# **SENATE BILL 271**

# 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

Committee Report: Favorable Senate action: Adopted Read second time: March 10, 2008

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

## 2 Admissibility of Evidence – Intercepted Communications – Electronic

- FOR the purpose of prohibiting the admissibility of the contents of an intercepted
  electronic communication or information derived from an intercepted electronic
  communication as evidence in certain proceedings under certain circumstances;
  providing that an electronic communication that was intercepted in the
  violation of certain provisions of law may be admissible in certain proceedings
  under certain circumstances; and generally relating to the admissibility of
  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:

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law. <u>Underlining</u> indicates amendments to bill. <u>Strike out</u> indicates matter stricken from the bill by amendment

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



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1	<b>Article – Courts and Judicial Proceedings</b>
2	10–401.
3	As used in this subtitle the following terms have the meanings indicated:
4 5 6 7	(11) (i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.
8	(ii) "Electronic communication" does not include:
9 10 11	1. The radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;
12	2. Any wire or oral communication;
$\begin{array}{c} 13\\14\end{array}$	3. Any communication made through a tone–only paging device; or
15	4. Any communication from a tracking device.
16	10–405.
17 18 19 20	(a) Except as provided in subsection (b) of this section, whenever any [wire or oral] WIRE, ORAL, OR ELECTRONIC communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial hearing or other proceeding in or before any court

20received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or 2122other authority of this State, or a political subdivision thereof if the disclosure of that 23information would be in violation of this subtitle.

24(b) If any [wire or oral] WIRE, ORAL, OR ELECTRONIC communication is 25intercepted in any state or any political subdivision of a state, the United States or 26any territory, protectorate, or possession of the United States, including the District of 27Columbia in accordance with the law of that jurisdiction, but that would be in 28violation of this subtitle if the interception was made in this State, the contents of the 29 communication and evidence derived from the communication may be received in 30 evidence in any trial, hearing, or other proceeding in or before any court, grand jury, 31department, officer, agency, regulatory body, legislative committee, or other authority 32of this State, or any political subdivision of this State if:

33 (1)At least one of the parties to the communication was outside the 34State during the communication:

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

3 (3) All parties to the communication were co-conspirators in a crime of 4 violence as defined in § 14–101 of the Criminal Law Article.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 6 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.