

Subject Amending the crime of surreptitious intrusion

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Overview

Minnesota law criminalizes interfering with a person's privacy in certain circumstances. The "peeping Tom" law, section 609.746, makes it illegal to enter someone's property and look or record images "through the window or any other aperture" of the house or dwelling with the intent to intrude on the person's privacy. In late April 2022, the Minnesota Supreme Court decided a case in which a man took pictures of a nude woman. While he did not enter the home without permission, he took the pictures while she was sleeping and without her consent. In the case, *State v. McReynolds*, the court held that the pictures did not violate Minnesota law because they were not taken through a window or other aperture. The court rejected the argument that the camera lens included an aperture.

Violations of the surreptitious intrusion law must currently be charged within three years of the commission of the offense. Minnesota establishes statutes of limitations in criminal cases. After the specified period of time expires, a person cannot be convicted of a crime. Some crimes, such as homicide, sexual assault, sex trafficking, and labor trafficking of a juvenile have no limitations period. Other offenses like labor trafficking of an adult, financial exploitation, and arson have specific limitations periods of five or six years. For most other crimes, the limitation is three years from the date of the offense.

This bill establishes a new crime for recording or broadcasting images of a person's intimate parts if the person is in a home or other place where a reasonable person would have an expectation of privacy and the image is captured without the person's consent. The bill also establishes a new crime for recording "upskirt" or "downblouse" images (images of a person's intimate parts or the clothing covering those parts that are taken under or around the person's outer clothing) with the intent to interfere with a person's privacy. Finally, the bill amends the statute of limitations for these offenses so that they must be charged within three years from the date of offense or within three years of the time the offense was reported to law enforcement.

Summary

Section	Description
1	Registration required. Makes a conforming change.
2	Surreptitious intrusion; observation device. Establishes a new crime for recording or broadcasting images of a person's intimate parts if the person is in a home or other place where a reasonable person would have an expectation of privacy and the image is captured without the person's consent. Violation is a gross misdemeanor. Establishes a new crime for recording images of a person's intimate parts or the clothing covering those parts that are taken under or around the person's outer clothing with the intent to interfere with a person's privacy. A first violation against an adult is a misdemeanor. A second violation or recording images of a minor is a gross misdemeanor. A third or subsequent violation is a felony.
3	Certain criminal proceedings. Makes a conforming change.
4	Limitations. Provides that violations of the crime of surreptitious intrusion may be charged within the later of three years after the commission of the offense or three years after the offense was reported to law enforcement.



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