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By: **Delegate Dembrow**  
Introduced and read first time: January 21, 1998  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 10, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Use of Cameras and 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~~ on real property for  
5 purposes of conducting ~~visual surveillance~~ deliberate surreptitious observation  
6 of persons inside a private residence on the property under certain  
7 circumstances; prohibiting certain persons from conducting or procuring  
8 another to conduct visual surveillance with a certain intent in certain private  
9 places; providing that ownership is not a defense under certain circumstances;  
10 providing a certain defense; providing certain penalties; providing for a civil  
11 cause of action; providing certain exceptions; providing that this Act does not  
12 abrogate or limit certain other remedies; providing for the application of this  
13 Act; defining certain terms; and generally relating to use of cameras and visual  
14 surveillance.

15 BY adding to  
16 Article 27 - Crimes and Punishments  
17 Section 579D and 579E  
18 Annotated Code of Maryland  
19 (1996 Replacement Volume and 1997 Supplement)

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

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## Article 27 - Crimes and Punishments

2 579D.

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

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

7 ~~(3)~~ "VISUAL SURVEILLANCE" ~~MEANS DELIBERATE, SURREPTITIOUS~~  
 8 ~~OBSERVATION OF ANOTHER.~~

9 (B) THIS SECTION DOES NOT APPLY TO:

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

11 (2) A PERSON WHO PLACES ~~OR BRINGS~~, OR PROCURES ANOTHER TO  
 12 PLACE ~~OR BRING~~, A CAMERA ~~ONTO ON~~ REAL PROPERTY AND WHO DOES NOT HAVE  
 13 THE INTENT OF CONDUCTING ~~VISUAL SURVEILLANCE~~ DELIBERATE SURREPTITIOUS  
 14 OBSERVATION OF A PERSON INSIDE THE PRIVATE RESIDENCE;

15 (3) A PERSON WHO HAS THE CONSENT OF AN ADULT RESIDENT, OR THE  
 16 RESIDENT'S LEGAL GUARDIAN, TO PLACE ~~OR BRING~~ A CAMERA ~~ONTO ON~~ REAL  
 17 PROPERTY FOR PURPOSES OF CONDUCTING ~~VISUAL SURVEILLANCE~~ DELIBERATE  
 18 SURREPTITIOUS OBSERVATION OF A PERSON INSIDE THE PRIVATE RESIDENCE;

19 (4) ANY OTHERWISE LAWFUL OBSERVATION WITH A CAMERA  
 20 CONDUCTED BY A LAW ENFORCEMENT OFFICER WHILE IN PERFORMANCE OF THE  
 21 OFFICER'S OFFICIAL DUTIES; ~~OR~~

22 (5) FILMING BY OR FOR THE PRINT OR BROADCAST MEDIA USING A  
 23 CAMERA THAT IS NOT SECRETED FROM VIEW;

24 (6) ANY PORTION OF A PRIVATE RESIDENCE USED FOR BUSINESS  
 25 PURPOSES, INCLUDING ANY PORTION OF A DAY CARE HOME USED FOR THE CARE  
 26 AND CUSTODY OF A CHILD; OR

27 (7) FILMING OF A PRIVATE RESIDENCE BY USING A CAMERA THAT IS  
 28 NOT LOCATED ON THE REAL PROPERTY ON WHICH THE PRIVATE RESIDENCE IS  
 29 LOCATED.

30 (C) A PERSON MAY NOT PLACE ~~OR OTHERWISE BRING~~, OR PROCURE ANOTHER  
 31 TO PLACE ~~OR OTHERWISE BRING~~, A CAMERA ~~ONTO ON~~ REAL PROPERTY ON WHICH IS  
 32 LOCATED A PRIVATE RESIDENCE FOR PURPOSES OF CONDUCTING ~~VISUAL~~  
 33 ~~SURVEILLANCE~~ DELIBERATE SURREPTITIOUS OBSERVATION OF A PERSON INSIDE  
 34 THE PRIVATE RESIDENCE.

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

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

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

9 (F) A PERSON IN A PRIVATE RESIDENCE WHO WAS OBSERVED BY A CAMERA  
 10 IN VIOLATION OF THIS SECTION HAS A CIVIL CAUSE OF ACTION AGAINST ANY  
 11 PERSON WHO PLACED ~~OR OTHERWISE BROUGHT~~ THE CAMERA, OR PROCURED  
 12 ANOTHER TO PLACE ~~OR OTHERWISE BRING~~ THE CAMERA, ~~ONTO~~ ON THE REAL  
 13 PROPERTY. IN AN ACTION UNDER THIS SUBSECTION, THE COURT MAY AWARD  
 14 DAMAGES AND REASONABLE ATTORNEYS' FEES.

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

17 579E.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 19 INDICATED.

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

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

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

25 (II) A RECREATIONAL FACILITY;

26 (III) A RESTAURANT OR TAVERN;

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

28 (V) A THEATER OR SPORTS ARENA; ~~OR~~

29 (VI) A SCHOOL OR OTHER EDUCATIONAL INSTITUTION;

30 (VII) A BANK OR OTHER FINANCIAL INSTITUTION;

31 (VIII) ANY PORTION OF A DAY CARE HOME USED FOR THE CARE AND  
 32 CUSTODY OF A CHILD; OR

33 ~~(VI)~~ (IX) ANOTHER PLACE OF PUBLIC USE OR ACCOMMODATION.

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

3 (II) "VISUAL SURVEILLANCE" INCLUDES:

4 1. DIRECT SIGHT SURVEILLANCE;

5 2. THE USE OF MIRRORS; AND

6 3. THE USE OF CAMERAS.

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

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

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

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

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

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

20 (3) CONDUCTS VISUAL SURVEILLANCE AND WHO IS LICENSED UNDER  
21 TITLE 13 OR TITLE 19 OF THE BUSINESS OCCUPATIONS ARTICLE AND IS ACTING  
22 WITHIN THE SCOPE OF THE PERSON'S OCCUPATION.

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

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

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
34 construed only prospectively to offenses occurring and causes of action arising on or  
35 after the effective date of this Act and may not be applied or interpreted to have any

1 effect on or application to offenses occurring and causes of action arising before the  
2 effective date of this Act.

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