

Bill Number: SB 38
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 38
INTERCEPTED COMMUNICATIONS – PENALTY

I write in support of Senate Bill 38 Intercepted Communications – Penalty. For years I have attempted to amend or strike Courts and Judicial Proceeding Article (CJ) §10-406 Maryland's 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 to 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 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. 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 repeating the statute it seems reasonable to at least take 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. That is taking out a phone & recording.

I urge a favorable report.