

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1555 (Delegate Reilly)
Health and Government Operations

Interception of Oral Communications - Medical Information - One-Party
Consent

This bill authorizes a patient or a patient’s family member, guardian, or caretaker, to intercept an oral communication with a “health care practitioner” while discussing matters in anticipation of the discharge of the patient related to the patient’s care. A family member, guardian, or caretaker may only intercept such a communication with the knowledge and consent of the patient. A “health care practitioner” is a person who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services in the ordinary course of business or practice of a profession.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

Local Effect: The bill does not materially affect local finances.

Small Business Effect: Minimal. While the bill applies to communications with “health care practitioners,” it is not expected to have a material effect on applicable small businesses.

Analysis

Current Law: Except as otherwise provided in statute, it is unlawful for a person to:

- willfully intercept, endeavor to intercept, or procure any other person to intercept a wire, oral, or electronic communication;

- willfully disclose, or endeavor to disclose, to any other person the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept; and
- willfully use, or endeavor to use, the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept.

There are several exceptions to these prohibitions under statute, many of which apply to law enforcement activities. Another type of exception is when the interceptor is a party to the communication and all parties to the communication have given prior consent to the interception, unless the interception is committed for the purpose of committing any criminal or tortious act in violation of the U.S. Constitution or federal or State law.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2018
mag/kdm

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510