

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 613  
Judiciary

(Delegate Quinter, *et al.*)

Judicial Proceedings

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

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This bill increases penalty provisions applicable to current law prohibitions against nonconsensual visual surveillance with prurient interest and deliberate surreptitious observation with a camera at a private residence. The maximum penalties for each offense increase from imprisonment for six months and/or a fine of \$1,000 to imprisonment for one year and/or a fine of \$2,500.

The bill also specifies that the prohibition against deliberate surreptitious observation with a camera at a private residence does not apply to lawful camera surveillance by a licensed private detective or security guard acting within the scope of the person's occupation.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's increased penalty provisions.

**Local Effect:** Potential minimal increase in revenues and expenditures due to the bill's increased penalty provisions.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A person with prurient intent is prohibited from conducting (or procuring another person to conduct) visual surveillance of an individual in a private place without

consent. Private place means certain dressing rooms, bedrooms, or rest rooms, including any such room in a place of public use or accommodation. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for six months and/or a fine of \$1,000. An individual under such a visual surveillance has a civil cause of action against the violator for actual damages and reasonable attorney's fees. These provisions do not affect any other legal or equitable right or remedy. These provisions do not affect the application of the State's general prohibition against nonconsensual visual surveillance of an individual in a private place.

A person may not place (or procure another person to place) a camera on real property where a private residence is located to conduct deliberate surreptitious observation of an individual inside the private residence. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for six months and/or a fine of \$1,000. It is generally not a defense to a prosecution that the defendant owns the residence. An individual under such a visual surveillance has a civil cause of action against the violator for actual damages and reasonable attorney's fees. These provisions do not affect any other legal or equitable right or remedy. A good faith reliance on a court order is a complete defense to any civil or criminal action.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's increased incarceration penalties due to increased payments to counties for reimbursement of inmate costs. The number of people currently incarcerated for these offenses is unknown, but assumed to be small. The number of people who would be convicted of the crimes in the future is expected to continue to be minimal.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues could increase minimally as a result of the bill's increased monetary penalty provisions from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's increased incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90

days. Per diem operating costs of local detention facilities are expected to range from \$29 to \$97 per inmate in fiscal 2005.

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### **Additional Information**

**Prior Introductions:** In 2003, a similar bill, HB 570, had a hearing before the House Judiciary Committee and was withdrawn.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2004  
ncs/jr Revised - House Third Reader - March 26, 2004  
Revised - Enrolled Bill - April 28, 2004

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