

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1837

Session of
1979

INTRODUCED BY MESSRS. SCIRICA, SPENCER, BERSON AND D. M. FISHER,
OCTOBER 15, 1979

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED MAY 28, 1980

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, ~~defining "malice" and~~ further <—
3 providing for certain remedies against individuals violating
4 provisions relating to electronic surveillance AND FOR <—
5 CERTAIN DEFENSES.

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

8 Section 1. Section ~~5702~~ 5725 of Title 18, act of November <—
9 25, 1970 (P.L.707, No.230), known as the Pennsylvania
10 Consolidated Statutes, is amended by adding a ~~definition~~ <—
11 SUBSECTION to read: <—

12 ~~§ 5702. Definitions.~~ <—

13 ~~As used in this chapter, the following words and phrases~~
14 ~~shall have the meanings given to them in this section unless the~~
15 ~~context clearly indicates otherwise:~~

16 * * *

17 ~~"Malice." Doing of an act known by the actor to be unlawful~~
18 ~~with the specific intent to violate provisions of this chapter.~~

1 * * *

2 Section 2. ~~Sections 5725(a) and 5726 of Title 18 are amended~~
3 ~~to read:~~

4 ~~§ 5725. Civil action for unlawful interception, disclosure or~~
5 ~~—use of wire or oral communication.~~

6 ~~(a) Cause of action. Any person whose wire or oral~~
7 ~~communications is intercepted, disclosed or used in violation of~~
8 ~~this chapter shall have a civil cause of action against any~~
9 ~~person who intentionally and with malice intercepts, discloses~~
10 ~~or uses or procures any other person to intercept, disclose or~~
11 ~~use, such communication; and shall be entitled to recover from~~
12 ~~any such person:~~

13 ~~(1) Actual damages, but not less than liquidated damages~~
14 ~~computed at the rate of \$100 a day for each day of violation,~~
15 ~~or \$1,000, whichever is higher.~~

16 ~~(2) Punitive damages.~~

17 ~~(3) A reasonable attorney's fee and other litigation~~
18 ~~costs reasonably incurred.~~

19 * * *

20 § 5725. CIVIL ACTION FOR UNLAWFUL INTERCEPTION, DISCLOSURE OR <—
21 USE OF WIRE OR ORAL COMMUNICATION.

22 * * *

23 (C) DEFENSE.--IT IS A DEFENSE TO AN ACTION BROUGHT PURSUANT
24 TO SUBSECTION (A) THAT THE ACTOR ACTED IN GOOD FAITH RELIANCE ON
25 A COURT ORDER OR THE PROVISIONS OF THIS CHAPTER.

26 SECTION 2. SECTION 5726 OF TITLE 18 IS AMENDED TO READ:

27 § 5726. Action for removal from office or employment.

28 (A) CAUSE OF ACTION.--Any aggrieved person shall have the <—
29 right to bring an action in Commonwealth Court against any
30 investigative or law enforcement officer, public official or

1 public employee seeking the officer's, official's or employee's
2 removal from office or employment on the grounds that the
3 officer, official or employee has [willfully] intentionally and <—
4 ~~with malice~~ violated the provisions of this chapter. If the
5 court shall conclude that such officer, official or employee has
6 in fact [willfully] intentionally and ~~with malice~~ violated the <—
7 provisions of this chapter, the court shall order the dismissal
8 or removal from office of said officer, official or employee
9 [and the forfeiture of said officer, official or employee's <—
10 pension benefit entitlements, if any]. <—
11 (B) DEFENSE.--IT IS A DEFENSE TO AN ACTION BROUGHT PURSUANT <—
12 TO SUBSECTION (A) THAT THE ACTOR ACTED IN GOOD FAITH RELIANCE ON
13 A COURT ORDER OR THE PROVISIONS OF THIS CHAPTER.
14 Section 3. This act shall take effect in 60 days.