

SENATE BILL 661

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6lr2618

By: ~~Senators Love, Charles, Henson, McKay, Smith, Sydnor, Waldstreicher, and~~
West West, Folden, James, and Muse

Introduced and read first time: February 6, 2026

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2026

CHAPTER _____

1 AN ACT concerning

2 **Wiretapping and Electronic Surveillance – Intercepted Communications –**
3 **Admissibility of Evidence**

4 FOR the purpose of authorizing a person to intercept a wire, oral, or electronic
5 communication that is a recording or part of a recording of the commission or
6 attempted commission of a certain crime; providing that the contents of a certain
7 intercepted communication and evidence derived from the communication may be
8 received in evidence in a certain criminal proceeding under certain circumstances;
9 providing for a certain affirmative defense to a charge under the wiretap statute; and
10 generally relating to the admissibility of intercepted communications.

11 BY repealing and reenacting, without amendments,
12 Article – Courts and Judicial Proceedings
13 Section 10–402(a) and (b)
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2025 Supplement)

16 BY adding to
17 Article – Courts and Judicial Proceedings
18 Section 10–402(c)(12)
19 Annotated Code of Maryland
20 (2020 Replacement Volume and 2025 Supplement)

21 BY repealing and reenacting, with amendments,

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 Article – Courts and Judicial Proceedings
2 Section 10–405
3 Annotated Code of Maryland
4 (2020 Replacement Volume and 2025 Supplement)

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

7 **Article – Courts and Judicial Proceedings**

8 10–402.

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

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

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

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

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

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

28 **1. MURDER IN ANY DEGREE;**

29 **2. RAPE IN ANY DEGREE; OR**

30 **3. ASSAULT IN THE FIRST DEGREE THAT IS A**
31 **DOMESTICALLY RELATED CRIME, AS DEFINED IN § 6–233 OF THE CRIMINAL**
32 **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.

10–405.

(a) Except as provided in [subsection] SUBSECTIONS (b) AND (C) of this section, whenever any wire, oral, or electronic communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or a political subdivision thereof if the disclosure of that information would be in violation of this subtitle.

(b) If any wire, oral, or electronic communication is intercepted in any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia in accordance with the law of that jurisdiction, but that would be in violation of this subtitle if the interception was made in this State, the contents of the communication and evidence derived from the communication may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or any political subdivision of this State if:

(1) At least one of the parties to the communication was outside the State during the communication;

(2) The interception was not made as part of or in furtherance of an investigation conducted by or on behalf of law enforcement officials of this State; and

(3) All parties to the communication were co-conspirators in a crime of violence as defined in § 14–101 of the Criminal Law Article.

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF ANY WIRE, ORAL, OR ELECTRONIC COMMUNICATION HAS BEEN INTERCEPTED, THE CONTENTS OF THE COMMUNICATION AND EVIDENCE DERIVED FROM THE COMMUNICATION MAY BE RECEIVED IN EVIDENCE IN A CRIMINAL TRIAL OR HEARING BEFORE THE DISTRICT COURT OR CIRCUIT COURT IF THE COURT DETERMINES THAT:~~

~~(i) THE CASE IN WHICH THE COMMUNICATION IS OFFERED INVOLVES:~~

~~1. A CRIME COMMITTED AGAINST AT LEAST ONE INDIVIDUAL; OR~~

1 ~~2. A HATE CRIME UNDER TITLE 10, SUBTITLE 3 OF THE~~
2 ~~CRIMINAL LAW ARTICLE;~~

3 ~~(II) THE CONTENTS OF THE COMMUNICATION AND EVIDENCE~~
4 ~~DERIVED FROM THE COMMUNICATION ARE OFFERED AS EVIDENCE OF A MATERIAL~~
5 ~~FACT;~~

6 ~~(III) THE INTERCEPTION WAS NOT MADE AS PART OF OR IN~~
7 ~~FURTHERANCE OF AN INVESTIGATION CONDUCTED BY OR ON BEHALF OF LAW~~
8 ~~ENFORCEMENT OFFICIALS OF THIS STATE;~~

9 ~~(IV) THE CONTENTS OF THE COMMUNICATION AND EVIDENCE~~
10 ~~DERIVED FROM THE COMMUNICATION ARE MORE PROBATIVE ON THE POINT FOR~~
11 ~~WHICH THEY ARE OFFERED THAN ANY OTHER EVIDENCE THAT THE PROPONENT CAN~~
12 ~~PROCURE THROUGH REASONABLE EFFORTS; AND~~

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

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

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

22 (2) A COMMUNICATION DESCRIBED IN PARAGRAPH (1) OF THIS
23 SUBSECTION MAY NOT BE ADMITTED AS EVIDENCE OF A CRIME NOT LISTED IN §
24 10-402(C)(12).

25 ~~(V) THE INTEREST OF JUSTICE WILL BE BEST SERVED BY THE~~
26 ~~ADMISSION INTO EVIDENCE OF THE CONTENTS OF THE COMMUNICATION AND~~
27 ~~EVIDENCE DERIVED FROM THE COMMUNICATION.~~

28 ~~(2) (3)~~ THE CONTENTS OF A COMMUNICATION AND EVIDENCE
29 DERIVED FROM THE COMMUNICATION MAY NOT BE RECEIVED IN EVIDENCE UNDER
30 PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE PROPONENT PROVIDES THE
31 ADVERSE PARTY, SUFFICIENTLY IN ADVANCE OF THE TRIAL OR HEARING TO ALLOW
32 THE ADVERSE PARTY A FAIR OPPORTUNITY TO PREPARE, BUT NOT LATER THAN 14
33 CALENDAR DAYS BEFORE THE TRIAL OR HEARING, WITH:

1 (I) NOTICE OF THE INTENTION TO OFFER THE CONTENTS OF
2 THE COMMUNICATION AND EVIDENCE DERIVED FROM THE COMMUNICATION; AND

3 (II) THE NAME AND ADDRESS OF THE PARTY WHOSE
4 COMMUNICATION WAS INTERCEPTED.

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

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2026.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.