

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 47

(Senator Sydnor)

Judicial Proceedings

---

Evidence – Wiretapping and Electronic Surveillance – Fair Housing Testing

---

This bill establishes that it is lawful for a person to intercept a wire, oral, or electronic communication if (1) the person is working as a fair housing tester for a fair housing testing program operated by the federal government, the State, a local government, or a nonprofit civil rights organization; (2) the person is a party to the communication; and (3) the interception is being made for the purpose of obtaining evidence of a fair housing violation under federal, State, or local law.

---

Fiscal Summary

**State Effect:** The bill is not anticipated to materially affect State finances or operations.

**Local Effect:** The bill is not anticipated to materially affect local finances or operations.

**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 an illegal intercept; or

- 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.

One existing specified exception is the interception of a communication where the interceptor is a party to the communication and all of the parties to the communication have given prior consent to the interception, unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of State or federal law. Exceptions also exist for law enforcement activities that meet specified criteria.

Violators are guilty of a felony, punishable by imprisonment for up to five years and/or a \$10,000 maximum fine.

---

### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland Commission on Civil Rights; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Housing and Community Development; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - January 30, 2023  
km/aad

---

Analysis by: Brandon Stouffer

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