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(PRE-FILED)

By: Chairman, Judiciary Committee (Departmental - State Police)

Requested: October 19, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Crimes - Investigation - Unauthorized Access to a Computer

- 3 FOR the purpose of adding unauthorized access to a computer to the offenses for
- 4 which an investigative or law enforcement officer may lawfully intercept certain
- 5 communications under certain circumstances; adding unauthorized access to a
- 6 computer to the offenses for which certain individuals may obtain a court order
- 7 to intercept certain communications; correcting certain cross-references;
- 8 making stylistic changes; and generally relating to interception of
- 9 communications.
- 10 BY repealing and reenacting, with amendments,
- 11 Article Courts and Judicial Proceedings
- 12 Section 10-402(c)(2) and 10-406
- 13 Annotated Code of Maryland
- 14 (1998 Replacement Volume and 2001 Supplement)
- 15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 16 MARYLAND, That the Laws of Maryland read as follows:

17 Article - Courts and Judicial Proceedings

- 18 10-402.
- 19 (c) (2) It is lawful under this subtitle for an investigative or law enforcement
- 20 officer acting in a criminal investigation or any other person acting at the prior
- 21 direction and under the supervision of an investigative or law enforcement officer to
- 22 intercept a wire, oral, or electronic communication in order to provide evidence of the
- 23 commission of:
- 24 (I) [the offenses of murder, kidnapping, rape, a sexual offense in
- 25 the first or second degree, child abuse, child pornography, as defined under Article 27,
- 26 §§ 419A and 419B of the Code, gambling, robbery under Article 27, § 486 or § 487 of
- 27 the Code, any felony punishable under the "Arson and Burning" subheading of Article

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	27, bribery, extortion, or dealing in controlled dangerous substances, including violations of Article 27, § 286B or § 287A, fraudulent] MURDER;				
3		(II)	KIDNA	PPING;	
4		(III)	RAPE;		
5		(IV)	A SEXU	JAL OFFENSE IN THE FIRST OR SECOND DEGREE;	
6		(V)	CHILD	ABUSE;	
7 8	(VI) CHILD PORNOGRAPHY UNDER § 11-207 OR § 11-208 OF THE CRIMINAL LAW ARTICLE;				
9		(VII)	GAMBI	LING;	
10 11	ARTICLE;	(VIII)	ROBBE	RY UNDER § 3-402 OR § 3-403 OF THE CRIMINAL LAW	
12 13	ARTICLE;	(IX)	A FELC	ONY UNDER TITLE 6, SUBTITLE 1 OF THE CRIMINAL LAW	
14		(X)	BRIBER	RY;	
15		(XI)	EXTOR	TION;	
16 17	INCLUDING A VIO	(XII) LATION		NG IN A CONTROLLED DANGEROUS SUBSTANCE, 617 OR § 5-619 OF THE CRIMINAL LAW ARTICLE;	
18 19	THE CRIMINAL LA	(XIII) UNAUTHORIZED ACCESS TO A COMPUTER UNDER § 7-302 OF CRIMINAL LAW ARTICLE;			
20 21	(XIV) A FRAUDULENT insurance [acts] ACT, as defined in Title 27, Subtitle 4 of the Insurance [Article, offenses] ARTICLE;				
22 23	(XV) AN OFFENSE relating to destructive devices under [Article 27, § 139C of the Code, or any] § 4-503 OF THE CRIMINAL LAW ARTICLE;				
	(XVI) A conspiracy or solicitation to commit any of [these offenses, or where any] THE OFFENSES LISTED IN ITEMS (I) THROUGH (XV) OF THIS SUBSECTION; OR				
27		(XVII)	IF:		
28 29	SITUATION;		1.	A person has created a barricade [situation and probable]	
	enforcement officer t INVOLVED; AND	o believe	2. a hostag	PROBABLE cause exists for the investigative or law e or hostages may be [involved, where the]	

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1 3. A. THE person is a party to the [communication or one] 2 COMMUNICATION; OR B. ONE of the parties to the communication has given prior 4 consent to the interception. 5 10-406. (A) 6 The Attorney General, State Prosecutor, or any State's Attorney may apply 7 to a judge of competent jurisdiction, and the judge, in accordance with the provisions 8 of § 10-408 of this subtitle, may grant an order authorizing the interception of wire, 9 oral, or electronic communications by investigative or law enforcement officers when 10 the interception may provide or has provided evidence of the commission of: 11 [the offense of murder, kidnapping, child pornography, as defined in 12 Article 27, §§ 419A and 419B of the Code, gambling, robbery under Article 27, § 486 or 13 § 487 of the Code, any felony punishable under the "Arson and Burning" subheading 14 of Article 27 of this Code, bribery, extortion, or dealing in controlled dangerous 15 substances, offenses] MURDER; 16 KIDNAPPING: (2)17 CHILD PORNOGRAPHY UNDER § 11-207 OR § 11-208 OF THE CRIMINAL (3) 18 LAW ARTICLE; 19 (4) GAMBLING; 20 (5) ROBBERY UNDER § 3-402 OR § 3-403 OF THE CRIMINAL LAW ARTICLE; 21 (6) A FELONY UNDER TITLE 6, SUBTITLE 1 OF THE CRIMINAL LAW 22 ARTICLE; 23 BRIBERY; (7) 24 (8)**EXTORTION:** 25 (9)DEALING IN A CONTROLLED DANGEROUS SUBSTANCE; UNAUTHORIZED ACCESS TO A COMPUTER UNDER § 7-302 OF THE 26 (10)27 CRIMINAL LAW ARTICLE; 28 AN OFFENSE relating to destructive devices under [Article 27, § 139C (11)29 of the Code, or any \ 4-503 OF THE CRIMINAL LAW ARTICLE; OR A conspiracy or solicitation to commit any of [the foregoing offenses] 30 (12)31 THE OFFENSES LISTED IN ITEMS (1) THROUGH (11) OF THIS SUBSECTION. 32 (B) No application or order shall be required if the interception is lawful under 33 the provisions of § 10-402(c) of this subtitle.

- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 2 October 1, 2002.