

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1094
Judiciary

(Delegate Sophocleus, *et al.*)

Interception of Oral Communications - School Vehicles

This bill authorizes a person to intercept an oral communication on a school vehicle or passenger bus used to transport children, students, or teachers for educational purposes or in connection with a school activity.

Fiscal Summary

State Effect: The bill would not materially affect State finances.

Local Effect: The bill would not materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law: Except as otherwise provided in statute, it is unlawful for a person to:

- willfully intercept, endeavor to intercept, or procure any other person to intercept a wire, oral, or electronic communication;
- willfully disclose, or endeavor to disclose, to any other person the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through and illegal intercept; and
- willfully use, or endeavor to use, the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept.

Several exceptions to this prohibition exist. For example:

- Providers of wire or electronic communications services and their agents or employees, may provide information or assistance to persons authorized by law to intercept communications, or conduct electronic surveillance if the provider has been provided with a court order.
- Law enforcement officers and persons acting with the prior direction and under the supervision of law enforcement officials may intercept communications as part of a criminal investigation to provide evidence of several specified felonies and other crimes.
- A person may intercept communications where all parties to the communication have given consent, unless the communication is intercepted for the purpose of committing a tortious or criminal act.
- An employee or agent of an emergency communications center may intercept communications concerning an emergency, where that person is a party to the communication.
- Law enforcement personnel may utilize body wires to intercept oral communication if there is reasonable cause to believe a law enforcement officer's safety may be jeopardy.
- A person may intercept electronic or radio communications through a communications system accessible to the general public.
- Law enforcement may place a device within a vehicle to intercept communication in order to provide evidence of vehicle theft.

Generally, a person who violates State eavesdropping or wiretapping laws is guilty of a felony and is subject to maximum penalties of a \$10,000 fine and/or five years imprisonment. A first offense for intercepting an unscrambled radio, cellular phone, or pager communication without tortious, commercial, or illegal purpose is subject to a lesser penalty.

Additional Information

Prior Introductions: None.

Cross File: SB 698 (Senator Stone) – Judicial Proceedings.

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

Fiscal Note History: First Reader - March 12, 2007
mll/jr

Analysis by: Nicholas M. Goedert

Direct Inquiries to:
(410) 946-5510
(301) 970-5510