

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 736

(Delegate Doory, *et al.*)

Judiciary

Crimes - Surveillance - Cellular or Wireless Telephones Equipped with Cameras

This bill clarifies that certain prohibitions against visual surveillance, visual surveillance with prurient intent, and camera surveillance encompass the use of cellular or wireless telephones equipped with cameras.

Fiscal Summary

State Effect: None. The bill clarifies current practices.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: A person may not conduct (or procure another person to conduct) visual surveillance of an individual in a private place without consent. Private place means a dressing room or rest room in a retail store. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 30 days 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.

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 a dressing room, bedroom, restroom, or other room in which a person can reasonably expect to disrobe and has a reasonable expectation of privacy, such

as in an office, restaurant, lodging facility, or another 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.

All of the above offenses include camera surveillance. The bill clarifies that surveillance by cellular or wireless telephones equipped with cameras is similarly prohibited.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/jr

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