

SENATE BILL 271

E2, D3

8lr1552

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

Introduced and read first time: January 25, 2008

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of prohibiting the admissibility of the contents of an intercepted
4 electronic communication or information derived from an intercepted electronic
5 communication as evidence in certain proceedings under certain circumstances;
6 providing that an electronic communication that was intercepted in the
7 violation of certain provisions of law may be admissible in certain proceedings
8 under certain circumstances; and generally relating to the admissibility of
9 evidence and intercepted electronic communications.

10 BY repealing and reenacting, without amendments,
11 Article – Courts and Judicial Proceedings
12 Section 10–401(11)
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2007 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Courts and Judicial Proceedings
17 Section 10–405
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2007 Supplement)

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

22 **Article – Courts and Judicial Proceedings**

23 10–401.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

6 1. The radio portion of a cordless telephone
7 communication that is transmitted between the cordless telephone handset and the
8 base unit;

9 2. Any wire or oral communication;

10 3. Any communication made through a tone-only paging
11 device; or

12 4. Any communication from a tracking device.

13 10–405.

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

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

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

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

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

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