

Committee on Criminal Justice

CS/CS/HB 1389 — Digital Voyeurism

by Judiciary Committee; Criminal Justice Subcommittee; and Reps. Cassel, Cross, and others (CS/CS/SB 1604 by Fiscal Policy Committee; Criminal Justice Committee; and Senator Book)

The bill amends s. 810.145, F.S., renaming the offense of “video voyeurism” to “digital voyeurism.”

The bill adds “exploiting,” to the specified purposes a person must have to commit digital voyeurism. A person commits the offense of digital voyeurism if he or she, for the purpose of *exploiting* another person, intentionally uses or installs an imaging device to secretly view, broadcast, or record a person, without that person’s knowledge and consent, who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy.

The bill provides that a person who is under 19 years of age and who commits the offense of digital voyeurism commits a first degree misdemeanor.

A person who is 19 years of age or older who commits the offense of digital voyeurism commits a third degree felony.

In addition to disseminating an image, a person may commit the crime of digital voyeurism dissemination or commercial digital voyeurism dissemination if he or she disseminates, distributes, or transfers *a recording* to another person for specified purposes, if that recording was created by digital voyeurism.

A person of any age who commits the offense of digital voyeurism dissemination or commercial digital voyeurism dissemination commits a third degree felony.

The bill provides that if a person who is 19 years of age or older is convicted of committing any violation of s. 810.145, F.S., relating to digital voyeurism and is a family or household member of the victim, or holds a position of authority or trust with the victim, the court shall reclassify the felony to the next higher degree as follows:

- A felony of the third degree is reclassified as a felony of the second degree.
- A felony of the second degree is reclassified as a felony of the first degree.

Each instance of secretly viewing a person in violation of subsection (2), or broadcasting, recording, disseminating, distributing, or transferring of an image or recording made in violation of subsection (2) is a separate offense for which a separate penalty is authorized.

The bill defines “position of authority or trust,” to mean a position occupied by a person 18 years of age or older who is a relative, caregiver, coach, employer, or other person who, by reason of his or her relationship with the victim, is able to exercise undue influence over him or her or exploit his or her trust.

Additionally, the bill revises the definition of the term “broadcast,” to include a visual recording.

The term “family or household member,” has the same meaning as in s. 741.28, F.S.

For purposes of sentencing under ch. 921, F.S., and incentive gain-time eligibility under ch. 944, F.S., a felony that is reclassified is ranked one level above the ranking in s. 921.0022, F.S. The bill ranks the offenses on the offense severity ranking chart as follows:

- Section 810.145(2)(c), F.S., Digital voyeurism; 19 years of age or older, is ranked as a Level 3.
- Section 810.145(3)(b), F.S., Digital voyeurism dissemination, is ranked as a Level 4.
- Section 810.145(4)(c), F.S., Commercial digital voyeurism dissemination, is ranked as a Level 5.
- Section 810.145(7)(a), F.S., Digital voyeurism; 2nd or subsequent offense, is ranked as a Level 5.
- Section 810.145(8)(a), F.S., Digital voyeurism; certain minor victims, is ranked as a Level 5.
- Section 810.145(8)(b), F.S., Digital voyeurism; certain minor victims; 2nd or subsequent offense, is ranked as a Level 6.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect October 1, 2024.

Vote: Senate 35-0; House 116-0