

HOUSE BILL No. 5738

April 1, 2004, Introduced by Rep. Woodward and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
 "The Michigan penal code,"
 by amending sections 539e and 539h (MCL 750.539e and 750.539h).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 539e. (1) ~~Any~~ **A person** ~~who uses~~ **shall not use** or
 2 ~~divulges~~ **divulge** any information which he **or she** knows or
 3 reasonably should know was obtained in violation of ~~sections~~
 4 **section** 539b, 539c, or 539d. **A person who violates this**
 5 **subsection** is guilty of a felony ~~—~~ punishable by imprisonment
 6 ~~in a state prison~~ **for** not more than 2 years, or ~~by~~ a fine of
 7 not more than \$2,000.00, **or both.**

8 (2) **A person shall not use or disseminate for compensation or**
 9 **as part of a commercial enterprise another person's image, which**
 10 **image the person knows or reasonably should know was obtained in**
 11 **violation of section 539b or 539d. A person who violates this**

1 subsection is guilty of a felony punishable by imprisonment for
2 not more than 2 years, or a fine of not more than \$10,000.00, or
3 both.

4 Sec. 539h. (1) ~~Any parties~~ A party to ~~any~~ a
5 conversation upon which eavesdropping is practiced ~~contrary to~~
6 ~~this act shall be~~ in violation of sections 539a to 539i is
7 entitled to the following civil remedies:

8 (a) An injunction by a court of record prohibiting further
9 eavesdropping.

10 (b) All actual damages against the person who eavesdrops.

11 (c) Punitive damages as determined by the court or by a
12 jury.

13 (2) A person whose image is captured by surveillance in
14 violation of sections 539a to 539i is entitled to the following
15 civil remedies:

16 (a) An injunction against distribution of the image.

17 (b) Actual damages, including damages for emotional
18 distress.

19 (c) If the image was used or disseminated for compensation or
20 as part of a commercial enterprise, the greater of \$2,000.00 or 2
21 times the financial gain the defendant realized from the use or
22 dissemination.

23 (d) Reasonable attorney fees and costs.