

AMENDMENTS TO LB998

(Amendments to Standing Committee amendments, AM2079)

Introduced by McGill

1 1. Insert the following new sections:

2 Section 1. Section 28-311.08, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 28-311.08 (1) It shall be unlawful for any person to
5 knowingly intrude upon any other person without his or her consent
6 or knowledge in a place of solitude or seclusion.

7 (2) It shall be unlawful for any person to knowingly
8 photograph, film, record, or live broadcast an image of the
9 intimate area of any other person without his or her knowledge
10 and consent when his or her intimate area would not be generally
11 visible to the public regardless of whether such other person is
12 located in a public or private place.

13 ~~(2)~~ (3) For purposes of this section:

14 (a) Intimate area means the naked or undergarment-clad
15 genitalia, pubic area, buttocks, or female breast of an individual;

16 ~~(a)~~ (b) Intrude means either the:

17 (i) Viewing of another person in a state of undress as it
18 is occurring; or

19 (ii) Recording by video, photographic, digital, or other
20 electronic means of another person in a state of undress; and

21 ~~(b)~~ (c) Place of solitude or seclusion means a place
22 where a person would intend to be in a state of undress and have

1 a reasonable expectation of privacy, including, but not limited to,
2 any facility, public or private, used as a restroom, tanning booth,
3 locker room, shower room, fitting room, or dressing room.

4 ~~(3)(a)~~ (4)(a) Violation of this section involving an
5 intrusion as defined in subdivision ~~(2)(a)(i)~~ (3)(b)(i) of this
6 section or violation under subsection (2) of this section is a
7 Class I misdemeanor.

8 (b) ~~Violation~~ Subsequent violation of this section
9 involving an intrusion as defined in subdivision (3)(b)(i) of this
10 section, subsequent violation under subsection (2) of this section,
11 or violation of this section involving an intrusion as defined in
12 subdivision ~~(2)(a)(ii)~~ (3)(b)(ii) of this section is a Class IV
13 felony.

14 (c) Violation of this section is a Class III felony if
15 video or an image ~~from the intrusion~~ recorded in violation of this
16 section is distributed to another person or otherwise made public
17 in any manner which would enable it to be viewed by another person.

18 ~~(4)~~ (5) As part of sentencing following a conviction for
19 a violation of this section, the court shall make a finding as to
20 the ages of the defendant and the victim at the time the offense
21 occurred. If the defendant is found to have been nineteen years
22 of age or older and the victim is found to have been less than
23 eighteen years of age at such time, then the defendant shall be
24 required to register under the Sex Offender Registration Act.

25 ~~(5)~~ (6) No person shall be prosecuted ~~for unlawful~~
26 ~~intrusion~~ pursuant to subdivision ~~(3)(b)~~ (4)(b) or (c) of this
27 section unless the indictment for such offense is found by a grand

1 jury or a complaint filed before a magistrate within three years
2 after the later of:

3 (a) The commission of the crime;

4 (b) Law enforcement's or a victim's receipt of actual or
5 constructive notice of either the existence of a video or other
6 electronic recording ~~of the unlawful intrusion~~ made in violation
7 of this section or the distribution of images, video, or other
8 electronic recording ~~of the unlawful intrusion;~~ made in violation
9 of this section; or

10 (c) The youngest victim of ~~the intrusion~~ a violation of
11 this section reaching the age of twenty-one years.

12 Sec. 2. Section 28-367.01, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 28-367.01 Sexual exploitation includes, but is not
15 limited to, ~~unlawful intrusion as described in a violation of~~
16 section 28-311.08 and causing, allowing, permitting, inflicting,
17 or encouraging a vulnerable adult to engage in voyeurism, in
18 exhibitionism, in prostitution, or in the lewd, obscene, or
19 pornographic photographing, filming, or depiction of the vulnerable
20 adult.

21 Sec. 3. Section 29-4003, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 29-4003 (1) (a) The Sex Offender Registration Act applies
24 to any person who on or after January 1, 1997:

25 (i) Has ever pled guilty to, pled nolo contendere to, or
26 been found guilty of any of the following:

27 (A) Kidnapping of a minor pursuant to section 28-313,

1 except when the person is the parent of the minor and was not
2 convicted of any other offense in this section;

3 (B) False imprisonment of a minor pursuant to section
4 28-314 or 28-315;

5 (C) Sexual assault pursuant to section 28-319 or 28-320;

6 (D) Sexual assault of a child in the second or third
7 degree pursuant to section 28-320.01;

8 (E) Sexual assault of a child in the first degree
9 pursuant to section 28-319.01;

10 (F) Sexual abuse of a vulnerable adult pursuant to
11 subdivision (1)(c) of section 28-386;

12 (G) Incest of a minor pursuant to section 28-703;

13 (H) Pandering of a minor pursuant to section 28-802;

14 (I) Visual depiction of sexually explicit conduct of a
15 child pursuant to section 28-1463.03 or 28-1463.05;

16 (J) Knowingly possessing any visual depiction of sexually
17 explicit conduct which has a child as one of its participants or
18 portrayed observers pursuant to section 28-813.01;

19 (K) Criminal child enticement pursuant to section 28-311;

20 (L) Child enticement by means of an electronic
21 communication device pursuant to section 28-320.02;

22 (M) Debauching a minor pursuant to section 28-805; or

23 (N) Attempt, solicitation, aiding or abetting, being
24 an accessory, or conspiracy to commit an offense listed in
25 subdivisions (1)(a)(i)(A) through (1)(a)(i)(M) of this section;

26 (ii) Has ever pled guilty to, pled nolo contendere to, or
27 been found guilty of any offense that is substantially equivalent

1 to a registrable offense under subdivision (1)(a)(i) of this
2 section by any village, town, city, state, territory, commonwealth,
3 or other jurisdiction of the United States, by the United States
4 Government, by court-martial or other military tribunal, or by
5 a foreign jurisdiction, notwithstanding a procedure comparable
6 in effect to that described under section 29-2264 or any other
7 procedure to nullify a conviction other than by pardon;

8 (iii) Is incarcerated in a jail, a penal or correctional
9 facility, or any other public or private institution or is under
10 probation or parole as a result of pleading guilty to or being
11 found guilty of a registrable offense under subdivision (1)(a)(i)
12 or (ii) of this section prior to January 1, 1997; or

13 (iv) Enters the state and is required to register as
14 a sex offender under the laws of another village, town, city,
15 state, territory, commonwealth, or other jurisdiction of the United
16 States.

17 (b) In addition to the registrable offenses under
18 subdivision (1)(a) of this section, the Sex Offender Registration
19 Act applies to any person who on or after January 1, 2010:

20 (i)(A) Except as provided in subdivision (1)(b)(i)(B) of
21 this section, has ever pled guilty to, pled nolo contendere to, or
22 been found guilty of any of the following:

23 (I) Murder in the first degree pursuant to section
24 28-303;

25 (II) Murder in the second degree pursuant to section
26 28-304;

27 (III) Manslaughter pursuant to section 28-305;

- 1 (IV) Assault in the first degree pursuant to section
2 28-308;
- 3 (V) Assault in the second degree pursuant to section
4 28-309;
- 5 (VI) Assault in the third degree pursuant to section
6 28-310;
- 7 (VII) Stalking pursuant to section 28-311.03;
- 8 (VIII) ~~Unlawful intrusion~~ Violation of section 28-311.08
9 requiring registration under the act pursuant to subsection (4) (5)
10 of section 28-311.08;
- 11 (IX) Kidnapping pursuant to section 28-313;
- 12 (X) False imprisonment pursuant to section 28-314 or
13 28-315;
- 14 (XI) Sexual abuse of an inmate or parolee in the first
15 degree pursuant to section 28-322.02;
- 16 (XII) Sexual abuse of an inmate or parolee in the second
17 degree pursuant to section 28-322.03;
- 18 (XIII) Sexual abuse of a protected individual pursuant to
19 section 28-322.04;
- 20 (XIV) Incest pursuant to section 28-703;
- 21 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of
22 section 28-707;
- 23 (XVI) Enticement by electronic communication device
24 pursuant to section 28-833; or
- 25 (XVII) Attempt, solicitation, aiding or abetting, being
26 an accessory, or conspiracy to commit an offense listed in
27 subdivisions (1)(b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this

1 section.

2 (B) In order for the Sex Offender Registration Act to
3 apply to the offenses listed in subdivisions (1)(b)(i)(A)(I), (II),
4 (III), (IV), (V), (VI), (VII), (IX), and (X) of this section,
5 a court shall have found that evidence of sexual penetration or
6 sexual contact, as those terms are defined in section 28-318, was
7 present in the record, which shall include consideration of the
8 factual basis for a plea-based conviction and information contained
9 in the presentence report;

10 (ii) Has ever pled guilty to, pled nolo contendere to, or
11 been found guilty of any offense that is substantially equivalent
12 to a registrable offense under subdivision (1)(b)(i) of this
13 section by any village, town, city, state, territory, commonwealth,
14 or other jurisdiction of the United States, by the United States
15 Government, by court-martial or other military tribunal, or by
16 a foreign jurisdiction, notwithstanding a procedure comparable
17 in effect to that described under section 29-2264 or any other
18 procedure to nullify a conviction other than by pardon; or

19 (iii) Enters the state and is required to register as
20 a sex offender under the laws of another village, town, city,
21 state, territory, commonwealth, or other jurisdiction of the United
22 States.

23 (2) A person appealing a conviction of a registrable
24 offense under this section shall be required to comply with the act
25 during the appeals process.

26 2. Renumber the remaining sections and correct the
27 repealer accordingly.