

**SB0661/643622/1**

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 661  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**and West**” and substitute “**West, Folden, James, and Muse**”.

AMENDMENT NO. 2

On page 1, in line 4, after the first “of” insert “authorizing a person to intercept a wire, oral, or electronic communication that is a recording or part of a recording of the commission or attempted commission of a certain crime;”; in line 6, after “circumstances;” insert “providing for a certain affirmative defense to a charge under the wiretap statute;”; and after line 7, insert:

“BY repealing and reenacting, without amendments,

Article – Courts and Judicial Proceedings

Section 10–402(a) and (b)

Annotated Code of Maryland

(2020 Replacement Volume and 2025 Supplement)”

BY adding to

Article – Courts and Judicial Proceedings

Section 10–402(c)(12)

Annotated Code of Maryland

(2020 Replacement Volume and 2025 Supplement)”.

AMENDMENT NO. 3

On page 1, after line 15, insert:

“10–402.

(a) Except as otherwise specifically provided in this subtitle it is unlawful for any person to:

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(1) Willfully intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(2) Willfully disclose, or endeavor to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subtitle; or

(3) Willfully use, or endeavor to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subtitle.

(b) Any person who violates subsection (a) of this section is guilty of a felony and is subject to imprisonment for not more than 5 years or a fine of not more than \$10,000, or both.

(c) (12) (I) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO INTERCEPT A WIRE, ORAL, OR ELECTRONIC COMMUNICATION THAT IS A RECORDING OF OR IS PART OF A RECORDING OF THE COMMISSION OR ATTEMPTED COMMISSION OF THE FOLLOWING CRIMES AGAINST THE PERSON:

1. MURDER IN ANY DEGREE;
2. RAPE IN ANY DEGREE; OR
3. ASSAULT IN THE FIRST DEGREE THAT IS A DOMESTICALLY RELATED CRIME, AS DEFINED IN § 6-233 OF THE CRIMINAL PROCEDURE ARTICLE.

(II) IT IS AN AFFIRMATIVE DEFENSE TO A CRIMINAL PROSECUTION UNDER THIS SUBTITLE THAT THE DEFENDANT INTERCEPTED THE WIRE, ORAL, OR ELECTRONIC COMMUNICATION BECAUSE THE DEFENDANT

REASONABLY BELIEVED THAT THE DEFENDANT WAS IN IMMINENT DANGER OF BECOMING THE VICTIM OF A CRIME LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.”.

On page 2, strike in their entirety lines 15 through 35, inclusive, and substitute:

“(C) (1) ANY WIRE, ORAL, OR ELECTRONIC COMMUNICATION THAT HAS BEEN INTERCEPTED AS AUTHORIZED UNDER § 10-402(C)(12) OF THIS SUBTITLE MAY BE RECEIVED IN EVIDENCE IN A CRIMINAL TRIAL OR HEARING BEFORE THE DISTRICT COURT OR CIRCUIT COURT IF THE COMMUNICATION:

(I) IS A RECORDING OR PART OF A RECORDING OF THE COMMISSION OR ATTEMPTED COMMISSION OF A CRIME LISTED IN § 10-402(C)(12) OF THIS SUBTITLE; AND

(II) IS USED AS EVIDENCE IN THE CHARGE OF AN OFFENSE LISTED IN § 10-402(C)(12) OF THIS SUBTITLE.

(2) A COMMUNICATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE ADMITTED AS EVIDENCE OF A CRIME NOT LISTED IN § 10-402(C)(12).”.

On page 3, strike in their entirety lines 1 through 3, inclusive; in line 4, strike “(2)” and substitute “(3)”; and after line 13, insert:

“(4) THIS SECTION MAY NOT BE CONSTRUED TO ABROGATE OR LIMIT ANY RULE RELATING TO THE ADMISSIBILITY OF EVIDENCE UNDER THE MARYLAND RULES.”.