
By: **Delegates Zirkin, Petzold, Cryor, Dumais, Goldwater, Jones, Kaiser,
Madaleno, Montgomery, and Murray**
Introduced and read first time: February 11, 2004
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 27, 2004

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law - Sexual Solicitation of a Minor**

3 FOR the purpose of prohibiting a person from knowingly soliciting a minor, ~~or an~~
4 ~~individual the person believes to be a minor~~, to engage in activities that would
5 be unlawful for the person to engage in under certain provisions; providing that
6 a certain violation is considered to be committed in the State for purposes of
7 determining jurisdiction under certain circumstances; establishing a certain
8 penalty; providing that a certain person may intercept a wire, oral, or electronic
9 communication in order to provide evidence of the commission of a certain
10 sexual solicitation of a minor; providing that certain persons may apply to a
11 judge for, and the judge may grant, an order authorizing the interception of
12 wire, oral, or electronic communications in order to provide evidence of the
13 commission of a certain sexual solicitation of a minor; defining a certain term;
14 and generally relating to the sexual solicitation of a minor.

15 BY repealing and reenacting, with amendments,
16 Article - Courts and Judicial Proceedings
17 Section 10-402(c)(2) and 10-406
18 Annotated Code of Maryland
19 (2002 Replacement Volume and 2003 Supplement)

20 BY adding to
21 Article - Criminal Law
22 Section 3-324
23 Annotated Code of Maryland
24 (2002 Volume and 2003 Supplement)

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

3 **Article - Courts and Judicial Proceedings**

4 10-402.

5 (c) (2) (i) This paragraph applies to an interception in which:

6 1. The investigative or law enforcement officer or other
7 person is a party to the communication; or

8 2. One of the parties to the communication has given prior
9 consent to the interception.

10 (ii) It is lawful under this subtitle for an investigative or law
11 enforcement officer acting in a criminal investigation or any other person acting at
12 the prior direction and under the supervision of an investigative or law enforcement
13 officer to intercept a wire, oral, or electronic communication in order to provide
14 evidence:

15 1. Of the commission of:

16 A. Murder;

17 B. Kidnapping;

18 C. Rape;

19 D. A sexual offense in the first or second degree;

20 E. Child abuse;

21 F. Child pornography under § 11-207 or § 11-208 of the
22 Criminal Law Article;

23 G. Gambling;

24 H. Robbery under § 3-402 or § 3-403 of the Criminal Law
25 Article;

26 I. A felony under Title 6, Subtitle 1 of the Criminal Law
27 Article;

28 J. Bribery;

29 K. Extortion;

30 L. Dealing in a controlled dangerous substance, including a
31 violation of § 5-617 or § 5-619 of the Criminal Law Article;

1 M. A fraudulent insurance act, as defined in Title 27, Subtitle
2 4 of the Insurance Article;

3 N. An offense relating to destructive devices under § 4-503 of
4 the Criminal Law Article; [or]

5 O. SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF THE
6 CRIMINAL LAW ARTICLE; OR

7 [O.] P. A conspiracy or solicitation to commit an offense
8 listed in items A through [N] O of this item; or

9 2. If:

10 A. A person has created a barricade situation; and

11 B. Probable cause exists for the investigative or law
12 enforcement officer to believe a hostage or hostages may be involved.

13 10-406.

14 (a) The Attorney General, State Prosecutor, or any State's Attorney may apply
15 to a judge of competent jurisdiction, and the judge, in accordance with the provisions
16 of § 10-408 of this subtitle, may grant an order authorizing the interception of wire,
17 oral, or electronic communications by investigative or law enforcement officers when
18 the interception may provide or has provided evidence of the commission of:

19 (1) Murder;

20 (2) Kidnapping;

21 (3) Child pornography under § 11-207 or § 11-208 of the Criminal Law
22 Article;

23 (4) Gambling;

24 (5) Robbery under § 3-402 or § 3-403 of the Criminal Law Article;

25 (6) A felony under Title 6, Subtitle 1 of the Criminal Law Article;

26 (7) Bribery;

27 (8) Extortion;

28 (9) Dealing in a controlled dangerous substance;

29 (10) An offense relating to destructive devices under § 4-503 of the
30 Criminal Law Article; [or]

31 (11) SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF THE CRIMINAL
32 LAW ARTICLE; OR

1 [(11)] (12) A conspiracy or solicitation to commit an offense listed in items
2 (1) through [(10)] (11) of this subsection.

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

5

Article - Criminal Law

6 3-324.

7 (A) IN THIS SECTION, "SOLICIT" MEANS TO COMMAND, AUTHORIZE, URGE,
8 ENTICE, REQUEST, OR ADVISE A PERSON BY ANY MEANS, INCLUDING:

9 (1) IN PERSON;

10 (2) THROUGH AN AGENT OR AGENCY;

11 (3) OVER THE TELEPHONE;

12 (4) THROUGH ANY PRINT MEDIUM;

13 (5) BY MAIL;

14 (6) BY COMPUTER OR INTERNET; OR

15 (7) BY ANY OTHER ELECTRONIC MEANS.

16 (B) A PERSON MAY NOT KNOWINGLY SOLICIT A MINOR, ~~OR AN INDIVIDUAL~~
17 ~~THE PERSON BELIEVES TO BE A MINOR~~, TO ENGAGE IN ACTIVITIES THAT WOULD BE
18 UNLAWFUL FOR THE PERSON TO ENGAGE IN UNDER § 3-304, § 3-306, OR § 3-307 OF
19 THIS SUBTITLE.

20 (C) A VIOLATION OF THIS SECTION IS CONSIDERED TO BE COMMITTED IN THE
21 STATE FOR PURPOSES OF DETERMINING JURISDICTION IF THE SOLICITATION:

22 (1) ORIGINATED IN THE STATE; OR

23 (2) IS RECEIVED IN THE STATE.

24 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON
25 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE
26 NOT EXCEEDING \$25,000 OR BOTH.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 2004.

