WEST VIRGINIA CODE: §61-8-28

§61-8-28. Criminal invasion of privacy; penalties.

(a) For the purposes of this section, the words or terms defined in this subsection have the meanings ascribed to them. These definitions are applicable unless a different meaning clearly appears from the context:

(1) “A person fully or partially nude” means a male or female who is either clothed or unclothed so that: (A) All or any part of his or her genitals, pubic area or buttocks is visible; or (B) in the case of a female only, a part of a nipple of her breast is visible and is without a fully opaque covering;

(2) “To visually portray” a person means to create a reproducible image of that person by means of:

(A) A photograph;

(B) A motion picture;

(C) A video tape;

(D) A digital recording; or

(E) Any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person; and

(3) “Place where a reasonable person would have an expectation of privacy” means a place where a reasonable person would believe that he or she could, in privacy, be fully or partially nude without expecting that the act of exposing his or her body was being visually portrayed by another person.

(b) It is unlawful for a person to knowingly visually portray another person without that other person's knowledge, while that other person is fully or partially nude and is in a place where a reasonable person would have an expectation of privacy. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, shall be confined in a county or regional jail for not more than one year or fined not more than $5,000, or both.

(c) Any person who displays or distributes visual images of another person with knowledge that said visual images were obtained in violation of subsection (b) of this section is guilty of a misdemeanor and, upon conviction, shall be confined in a county or regional jail for not more than one year or fined not more than $5,000, or both.

(d) A person who is convicted of a second or subsequent violation of subsection (b) or (c) of

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this section is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than one year nor more than five years or fined not more than $10,000, or both.

WV Legislature