

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 706
Judiciary

(Delegate Grammer)

Intercepted Communications - Statute of Limitations and Penalties

This bill reclassifies a violation of § 10-402(a) of the Courts and Judicial Proceedings Article (intercepted communications) from a felony to a misdemeanor and establishes that a criminal prosecution or suit for a civil penalty for an offense under § 10-402(a) must be instituted within five years after the offense was committed. (Under current law, there is no statute of limitations for charging an offense under § 10-402(a); however, a suit for a penalty must be initiated within one year after the offense was committed.) The bill also specifies that Title 11, Subtitle 6 of the Criminal Procedure Article may not be construed to limit the amount of restitution ordered to be paid to a victim of a violation of § 10-402(a).

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 or endeavor 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.

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

Statute of Limitations

In general, Maryland law allows a *felony* to be prosecuted at any time. Under § 5-106 of the Courts and Judicial Proceedings Article, unless otherwise specified, a prosecution for a *misdemeanor* must be initiated within one year after the offense was committed. Generally, under § 5-107 of the Courts and Judicial Proceedings Article, unless otherwise specified, a prosecution or *suit* for a fine, *penalty*, or forfeiture must be initiated within one year after the offense was committed.

Restitution – Title 11, Subtitle 6 of the Criminal Procedure Article

A court may enter a judgment of restitution that orders a defendant, child respondent, or liable parent to make restitution in addition to any other penalty for the commission of a crime or a delinquent act if:

- as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;
- as a direct result of the crime or delinquent act, the victim suffered (1) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses; (2) direct out-of-pocket-loss; (3) loss of earnings; or (4) expenses incurred with rehabilitation;
- the victim incurred medical expenses that were paid by the Maryland Department of Health (MDH) or any other governmental unit;
- a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle, as specified;
- the Criminal Injuries Compensation Board paid benefits to a victim; or
- MDH or another governmental unit paid expenses incurred for HIV or Hepatitis C testing, as specified.

A judgment of restitution does not preclude the property owner or the victim who suffered personal physical or mental injury, out-of-pocket loss of earnings, or support from bringing a civil action to recover damages from the restitution obligor. A civil verdict must be reduced by the amount paid under the criminal judgment of restitution.

Additional Comments: The Judiciary advises that, in fiscal 2024, there were 34 violations (charges) and 0 guilty dispositions (convictions) under § 10-402 in the District Court and 8 violations and 0 guilty dispositions in the State’s circuit courts. In fiscal 2023, there were 23 violations and 0 guilty dispositions in the District Court and 53 violations and 1 guilty disposition in the circuit courts.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see HB 274 of 2024; HB 362 of 2023; and HB 272 and SB 324 of 2022.

Designated Cross File: None.

Information Source(s): Calvert and Prince George’s counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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