



Testimony for the House Judiciary Committee

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HB 803 Intercepted Communications - Penalties and Admissibility of Evidence

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The ACLU of Maryland respectfully urges an unfavorable report on HB 803, which would repeal the incarceration penalty from violations of the wiretap law and add a one-party consent exception to the wiretap law to allow evidence collected in violation of the wiretap statute to be admitted in a criminal proceeding.

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Maryland's two-party consent wiretap statute is critical for protecting the privacy of everyday Marylanders. While the two-party consent law limits your ability to record other people, the opposite is also true. Existing law protects your right to privacy by preventing others from recording you without your consent. We cannot have one protection without the other restriction.

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Further, while Maryland's current wiretap law predates many technological advances, like phone and doorbell cameras, the importance of protecting Marylanders' privacy rights has not changed.

The current exclusionary rule which prevents admissibility of evidence serves to deter persons from eavesdropping and recording others. Should the exclusionary rule be repealed, as proposed in HB 803, there would be little left to prevent surreptitious recordings of all of us.

Finally, we urge the committee to consider this bill in light of the government's history of misusing surveillance technologies, especially in the criminal context, from cell-phone tracking, to stingrays, to facial recognition technology.

We take no position on the provision of the bill which repeals the incarceration penalty.

For the foregoing reasons, we urge an unfavorable report on HB 803.