

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2592 Session of
1996

INTRODUCED BY MAITLAND, GANNON, FEESE, DALEY, KAISER, DEMPSEY,
FAIRCHILD, MELIO, FLEAGLE, EGOLF, LYNCH, FARGO, SAYLOR,
HALUSKA, MERRY, TRUE, FAJT, FICHTER, ZUG, CLARK, PETTIT,
PISTELLA, SHEEHAN, BARLEY, HUTCHINSON, RUBLEY, SCHULER,
BATTISTO, TIGUE, JADLOWIEC, NAILOR, JAROLIN, BIRMELIN, WOGAN,
HESS, WAUGH, GEIST, CORRIGAN, DIGIROLAMO, MASLAND, PLATTS,
STABACK, MILLER, NICKOL, TRELLO, LEDERER, SATHER, MCGEEHAN
AND BARD, MAY 2, 1996

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 28, 1996

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for exceptions to
3 the interception and disclosure of communications by inmates
4 of county correctional institutions.

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

7 Section 1. Section ~~5704~~ 5704(2) of Title 18 of the <—
8 Pennsylvania Consolidated Statutes is amended AND THE SECTION IS <—
9 AMENDED by adding a paragraph to read:

10 § 5704. Exceptions to prohibition of interception and
11 disclosure of communications.

12 It shall not be unlawful under this chapter for:

13 * * *

14 (2) ANY INVESTIGATIVE OR LAW ENFORCEMENT OFFICER OR ANY <—
15 PERSON ACTING AT THE DIRECTION OR REQUEST OF AN INVESTIGATIVE

1 OR LAW ENFORCEMENT OFFICER TO INTERCEPT A WIRE, ELECTRONIC OR
2 ORAL COMMUNICATION INVOLVING SUSPECTED CRIMINAL ACTIVITIES
3 WHERE:

4 (I) SUCH OFFICER OR PERSON IS A PARTY TO THE
5 COMMUNICATION; [OR]

6 (II) ONE OF THE PARTIES TO THE COMMUNICATION HAS
7 GIVEN PRIOR CONSENT TO SUCH INTERCEPTION. HOWEVER, NO
8 INTERCEPTION UNDER THIS PARAGRAPH SHALL BE MADE UNLESS
9 THE ATTORNEY GENERAL OR A DEPUTY ATTORNEY GENERAL
10 DESIGNATED IN WRITING BY THE ATTORNEY GENERAL, OR THE
11 DISTRICT ATTORNEY, OR AN ASSISTANT DISTRICT ATTORNEY
12 DESIGNATED IN WRITING BY THE DISTRICT ATTORNEY, OF THE
13 COUNTY WHEREIN THE INTERCEPTION IS TO BE MADE, HAS
14 REVIEWED THE FACTS AND IS SATISFIED THAT THE CONSENT IS
15 VOLUNTARY AND HAS GIVEN PRIOR APPROVAL FOR THE
16 INTERCEPTION; HOWEVER SUCH INTERCEPTION SHALL BE SUBJECT
17 TO THE RECORDING AND RECORD KEEPING REQUIREMENTS OF
18 SECTION 5714(A) (RELATING TO RECORDING OF INTERCEPTED
19 COMMUNICATIONS) AND THAT THE ATTORNEY GENERAL, DEPUTY
20 ATTORNEY GENERAL, DISTRICT ATTORNEY OR ASSISTANT DISTRICT
21 ATTORNEY AUTHORIZING THE INTERCEPTION SHALL BE THE
22 CUSTODIAN OF RECORDED EVIDENCE OBTAINED THEREFROM[.]; OR

23 (III) THE INVESTIGATIVE OR LAW ENFORCEMENT OFFICER
24 MEETS IN PERSON WITH A SUSPECTED FELON AND WEARS A
25 CONCEALED ELECTRONIC OR MECHANICAL DEVICE CAPABLE OF
26 INTERCEPTING OR RECORDING ORAL COMMUNICATIONS. HOWEVER,
27 NO INTERCEPTION UNDER THIS SUBPARAGRAPH MAY BE USED IN
28 ANY CRIMINAL PROSECUTION, EXCEPT FOR A PROSECUTION
29 INVOLVING HARM DONE TO THE INVESTIGATIVE OR LAW
30 ENFORCEMENT OFFICER. THIS SUBPARAGRAPH SHALL NOT BE

1 CONSTRUED TO LIMIT THE INTERCEPTION AND DISCLOSURE
2 AUTHORITY PROVIDED FOR IN SUBPARAGRAPH (I).

3 * * *

4 (14) An investigative officer, a law enforcement officer
5 or employees of a county correctional facility to intercept,
6 record, monitor or divulge any telephone calls from or to an
7 inmate in a facility under the following conditions:

8 (i) The county correctional facility shall adhere to
9 the following procedures and restrictions when
10 intercepting, recording, monitoring or divulging any
11 telephone calls from or to an inmate in a county
12 correctional facility as provided for by this paragraph:

13 (A) Before the implementation of this paragraph,
14 all inmates of the facility shall be notified in
15 writing that, as of the effective date of this
16 paragraph, their telephone conversations may be
17 intercepted, recorded, monitored or divulged.

18 (B) Unless otherwise provided for in this
19 paragraph, after intercepting or recording a
20 telephone conversation, only the superintendent,
21 warden or a designee of the superintendent or warden
22 or other chief administrative official or his or her
23 designee shall have access to that recording.

24 (C) The contents of an intercepted and recorded
25 telephone conversation shall be divulged only as is
26 necessary to safeguard the orderly operation of the
27 facility, in response to a court order or in the
28 prosecution or investigation of any crime.

29 (ii) So as to safeguard the attorney-client
30 privilege, the county correctional facility shall not

1 intercept, record, monitor or divulge any conversation
2 between an inmate and an attorney.

3 (iii) Persons who are calling into a facility to
4 speak to an inmate shall be notified that the call may be
5 recorded or monitored.

6 (iv) The superintendent, warden or a designee of the
7 superintendent or warden or other chief administrative
8 official of the county correctional system shall
9 promulgate guidelines to implement the provisions of this
10 paragraph for county correctional facilities.

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