

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 100 (Chairman, Judiciary Committee)
(Departmental – State Police)

Judiciary

Crimes - Investigation - Unauthorized Access to a Computer

This departmental bill adds the offense of unauthorized access to a computer to the list of offenses for which an officer may intercept a wire, oral, or electronic communication during an investigation. The bill also adds unauthorized access to a computer to the list of offenses for which the Attorney General, State Prosecutor, or any State's attorney may apply for an order authorizing an officer to intercept a wire, oral, or electronic communication as evidence of the commission of the crime.

Fiscal Summary

State Effect: None. It is expected that any additional cases that result from this bill could be handled with existing budgeted resources.

Local Effect: None – see above.

Small Business Effect: The Department of State Police has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Law enforcement and investigative officers and persons acting under the direction or supervision of such officers may intercept a wire, oral, or electronic communication as evidence in a criminal investigation of the following offenses: murder, kidnapping, rape, a sexual offense in the first or second degree, child abuse, child pornography, gambling, robbery, arson and burning felonies, bribery, extortion, dealing

in controlled dangerous substances, fraudulent insurance acts, offenses relating to destructive devices, any conspiracy or solicitation to commit any of these offenses, or where any person has created a barricade situation and probable cause exists for the investigative or law enforcement officer to believe a hostage or hostages may be involved, where the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.

In a subset of these offenses, the Attorney General, State Prosecutor, or any State's attorney may apply to a judge for an order authorizing an investigative or law enforcement officer to intercept a wire, oral, or electronic communication as evidence of the commission of the crime.

The crime of unauthorized access to a computer includes intentionally, willfully, and without authorization: (1) accessing a computer (including system hardware and software); and (2) possessing, identifying, or attempting to identify a valid access code or publicizing or distributing a valid access code to an unauthorized person.

Background: In the wake of the September 11, 2001 attacks, the U.S. Congress passed the USA PATRIOT Act, which in part added computer fraud and abuse to the list of offenses for obtaining a wiretap under federal law.

Additional Comments: The crime of unauthorized access to a computer is currently located in Article 27 § 146. House Bill 11 creates the new Criminal Law Article, which would replace Article 27 § 146 (among other sections) with a substantively similar statute at § 7-302. House Bill 11, if passed, has an effective date of October 1, 2002.

Additional Information

Prior Introductions: HB 1000 in the 2000 session received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - January 21, 2002
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