

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 348

(Senator Love, *et al.*)

Judicial Proceedings

Judiciary

Criminal Law - Visual Surveillance With Prurient Intent - Modifications

This bill expands the prohibition on conducting or procuring another person to conduct visual surveillance with prurient intent of an individual by adding (1) a residence and (2) another place of private use or accommodation to the list of protected locations in the definition of a “private place.” The bill also alters the language of the existing prohibition to clarify that nonconsensual visual surveillance of the “private area of an individual” by use of a camera, as specified, is prohibited *regardless of the location of the individual*.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill’s expanded application of an existing penalty provision.

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill’s expanded application of an existing penalty provision.

Small Business Effect: None.

Analysis

Current Law: A person may not with prurient intent conduct or procure another person to conduct visual surveillance of (1) an individual in a “private place” without that individual’s consent or (2) the “private area of an individual” by use of a camera without the individual’s consent under circumstances in which a reasonable person would believe that the private area would not be visible to the public, *regardless of whether the individual is in a public or private place*.

“Private place” means a room (including a tanning room, dressing room, bedroom, or restroom) in which a person can reasonably be expected to fully or partially disrobe and has a reasonable expectation of privacy, and is located within one of the following:

- an office, business, or store;
- a recreational facility;
- a restaurant or tavern;
- a hotel, motel, or other lodging facility;
- a theater or sports arena;
- a school or other educational institution;
- a bank or other financial institution;
- any part of a family child care home used for the care and custody of a child; or
- another place of public use or accommodation.

“Private area of an individual” means the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of an individual.

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 who was under illegal 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. Additionally, they do not affect the application of the State’s general prohibition against nonconsensual visual surveillance of an individual in a private place.

State Revenues: General fund revenues may increase minimally as a result of the bill’s monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures may increase minimally as a result of the bill’s incarceration penalty due to more people being committed to State correctional facilities for convictions in Baltimore City. The number of people convicted under the bill is expected to be minimal.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) advises that it received information on 7 individuals sentenced to 13 total counts under § 3-902 or § 3 903 (camera surveillance) in the circuit courts during fiscal 2024. MSCCSP notes that, based on the data it has access to, it cannot determine how many of those individuals were sentenced under § 3-902 specifically. The Department of Public Safety and Correctional Services reports that while there were no sentenced inmates in the Division of Correction during fiscal 2024, the Division of Parole and Probation opened supervision cases for 25 individuals in fiscal 2024 for violations of § 3-902. Information is not readily available on convictions under § 3-902 in the District Court.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues may increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures may increase minimally due to more individuals being incarcerated in local correctional facilities under the bill. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. *Per diem* operating costs of local detention facilities have ranged from approximately \$140 to \$350 per incarcerated individual in recent years.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 437 (Delegate Crutchfield, *et al.*) - Judiciary.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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