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§3–902.

(a) (1) In this section the following words have the meanings indicated.

(2) "Camera" includes any electronic device that can be used surreptitiously to observe an individual.

(3) "Female breast" means a portion of the female breast below the top of the areola.

(4) "Private area of an individual" means the naked or undergarment–clad genitals, pubic area, buttocks, or female breast of an individual.

(5) (i) "Private place" means a room in which a person can reasonably be expected to fully or partially disrobe and has a reasonable expectation of privacy, in:

1. an office, business, or store;

2. a recreational facility;

3. a restaurant or tavern;

4. a hotel, motel, or other lodging facility;

5. a theater or sports arena;

6. a school or other educational institution;

7. a bank or other financial institution;

8. any part of a family child care home used for the care and custody of a child; or

9. another place of public use or accommodation.

(ii) "Private place" includes a tanning room, dressing room, bedroom, or restroom.

(6) (i) "Visual surveillance" means the deliberate, surreptitious observation of an individual by any means.

(ii) "Visual surveillance" includes surveillance by:

1. direct sight;

2. the use of mirrors; or

3. the use of cameras.

(iii) "Visual surveillance" does not include a casual, momentary, or unintentional observation of an individual.

(b) This section does not apply to a person who without prurient intent:

(1) conducts filming by or for the print or broadcast media;

(2) conducts or procures another to conduct visual surveillance of an individual to protect property or public safety or prevent crime; or

(3) conducts visual surveillance and:

(i) holds a license issued under Title 13 or Title 19 of the Business Occupations and Professions Article; and

(ii) is acting within the scope of the person's occupation.

(c) A person may not with prurient intent conduct or procure another to conduct visual surveillance of:

(1) an individual in a private place without the consent of that individual; or

(2) the private area of an individual by use of a camera without the consent of the individual under circumstances in which a reasonable person would believe that the private area of the individual would not be visible to the public, regardless of whether the individual is in a public or private place.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $2,500 or both.

(e) (1) An individual who was under visual surveillance in violation of this section has a civil cause of action against any person who conducted or procured another to conduct the visual surveillance.

(2) In an action under this subsection, the court may award actual damages and reasonable attorney's fees.

(f) This section does not affect any legal or equitable right or remedy otherwise provided by law.

(g) This section does not affect the application of § 3–901 of this subtitle.

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