

HOUSE BILL 314

E2

0lr0991
CF 0lr2167

By: **Delegates Smigiel, Aumann, Bates, Boteler, Conaway, Dwyer, Eckardt, Elmore, George, Haddaway, Kach, Kelly, Kramer, Krebs, McComas, McDonough, Miller, Norman, Schuh, Shank, Shewell, Sophocleus, Sossi, Stocksdale, Stull, and Walkup**

Introduced and read first time: January 27, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Wiretapping – Evidence of Sexual Offense Against or**
3 **Sexual Abuse of a Child**

4 FOR the purpose of authorizing a wire, oral, or electronic communication that is
5 intercepted showing evidence of a sexual offense in the first or second degree if
6 the victim is under a certain age or the sexual abuse of a minor if the victim is
7 under a certain age to be received in evidence in a criminal proceeding against a
8 defendant being prosecuted for the offense.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 10–405
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2009 Supplement)

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

16 **Article – Courts and Judicial Proceedings**

17 10–405.

18 (a) Except as provided in subsection (b) **AND (C)** of this section, whenever
19 any wire, oral, or electronic communication has been intercepted, no part of the
20 contents of the communication and no evidence derived therefrom may be received in
21 evidence in any trial, hearing, or other proceeding in or before any court, grand jury,
22 department, officer, agency, regulatory body, legislative committee, or other authority

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 of this State, or a political subdivision thereof if the disclosure of that information
2 would be in violation of this subtitle.

3 (b) If any wire, oral, or electronic communication is intercepted in any state
4 or any political subdivision of a state, the United States or any territory, protectorate,
5 or possession of the United States, including the District of Columbia in accordance
6 with the law of that jurisdiction, but that would be in violation of this subtitle if the
7 interception was made in this State, the contents of the communication and evidence
8 derived from the communication may be received in evidence in any trial, hearing, or
9 other proceeding in or before any court, grand jury, department, officer, agency,
10 regulatory body, legislative committee, or other authority of this State, or any political
11 subdivision of this State if:

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

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

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

18 **(C) A WIRE, ORAL, OR ELECTRONIC COMMUNICATION THAT IS**
19 **INTERCEPTED SHOWING EVIDENCE OF A SEXUAL OFFENSE IN THE FIRST OR**
20 **SECOND DEGREE IF THE VICTIM IS UNDER THE AGE OF 14 YEARS OR THE**
21 **SEXUAL ABUSE OF A MINOR IF THE VICTIM IS UNDER THE AGE OF 14 YEARS MAY**
22 **BE RECEIVED IN EVIDENCE IN A CRIMINAL PROCEEDING AGAINST A DEFENDANT**
23 **BEING PROSECUTED FOR THE OFFENSE.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2010.