



STATE OF CONNECTICUT

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Testimony of Michelle Cruz, Esq., State Victim Advocate
Submitted to the Judiciary Committee
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Good afternoon Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Raised Senate Bill No. 871, *An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System.*

The Office of the Victim Advocate (OVA) supports Section 3 of Raised Bill 871, which increases the penalty of Voyeurism from a class D felony to a Class C felony for anyone convicted of repeated acts and convictions of voyeurism or when the target of the voyeurism is under the age of sixteen. These measures will not only enhance protections for victims but also identify those perpetrating crimes against children.

Other jurisdictions generally identify Voyeurism as the viewing of another person's private areas without that individual's consent when he/she has a reasonable expectation of privacy. The majority of states, at minimum, have adopted voyeurism statutes that forbid video or photo Voyeurism; rather, the recording or otherwise capturing of images of the private areas of another person without their consent when they have a reasonable expectation of privacy.

While the OVA supports the proposal to strengthen CT's Voyeurism statute, the OVA does not feel that the bill goes far enough to address advances in technology that allow an individual to commit acts of voyeurism and escape consequences.

The current language of the Voyeurism statute, as well as the proposed language, as it stands, is too limiting. The crime of Voyeurism is limited to the recording of images of a person who is not in plain view and under circumstances where the target has a reasonable expectation of privacy or trespasses for the sake of satisfying a sexual desire by viewing another person in a way that is not casual or cursory in manner. However, this bill does not address instances of voyeurism that may occur in a public location, where one should have a reasonable expectation of privacy.

An example that highlights this language short fall as an issue in public is the case concerning former Senior Assistant State's Attorney David M. Holzbach. Holzbach used discreet recording devices to record images of women's' legs and ankles within the courthouse and on courthouse grounds. While Holzbach was terminated from his position, the victims of his behavior were not protected by the Voyeurism statute because they were in public and plain view.

Lawmakers composing Voyeurisms statutes must keep advancing technologies, such as camera pens, in mind when drafting bills in order to ensure that the privacy of all persons is respected and protected including during times when they are on public grounds, with a reasonable expectation of not being recorded and to ensure that all offenders who commit Voyeurism are held accountable.

When devising legislation to protect individuals from Voyeurism in Connecticut, the OVA recommends the Committee consider the Voyeurism statutes adopted in Maryland. The Maryland statute specifically prohibits visual surveillance of an individual in a private place without the consent of that individual or the private area of an individual by use of a camera without the consent of the individual under circumstances in which a reasonable person would believe that the private area of the individual would not be visible to the public, regardless of whether the individual is in a public or private place. Maryland's statute not only takes into account an individual's right to privacy based on location, but also protects individuals in public from recorded surveillance of private areas. The emphasis is placed on the expectation that a perpetrator is still guilty of Voyeurism if he or she is by some means manipulating a surveillance device in order to capture images of another's private areas when a reasonable person would consider those parts concealed from public view. Maryland's statute also specifically outlines that not only can perpetrators of Voyeurism face fines and prison time for punishment of their crime, but outlines civil actions that victims of Voyeurism may take against their perpetrators. I have attached to my testimony a copy of the Maryland statute for your convenience.

Thank you for consideration of my testimony.

Respectfully submitted,

Michelle Cruz, Esq.
State Victim Advocate

Maryland Statute on Voyeurism

VISUAL SURVEILLANCE WITH PRURIENT INTENT

Article - Criminal Law

§3-902.

- (a) (1) In this section the following words have the meanings indicated.
- (2) "Camera" includes any electronic device that can be used surreptitiously to observe an individual.
- (3) "Female breast" means a portion of the female breast below the top of the areola.
- (4) "Private area of an individual" means the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of an individual.
- (5) (i) "Private place" means a room in which a person can reasonably be expected to fully or partially disrobe and has a reasonable expectation of privacy, in:
1. an office, business, or store;
 2. a recreational facility;
 3. a restaurant or tavern;
 4. a hotel, motel, or other lodging facility;
 5. a theater or sports arena;
 6. a school or other educational institution;
 7. a bank or other financial institution;
 8. any part of a family child care home used for the care and custody of a child; or
 9. another place of public use or accommodation.
- (ii) "Private place" includes a tanning room, dressing room, bedroom, or restroom.
- (6) (i) "Visual surveillance" means the deliberate, surreptitious observation of an individual by any means.
- (ii) "Visual surveillance" includes surveillance by:
1. direct sight;
 2. the use of mirrors; or
 3. the use of cameras.
- (iii) "Visual surveillance" does not include a casual, momentary, or unintentional observation of an individual.

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

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

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

(3) conducts visual surveillance and:

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

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

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

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

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

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$2,500 or both.

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

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

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

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