

# HOUSE BILL 489

D1, E2

1r1220  
CF SB 440

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By: **Delegate Moon**

Introduced and read first time: January 15, 2021

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2021

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

1 AN ACT concerning

2 **Courts – Wiretapping – Misconduct in Office**

3 FOR the purpose of adding misconduct in office to ~~a certain list~~ lists of crimes for which  
4 certain evidence may be gathered by, ~~and a judge may grant an order authorizing,~~  
5 interception of oral, wire, or electronic communications; and generally relating to  
6 interception of oral, wire, or electronic communications.

7 BY repealing and reenacting, with amendments,  
8 Article – Courts and Judicial Proceedings  
9 Section 10–402(c)(2) and 10–406  
10 Annotated Code of Maryland  
11 (2020 Replacement Volume)

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

14 **Article – Courts and Judicial Proceedings**

15 10–402.

16 (c) (2) (i) This paragraph applies to an interception in which:

17 1. The investigative or law enforcement officer or other  
18 person is a party to the communication; or

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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.



1                            2.        One of the parties to the communication has given prior  
2 consent to the interception.

3                            (ii)    It is lawful under this subtitle for an investigative or law  
4 enforcement officer acting in a criminal investigation or any other person acting at the prior  
5 direction and under the supervision of an investigative or law enforcement officer to  
6 intercept a wire, oral, or electronic communication in order to provide evidence:

7                            1.        Of the commission of:

8                            A.        Murder;

9                            B.        Kidnapping;

10                           C.        Rape;

11                           D.        A sexual offense in the first or second degree;

12                           E.        Child abuse in the first or second degree;

13                           F.        Child pornography under § 11-207, § 11-208, or §  
14 11-208.1 of the Criminal Law Article;

15                           G.        Gambling;

16                           H.        Robbery under § 3-402 or § 3-403 of the Criminal Law  
17 Article;

18                           I.        A felony under Title 6, Subtitle 1 of the Criminal Law  
19 Article;

20                           J.        Bribery;

21                           K.        Extortion;

22                           L.        Dealing in a controlled dangerous substance, including a  
23 violation of § 5-617 or § 5-619 of the Criminal Law Article;

24                           M.        A fraudulent insurance act, as defined in Title 27, Subtitle  
25 4 of the Insurance Article;

26                           N.        An offense relating to destructive devices under § 4-503 of  
27 the Criminal Law Article;

28                           O.        A human trafficking offense under Title 3, Subtitle 11 of  
29 the Criminal Law Article;

1 P. Sexual solicitation of a minor under § 3–324 of the  
2 Criminal Law Article;

3 Q. An offense relating to obstructing justice under § 9–302, §  
4 9–303, or § 9–305 of the Criminal Law Article;

5 R. Sexual abuse of a minor under § 3–602 of the Criminal  
6 Law Article;

7 S. A theft scheme or continuing course of conduct under §  
8 7–103(f) of the Criminal Law Article involving an aggregate value of property or services of  
9 at least \$10,000;

10 T. Abuse or neglect of a vulnerable adult under § 3–604 or §  
11 3–605 of the Criminal Law Article;

12 U. An offense relating to Medicaid fraud under §§ 8–509  
13 through 8–515 of the Criminal Law Article;

14 V. An offense involving a firearm under § 5–134, § 5–136, §  
15 5–138, § 5–140, § 5–141, or § 5–144 of the Public Safety Article; [or]

16 **W. MISCONDUCT IN OFFICE; OR**

17 **[W.] X. A conspiracy or solicitation to commit an offense**  
18 **listed in items A through [V] W of this item; or**

19 **2. If:**

20 **A. A person has created a barricade situation; and**

21 **B. Probable cause exists for the investigative or law**  
22 **enforcement officer to believe a hostage or hostages may be involved.**

23 10–406.

24 (a) The Attorney General, State Prosecutor, or any State’s Attorney may apply to  
25 a judge of competent jurisdiction, and the judge, in accordance with the provisions of §  
26 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or  
27 electronic communications by investigative or law enforcement officers when the  
28 interception may provide or has provided evidence of the commission of:

29 (1) Murder;

30 (2) Kidnapping;

- 1 (3) Rape;
- 2 (4) A sexual offense in the first or second degree;
- 3 (5) Child abuse in the first or second degree;
- 4 (6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the  
5 Criminal Law Article;
- 6 (7) Gambling;
- 7 (8) Robbery under § 3–402 or § 3–403 of the Criminal Law Article;
- 8 (9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;
- 9 (10) Bribery;
- 10 (11) Extortion;
- 11 (12) Dealing in a controlled dangerous substance, including a violation of §  
12 5–617 or § 5–619 of the Criminal Law Article;
- 13 (13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the  
14 Insurance Article;
- 15 (14) An offense relating to destructive devices under § 4–503 of the Criminal  
16 Law Article;
- 17 (15) A human trafficking offense under Title 3, Subtitle 11 of the Criminal  
18 Law Article;
- 19 (16) Sexual solicitation of a minor under § 3–324 of the Criminal Law  
20 Article;
- 21 (17) An offense relating to obstructing justice under § 9–302, § 9–303, or §  
22 9–305 of the Criminal Law Article;
- 23 (18) Sexual abuse of a minor under § 3–602 of the Criminal Law Article;
- 24 (19) A theft scheme or continuing course of conduct under § 7–103(f) of the  
25 Criminal Law Article involving an aggregate value of property or services of at least  
26 \$10,000;
- 27 (20) Abuse or neglect of a vulnerable adult under § 3–604 or § 3–605 of the  
28 Criminal Law Article;
- 29 (21) An offense relating to Medicaid fraud under §§ 8–509 through 8–515 of

1 the Criminal Law Article;

2 (22) An offense involving a firearm under § 5–134, § 5–136, § 5–138, §  
3 5–140, § 5–141, or § 5–144 of the Public Safety Article; [or]

4 **(23) MISCONDUCT IN OFFICE; OR**

5 **[(23)] (24)** A conspiracy or solicitation to commit an offense listed in items  
6 (1) through **[(22)] (23)** of this subsection.

7 (b) No application or order shall be required if the interception is lawful under  
8 the provisions of § 10–402(c) of this subtitle.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2021.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.