

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 639

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Munson” and substitute “Munson, Colburn, Forehand, Green, Haines, Jacobs, and Jimeno”; strike beginning with “prohibiting” in line 3 down through “circumstances;” in line 10; and strike beginning with “expanding” in line 20 down through “penalties;” in line 28 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, in line 19, 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”; strike in their entirety lines 20 through 35, inclusive; in line 38, strike “10-402(c)(2), 10-406;” in the same line, strike “and (c)(3)” and substitute “, (c), and (d)(1)”; and in line 39, strike “10-4B-01(c), (d), and (e)” and substitute “10-4B-01”.

On page 3, strike in their entirety lines 1 through 34, inclusive; and after line 34, 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)”.

AMENDMENT NO. 2

On pages 4 through 7, strike in their entirety the lines beginning with line 15 on page 4

(Over)

through line 11 on page 7, inclusive.

On page 7, after line 13, insert:

“As used in this subtitle, the following terms have the meanings indicated:”.

On pages 7 through 10, strike in their entirety the lines beginning with line 32 on page 7 through line 21 on page 10, inclusive.

### AMENDMENT NO. 3

On page 11, strike in their entirety lines 25 through 36, inclusive and substitute:

“(2) (I) IN THE CASE OF AN APPLICATION AUTHORIZING THE INTERCEPTION OF AN ORAL COMMUNICATION, A PARTICULAR DESCRIPTION OF THE NATURE AND LOCATION OF THE FACILITIES FROM WHICH OR THE PLACE WHERE THE COMMUNICATION IS TO BE INTERCEPTED IS NOT REQUIRED IF THE APPLICATION:

1. IS BY AN INVESTIGATIVE OR LAW ENFORCEMENT OFFICER;

2. IS APPROVED BY THE ATTORNEY GENERAL, THE STATE PROSECUTOR, OR A STATE’S ATTORNEY;

3. CONTAINS A FULL AND COMPLETE STATEMENT AS TO WHY SPECIFICATION OF THE NATURE AND LOCATION OF THE FACILITIES FROM WHICH OR THE PLACE WHERE THE COMMUNICATION IS TO BE INTERCEPTED IS NOT PRACTICAL; AND

4. IDENTIFIES THE INDIVIDUAL COMMITTING THE OFFENSE AND WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED.

(II) IN THE CASE OF AN APPLICATION AUTHORIZING THE INTERCEPTION OF A WIRE OR ELECTRONIC COMMUNICATION, A PARTICULAR DESCRIPTION OF THE NATURE AND LOCATION OF THE FACILITIES FROM WHICH OR THE PLACE WHERE THE COMMUNICATION IS TO BE INTERCEPTED IS NOT REQUIRED IF THE APPLICATION:

1. IS BY AN INVESTIGATIVE OR LAW ENFORCEMENT OFFICER;
2. IS APPROVED BY THE ATTORNEY GENERAL, THE STATE PROSECUTOR, OR A STATE'S ATTORNEY;
3. IDENTIFIES THE INDIVIDUAL BELIEVED TO BE COMMITTING THE OFFENSE AND WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED;
4. MAKES A SHOWING THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE INDIVIDUAL'S ACTIONS COULD HAVE THE EFFECT OF THWARTING INTERCEPTION FROM A SPECIFIED FACILITY; AND
5. SPECIFIES THAT INTERCEPTION WILL BE LIMITED TO ANY PERIOD OF TIME WHEN THE INVESTIGATIVE OR LAW ENFORCEMENT OFFICER HAS A REASONABLE, ARTICULABLE BELIEF THAT THE INDIVIDUAL IDENTIFIED IN THE APPLICATION WILL BE PROXIMATE TO THE INSTRUMENT AND WILL BE USING THE INSTRUMENT THROUGH WHICH THE COMMUNICATION WILL BE TRANSMITTED.”;

after line 36, 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.”;

and in line 37, strike “(c)”.

On page 12, after line 11, 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.”.

AMENDMENT NO. 4

On pages 16 through 22, strike in their entirety the lines beginning with line 3 on page 16 through line 23 on page 22, inclusive.

AMENDMENT NO. 5

On page 22, after line 23, insert:

“Article - Criminal Law

9-704.1.

(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:

(Over)

(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.”.

AMENDMENT NO. 6

On page 23, in line 8, after “(2)” insert “EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION AND”; and in line 19, strike “ON OR”.

AMENDMENT NO. 7

On page 26, strike beginning with “ENTRY” in line 30 down through “SERVICE” in line 31 and substitute “LAWFUL ADMISSION DOCUMENT”.

On page 28, strike beginning with “ENTRY” in line 16 down through “SERVICE” in line 18 and substitute “LAWFUL ADMISSION DOCUMENT”; and in lines 20 and 21, strike “ENTRY DOCUMENT” and substitute “LAWFUL ADMISSION DOCUMENT”.

On page 32, strike beginning with “ENTRY” in line 21 down through “SERVICE” in line 22 and substitute “LAWFUL ADMISSION DOCUMENT”; strike beginning with “ENTRY” in line 31 down through “SERVICE” in line 33, and substitute “LAWFUL ADMISSION DOCUMENT”; and in lines 36 and 37, strike “ENTRY DOCUMENT” and substitute “LAWFUL ADMISSION DOCUMENT”.

AMENDMENT NO. 8

On page 33, strike beginning with “ENTRY” in line 7 down through “SERVICE” in line 8 and substitute “LAWFUL ADMISSION DOCUMENT”; in lines 10 and 11, strike “ENTRY DOCUMENT” and substitute “LAWFUL ADMISSION DOCUMENT”; strike beginning with “ENTRY” in line 21 down through “SERVICE” in line 22, and substitute “LAWFUL ADMISSION DOCUMENT”; and in line 26, strike “ENTRY DOCUMENT” and substitute “LAWFUL ADMISSION DOCUMENT”.