

SENATE BILL 57

C9, D1
SB 47/23 – JPR

(PRE-FILED)

4lr0982
CF HB 392

By: **Senator Sydnor**

Requested: October 17, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2024

CHAPTER _____

1 AN ACT concerning

2 **Evidence – Wiretapping and Electronic Surveillance – Fair Housing Testing**

3 FOR the purpose of providing that it is lawful for a person to intercept ~~a wire, an oral, or~~
4 ~~electronic~~ communication if the person is working as a fair housing tester for a
5 certain fair housing testing program under certain circumstances; and generally
6 relating to wire and electronic surveillance.

7 BY adding to

8 Article – Courts and Judicial Proceedings

9 Section 10–401(13) and 10–402(c)(12)

10 Annotated Code of Maryland

11 (2020 Replacement Volume and 2023 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Courts and Judicial Proceedings

14 Section 10–401(13) through (18)

15 Annotated Code of Maryland

16 (2020 Replacement Volume and 2023 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



10-401.

As used in this subtitle the following terms have the meanings indicated:

(13) “NONPROFIT CIVIL RIGHTS ORGANIZATION” MEANS:

(I) A QUALIFIED FAIR HOUSING ENFORCEMENT ORGANIZATION OR A FAIR HOUSING ORGANIZATION AS DEFINED UNDER 24 C.F.R. § 125.103; OR

(II) AN ORGANIZATION INCORPORATED UNDER MARYLAND LAW AS A PRIVATE, TAX-EXEMPT CIVIL RIGHTS ORGANIZATION THAT HAS AT LEAST 2 YEARS’ EXPERIENCE IN:

1. COMPLAINT INTAKE;

2. COMPLAINT INVESTIGATION; AND

3. TESTING FOR FAIR HOUSING VIOLATIONS OR ENFORCEMENT OF MERITORIOUS CLAIMS.

[(13)] (14) (i) “Oral communication” means any conversation or words spoken to or by any person in private conversation.

(ii) “Oral communication” does not include any electronic communication.

[(14)] (15) “Person” means any employee or agent of this State or a political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation.

[(15)] (16) “Readily accessible to the general public” means, with respect to a radio communication, that the communication is not:

(i) Scrambled or encrypted;

(ii) Transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of the communication; or

(iii) Except for tone-only paging device communications, transmitted over frequencies reserved for private use and licensed for private use under federal or State law.

[(16)] (17) “Telephone solicitation theft” means conduct of a person that:

(i) Constitutes the offense of theft or attempted theft; and

(ii) Involves the use of a telephone to solicit the payment of money.

[(17)] (18) “User” means any person or entity that:

(i) Uses an electronic communication service; and

(ii) Is duly authorized by the provider of the service to engage in that use.

[(18)] (19) “Wire communication” means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of a connection in a switching station) furnished or operated by any person licensed to engage in providing or operating such facilities for the transmission of communications.

10–402.

(c) (12) (I) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO INTERCEPT ~~A WIRE, AN ORAL, OR ELECTRONIC~~ COMMUNICATION IF:

~~(H)~~ 1. THE PERSON IS WORKING AS A FAIR HOUSING TESTER FOR A FAIR HOUSING TESTING PROGRAM OPERATED BY:

~~1.~~ A. THE FEDERAL GOVERNMENT;

~~2.~~ B. THE STATE;

~~3.~~ C. A LOCAL GOVERNMENT; OR

~~4.~~ D. A NONPROFIT CIVIL RIGHTS ORGANIZATION;

~~(H)~~ 2. THE PERSON IS A PARTY TO THE COMMUNICATION;
AND

~~(HH)~~ 3. THE INTERCEPTION IS BEING MADE FOR THE PURPOSE OF OBTAINING EVIDENCE OF A FAIR HOUSING VIOLATION UNDER FEDERAL, STATE, OR LOCAL LAW.

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, NO PART OF THE CONTENTS OF THE INTERCEPTED COMMUNICATION AND NO EVIDENCE DERIVED THEREFROM MAY BE RECEIVED IN EVIDENCE IN ANY TRIAL, HEARING, OR OTHER PROCEEDING IN OR BEFORE ANY COURT, GRAND JURY,

DEPARTMENT, OFFICER, AGENCY, REGULATORY BODY, LEGISLATIVE COMMITTEE,
OR OTHER AUTHORITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(III) THE CONTENTS OF AN INTERCEPTED ORAL
COMMUNICATION MADE IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS
PARAGRAPH MAY BE USED ONLY FOR THE PURPOSE OF ENFORCING FEDERAL,
STATE, OR LOCAL FAIR HOUSING LAWS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.