

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL NO. 1036

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “adding” in line 7 down through “circumstances;” in line 10; and strike beginning with “expanding” in line 20 down through “warrants;” in line 21 and substitute “authorizing certain license holders of certain nuclear power plant facilities to authorize certain security officers, without a warrant, to stop and detain certain persons for certain crimes under certain circumstances; requiring certain security officers to notify and release certain persons to the detention or custody of certain law enforcement agencies under certain circumstances;”.

On page 2, strike beginning with “prohibiting” in line 1 down through “terrorists;” in line 2; in line 6, strike “allowing certain restitution;”; in line 30, strike “prevention of terrorism” and substitute “the interception of certain communications, the jurisdiction of certain law enforcement officials, and the regulation of certain motor vehicle licenses and means of identification, for the purpose of security in the State;”;

in line 42, strike “repealing and reenacting, with amendments,” and substitute “adding to”; and in line 44, strike “441(e)” and substitute “542”.

On page 3, in line 5, strike “10-402(c)(2), 10-406,”; in the same line, strike “and (c)(3)” and substitute “, (c), and (d)(1)”; in line 6, strike “10-4B-01(c), (d), and (e)” and substitute “10-4B-01”; strike in their entirety lines 10 through 37, inclusive; and after line 37 insert:

“BY adding to

Article - Criminal Law

Section 9-704.1

Annotated Code of Maryland

(As enacted by Chapter (H.B. 11) of the Acts of the General Assembly of 2002)”.

(Over)

AMENDMENT NO. 2

On pages 6 and 7, strike in their entirety the lines beginning with line 35 on page 6 through line 22 on page 7, inclusive.

On page 7, after line 22, insert:

“Article 27 - Crimes and Punishments

542.

(A) IN THIS SECTION, “SECURITY OFFICER” MEANS A PROPRIETARY OR CONTRACTUAL SECURITY OFFICER OF A LICENSE HOLDER OF A NUCLEAR POWER PLANT FACILITY IN THE STATE.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF A NUCLEAR POWER PLANT FACILITY IS PLACED UNDER A HEIGHTENED LEVEL OF SECURITY CONDITION BY A FEDERAL AGENCY PURSUANT TO FEDERAL LAW, THE LICENSE HOLDER OF A NUCLEAR POWER PLANT FACILITY IN THE STATE MAY AUTHORIZE A SECURITY OFFICER, WITHOUT A WARRANT, TO STOP AND DETAIN ANY PERSON WHO THE OWNER OR SECURITY OFFICER HAS REASONABLE GROUNDS TO BELIEVE HAS:

(1) ENTERED OR TRESPASSED ON POSTED PROPERTY OF THE NUCLEAR POWER PLANT FACILITY IN VIOLATION OF § 577 OF THIS ARTICLE; OR

(2) VIOLATED ANY LOCAL, STATE, OR FEDERAL LAW, REGULATION, OR ORDER IN AN AREA CONTROLLED BY THE LICENSE HOLDER OF THE NUCLEAR POWER PLANT FACILITY.

(C) A SECURITY OFFICER WHO DETAINS A PERSON UNDER SUBSECTION (B) OF THIS SECTION SHALL, AS SOON AS PRACTICABLE:

(1) NOTIFY AN APPROPRIATE LAW ENFORCEMENT AGENCY ABOUT THE ALLEGED CRIME COMMITTED BY THE PERSON; AND

(2) RELEASE THE PERSON TO THE DETENTION OR CUSTODY OF A LAW ENFORCEMENT OFFICER.

(D) IF NOTICE TO A LAW ENFORCEMENT AGENCY IS PROVIDED AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION AND THE LAW ENFORCEMENT AGENCY DETERMINES NOT TO INVESTIGATE THE ALLEGED CRIME OR DECLINES TO TAKE THE DETAINED PERSON INTO DETENTION OR CUSTODY, THE SECURITY OFFICER SHALL RELEASE THE PERSON AS SOON AS PRACTICABLE.”;

and after line 24, insert “As used in this subtitle, the following terms have the meanings indicated:”.

On page 8, strike in its entirety line 13.

On pages 11 through 13, strike in their entirety the lines beginning with line 3 on page 11 through line 17 on page 13, inclusive.

On page 15, in line 4, strike “THE DESCRIPTION” and substitute “SPECIFICATION OF THE NATURE AND LOCATION OF THE FACILITIES FROM WHICH OR THE PLACE WHERE THE COMMUNICATION IS TO BE INTERCEPTED”; in line 8, after “COMMUNICATION,” insert “A PARTICULAR DESCRIPTION OF”; in line 22, strike “TIMES WHERE IT IS REASONABLE TO PRESUME” and substitute “ANY PERIOD OF TIME WHEN THE INVESTIGATIVE OR LAW ENFORCEMENT OFFICER HAS A REASONABLE, ARTICULABLE BELIEF”; after line 25, insert:

“(c) (1) Upon the application the judge may enter an ex parte order, as requested or as modified, authorizing interception of wire, oral, or electronic communications within the territorial jurisdiction permitted under paragraphs (2) and (3) of this subsection, if the judge determines on the basis of the facts submitted by the applicant that:

(i) There is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in § 10-406 of this subtitle;

(ii) There is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

(Over)

(iii) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

(iv) There is probable cause for belief:

1. [that] THAT the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by this person IN ACCORDANCE WITH SUBSECTION (A)(1) OF THIS SECTION; OR

2. THAT THE ACTIONS OF THE INDIVIDUAL WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED COULD HAVE THE EFFECT OF THWARTING AN INTERCEPTION FROM A SPECIFIED FACILITY IN ACCORDANCE WITH SUBSECTION (A)(2) OF THIS SECTION.

(2) Except as provided in [paragraph (3)] PARAGRAPHS (3) AND (4) of this subsection, an ex parte order issued under paragraph (1) of this subsection may authorize the interception of wire, oral, or electronic communications only within the territorial jurisdiction of the court in which the application was filed.”;

in line 26, strike “(c)”;

and after line 39, insert:  
“(d) (1) Each order authorizing the interception of any wire, oral, or electronic communication shall specify:

(i) The identity of the person, if known OR REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION, whose communications are to be intercepted;

(ii) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted, IF KNOWN;

(iii) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(iv) The identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(v) The period of time during which the interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.”.

On pages 19 and 20, strike in their entirety the lines beginning with line 34 on page 19 through line 35 on page 20, inclusive.

On pages 22 and 23, strike in their entirety the lines beginning with line 1 on page 22 through line 22 on page 23, inclusive.

On page 24, strike in their entirety lines 1 through 37, inclusive.

On pages 27 and 28, strike in their entirety the lines beginning with line 9 on page 27 through line 12 on page 28, inclusive.

On page 28, in line 30, strike “AGAINST A THREAT OR ACT OF TERRORISM,”.

On page 29, in line 21, strike “SUBSECTION (A)(2)” and substitute “PARAGRAPH (2)”; and in line 22, strike “SECTION” and substitute “SUBSECTION”.

On page 41, after line 2, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Criminal Law

9-704.1.

(Over)

(A) IN THIS SECTION, "SECURITY OFFICER" MEANS A PROPRIETARY OR CONTRACTUAL SECURITY OFFICER OF A LICENSE HOLDER OF A NUCLEAR POWER PLANT FACILITY IN THE STATE.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF A NUCLEAR POWER PLANT FACILITY IS PLACED UNDER A HEIGHTENED LEVEL OF SECURITY CONDITION BY A FEDERAL AGENCY PURSUANT TO FEDERAL LAW, THE LICENSE HOLDER OF A NUCLEAR POWER PLANT FACILITY IN THE STATE MAY AUTHORIZE A SECURITY OFFICER, WITHOUT A WARRANT, TO STOP AND DETAIN ANY PERSON WHO THE OWNER OR SECURITY OFFICER HAS REASONABLE GROUNDS TO BELIEVE HAS:

(1) ENTERED OR TRESPASSED ON POSTED PROPERTY OF THE NUCLEAR POWER PLANT FACILITY IN VIOLATION OF § 6-402 OF THIS ARTICLE; OR

(2) VIOLATED ANY LOCAL, STATE, OR FEDERAL LAW, REGULATION, OR ORDER IN AN AREA CONTROLLED BY THE LICENSE HOLDER OF THE NUCLEAR POWER PLANT FACILITY.

(C) A SECURITY OFFICER WHO DETAINS A PERSON UNDER SUBSECTION (B) OF THIS SECTION SHALL, AS SOON AS PRACTICABLE:

(1) NOTIFY AN APPROPRIATE LAW ENFORCEMENT AGENCY ABOUT THE ALLEGED CRIME COMMITTED BY THE PERSON; AND

(2) RELEASE THE PERSON TO THE DETENTION OR CUSTODY OF A LAW ENFORCEMENT OFFICER.

(D) IF NOTICE TO A LAW ENFORCEMENT AGENCY IS PROVIDED AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION AND THE LAW ENFORCEMENT AGENCY DETERMINES NOT TO INVESTIGATE THE ALLEGED CRIME OR DECLINES TO TAKE THE DETAINED PERSON INTO DETENTION OR CUSTODY, THE SECURITY OFFICER SHALL RELEASE THE PERSON AS SOON AS PRACTICABLE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take

effect October 1, 2002.”;

in line 3, strike “2.” and substitute “4.”; and in the same line, after “That” insert “Section 1 of”.