
By: **Senator Colburn**

Introduced and read first time: February 1, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Wiretap and Electronic Surveillance - Proceeds of Drug Crimes**

3 FOR the purpose of adding certain money laundering offenses relating to the proceeds
4 of drug crimes to those crimes for which evidence may be gathered by
5 interception of oral, wire, or electronic communications under certain
6 circumstances; adding certain money laundering offenses relating to the
7 proceeds of drug crimes to those crimes for which certain persons may apply to
8 a judge for an order authorizing the interception of oral, wire, or electronic
9 communications; making stylistic changes; and generally relating to
10 wiretapping and electronic surveillance.

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section 10-402(c)(2) and 10-406
14 Annotated Code of Maryland
15 (1998 Replacement Volume and 2001 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Criminal Law
18 Section 5-623
19 Annotated Code of Maryland
20 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
21 2002)

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

24 **Article - Courts and Judicial Proceedings**

25 10-402.

26 (c) (2) It is lawful under this subtitle for an investigative or law enforcement
27 officer acting in a criminal investigation or any other person acting at the prior

1 direction and under the supervision of an investigative or law enforcement officer to
2 intercept a wire, oral, or electronic communication in order to provide evidence [of]:

3 (I) OF the commission of:

- 4 1. [the offenses of murder, kidnapping, rape, a sexual offense
5 in the first or second degree, child abuse, child pornography, as defined under Article
6 27, §§ 419A and 419B of the Code, gambling, robbery under Article 27, § 486 or § 487
7 of the Code, any felony punishable under the "Arson and Burning" subheading of
8 Article 27, bribery, extortion, or dealing in controlled dangerous substances, including
9 violations of Article 27, § 286B or § 287A, fraudulent] MURDER;
- 10 2. KIDNAPPING;
- 11 3. RAPE;
- 12 4. A SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE;
- 13 5. CHILD ABUSE;
- 14 6. CHILD PORNOGRAPHY UNDER § 11-207 OR § 11-208 OF THE
15 CRIMINAL LAW ARTICLE;
- 16 7. GAMBLING;
- 17 8. ROBBERY UNDER § 3-402 OR § 3-403 OF THE CRIMINAL
18 LAW ARTICLE;
- 19 9. A FELONY UNDER TITLE 6, SUBTITLE 1 OF THE CRIMINAL
20 LAW ARTICLE;
- 21 10. BRIBERY;
- 22 11. EXTORTION;
- 23 12. DEALING IN A CONTROLLED DANGEROUS SUBSTANCE,
24 INCLUDING A VIOLATION OF § 5-617 OR § 5-619 OF THE CRIMINAL LAW ARTICLE;
- 25 13. A FRAUDULENT insurance [acts] ACT, as defined in Title
26 27, Subtitle 4 of the Insurance [Article, offenses] ARTICLE;
- 27 14. AN OFFENSE relating to destructive devices under [Article
28 27, § 139C of the Code, or any] § 4-503 OF THE CRIMINAL LAW ARTICLE;
- 29 15. AN OFFENSE RELATING TO THE PROCEEDS OF DRUG
30 CRIMES UNDER § 5-623 OF THE CRIMINAL LAW ARTICLE; OR
- 31 16. A conspiracy or solicitation to commit [any of these
32 offenses, or where any] AN OFFENSE LISTED IN SUBITEMS 1 THROUGH 15 OF THIS
33 ITEM; OR

- 1 (II) IF:
- 2 1. A person has created a barricade [situation and probable]
- 3 SITUATION;
- 4 2. PROBABLE cause exists for the investigative or law
- 5 enforcement officer to believe a hostage or hostages may be [involved, where the]
- 6 INVOLVED; AND
- 7 3. A. THE person is a party to the [communication or one]
- 8 COMMUNICATION; OR
- 9 B. ONE of the parties to the communication has given prior
- 10 consent to the interception.
- 11 10-406.
- 12 (A) The Attorney General, State Prosecutor, or any State's Attorney may apply
- 13 to a judge of competent jurisdiction, and the judge, in accordance with the provisions
- 14 of § 10-408 of this subtitle, may grant an order authorizing the interception of wire,
- 15 oral, or electronic communications by investigative or law enforcement officers when
- 16 the interception may provide or has provided evidence of the commission of:
- 17 (1) [the offense of murder, kidnapping, child pornography, as defined in
- 18 Article 27, §§ 419A and 419B of the Code, gambling, robbery under Article 27, § 486 or
- 19 § 487 of the Code, any felony punishable under the "Arson and Burning" subheading
- 20 of Article 27 of this Code, bribery, extortion, or dealing in controlled dangerous
- 21 substances, offenses] MURDER;
- 22 (2) KIDNAPPING;
- 23 (3) CHILD PORNOGRAPHY UNDER § 11-207 OR § 11-208 OF THE CRIMINAL
- 24 LAW ARTICLE;
- 25 (4) GAMBLING;
- 26 (5) ROBBERY UNDER § 3-402 OR § 3-403 OF THE CRIMINAL LAW ARTICLE;
- 27 (6) A FELONY UNDER TITLE 6, SUBTITLE 1 OF THE CRIMINAL LAW
- 28 ARTICLE;
- 29 (7) BRIBERY;
- 30 (8) EXTORTION;
- 31 (9) DEALING IN A CONTROLLED DANGEROUS SUBSTANCE;
- 32 (10) AN OFFENSE relating to destructive devices under [Article 27, § 139C
- 33 of the Code, or any] § 4-503 OF THE CRIMINAL LAW ARTICLE;

1 (11) AN OFFENSE RELATING TO THE PROCEEDS OF DRUG CRIMES UNDER
2 § 5-623 OF THE CRIMINAL LAW ARTICLE; OR

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

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

7 **Article - Criminal Law**

8 5-623.

9 (a) (1) In this section the following words have the meanings indicated.

10 (2) "Drug crime" means:

11 (i) a crime under this title; or

12 (ii) a crime committed in another jurisdiction that would be a crime
13 under this title if committed in this State.

14 (3) "Financial transaction" means:

15 (i) a payment;

16 (ii) a purchase;

17 (iii) a sale;

18 (iv) a loan;

19 (v) a pledge;

20 (vi) a transfer;

21 (vii) a delivery;

22 (viii) a deposit;

23 (ix) a withdrawal; or

24 (x) an extension of credit or exchange of a monetary instrument or
25 equivalent property, including precious metals, stones or jewelry, airline tickets,
26 stamps, or credit in a financial institution as defined in § 1-101 of the Financial
27 Institutions Article.

28 (4) "Monetary instrument" means:

29 (i) coin or currency of the United States or any other country;

- 1 (ii) a bank check;
- 2 (iii) a travelers' check;
- 3 (iv) a money order;
- 4 (v) an investment security; or
- 5 (vi) a negotiable instrument.

6 (5) "Proceeds" means money or any other property with a value
7 exceeding \$10,000.

8 (b) Except for a financial transaction necessary to preserve a person's right to
9 representation as guaranteed by the 6th Amendment to the United States
10 Constitution and Article 21 of the Maryland Declaration of Rights, a person may not,
11 with the intent to promote a drug crime or with the intent to conceal or disguise the
12 nature, location, source, ownership or control of proceeds of a drug crime:

13 (1) receive or acquire proceeds knowing that the proceeds are derived
14 from a drug crime;

15 (2) engage in a financial transaction involving proceeds knowing that
16 the proceeds are derived from a drug crime;

17 (3) give, sell, transfer, trade, invest, conceal, transport, or maintain an
18 interest in proceeds knowing that the proceeds are derived from a drug crime;

19 (4) direct, promote, plan, organize, initiate, finance, manage, supervise,
20 or facilitate the transportation or transfer of proceeds knowing that the proceeds are
21 derived from a drug crime; or

22 (5) conduct a financial transaction involving proceeds knowing that the
23 proceeds are derived from a drug crime.

24 (c) A person who violates this section is guilty of a felony and on conviction is
25 subject to:

26 (1) for a first violation:

27 (i) imprisonment not exceeding 5 years;

28 (ii) a fine not exceeding the greater of \$250,000 or twice the value of
29 the proceeds involved in the financial transaction; or

30 (iii) both; or

31 (2) for each subsequent violation:

32 (i) imprisonment not exceeding 10 years;

1 (ii) a fine not exceeding the greater of \$500,000 or 5 times the value
2 of the proceeds involved in the financial transaction; or

3 (iii) both.

4 (d) Notwithstanding any other provision of law, for purposes of this section
5 each financial transaction is a separate violation.

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