

Department of Legislative Services  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

House Bill 77  
Judiciary

(Delegate Quinter, *et al.*)

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

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This bill prohibits a person with prurient intent from broadcasting, or procuring another person to broadcast, visual surveillance of an individual in a private place without consent. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$5,000. "Broadcast" means the electronic transmission of a visual surveillance with the intent that the surveillance be seen by another person.

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**Fiscal Summary**

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

**Local Effect:** Potential minimal increase in local revenues and expenditures due to the bill's 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 one year and/or a fine of \$2,500. 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 one year and/or a fine of \$2,500. 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.

**Background:** Chapter 361 of 2004 increased penalty provisions applicable to prohibitions against nonconsensual visual surveillance with prurient interest and deliberate surreptitious observation with a camera at a private place. The maximum penalties for each offense were increased from imprisonment for six months and/or a fine of \$1,000 to imprisonment for one year and/or a fine of \$2,500. Chapter 361 also specified that the prohibition against deliberate surreptitious observation with a camera at a private place does not apply to lawful camera surveillance by a licensed private detective or security guard acting within the scope of the person's occupation.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,974 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$341 per month. Excluding medical care, the average variable costs total \$134 per month.

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 2007 are estimated to range from \$17 to \$65 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 monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 \$33 to \$119 per inmate in fiscal 2007.

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### Additional Information

**Prior Introductions:** HB 1414 of 2005, a similar bill, had a hearing before the Judiciary Committee and was withdrawn.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - January 25, 2006  
ncs/jr

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