

1 Senate BILL NO. 219  
 2 INTRODUCED BY Spencer White

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE CRIMINAL OFFENSE OF SURREPTITIOUS  
 5 VISUAL OBSERVATION OR RECORDATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

6  
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8  
 9 **NEW SECTION. Section 1. Surreptitious visual observation or recordation.** (1) A person commits  
 10 the offense of surreptitious visual observation or recordation if a person purposely or knowingly:

11 (a) hides, waits, or otherwise loiters in the vicinity of a private dwelling house, apartment, or other  
 12 place of residence for the purpose of watching, gazing at, or looking upon any occupant in the residence  
 13 in a surreptitious manner; or

14 (b) by means of an electronic or mechanical recording device, surreptitiously records the visual  
 15 image of a person in a public or private place in which the recorded person has a reasonable expectation  
 16 of privacy.

17 (2) A person convicted of the offense of surreptitious visual observation or recordation shall be  
 18 fined an amount not to exceed \$500 or be incarcerated in the county jail for a term not to exceed 6  
 19 months, or both. Upon a second conviction, a person shall be fined an amount not to exceed \$1,000 or  
 20 be incarcerated for a term not to exceed 1 year, or both. Upon a third or subsequent conviction, a person  
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 24 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
 25 integral part of Title 45, chapter 8, part 2, and the provisions of Title 45 apply to [section 1].

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 27 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

28 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0219, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:


An act creating the criminal offense of surreptitious visual observation or recordation.

FISCAL IMPACT:

There is no fiscal impact to the state.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

There could be a fiscal impact to the counties depending upon the number of convictions and if the sentence includes incarceration in the county jail and the length of that sentence.

  
DAVID LEWIS, BUDGET DIRECTOR      DATE 1-30-97  
Office of Budget and Program Planning

  
EVE FRANKLIN, PRIMARY SPONSOR      DATE 1/31/97

Fiscal Note for SB0219, as introduced

**SB 219**

SENATE BILL NO. 219

INTRODUCED BY FRANKLIN, AHNER, RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE CRIMINAL OFFENSE OF SURREPTITIOUS VISUAL OBSERVATION OR RECORDATION IN A PLACE OF RESIDENCE; PROVIDING AN EXCEPTION FOR LEGITIMATE INVESTIGATIVE PURPOSES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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(b) by means of an electronic or mechanical recording device, surreptitiously ~~records~~ RECORDING the visual image of ~~a person in a public or private place in which the recorded person has a reasonable expectation of privacy~~ ANY OCCUPANT IN THE RESIDENCE.

(2) SUBSECTION (1) DOES NOT APPLY TO A LAW ENFORCEMENT OFFICER, AN AGENT OR EMPLOYEE OF AN INSURER, OR A PRIVATE INVESTIGATOR LICENSED PURSUANT TO 37-60-301 OR TO ANY PERSON ENGAGED IN FRAUD DETECTION, PREVENTION, OR PROSECUTION PURSUANT TO 2-15-2015 OR 39-71-211, WHILE THE OFFICER, AGENT, EMPLOYEE, OR PRIVATE INVESTIGATOR IS ACTING IN AN OFFICIAL CAPACITY FOR LEGITIMATE INVESTIGATIVE PURPOSES.

~~(2)(3)~~ (3) A person convicted of the offense of surreptitious visual observation or recordation shall be fined an amount not to exceed \$500 or be incarcerated in the county jail for a term not to exceed 6 months, or both. Upon a second conviction, a person shall be fined an amount not to exceed \$1,000 or be incarcerated for a term not to exceed 1 year, or both. Upon a third or subsequent conviction, a person shall be fined an amount not to exceed \$10,000 or be incarcerated for a term not to exceed 5 years, or both.

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6 CRIMINALIZING THE SURREPTITIOUS TAKING OF A PERSON'S PICTURE IN CERTAIN ROOMS IN A  
7 BUSINESS ESTABLISHMENT, THEN HOUSE BILL NO. 200 AND [SECTION 1 OF THIS ACT] MUST BE  
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14           (A) WATCHING, GAZING AT, OR LOOKING UPON ANY OCCUPANT IN THE RESIDENCE IN A  
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18           (2) AN OWNER, MANAGER, OR EMPLOYEE OF A BUSINESS OR A LANDLORD WHO KNOWINGLY  
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25           (3) SUBSECTIONS (1) AND (2) DO NOT APPLY TO A LAW ENFORCEMENT OFFICER, AN AGENT  
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10 FINED AN AMOUNT NOT TO EXCEED \$5,000 OR INCARCERATED FOR A TERM NOT TO EXCEED 2  
11 YEARS, OR BOTH, IF THE VICTIM WAS A MINOR."

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13 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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5 INCARCERATED IN THE COUNTY JAIL FOR A TERM NOT TO EXCEED 6 MONTHS, OR BOTH. UPON A  
6 SECOND CONVICTION, A PERSON SHALL BE FINED AN AMOUNT NOT TO EXCEED \$1,000 OR BE  
7 INCARCERATED FOR A TERM NOT TO EXCEED 1 YEAR, OR BOTH. UPON A THIRD OR SUBSEQUENT  
8 CONVICTION, A PERSON SHALL BE FINED AN AMOUNT NOT TO EXCEED \$10,000 OR BE  
9 INCARCERATED FOR A TERM NOT TO EXCEED 5 YEARS, OR BOTH.

10 (B) A PERSON CONVICTED OF THE OFFENSE OF SURREPTITIOUS VISUAL RECORDATION IN A  
11 PUBLIC ESTABLISHMENT SHALL BE FINED AN AMOUNT NOT TO EXCEED \$1,000 OR INCARCERATED  
12 FOR A TERM NOT TO EXCEED 6 MONTHS, OR BOTH, IF THE VICTIM WAS AN ADULT AND SHALL BE  
13 FINED AN AMOUNT NOT TO EXCEED \$5,000 OR INCARCERATED FOR A TERM NOT TO EXCEED 2  
14 YEARS, OR BOTH, IF THE VICTIM WAS A MINOR."

15

16 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

17

-END-