

HOUSE BILL 170

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HB 779/97 - JUD

1998 Regular Session  
8lr0069

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By: **Delegate Dembrow**

Introduced and read first time: January 21, 1998

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Visual Surveillance**

3 FOR the purpose of prohibiting a person from placing or otherwise bringing, or  
4 procuring another to place or otherwise bring, a camera onto real property for  
5 purposes of conducting visual surveillance of persons inside a private residence  
6 on the property under certain circumstances; prohibiting certain persons from  
7 conducting or procuring another to conduct visual surveillance with a certain  
8 intent in certain private places; providing that ownership is not a defense under  
9 certain circumstances; providing a certain defense; providing certain penalties;  
10 providing for a civil cause of action; providing certain exceptions; providing that  
11 this Act does not abrogate or limit certain other remedies; providing for the  
12 application of this Act; defining certain terms; and generally relating to visual  
13 surveillance.

14 BY adding to  
15 Article 27 - Crimes and Punishments  
16 Section 579D and 579E  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 1997 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article 27 - Crimes and Punishments**

22 579D.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED.

25 (2) "CAMERA" INCLUDES ANY ELECTRONIC DEVICE THAT CAN BE USED  
26 TO SURREPTITIOUSLY OBSERVE A PERSON.

27 (3) "VISUAL SURVEILLANCE" MEANS DELIBERATE, SURREPTITIOUS  
28 OBSERVATION OF ANOTHER.

1 (B) THIS SECTION DOES NOT APPLY TO:

2 (1) AN ADULT RESIDENT OF A PRIVATE RESIDENCE;

3 (2) A PERSON WHO PLACES OR BRINGS, OR PROCURES ANOTHER TO  
4 PLACE OR BRING, A CAMERA ONTO REAL PROPERTY AND WHO DOES NOT HAVE THE  
5 INTENT OF CONDUCTING VISUAL SURVEILLANCE OF A PERSON INSIDE THE PRIVATE  
6 RESIDENCE;

7 (3) A PERSON WHO HAS THE CONSENT OF AN ADULT RESIDENT, OR THE  
8 RESIDENT'S LEGAL GUARDIAN, TO PLACE OR BRING A CAMERA ONTO REAL  
9 PROPERTY FOR PURPOSES OF CONDUCTING VISUAL SURVEILLANCE OF A PERSON  
10 INSIDE THE PRIVATE RESIDENCE;

11 (4) ANY OTHERWISE LAWFUL OBSERVATION WITH A CAMERA  
12 CONDUCTED BY A LAW ENFORCEMENT OFFICER WHILE IN PERFORMANCE OF THE  
13 OFFICER'S OFFICIAL DUTIES; OR

14 (5) FILMING BY OR FOR THE BROADCAST MEDIA USING A CAMERA THAT  
15 IS NOT SECRETED FROM VIEW.

16 (C) A PERSON MAY NOT PLACE OR OTHERWISE BRING, OR PROCURE ANOTHER  
17 TO PLACE OR OTHERWISE BRING, A CAMERA ONTO REAL PROPERTY ON WHICH IS  
18 LOCATED A PRIVATE RESIDENCE FOR PURPOSES OF CONDUCTING VISUAL  
19 SURVEILLANCE OF A PERSON INSIDE THE PRIVATE RESIDENCE.

20 (D) (1) IT IS NOT A DEFENSE TO A PROSECUTION UNDER THIS SECTION  
21 THAT THE PERSON CHARGED IS THE OWNER OF THE PRIVATE RESIDENCE, IF THE  
22 OWNER IS NOT AN ADULT RESIDENT OF THE PRIVATE RESIDENCE.

23 (2) A GOOD FAITH RELIANCE ON A COURT ORDER IS A COMPLETE  
24 DEFENSE TO ANY CIVIL OR CRIMINAL ACTION BROUGHT UNDER THIS SECTION.

25 (E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
26 AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR  
27 IMPRISONMENT FOR NOT MORE THAN 30 DAYS OR BOTH.

28 (F) A PERSON IN A PRIVATE RESIDENCE WHO WAS OBSERVED BY A CAMERA  
29 IN VIOLATION OF THIS SECTION HAS A CIVIL CAUSE OF ACTION AGAINST ANY  
30 PERSON WHO PLACED OR OTHERWISE BROUGHT THE CAMERA, OR PROCURED  
31 ANOTHER TO PLACE OR OTHERWISE BRING THE CAMERA, ONTO THE REAL  
32 PROPERTY. IN AN ACTION UNDER THIS SUBSECTION, THE COURT MAY AWARD  
33 DAMAGES AND REASONABLE ATTORNEYS' FEES.

34 (G) THIS SECTION DOES NOT ABROGATE OR LIMIT ANY LEGAL OR EQUITABLE  
35 RIGHT OR REMEDY OTHERWISE AVAILABLE BY COMMON LAW OR STATUTE.

1 579E.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (2) "CAMERA" INCLUDES ANY ELECTRONIC DEVICE THAT CAN BE USED  
5 TO OBSERVE SURREPTITIOUSLY A PERSON.

6 (3) "PRIVATE PLACE" MEANS A DRESSING ROOM, BEDROOM, OR REST  
7 ROOM IN:

8 (I) AN OFFICE, BUSINESS, OR STORE;

9 (II) A RECREATIONAL FACILITY;

10 (III) A RESTAURANT OR TAVERN;

11 (IV) A HOTEL, MOTEL, OR OTHER LODGING FACILITY;

12 (V) A THEATER OR SPORTS ARENA; OR

13 (VI) ANOTHER PLACE OF PUBLIC USE OR ACCOMMODATION.

14 (4) (I) "VISUAL SURVEILLANCE" MEANS DELIBERATE, SURREPTITIOUS  
15 OBSERVATION OF ANOTHER BY ANY MEANS.

16 (II) "VISUAL SURVEILLANCE" INCLUDES:

17 1. DIRECT SIGHT SURVEILLANCE;

18 2. THE USE OF MIRRORS; AND

19 3. THE USE OF CAMERAS.

20 (III) "VISUAL SURVEILLANCE" DOES NOT INCLUDE A CASUAL,  
21 MOMENTARY, OR UNINTENTIONAL OBSERVATION OF ANOTHER.

22 (B) THIS SECTION MAY NOT BE CONSTRUED TO ABROGATE OR AFFECT IN ANY  
23 WAY THE APPLICATION OF § 579C OF THIS SUBHEADING.

24 (C) A PERSON MAY NOT WITH PRURIENT INTENT CONDUCT OR PROCURE A  
25 PERSON TO CONDUCT ANY VISUAL SURVEILLANCE OF ANOTHER PERSON WHO IS IN  
26 A PRIVATE PLACE WITHOUT THE CONSENT OF THE PERSON IN THE PRIVATE PLACE.

27 (D) THIS SECTION DOES NOT APPLY TO A PERSON WHO WITHOUT PRURIENT  
28 INTENT:

29 (1) CONDUCTS FILMING BY OR FOR THE BROADCAST MEDIA;

1           (2)     CONDUCTS OR PROCURES A PERSON TO CONDUCT VISUAL  
2 SURVEILLANCE OF ANOTHER PERSON FOR PURPOSES OF PROTECTION OF PROPERTY,  
3 PUBLIC SAFETY, OR CRIME PREVENTION; OR

4           (3)     CONDUCTS VISUAL SURVEILLANCE AND WHO IS LICENSED UNDER  
5 TITLE 13 OR TITLE 19 OF THE BUSINESS OCCUPATIONS ARTICLE.

6     (E)     A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY  
7 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE  
8 THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 30 DAYS OR BOTH.

9     (F)     A PERSON WHO WAS SUBJECT TO VISUAL SURVEILLANCE IN VIOLATION  
10 OF THIS SECTION HAS A CIVIL CAUSE OF ACTION AGAINST ANY PERSON WHO  
11 CONDUCTED OR PROCURED ANOTHER TO CONDUCT THE VISUAL SURVEILLANCE. IN  
12 AN ACTION UNDER THIS SUBSECTION, THE COURT MAY AWARD ACTUAL DAMAGES  
13 AND REASONABLE ATTORNEYS' FEES.

14     (G)     THIS SECTION DOES NOT ABROGATE OR LIMIT ANY LEGAL OR EQUITABLE  
15 RIGHT OR REMEDY OTHERWISE AVAILABLE BY COMMON LAW OR STATUTE.

16     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
17 construed only prospectively to offenses occurring and causes of action arising on or  
18 after the effective date of this Act and may not be applied or interpreted to have any  
19 effect on or application to offenses occurring and causes of action arising before the  
20 effective date of this Act.

21     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1998.