

Wiretap - felony to misdemeanor - testimony - hous

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Working to end sexual violence in Maryland

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Testimony Supporting House Bill 362
Lisae C. Jordan, Executive Director & Counsel
March 30, 2023

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on House Bill 362.

House Bill 362 – Wiretap – Change to Misdemeanor

This bill would reclassify violation of the all party consent law for audio recordings from a felony to a misdemeanor.

This Committee has heard extensive testimony this session regarding the challenges faced when a victim of a violent crime, including a sex crime, records the crime in an attempt to document what occurred. HB362 is a modest step towards reducing the penalty for this type of action.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on House Bill 362**

HB 362 - Intercepted Communications - Penalty.pdf

Uploaded by: Scott Shellenberger

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Bill Number: HB 362
Scott D. Shellenberger, State's Attorney for Baltimore County
Support

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF HOUSE BILL 362
INTERCEPTED COMMUNICATIONS – PENALTY

I write in support of House Bill 362 Intercepted Communications – Penalty. For years I have attempted to amend or strike Courts and Judicial Proceeding Article (CJ) §10-406 Maryland Wire Tap Statute.

Maryland is a two party consent state when it comes to the recording of oral communications especially through the telephone. Thirty-eight States are one party consent states that require only one party to a conversation “consent” to the recording. Maryland has long had a statutory scheme in which law enforcement, under a judges supervision, are permitted to record telephone conversations when they have probable cause to believe telephones are being use to commit crimes.

Because CJ is a vestige of the past, recording someone orally both over the telephone and in person has been labeled a felony punishable up to 5 years in jail. Recording visually has never been against the law.

In today's reality people record everything both visually and orally. Most people are unaware when they pull out their phones and hit camera/record they are breaking the law in Maryland.

While I have been unsuccessful in changing the statute it seems reasonable to at least make a baby step forward and make it a misdemeanor instead of a felony. We should not subject someone to such a harsh potential penalty when doing something everyone does every day and everyone accepts.

I urge a favorable report.