



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

SB 661 – Wiretapping and Electronic Surveillance – Intercepted Communications – Admissibility of Evidence

Chair Smith, Vice Chair Waldstreicher, colleagues on Judicial Proceedings:

Last session this Committee and the full Senate unanimously passed SB 1007, Chair Smith’s bill that created an exception to our wiretapping law. Unfortunately, we passed it late, in April, so it did not have time to make it through the House. SB 661 is the same bill, with only the addition of ‘a hate crime’ as a case in which the recorded evidence could be offered.

As this body knows, Maryland is a two-party consent state. This bill does not change that, nor does it create an automatic exclusion for audio recordings in these two instances. Instead, it allows a Court to determine the admissibility of the recorded evidence in limited circumstances when:

- It is a case of a crime against an individual or a hate crime
- The contents of the communication are offered as evidence of a material fact
- The interception was not made for/on behalf of law enforcement as part of an investigation
- The contents of the communication are more probative of the point than other evidence
- The interests of justice will be served by admission of the evidence

Further, the person who was unknowingly recorded has at least 14 calendar days advance notice of the intended use of the evidence.

This bill will allow survivors of rape or domestic violence, as well as victims of a hate crime, who record their attack, to be able to offer that evidence at trial without being charged with a felony. In these cases where the evidence may be limited, having these recordings can be key to holding offenders accountable for their crimes.

For these reasons, I respectfully request a favorable report on SB 661.