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BILL NO.: Senate Bill 382  
TITLE: Intercepted Communications - Admissibility of Evidence  
COMMITTEE: Judicial Proceedings  
DATE: February 10, 2022  
POSITION: **OPPOSE**

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Senate Bill 382 would create an exception to using unlawfully obtained audio recordings in certain circumstances. The Women's Law Center (WLC) opposes this bill as it creates a potential to cause criminal charges to be brought against victims of domestic violence or other crimes.

Senate Bill 382 seeks to create exceptions in Maryland's wiretap statute that would allow otherwise unlawfully obtained evidence in violation of state wiretap law, to be admissible in limited circumstances, including cases that are crimes of violence, stalking, or violation of a protective order. However, this bill would create untenable quandaries for both victims and attorneys. How are attorneys to advise their clients when they are told the client has unlawfully obtained audio recording, even if it would help their case? They may have ethical obligations as officers of the court. They may incur the anger and perhaps worse, if they advise a client to use the evidence, and subsequently the client is charged criminally. How should clients who are victims with a protective order be advised on whether to unlawfully record potential crimes of violence or violations of a protective order?

Like other service providers who have to manage recordings that would give rise to potential charges if those recordings were used *now* under current law, we welcome an opportunity to examine the wiretap statute in Maryland as a whole, a better approach than carve outs that create these complicated problems for both attorneys and litigants. Addressing finite aspects of the law and carving out exceptions could result in unintentional harm to victims of violence.

Thus, the Women's Law Center of Maryland urges an unfavorable report on SB 382.

*The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.*