

SENATE BILL 326

E1

2lr2065
CF HB 185

By: **Senator Lee**

Introduced and read first time: January 20, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Visual Surveillance With Prurient Intent – Minor Victim**

3 FOR the purpose of altering the penalties for the crime of visual surveillance with prurient
4 intent if the victim was a minor at the time of the offense and the offender is at least
5 a certain number of years older than the victim; and generally relating to the crime
6 of visual surveillance with prurient intent.

7 BY repealing and reenacting, with amendments,
8 Article – Criminal Law
9 Section 3–902
10 Annotated Code of Maryland
11 (2021 Replacement Volume and 2021 Supplement)

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

14 **Article – Criminal Law**

15 3–902.

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

17 (2) “Camera” includes any electronic device that can be used
18 surreptitiously to observe an individual.

19 (3) “Female breast” means a portion of the female breast below the top of
20 the areola.

21 (4) “Private area of an individual” means the naked or undergarment–clad
22 genitals, pubic area, buttocks, or female breast of an individual.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (5) (i) “Private place” means a room in which a person can reasonably
2 be expected to fully or partially disrobe and has a reasonable expectation of privacy, in:

- 3 1. an office, business, or store;
- 4 2. a recreational facility;
- 5 3. a restaurant or tavern;
- 6 4. a hotel, motel, or other lodging facility;
- 7 5. a theater or sports arena;
- 8 6. a school or other educational institution;
- 9 7. a bank or other financial institution;
- 10 8. any part of a family child care home used for the care and
11 custody of a child; or
- 12 9. another place of public use or accommodation.

13 (ii) “Private place” includes a tanning room, dressing room, bedroom,
14 or restroom.

15 (6) (i) “Visual surveillance” means the deliberate, surreptitious
16 observation of an individual by any means.

17 (ii) “Visual surveillance” includes surveillance by:

- 18 1. direct sight;
- 19 2. the use of mirrors; or
- 20 3. the use of cameras.

21 (iii) “Visual surveillance” does not include a casual, momentary, or
22 unintentional observation of an individual.

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

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

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

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

4 (c) A person may not with prurient intent conduct or procure another to conduct
5 visual surveillance of:

6 (1) an individual in a private place without the consent of that individual;
7 or

8 (2) the private area of an individual by use of a camera without the consent
9 of the individual under circumstances in which a reasonable person would believe that the
10 private area of the individual would not be visible to the public, regardless of whether the
11 individual is in a public or private place.

12 (d) **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
13 **SUBSECTION, A person who violates this section is guilty of a misdemeanor and on**
14 **conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$2,500**
15 **or both.**

16 **(2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY**
17 **AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR**
18 **A FINE OF \$5,000 OR BOTH IF:**

19 **(I) THE VICTIM WAS A MINOR AT THE TIME OF THE OFFENSE;**
20 **AND**

21 **(II) THE PERSON CONDUCTING THE VISUAL SURVEILLANCE IS**
22 **AT LEAST 4 YEARS OLDER THAN THE VICTIM.**

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

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2022.

