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By: **Delegates Quinter and Lee**

Introduced and read first time: February 21, 2005

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Broadcasting Visual Surveillance with Prurient Intent - Penalty**

3 FOR the purpose of prohibiting a person, with prurient intent, from broadcasting or  
4 procuring another to broadcast a certain visual surveillance of an individual in a  
5 certain private place knowing or having reason to know that the surveillance  
6 was conducted without the consent of the individual; establishing a penalty for a  
7 violation of this Act; defining a certain term; and generally relating to  
8 broadcasting a visual surveillance of another with prurient intent.

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

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

16 **Article - Criminal Law**

17 3-902.

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

19 (2) "BROADCAST" MEANS THE ELECTRONIC TRANSMISSION OF A VISUAL  
20 SURVEILLANCE WITH THE INTENT THAT THE SURVEILLANCE BE SEEN BY ANOTHER  
21 PERSON.

22 [(2)] (3) "Camera" includes any electronic device that can be used  
23 surreptitiously to observe an individual.

24 [(3)] (4) (i) "Private place" means a room in which a person can  
25 reasonably be expected to fully or partially disrobe and has a reasonable expectation  
26 of privacy, 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.

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

12 [(4)] (5) (i) "Visual surveillance" means the deliberate, surreptitious  
13 observation of an individual by any means.

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

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

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

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

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

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

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

28 (c) A person may not with prurient intent:

- 29 (1) conduct or procure another to conduct visual surveillance of an  
30 individual in a private place without the consent of that individual; OR

1           (2)       BROADCAST OR PROCURE ANOTHER TO BROADCAST A VISUAL  
2 SURVEILLANCE OF AN INDIVIDUAL IN A PRIVATE PLACE KNOWING OR HAVING  
3 REASON TO KNOW THAT THE SURVEILLANCE WAS CONDUCTED WITHOUT THE  
4 CONSENT OF THE INDIVIDUAL.

5       (d)       (1)       A person who violates SUBSECTION (C)(1) OF this section is guilty of a  
6 misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a  
7 fine not exceeding \$2,500 or both.

8           (2)       A PERSON WHO VIOLATES SUBSECTION (C)(2) OF THIS SECTION IS  
9 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT  
10 NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

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

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

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

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

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