

SENATE BILL 689

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HB 170/98 - JUD

1999 Regular Session
9r1308
CF HB 95

By: **Senator Forehand**

Introduced and read first time: February 18, 1999

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 22, 1999

Committee Report: Favorable

Senate action: Adopted

Read second time: March 23, 1999

CHAPTER _____

1 AN ACT 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
11 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
17 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

1 (1996 Replacement Volume and 1998 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That Section(s) 579C of Article 27 - Crimes and Punishments of the
4 Annotated Code of Maryland be renumbered to be Section(s) 579.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
6 read as follows:

7 **Article 27 - Crimes and Punishments**

8 579A.

9 (A) IN THIS SECTION, "CAMERA" INCLUDES ANY ELECTRONIC DEVICE THAT
10 CAN BE USED TO OBSERVE SURREPTITIOUSLY A PERSON.

11 (B) THIS SECTION DOES NOT APPLY TO:

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

13 (2) A PERSON WHO PLACES OR PROCURES ANOTHER TO PLACE A
14 CAMERA ON REAL PROPERTY AND WHO DOES NOT HAVE THE INTENT OF
15 CONDUCTING DELIBERATE SURREPTITIOUS OBSERVATION OF A PERSON INSIDE THE
16 PRIVATE RESIDENCE;

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

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

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

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

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

32 (C) A PERSON MAY NOT PLACE OR PROCURE ANOTHER TO PLACE A CAMERA
33 ON REAL PROPERTY ON WHICH IS LOCATED A PRIVATE RESIDENCE FOR PURPOSES
34 OF CONDUCTING DELIBERATE SURREPTITIOUS OBSERVATION OF A PERSON INSIDE
35 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 6 MONTHS 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 THE CAMERA OR PROCURED ANOTHER TO PLACE THE CAMERA
12 ON THE REAL PROPERTY. IN AN ACTION UNDER THIS SUBSECTION, THE COURT MAY
13 AWARD DAMAGES 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 579B.

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

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

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

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

24 (II) A RECREATIONAL FACILITY;

25 (III) A RESTAURANT OR TAVERN;

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

27 (V) A THEATER OR SPORTS ARENA;

28 (VI) A SCHOOL OR OTHER EDUCATIONAL INSTITUTION;

29 (VII) A BANK OR OTHER FINANCIAL INSTITUTION;

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

32 (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 § 579 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 AND PROFESSIONS ARTICLE
22 AND IS ACTING 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 6 MONTHS 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 3. 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 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1999.