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The Honorable Will Smith
Chair, Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Chair Smith and Committee Members:

I write in support of SB348—Criminal Law—Visual Surveillance With Prurient Interest—Private Place. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office and co-chair of the Maryland State's Attorney Association's Special Victims Legislative Subcommittee.

Section 3-902 of the Maryland Criminal Law Article prohibits individuals, without consent, from visually surveying another person in a private place. It also prohibits individuals, without consent, from visually surveying another person with a camera under circumstances where a reasonable person would believe the area would not be visible to the public. The statute, however, does not specifically delineate a private residence as a private place. The current definition of "private place" is:


"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. 'Private place.' includes a tanning room, dressing room, bedroom, or restroom."

Several months ago, my office prosecuted a case involving this statute. The Defendant was charged with 23 counts of visual surveillance with prurient interest and 1 count of stalking. The Defendant, on multiple occasions, filmed the victim naked, while she was in the shower and on the toilet in the bathroom of the home they shared. The Defendant was the victim's housemate and partner of the victim's best friend.

Unfortunately, the Court narrowly construed the definition of "private place" enumerated in the statute. Because the law did not and does not specifically include a residence, the Court found the defendant not guilty of all 23 counts of visual surveillance with prurient interest.

Senate Bill 348 closes this loophole in the law by expanding the definition of "private place" to include "a residence" or another place of "private" or public use or accommodation. This definition is in keeping with the original intent of the law and will ensure that individuals who prey upon others through visual surveillance are rightly held accountable for their actions. I strongly urge this Committee to issue a favorable report.

Sincerely,


Debbie Feinstein
Senior Assistant State's Attorney