

SENATE BILL 326

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2lr2065
CF HB 185

By: **Senator Lee**

Introduced and read first time: January 20, 2022

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 2022

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Visual Surveillance With Prurient Intent – Private Place and**
3 **Minor Victim**

4 FOR the purpose of prohibiting a person from conducting visual surveillance with prurient
5 intent of an individual located in a residence or place of private use or
6 accommodation without the consent of the individual; altering the penalties for the
7 crime of visual surveillance with prurient intent by use of a camera if the victim was
8 a minor at the time of the offense and the offender is at least a certain number of
9 years older than the victim; and generally relating to the crime of visual surveillance
10 with prurient intent.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 3–902
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2021 Supplement)

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

18 **Article – Criminal Law**

19 3–902.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 (3) "Female breast" means a portion of the female breast below the top of
4 the areola.

5 (4) "Private area of an individual" means the naked or undergarment-clad
6 genitals, pubic area, buttocks, or female breast of an individual.

7 (5) (i) "Private place" means a room in which a person can reasonably
8 be expected to fully or partially disrobe and has a reasonable expectation 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 family child care home used for the care and
17 custody of a child; ~~or~~

18 9. **A RESIDENCE; OR**

19 **10.** another place of **PRIVATE OR** public use or

20 accommodation.

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

23 (6) (i) "Visual surveillance" means the deliberate, surreptitious
24 observation of an individual by any means.

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

- 26 1. direct sight;
- 27 2. the use of mirrors; or

1 3. the use of cameras.

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

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

5 (1) conducts filming by or for the print or broadcast media;

6 (2) conducts or procures another to conduct visual surveillance of an
7 individual to protect property or public safety or prevent crime; or

8 (3) conducts visual surveillance and:

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

11 (ii) is acting within the scope of the person’s occupation.

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

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

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

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

24 **(2) A PERSON WHO VIOLATES THIS SECTION BY USE OF A CAMERA IS**
25 **GUILTY OF A ~~FELONY~~ MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
26 **IMPRISONMENT NOT EXCEEDING ~~10 5~~ 5 YEARS OR A FINE OF ~~\$5,000~~ \$2,500 OR BOTH**
27 **IF:**

28 **(I) THE VICTIM WAS A MINOR AT THE TIME OF THE OFFENSE;**
29 **AND**

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

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

4 (2) In an action under this subsection, the court may award actual damages
5 and reasonable attorney’s fees.

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.