



BILL NO: Senate Bill 375
TITLE: Criminal Law - Stalking – Definition
COMMITTEE: Judicial Proceedings
HEARING DATE: February 8, 2022
POSITION: **INFORMATION**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV provides this INFORMATION to the Senate Judicial Proceedings Committee on SB 375.**

Maryland is one of eleven states that are “two-party” consent states and requires the consent of every party to a phone call or conversation to make the recording lawful. Currently, a violation of the wiretap law is a felony and subject to punishment including imprisonment for not more than 5 years or a fine of not more than \$10,000, or both.

SB 375 seeks to create exceptions to the existing wiretap law for certain offenses including when a person reasonably believes that they are in imminent danger of becoming a victim of a crime of violence, stalking, or a violation of a protective order. Both “reasonably believes” and “imminent danger” are legal terms of art that we would ask an individual in a potentially dangerous situation to discern in a moment's notice. Under existing law, if an individual is determined to have not been in imminent danger when they recorded an incident then they will have violated the law and be subject to criminal prosecution for a felony. For example, if there is an individual suffering from Post-Traumatic Stress Disorder from an abusive partner, and that partner arrives to pick up a child in common, this could trigger a heightened sense of vigilance and fight or flight response. That person's perception is not that of a “reasonable person” and they may not have been in “imminent danger,” but they would have committed a felony if they recorded a conversation that occurred at that time without consent.

MNADV would welcome an opportunity to examine the wiretap statute in Maryland as a whole. Addressing finite aspects of the law and carving out exceptions could result in unintentional harm to victims of violence.

For further information contact Melanie Shapiro ■ Public Policy Director ■ 301-852-3930 ■ mshapiro@mnadv.org

4601 Presidents Drive, Suite 300 ■ Lanham, MD 20706
Tel: 301-429-3601 ■ E-mail: info@mnadv.org ■ Website: www.mnadv.org