

BILL NO: House Bill 274
TITLE: Intercepted Communications - Penalty
COMMITTEE: Judicial Proceedings
HEARING DATE: March 21, 2024
POSITION: **SUPPORT**

House Bill 274 would reclassify a violation of § 10-402(a) of the Courts and Judicial Proceedings Article (intercepted communications) from a felony to a misdemeanor, but does not change the possible penalty. The Women's Law Center (WLC) supports this bill as recognition that in today's world so much is recorded.

Maryland is one of the minority of states that is a "two-party" consent state, and any audio recording must be consented to by all involved in the recording. Currently, a violation of the wiretap law is a felony and subject to punishment including imprisonment for not more than 5 years or a fine of not more than \$10,000, or both. (There is another bill, HB 290, that would create exceptions to the law in certain circumstances that we also support although with amendments). Making a violation a misdemeanor rather than a felony would at least recognize that in our current society everybody seemingly records everything, often ignorant of the law. We all have a cell phone in our hand with the ability to record. In fact, in many of our domestic violence cases our clients have recorded the audio (and the video) of their abuser harming to threatening to harm them. They want to show it to the court, but we have to advise not to do it as it is a felony without the other party's permission. There are strategic reasons and facts that can sometimes make the decision to seek to admit the evidence that is in violation of our laws, but that is infrequent. And we must advise our clients of the felony ramifications of current law.

For these reasons, the WLC urges a favorable report on HB 274.

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.