

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 375 (Senator Lee)  
Judicial Proceedings

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Crimes - Interception of Wire, Oral, or Electronic Communications - Exception  
for Imminent Danger

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This bill makes it lawful for a person to intercept a wire, oral, or electronic communication when the person reasonably believes that the person is in imminent danger of becoming the victim of a crime of violence under § 14-101 of the Criminal Law Article, stalking under § 3-802 of the Criminal Law Article, or a violation of a protective order under § 4-509 of the Family Law Article.

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Fiscal Summary

**State Effect:** The bill is not expected to materially affect State finances or operations, as discussed below.

**Local Effect:** The bill is not expected to materially affect local finances or operations, as discussed below.

**Small Business Effect:** None.

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Analysis

**Current Law:**

*Interception of a Communication*

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; or
- 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.

Violators are guilty of a felony, punishable by imprisonment for up to five years and/or a \$10,000 maximum fine.

*Admission of Evidence Obtained through an Intercepted Communication/Disclosure During Testimony*

Except as specified, whenever any wire, oral, or electronic communication has been intercepted, no part of the contents of the communication and no evidence derived from the communication may be received in evidence in any trial, hearing, or other proceeding if the disclosure of that information would be *in violation of* the State's wiretap and electronic surveillance laws.

However, any person who has received information concerning a communication that was obtained through an *authorized* interception or evidence derived from an *authorized* interception may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any federal, State, or local proceeding.

**State/Local Fiscal Effect:** The bill may affect the number of charges filed for illegal interceptions and evidentiary proceedings relating to intercepted communications. Regardless, any such changes in judicial caseloads and related workloads are not expected to materially affect the finances or operations of the courts, State's Attorneys' offices, or the Office of the Public Defender.

The Judiciary advises that during fiscal 2020 and 2021, there were 20 or fewer charges filed per year under § 10-402 of the Criminal Law Article (interceptions of communications), resulting in no convictions.

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## **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 6, 2022  
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