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CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 314
Wiretapping and Electronic Surveillance – Intercepted
Communications – Admissibility of Evidence
DATE: January 23, 2025
(2/4)

INFORMATIONAL COMMENT PAPER

The Judiciary respects the separation of powers doctrine and acknowledges that the legislature is the policy-making branch. As such, the Judiciary has no position on the policy aims of this legislation and defers to the legislative branch on such matters.

However, there are certain aspects of the bill that are procedurally unusual such that we wanted to bring them to the Committee's attention. As drafted, the bill requires that a court hold a hearing to determine if certain communications can be offered as evidence. This is not unusual for trials or hearings in which a case has been instituted before a court. However, it is unusual for certain proceedings, listed on page 2, line 18-21. For instance, it is unclear how the court would hold a hearing prior to testimony being received by a legislative committee, regulatory body, department, agency, or political subdivision. Those matters occur in the legislative and executive branches and, in those instances, there is no mechanism by which the court would be notified as to the potential introduction of such evidence. There is also no case at issue before the court in which a hearing could be held. Additionally, evidence offered prior to a grand jury proceeding is also unusual given the confidential nature of such proceedings and lack of recordation in

certain jurisdictions. Moreover, the grand jury proceeding is the initial stage of a criminal case in which the grand jurors determine whether to return an indictment. As such, there is no case at issue before the court until after the indictment is returned, following the grand jury proceeding itself.

cc. Hon. Robin Grammer
Judicial Council
Legislative Committee
Kelley O'Connor