

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE

House Bill 474

(Delegate Doory, *et al.*)

(By Request – Baltimore City Administration)

Judiciary

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Wiretap and Electronic Surveillance - Law Enforcement Officers

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This bill expands the authority of an investigative or law enforcement officer acting in a criminal investigation to intercept a wire, oral, or electronic communication by authorizing the interception of a communication to provide evidence of a criminal violation committed by a law enforcement officer while on duty. The bill specifically authorizes the Attorney General, State Prosecutor, or any State's Attorney to apply to a judge for an order authorizing the interception of such a communication.

The bill also provides that such a communication may be used as evidence in an administrative investigation of a law enforcement officer; however, the findings from such an investigation may not be used as evidence in a criminal investigation of an officer.

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Fiscal Summary

**State Effect:** Minimal. It is anticipated that any additional intercepts could be handled using existing resources.

**Local Effect:** None – see above.

**Small Business Effect:** None.

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Analysis

**Current Law:** It is generally unlawful to intercept an oral, wire, or electronic communication without the consent of all parties to the communication. However, it is

lawful for an investigative or law enforcement officer acting in a criminal investigation to intercept a covered communication in order to provide evidence of the commission of:

- murder;
- kidnapping;
- rape;
- a sexual offense in the first or second degree;
- child abuse;
- child pornography;
- gambling;
- robbery;
- arson or other malicious burning (felonies only);
- bribery;
- extortion;
- dealing in a controlled dangerous substance;
- insurance fraud;
- manufacture or possession of a device containing explosive, incendiary, or toxic material; or
- a conspiracy or solicitation to commit one of the above offenses.

Interception is also authorized if a person has created a barricade situation, and there is probable cause to believe a hostage or hostages may be involved.

This authority applies when the investigative or law enforcement officer or other person is a party to the communication, or one of the parties to the communication has given prior consent to the communication.

The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge of competent jurisdiction for an order authorizing interception in connection with any of the above-listed crimes except rape, sexual offense, child abuse, or insurance fraud.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 580 (Senator McFadden) – Judicial Proceedings.

**Information Source(s):** State's Attorneys' Association, Department of State Police,  
Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2003  
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