

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1837 Session of
1979

INTRODUCED BY SCIRICA, SPENCER, BERSON AND FISHER,
OCTOBER 15, 1979

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 15, 1979

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, defining "malice" and further
3 providing for certain remedies against individuals violating
4 provisions relating to electronic surveillance.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 5702 of Title 18, act of November 25,
8 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated
9 Statutes, is amended by adding a definition to read:

10 § 5702. Definitions.

11 As used in this chapter, the following words and phrases
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 * * *

15 "Malice." Doing of an act known by the actor to be unlawful
16 with the specific intent to violate provisions of this chapter.

17 * * *

18 Section 2. Sections 5725(a) and 5726 of Title 18 are amended

1 to read:

2 § 5725. Civil action for unlawful interception, disclosure or
3 use of wire or oral communication.

4 (a) Cause of action.--Any person whose wire or oral
5 communications is intercepted, disclosed or used in violation of
6 this chapter shall have a civil cause of action against any
7 person who intentionally and with malice intercepts, discloses
8 or uses or procures any other person to intercept, disclose or
9 use, such communication; and shall be entitled to recover from
10 any such person:

11 (1) Actual damages, but not less than liquidated damages
12 computed at the rate of \$100 a day for each day of violation,
13 or \$1,000, whichever is higher.

14 (2) Punitive damages.

15 (3) A reasonable attorney's fee and other litigation
16 costs reasonably incurred.

17 * * *

18 § 5726. Action for removal from office or employment.

19 Any aggrieved person shall have the right to bring an action
20 in Commonwealth Court against any investigative or law
21 enforcement officer, public official or public employee seeking
22 the officer's, official's or employee's removal from office or
23 employment on the grounds that the officer, official or employee
24 has [willfully] intentionally and with malice violated the
25 provisions of this chapter. If the court shall conclude that
26 such officer, official or employee has in fact [willfully]
27 intentionally and with malice violated the provisions of this
28 chapter, the court shall order the dismissal or removal from
29 office of said officer, official or employee and the forfeiture
30 of said officer, official or employee's pension benefit

1 entitlements, if any.

2 Section 3. This act shall take effect in 60 days.