

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 1278

PRINTER NO. 2303

AMOUNT

See Fiscal Impact

FUND

General Fund

DATE INTRODUCED

May 30, 2023

PRIME SPONSOR

Representative Pielli

DESCRIPTION

House Bill 1278 amends Title 18 (Crimes and Offenses), Chapter 57 (Wiretapping and Electronic Surveillance) to exclude the use of body worn cameras by state parole agents and Department of Corrections investigators under certain circumstances; to establish an exception to allow the recording of certain telemarketing calls; and to extend the expiration date of the Wiretap Act through 2029.

This legislation amends the definition of “oral communication” to exclude a communication made in the presence of a state parole agent or employee of the Department of Corrections (department), Bureau of Investigations and Intelligence, holding a police officer commission when certain criteria are met.

Regarding state parole agents, these criteria include:

- The agent is clearly identifiable and on official duty;
- The agent is using an electronic, mechanical or other device approved for use under section 5706(b)(4) of Title 18;
- The agent has received training on the device; and
- There has been provided prior written notice to the parolee that an agent may intercept communications with the person.

Regarding department investigators, these criteria include:

- The investigator is clearly identifiable and on official duty;
- The investigator is using a device approved for use under section 5706(b)(4) of Title 18;
- The investigator has received training on the device; and
- The investigator is not intercepting a communication from inside the residence of an employee of the department without consent or prior court approval.

Section 5704 (relating to exceptions to prohibition of interception and disclosure of communications) is amended to establish an exception to the crime of intercepting/disclosing communications under section 5703. This exception would allow an individual to intercept telemarketing or robocalls for the purposes of enforcing any of the following:

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

- 1) 47 U.S.C. § 227 (relating to restrictions on use of telephone equipment);
- 2) The Unfair Trade Practices and Consumer Protection Law; or
- 3) The Telemarketer Registration Act.

Subchapter B of Chapter 57 is amended by adding a new section 5729 (relating to public access), which specifies that parole agent body camera recordings are not subject to the Right-to-Know Law and shall instead follow the access procedures provided for under 42 Pa.C.S. Ch. 67A (relating to recordings by law enforcement officers).

Subchapter C of Chapter 57 is amended by adding a new section 5750 (relating to Department of Corrections retention policy), which directs the Secretary of Corrections to develop a record retention policy for all communications lawfully intercepted by employees of the Department of Corrections.

Section 5781 (relating to expiration of chapter) is amended by extending the expiration date of the Wiretap Act through December 31, 2029.

The amendment to the definition of "oral communication" and section 5704 take effect in 60 days. The remainder of the act takes effect immediately.

FISCAL IMPACT

Initial costs will be incurred by the department for the purchase of body worn cameras. Costs may increase in future years for cloud-based storage and docking stations for the body worn cameras. The FY 2023-24 budget included \$1.5 million in the State Field Supervision appropriation for the purchase of body worn cameras.