
House Bill No. 962 - State Wiretapping Law

AN ACT to repeal Sections 125A through 125D of Article 27 of the Annotated Code of Maryland (1971 Replacement Volume), title and subtitle "Crimes and Punishments," [I[subtitle]] subheading "Electronic Devices"; to repeal Section 585 of Article 27 of the Annotated Code of Maryland (1971 Replacement Volume), title and subtitle "Crimes and Punishments," [I[subtitle]] subheading "Wire Tapping"; and to repeal Sections 92 through 99 of Article 35 of the Annotated Code of Maryland (1971 Replacement Volume), title "Evidence," subtitle "Wire Tapping," and to enact in lieu thereof new Sections 92 through [I[99]] 99A, to be under the new subtitle "Wire Interception and Interception of Oral Communications," to define the terms used in the new subtitle, to prohibit the unauthorized interception of wire and oral communications and to prohibit their use as evidence, to authorize the Attorney General in certain cases and the State's Attorneys to seek judicial authority for appropriate law enforcement officials to intercept wire or oral communications which may provide evidence of certain crimes, to set forth the procedures to be followed for obtaining authorization to lawfully intercept wire or oral communications, to set forth the circumstances under which intercepted communications can be disclosed or used, to require reports concerning intercepted wire and oral communications and to provide for recovery of civil damages for persons whose wire or oral communication has been unlawfully intercepted, and to provide for the registration of certain devices by certain persons.

June 1, 1973.

Honorable Thomas Hunter Lowe
Speaker of the House of Delegates
State House
Annapolis, Maryland 21404

Dear Mr. Speaker:

In accordance with Article II, Section 17, of the Maryland Constitution, I have today vetoed House Bill 962.

This bill, with some modification, enacts as State law, and therefore as an expression of State policy, the basic provisions of the Federal Wiretap Law (Title 18, U.S.C. §2510 et seq.), and repeals the existing State laws relating to wiretapping.

The probable genesis of H.B. 962 was a decision by the Maryland Court of Special Appeals in State v. Siegel, 13 Md. App. 444 (1971), aff'd, 266 Md. 256, which, in effect, invalidated certain procedures relating to Court ordered interception of electronic communications theretofore authorized under State law.

The existing Maryland law relating to wiretaps is found in Article 27, §§125A - 125D and Article 35, §§92-99 of the Annotated Code. Section 125A of Article 27 makes it unlawful for any person in the State to use any device or equipment in such manner as to overhear or record any part of the conversation or words spoken to or by any person in private conversation without the knowledge or consent of that other person. Only upon a showing to a court of probable cause that a crime may be, or is being, or has been committed, and that the use of such device is necessary to prevent the commission of the crime or to secure evidence thereof, may a wiretap lawfully be permitted. Section 92 of Article 35 expresses the same sentiment as follows: