

The title given on the following legislative document is incorrect. The correct title should be:

An Act to Criminalize Unpermitted Visual Surveillance under the Clothing of a Person in a Public Place by Mechanical or Electronic Equipment.



118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1892

S.P. 664

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In Senate, May 27, 1997

An Act to Criminalize Certain Photographing of Children under the Clothing of a Person in a Public Place by Mechanical or Electronic Equipment.

(NEW DRAFT OF S.P. 38, L.D. 36)

(NEW TITLE)

Reported by Senator Murray from the Committee on Criminal Justice and printed under Joint Rule 310.4.

JOY J. O'BRIEN Secretary of the Senate

Original bill sponsored by Senator Small of Sagadahoc. Cosponsored by Representative PEAVEY of Woolwich and Senators: HARRIMAN of Cumberland, MITCHELL of Penobscot, Representative: McALEVEY of Waterboro.

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Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §511, sub-§1, as amended by PL 1975, c. 499, §1, is further amended to read:

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1. A person is guilty of violation of privacy if, except in the execution of a public duty or as authorized by law, he <u>that</u> person intentionally:

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10 A. Commits a civil trespass on property with the intent to overhear or observe any person in a private place; er

B. Installs or uses in a private place without the consent of the person or persons entitled to privacy therein <u>in that</u> <u>place</u>, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in that place; er

18 C. Installs or uses outside a private place without the consent of the person or persons entitled to privacy
20 therein, any device for hearing, recording, amplifying or broadcasting sounds originating in that place which that
22 would not ordinarily be audible or comprehensible outside that place +; or

D. Engages in visual surveillance in a public place by means of mechanical or electronic equipment with the intent to observe or photograph, or record, amplify or broadcast an image of any portion of the body of another person present in that place when that portion of the body is in fact concealed from public view under clothing and a reasonable person would expect it to be safe from surveillance.

- 32 34
- Sec. 2. 17-A MRSA §511, sub-§1-A is enacted to read:

1-A. It is a defense to a prosecution under subsection 1, paragraph D that the person subject to surveillance had in fact attained 14 years of age and had consented to the visual surveillance.

FISCAL NOTE

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- 42 This bill may increase prosecutions for Class D crimes. If a jail sentence is imposed, the additional costs to the counties 44 are estimated to be \$83.78 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may 46 result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.
- The additional workload, administrative costs and indigent 50 defense costs associated with the minimal number of new cases

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filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may also increase General Fund revenue by minor amounts.

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SUMMARY

This bill is a new draft of L.D. 36. It establishes that a person is guilty of a violation of privacy if that person engages 10 in visual surveillance in a public place by means of mechanical or electronic equipment with the intent to observe or photograph, 12 record, amplify or broadcast an image of any portion of the body 14 of another person present in that place when that portion of the is concealed from public view under clothing and a body 16 reasonable person would expect it to be safe from surveillance. It forbids, for example, a person in a public place like a store from placing a video camera below the hemline of another person's 18 skirt or kilt, aimed so as to record what it observes within the 20 zone of privacy created by that skirt or kilt.

22 The bill provides a defense to prosecution if the person subject to surveillance has in fact attained 14 years of age and 24 has consented to the surveillance. In order to protect young children, consent is not a defense when the other person is under 26 l4 years of age.