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Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
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THE SENATE OF MARYLAND ANNAPOLIS, MARYLAND 21401

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Sponsor Testimony - FAVORABLE - SB 324 – Intercepted Communications - Penalty

SB 324 is a simple bill to make the violation of criminal eavesdropping with a maximum 5 year penalty, a misdemeanor. As a stark comparison, SB 326 highlights a strange divergence in our values where currently video surveillance of a prurient interest is not even a felony. Classifying eavesdropping as a felony in the 21st century is out of step with the harm other felonies may cause, and the common use of audio recording devices today. The collateral consequences of a felony are serious, and there are many circumstances where that classification would be inappropriate with the elements of this current crime. Everyone in this room has likely violated this law, but you are not felons because the law is draconian and only enforced selectively. That is the problem.

The severity of the law reflects the intended purpose, to prevent police misuse. There are examples in our history when government went too far and was guilty of serious misconduct. A five year penalty and other consequences should cover these crimes, but common use of recording devices does not rise to the level of harm intended with labeling crimes felonies.

The Baltimore County States Attorney testified in favor of this bill in the House hearing. He says this bill will help to bring us closer to the modern age. He noted the majority of states are one party consent states, and that evidence can be admitted into evidence. This bill does not allow evidence to be admitted or even carve out any exceptions to record without permission. It simply removes the label of felony.

Another witness highlights his high profile case in 2019, when he live-streamed a protest without consent of his staffers. He was facing 10 years and 2 felony charges. He avoided jail-time by taking a PBJ, but having a felony charge on his record has followed him around in his adult life. There is a lot of stigma around the word “felon”

and it precludes many employment opportunities because of automated hiring practices that don't look into the details of the charge.

For these reasons, I respectfully request a favorable report on SB 324.