

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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 24, 1980

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, FURTHER PROVIDING FOR THE USE OF THE <—
3 CONTENTS OF INTERCEPTED COMMUNICATIONS AND FOR SUPPRESSION OF
4 THE CONTENTS OF INTERCEPTED COMMUNICATIONS AND further
5 providing for certain remedies against individuals violating
6 provisions relating to electronic surveillance and for
7 certain defenses.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 SECTION 1. SECTIONS 5720 AND 5721(B) OF TITLE 18, ACT OF <—
11 NOVEMBER 25, 1970 (P.L.707, NO.230), KNOWN AS THE PENNSYLVANIA
12 CONSOLIDATED STATUTES, ARE AMENDED TO READ:

13 § 5720. SERVICE OF COPY OF ORDER AND APPLICATION BEFORE
14 DISCLOSURE OF INTERCEPTED COMMUNICATION IN TRIAL,
15 HEARING OR PROCEEDING.

16 THE CONTENTS OF ANY WIRE OR ORAL COMMUNICATION INTERCEPTED IN
17 ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, OR EVIDENCE
18 DERIVED THEREFROM, SHALL NOT BE DISCLOSED IN ANY TRIAL, HEARING,
19 OR OTHER ADVERSARY PROCEEDING BEFORE ANY COURT OF THE

1 COMMONWEALTH UNLESS NOT LESS THAN TEN DAYS BEFORE THE TRIAL,
2 HEARING OR PROCEEDING THE PARTIES TO THE ACTION HAVE BEEN SERVED
3 WITH A COPY OF THE ORDER, THE ACCOMPANYING APPLICATION AND THE
4 FINAL REPORT UNDER WHICH THE INTERCEPTION WAS AUTHORIZED OR, IN
5 THE CASE OF AN INTERCEPTION UNDER SECTION 5704 (RELATING TO
6 EXCEPTIONS TO PROHIBITION ON INTERCEPTION AND DISCLOSURE OF
7 COMMUNICATIONS), NOTICE OF THE FACT AND NATURE OF THE
8 INTERCEPTION. THE SERVICE OF INVENTORY, ORDER, APPLICATION, AND
9 FINAL REPORT REQUIRED BY THIS SECTION MAY BE WAIVED BY THE COURT
10 ONLY WHERE IT FINDS THAT THE SERVICE IS NOT FEASIBLE AND THAT
11 THE PARTIES WILL NOT BE PREJUDICED BY THE FAILURE TO MAKE THE
12 SERVICE. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF ANY
13 PARTY TO OBTAIN PRETRIAL DISCOVERY PURSUANT TO GENERAL RULES OF
14 COURT.

15 § 5721. SUPPRESSION OF CONTENTS OF INTERCEPTED COMMUNICATION OR
16 DERIVATIVE EVIDENCE.

17 * * *

18 (B) PROCEDURE.--THE MOTION SHALL BE MADE [AT LEAST TEN DAYS
19 BEFORE THE TRIAL, HEARING, OR OTHER ADVERSARY PROCEEDING] WITHIN
20 THE TIME FIXED BY THE PENNSYLVANIA RULES OF CRIMINAL PROCEDURE
21 FOR FILING PRETRIAL MOTIONS UNLESS THERE WAS NO OPPORTUNITY TO
22 MAKE THE MOTION OR THE MOVING PARTY WAS NOT AWARE OF THE GROUNDS
23 FOR THE MOTION. MOTIONS BY CO-INDICTEES ARE TO BE HEARD IN A
24 SINGLE CONSOLIDATED HEARING. THE COURT, UPON THE FILING OF SUCH
25 MOTION BY THE AGGRIEVED PERSON, SHALL MAKE AVAILABLE TO THE
26 AGGRIEVED PERSON OR HIS COUNSEL THE INTERCEPTED COMMUNICATION
27 AND EVIDENCE DERIVED THEREFROM. IF THE MOTION IS GRANTED, THE
28 ENTIRE CONTENTS OF ALL INTERCEPTED WIRE OR ORAL COMMUNICATIONS
29 OBTAINED DURING OR AFTER ANY INTERCEPTION WHICH IS DETERMINED TO
30 BE IN VIOLATION OF THIS CHAPTER UNDER SUBSECTION (A) OR EVIDENCE

1 DERIVED THEREFROM, SHALL NOT BE RECEIVED IN EVIDENCE IN THE
2 TRIAL, HEARING OR OTHER ADVERSARY PROCEEDING.

3 * * *

4 Section ~~1~~ 2. Section 5725 of Title 18, ~~act of November 25,~~ <—
5 ~~1970 (P.L.707, No.230), known as the Pennsylvania Consolidated~~
6 ~~Statutes,~~ is amended by adding a subsection to read:

7 § 5725. Civil action for unlawful interception, disclosure or
8 use of wire or oral communication.

9 * * *

10 (c) Defense.--It is a defense to an action brought pursuant
11 to subsection (a) that the actor acted in good faith REASONABLE <—
12 reliance on a court order. ~~or the provisions of this chapter.~~ <—

13 Section ~~2~~ 3. Section 5726 of Title 18 is amended to read: <—

14 § 5726. Action for removal from office or employment.

15 (a) Cause of action.--Any aggrieved person shall have the
16 right to bring an action in Commonwealth Court against any
17 investigative or law enforcement officer, public official or
18 public employee seeking the officer's, official's or employee's
19 removal from office or employment on the grounds that the
20 officer, official or employee has [willfully] intentionally
21 violated the provisions of this chapter. If the court shall
22 conclude that such officer, official or employee has in fact
23 [willfully] intentionally violated the provisions of this
24 chapter, the court shall order the dismissal or removal from
25 office of said officer, official or employee [and the forfeiture
26 of said officer, official or employee's pension benefit
27 entitlements, if any].

28 (b) Defense.--It is a defense to an action brought pursuant
29 to subsection (a) that the actor acted in good faith reliance on
30 a court order or the provisions of this chapter.

1 Section 3 4. This act shall take effect in 60 days.

<—