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By: **Delegates Quinter and Lee**

Introduced and read first time: February 18, 2005

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Visual Surveillance with Prurient Intent - Application to Private Residence**  
3 **- Penalty**

4 FOR the purpose of adding a private residence to the list of private places in which a  
5 person is prohibited with prurient intent to conduct or procure another to  
6 conduct certain visual surveillance of an individual without the consent of that  
7 individual; increasing the maximum penalty for violation of the crime of  
8 conducting or procuring another to conduct with prurient intent certain visual  
9 surveillance of an individual without the consent of that individual; and  
10 generally relating to prohibitions against certain visual surveillance with  
11 prurient intent.

12 BY repealing and reenacting, with amendments,  
13 Article - Criminal Law  
14 Section 3-902  
15 Annotated Code of Maryland  
16 (2002 Volume and 2004 Supplement)

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

19 **Article - Criminal Law**

20 3-902.

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

22 (2) "Camera" includes any electronic device that can be used  
23 surreptitiously to observe an individual.

24 (3) (i) "Private place" means a room in which a person can reasonably  
25 be expected to fully or partially disrobe and has a reasonable expectation of privacy,  
26 in:

27 1. an office, business, or store;

- 1                                    2.        a recreational facility;
- 2                                    3.        a restaurant or tavern;
- 3                                    4.        a hotel, motel, or other lodging facility;
- 4                                    5.        a theater or sports arena;
- 5                                    6.        a school or other educational institution;
- 6                                    7.        a bank or other financial institution;
- 7                                    8.        any part of a day care home used for the care and custody
- 8 of a child; [or]
- 9                                    9.        another place of public use or accommodation; OR
- 10                                   10.      A PRIVATE RESIDENCE.

11                                  (ii)      "Private place" includes a tanning room, dressing room,  
12 bedroom, or rest room.

13                                  (4)      (i)      "Visual surveillance" means the deliberate, surreptitious  
14 observation of an individual by any means.

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

- 16    1.        direct sight;
- 17    2.        the use of mirrors; or
- 18    3.        the use of cameras.

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

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

- 22                                  (1)      conducts filming by or for the print or broadcast media;
- 23                                  (2)      conducts or procures another to conduct visual surveillance of an  
24 individual to protect property or public safety or prevent crime; or
- 25                                  (3)      conducts visual surveillance and:

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

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

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

4 (d) A person who violates this section is guilty of a misdemeanor and on  
5 conviction is subject to imprisonment not exceeding [1 year] 3 YEARS or a fine not  
6 exceeding \$2,500 or both.

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

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

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

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

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2005.