



BILL NO: Senate Bill 661
TITLE: Wiretapping and Electronic Surveillance - Intercepted Communications - Admissibility of Evidence
COMMITTEE: Judiciary – cross-over
HEARING DATE: March 31, 2026
POSITION: **FAVORABLE**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that works to lead diverse community partners toward the common purpose of reducing the occurrence and impact of intimate partner violence. **MNADV urges the House Judiciary Committee to issue a favorable report on SB 661 as amended.**

Senate Bill 661 as amended would create an exception to our two-party wiretap law and would allow the audio evidence to be used at criminal trial for certain limited but severe crimes against a person, including murder in any degree, rape in any degree, and assault in the first degree that is domestically related per MD Code Ann. Crim. Pro. §6-233. It would also make it an affirmative defense that the person intercepted the audio communication because the defendant thought they were in imminent danger of becoming a victim of those crimes listed.

Maryland has been grappling with the issue of valid, unbiased evidence that cannot be used in criminal trials due to our two-party consent laws for recording. Senate Bill 661 is a small but important first step is allowing this valuable objective evidence to be used in criminal trials. It does not upend our two-party consent laws, offering only a way to hold dangerous people accountable in the most dangerous of crimes against a person.

The fact that audio is recorded gives this type of evidence increased indicia of reliability than testimony by one party of a “statement against interest” by the other party, with no other objective evidence that that statement was actually made. It is illogical that our current wiretap laws prohibit courts from hearing this evidence, which is often incontrovertible. In domestic violence and sexual assault cases, we often have clients with this type of evidence – they have recorded their own assault – and it is currently inadmissible. That is hard for survivors to understand and is devastating to them. It is made more illogical and harder to explain when they are informed that video is allowed to come in (although if the audio and visual can’t be separated, it can’t be used).

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Senate Bill 661 is an attempt to get relevant objective evidence in front of the fact-finder, which would in turn increase safety for survivors of domestic violence. For the above stated reasons, the **Maryland Network Against Domestic Violence** urges a **favorable report on SB 661 as amended.**

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