

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 260 Session of 2023

INTRODUCED BY ROBINSON, SCHWANK, MARTIN, STEFANO, DUSH, J. WARD, LAUGHLIN, COSTA, REGAN AND ARGALL, JANUARY 31, 2023

SENATOR REGAN, LAW AND JUSTICE, AS AMENDED, JUNE 21, 2023

AN ACT

1 ~~Amending Titles 18 (Crimes and Offenses) and 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, in wiretapping and electronic surveillance, further providing for definitions; and, in Pennsylvania Board of Probation and Parole, providing for exception to prohibition of interception and disclosure of communications.~~ <--

7 AMENDING TITLE 18 (CRIMES AND OFFENSES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, IN WIRETAPPING AND ELECTRONIC SURVEILLANCE, FURTHER PROVIDING FOR DEFINITIONS. <--

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The definition of "oral communication" in section
13 5702 of Title 18 of the Pennsylvania Consolidated Statutes is
14 amended to read:

15 § 5702. Definitions.

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

19 * * *

20 "Oral communication." Any oral communication uttered by a
21 person possessing an expectation that such communication is not

1 subject to interception under circumstances justifying such
2 expectation. The term does not include the following:

3 (1) An electronic communication.

4 (2) A communication made in the presence of a law
5 enforcement officer on official duty who is in uniform or
6 otherwise clearly identifiable as a law enforcement officer
7 and who is using an electronic, mechanical or other device
8 which has been approved under section 5706(b)(4) (relating to
9 exceptions to prohibitions in possession, sale, distribution,
10 manufacture or advertisement of electronic, mechanical or
11 other devices) to intercept the communication in the course
12 of law enforcement duties. As used in this paragraph only,
13 "law enforcement officer" means a member of the Pennsylvania
14 State Police, an individual employed as a police officer who
15 holds a current certificate under 53 Pa.C.S. Ch. 21 Subch. D
16 (relating to municipal police education and training), a
17 sheriff or a deputy sheriff.

18 ~~(3) A communication made in the presence of an agent~~ <--
19 ~~under 61 Pa.C.S. § 6183 (relating to exception to prohibition~~
20 ~~of interception and disclosure of communications) who is on~~
21 ~~official duty and who is using an electronic, mechanical or~~
22 ~~other device that has been approved under section 5706(b)(4)~~
23 ~~and who has received training on such a device in a course~~
24 ~~approved by the Pennsylvania State Police to intercept a~~
25 ~~wire, electronic or oral communication.~~

26 * * *

27 Section 2. Title 61 is amended by adding a section to read:

28 ~~§ 6183. Exception to prohibition of interception and disclosure~~
29 ~~of communications.~~

30 ~~An agent who has received training on the use of an~~

~~1 electronic, mechanical or other device that has been approved
2 under 18 Pa.C.S. § 5706(b)(4) (relating to exceptions to
3 prohibitions in possession, sale, distribution, manufacture or
4 advertisement of electronic, mechanical or other devices) in a
5 course approved by the Pennsylvania State Police shall be an
6 investigative or law enforcement officer as defined under 18
7 Pa.C.S. § 5702 (relating to definitions). The agent may wear an
8 electronic, mechanical or other device in the performance of
9 official duties.~~

10 (3) A COMMUNICATION MADE IN THE PRESENCE OF AN AGENT AS <--
11 DEFINED IN 61 PA.C.S. § 6101 (RELATING TO DEFINITIONS) WHO:

12 (I) IS CLEARLY IDENTIFIABLE AS BEING ON OFFICIAL
13 DUTY;

14 (II) IS USING AN ELECTRONIC, MECHANICAL OR OTHER
15 DEVICE THAT HAS BEEN APPROVED UNDER SECTION 5706(B)(4) TO
16 INTERCEPT A WIRE, ELECTRONIC OR ORAL COMMUNICATION IN THE
17 COURSE OF OFFICIAL DUTIES; AND

18 (III) HAS RECEIVED TRAINING ON THE DEVICE SPECIFIED
19 UNDER SUBPARAGRAPH (II).

20 (4) A COMMUNICATION MADE IN THE PRESENCE OF AN
21 INDIVIDUAL EMPLOYED BY THE BUREAU OF INVESTIGATIONS AND
22 INTELLIGENCE WITHIN THE DEPARTMENT OF CORRECTIONS WHO:

23 (I) HOLDS A POLICE OFFICER COMMISSION IN ACCORDANCE
24 WITH SECTION 1 OF THE ACT OF MAY 21, 1943 (P.L.469,
25 NO.210), ENTITLED "AN ACT PROVIDING FOR COMMISSIONING AS
26 POLICE OFFICERS CERTAIN EMPLOYES OF INSTITUTIONS
27 MAINTAINED IN WHOLE OR IN PART BY THE COMMONWEALTH;
28 CONFERRING UPON THEM THE POWERS OF CONSTABLES IN CERTAIN
29 CASES; AND IMPOSING DUTIES ON WARDENS AND KEEPERS OF
30 JAILS, POLICE STATIONS AND LOCK-UPS";

1 (II) IS CLEARLY IDENTIFIABLE AS BEING ON OFFICIAL
2 DUTY;

3 (III) IS USING AN ELECTRONIC, MECHANICAL OR OTHER
4 DEVICE THAT HAS BEEN APPROVED UNDER SECTION 5706(B)(4) TO
5 INTERCEPT A WIRE, ELECTRONIC OR ORAL COMMUNICATION IN THE
6 COURSE OF OFFICIAL DUTIES; AND

7 (IV) HAS RECEIVED TRAINING ON THE DEVICE SPECIFIED
8 UNDER SUBPARAGRAPH (III).

9 * * *

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

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