

HOUSE BILL 314

E2

5lr1971

By: **Delegates Grammer and Bartlett**

Introduced and read first time: January 10, 2025

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Wiretapping and Electronic Surveillance – Intercepted Communications –**
3 **Admissibility of Evidence**

4 FOR the purpose of providing that the contents of a certain intercepted communication and
5 evidence derived from the communication may be received in evidence in a certain
6 proceeding under certain circumstances; and generally relating to the admissibility
7 of intercepted communications.

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 10–405
11 Annotated Code of Maryland
12 (2020 Replacement Volume and 2024 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 10–405.

17 (a) Except as provided in [subsection] **SUBSECTIONS (b) AND (C)** of this section,
18 whenever any wire, oral, or electronic communication has been intercepted, no part of the
19 contents of the communication and no evidence derived therefrom may be received in
20 evidence in any trial, hearing, or other proceeding in or before any court, grand jury,
21 department, officer, agency, regulatory body, legislative committee, or other authority of
22 this State, or a political subdivision thereof if the disclosure of that information would be
23 in violation of this subtitle.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) If any wire, oral, or electronic communication is intercepted in any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia in accordance with the law of that jurisdiction, but that would be in violation of this subtitle if the interception was made in this State, the contents of the communication and evidence derived from the communication 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 this State, or any political subdivision of this State if:

(1) At least one of the parties to the communication was outside the State during the communication;

(2) The interception was not made as part of or in furtherance of an investigation conducted by or on behalf of law enforcement officials of this State; and

(3) All parties to the communication were co-conspirators in a crime of violence as defined in § 14-101 of the Criminal Law Article.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF ANY WIRE, ORAL, OR ELECTRONIC COMMUNICATION HAS BEEN INTERCEPTED, THE CONTENTS OF THE COMMUNICATION AND EVIDENCE DERIVED FROM THE COMMUNICATION 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 THIS STATE, OR ANY POLITICAL SUBDIVISION OF THIS STATE IF A COURT DETERMINES THAT:

(I) THE CONTENTS OF THE COMMUNICATION AND EVIDENCE DERIVED FROM THE COMMUNICATION ARE OFFERED AS EVIDENCE OF A MATERIAL FACT;

(II) THE INTERCEPTION WAS NOT MADE AS PART OF OR IN FURTHERANCE OF AN INVESTIGATION CONDUCTED BY OR ON BEHALF OF LAW ENFORCEMENT OFFICIALS OF THIS STATE;

(III) THE CONTENTS OF THE COMMUNICATION AND EVIDENCE DERIVED FROM THE COMMUNICATION ARE MORE PROBATIVE ON THE POINT FOR WHICH THEY ARE OFFERED THAN ANY OTHER EVIDENCE THAT THE PROPONENT CAN PROCURE THROUGH REASONABLE EFFORTS; AND

(IV) THE INTEREST OF JUSTICE WILL BE BEST SERVED BY THE ADMISSION INTO EVIDENCE OF THE CONTENTS OF THE COMMUNICATION AND EVIDENCE DERIVED FROM THE COMMUNICATION.

1 **(2) THE CONTENTS OF A COMMUNICATION AND EVIDENCE DERIVED**
2 **FROM THE COMMUNICATION MAY NOT BE RECEIVED IN EVIDENCE UNDER**
3 **PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE PROPONENT PROVIDES THE**
4 **ADVERSE PARTY, SUFFICIENTLY IN ADVANCE OF THE TRIAL OR HEARING TO ALLOW**
5 **THE ADVERSE PARTY A FAIR OPPORTUNITY TO PREPARE, WITH:**

6 **(I) NOTICE OF THE INTENTION TO OFFER THE CONTENTS OF**
7 **THE COMMUNICATION AND EVIDENCE DERIVED FROM THE COMMUNICATION; AND**

8 **(II) THE NAME AND ADDRESS OF THE PARTY WHOSE**
9 **COMMUNICATION WAS INTERCEPTED.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2025.