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POSITION ON PROPOSED LEGISLATION

BILL: SB 382 - Intercepted Communications - Admissibility of Evidence

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 02/07/2022

The Maryland Office of the Public Defender respectfully requests that the Judiciary Committee issue an unfavorable report on Senate Bill 382.

The bill adds an exception to the general prohibition, under Courts and Judicial Proceedings Article, § 10-405, against the admissibility of any intercepted wire, oral, or electronic communication in a legal proceeding in the State. Expanding the evidentiary rules to permit the admission of evidence obtained in violation of the wire-tap statute into trial if the contents are more probative on the point for which they are offered than any other evidence changes the current standard for the admissibility of evidence. It is now in the purview of the court to determine whether evidence is relevant or probative, in doing so, it determines the admissibility of that evidence. Once the court determines the admissibility of evidence, the trier of fact is tasked to decide what weight to accord that evidence. This suggested new standard would have the court determine the weight of evidence to decide if the evidence is “more probative on the point for which they are offered than any other evidence,” and remove that critical duty from the trier of fact.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a unfavorable report on SB 0382.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.