

HOUSE BILL 398

E2

2lr2091

By: Delegates Niemann, Afzali, Barnes, Clippinger, Dumais, Frush, Hough,
Lee, McDermott, Parrott, Ready, Simmons, Smigiel, Sophocleus,
Valderrama, Valentino-Smith, Vallario, and Wilson

Introduced and read first time: February 1, 2012

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2012

CHAPTER _____

1 AN ACT concerning

2 **Wiretapping and Electronic Surveillance – Investigation of Felony Theft**
3 **Scheme**

4 FOR the purpose of adding ~~theft offenses committed under one~~ a theft scheme or
5 continuing course of conduct under a certain provision of law involving an
6 aggregate value of property or services of at least a certain value to those crimes
7 for which evidence may be gathered by, and a judge may grant an order
8 authorizing, interception of oral, wire, or electronic communications; and
9 generally relating to wiretap and electronic surveillance and theft schemes.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 10–402(c)(2) and 10–406(a)
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2011 Supplement)

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

17 **Article – Courts and Judicial Proceedings**

18 10–402.

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.



1 (c) (2) (i) This paragraph applies to an interception in which:

2 1. The investigative or law enforcement officer or other
3 person is a party to the communication; or

4 2. One of the parties to the communication has given
5 prior consent to the interception.

6 (ii) It is lawful under this subtitle for an investigative or law
7 enforcement officer acting in a criminal investigation or any other person acting at the
8 prior direction and under the supervision of an investigative or law enforcement officer
9 to intercept a wire, oral, or electronic communication in order to provide evidence:

10 1. Of the commission of:

11 A. Murder;

12 B. Kidnapping;

13 C. Rape;

14 D. A sexual offense in the first or second degree;

15 E. Child abuse in the first or second degree;

16 F. Child pornography under § 11–207, § 11–208, or §
17 11–208.1 of the Criminal Law Article;

18 G. Gambling;

19 H. Robbery under § 3–402 or § 3–403 of the Criminal
20 Law Article;

21 I. A felony under Title 6, Subtitle 1 of the Criminal Law
22 Article;

23 J. Bribery;

24 K. Extortion;

25 L. Dealing in a controlled dangerous substance,
26 including a violation of § 5–617 or § 5–619 of the Criminal Law Article;

27 M. A fraudulent insurance act, as defined in Title 27,
28 Subtitle 4 of the Insurance Article;

1 N. An offense relating to destructive devices under §
2 4–503 of the Criminal Law Article;

3 O. A human trafficking offense under § 11–303 of the
4 Criminal Law Article;

5 P. Sexual solicitation of a minor under § 3–324 of the
6 Criminal Law Article;

7 Q. An offense relating to obstructing justice under §
8 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

9 R. Sexual abuse of a minor under § 3–602 of the
10 Criminal Law Article; [or]

11 S. ~~A THEFT OFFENSE UNDER ONE SCHEME OR~~
12 ~~CONTINUING COURSE OF CONDUCT UNDER § 7–103(F) OF THE CRIMINAL LAW~~
13 ~~ARTICLE INVOLVING AN AGGREGATE VALUE OF PROPERTY OR SERVICES OF AT~~
14 ~~LEAST \$10,000; OR~~

15 T. A conspiracy or solicitation to commit an offense listed
16 in items A through [R] S of this item; or

17 2. If:

18 A. A person has created a barricade situation; and

19 B. Probable cause exists for the investigative or law
20 enforcement officer to believe a hostage or hostages may be involved.

21 10–406.

22 (a) The Attorney General, State Prosecutor, or any State’s Attorney may
23 apply to a judge of competent jurisdiction, and the judge, in accordance with the
24 provisions of § 10–408 of this subtitle, may grant an order authorizing the interception
25 of wire, oral, or electronic communications by investigative or law enforcement officers
26 when the interception may provide or has provided evidence of the commission of:

27 (1) Murder;

28 (2) Kidnapping;

29 (3) Rape;

30 (4) A sexual offense in the first or second degree;

- 1 (5) Child abuse in the first or second degree;
- 2 (6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the
3 Criminal Law Article;
- 4 (7) Gambling;
- 5 (8) Robbery under § 3–402 or § 3–403 of the Criminal Law Article;
- 6 (9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;
- 7 (10) Bribery;
- 8 (11) Extortion;
- 9 (12) Dealing in a controlled dangerous substance, including a violation
10 of § 5–617 or § 5–619 of the Criminal Law Article;
- 11 (13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the
12 Insurance Article;
- 13 (14) An offense relating to destructive devices under § 4–503 of the
14 Criminal Law Article;
- 15 (15) A human trafficking offense under § 11–303 of the Criminal Law
16 Article;
- 17 (16) Sexual solicitation of a minor under § 3–324 of the Criminal Law
18 Article;
- 19 (17) An offense relating to obstructing justice under § 9–302, § 9–303,
20 or § 9–305 of the Criminal Law Article;
- 21 (18) Sexual abuse of a minor under § 3–602 of the Criminal Law
22 Article; [or]
- 23 (19) **A THEFT ~~OFFENSE UNDER ONE~~ SCHEME OR CONTINUING**
24 **COURSE OF CONDUCT UNDER § 7–103(F) OF THE CRIMINAL LAW ARTICLE**
25 **INVOLVING AN AGGREGATE VALUE OF PROPERTY OR SERVICES OF AT LEAST**
26 **\$10,000; OR**
- 27 (20) A conspiracy or solicitation to commit an offense listed in items (1)
28 through [(18)] (19) of this subsection.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2012.