary was
filed?

HUGH MANKE: Certainly, yes. It might have been a
breach of the peace. I'm not sure. The State's
Attorney's office can give you that information.

SEN. UPSON: Did you then follow through and this is not
to take away from what you want to have the law
changed. I'm just curious. Did you then file
through the court system and did you have an
advocate on your side in New Haven or --

HUGH MANKE: Well, we're in Meriden and the State's

Attorney's office has done a terrific job in pressing this case.

SEN. UPSON: No victim's advocate was given to you or your daughter?

HUGH MANKE: No.

SEN. UPSON: Assigned to you, I should say.

HUGH MANKE: No.

SEN. UPSON: Have you been involved in all parts of the process?

HUGH MANKE: Yes. We've been kept fully apprised and we went to the plea which took place a couple of weeks ago.

SEN. UPSON: Were you able to speak at that?

HUGH MANKE: No. But --

SEN. UPSON: Again, I'm not trying to take away with what the law you're trying -- I'm just trying to find out how you've been treated in the system.

HUGH MANKE: Sure. How the system works.

SEN. UPSON: That's correct.

HUGH MANKE: The next step is for there to be --

SEN. UPSON: The pre-sentence.

HUGH MANKE: The pre-sentence investigation. We will be interviewed and of course, the therapist and whoever is treating the individual defendant will also be interviewed.

SEN. UPSON: And you will be able to speak, I know, at the final --

HUGH MANKE: Yes.

SEN. UPSON: Were you at the -- so he has been put to plea. You were not able to speak at that, but you

got your two cents -- not two cents, whatever the word is, right before then? Correct?

HUGH MANKE: Well, we certainly have had plenty of access to the State's Attorney's office. And they have carried the ball, I think, very effectively for us.

SEN. UPSON: What did the person plea to? Burglary?

HUGH MANKE: Yes. Guilty to burglary.

SEN. UPSON: So that was what he was charged with?

HUGH MANKE: That's right.

SEN. UPSON: It was no plea bargaining in essence. Correct?

HUGH MANKE: There was none. No.

SEN. UPSON: And was there a recommendation on a fine or prison or was there a recommendation?

HUGH MANKE: I believe that the judge made it very clear that there's a good possibility of one year in jail.

SEN. UPSON: Alright. So your point is - back to your daughter is that that takes care of just the aspect of that person getting on your property. But not getting at what the person actually was doing. Is that correct?

ELIZABETH MANKE: Right.

HUGH MANKE: And it doesn't get us to the right treatment, necessarily.

ELIZABETH MANKE: Exactly.

SEN. UPSON: Oh, how would this get you to the right treatment if we pass this?

HUGH MANKE: Well, I think identifying this as a sexual offense will put it in a different category and I think the possibility of getting to a sexual

treatment program will be greatly appreciated.

SEN. UPSON: So you can't that -- that could be part of the treatment now though, couldn't it?

HUGH MANKE: Well, it's going to be interesting to see how that plays out. I think that's the goal, but it's not certain. I mean, the charge is burglary.

SEN. UPSON: Now, the problem that occurred in Cheshire, isn't that somewhat of the same or is that a voyeurism thing? On public property. This is on private property. Not necessarily.

So would you think this would cover if someone was in a dorm at UConn? You don't have to answer.

ELIZABETH MANKE: No. Yes, you're asking if this was passed it would cover videotaping inside a dorm?

SEN. UPSON: It might because in such location provides a reasonable expectation of privacy.

ELIZABETH MANKE: Yes.

SEN. UPSON: Interesting. We will have to make sure that happens because I'm assuming you would want not just -- yes, Chairman Lawlor. You want someone protected, not just in their house, but also in their apartment, their dorm, their -- where there is a reasonable expectation of privacy.

ELIZABETH MANKE: Right.

SEN. UPSON: Even a shower. I don't mean to -- I'm not being funny, but even a shower in a facility.

REP. LAWLOR: Senator Looney.

SEN. LOONEY: Thank you, Mr. Chairman. Good afternoon. I just have one question. Mr. Manke, your point, I think is a very important one about the fact that a burglary plea doesn't address the nature of what this offense was so that if we were to adopt this statute, would you then further advocate that this new statute be referenced in the section that where sexual offenders are required to report or be

listed? In other words, would you then want that reporting section expanded to include this offense as the numerated offenses under which people have a reporting requirement?

HUGH MANKE: Senator, I think that's a very good idea. That would be very helpful and certainly that would get at the problem here.

SEN. LOONEY: Right. Thank you.

SEN. WILLIAMS: Further questions? Representative Klarides.

REP. KLARIDES: I would just like to address Senator Upson's concerns about the nature of this event versus the nature of the Cheshire offense. And the dissemination of the photos.

In Ms. Manke's case, fortunately and unfortunately, the defendant broke in. So they could be charged with burglary. But in typical cases, and correct me if I'm wrong, but I believe all the other victims that she knew that he victimized didn't break in. Therefore, all they could charge him with was a breach of peace or disorderly conduct.

HUGH MANKE: Trespass.

REP. KLARIDES: Right, trespass. But I mean to address the fact, the breach of peace and certainly conduct for the actual taking of the pictures and the breach of peace for the dissemination of the pictures if, in fact, they were disseminated, and what strikes me in Lisa's letter, originally in the State's Attorney's office, one of their concerns was that we don't know what he's doing with these pictures. We don't know if he's distributing them throughout school, amongst his friends, in the community, on the internet, and addressing Senator Upson's internet concern. The wording in this bill to disseminate the photos and as I mentioned before, enhancing the penalty for dissemination. That would be dissemination in any way, shape or form whether it ended up on the internet, ended up in a magazine, ended up in school, however it left that person's hands.

And as far as the Cheshire incident is concerned, as far as I know, that was at a pool party in the summer where those boys took the pictures of the girls at a pool party. So it basically was a situation that you and the other victims in your situation had with that defendant that it was just somebody propping themselves up where there was a ladder or peering in a window or whatever, but with intent to take those pictures and while you had a reasonable expectation of privacy. And something that would be embarrassing to you and obviously, without your consent.

Thank you.

REP. LAWLOR: The sentencing is coming up, is that right?

HUGH MANKE: Yes.

REP. LAWLOR: And where does this guy live, what town?

HUGH MANKE: In Woodbridge.

REP. LAWLOR: Okay. I just consulted with our staff because I had a couple of technical questions based on laws we're already passed and apparently in the most recent version of Megan's Law we clarified that even if it's not a "sex offense" if it's a felony, and the basis of the felony was, in essence, of a sexual nature, and this was a felony because it was burglary. This guy can be required to participate in the Megan's Law registration and the internet thing, as well.

So I think you should bring that to the attention of the prosecutors if they're not already aware of it and in addition, even if the guy gets out of jail at some point which I'm sure he will, in New Haven they have a special probation and parole unit that do nothing but supervise sex offenders very intensely. So, whatever prison sentence he gets, I'm sure it will be followed by some period of supervision and that he will be treated as a sex offender.

But I think in addition to that, it would be good for future reference to have a law like this which makes it very clear the type of offense that's actually on his or her criminal record.

So, as Representative Klarides and others have said, I think it's great that you brought this to our attention.

HUGH MANKE: Thank you.

REP. LAWLOR: Any further questions? Thank you very much.

HUGH MANKE: Thank you.

ELIZABETH MANKE: Thank you.

REP. LAWLOR: Next is Beverly Brakeman-Colbath.

BEVERLY BRAKEMAN-COLBATH: Good afternoon, Senator Williams, Representative Lawlor and members of the committee. My name is Beverly Brakeman-Colbath. And I'm the Associate Director of the Connecticut Sexual Assault Crisis Service which is an association of 12 rape crisis centers located around the state.

SB 1078
SB 1013

Through our community-based member centers we provide a broad array of services to and for victims of sexual violence and members of their family.

These services include free and confidential 24-hour crisis intervention counselling, advocacy, medical and legal and information and referrals.

Voyeurs, like peeping Tom's may use different tactics, but the intent is not dis-similar to the individual on the receiving end of these behaviors or actions.

The voyeurs' motive is probably much less important than the result of invasion of privacy and increased anxiety and fear for one's safety.

As you've already heard Ms. Manke discuss this

afternoon, video voyeurism is exploitive and evasive of people's privacy, sense of safety, and well being. For many women, voyeurism may evoke or increase fears of being raped or sexually assaulted. This fear and sense of violation may continue for many years.

Therefore, I would like to just say that the Connecticut Sexual Assault Crisis Service does support the passage of this bill, SB1078.

REP. LAWLOR: You're testifying both on the video --

BEVERLY BRAKEMAN-COLBATH: SB1078, AN ACT CONCERNING VIDEO VOYEURISM.

REP. LAWLOR: Okay.

BEVERLY BRAKEMAN-COLBATH: We also support the raised SB1013, which is AN ACT CONCERNING DOMESTIC VIOLENCE.

REP. LAWLOR: Okay. I just had - in our discussions up here, we had a technical question. Since this bill, the voyeurism appears to make you guilty of a crime with lewd, lascivious or indecent intent. You photograph, film, or record another person when they're in a dwelling or structure. Do you think we could prosecute Linda Tripp under this statute? What do you think?

BEVERLY BRAKEMAN-COLBATH: I don't know.

REP. LAWLOR: Because it's audio recording, as well.

BEVERLY BRAKEMAN-COLBATH: Yes. Possible.

REP. LAWLOR: Any way, do you get a lot of complaints like this? I mean, you're the agency where people would call if they had this type of concern. I mean, does this come up aside from the cases that have been publicly reported?

BEVERLY BRAKEMAN-COLBATH: I think - I'm not at the community base level so I'm not getting all the hot line calls, but I think we've seen an increase in types of exploitation that have to do with video or

other technical equipment because of new things that are available to people. So yes, I think we have seen an increase and certainly given that there's more available out there, certainly women in particular are more afraid of the kinds of ways in which they can be exploited.

So, we're very concerned about that.

REP. LAWLOR: Are there other questions? If not, thank you very much.

BEVERLY BRAKEMAN-COLBATH: Thank you.

REP. LAWLOR: Next is Tim Phelan.

TIM PHELAN: Representative Lawlor, Senator Williams, other members of the Judiciary Committee, thank you for the opportunity today to testify on raised HB6718.

For the record, my name is Tim Phelan. I'm the president of the Connecticut Retail Merchants Association.

I want to come before your committee today to testify, as I mentioned, on HB - on raised committee bill HB6718.

The Association is very sensitive and aware of the issues surrounding the sale of firearms in department stores. We support this bill in many, many ways. The fact that close to 75% of this bill we would support except for one provision.

(THE REST OF TIM PHELAN'S TESTIMONY WAS NOT RECORDED. TAPE 2A BEGINS WITH THE TESTIMONY OF JOHN MARTIN, ALREADY IN PROGRESS)

JOHN MARTIN: -- was supposed to be done. There was really no interest in this.

Your bill I support in many ways. My only problem is how are you going to enforce it? They're not paying attention to the laws that you have now. You're going to have another one. I don't see where they're going to pay attention to this either.

S.B. 1078

26 Inwood Road
Woodbridge, CT 06525
February 21, 1999

Dear Representative Klarides and members of State Congress:

We are writing to you today in support of your legislative efforts to make it illegal to videotape someone without their knowledge. Unauthorized wiretaps are illegal, as are recordings of phone conversations made without the speaker's knowledge; and we feel that videotaping in this manner is no different, and should therefore be illegal as well.

We recently found ourselves the victim of Jared Newman's videotaping and, what made the whole thing much worse, we were powerless to take any recourse. We were told by our local police department, as well as by the state prosecutor handling the case, that there was no effective avenue for us to press charges against Jared Newman for videotaping our daughter from outside her bathroom and bedroom windows. The numerous girls that were caught on his videotape had no recourse, no way of making sure he couldn't continue to secretly videotape them or others.

When your privacy is violated in this manner, it feels wrong and it is wrong. It's almost impossible to believe in this day and age of abundant lawsuits and lawyers that no one has thought to make videotaping in this manner illegal. Hopefully, you will remedy this situation and we applaud your efforts to do so.

Sincerely yours,

*Betsy + Richard Fiske
Darcy Marks*

Betsy and Richard Fiske
and Darcy Marks


Connecticut Sexual Assault Crisis Services, Inc.

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February 22, 1999

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To: Senator Williams, Representative Lawlor and Members of the Judiciary Committee

From: Beverley Brakeman Colbath
 Connecticut Sexual Assault Crisis Services

Re: R.B. 1078 An Act Concerning Voyeurism

Position: Support

My name is Beverley Brakeman Colbath and I am the Associate Director for the Connecticut Sexual Assault Crisis Service, Inc. which is an association of 12 rape crisis centers located around the State. Through our community based member centers we provide a broad array of services to and for victims of sexual violence and their families and significant others. These services include confidential, free and 24 hour crisis intervention counseling, medical, legal advocacy, and information and referrals. In addition, all of our centers provide prevention and risk reduction community education for all ages at no cost to the communities we serve.

Video voyeurs, like "Peeping Toms", may use different tactics, but the intent is not dissimilar. To the individual on the receiving end of these behaviors or actions, the voyeur's motive is probably much less important than the resulting invasion of privacy and increased anxiety and fear for one's safety.

Video voyeurism is exploitative and invasive of people's privacy, sense of safety and well being. For many women, video voyeurism may evoke or increase fears of being raped or sexually assaulted.

Given that there are already enough reasons for women to fear rape in our society; that video voyeurism is clearly on the rise; and that there currently exists gaps in our criminal justice system to address this issue; we strongly support any efforts to control this type of voyeuristic exploitation.

Member Centers

Center for Women and
 Families of Eastern
 Fairfield County, Inc.

Hill Health Corporation

Northeastern Connecticut
 Sexual Assault Crisis
 Services, Inc.

Rape and Sexual Abuse
 Crisis Center, Inc.

Rape Crisis Center
 of Milford, Inc.

Susan B. Anthony Project, Inc.

Women's Center of
 Greater Danbury, Inc.

Women's Center of
 Southeastern Connecticut, Inc.

Women's Emergency Shelter

YWCA of the Hartford
 Region, Inc.

YWCA of Meriden

YWCA of New Britain, Inc.



Judiciary Committee Public Hearing
February 22, 1999
Testimony of Elizabeth Manke

HB 1078
An Act Concerning Voyeurism

Thank you Senator Williams, Representative Lawlor, Senator Coleman, Representative Doyle and distinguished members of the Judiciary Committee for the opportunity to testify in support of H.B. 1078, An Act Concerning Voyeurism.

On April 25, 1997, when I was 16 years old, I was a victim of video voyeurism. That evening my friend and I went to a cafe in downtown New Haven. When I returned home, a few hours later, I was greeted by my parents who had just returned home from a restaurant. I went into my bedroom and noticed a black-woolen hat resting on my neatly made bed. Later, after my friend left, when I was washing up before going to sleep, I heard a noise coming from outside. My bathroom is on the second floor of our house. Outside the window of my bathroom, there is the roof of a one-story family room at the back of the house. A few minutes later I heard a noise again that directed my attention out my window. I saw a blur of a person moving out of view in the darkness. In shock, I stood in my hallway for a few minutes. I heard a car start up outside and I ran to the window at the front of my house. I watched in disbelief as a car sped down my street. The next morning I woke up to the police who were called to the house by my parents after they noticed our metal ladder in the back yard. It was stored in our garage. That day I discovered that this intruder had stolen my personal journal. The black hat that I had found on my bed the previous night was taken in by the police to be examined and tested.

At first, I felt afraid. I had no idea who this person was or if it was more than one person and perhaps it was one of the people that I trusted. After that night, my entire life was altered. I worried about my safety and I wondered if this was not the beginning of a more serious chain of events that would invade my life. The way I felt inside and outside my house changed, I was scared to walk alone at night and I obsessed over exactly how much this person saw of my personal thoughts, my body and my house. I was determined not to let this affect my social life and I kept it all a secret only telling my closest friends. Later

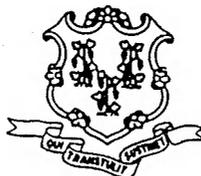
that spring, a few more girls approached me telling me similar stories about ladders, cigarette butts and noises at night. We figured out a person who we had suspected in common and the school approached the man who completely denied any involvement.

That August, the results came back from the testing of the "black hat." It was covered in semen. Combined with our suspicions, police obtained a confession from the man I suspected. He admitted to entering into my home and stealing my diary. That same month he went off to college where, several months later, he was caught video taping a woman in a shower in a college dorm. This opened up a whole new issue. Police discovered he had been video taping me and many other women for years. He created his own pornographic video that showed many women living their lives unknowing that a video camera was recording them. This affected me the more than what he did inside my house. I felt that every time he watched that tape he was standing outside my window, which I feel is violating me over and over again. Our private moments were used as a tool for sexual pleasure. He lived his life capturing the lives of other people. I think that he had gotten away with it for so long that he felt that he could take it one step further. At my house he stepped beyond the glass window. The video tapes were not enough.

I fear that such acts of video voyeurism are only a stepping stone, in some cases, to even more detrimental sexual deviant behavior. A house is a place where a person assumes that they can do whatever they want. Simply pulling down the shade of my window, to me, was not an imperative action. Until you understand sexuality you would not understand why a person would want to watch you. This whole ordeal has stripped me of my innocence, in a sense. The place where I had lived my whole life was no longer comfortable and relaxing and at the same time I learned at a young age that even my peers could not be trusted. It forced me to grow up and to take responsibility. This responsibility overwhelmed me when I found out that I was the only one who could charge him ~~only~~ with burglary and could not address the main problem, sexual deviancy.

I believe that the only way to prevent people from video taping others for their own sexual gratification is by making it a criminal offense. The act of "finding a person out" or therapy is not going to stop a person from doing something, but the criminal justice system can. I can't help but think about the people who have been violated by a video voyeur who cannot at this moment in

time (without Senate Bill 1078) claim that a law has been violated. Those helpless victims can do nothing and the offender can continue on virtually unscathed the way the law is now. With the proposed law he or she would be forced to confront their problem, realizing the effects of their behavior on the victims. Punishment will lessen the chance that the voyeur will do it again in the future.



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Testimony of Representative Themis Klarides, 114th District
HB 1078
An Act Concerning Voyeurism

Thank you Senator Williams, Representative Lawlor, Senator Coleman, Representative Doyle and my distinguished colleagues on the Judiciary Committee for the opportunity to submit written testimony on H.B. 1078, An Act Concerning Voyeurism.

The purpose of this bill to establish video voyeurism, the act of secretly videotaping, photographing, filming or recording another person in the privacy of his or her own home for the purposes of indecent intent, as a class D felony, if found guilty. H.B. 1078 is a good first step in the fight against this type of invasion of one's privacy.

However, there are further steps that can and must be taken to make sure that personal privacy laws are in place to cover our new age technology. **Our ill-suited laws dealing with video voyeurism have resulted in serious trauma and embarrassment experienced by the young women in Woodbridge, Orange, New Haven, Hamden and Cheshire.**

Attached to my written testimony is a copy of H.B. 5429, An Act Concerning Video Voyeurism which has been introduced by myself and Representatives Brian Flaherty, Dolly Powers and Lenny Winkler and co-sponsored by Representative Al Adinolfi. It is my belief that this bill is more comprehensive and strict than H.B. 1078 and therefore should be considered for this committee's action.

1. I would submit that the language in H.B. 1078 "lewd, lascivious or indecent intent" is very broad and should be changed to include "for purposes of sexual arousal or gratification."

2. H.B. 5429 seeks to make video voyeurism a class C felony if committed against a person under 16 years of age.
3. Distributing a tape or photograph would be considered a class C felony if; it is done by the person who also did the taping or photographing.
4. A third party distributor will be guilty of a class D felony.
5. Other states, including Alaska and Missouri have already put similar laws on the books- and Louisiana and New Jersey also have legislation pending.

Thank you again for the opportunity to submit written testimony and for your consideration of H.B. 5429.