

Chapter 521

(House Bill 552)

AN ACT concerning

Interception of Oral Communication – Law Enforcement Officer

FOR the purpose of providing that the failure of law enforcement to notify a certain individual that the individual is being recorded does not affect the admissibility of a certain recording under certain circumstances; and generally relating to the interception of oral communication by a law enforcement officer.

BY repealing and reenacting, without amendments,
 Article – Courts and Judicial Proceedings
 Section 10–402(a)
 Annotated Code of Maryland
 (2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
 Article – Courts and Judicial Proceedings
 Section 10–402(c)(11)
 Annotated Code of Maryland
 (2013 Replacement Volume and 2018 Supplement)

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

Article – Courts and Judicial Proceedings

10–402.

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

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

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

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

(c) (11) (i) 1. In this paragraph the following words have the meanings indicated.

2. “Body–worn digital recording device” means a device worn on the person of a law enforcement officer that is capable of recording video and intercepting oral communications.

3. “Electronic control device” has the meaning stated in § 4–109 of the Criminal Law Article.

(ii) It is lawful under this subtitle for a law enforcement officer in the course of the officer’s regular duty to intercept an oral communication with a body–worn digital recording device or an electronic control device capable of recording video and oral communications if:

1. The law enforcement officer is in uniform or prominently displaying the officer’s badge or other insignia;

2. The law enforcement officer is making reasonable efforts to conform to standards in accordance with § 3–511 of the Public Safety Article for the use of body–worn digital recording devices or electronic control devices capable of recording video and oral communications;

3. The law enforcement officer is a party to the oral communication;

4. Law enforcement notifies, as soon as is practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and

5. The oral interception is being made as part of a videotape or digital recording.

(III) FAILURE TO NOTIFY UNDER SUBPARAGRAPH (II)4 OF THIS PARAGRAPH DOES NOT AFFECT THE ADMISSIBILITY IN COURT OF THE RECORDING IF THE FAILURE TO NOTIFY INVOLVED AN INDIVIDUAL WHO JOINED A DISCUSSION IN PROGRESS FOR WHICH PROPER NOTIFICATION WAS PREVIOUSLY GIVEN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.