

## AMENDMENTS TO SENATE BILL NO. 560

Sponsor: REPRESENTATIVE MARSICO

Printer's No. 821

1 Amend Bill, page 2, lines 5 through 14, by striking out all  
2 of said lines and inserting

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

17 Amend Bill, page 8, lines 29 and 30; page 9, lines 1 and 2;  
18 by striking out "recording a communication, other than an" in  
19 line 29, all of line 30 on page 8 and all of lines 1 and 2 on  
20 page 9 and inserting

21 recording a communication under circumstances within  
22 paragraph (2) of the definition of "oral communication" in  
23 section 5702 (relating to definitions).

24 Amend Bill, page 9, line 8, by striking out "or video  
25 recording"

26 Amend Bill, page 9, line 9, by inserting after "(4)"  
27 or any accompanying video recording

28 Amend Bill, page 12, lines 21 through 30; page 13, lines 1  
29 through 5; by striking out all of said lines on said pages and

1 inserting

2 (a) Exemption.--The provisions of this chapter, and not the  
3 act of February 14, 2008 (P.L.6, No.3), known as the Right-to-  
4 Know Law, shall apply to any audio recording or video recording  
5 made by a law enforcement agency.

6 (b) Limitation.--Nothing in this chapter nor the Right-to-  
7 Know Law shall establish a right to production of an audio  
8 recording or video recording made inside a facility owned or  
9 operated by a law enforcement agency or to any communications  
10 between or within law enforcement agencies concerning an audio  
11 or video recording.

12 Amend Bill, page 13, line 17, by inserting after "officer"  
13 from personal delivery or certified mail with proof of  
14 service

15 Amend Bill, page 13, line 29, by inserting after "recording"  
16 unless not known and not reasonably ascertainable

17 Amend Bill, page 14, line 12, by striking out "determination"  
18 and inserting  
19 request

20 Amend Bill, page 14, line 13, by striking out "no"

21 Amend Bill, page 14, line 15, by inserting after "will"  
22 not

23 Amend Bill, page 14, lines 17 through 22, by striking out all  
24 of said lines

25 Amend Bill, page 14, lines 25 through 27, by striking out all  
26 of said lines and inserting

27 district attorney with jurisdiction to:

28 (1) ensure consultation regarding the reviewing of audio  
29 recordings or video recordings in order to make a  
30 determination; or

31 (2)

32 Amend Bill, page 15, line 22, by striking out "SUBSECTION  
33 (B)" and inserting

34 section 67A04(b)(2) (relating to law enforcement review)

35 Amend Bill, page 15, line 27, by inserting after "Denials"  
36 by operation of law

1 Amend Bill, page 15, line 28, by inserting after "DEEMED"

2 by operation of law

3 Amend Bill, page 16, line 8, by inserting after "recording"

4 and any period within which a petition for judicial review  
5 is allowable or pending

6 Amend Bill, page 17, line 13, by striking out "or" where it  
7 occurs the second time and inserting

8 and

9 Amend Bill, page 17, line 16, by inserting after "mail"

10 with proof of service

11 Amend Bill, page 17, lines 17 through 21, by striking out all  
12 of said lines and inserting

13 (3) The petitioner shall include with the petition a  
14 copy of the written request under section 67A03 that was  
15 served on the law enforcement agency and any written  
16 responses to the request that were received.

17 Amend Bill, page 17, line 22, by striking out "notice of"

18 Amend Bill, page 17, line 22, by striking out "to" and  
19 inserting

20 on the open records officer of

21 Amend Bill, page 17, line 23, by striking out "on the same"  
22 and inserting

23 within five days of the

24 Amend Bill, page 17, lines 24 through 30, by striking out the  
25 period in line 24 and all of lines 25 through 30 and inserting

26 , and service shall be effective upon receipt by the open  
27 records officer.

28 (c) Intervention as matter of right.--If not a respondent, a  
29 prosecuting attorney with jurisdiction may intervene in the  
30 action as a matter of right.

31 Amend Bill, page 18, line 5, by striking out "or"

32 Amend Bill, page 18, line 10, by striking out the period  
33 after "event" and inserting

1           ; or

2           (3) The petitioner has not complied with the  
3           requirements of subsection (b)(1), (2), (3) and (4).

4           Amend Bill, page 18, line 12, by striking out "only"

5           Amend Bill, page 18, line 14, by inserting after "recording"

6           only

7           Amend Bill, page 18, line 14, by striking out "of common

8           pleas"

9           Amend Bill, page 18, line 17, by inserting after "67A04"

10           (relating to law enforcement review)

11           Amend Bill, page 19, line 5, by inserting after "recordings"

12           where it occurs the second time

13           of communications under circumstances within paragraph (2)  
14           of the definition of "oral communication" in 18 Pa.C.S. § 5702  
15           (relating to definitions)

16           Amend Bill, page 21, line 16, by striking out the comma after  
17           "General" and inserting

18           or

19           Amend Bill, page 21, lines 16 and 17, by striking out "or a  
20           law enforcement agency"

21           Amend Bill, page 21, line 19, by striking out all of said  
22           line and inserting

23           the time periods stated in this chapter.

24           (3) Attorney

25           Amend Bill, page 21, line 21, by inserting after "writing"

26           by a law enforcement agency

27           Amend Bill, page 22, lines 1 and 2, by striking out all of  
28           said lines and inserting

29           The following shall apply:

30           (1) Nothing in this chapter shall be construed to alter  
31           the responsibilities of parties to criminal or civil  
32           litigation to produce information in accordance with the  
33           applicable rules of procedure.

34           (2) Nothing in this chapter shall apply to an audio

1 recording or video recording that is otherwise prohibited or  
2 protected from disclosure under any other Federal or State  
3 law.