



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 1278

PRINTER'S NO. 2037

PRIME SPONSOR: PIELLI

### COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	\$0	\$0

### SUMMARY:

Amends Title 18, Chapter 57 (Wiretap Act), to remove certain communications made in the presence of state parole agents from the definition of "oral communication" under the Wiretap Act, establishes the criteria to allow a parole agent to intercept, record, monitor, and divulge an oral communication, and extends the expiration date of the Wiretap Act.

### ANALYSIS:

House Bill 1278 amends the definition of oral communication to exclude the following:

- A communication made in the physical presence of a parole agent from or to an individual subject to State supervision or parole who meets the following criteria:
  - Is clearly identifiable and on official duty;
  - Is using an electronic, mechanical, or other device that has been approved under section 5706(b)(4) to intercept a wire, electronic, or oral communication in the course of official duties;
  - Has received training on the device; and
  - Has provided prior written notice to a person under supervision that his or her communications may be intercepted.
- A communication made in the presence of an individual employed in the Department of Corrections, Bureau of Investigations and Intelligence, holding a police officer commission, that meets all of the following criteria:
  - Is clearly identifiable and on official duty;
  - Is using an electronic, mechanical, or other device that has been approved under section 5706(b)(4) to intercept a wire, electronic, or oral communication in the course of official duties;
  - Has received training on the device; and
  - Is not intercepting a communication from inside the residence of an employee of the Department of Corrections without the consent of the employee or prior court approval

The legislation also amends Section 5704 (exceptions to prohibition of interception) of the Wiretap Act to allow a parole agent to intercept, record, monitor, and divulge an oral communication provided that the person subject to state parole has been notified in writing that their communications may be intercepted, recorded, monitored, or divulged. The legislation establishes who can have access to the communication, the circumstances under which the contents of the recordings may be divulged, and stipulates that interception or recording shall be shared with a law enforcement officer unless pursuant to a lawful warrant.

Section 5704 is further amended to permit a person to intercept the wire communications of a telemarketer, telemarketing business or an individual or entity that initiates robocalls, as those terms are defined in the Telemarketer Registration Act, provided that the person who received the telephone call has consented to the interception, for purposes of enforcing the Telephone Consumer Protection Act of 1991, the Unfair Trade Practices and Consumer Protection Law, or The Telemarketer Registration Act.

The legislation inserts Section 5729, which stipulates that a request for access to audio and video recordings made by a parole agent shall not be subject to the Right-to-Know Law, and Section 5750, which requires the Department of Corrections to develop a record retention policy for all communications lawfully intercepted by department employees.

The legislation extends the expiration date of the Wiretap Act, which is currently set to expire December 31, 2023, until December 31, 2029.

The portion of the legislation that redefines oral communications would take effect in 60 days upon enactment. The re-authorization of the Wiretap Act would take effect immediately upon enactment.

**FISCAL IMPACT:**

Enactment of this legislation will have no impact on Commonwealth funds.

**PREPARED BY:** Bradley Keen  
House Appropriations Committee (D)

**DATE:** September 26, 2023

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*