SENATE, No. 2800

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED AUGUST 10, 2020

Sponsored by:
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)

SYNOPSIS

Criminalizes unauthorized photographing, filming, or other video recording of person, living animal or creature, or activity within certain dwellings or other structures from outside such dwellings or other structures.

CURRENT VERSION OF TEXT

As introduced.

AN ACT criminalizing the unauthorized photographing, filming, or other video recording of persons, living animals or creatures, or activities within certain dwellings or other structures under certain circumstances, and amending N.J.S.2C:18-3.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.2C:18-3 is amended to read as follows:

2C:18-3. a. Unlicensed entry of structures. A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or surreptitiously remains in any research facility, structure, or separately secured or occupied portion thereof, or in or upon utility company property, or in the sterile area or operational area of an airport. An offense under this subsection is a crime of the fourth degree if it is committed in a school or on school property. The offense is a crime of the fourth degree if it is committed in a dwelling. An offense under this section is a crime of the fourth degree if it is committed in a research facility, power generation facility, waste treatment facility, public sewage facility, water treatment facility, public water facility, nuclear electric generating plant or any facility which stores, generates or handles any hazardous chemical or chemical compounds. An offense under this subsection is a crime of the fourth degree if it is committed in or upon utility company property. An offense under this subsection is a crime of the fourth degree if it is committed in the sterile area or operational area of an airport. Otherwise it is a disorderly persons offense.

b. Defiant trespasser. A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

(3) Fencing or other enclosure manifestly designed to exclude intruders.

c. Peering into windows or other openings of dwelling places; unauthorized photographing or recording inside dwelling places from outside. (1) A person commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, he peers into a window or other opening of a dwelling or other structure adapted for overnight accommodation for the purpose of invading the privacy of another person and under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

(2) A person commits a crime of the fourth degree for invading the privacy of another if, knowing that he is not licensed or privileged to do so, he photographs, films, videotapes, records, or otherwise reproduces in any manner, the image of any person, living animal or creature, or activity anywhere within a dwelling or other structure adapted for overnight accommodation for persons from anywhere outside that dwelling or other structure. It shall not be a defense to a violation of this paragraph that a reasonable person in the dwelling or other structure would, based upon the location within the dwelling or other structure, have expected to be observed, and therefore would also have expected to be photographed, filmed, videotaped, recorded, or otherwise having the person's image reproduced in any manner.

d. Defenses. It is an affirmative defense to prosecution under this section that:

(1) A structure involved in an offense under subsection a. was abandoned;

(2) The structure was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the structure; or

(3) The actor reasonably believed that the owner of the structure, or other person empowered to license access thereto, would have licensed him to enter or remain, or, in the case of subsection c. of this section, to peer.

(cf: P.L.2013, c.138, s.2)

2. This act shall take effect immediately.

STATEMENT

This bill would criminalize the unauthorized photographing, filming, or other video recording of a person, living animal or creature, or activity anywhere within a dwelling or other structure adopted for overnight accommodation for persons from anywhere outside that dwelling or other structure. The crime would be graded a crime of the fourth degree. The bill would prohibit a person who committed the crime from using a defense that a reasonable person in such a dwelling or other structure would, based upon the person's location within the dwelling or other structure, have expected to be observed, and therefore would have expected to be photographed, filmed, or otherwise recorded.

A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to $10,000, or both.