

7124

I N S E N A T E

March 30, 2016

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to unlawful surveillance

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivisions 4 and 5 of section 250.45 of the penal law,
2 subdivision 4 as amended and subdivision 5 as added by chapter 193 of
3 the laws of 2014, are amended and a new subdivision 6 is added to read
4 as follows:
5 4. Without the knowledge or consent of a person, he or she inten-
6 tionally uses or installs, or permits the utilization or installation of
7 an imaging device to surreptitiously view, broadcast or record, under
8 the clothing being worn by such person, the sexual or other intimate
9 parts of such person; [or]
10 5. For his or her own, or another individual's amusement, enter-
11 tainment, profit, sexual arousal or gratification, or for the purpose of
12 degrading or abusing a person, the actor intentionally uses or installs
13 or permits the utilization or installation of an imaging device to
14 surreptitiously view, broadcast, or record such person in an identifi-
15 able manner:
16 (a) engaging in sexual conduct, as defined in subdivision ten of
17 section 130.00 of this part;
18 (b) in the same image with the sexual or intimate part of any other
19 person; and
20 (c) at a place and time when such person has a reasonable expectation
21 of privacy, without such person's knowledge or consent[.] ; OR
22 6. FOR HIS OR HER OWN SEXUAL AROUSAL OR GRATIFICATION, HE OR SHE
23 COMMITS TRESPASS, AS PROVIDED IN SECTION 140.05 OF THIS CHAPTER, AND
24 OBSERVES, IN OTHER THAN A CASUAL OR CURSORY MANNER, ANOTHER PERSON (A)
25 WITHOUT THE KNOWLEDGE OR CONSENT OF SUCH OTHER PERSON, (B) WHILE SUCH
26 OTHER PERSON IS INSIDE A DWELLING, AS DEFINED IN SECTION 140.00 OF THIS
27 CHAPTER, AND NOT IN PLAIN VIEW, AND (C) UNDER CIRCUMSTANCES WHERE SUCH
28 OTHER PERSON HAS A REASONABLE EXPECTATION OF PRIVACY.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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1 S 2. Section 250.50 of the penal law, as added by chapter 69 of the
2 laws of 2003, is amended to read as follows:

3 S 250.50 Unlawful surveillance in the first degree.

4 A person is guilty of unlawful surveillance in the first degree when:

5 1. he or she commits the crime of unlawful surveillance in the second
6 degree and has been previously convicted within the past ten years of
7 unlawful surveillance in the first or second degree; OR

8 2. HE OR SHE COMMITS THE CRIME OF UNLAWFUL SURVEILLANCE IN THE SECOND
9 DEGREE AND (A) HE OR SHE HAS BEEN PREVIOUSLY CONVICTED OF AN OFFENSE
10 UNDER ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED THIRTY OF THIS CHAPTER
11 OR (B) THE INTENDED SUBJECT OF THE OFFENSE IS A PERSON UNDER SIXTEEN
12 YEARS OF AGE.

13 Unlawful surveillance in the first degree is a class D felony.

14 S 3. This act shall take effect on the ninetieth day after it shall
15 have become a law.