

HOUSE BILL 116

D1, E1

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By: **Delegates Mitchell, Clippinger, Cluster, Conaway, Cullison, Gutierrez, Haynes, McDermott, Oaks, B. Robinson, and Rosenberg**

Introduced and read first time: January 16, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Interception of Communications – Abuse**
3 **or Neglect of Vulnerable Adult and Medicaid Fraud**

4 FOR the purpose of adding abuse or neglect of a vulnerable adult and offenses relating
5 to Medicaid fraud to those crimes for which certain evidence may be gathered
6 by, and a judge may grant an order authorizing, interception of oral, wire, or
7 electronic communications; and generally relating to interception of
8 communications.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 10–402(c)(2) and 10–406(a)
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2012 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Courts and Judicial Proceedings**

17 10–402.

18 (c) (2) (i) This paragraph applies to an interception in which:

19 1. The investigative or law enforcement officer or other
20 person is a party to the communication; or

21 2. One of the parties to the communication has given
22 prior consent to the interception.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) It is lawful under this subtitle for an investigative or law
2 enforcement officer acting in a criminal investigation or any other person acting at the
3 prior direction and under the supervision of an investigative or law enforcement officer
4 to intercept a wire, oral, or electronic communication in order to provide evidence:

5 1. Of the commission of:

6 A. Murder;

7 B. Kidnapping;

8 C. Rape;

9 D. A sexual offense in the first or second degree;

10 E. Child abuse in the first or second degree;

11 F. Child pornography under § 11-207, § 11-208, or §
12 11-208.1 of the Criminal Law Article;

13 G. Gambling;

14 H. Robbery under § 3-402 or § 3-403 of the Criminal
15 Law Article;

16 I. A felony under Title 6, Subtitle 1 of the Criminal Law
17 Article;

18 J. Bribery;

19 K. Extortion;

20 L. Dealing in a controlled dangerous substance,
21 including a violation of § 5-617 or § 5-619 of the Criminal Law Article;

22 M. A fraudulent insurance act, as defined in Title 27,
23 Subtitle 4 of the Insurance Article;

24 N. An offense relating to destructive devices under §
25 4-503 of the Criminal Law Article;

26 O. A human trafficking offense under § 11-303 of the
27 Criminal Law Article;

28 P. Sexual solicitation of a minor under § 3-324 of the
29 Criminal Law Article;

1 Q. An offense relating to obstructing justice under §
2 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

3 R. Sexual abuse of a minor under § 3–602 of the
4 Criminal Law Article;

5 S. A theft scheme or continuing course of conduct under
6 § 7–103(f) of the Criminal Law Article involving an aggregate value of property or
7 services of at least \$10,000; [or]

8 **T. ABUSE OR NEGLECT OF A VULNERABLE ADULT**
9 **UNDER § 3–604 OR § 3–605 OF THE CRIMINAL LAW ARTICLE;**

10 **U. AN OFFENSE RELATING TO MEDICAID FRAUD**
11 **UNDER §§ 8–509 THROUGH 8–515 OF THE CRIMINAL LAW ARTICLE; OR**

12 [T.] V. A conspiracy or solicitation to commit an
13 offense listed in items A through [S] U of this item; or

14 2. If:

15 A. A person has created a barricade situation; and

16 B. Probable cause exists for the investigative or law
17 enforcement officer to believe a hostage or hostages may be involved.

18 10–406.

19 (a) The Attorney General, State Prosecutor, or any State’s Attorney may
20 apply to a judge of competent jurisdiction, and the judge, in accordance with the
21 provisions of § 10–408 of this subtitle, may grant an order authorizing the interception
22 of wire, oral, or electronic communications by investigative or law enforcement officers
23 when the interception may provide or has provided evidence of the commission of:

24 (1) Murder;

25 (2) Kidnapping;

26 (3) Rape;

27 (4) A sexual offense in the first or second degree;

28 (5) Child abuse in the first or second degree;

29 (6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the
30 Criminal Law Article;

- 1 (7) Gambling;
- 2 (8) Robbery under § 3–402 or § 3–403 of the Criminal Law Article;
- 3 (9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;
- 4 (10) Bribery;
- 5 (11) Extortion;
- 6 (12) Dealing in a controlled dangerous substance, including a violation
7 of § 5–617 or § 5–619 of the Criminal Law Article;
- 8 (13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the
9 Insurance Article;
- 10 (14) An offense relating to destructive devices under § 4–503 of the
11 Criminal Law Article;
- 12 (15) A human trafficking offense under § 11–303 of the Criminal Law
13 Article;
- 14 (16) Sexual solicitation of a minor under § 3–324 of the Criminal Law
15 Article;
- 16 (17) An offense relating to obstructing justice under § 9–302, § 9–303,
17 or § 9–305 of the Criminal Law Article;
- 18 (18) Sexual abuse of a minor under § 3–602 of the Criminal Law
19 Article;
- 20 (19) A theft scheme or continuing course of conduct under § 7–103(f) of
21 the Criminal Law Article involving an aggregate value of property or services of at
22 least \$10,000; [or]
- 23 **(20) ABUSE OR NEGLECT OF A VULNERABLE ADULT UNDER §**
24 **3–604 OR § 3–605 OF THE CRIMINAL LAW ARTICLE;**
- 25 **(21) AN OFFENSE RELATING TO MEDICAID FRAUD UNDER §§ 8–509**
26 **THROUGH 8–515 OF THE CRIMINAL LAW ARTICLE; OR**
- 27 ~~[(20)]~~ **(22)** A conspiracy or solicitation to commit an offense listed in
28 items (1) through ~~[(19)]~~ **(21)** of this subsection.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2013.