

Bill Number: SB 749
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 SENATE BILL 749
INTERCEPTED COMMUNICATIONS – EXCEPTION FOR IMMINENT DANGER

I write in support of Senate Bill 749 that updates an out-of-date law concerning the recording of oral communications. Maryland Wire Tap Statute is found at Court and Judicial Proceedings (CJ) §10-406. It is an out-of-date vestige of a past time when switch boards were the mode of communication.

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 judge's supervision, are permitted to record telephone conversations when they have probable cause to believe telephones are being use to commit crimes.

Because CJ §10-406 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. Something happens on the street they all break out their phones. Most people are unaware when they break out their phones and hit camera/record they are breaking the law in Maryland.

Senate Bill 749 does not change Maryland to a one party consent State. But what it does do is bring us closer into this decade. House Bill 714 keeps it a crime preserving Maryland's decision to be two party consent State but allows for exceptions when recording crimes of violence, stalking crimes, domestic violence crimes and violating a protective order.

Should not the best evidence of certain crimes be permitted to be introduced into court especially for these types of crimes. This is evidence of what actually happened in the case. We should be able to present the best evidence in crimes of violence, stalking, domestic violence cases and violation of protective orders.

Senate Bill 749 is a bill whose time is long overdue and brings Maryland partly into the reality of this decade.

I urge a favorable report.

