

HOUSE BILL No. 4952

July 15, 2003, Introduced by Reps. Wojno, Accavitti, Spade, Rocca, Gaffney, Richardville, Condino, Bieda, Tobocman, Kolb, Law, Shaffer and Gielegem and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 539d (MCL 750.539d).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 539d. (1) ~~Any~~ A person who installs in any private
2 place, without the consent of the person or persons entitled to
3 privacy there, ~~any~~ a device for observing, photographing, or
4 eavesdropping upon the sounds or events in ~~such~~ **that** place, or
5 uses any such unauthorized installation, is guilty of a **crime**
6 **punishable as follows:**

7 (a) **Except as provided in subdivisions (b) and (c), the**
8 **person is guilty of a felony punishable by imprisonment** ~~in a~~
9 ~~state prison~~ **for not more than 2 years or** ~~by~~ a fine of not
10 more than \$2,000.00, or both.

11 (b) **For a second or subsequent conviction under this section,**

1 other than a conviction punishable under subdivision (c), the
2 person is guilty of a felony and shall be punished by
3 imprisonment for not less than 6 months or more than 3 years and
4 may be fined not more than \$3,000.00.

5 (c) If a violation of this section involves observing or
6 photographing actual or simulated sexual intercourse,
7 masturbation, any portion of the female breast below the top of
8 the areola, or any portion of the pubic hair, anus, cleft of the
9 buttocks, or genitals, the person is guilty of a felony and shall
10 be punished by imprisonment for not less than 1 year or more than
11 5 years and may be fined not more than \$10,000.00.

12 (2) This section does not apply to any of the following
13 activities unless conducted for a lewd or lascivious purpose:

14 (a) Security monitoring in a residence if conducted by or at
15 the direction of an occupant of that residence.

16 (b) Security monitoring in a place of business, school, or
17 other structure if conducted by or at the direction of the owner
18 or administrator of that place of business, school, or other
19 structure.

20 (c) Security monitoring in a motor vehicle used for public
21 transit if conducted by or at the direction of the public transit
22 authority.

23 (d) Security monitoring and observation associated with a
24 correctional facility or jail if conducted by or at the direction
25 of the manager of that correctional facility or jail regardless
26 of the location of the monitoring equipment.

27 (e) Video recording conducted by any person outside a

1 person's residential structure if in furtherance of a legitimate
2 investigation or discovery in a pending criminal, civil, or
3 workers' compensation action.

4 (f) Video recording or monitoring conducted by a law
5 enforcement agency pursuant to an investigation of criminal
6 activity.