

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

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 749  
Crimes – Interception of Wire, Oral or Electronic Communications  
– Exception for Imminent Danger and Admission as Evidence  
**DATE:** February 22, 2023  
(3/9)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 749.

This bill contains vague or otherwise unworkable language and standards. At Courts and Judicial Proceedings § 10-405(c)(1)(ii), the bill requires courts to determine if a recording’s probative value is superior to “other evidence that the proponent is able to procure through reasonable efforts[.]” It is unclear how courts would determine what other evidence that proponents could “procure” and the bill gives no guidance on that issue. While courts are required to make admissibility determinations, the process more routinely involves considering whether the probative value of the evidence is outweighed by the danger of unfair prejudice. The language of this bill departs from evidentiary norms in this regard. Nor does the bill give an explanation for courts to determine under subsection (c)(2) whether the notice required is “sufficiently in advance of the trial, hearing, or other proceeding...”

cc. Hon. William Folden  
Judicial Council  
Legislative Committee  
Kelley O’Connor