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### By: **Senator Roesser** Introduced and read first time: January 29, 2002 Assigned to: Judicial Proceedings

# A BILL ENTITLED

1 AN ACT concerning

#### 2

## Wiretap and Electronic Surveillance - Terrorist Organizations

3 FOR the purpose of adding offenses that are committed by or on behalf of an

- 4 organization that is designated as an international terrorist organization under
- 5 federal law to those crimes for which evidence may be gathered by interception
- 6 of oral, wire, or electronic communications under certain circumstances; adding
- 7 offenses that are committed by or on behalf of an organization that is designated
- 8 as an international terrorist organization under federal law to those crimes for
- 9 which certain persons may apply to a judge for an order authorizing the
- 10 interception of oral, wire, or electronic communications; making stylistic
- 11 changes; requiring a certain study and report to be made; providing for the
- 12 termination of certain provisions of this Act; and generally relating to
- 13 wiretapping and electronic surveillance.

14 BY repealing and reenacting, with amendments,

- 15 Article Courts and Judicial Proceedings
- 16 Section 10-402(c)(2) and 10-406
- 17 Annotated Code of Maryland
- 18 (1998 Replacement Volume and 2001 Supplement)

## 19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

20 MARYLAND, That the Laws of Maryland read as follows:

### 21

## **Article - Courts and Judicial Proceedings**

22 10-402.

23 (c) (2) It is lawful under this subtitle for an investigative or law enforcement

24 officer acting in a criminal investigation or any other person acting at the prior

25 direction and under the supervision of an investigative or law enforcement officer to

26 intercept a wire, oral, or electronic communication in order to provide evidence of the

27 commission of:

28 (I) [the offenses of murder, kidnapping, rape, a sexual offense in 29 the first or second degree, child abuse, child pornography, as defined under Article 27,

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1 §§ 419A and 419B of the Code, gambling, robbery under Article 27, § 486 or § 487 of

2 the Code, any felony punishable under the "Arson and Burning" subheading of Article

3 27, bribery, extortion, or dealing in controlled dangerous substances, including

4 violations of Article 27, § 286B or § 287A, fraudulent] MURDER;

5 (II) KIDNAPPING; (III) RAPE; 6 7 (IV)A SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE: 8 (V) CHILD ABUSE; 9 (VI) CHILD PORNOGRAPHY UNDER § 11-207 OR § 11-208 OF THE 10 CRIMINAL LAW ARTICLE; 11 (VII) GAMBLING; (VIII) ROBBERY UNDER § 3-402 OR § 3-403 OF THE CRIMINAL LAW 12 13 ARTICLE; ANY FELONY UNDER TITLE 6, SUBTITLE 1 OF THE CRIMINAL 14 (IX) 15 LAW ARTICLE; 16 (X) BRIBERY; 17 (XI) **EXTORTION:** (XII) DEALING IN A CONTROLLED DANGEROUS SUBSTANCE, 18 19 INCLUDING A VIOLATION OF § 5-617 OR § 5-619 OF THE CRIMINAL LAW ARTICLE; 20 (XIII) FRAUDULENT insurance acts, as defined in Title 27, Subtitle 4 21 of the Insurance [Article, offenses] ARTICLE; OFFENSES relating to destructive devices under [Article 27, § 22 (XIV) 23 139C of the Code, or any] § 4-503 OF THE CRIMINAL LAW ARTICLE; OFFENSES THAT ARE COMMITTED BY OR ON BEHALF OF AN 24 (XV) 25 ORGANIZATION THAT IS DESIGNATED AS AN INTERNATIONAL TERRORIST 26 ORGANIZATION IN ACCORDANCE WITH 8 U.S.C. § 1189; 27 (XVI) A conspiracy or solicitation to commit [any of these offenses, or 28 where any] AN OFFENSE LISTED IN ITEMS (I) THROUGH (XV) OF THIS SUBSECTION; 29 OR 30 (XVII) IF: 31 1. A person has created a barricade [situation and probable] 32 SITUATION;

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	enforcement offic INVOLVED; AN		2. a hostage		BLE cause exists for the investigative or law ages may be [involved, where the]
4 5	COMMUNICAT	ION; OR	3.	A.	THE person is a party to the [communication or one]
6 7	consent to the inte		B.	ONE of	the parties to the communication has given prior
8	10-406.				
11 12	(A) The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10-408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:				
16 17	(1) [the offense of murder, kidnapping, child pornography, as defined in Article 27, §§ 419A and 419B of the Code, gambling, robbery under Article 27, § 486 or § 487 of the Code, any felony punishable under the "Arson and Burning" subheading of Article 27 of this Code, bribery, extortion, or dealing in controlled dangerous substances, offenses] MURDER;				
19	(2)	KIDNAI	PPING;		
20 21	(3) CHILD PORNOGRAPHY UNDER § 11-207 OR § 11-208 OF THE CRIMINAL LAW ARTICLE;				
22	(4)	GAMBL	JNG;		
23	(5)	ROBBE	RY UNE	DER § 3-	402 OR § 3-403 OF THE CRIMINAL LAW ARTICLE;
24 25	(6) ARTICLE;	ANY FE	ELONY U	UNDER	TITLE 6, SUBTITLE 1 OF THE CRIMINAL LAW
26	(7)	BRIBER	RΥ;		
27	(8)	EXTOR	TION;		
28	(9)	DEALIN	IG IN A	CONTR	OLLED DANGEROUS SUBSTANCE;
29 30	(10) of the Code, or an				structive devices under [Article 27, § 139C AL LAW ARTICLE;
	(11) OFFENSES THAT ARE COMMITTED BY OR ON BEHALF OF AN ORGANIZATION THAT IS DESIGNATED AS AN INTERNATIONAL TERRORIST ORGANIZATION IN ACCORDANCE WITH 8 U.S.C. § 1189; OR				

34 (12) A conspiracy or solicitation to commit [any of the foregoing offenses]
35 AN OFFENSE LISTED IN ITEMS (1) THROUGH (11) OF THIS SUBSECTION.

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1 (B) No application or order shall be required if the interception is lawful under 2 the provisions of § 10-402(c) of this subtitle.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of 4 State Police in consultation with the Office of the Attorney General shall study the 5 use and effectiveness of this Act and shall submit a report to the General Assembly 6 before December 1, 2006.

7 SECTION 3. AND BE IT FURTHER ENACTED, That §§ 10-402(c)(2)(xv) and 8 10-406(a)(11) of the Courts Article as enacted by this Act shall remain effective for a 9 period of 5 years and, at the end of September 30, 2007, with no further action 10 required by the General Assembly, this Act shall be abrogated and of no further force 11 and effect.

12 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect 13 October 1, 2002.

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