

SENATE BILL 271

E2, D3

(8lr1552)

ENROLLED BILL

—*Judicial Proceedings/Judiciary*—

Introduced by **Senator Stone (By Request – Committee to Revise Article 27 – Crimes and Punishments)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Admissibility of Evidence – Intercepted Communications – Electronic**

3 FOR the purpose of repealing a provision of law excluding a certain radio portion of
4 certain telephone communications from a certain definition of “electronic
5 communication”; prohibiting the admissibility of the contents of an intercepted
6 electronic communication or information derived from an intercepted electronic
7 communication as evidence in certain proceedings under certain circumstances;
8 providing that an electronic communication that was intercepted in the
9 violation of certain provisions of law may be admissible in certain proceedings
10 under certain circumstances; and generally relating to the admissibility of
11 evidence and intercepted electronic communications.

12 BY repealing and reenacting, without amendments,
13 Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 Section 10-401(11)
 2 Annotated Code of Maryland
 3 (2006 Replacement Volume and 2007 Supplement)

4 BY repealing and reenacting, with amendments,
 5 Article – Courts and Judicial Proceedings
 6 Section 10-405
 7 Annotated Code of Maryland
 8 (2006 Replacement Volume and 2007 Supplement)

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

11 **Article – Courts and Judicial Proceedings**

12 10-401.

13 As used in this subtitle the following terms have the meanings indicated:

14 (11) (i) “Electronic communication” means any transfer of signs,
 15 signals, writing, images, sounds, data, or intelligence of any nature transmitted in
 16 whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical
 17 system.

18 (ii) “Electronic communication” does not include:

19 1. ~~The radio portion of a cordless telephone~~
 20 ~~communication that is transmitted between the cordless telephone handset and the~~
 21 ~~base unit;~~

22 ~~2.~~ Any wire or oral communication;

23 ~~3.~~ 2. Any communication made through a tone-only paging
 24 device; or

25 ~~4.~~ 3. Any communication from a tracking device.

26 10-405.

27 (a) Except as provided in subsection (b) of this section, whenever any [wire
 28 or oral] **WIRE, ORAL, OR ELECTRONIC** communication has been intercepted, no part
 29 of the contents of the communication and no evidence derived therefrom may be
 30 received in evidence in any trial, hearing, or other proceeding in or before any court,
 31 grand jury, department, officer, agency, regulatory body, legislative committee, or
 32 other authority of this State, or a political subdivision thereof if the disclosure of that
 33 information would be in violation of this subtitle.

1 (b) If any [wire or oral] **WIRE, ORAL, OR ELECTRONIC** communication is
 2 intercepted in any state or any political subdivision of a state, the United States or
 3 any territory, protectorate, or possession of the United States, including the District of
 4 Columbia in accordance with the law of that jurisdiction, but that would be in
 5 violation of this subtitle if the interception was made in this State, the contents of the
 6 communication and evidence derived from the communication may be received in
 7 evidence in any trial, hearing, or other proceeding in or before any court, grand jury,
 8 department, officer, agency, regulatory body, legislative committee, or other authority
 9 of this State, or any political subdivision of this State if:

10 (1) At least one of the parties to the communication was outside the
 11 State during the communication;

12 (2) The interception was not made as part of or in furtherance of an
 13 investigation conducted by or on behalf of law enforcement officials of this State; and

14 (3) All parties to the communication were co-conspirators in a crime of
 15 violence as defined in § 14-101 of the Criminal Law Article.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 17 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.