

HOUSE BILL 613

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HB 570/03 - JUD

2004 Regular Session  
4r0610

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By: **Delegates Quinter, Amedori, Bates, Bobo, DeBoy, Feldman, Madaleno, Malone, McComas, McDonough, McMillan, Miller, Montgomery, Pendergrass, Sossi, Trueschler, and F. Turner F. Turner, Doory, Barkley, Bartlett, Conroy, Goodwin, Howard, Hubbard, Kaiser, Mandel, Nathan-Pulliam, O'Donnell, and Zirkin**

Introduced and read first time: February 4, 2004  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 23, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Visual and Camera Surveillance - Penalties**

3 FOR the purpose of ~~making increasing the penalties~~ for the crime of visually  
4 observing, with prurient interest, an individual without the consent of that  
5 individual ~~a felony and increasing the penalties; making increasing the~~  
6 penalties for the crime of placing or procuring another to place a camera on real  
7 property where a private residence is located to conduct certain observations of  
8 an individual inside the private residence ~~a felony and increasing the penalties;~~  
9 providing a certain exception from the crime of placing a camera on real  
10 property where a private residence is located for certain individuals; and  
11 generally relating to visual and camera surveillance of an individual without the  
12 consent of that individual.

13 BY repealing and reenacting, with amendments,  
14 Article - Criminal Law  
15 Section 3-902 and 3-903  
16 Annotated Code of Maryland  
17 (2002 Volume and 2003 Supplement)

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

1 **Article - Criminal Law**

2 3-902.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Camera" includes any electronic device that can be used  
5 surreptitiously to observe an individual.6 (3) (i) "Private place" means a room in which a person can reasonably  
7 be expected to fully or partially disrobe and has a reasonable expectation of privacy,  
8 in:

- 9 1. an office, business, or store;
- 10 2. a recreational facility;
- 11 3. a restaurant or tavern;
- 12 4. a hotel, motel, or other lodging facility;
- 13 5. a theater or sports arena;
- 14 6. a school or other educational institution;
- 15 7. a bank or other financial institution;
- 16 8. any part of a day care home used for the care and custody  
17 of a child; or
- 18 9. another place of public use or accommodation.

19 (ii) "Private place" includes a tanning room, dressing room,  
20 bedroom, or restroom.21 (4) (i) "Visual surveillance" means the deliberate, surreptitious  
22 observation of an individual by any means.

23 (ii) "Visual surveillance" includes surveillance by:

- 24 1. direct sight;
- 25 2. the use of mirrors; or
- 26 3. the use of cameras.

27 (iii) "Visual surveillance" does not include a casual, momentary, or  
28 unintentional observation of an individual.

29 (b) This section does not apply to a person who without prurient intent:

- 30 (1) conducts filming by or for the print or broadcast media;

1 (2) conducts or procures another to conduct visual surveillance of an  
2 individual to protect property or public safety or prevent crime; or

3 (3) conducts visual surveillance and:

4 (i) holds a license issued under Title 13 or Title 19 of the Business  
5 Occupations and Professions Article; and

6 (ii) is acting within the scope of the person's occupation.

7 (c) A person may not with prurient intent conduct or procure another to  
8 conduct visual surveillance of an individual in a private place without the consent of  
9 that individual.

10 (d) A person who violates this section is guilty of a ~~misdemeanor~~ **FELONY**  
11 and on conviction is subject to imprisonment not exceeding [6 months] ~~5~~ **3** YEARS or  
12 a fine not exceeding [\$1,000] ~~\$10,000~~ **\$2,500** or both.

13 (e) (1) An individual who was under visual surveillance in violation of this  
14 section has a civil cause of action against any person who conducted or procured  
15 another to conduct the visual surveillance.

16 (2) In an action under this subsection, the court may award actual  
17 damages and reasonable attorney's fees.

18 (f) This section does not affect any legal or equitable right or remedy  
19 otherwise provided by law.

20 (g) This section does not affect the application of § 3-901 of this subtitle.

21 3-903.

22 (a) In this section, "camera" includes any electronic device that can be used  
23 surreptitiously to observe an individual.

24 (b) This section does not apply to:

25 (1) an adult resident of the private residence where a camera is placed;

26 (2) a person who places or procures another to place a camera on real  
27 property without the intent to conduct deliberate surreptitious observation of an  
28 individual inside the private residence;

29 (3) a person who has obtained the consent of an adult resident, or the  
30 adult resident's legal guardian, to place a camera on real property to conduct  
31 deliberate surreptitious observation of an individual inside the private residence;

32 (4) any otherwise lawful observation with a camera conducted by a law  
33 enforcement officer while performing official duties;

1 (5) filming conducted by a person by or for the print or broadcast media  
2 through use of a camera that is not secreted from view;

3 (6) any part of a private residence used for business purposes, including  
4 any part of a private residence used as a day care home for the care and custody of a  
5 child; ~~or~~

6 (7) filming of a private residence by a person through use of a camera  
7 that is not located on the real property where the private residence is located; OR

8 (8) ANY OTHERWISE LAWFUL OBSERVATION WITH A CAMERA OF THE  
9 COMMON AREA OF MULTIUNIT FAMILY DWELLINGS BY A PERSON THAT HOLDS A  
10 LICENSE UNDER TITLE 13 OR TITLE 19 OF THE BUSINESS OCCUPATIONS AND  
11 PROFESSIONS ARTICLE, ACTING WITHIN THE SCOPE OF THE PERSON'S OCCUPATION.

12 (c) A person may not place or procure another to place a camera on real  
13 property where a private residence is located to conduct deliberate surreptitious  
14 observation of an individual inside the private residence.

15 (d) A person who violates this section is guilty of a ~~misdemeanor~~ **FELONY**  
16 and on conviction is subject to imprisonment not exceeding [6 months] ~~5~~ 3 YEARS or  
17 a fine not exceeding [\$1,000] ~~\$10,000~~ \$2,500 or both.

18 (e) Subject to subsection (b)(1) of this section, it is not a defense to a  
19 prosecution under this section that the defendant owns the private residence.

20 (f) A good faith reliance on a court order is a complete defense to a civil or  
21 criminal action brought under this section.

22 (g) (1) An individual who was observed through the use of a camera in  
23 violation of this section has a civil cause of action against any person who placed or  
24 procured another to place the camera on the real property.

25 (2) In an action under this subsection, the court may award damages and  
26 reasonable attorney's fees.

27 (h) This section does not affect any legal or equitable right or remedy  
28 otherwise provided by law.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2004.

