

HOUSE BILL 392

C9, D1

4r1501
CF SB 57

By: **Delegates Stewart and Young**

Introduced and read first time: January 17, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Evidence – Wiretapping and Electronic Surveillance – Fair Housing Testing**

3 FOR the purpose of providing that it is lawful for a person to intercept a wire, oral, or
4 electronic communication if the person is working as a fair housing tester for a
5 certain fair housing testing program under certain circumstances; and generally
6 relating to wire and electronic surveillance.

7 BY adding to

8 Article – Courts and Judicial Proceedings

9 Section 10–401(13) and 10–402(c)(12)

10 Annotated Code of Maryland

11 (2020 Replacement Volume and 2023 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Courts and Judicial Proceedings

14 Section 10–401(13) through (18)

15 Annotated Code of Maryland

16 (2020 Replacement Volume and 2023 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 10–401.

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

22 **(13) “NONPROFIT CIVIL RIGHTS ORGANIZATION” MEANS:**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (I) A QUALIFIED FAIR HOUSING ENFORCEMENT
 2 ORGANIZATION OR A FAIR HOUSING ORGANIZATION AS DEFINED UNDER 24 C.F.R. §
 3 125.103; OR

4 (II) AN ORGANIZATION INCORPORATED UNDER MARYLAND
 5 LAW AS A PRIVATE, TAX-EXEMPT CIVIL RIGHTS ORGANIZATION THAT HAS AT LEAST
 6 2 YEARS' EXPERIENCE IN:

7 1. COMPLAINT INTAKE;

8 2. COMPLAINT INVESTIGATION; AND

9 3. TESTING FOR FAIR HOUSING VIOLATIONS OR
 10 ENFORCEMENT OF MERITORIOUS CLAIMS.

11 [(13)] (14) (i) "Oral communication" means any conversation or words
 12 spoken to or by any person in private conversation.

13 (ii) "Oral communication" does not include any electronic
 14 communication.

15 [(14)] (15) "Person" means any employee or agent of this State or a political
 16 subdivision thereof, and any individual, partnership, association, joint stock company,
 17 trust, or corporation.

18 [(15)] (16) "Readily accessible to the general public" means, with respect to
 19 a radio communication, that the communication is not:

20 (i) Scrambled or encrypted;

21 (ii) Transmitted using modulation techniques the essential
 22 parameters of which have been withheld from the public with the intention of preserving
 23 the privacy of the communication; or

24 (iii) Except for tone-only paging device communications, transmitted
 25 over frequencies reserved for private use and licensed for private use under federal or State
 26 law.

27 [(16)] (17) "Telephone solicitation theft" means conduct of a person that:

28 (i) Constitutes the offense of theft or attempted theft; and

29 (ii) Involves the use of a telephone to solicit the payment of money.

30 [(17)] (18) "User" means any person or entity that:

- 1 (i) Uses an electronic communication service; and
- 2 (ii) Is duly authorized by the provider of the service to engage in that
- 3 use.

4 [(18)] (19) “Wire communication” means any aural transfer made in whole
5 or in part through the use of facilities for the transmission of communications by the aid of
6 wire, cable, or other like connection between the point of origin and the point of reception
7 (including the use of a connection in a switching station) furnished or operated by any
8 person licensed to engage in providing or operating such facilities for the transmission of
9 communications.

10 10–402.

11 (c) (12) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO
12 INTERCEPT A WIRE, ORAL, OR ELECTRONIC COMMUNICATION IF:

13 (I) THE PERSON IS WORKING AS A FAIR HOUSING TESTER FOR
14 A FAIR HOUSING TESTING PROGRAM OPERATED BY:

- 15 1. THE FEDERAL GOVERNMENT;
- 16 2. THE STATE;
- 17 3. A LOCAL GOVERNMENT; OR
- 18 4. A NONPROFIT CIVIL RIGHTS ORGANIZATION;

19 (II) THE PERSON IS A PARTY TO THE COMMUNICATION; AND

20 (III) THE INTERCEPTION IS BEING MADE FOR THE PURPOSE OF
21 OBTAINING EVIDENCE OF A FAIR HOUSING VIOLATION UNDER FEDERAL, STATE, OR
22 LOCAL LAW.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2024.