

Bill Number: HB 288
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 HOUSE BILL 288
VISUAL SURVEILLANCE WITH PRURIENT INTENT- PRIVATE PLACE AND MINOR
VICTIM

I write in support of House Bill 288 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 House Bill 288 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.