By: <u>Senator Jimeno Senators Jimeno, Brochin, Forehand, Garagiola,</u> <u>Giannetti, Green, Haines, Hughes, Jacobs, and Mooney</u>

Introduced and read first time: February 6, 2004 Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments Senate action: Adopted Read second time: March 23, 2004

CHAPTER_____

1 AN ACT concerning

2

Criminal Law - Sexual Solicitation of a Minor

3 FOR the purpose of prohibiting a person, with intent to commit certain sexual

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

16 BY repealing and reenacting, with amendments,

- 17 Article Courts and Judicial Proceedings
- 18 Section 10-402(c)(2) and 10-406
- 19 Annotated Code of Maryland
- 20 (2002 Replacement Volume and 2003 Supplement)

21 BY adding to

- 22 Article Criminal Law
- 23 Section 3-324
- 24 Annotated Code of Maryland

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1	(2002 Volume and 2003 Supplement)							
2 3	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:							
4	Article - Courts and Judicial Proceedings							
5	10-402.							
6	(c)	(2)	(i)	This par	ragraph applies to an interception in which:			
7 8	person is a	party to t	he commu	1. inication;	The investigative or law enforcement officer or other or			
9 10	consent to	the interc	ception.	2.	One of the parties to the communication has given prior			
13 14	11 (ii) It is lawful under this subtitle for an investigative or law 12 enforcement officer acting in a criminal investigation or any other person acting at 13 the prior direction and under the supervision of an investigative or law enforcement 14 officer to intercept a wire, oral, or electronic communication in order to provide 15 evidence:							
16				1.	Of the commission of:			
17				A.	Murder;			
18				B.	Kidnapping;			
19				C.	Rape;			
20				D.	A sexual offense in the first or second degree;			
21				E.	Child abuse;			
22 23	Criminal L	.aw Artic	le;	F.	Child pornography under § 11-207 or § 11-208 of the			
24				G.	Gambling;			
25 26	Article;			H.	Robbery under § 3-402 or § 3-403 of the Criminal Law			
27 28	Article;			I.	A felony under Title 6, Subtitle 1 of the Criminal Law			
29				J.	Bribery;			
30				K.	Extortion;			

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1 2 violation of § 5-61	L. 7 or § 5-619 of the	Dealing in a controlled dangerous substance, including a Criminal Law Article;					
34 4 of the Insurance	M. Article;	A fraudulent insurance act, as defined in Title 27, Subtitle					
5 6 the Criminal Law	N. Article; [or]	An offense relating to destructive devices under § 4-503 of					
7 8 CRIMINAL LAW	O. ARTICLE; OR	SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF THE					
9 10 listed in items A t	[O.] hrough [N] O of thi	P. A conspiracy or solicitation to commit an offense s item; or					
11	2.	If:					
12	А.	A person has created a barricade situation; and					
13 14 enforcement offic	B. er to believe a hosta	Probable cause exists for the investigative or law age or hostages may be involved.					
15 <u>10-406.</u>							
 (a) <u>The Attorney General, State Prosecutor, or any State's Attorney may apply</u> to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10-408 of this subtile, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of: 							
21 (1)	Murder;						
22 <u>(2)</u>	<u>Kidnapping;</u>						
23 <u>(3)</u> 24 <u>Article;</u>	Child pornogra	phy under § 11-207 or § 11-208 of the Criminal Law					
25 <u>(4)</u>	Gambling;						
26 (5)	Robbery under	§ 3-402 or § 3-403 of the Criminal Law Article:					
27 <u>(6)</u>	A felony under	Title 6, Subtitle 1 of the Criminal Law Article;					
28 (7)	Bribery;						
29 (8)	Extortion;						
30 <u>(9)</u>	Dealing in a con	ntrolled dangerous substance;					
31 (10) 32 Criminal Law Art		ting to destructive devices under § 4-503 of the					

4	SENATE BILL 512					
1 2 <u>LA</u>	(11) SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF THE CRIMINAL W ARTICLE; OR					
3 4 <u>ite</u> i	[(11)] (12) A conspiracy or solicitation to commit an offense listed in ns (1) through (10) of this subsection.					
5 6 <u>the</u>	(b) No application or order shall be required if the interception is lawful under provisions of § 10-402(c) of this subtitle.					
7	Article - Criminal Law					
8 3-3	24.					
9 10 EI	(A) IN THIS SECTION, "SOLICIT" MEANS TO COMMAND, AUTHORIZE, URGE, TICE, REQUEST, OR ADVISE <u>OR REQUEST</u> A PERSON BY ANY MEANS, INCLUDING:					
11	(1) IN PERSON;					
12	(2) THROUGH AN AGENT OR AGENCY;					
13	(3) OVER THE TELEPHONE;					
14	(4) THROUGH ANY PRINT MEDIUM;					
15	(5) BY MAIL;					
16	(6) BY COMPUTER OR INTERNET; OR					
17	(7) BY ANY OTHER ELECTRONIC MEANS.					
18 (B) A PERSON MAY NOT <u>, WITH THE INTENT TO COMMIT A VIOLATION OF §</u> 19 <u>3-304, § 3-306, OR § 3-307 OF THIS SUBTITLE</u> , KNOWINGLY SOLICIT A MINOR, OR AN 20 INDIVIDUAL THE PERSON BELIEVES TO BE A MINOR, TO ENGAGE IN ACTIVITIES THAT 21 WOULD BE UNLAWEUL FOR THE PERSON TO ENGAGE IN UNDER § 3-304, § 3-306, OR §						

20 INDIVIDUAL THE PERSON BELIEVES TO BE A MINOR, TO ENGAGE IN ACTIVITIES THAT 21 WOULD BE UNLAWFUL FOR THE PERSON TO ENGAGE IN UNDER § 3-304, § 3-306, OR § 22 3-307 OF THIS SUBTITLE.

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

25 (1) ORIGINATED IN THE STATE; OR

26 (2) IS RECEIVED IN THE STATE.

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take 31 effect October 1, 2004.

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