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1 A bill to be entitled

2 An act relating to video voyeurism; creating s. 810.145,  
3 F.S.; providing definitions; prohibiting a person from  
4 secretly viewing, recording, or broadcasting images of  
5 another person for the purpose of entertainment, sexual  
6 arousal, profit, or abuse when that other person is in a  
7 location that provides a reasonable expectation of  
8 privacy; prohibiting a person from secretly viewing,  
9 recording, or broadcasting images of another person under  
10 or through that other person's clothing for the purpose of  
11 viewing that other person's body or undergarments without  
12 consent of the person viewed; prohibiting a person from  
13 disseminating images when the person disseminating the  
14 images knows that the images were recorded in violation of  
15 law; prohibiting a person from selling images to another  
16 for consideration when the person selling the images knows  
17 that the images were recorded in violation of law;  
18 prohibiting a person from disseminating images that were  
19 recorded in violation of law to another person for that  
20 person to sell the images to others; providing for certain  
21 exceptions; providing criminal penalties; defining a  
22 previous conviction or adjudication of delinquency;  
23 amending s. 932.701, F.S.; defining the term "contraband  
24 article" to include any imaging equipment, format, or  
25 device used in violation of law; amending s. 932.7055,  
26 F.S.; requiring agencies seizing images of persons  
27 recorded in violation of law to destroy the images;  
28 providing that the seizing agency may not retain or sell  
29 the images; amending s. 932.707, F.S.; conforming a cross

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30 reference; reenacting ss. 705.101(6) and 932.703(4), F.S.,  
 31 relating to definitions of unclaimed evidence and  
 32 contraband article and the seizure of a vessel, motor  
 33 vehicle, aircraft, other personal property, or real  
 34 property in or on which a contraband article is located,  
 35 to incorporate the amendment to s. 932.701, F.S., in  
 36 references thereto; providing an effective date.

37

38 Be It Enacted by the Legislature of the State of Florida:

39

40 Section 1. Section 810.145, Florida Statutes, is created  
 41 to read:

42 810.145 Video voyeurism.--

43 (1) As used in this section, the term:

44 (a) "Broadcast" means electronically transmitting a visual  
 45 image with the intent that it be viewed by another person.

46 (b) "Imaging device" means any mechanical, digital, or  
 47 electronic viewing device, still camera, camcorder, motion  
 48 picture camera, or any other instrument, equipment, or format  
 49 capable of recording, storing, or transmitting visual images of  
 50 another person.

51 (c) "Place and time when a person has a reasonable  
 52 expectation of privacy" means a place and time when a reasonable  
 53 person would believe that he or she could fully disrobe in  
 54 privacy, without being concerned that his or her undressing was  
 55 being viewed, recorded, or broadcasted by another, including,  
 56 but not limited to, the interior of a bathroom, changing room,  
 57 fitting room, dressing room, or tanning booth.

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58 (d) "Privately exposing the body" means exposing an  
59 intimate part of the body, as described in s. 800.03, which is  
60 not exposed to public view.

61 (2) A person commits the offense of video voyeurism if  
62 that person:

63 (a) For his or her own amusement, entertainment, sexual  
64 arousal, gratification, or profit, or for the purpose of  
65 degrading or abusing another person, intentionally uses or  
66 installs an imaging device to secretly view, broadcast, or  
67 record a person, without that person's knowledge or consent, who  
68 is dressing, undressing, or privately exposing the body, at a  
69 place and time when that person has a reasonable expectation of  
70 privacy;

71 (b) For the amusement, entertainment, sexual arousal,  
72 gratification, or profit of another, or on behalf of another,  
73 intentionally permits the use or installation of an imaging  
74 device to secretly view, broadcast, or record a person, without  
75 that person's knowledge or consent, who is dressing, undressing,  
76 or privately exposing the body, at a place and time when that  
77 person has a reasonable expectation of privacy; or

78 (c) For the amusement, entertainment, sexual arousal,  
79 gratification, or profit of oneself or another, or on behalf of  
80 oneself or another, intentionally uses an imaging device to  
81 secretly view, broadcast, or record under or through the  
82 clothing being worn by another person, without that person's  
83 knowledge or consent, for the purpose of viewing the body of, or  
84 the undergarments worn by, that person.

85 (3) A person commits the offense of video voyeurism  
86 dissemination if that person, knowing that an image was created

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87 in violation of this section, intentionally disseminates,  
 88 distributes, or transfers the image to another person.

89 (4) A person commits the offense of commercial video  
 90 voyeurism dissemination if that person:

91 (a) Knowing that an image was created in violation of this  
 92 section, sells the image for consideration to another person; or

93 (b) Having created the image in violation of this section,  
 94 disseminates, distributes, or transfers the image to another  
 95 person for that person to sell the image to others.

96 (5) Except for the dissemination, distribution, or  
 97 transfer of images unrelated to the purpose of security, law  
 98 enforcement, or surveillance, this section does not apply to  
 99 any:

100 (a) Law enforcement agency conducting surveillance for a  
 101 law enforcement purpose;

102 (b) Security system when a written notice is conspicuously  
 103 posted on the premises stating that a video surveillance system  
 104 has been installed for the purpose of security for the premises;  
 105 or

106 (c) Video surveillance device that is installed and  
 107 operated in such a manner that the presence of the device is  
 108 clearly and immediately obvious.

109 (6) A person who violates this section commits a  
 110 misdemeanor of the first degree for the first violation,  
 111 punishable as provided in s. 775.082 or s. 775.083.

112 (7) A person who violates this section and who has  
 113 previously been convicted of or adjudicated delinquent for any  
 114 violation of this section two or more times commits a felony of

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115 the third degree, punishable as provided in s. 775.082, s.  
 116 775.083, or s. 775.084.

117 (8) For purposes of this section, a person has previously  
 118 been convicted of or adjudicated delinquent for a violation of  
 119 this section if the violation resulted in a conviction that was  
 120 sentenced separately, or an adjudication of delinquency entered  
 121 separately, prior to the current offense.

122 Section 2. Paragraph (a) of subsection (2) of section  
 123 932.701, Florida Statutes, is amended to read:

124 932.701 Short title; definitions.--

125 (2) As used in the Florida Contraband Forfeiture Act:

126 (a) "Contraband article" means:

127 1. Any controlled substance as defined in chapter 893 or  
 128 any substance, device, paraphernalia, or currency or other means  
 129 of exchange that was used, was attempted to be used, or was  
 130 intended to be used in violation of any provision of chapter  
 131 893, if the totality of the facts presented by the state is  
 132 clearly sufficient to meet the state's burden of establishing  
 133 probable cause to believe that a nexus exists between the  
 134 article seized and the narcotics activity, whether or not the  
 135 use of the contraband article can be traced to a specific  
 136 narcotics transaction.

137 2. Any gambling paraphernalia, lottery tickets, money,  
 138 currency, or other means of exchange which was used, was  
 139 attempted, or intended to be used in violation of the gambling  
 140 laws of the state.

141 3. Any equipment, liquid or solid, which was being used,  
 142 is being used, was attempted to be used, or intended to be used  
 143 in violation of the beverage or tobacco laws of the state.

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144 4. Any motor fuel upon which the motor fuel tax has not  
 145 been paid as required by law.

146 5. Any personal property, including, but not limited to,  
 147 any vessel, aircraft, item, object, tool, substance, device,  
 148 weapon, machine, vehicle of any kind, money, securities, books,  
 149 records, research, negotiable instruments, or currency, which  
 150 was used or was attempted to be used as an instrumentality in  
 151 the commission of, or in aiding or abetting in the commission  
 152 of, any felony, whether or not comprising an element of the  
 153 felony, or which is acquired by proceeds obtained as a result of  
 154 a violation of the Florida Contraband Forfeiture Act.

155 6. Any real property, including any right, title,  
 156 leasehold, or other interest in the whole of any lot or tract of  
 157 land, which was used, is being used, or was attempted to be used  
 158 as an instrumentality in the commission of, or in aiding or  
 159 abetting in the commission of, any felony, or which is acquired  
 160 by proceeds obtained as a result of a violation of the Florida  
 161 Contraband Forfeiture Act.

162 7. Any personal property, including, but not limited to,  
 163 equipment, money, securities, books, records, research,  
 164 negotiable instruments, currency, or any vessel, aircraft, item,  
 165 object, tool, substance, device, weapon, machine, or vehicle of  
 166 any kind in the possession of or belonging to any person who  
 167 takes aquaculture products in violation of s. 812.014(2)(c).

168 8. Any motor vehicle offered for sale in violation of s.  
 169 320.28.

170 9. Any motor vehicle used during the course of committing  
 171 an offense in violation of s. 322.34(9)(a).

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172 10. Any personal property, including, but not limited to,  
 173 any imaging device, as defined in s. 810.145, photograph, film,  
 174 or other recorded image, including an image recorded on  
 175 videotape, compact disc, digital tape, or fixed disk, recorded  
 176 in violation of s. 810.145.

177 Section 3. Present subsections (2) through (8) of section  
 178 932.7055, Florida Statutes, are renumbered as subsections (3)  
 179 through (9), respectively, and a new subsection (2) is added to  
 180 said section, to read:

181 932.7055 Disposition of liens and forfeited property.--  
 182 (2) Notwithstanding subsection (1), a seizing agency must  
 183 destroy any image and the medium on which the image is recorded,  
 184 including, but not limited to, a photograph, film, or other  
 185 recorded image, including an image recorded on videotape,  
 186 compact disc, digital tape, or fixed disk, recorded in violation  
 187 of s. 810.145. The agency may not sell or retain any image.

188 Section 4. Section 932.707, Florida Statutes, is amended  
 189 to read:

190 932.707 Penalty for noncompliance with reporting  
 191 requirements.--Any seizing agency that ~~which~~ fails to comply  
 192 with the reporting requirements as described in s.  
 193 932.7055(9)(a) ~~s. 932.7055(8)(a)~~, is subject to a civil fine of  
 194 \$5,000 payable to the General Revenue Fund. However, such agency  
 195 will not be subject to the fine if, within 60 days after ~~of~~  
 196 receipt of written notification from the Department of Law  
 197 Enforcement of the noncompliance with the reporting requirements  
 198 of the Florida Contraband Forfeiture Act, the agency  
 199 substantially complies with those ~~said~~ requirements. The  
 200 Department of Law Enforcement shall submit any substantial

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201 noncompliance to the Office of the Chief Financial Officer,  
 202 which shall be responsible for the enforcement of this section.

203 Section 5. For the purpose of incorporating the amendment  
 204 to section 932.701, Florida Statutes, in a reference thereto,  
 205 subsection (6) of section 705.101, Florida Statutes, is  
 206 reenacted to read:

207 705.101 Definitions.--As used in this chapter:

208 (6) "Unclaimed evidence" means any tangible personal  
 209 property, including cash, not included within the definition of  
 210 "contraband article," as provided in s. 932.701(2), which was  
 211 seized by a law enforcement agency, was intended for use in a  
 212 criminal or quasi-criminal proceeding, and is retained by the  
 213 law enforcement agency or the clerk of the county or circuit  
 214 court for 60 days after the final disposition of the proceeding  
 215 and to which no claim of ownership has been made.

216 Section 6. For the purpose of incorporating the amendment  
 217 to section 932.701, Florida Statutes, in references thereto,  
 218 subsection (4) of section 932.703, Florida Statutes, is  
 219 reenacted to read:

220 932.703 Forfeiture of contraband article; exceptions.--

221 (4) In any incident in which possession of any contraband  
 222 article defined in s. 932.701(2)(a) constitutes a felony, the  
 223 vessel, motor vehicle, aircraft, other personal property, or  
 224 real property in or on which such contraband article is located  
 225 at the time of seizure shall be contraband subject to  
 226 forfeiture. It shall be presumed in the manner provided in s.  
 227 90.302(2) that the vessel, motor vehicle, aircraft, other  
 228 personal property, or real property in which or on which such  
 229 contraband article is located at the time of seizure is being



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230 used or was attempted or intended to be used in a manner to  
231 facilitate the transportation, carriage, conveyance,  
232 concealment, receipt, possession, purchase, sale, barter,  
233 exchange, or giving away of a contraband article defined in s.  
234 932.701(2).

235 Section 7. This act shall take effect July 1, 2004.