

SB0555_Visual_Surveillance_With_Prurient_Intent_ML

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0555

Criminal Law – Visual Surveillance With Prurient Intent – Private Place And Minor Victim

Bill Sponsor: Senator Waldstreicher

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in strong support of SB0555 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Stalking and taking pictures or video of people in their own homes or places that are private (especially taking pictures or video of children) with prurient intent is an invasion of privacy and personhood that should be punished accordingly.

This bill, if enacted, would make this crime a misdemeanor punishable by up to a year in jail and up to a \$2,500 fine. If the victim was a minor, and the perpetrator was at least four years older than the minor, the fine would stay the same, but the jail time would be five years or less.

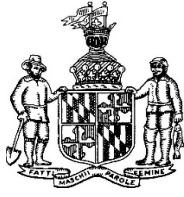
Our members feel that an invasion of privacy of this type should not be tolerated in our society.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

Feinstein Letter of Support SB555.pdf

Uploaded by: Debbie Feinstein

Position: FAV



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February 8, 2024

The Honorable Will Smith
Chair, Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Chair Smith and Committee Members:

I write in support of SB555—Criminal Law—Visual Surveillance With Prurient Interest—Minor Victim. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office. My division is responsible for prosecuting cases involving sexual abuse and exploitation of minors. I am a member of the Montgomery County Child Advocacy Center's Multidisciplinary Team and the Governor's Family Violence Council, as well as other teams that work to prevent sexual violence.

Section 3-902 of the Maryland Criminal Law Article prohibits individuals, without consent, from visually surveying another person in a private place. It also prohibits individuals, without consent, from visually surveying another person with a camera under circumstances where a reasonable person would believe the area would not be visible to the public.

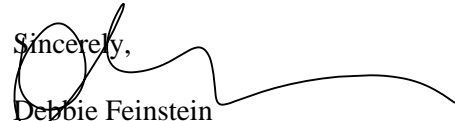
HB0288 enhances the penalty for this crime when the perpetrator surveys a minor and the perpetrator is four or more years older than the minor victim. The crime remains a misdemeanor, but the penalty will change to up to five years in jail. The current crime is a misdemeanor with a maximum penalty of one year.

My division has prosecuted many cases where the perpetrator set-up a hidden camera to view the activities of a minor victim. We have seen cases where the camera is in a bathroom, changing room, or private bedroom. When the perpetrator is a parent, family member, household member, or person with supervision over the minor, the State can charge the perpetrator with Sexual Abuse of Minor, Section 3-602 of the Criminal Law Article, under a sexual exploitation theory. Sexual Abuse of a Minor, a felony, has a maximum penalty of twenty-five years. If the perpetrator is not a parent, family member, household member, or person with supervision over the minor, the penalty goes from twenty-five years to one year.

SB555 is a fair bill that provides equity to minors who are visually surveyed and sexually exploited irrespective of the relationship between the minor and the perpetrator. The conduct is the same. The law on visual surveillance should differentiate between the exploitation of minors and adults, just as Maryland law does in so many other circumstances.

I strongly urge this Committee to issue a favorable report on SB555.

Sincerely,


Debbie Feinstein
Chief, Special Victims Division
Senior Assistant State's Attorney

visual surveillance w pru intent - senate - 2024 -

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 555 Lisae C. Jordan, Executive Director & Counsel February 9, 2024

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 555.

Senate Bill 555 – Visual Surveillance with Prurient Intent – Minor Victim

This bill increases the penalty for visual surveillance with prurient intent when the victim is a minor, raising the potential penalty from up to one year, a \$1,000 fine, or both to up to ten years, a \$5,000 fine, or both. SB555 also clarifies that visual surveillance with prurient intent is a crime when it occurs in a private residence.

This bill is prompted by the very disturbing case involving Jonathan Newell, a judge on the Circuit Court for Caroline County. A 15 year old boy discovered a camera pointed towards the shower and reported this to his parents. Law enforcement were notified and Newell ate evidence in the course of the investigation; Newell died from a self inflicted gunshot before he could be brought to justice.

https://www.washingtonpost.com/local/public-safety/maryland-judge-kills-self-after-eating-evidence/2021/09/10/8834b9ba-125b-11ec-9cb6-bf9351a25799_story.html

The current penalty for this crime is far too low. The harm from visual surveillance with prurient intent can be quite serious. The pandemic helped increase sexual exploitation using the internet and the footage from visual surveillance provides the content for perpetrators to use in public exploitation as well as for their own use. Moreover, just the capturing of these images inflicts harm and invades privacy, with survivors reporting emotional distress, fear of public places and activities such as using public restrooms. MCASA fully supports increasing the penalty for cases involving children and respectfully suggests that Committee may want to consider increasing the penalty for all cases.

Importantly, the Newell case also highlighted a potential loophole: homes are not considered private places under this statute. MCASA appreciates and supports HB555 language clarifying that this definition includes private residences. We emphasize that prurient intent continues to be an element of this crime where ever it occurs.

This bill was introduced last session by former Senator Susan Lee and the senate bill did not receive a hearing prior to her departure from the Senate. The crossfile passed the House and had a hearing 4/4/2023, but was not voted in the Judicial Proceedings Committee.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report favorably on Senate Bill 555**

Testimony in support of SB0555.pdf

Uploaded by: Richard KAP Kaplowitz

Position: FAV

2/9/2024

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON SB#/0555 - POSITION: FAVORABLE

Criminal Law - Visual Surveillance With Prurient Intent - Private Place and Minor Victim

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Richard Keith Kaplowitz

My name is Richard Kaplowitz. I am a resident of District 3. I am submitting this testimony in support of SB#0555, Criminal Law - Visual Surveillance With Prurient Intent - Private Place and Minor Victim

I am proud that one of my Frederick County legislators is a sponsor of this important bill. This bill is to provide protection of an individual's personal autonomy and sense of safety. The trauma that can occur when this conduct is discovered can have effects over the lifetime of the victim, especially a minor whose reputation and security would be compromised when this occurs.

Judaism teaches us that "the first of all ethical and Torah axioms must be stated at the outset: No one has a right to in any way violate in any way the body or soul of another human being." Visual surveillance without permission is a violation of the body and the soul of the person who, without their consent and for immoral purposes, is made a victim of this crime.

The protection of the life, health, and safety of children in is a primary responsibility of every adult in Maryland. This bill expands the capability of the criminal justice system to meet that responsibility. **I respectfully urge this committee to return a favorable report on SB#0555.**

SB 555 - Visual Surveillance with Prurient Intent-

Uploaded by: Scott Shellenberger

Position: FAV

Bill Number: SB 555
Scott D. Shellenberger, State's Attorney for Baltimore County
Support

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF SENATE BILL 555
VISUAL SURVEILLANCE WITH PRURIENT INTENT- PRIVATE PLACE AND MINOR
VICTIM

I write in support of Senate Bill 555 which clarifies Criminal Law Article 3-902 Visual Surveillance with Prurient Intent – Private Place and Minor Victim. Why is it necessary to add to this statute the term “a residence; or another place of private or public use or accommodation”?

Because in 2018 in Bickford v State the Court of Special Appeals held that a father secretly recording his daughter in the family bathroom did not constitute a crime under this statute. Thankfully the father was convicted of other charges but what if video recording of a minor in a private home's bathroom was the only crime. We must fix this statute and the fix is easy.

Adding the additions as outlined in Senate Bill 555 merely clarifies the intent of Legislature when it passed this statute. The Legislature did not want anyone to be video recorded in a state of undress, unless consented to, Period! Anywhere. A person's home bathroom should not be excluded based upon the Court's interpretation of this statute. This is a simple fix in keeping with the intent of the statute.

The changes in the sentencing scheme mirrors what the Legislature has done in a number of sex offense statutes. If you violate this statute, it is typically a 1 year misdemeanor. If you violated this statute and the victim is a minor it is a 5 year misdemeanor if the Defendant is 4 or more years older. This requirement of 4 or more years older is done in many sex offense statutes to account for young people who may not be completely aware of the nature of their violations. To help make this clear some examples:

- Victim is 26 years old and the defendant is 27 years old = 1 year misdemeanor
- Victim is 13 years old and the defendant is 20 years old = 5 year misdemeanor
- Victim is 15 years old and the defendant is 18 years old = 1 year misdemeanor

The first part of the bill fixes a decision of the courts that was not in keeping with the statute's intent. The second part creates a statutory scheme that at sentencing balance the equities.

I urge a favorable report.