

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 569
Intercepted Communications – Penalties and Admissibility of
Evidence
DATE: February 6, 2020
(2/19)
POSITION: Oppose as drafted

The Maryland Judiciary opposes Senate Bill 569 as drafted. This bill eliminates the possibility of imprisonment as a penalty for a violation of Maryland’s wiretap law, Courts and Judicial Proceedings Article, § 10-402. It also adds an exception to the general prohibition, under § 10-405, against the admissibility of any intercepted wire, oral, or electronic communication in a legal proceeding in the State.

The Judiciary is concerned with the language on page 4, starting at line 30, which provides that evidence may be admitted into trial if the contents of the communication and evidence are more probative on the point for which they are offered than any other evidence that the proponent can procure through reasonable efforts. This is not a typical standard in determining admissibility of evidence. The court determines whether evidence is relevant or probative, and the trier of fact determines what weight to accord that evidence. This standard would invade the province of a jury to determine the weight of admissible evidence.

cc. Hon. Susan Lee
Judicial Council
Legislative Committee
Kelley O’Connor