#### SENATE BILL 689

Unofficial Copy E1 HB 170/98 - JUD 1999 Regular Session 9lr1308 CF HB 95

By: Senator Forehand

Introduced and read first time: February 18, 1999

Assigned to: Rules

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### A BILL ENTITLED

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1	7 77 4	1101	Concerning

## 2 Crimes - Use of Cameras and Visual Surveillance

- 3 FOR the purpose of prohibiting a person from placing or procuring another to place a
- 4 camera on real property for purposes of conducting deliberate surreptitious
- 5 observation of persons inside a private residence on the property under certain
- 6 circumstances; prohibiting certain persons from conducting or procuring
- 7 another to conduct visual surveillance with a certain intent in certain private
- 8 places; providing that ownership is not a defense under certain circumstances;
- 9 providing a certain defense; providing certain penalties; providing for a civil
- 10 cause of action; providing certain exceptions; providing that this Act does not
- abrogate or limit certain other remedies; providing for the application of this
- 12 Act; defining certain terms; and generally relating to use of cameras and visual
- 13 surveillance.
- 14 BY renumbering
- 15 Article 27 Crimes and Punishments
- 16 Section 579C, respectively
- to be Section 579, respectively
- 18 Annotated Code of Maryland
- 19 (1996 Replacement Volume and 1998 Supplement)
- 20 BY adding to
- 21 Article 27 Crimes and Punishments
- 22 Section 579A and 579B
- 23 Annotated Code of Maryland
- 24 (1996 Replacement Volume and 1998 Supplement)
- 25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 26 MARYLAND, That Section(s) 579C of Article 27 Crimes and Punishments of the
- 27 Annotated Code of Maryland be renumbered to be Section(s) 579.
- 28 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
- 29 read as follows:

## 1 Article 27 - Crimes and Punishments

- 2 579A.
- 3 (A) IN THIS SECTION, "CAMERA" INCLUDES ANY ELECTRONIC DEVICE THAT 4 CAN BE USED TO OBSERVE SURREPTITIOUSLY A PERSON.
- 5 (B) THIS SECTION DOES NOT APPLY TO:
- 6 (1) AN ADULT RESIDENT OF A PRIVATE RESIDENCE;
- 7 (2) A PERSON WHO PLACES OR PROCURES ANOTHER TO PLACE A
- 8 CAMERA ON REAL PROPERTY AND WHO DOES NOT HAVE THE INTENT OF
- 9 CONDUCTING DELIBERATE SURREPTITIOUS OBSERVATION OF A PERSON INSIDE THE
- 10 PRIVATE RESIDENCE;
- 11 (3) A PERSON WHO HAS THE CONSENT OF AN ADULT RESIDENT, OR THE
- 12 RESIDENT'S LEGAL GUARDIAN, TO PLACE A CAMERA ON REAL PROPERTY FOR
- 13 PURPOSES OF CONDUCTING DELIBERATE SURREPTITIOUS OBSERVATION OF A
- 14 PERSON INSIDE THE PRIVATE RESIDENCE;
- 15 (4) ANY OTHERWISE LAWFUL OBSERVATION WITH A CAMERA
- 16 CONDUCTED BY A LAW ENFORCEMENT OFFICER WHILE IN PERFORMANCE OF THE
- 17 OFFICER'S OFFICIAL DUTIES:
- 18 (5) FILMING BY OR FOR THE PRINT OR BROADCAST MEDIA USING A
- 19 CAMERA THAT IS NOT SECRETED FROM VIEW;
- 20 (6) ANY PORTION OF A PRIVATE RESIDENCE USED FOR BUSINESS
- 21 PURPOSES, INCLUDING ANY PORTION OF A DAY CARE HOME USED FOR THE CARE
- 22 AND CUSTODY OF A CHILD; OR
- 23 (7) FILMING OF A PRIVATE RESIDENCE BY USING A CAMERA THAT IS
- 24 NOT LOCATED ON THE REAL PROPERTY ON WHICH THE PRIVATE RESIDENCE IS
- 25 LOCATED.
- 26 (C) A PERSON MAY NOT PLACE OR PROCURE ANOTHER TO PLACE A CAMERA
- 27 ON REAL PROPERTY ON WHICH IS LOCATED A PRIVATE RESIDENCE FOR PURPOSES
- 28 OF CONDUCTING DELIBERATE SURREPTITIOUS OBSERVATION OF A PERSON INSIDE
- 29 THE PRIVATE RESIDENCE.
- 30 (D) (1) IT IS NOT A DEFENSE TO A PROSECUTION UNDER THIS SECTION
- 31 THAT THE PERSON CHARGED IS THE OWNER OF THE PRIVATE RESIDENCE, IF THE
- 32 OWNER IS NOT AN ADULT RESIDENT OF THE PRIVATE RESIDENCE.
- 33 (2) A GOOD FAITH RELIANCE ON A COURT ORDER IS A COMPLETE
- 34 DEFENSE TO ANY CIVIL OR CRIMINAL ACTION BROUGHT UNDER THIS SECTION.

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		ONVICTI	ON IS S	UBJECT	ATES THIS SECTION IS GUILTY OF A MISDEMEANOR TO A FINE OF NOT MORE THAN \$1,000 OR THAN 6 MONTHS OR BOTH.
6 7	PERSON W. ON THE RE	ION OF HO PLAC AL PRO	THIS SE CED THI PERTY.	CTION F E CAME IN AN A	TE RESIDENCE WHO WAS OBSERVED BY A CAMERA HAS A CIVIL CAUSE OF ACTION AGAINST ANY ERA OR PROCURED ANOTHER TO PLACE THE CAMERA ACTION UNDER THIS SUBSECTION, THE COURT MAY ABLE ATTORNEYS' FEES.
9 10	(G) RIGHT OR				OT ABROGATE OR LIMIT ANY LEGAL OR EQUITABLE AVAILABLE BY COMMON LAW OR STATUTE.
11	579B.				
12 13	(A) INDICATE	` /	IN THIS	SECTIO	ON THE FOLLOWING WORDS HAVE THE MEANINGS
14 15	TO OBSER				CLUDES ANY ELECTRONIC DEVICE THAT CAN BE USED A PERSON.
16 17	ROOM IN:	(3)	"PRIVA	TE PLAC	CE" MEANS A DRESSING ROOM, BEDROOM, OR REST
18			(I)	AN OFF	FICE, BUSINESS, OR STORE;
19			(II)	A RECR	REATIONAL FACILITY;
20			(III)	A REST	CAURANT OR TAVERN;
21			(IV)	А НОТЕ	EL, MOTEL, OR OTHER LODGING FACILITY;
22			(V)	A THEA	ATER OR SPORTS ARENA;
23			(VI)	A SCHO	OOL OR OTHER EDUCATIONAL INSTITUTION;
24			(VII)	A BANI	K OR OTHER FINANCIAL INSTITUTION;
25 26	CUSTODY	OF A CI	(VIII) HILD; OF		ORTION OF A DAY CARE HOME USED FOR THE CARE AND
27			(IX)	ANOTH	HER PLACE OF PUBLIC USE OR ACCOMMODATION.
28 29		(4) ΓΙΟΝ OF	(I) ANOTH		AL SURVEILLANCE" MEANS DELIBERATE, SURREPTITIOUS ANY MEANS.
30			(II)	"VISUA	AL SURVEILLANCE" INCLUDES:
31				1.	DIRECT SIGHT SURVEILLANCE;
32				2.	THE USE OF MIRRORS; AND

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1	<ol> <li>TH</li> </ol>	E USE	OF	CAMERAS.

- 2 (III) "VISUAL SURVEILLANCE" DOES NOT INCLUDE A CASUAL, 3 MOMENTARY, OR UNINTENTIONAL OBSERVATION OF ANOTHER.
- 4 (B) THIS SECTION MAY NOT BE CONSTRUED TO ABROGATE OR AFFECT IN ANY 5 WAY THE APPLICATION OF § 579 OF THIS SUBHEADING.
- 6 (C) A PERSON MAY NOT WITH PRURIENT INTENT CONDUCT OR PROCURE A 7 PERSON TO CONDUCT ANY VISUAL SURVEILLANCE OF ANOTHER PERSON WHO IS IN 8 A PRIVATE PLACE WITHOUT THE CONSENT OF THE PERSON IN THE PRIVATE PLACE.
- 9 (D) THIS SECTION DOES NOT APPLY TO A PERSON WHO WITHOUT PRURIENT 10 INTENT:
- 11 (1) CONDUCTS FILMING BY OR FOR THE PRINT OR BROADCAST MEDIA;
- 12 (2) CONDUCTS OR PROCURES A PERSON TO CONDUCT VISUAL
- 13 SURVEILLANCE OF ANOTHER PERSON FOR PURPOSES OF PROTECTION OF PROPERTY, 14 PUBLIC SAFETY, OR CRIME PREVENTION; OR
- 14 TOBLIC SALLIT, OR CRIME TREVENTION, OR
- 15 (3) CONDUCTS VISUAL SURVEILLANCE AND WHO IS LICENSED UNDER 16 TITLE 13 OR TITLE 19 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE
- 17 AND IS ACTING WITHIN THE SCOPE OF THE PERSON'S OCCUPATION.
- 18 (E) A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY 19 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE
- 20 THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR BOTH.
- 21 (F) A PERSON WHO WAS SUBJECT TO VISUAL SURVEILLANCE IN VIOLATION
- 22 OF THIS SECTION HAS A CIVIL CAUSE OF ACTION AGAINST ANY PERSON WHO
- 23 CONDUCTED OR PROCURED ANOTHER TO CONDUCT THE VISUAL SURVEILLANCE. IN
- 24 AN ACTION UNDER THIS SUBSECTION, THE COURT MAY AWARD ACTUAL DAMAGES
- 25 AND REASONABLE ATTORNEYS' FEES.
- 26 (G) THIS SECTION DOES NOT ABROGATE OR LIMIT ANY LEGAL OR EQUITABLE 27 RIGHT OR REMEDY OTHERWISE AVAILABLE BY COMMON LAW OR STATUTE.
- 28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
- 29 construed only prospectively to offenses occurring and causes of action arising on or
- 30 after the effective date of this Act and may not be applied or interpreted to have any
- 31 effect on or application to offenses occurring and causes of action arising before the
- 32 effective date of this Act.
- 33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 34 October 1, 1999.