

HOUSE BILL 791

I1, D3, E2

8lr2089
CF SB 748

By: **Delegates Kramer and Adams**

Introduced and read first time: February 1, 2018

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Interception of Communication – Financial Institutions**

3 FOR the purpose of providing that it is lawful under certain provisions of law for an
4 employee or agent of a certain financial institution to intercept and record a certain
5 oral communication under certain circumstances; providing that a certain audio
6 recording shall be preserved for a certain period of time; providing that a certain
7 audio recording may be made in certain formats; providing that a certain audio
8 recording may be made available by a certain financial institution only to certain
9 persons under certain circumstances; requiring a certain financial institution to
10 adopt a certain record retention policy for audio recordings; defining a certain term;
11 and generally relating to authorizing financial institutions to intercept and record
12 certain oral communications.

13 BY repealing and reenacting, without amendments,
14 Article – Courts and Judicial Proceedings
15 Section 10–402(a)
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2017 Supplement)

18 BY adding to
19 Article – Courts and Judicial Proceedings
20 Section 10–402(c)(12)
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Financial Institutions
 3 Section 1–212
 4 Annotated Code of Maryland
 5 (2011 Replacement Volume and 2017 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 7 That the Laws of Maryland read as follows:

8 **Article – Courts and Judicial Proceedings**

9 10–402.

10 (a) Except as otherwise specifically provided in this subtitle it is unlawful for any
 11 person to:

12 (1) Willfully intercept, endeavor to intercept, or procure any other person
 13 to intercept or endeavor to intercept, any wire, oral, or electronic communication;

14 (2) Willfully disclose, or endeavor to disclose, to any other person the
 15 contents of any wire, oral, or electronic communication, knowing or having reason to know
 16 that the information was obtained through the interception of a wire, oral, or electronic
 17 communication in violation of this subtitle; or

18 (3) Willfully use, or endeavor to use, the contents of any wire, oral, or
 19 electronic communication, knowing or having reason to know that the information was
 20 obtained through the interception of a wire, oral, or electronic communication in violation
 21 of this subtitle.

22 (c) **(12) (I) IN THIS PARAGRAPH, “FINANCIAL INSTITUTION” HAS THE**
 23 **MEANING STATED IN § 1–101 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

24 **(II) IT IS LAWFUL UNDER THIS SUBTITLE FOR A FINANCIAL**
 25 **INSTITUTION THAT ACCEPTS DEPOSITS IN THE STATE TO INTERCEPT AND RECORD**
 26 **ORAL COMMUNICATIONS OF A PERSON AS DESCRIBED IN § 1–212 OF THE FINANCIAL**
 27 **INSTITUTIONS ARTICLE.**

28 **Article – Financial Institutions**

29 **1–212.**

30 **(A) (1) IT IS LAWFUL FOR AN EMPLOYEE OR AN AGENT OF A FINANCIAL**
 31 **INSTITUTION THAT ACCEPTS DEPOSITS IN THE STATE TO INTERCEPT AND RECORD**
 32 **AN ORAL COMMUNICATION OF A PERSON:**

33 **(I) ON THE PROPERTY OF THE FINANCIAL INSTITUTION; OR**

1 (II) AT OR NEAR AN AUTOMATED TELLER MACHINE OPERATED
2 BY THE FINANCIAL INSTITUTION.

3 (2) THE FINANCIAL INSTITUTION MUST DISPLAY A CLEARLY VISIBLE
4 WRITTEN NOTICE THAT AN AUDIO RECORDING OF AN ORAL ~~INTERCEPTION~~
5 COMMUNICATION MAY BE IN PROGRESS.

6 (B) AN AUDIO RECORDING MADE IN ACCORDANCE WITH THIS SECTION:

7 (1) SHALL BE PRESERVED FOR AT LEAST 30 CALENDAR DAYS;

8 (2) MAY BE MADE AS AN AUDIO-ONLY RECORDING OR AS A VIDEO
9 RECORDING; AND

10 (3) ~~MAY, ON WRITTEN REQUEST,~~ BE MADE AVAILABLE BY THE
11 FINANCIAL INSTITUTION TO A LAW ENFORCEMENT OFFICER, A STATE'S ATTORNEY,
12 OR AN AGENT OF THE FEDERAL BUREAU OF INVESTIGATION, ON WRITTEN REQUEST,
13 TO ASSIST IN AN ONGOING CRIMINAL INVESTIGATION OF A ROBBERY, UNDER §
14 3-402 OR § 3-403 OF THE CRIMINAL LAW ARTICLE, OR ANY OTHER CRIMINAL ACT
15 CARRIED OUT IN FURTHERANCE OF A ROBBERY.

16 (C) A FINANCIAL INSTITUTION THAT INTERCEPTS AND RECORDS ORAL
17 COMMUNICATIONS UNDER THIS SECTION SHALL ADOPT A RECORD RETENTION
18 POLICY THAT REQUIRES THE DESTRUCTION OF AN AUDIO RECORDING WITHIN 60
19 DAYS AFTER THE DATE RECORDING IS MADE.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
21 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.