

2011 HOUSE JUDICIARY

HB 1224

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1224
January 18, 2011
13022 & 13100

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1224.

Rep. Dave Weiler: Sponsor, support. This is a privacy issue. I know one of the questions that will be asked is how many people does this affect, and my answer is one too many. We have a situation in Bismarck where John Wutzke and his family with a couple of teenage children. There is a little bit of a feud going on between him and a neighbor and being the good realtor that I am, I have offered to help him sell his house, but he doesn't want to do that. The problem that is occurring is that the neighbor next door has two cameras on their house and they are pointed in his windows. These cameras are attached to the house. We're simply trying to say that it's okay to have cameras affixed to your house, but it's not really fair/against the law to have them pointing in the windows of one of your neighbors. This is a privacy issue.

Rep. Steiner: Is there some type of penalty or offense for this, if the person doesn't do what the law says, if this bill passes. Is it a misdemeanor, a \$500 fine, or is there just no penalty at all.

Rep. Weiler: It is a class B misdemeanor.

Chairman DeKrey: That's 30 days or fine of \$1000 or both.

Rep. Klemin: How does one neighbor know that just because the other neighbor's got a camera there, that it's actually being used to record a visual occurrence.

Rep. Weiler: I think it's quite obvious, when a camera is on someone's house, the purpose is to protect their own private property and that's certainly understandable, and if it's pointed down the lot line or if it's in the backyard, that's one thing. But when the camera is completely pointed at a 90 degree angle from their house into a window of the next door neighbor's house; they're not trying to protect their own property.

Rep. Klemin: Well, there are cameras that allow someone to see what's on the camera at a monitor, or through the camera itself. But that doesn't necessarily mean that it's being recorded or that the image is actually being captured in same manner on another device. I guess I'm wondering, how do we know that that is happening and it's not just a camera that's sending an image to a monitor. How do we know that it's being recorded or captured.

Rep. Weiler: I guess if they're not recording anything, then what is the purpose of them pointing in the direction of the neighbor's house. They had to have manually point the camera in a certain direction, and if they go up on a ladder and take the camera and move it and point it at your neighbor's house, whether they are recording or not, what's the purpose of that. Obviously, they're not going to point it in that direction and not record something, maybe they are, and maybe they are just trying to intimidate the neighbors. If I was sitting in my own house at the dinner table, and I looked out my window and there's a camera pointing in my kitchen window, whether they are recording me or not, it's a loss of my privacy and it's intimidating to me.

Rep. Klemin: Well this bill doesn't talk about them just looking at you, it talks about the image being recorded or captured. I've seen plenty of occasions where there are cameras that monitor certain things with a live person sitting and watching on a monitor for security reasons; without all of that being recorded. How do you know.

Rep. Weiler: I understand doing it for security purposes, but we're talking about individual's residence here.

Rep. Klemin: I don't want to belabor the point, it just says through a window of another person's property, the first clause, it doesn't have anything to do with dwellings or residences. It could be a storage building or some commercial building or industrial place somewhere. Your intent is not to cover those kinds of situations, but to cover residences only.

Rep. Weiler: That is correct.

Rep. Koppelman: I remember the bill from last time, it seems to me that some of the discussion was the question as to whether this could be captured depending on how you read the definition currently of the statute that deals with basically, disorderly conduct. My understanding is that the family you are referring to, that the police department declined to prosecute under that section as it currently stands because they don't feel it does capture it. Wasn't that some of the debate on the Floor, which ended up defeating the bill, was that you could already charge this or deal with it if it were offensive enough, egregious enough.

Rep. Weiler: That's a good point. But the unfortunate part of this is that the City has not done anything about it. For whatever reason the City refuses to do anything about it. In the meantime, for the last two years, and the two-three years prior to

that, he and his family, with teenage children growing up with a camera pointed into their window.

Rep. Koppelman: So do you know if there's been any effort to approach the City Commission to see if, city ordinances obviously can be more restrictive than state law, has the City entertained something that they could prosecute as an ordinance.

Rep. Weiler: I think I'll let Mr. Wutzke answer that.

Chairman DeKrey: Thank you. Further testimony in support of HB 1224.

John Wutzke: I would like to correct a couple of things that Rep. Weiler had talked about. My children aren't teenagers yet, my son, Johnny is 12, and my other son, Paul, is 9 years old and we've been dealing with these cameras for at least 10 years now. To me it's been 10 years too long. There's nothing in the law, the city says there's nothing in the law, nobody's taken the time to help me to try and sort this out except Rep. Weiler. Just to touch on a few points, I have pictures of what these cameras see. I just found out last night from Rep. Weiler that I was to speak and I didn't get a chance to photocopy the pictures, I will pass them around. The first one I want to show is taken from their video camera tape and it shows my garage, my backyard, my house, my kitchen window, and the fence that wasn't there for the first five years. It showed my entire driveway. The next picture is the picture from their video camera that shows basically the side of the house and a majority of their driveway. The reason it shows this is because one day I went over there and I tried to redirect the camera, because of that I got into a little bit of trouble. I waited for five years for some help. When it didn't come, I got fed up and took matters into my own hands. Right now a person is allowed to set up a surveillance camera and record directly into your house. Any and all of your private property and there's nothing you can do to stop it. This bill should put a stop to this. It isn't about a person standing there taking video from a handheld camera, or sitting in their window and doing that. If you've got somebody like that as a neighbor, you can't stop that obviously. It's about having these fixed cameras on the side of a house and sitting in the basement or living room and watching my kids in the backyard in their swim suits or if it were little girls, teenage daughters, it shouldn't matter. As far as I'm concerned that property is mine, I pay property taxes and when we come home to our property I like to think we have privacy on our property. The next item, is a window peeking ordinance rewrite that Charlie Whitman, from the Bismarck City Attorney's office had written. Mr. Weiler approached him and I wrote a letter. I've been to the City Commission a couple of times, and for whatever reason they don't want to help. There are a lot of things being said about me; that he's a nut case, that he neighbors need these cameras for protection, it's all nonsense. They can hide under the guise of calling me names. I'm a hockey coach for the past 15 years now, and last year we won a state title; I'm coaching this year, I coach both my sons' hockey teams, other parents allow their kids to be around me, that kind of badmouthing doesn't work unless you don't know me, then obviously you can think what you want. I'm an entrepreneur, I have a Canadian and US patent on a hockey shooting game that I

sell on line. I have a small business that I run. I interact with a lot of people. I don't advertise; all my business is through referrals, so I must be doing something right if someone is going to refer me to their friends. I also have pictures taken about nine years, and they were taken with a crappy camera, I had them blown up. You can see, if you look at this camera, specifically, this is the one that was pointed directly into my kitchen window. If you see the whole face of this camera you have to know that the camera is pointing in your direction. If it's pointed down, and all you see is the side of it, then you can assume that it's pointing down (passed around pictures, attached). Finally after four years they repositioned the camera, but it is still pointed at my backyard, the corner of my house and my garage. That is unacceptable to me. This is my property, I would like to have privacy on my property. This bill is talking about making an amendment to the disorderly conduct law in the NDCC, this is what the law says: an individual is guilty of a class B misdemeanor if, with an intent to harass, annoy, or alarm another person in reckless disregard of the fact that another person is harassed, annoyed or alarmed by the individual's behavior; if the individual engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person. That's the law already on the books. I always ask the police when they arrive, why doesn't this apply to what's going on with my family, because it is intrusive, unwanted, and as far as I'm concerned it affects the safety, security, and privacy of my family. This is where we are. Two years ago, I didn't know how the process works. I hope this passes and doesn't get held up because of the wording. I know if you look at the wording of Charlie Whitman's, his is probably in better detail. If they would help me, we wouldn't have to be here, obviously. I appreciate what Rep. Weiler has done for my family because I've asked for help in this situation, letters emails, and Rep. Weiler has been the only person who's stood up and said that something is wrong here. It's been ten years. I could have brought a box with video tapes. I have video tapes where I stand in my house, and I could zoom directly into that camera lens. The camera lens sees wide, 180 degrees, so it can see a lot. My kids are almost teenagers, I think it is time for us as a family just to be able to put this behind us.

Rep. Klemin: This window peeping ordinance from the city, the underlined language would be an amendment to the existing ordinance, was that something that was drafted by the city attorney in Bismarck, but not adopted by the City Commission, is that what happened.

John Wutzke: Yes, correct. Charlie Whitman had written that and sent it to Rep. Weiler and he sent it to me to okay, and I said it looks fine. We kept waiting for it to be heard, month after month after month. I got fed up and Rep. Weiler gave me grief because I wrote a letter to the editor of the Tribune, and I called them out. The City Commission doesn't really think highly of me. I guess the feeling is mutual because at that point, it had been eight years.

Rep. Klemin: Those photos that you passed around, some are marked as plaintiff's exhibits and some are marked as defendant's exhibits. Did you have a civil suit with your neighbor on this subject, and what was the result of that.

John Wutzke: Both of those photos with the markers on them, I was charged with attempted criminal mischief, when I went over there and pushed the camera against the house. I fought that and I lost, so that came from a criminal trial.

Rep. Klemin: One was plaintiff's exhibit, were you a plaintiff in a case.

John Wutzke: I'm not sure what photo you are talking about.

Rep. Klemin: I am wondering if you ever sued your neighbor.

John Wutzke: This might have been when I sued my neighbors. I've been to court a few times over this. My original lawsuit against them got thrown them. I resued them, and then the judge listened to that, and I think I submitted this photo.

Rep. Klemin: You've sued your neighbor a couple of times and the case has been thrown out, is that what happened.

John Wutzke: The first time it was thrown out, I appealed to the Supreme Court, and it was thrown out for no reason, so they dismissed it without prejudice so I resued and the judge had an evidentiary hearing and I brought in a box of evidence that he really didn't want to look at. Then there was a 2-4 page summary judgment. I can't speak to why the judge threw it out. Everybody who was there as a witness for me, I thought it would be a slam dunk but it wasn't.

Rep. Koppelman: Do you feel the main reason that the police don't see any potential to prosecute under the existing statute or whatever city ordinances may exist and the reason that the city commission is apparently not wanting to move something like this forward, is it because of the fact that you said, that you're kind of known as a trouble maker because you've tried to pursue this, is that your feeling, or are they giving you some substantive reason why this isn't a good idea.

John Wutzke: I really don't know what it is. I don't know if I'm an outsider, I'm not a native North Dakotan. I didn't grow up in Bismarck. I don't know exactly what they know about my past and where I'm from. I know a lot of people in Bismarck that are high society, and I get along great with them and they are all my friends, and then there's group at City Hall, for whatever reason, have butted heads with me right from day one on this whole issue.

Chairman DeKrey: Thank you. Further testimony in support of HB 1224. Testimony in opposition. We will close the hearing.

Rep. Klemin: On HB 1224, Mr. Wutzke had stated in his testimony that he had been involved in some lawsuits and also indicated that he had sued his neighbor and had lost all the lawsuits. I had the intern do a review to see what kind of suits he had been involved in. There are ten of them listed in the docket in Burleigh County. With regards to the City of Bismarck not wanting to adopt that amendment to the ordinance, one of the cases is that he had been arrested for criminal mischief, he subsequently sued the City of Bismarck, and the city prosecutor, saying the city prosecutor committed perjury and a variety of other things that the Supreme Court threw out. He had two other cases that went to Supreme Court, he never did say who his neighbor was, but he had two cases against an Anea Diaz Gonzalez, that have gone to the Supreme Court (which were listed on the photos). Both of those cases the Supreme Court found for the neighbor. He had sued his neighbor for private nuisance and defamation. In one suit, he complained about the neighbor's dog, Gonzalez created a private nuisance by allowing her dogs to bark, because her yard contains toxic dust derived from the dogs defecating and urinating in her yard, which alleging travels into Wutzke's yard. That case was dismissed. He also had a complaint against Gonzalez, because he had a criminal conviction for attempted criminal mischief when he entered Gonzalez's yard with a shovel intending to damage his neighbor's security camera. That was affirmed, but then he sued the neighbor in a civil lawsuit seeking relief from spying video cameras, barking dogs, and toxic backyard. He also alleged claims of liable and slander and that case was dismissed. The other ones listed here are, there was one relating to a restraining order, a violation of a disorderly conduct restraining order, and I'm not sure what all the other ones were for, but Mr. Wutzke apparently has been litigating this issue and suing the City of Bismarck and his neighbor. That's just for your information as to the kind of background that may have some effect on what you do with this bill.

Chairman DeKrey: We will take this up later.

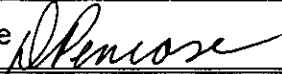
2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1224
February 14, 2011
14507

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1224.

Rep. Koppelman: This amendment for HB 1224 will take care of the incident that occurred in Fargo because it just says surreptitious intrusion, and if you're taping, regardless of what you are taping through it would do that. The subcommittee is recommending the amendment, which includes much of the language from the statute that HB 1249 amends. Rep. Steiner did some research on this issue for us and pulled out the actual statutes that these come from. If you look at the statutory language from HB 1249, the bill just passed, it's the sex crimes statute. As a result, the burden of proof, what you have to prove first is intent. That section of code says that an individual with the intent to arouse, appeal to, or gratify that individual's lust, passions or sexual desires is guilty of a class A misdemeanor if that individual does any of the following; that is the meat of HB 1249. It occurred to us that those actions are just as wrong, regardless of what the motive is. In looking at HB 1224, that section of code simply deals with disorderly conduct. The burden of proof, or the intent that you have to prove there, it says an individual's guilty of a class B misdemeanor, a lesser standard, if with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed or alarmed by the individual's behavior, then it goes through the list of what they could do that would be considered criminal. If you look at the amendment, it simply adds to the bill before us, that same language out of the sex crimes statute and basically says that if you do these same things, even for a different purpose, you still should be guilty of a criminal offense and we think that would get at some of the other issues. It would also allow someone who has been spied upon or peeping toms, even if the reason for the peeping is not to gratify sexual desire, it would still be considered illegal. So, I move the amendments to HB 1224.

Rep. Delmore: Second the motion.

Rep. Klemin: What about someone who is being bugged by the government. They're doing this surreptitiously, I'm sure that they would have to have a warrant to

do that, but this would not apply to that situation, we don't need to except it out, would we.

Rep. Koppelman: I don't think so. As you look at the disorderly conduct statute as it currently stands, it includes things like persistently following a person in or about a public place. If a policeman is chasing you, I don't think they are going to be guilty of disorderly conduct; engages in harassing conduct by means of intrusive or unwanted acts or words. I don't think anybody is going to interpret that to be acts by law enforcement.

Rep. Klemin: What about if it is in your house, you want to keep an eye on your spouse or your children, it says "another's property".

Chairman DeKrey: So this really isn't going to help Mr. Wutzke unless he can prove his neighbor is doing it with the intent....

Rep. Koppelman: Yes, the intent to annoy or harass him basically. The theory is that in looking at this, we really tried to take the high road and say that we as legislators should not be concerned with an individual, be it good or bad. We shouldn't be passing bills because we like certain individuals or defeating them because we don't like certain individuals. We ought to be looking at the public policy that is before us and that's what we tried to do.

Rep. Maragos: If a guy is pointing a camera into their neighbor's yard, wouldn't you say that's intent to intrude.

Rep. Koppelman: My answer would be probably. I guess it would depend upon the circumstances. For example, I thought about this after the bill came to us. I have a next door neighbor who has security cameras, he doesn't have them pointed through a window, but he does have them pointed into our yard next door. I assume that the reason he does that is because he wants to monitor his property line and see anybody coming onto his property. I think it depends on the circumstances, and it would be up to both law enforcement and if it got to that point, prosecutors to weigh that and determine if this is really an intrusion or someone being paranoid.

Rep. Klemin: Under that circumstance, I couldn't see how anybody could call it surreptitious; it has to be surreptitious as I read this.

Rep. Koppelman: The amendment would be, you're right about that.

Rep. Klemin: So if you have a security camera attached to your house, that's not surreptitious, you're not entering onto someone's property to install it, so I don't see how it would apply if it's out in the open.

Rep. Koppelman: You're right about that, I think the intent of the amendment is not necessarily to address that specific issue. The intent of the amendment was when

we looked at the two issues together, is to say that this surreptitious activity that the amendments seeks to outlaw if we pass it, is this kind of activity appropriate, just because the purpose may not be a sexual purpose and we think that it is probably inappropriate behavior. Therefore, we think it should be added and it's tangentially related I think, but not specifically to that other issue.

Rep. Maragos: It says surreptitious intrusion or interference with privacy. Who gets to decide when it's an interference with privacy. What constitutes privacy really.

Rep. Koppelman: As with any other law we pass, it would be a combination of the law enforcement folks investigating any complaint that comes in and then if it is charged, it would be a matter for the judge and/or jury if it were a criminal matter to weigh that. We deal with the law. They deal with the law and the facts.

Rep. Delmore: If you regularly undress in front of your window, putting on a show, then I think they would have reason to say, you have no right to privacy. You had a valid question Rep. Maragos because I think there are some situations that aren't very cut and dried with that.

Rep. Beadle: I'm wondering if there would be any justification for private investigators or someone trying to track down marriage infidelity or something like that and is trying to build a case for whatever. In subsection 2 there, about within hotel rooms, etc. This is kind of over-exaggeration based off of TV and movies but I'm wondering if there is any justifiable reason why we might want to have some sort of exemption for private investigators trying to do their work.

Chairman DeKrey: He wouldn't be trying to gratify himself.

Rep. Beadle: We would hope, hopefully not. I wanted to make sure, because it's surreptitiously, so it is stealthily. I understand that it probably wouldn't be affected, I'm just curious whether or not that would be an issue.

Rep. Kretschmar: What if I'm not doing it surreptitiously but doing it deliberately. I suppose they would get me in the same way.

Chairman DeKrey: We will take a voice vote on the Koppelman amendment.
Motion carried.

Chairman DeKrey: We now have the bill before us as amended.

Rep. Koppelman: I move a Do Pass as amended.

Rep. Beadle: Second the motion.

14 YES 0 NO 0 ABSENT DO PASS AS AMENDED

CARRIER: Rep. Koppelman

VR
2/14/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1224

Page 1, line 1, after "12.1-31-01" insert "and a new section to chapter 12.1-31"

Page 1, line 2, after "conduct" insert "and surreptitious intrusion or interference with privacy;
and to provide a penalty"

Page 1, after line 12, insert:

"**SECTION 2.** A new section to chapter 12.1-31 of the North Dakota Century Code is created and enacted as follows:

Surreptitious intrusion or interference with privacy.

1. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of another, the individual:
 - a. Enters upon another's property and surreptitiously gazes, stares, or peeps into a house or place of dwelling of another; or
 - b. Enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a house or place of dwelling of another.
2. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of an occupant, the individual:
 - a. Surreptitiously gazes, stares, or peeps into a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy; or
 - b. Surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy."

Renumber accordingly

Date: 2/14/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1224

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0439.01001.02000

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1224: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1224 was placed on the Sixth order on the calendar.

Page 1, line 1, after "12.1-31-01" insert "and a new section to chapter 12.1-31"

Page 1, line 2, after "conduct" insert "and surreptitious intrusion or interference with privacy; and to provide a penalty"

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 - b. Surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy."

Renumber accordingly

2011 SENATE JUDICIARY

HB 1224

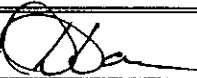
2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1224
3/29/11
Job #16138

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to disorderly conduct and surreptitious intrusion or interference with privacy.

Minutes:

Senator Nething – Chairman

Representative D. Weiler – District 30- Introduced the bill and says he will talk about section one. He says the bill originally started as section one and the House Judiciary committee amended it and added section two. He relates a story of one of his constituents that has a long standing feud with a neighbor. He said the problem is that his neighbor has a camera mounted on their house and it points in the window of Rep. Weiler's constituent's home. He goes on to say how his constituent has been trying for 10 years to get the police to do something about it and hasn't had any luck.

Representative K. Koppelman – District 13 – Explains section 2 of the bill and how House Judiciary amended the bill. He explains putting it in the disorderly conduct law. He goes on to say in the sex crime statute it is a Class A misdemeanor and in the disorderly conduct statute it is a Class B misdemeanor.

Aaron Birst – Association of Counties – Says he supports the concepts and offers his services if these sections need to blend.

Opposition – 0

Representative B. Grande – District 41 – Brings in an amendment which moves the barrier out to 1000 feet in which protestors can protest at military funerals.

Senator Olafson – Asks what the Supreme Court ruled.

Rep. Grande – She explains it was a civil suit. The Supreme Court ruled they have a right to do this but at 1000 feet it might not interfere as much.

Lt. Col. Davina French – National Guard Government Affairs Officer – She said the office of the Adjutant General supports the proposed amendment to section 2 house bill 1224.

She adds that the National Guard supports this. She relates military funerals she has attended where 300 ft isn't enough; 1000 ft. isn't enough, 2 miles isn't enough.

Gene Kouba – ND Dept. of Veterans Affairs – In support of this bill.

Dan Stenvold – President of ND Vietnam Veterans of ND – In support of the bill, would like to see it changed to 1000 miles.

Shirley Olgerson – Retired Military – In support of this bill.

Close hearing 1224

Senator Lyson moves to adopt the amendment

Senator Olafson seconded

Verbal vote – all yes

Senator Nelson moves do pass as amended

Senator Sorvaag seconded

Roll call vote – 6 yes, 0 no

Motion passes

Senator Sorvaag will carry

11.0439.02001
Title.

Prepared by the Legislative Council staff for
Representative Grande
March 11, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1224

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 2 of section 12.1-31-01.1 of the North Dakota Century Code, relating to disorderly conduct at a funeral;"

Page 1, after line 13, insert:

"SECTION 2. AMENDMENT. Subsection 2 of section 12.1-31-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. An individual is guilty of disorderly conduct at a funeral if the individual:
 - a. Engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking within ~~three hundred~~ one thousand feet [~~91.44300.48~~ meters] of any ingress or egress of that funeral site if the volume of the singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site; or
 - b. Displays, with knowledge of the existence of a funeral site and within ~~three hundred~~ one thousand feet [~~91.44300.48~~ meters] of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other individual."

Renumber accordingly

Date: 3/29/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1224

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Lyson Seconded By Senator Olafson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman			Carolyn Nelson		
Curtis Olafson - V. Chairman					
Stanley Lyson					
Margaret Sitte					
Ronald Sorvaag					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Senator

If the vote is on an amendment, briefly indicate intent:
Verbal - all yes

Date: 5/29/11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1224

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nelson Seconded By Senator Sorvaag

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	<input checked="" type="checkbox"/>		Carolyn Nelson	<input checked="" type="checkbox"/>	
Curtis Olafson - V. Chairman	<input checked="" type="checkbox"/>				
Stanley Lyson	<input checked="" type="checkbox"/>				
Margaret Sitte	<input checked="" type="checkbox"/>				
Ronald Sorvaag	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Sorvaag

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1224, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1224 was placed on the Sixth order on the calendar.

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 2 of section 12.1-31-01.1 of the North Dakota Century Code, relating to disorderly conduct at a funeral;"

Page 1, after line 13, insert:

"SECTION 2. AMENDMENT. Subsection 2 of section 12.1-31-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. An individual is guilty of disorderly conduct at a funeral if the individual:
 - a. Engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking within ~~three hundred~~ one thousand feet [~~91.44300.48~~ meters] of any ingress or egress of that funeral site if the volume of the singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site; or
 - b. Displays, with knowledge of the existence of a funeral site and within ~~three hundred~~ one thousand feet [~~91.44300.48~~ meters] of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other individual."

Renumber accordingly

2011 TESTIMONY

HB 1224

GONZALES
HOUSE

Witake
Garage

Plaintiff Exhibit **3**

Diaz Security Tape
Side to Rear

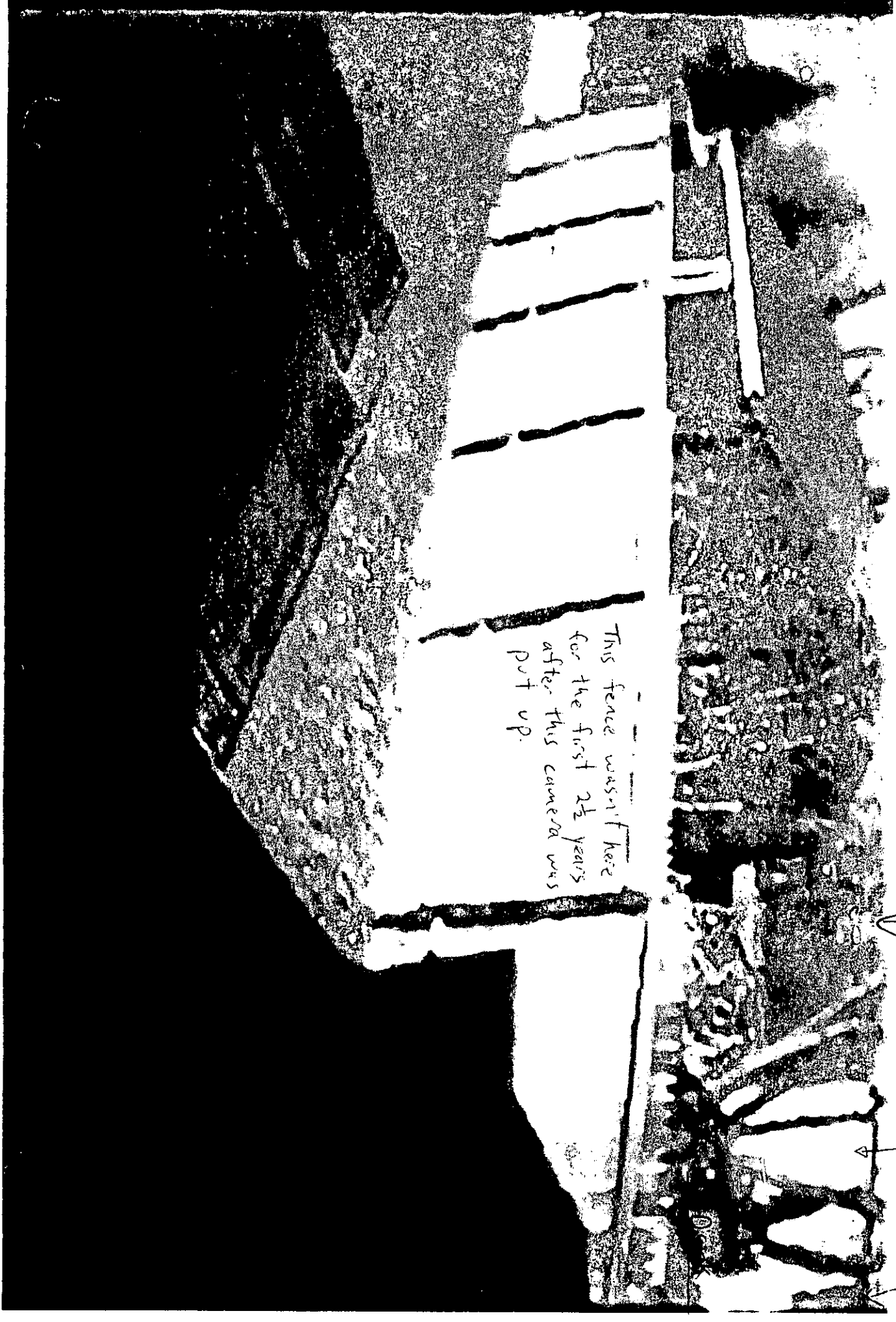
Plant, off
Exhibit # 7

Backyard

Witzke's
House

Kitchen
window

This fence wasn't here
for the first 2½ years
after this camera was
put up.

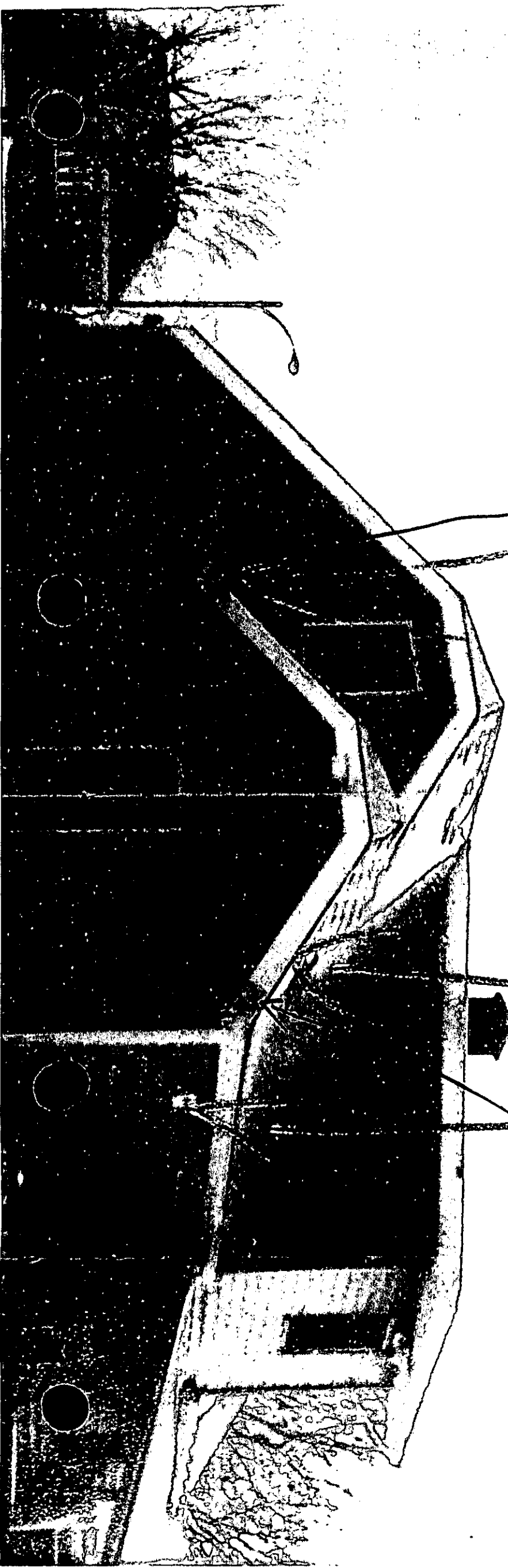




CHS

(A)
CAMERA
FACE

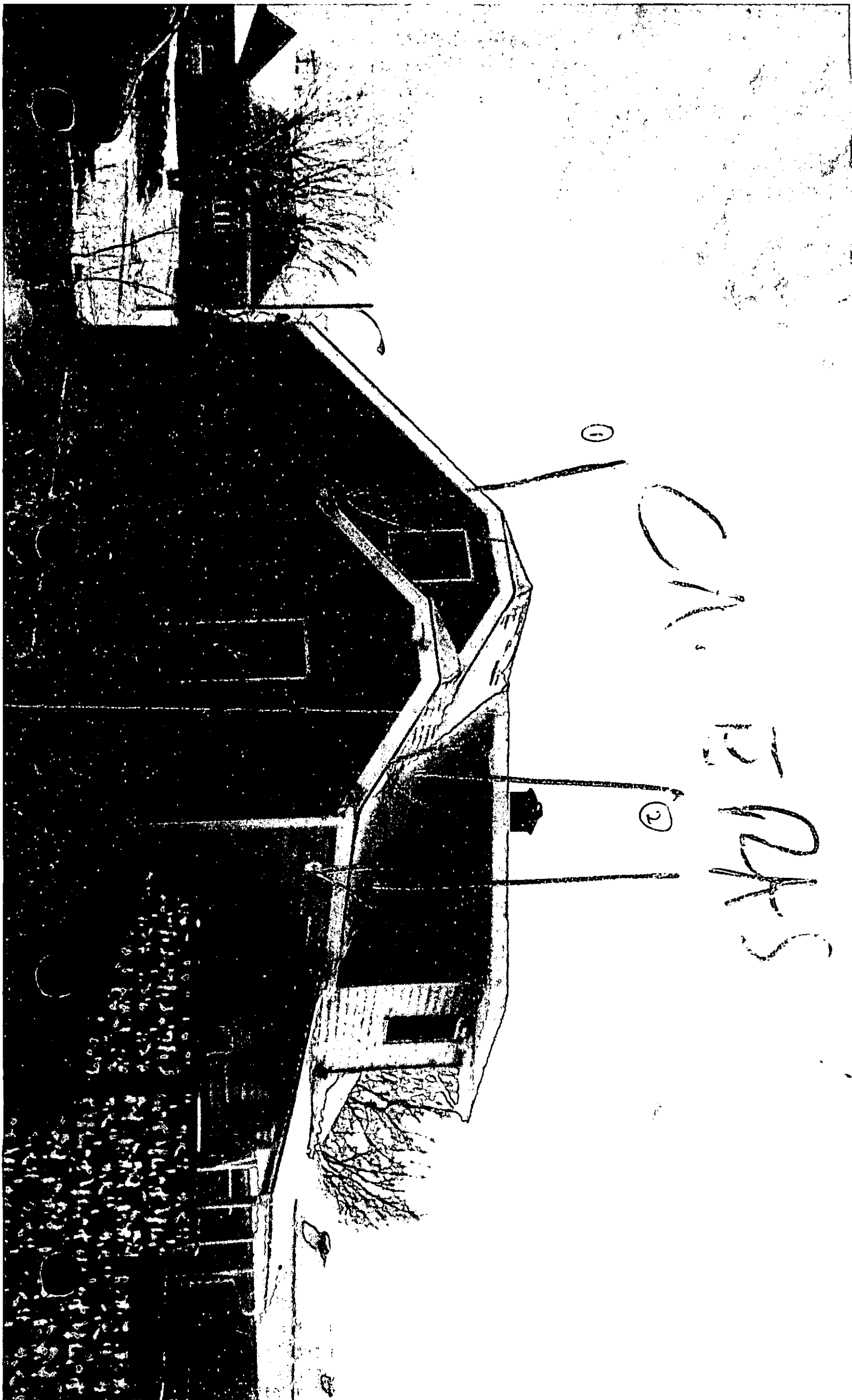
(B)
CAMERA
SIDE



CH
E
RHS

①

②



6-05-07. Window-Peeping.

1. It is unlawful for any person to look, peer, or peep into, or to loiter in a position or place affording a view into any window not that person's own property, with intent to annoy, harass or alarm any person or in reckless disregard of the fact that any person is annoyed, harassed or alarmed.

2. It is unlawful to use cameras, telescopes or binoculars to peer into any window not that person's own property with the intent to annoy, harass or alarm any person or in reckless disregard of the fact that any person is annoyed harassed or alarmed.

3. The use of surveillance cameras is permitted. When used in residential areas, cameras must be directed or shielded in such a manner as to block out adjacent dwellings or accessory structures. A person found to be in violation of this section shall be given 7 days to re-direct the cameras and failure to redirect the cameras within that time is an offense.

Source: Code of Ords., 1973, Sec. 24-86