

# HOUSE BILL 552

D3, E4  
HB 1142/18 – JUD

9lr2103

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By: **Delegate Malone**

Introduced and read first time: February 4, 2019

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Interception of Oral Communication – Law Enforcement Officer**

3 FOR the purpose of providing that the failure of law enforcement to notify a certain  
4 individual that the individual is being recorded does not affect the admissibility of a  
5 certain recording; and generally relating to the interception of oral communication  
6 by a law enforcement officer.

7 BY repealing and reenacting, without amendments,  
8 Article – Courts and Judicial Proceedings  
9 Section 10–402(a)  
10 Annotated Code of Maryland  
11 (2013 Replacement Volume and 2018 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article – Courts and Judicial Proceedings  
14 Section 10–402(c)(11)  
15 Annotated Code of Maryland  
16 (2013 Replacement Volume and 2018 Supplement)

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

19 **Article – Courts and Judicial Proceedings**

20 10–402.

21 (a) Except as otherwise specifically provided in this subtitle it is unlawful for any  
22 person to:

23 (1) Willfully intercept, endeavor to intercept, or procure any other person  
24 to intercept or endeavor to intercept, any wire, oral, or electronic communication;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Willfully disclose, or endeavor to disclose, to any other person the  
2 contents of any wire, oral, or electronic communication, knowing or having reason to know  
3 that the information was obtained through the interception of a wire, oral, or electronic  
4 communication in violation of this subtitle; or

5 (3) Willfully use, or endeavor to use, the contents of any wire, oral, or  
6 electronic communication, knowing or having reason to know that the information was  
7 obtained through the interception of a wire, oral, or electronic communication in violation  
8 of this subtitle.

9 (c) (11) (i) 1. In this paragraph the following words have the meanings  
10 indicated.

11 2. “Body–worn digital recording device” means a device worn  
12 on the person of a law enforcement officer that is capable of recording video and intercepting  
13 oral communications.

14 3. “Electronic control device” has the meaning stated in §  
15 4–109 of the Criminal Law Article.

16 (ii) It is lawful under this subtitle for a law enforcement officer in  
17 the course of the officer’s regular duty to intercept an oral communication with a  
18 body–worn digital recording device or an electronic control device capable of recording video  
19 and oral communications if:

20 1. The law enforcement officer is in uniform or prominently  
21 displaying the officer’s badge or other insignia;

22 2. The law enforcement officer is making reasonable efforts  
23 to conform to standards in accordance with § 3–511 of the Public Safety Article for the use  
24 of body–worn digital recording devices or electronic control devices capable of recording  
25 video and oral communications;

26 3. The law enforcement officer is a party to the oral  
27 communication;

28 4. Law enforcement notifies, as soon as is practicable, the  
29 individual that the individual is being recorded, unless it is unsafe, impractical, or  
30 impossible to do so; and

31 5. The oral interception is being made as part of a videotape  
32 or digital recording.

33 **(III) FAILURE TO NOTIFY UNDER SUBPARAGRAPH (II)4 OF THIS**  
34 **PARAGRAPH DOES NOT AFFECT THE ADMISSIBILITY IN COURT OF THE RECORDING.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2019.