

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 716
Judicial Proceedings

(Senator Colburn)

Wiretap and Electronic Surveillance - Proceeds of Drug Crimes

This bill adds offenses relating to the proceeds of drug crimes under § 5-623 of the Criminal Law Article (including any conspiracy or solicitation to commit these offenses) to the list of offenses for which: (1) an officer under specified circumstances may intercept a wire, oral, or electronic communication during an investigation; and (2) the Attorney General, State Prosecutor, or any State's Attorney may apply to a judge for (and the judge may grant) an order authorizing a law enforcement officer to intercept a wire, oral, or electronic communication during an investigation.

Fiscal Summary

State Effect: Enforcement of this bill's provisions could be handled with existing budgeted resources.

Local Effect: None -- see above.

Small Business Effect: Potential minimal.

Analysis

Current Law: The Wiretap Act generally prohibits the willful interception of a wire, oral, or electronic communication. However, 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 any of the following offenses, where the officer (or person) is a party to the communication or one of the parties to the communication has given prior consent to the interception: (1)

murder; (2) kidnapping; (3) rape; (4) a sexual offense in the first or second degree; (5) child abuse; (6) child pornography; (7) gambling; (8) robbery; (9) arson and burning felonies; (10) bribery; (11) extortion; (12) dealing in controlled dangerous substances; (13) fraudulent insurance acts; (14) offenses relating to destructive devices; (15) any conspiracy or solicitation to commit any of these offenses; or (16) 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.

Alternatively, the Attorney General, State Prosecutor, or any State's Attorney may apply to a judge for (and the judge may grant) an order authorizing an investigative or law enforcement officer to intercept a wire, oral, or electronic communication as evidence of the commission of any of the following crimes: (1) murder; (2) kidnapping; (3) child pornography; (4) gambling; (5) robbery; (6) arson and burning felonies; (7) bribery; (8) extortion; (9) dealing in controlled dangerous substances; (10) offenses relating to destructive devices; or (11) any conspiracy or solicitation to commit any of these offenses.

With limited exceptions, it is unlawful under § 5-623 of the Criminal Law Article (formerly, Article 27 § 297 B) to, with the intent to promote a drug crime or with the intent to conceal or disguise the nature, location, source, ownership, or control of proceeds of a drug crime:

- receive or acquire proceeds (money or any other property with a value exceeding \$10,000) knowing that the proceeds are derived from a drug crime;
- engage in a financial transaction involving proceeds knowing that the proceeds are derived from a drug crime;
- give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in proceeds knowing that the proceeds are derived from a drug crime;
- direct, promote, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds knowing that the proceeds are derived from a drug crime; or
- conduct a financial transaction involving proceeds knowing that the proceeds are derived from a drug crime.

These crimes are classified as felonies. A first violation subjects an individual to imprisonment up to five years and/or a fine not exceeding the greater of \$250,000 or twice the value of the proceeds involved in the transaction. Each subsequent violation subjects an individual to imprisonment up to ten years and/or a fine not exceeding the greater of \$500,000 or five times the value of the proceeds involved in the transaction. Each financial transaction is considered a separate violation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services,
Department of Legislative Services

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Analysis by: Debra A. Dickstein

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510