

# HOUSE BILL 869

E2, D3

8lr1556  
CF SB 271

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By: **Delegates Carter and Vallario (By Request – Committee to Revise Article 27 – Crimes and Punishments) and Delegates Anderson, Barnes, Conaway, Frank, Lee, McComas, Oaks, Rosenberg, Shank, Simmons, and Smigiel**

Introduced and read first time: February 6, 2008

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Admissibility of Evidence – Intercepted Communications – Electronic**

3 FOR the purpose of prohibiting the admissibility of the contents of an intercepted  
4 electronic communication or information derived from an intercepted electronic  
5 communication as evidence in certain proceedings under certain circumstances;  
6 providing that an electronic communication that was intercepted in the  
7 violation of certain provisions of law may be admissible in certain proceedings  
8 under certain circumstances; and generally relating to the admissibility of  
9 evidence and intercepted electronic communications.

10 BY repealing and reenacting, without amendments,  
11 Article – Courts and Judicial Proceedings  
12 Section 10–401(11)  
13 Annotated Code of Maryland  
14 (2006 Replacement Volume and 2007 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Courts and Judicial Proceedings  
17 Section 10–405  
18 Annotated Code of Maryland  
19 (2006 Replacement Volume and 2007 Supplement)

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

22 **Article – Courts and Judicial Proceedings**

23 10–401.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (11) (i) “Electronic communication” means any transfer of signs,  
3 signals, writing, images, sounds, data, or intelligence of any nature transmitted in  
4 whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical  
5 system.

6 (ii) “Electronic communication” does not include:

7 1. The radio portion of a cordless telephone  
8 communication that is transmitted between the cordless telephone handset and the  
9 base unit;

10 2. Any wire or oral communication;

11 3. Any communication made through a tone-only paging  
12 device; or

13 4. Any communication from a tracking device.

14 10–405.

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

22 (b) If any [wire or oral] **WIRE, ORAL, OR ELECTRONIC** communication is  
23 intercepted in any state or any political subdivision of a state, the United States or  
24 any territory, protectorate, or possession of the United States, including the District of  
25 Columbia in accordance with the law of that jurisdiction, but that would be in  
26 violation of this subtitle if the interception was made in this State, the contents of the  
27 communication and evidence derived from the communication may be received in  
28 evidence in any trial, hearing, or other proceeding in or before any court, grand jury,  
29 department, officer, agency, regulatory body, legislative committee, or other authority  
30 of this State, or any political subdivision of this State if:

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

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

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

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2008.