

(PRE-FILED)

By: **Delegates Quinter, Montgomery, DeBoy, Shewell, Sophocleus, Dumais,
Trueschler, McMillan, Hogan, Cryor, and Rudolph**

Requested: July 21, 2005

Introduced and read first time: January 11, 2006

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 28, 2006

CHAPTER _____

1 AN ACT concerning

2 **Crimes - Visual Surveillance of Private Area of an Individual**

3 FOR the purpose of prohibiting a person with prurient intent from conducting or
4 procuring another to conduct the visual surveillance of a certain private area of
5 an individual by using a camera without the consent of the individual under
6 certain circumstances; establishing a penalty for the violation of this Act;
7 defining certain terms; and generally relating to certain visual surveillance of
8 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 2005 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) "Camera" includes any electronic device that can be used
20 surreptitiously to observe an individual.

1 (3) "FEMALE BREAST" MEANS A PORTION OF THE FEMALE BREAST
2 BELOW THE TOP OF THE AREOLA.

3 (4) "PRIVATE AREA OF AN INDIVIDUAL" MEANS THE NAKED OR
4 UNDERGARMENT-CLAD GENITALS, PUBIC AREA, BUTTOCKS, OR FEMALE BREAST OF
5 AN INDIVIDUAL.

6 [(3)] (5) (i) "Private place" means a room in which a person can
7 reasonably be expected to fully or partially disrobe and has a reasonable expectation
8 of privacy, 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)] (6) (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:

9 (1) an individual in a private place without the consent of that
10 individual; OR

11 (2) THE PRIVATE AREA OF AN INDIVIDUAL BY USE OF A CAMERA
12 WITHOUT THE CONSENT OF THE INDIVIDUAL UNDER CIRCUMSTANCES IN WHICH A
13 REASONABLE PERSON WOULD BELIEVE THAT THE PRIVATE AREA OF THE
14 INDIVIDUAL WOULD NOT BE VISIBLE TO THE PUBLIC, REGARDLESS OF WHETHER
15 THE INDIVIDUAL IS IN A PUBLIC OR PRIVATE PLACE.

16 (d) A person who violates this section is guilty of a misdemeanor and on
17 conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding
18 \$2,500 or both.

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

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

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2006.