## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL No. 2400 Session of 2012

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- AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 12, 2012

## AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania 1 Consolidated Statutes, further providing for definitions, for 2 exceptions to prohibition of interception and disclosure of 3 communications, for possession, sale, distribution, 4 manufacture or advertisement of electronic, mechanical or 5 other devices, for issuance of order and effect; providing 6 for target-specific orders; and further providing for 7 emergency hostage and barricade situations, for investigative 8 disclosure or use of contents of wire, electronic or oral 9 communications or derivative evidence, for evidentiary 10 disclosure of contents of intercepted communication or 11 derivative evidence, for requirements for governmental 12 access, for cost reimbursement, for mobile tracking devices, 13 for application for an order for use of certain devices and 14 15 for issuance of an order for use of certain devices. 16 The General Assembly of the Commonwealth of Pennsylvania 17 hereby enacts as follows: 18 Section 1. The definitions of "electronic communication 19 service," "electronic communication system," "oral

20 communication," "trap and trace device" and "wire communication"

1	in section 5702 of Title 18 of the Pennsylvania Consolidated
2	Statutes are amended and the section is amended by adding
3	definitions to read:
4	§ 5702. Definitions.
5	As used in this chapter, the following words and phrases
6	shall have the meanings given to them in this section unless the
7	context clearly indicates otherwise:
8	* * *
9	"Communication service." Any service which provides to users
10	the ability to send or receive wire or electronic
11	communications.
12	"Communication system." Any wire, radio, electromagnetic,
13	photo-optical or photoelectronic facilities for the transmission
14	of communications, and any computer facilities or related
15	electronic equipment for the electronic storage of such
16	communications.
17	"Constructive notice." Notice provided by any means
18	sufficient to apprise a reasonable person that an oral
19	communication is or may be subject to interception.
20	* * *
21	"Crime of violence." Any of the following:
22	(1) Any of the following crimes:
23	<u>(i) Murder in any degree.</u>
24	(ii) A crime of violence as defined in 42 Pa.C.S. §
25	9714(g) (relating to sentences for second and subsequent
26	<u>offenses).</u>
27	(iii) Intimidation of witness or victim.
28	(iv) Retaliation against witness, victim or party.
29	(v) Criminal attempt, criminal conspiracy or
30	criminal solicitation to commit any of the offenses under

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1	this paragraph.
2	(2) Any crime requiring registration under 42 Pa.C.S.
3	Ch. 97 Subch. H (relating to registration of sexual
4	<u>offenders).</u>
5	(3) Any offense equivalent to an offense under paragraph
6	(1) or (2) under the laws of this Commonwealth in effect at
7	the time of the commission of that offense or under the laws
8	of another jurisdiction.
9	* * *
10	["Electronic communication service." Any service which
11	provides to users the ability to send or receive wire or
12	electronic communications.
13	"Electronic communication system." Any wire, radio,
14	electromagnetic, photo-optical or photoelectronic facilities for
15	the transmission of electronic communications, and any computer
16	facilities or related electronic equipment for the electronic
17	storage of such communications.]
18	* * *
19	"Mobile communications tracking information." Information
20	generated by a communication common carrier or a communication
21	service which indicates the location of an electronic device
22	supported by the communication common carrier or communication
23	service.
24	* * *
25	"Oral communication." Any oral communication uttered by a
26	person possessing an expectation that such communication is not
27	subject to interception under circumstances justifying such
28	expectation. An expectation is not justified if it is
29	objectively reasonable that what is spoken will or could be
30	overheard by another person not directly participating in the
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1	communication, if actual or constructive notice has been given
2	that audio recording or other interception is or may be
3	occurring or if equipment commonly used for video and audio
4	recording is plainly visible. The term does not include any
5	electronic communication.
6	* * *
7	"Signed, written record." A memorialization of the contents
8	of any wire, electronic or oral communication intercepted in
9	accordance with this subchapter, including the name of the
10	investigative or law enforcement officer who transcribed the
11	record, kept in electronic, paper or any form. The signature of
12	the transcribing officer shall not be required to be written,
13	but may be electronic.
14	* * *
15	"Trap and trace device." A device which captures the
16	incoming electronic or other impulses which identify the
17	originating number of an instrument or device from which a wire
18	or [electronic] communication was transmitted. The term includes
19	caller ID, deluxe caller ID or any other features available to
20	ascertain the telephone number, location or subscriber
21	information of a facility contacting the facility whose
22	communications are to be intercepted.
23	* * *
24	"Wire communication " Any aural transfer made in whole or in

Wire communication." Any aural transfer made in whole or in part through the use of facilities for the transmission of communication by wire, cable or other like connection between the point of origin and the point of reception, including the use of such a connection in a switching station, furnished or operated by a telephone, telegraph or radio company for hire as a communication common carrier. [The term includes any

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1 electronic storage of such communication.]

2 Section 2. Section 5704(2)(ii), (12)(ii), (13)(i)(B) and 3 (14) (i) (B) of Title 18 are amended, paragraph (2) is amended by adding a subparagraph and the section is amended by adding a 4 paragraph to read: 5

§ 5704. Exceptions to prohibition of interception and 6 disclosure of communications. 7

8 It shall not be unlawful and no prior court approval shall be required under this chapter for: 9

10

\* \* \*

(2) Any investigative or law enforcement officer or any 11 12 person acting at the direction or request of an investigative 13 or law enforcement officer to intercept a wire, electronic or 14 oral communication involving suspected criminal activities, 15 including, but not limited to, the crimes enumerated in section 5708 (relating to order authorizing interception of 16 17 wire, electronic or oral communications), where:

18 (i) the communication was knowingly transmitted in 19 any fashion to a third party by its author or another 20 sender and an investigative or law enforcement officer 21 legally obtains from the third party the communication or 22 a copy of the communication or the device to which it is 23 sent. Notwithstanding any other provision of this 24 chapter, an investigative or law enforcement officer may 25 contemporaneously intercept and respond to communications sent to a third party, if he has legally obtained the 26 27 device to which the communications are being sent, without disclosing his identity to the sender or author; 28 29 (ii) one of the parties to the communication has 30

given prior consent to such interception. However, no

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1 interception under this paragraph shall be made unless 2 the Attorney General or a deputy attorney general 3 designated in writing by the Attorney General, or the district attorney, or an assistant district attorney 4 5 designated in writing by the district attorney, of the county wherein the interception is to be [made] 6 7 initiated, has reviewed the facts and is satisfied that 8 the consent is voluntary and has given prior approval for the interception; however, such interception shall be 9 10 subject to the recording and record keeping requirements 11 of section 5714(a) (relating to recording of intercepted 12 communications) and that the Attorney General, deputy 13 attorney general, district attorney or assistant district 14 attorney authorizing the interception shall be the custodian of recorded evidence obtained therefrom; 15 \* \* \*

16

17 (12) Any investigative or law enforcement officer or any 18 person acting at the direction or request of an investigative 19 or law enforcement officer to intercept a wire or oral 20 communication involving suspected criminal activities where 21 the officer or the person is a party to the communication and 22 there is reasonable cause to believe that:

23

24

(ii) that party:

\* \* \*

25 (A) [will] <u>may</u> resist with the use of weapons; 26 or

27 is threatening suicide or harm to himself or (B) 28 others.

29 (13) An investigative officer, a law enforcement officer 30 or employees of the Department of Corrections for State

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correctional facilities to intercept, record, monitor or
 divulge any telephone calls from or to an inmate in a
 facility under the following conditions:

4 (i) The Department of Corrections shall adhere to
5 the following procedures and restrictions when
6 intercepting, recording, monitoring or divulging any
7 telephone calls from or to an inmate in a State
8 correctional facility as provided for by this paragraph:
9 \* \* \*

(B) Unless otherwise provided for in this
paragraph, after intercepting or recording a
telephone conversation, only the superintendent,
warden or a designee of the superintendent or warden
or other chief administrative official or his or her
designee, or law enforcement officers shall have
access to that recording.

17

\* \* \*

18 (14) An investigative officer, a law enforcement officer 19 or employees of a county correctional facility to intercept, 20 record, monitor or divulge any telephone calls from or to an 21 inmate in a facility under the following conditions:

(i) The county correctional facility shall adhere to
the following procedures and restrictions when
intercepting, recording, monitoring or divulging any
telephone calls from or to an inmate in a county
correctional facility as provided for by this paragraph:
\* \* \*

(B) Unless otherwise provided for in this
paragraph, after intercepting or recording a
telephone conversation, only the superintendent,

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1 warden or a designee of the superintendent or warden 2 or other chief administrative official or his or her 3 designee, or law enforcement officers shall have 4 access to that recording.

5

\* \* \*

6 (17) Any individual to intercept the contents of any 7 wire, electronic or oral communication if that person is 8 under a reasonable suspicion that the intercepted party is 9 committing, about to commit or has committed a crime of 10 violence or felony of the first degree and there is reason to 11 believe that evidence of the crime may be obtained from the 12 interception. This paragraph shall not apply to interceptions made at the prior direction of any law enforcement officer. 13 14 Section 3. Section 5705 heading of Title 18 is amended and the section is amended by adding a paragraph to read: 15 16 § 5705. Possession, sale, distribution, manufacture or 17 advertisement of electronic, mechanical or other devices and telecommunication identification 18 19 interception devices. 20 Except as otherwise specifically provided in section 5706 (relating to exceptions to prohibitions in possession, sale, 21 distribution, manufacture or advertisement of electronic, 22 23 mechanical or other devices), a person is guilty of a felony of 24 the third degree if he does any of the following: 25 \* \* \* 26 (5) Intentionally possesses a telecommunication 27 identification interception device. 28 Section 4. Sections 5712(a) introductory paragraph and (f) 29 of Title 18 are amended to read: § 5712. Issuance of order and effect. 30

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(a) Authorizing orders.--[Each] <u>An</u> order authorizing the
 interception of any wire, electronic or oral communication shall
 state the following:

4

\* \* \*

(f) Assistance.--An order authorizing the interception of a 5 wire, electronic or oral communication shall, upon request of 6 7 the applicant, direct that a provider of [electronic] 8 communication service shall furnish the applicant forthwith all information, facilities and technical assistance necessary to 9 10 accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider is 11 12 affording the person whose communications are to be intercepted. 13 The obligation of a provider of [electronic] communication 14 service under such an order may include, but is not limited to, 15 installation of a pen register or of a trap and trace device 16 [and], providing caller ID, deluxe caller ID or any other 17 features available to ascertain the telephone number, location 18 or subscriber information of a facility contacting the facility 19 whose communications are to be intercepted, disclosure of a record or other information otherwise available under section 20 21 5743 (relating to requirements for governmental access), including conducting an in-progress trace during an 22 23 interception, provided that such obligation of a provider of 24 [electronic] communications service is technologically feasible. The order shall apply regardless of whether the electronic 25 26 service provider is headquartered within this Commonwealth, if 27 the interception is otherwise conducted within this Commonwealth\_ as provided under this chapter. The order regarding disclosure 28 29 of a record or other information otherwise available under section 5743 shall apply to all electronic service providers who 30

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1	service facilities which contact or are contacted by the
2	facility whose communications are to be intercepted, regardless
3	of whether the order specifically names any provider of
4	communication service. The order may specify the period of time
5	an electronic service provider has to furnish to the applicant
6	who requests disclosure of a record or other information
7	otherwise available under section 5743. Any provider of
8	[electronic] communication service furnishing such facilities or
9	technical assistance shall be compensated therefor by the
10	applicant for reasonable expenses incurred in providing the
11	facilities or assistance. The service provider shall be immune
12	from civil and criminal liability for any assistance rendered to
13	the applicant pursuant to this section.
14	* * *
15	Section 5. Title 18 is amended by adding a section to read:
16	<u>§ 5712.1. Target-specific orders.</u>
17	(a) Target-specific wiretapsThe requirements of sections
18	5712(a)(3) (relating to issuance of order and effect) and
19	5709(3)(iv) and (v) (relating to application for order) shall
20	not apply if:
21	(1) In the case of an application with respect to the
22	interception of an oral communication, all of the following
23	apply:
24	(i) The application contains a full and complete
25	statement as to why specification is not practical and
26	identifies the person committing the offense and whose
27	communications are to be intercepted.
28	(ii) The judge finds the specification is not
29	practical.
30	(2) In the case of an application with respect to a wire

1	or electronic communication, all of the following apply:
2	(i) The application identifies the person believed
3	to be committing the offense and whose communications are
4	to be intercepted and the applicant makes a showing that
5	there is probable cause to believe that the person's
6	actions could have the effect of thwarting interception
7	by changing facilities or devices.
8	(ii) The judge finds that the purpose has been
9	adequately shown.
10	(b) Supplementary ordersFollowing the issuance of a
11	target-specific wiretap order, the judge shall sign
12	supplementary orders upon request and in a timely manner,
13	authorizing the investigative or law enforcement officers or
14	agency to intercept additional communications devices or
15	facilities upon a showing of reasonable suspicion that all of
16	the following apply:
17	(1) The target of the original order has in fact changed
18	communications devices or facilities or is presently using
19	additional communications devices, communications facilities
20	<u>or places.</u>
21	(2) The target of the original order is likely to use
22	the specified communications device or facility for criminal
23	purposes similar to or related to those specified in the
24	<u>original order.</u>
25	(c) Application for supplementary ordersAn application
26	for a supplementary order shall contain all of the following:
27	(1) The identity of the investigative or law enforcement
28	officers or agency to whom the authority to intercept wire,
29	electronic or oral communications is given and the name and
30	official identity of the person who made the application.

1	(2) The identity of or a particular description of the
2	person, if known, whose communications are to be intercepted.
3	(3) The period of time during which the interception is
4	authorized, including a statement as to whether or not the
5	interception shall automatically terminate when the described
6	communication has been first obtained.
7	(4) A showing of reasonable suspicion that the target of
8	the original order has in fact changed communications devices
9	<u>or facilities.</u>
10	(5) A showing of reasonable suspicion that the target of
11	the original order is likely to use the additional facility
12	or device or place for criminal purposes similar to or
13	related to those specified in the original order.
14	(d) Time limitsA supplementary order shall not act as an
15	extension of the time limit identified in section 5712(b).
16	(e) ResponsibilityThe order shall require the Attorney
17	General or the district attorney, or their designees, to be
18	responsible for the supervision of the interception.
19	(f) Progress reportsIf an order authorizing an
20	interception is entered, the order may require reports to be
21	made to the judge who issued the order showing what progress has
22	been made toward achievement of the authorized objective and the
23	need for continued interception. The reports shall be made at
24	intervals as the judge may require.
25	(g) Final reportIf an interception is authorized under
26	this section, a complete written list of names of participants
27	and evidence of offenses discovered, including those not stated
28	in the application for order, shall be filed with the court as
29	soon as practical after the authorized interception is
30	terminated.

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1 (h) Assistance.--

2	(1) An order authorizing the interception of a wire,
3	electronic or oral communication shall, upon request of the
4	applicant, direct that a provider of communication service
5	furnish the applicant with all information, facilities and
6	technical assistance necessary to accomplish the interception
7	unobtrusively and with a minimum of interference with the
8	services that the service provider is affording the person
9	whose communications are to be intercepted.
10	(2) The obligation of a provider of communication
11	service under an order may include installation of a pen
12	register or trap and trace device and disclosure of a record
13	or other information otherwise available under section 5743
14	(relating to requirements for governmental access), including
15	conducting an in-progress trace during an interception, if
16	the obligation of a provider of communications service is
17	technologically feasible.
18	(3) A provider of communication service furnishing
19	facilities or technical assistance shall be compensated by
20	the applicant for reasonable expenses incurred in providing
21	the facilities or assistance.
22	(4) A service provider shall be immune from civil and
23	criminal liability for any assistance rendered to an
24	applicant under this section.
25	(i) Entry by law enforcement officersAn order authorizing
26	the interception of a wire, electronic or oral communication
27	shall, if requested, authorize the entry of premises or
28	facilities specified under subsection (c)(3) or premises
29	necessary to obtain access to the premises or facilities
30	specified under subsection (c)(3) by law enforcement officers

specified under subsection (c) (1) as often as necessary solely\_ 1 for the purposes of installing, maintaining or removing an 2 electronic, mechanical or other device, if all of the following 3 apply: 4 5 (1) The entry is reasonably necessary to accomplish the purposes of this subchapter. 6 7 (2) The judge who issues the order is notified of the 8 time and method of each entry prior to entry within 48 hours 9 of entry. 10 Section 6. Section 5713.1(d) of Title 18 is amended to read: § 5713.1. Emergency hostage and barricade situations. 11 \* \* \* 12 13 (d) Definitions.--As used in this section, the following 14 words and phrases shall have the meanings given to them in this 15 subsection: 16 "Emergency situation." Any situation where: 17 (1) a person is holding a hostage and is threatening 18 serious physical injury [will] and may resist with the use of 19 weapons; or 20 a person has barricaded himself and taken a position (2) 21 of confinement to avoid apprehension and: 22 has [threatened] the ability to resist with the (i) 23 use of weapons; or 24 is threatening suicide or harm to himself or (ii) 25 others. 26 "Supervising law enforcement officer." 27 For designations by a district attorney, any law (1)28 enforcement officer trained pursuant to section 5724 29 (relating to training) to carry out interceptions under this section who has attained the rank of lieutenant or higher in 30

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a law enforcement agency within the county or who is in
 charge of a county law enforcement agency.

3 (2) For designations by the Attorney General, any member 4 of the Pennsylvania State Police trained pursuant to section 5 5724 to carry out interceptions under this section and 6 designated by the Commissioner of the Pennsylvania State 7 Police who:

8 (i) has attained the rank of lieutenant or higher; 9 or

10 (ii) is in charge of a Pennsylvania State Police11 barracks.

Section 7. Section 5717(a) of Title 18 is amended and the section is amended by adding subsections to read:

14 § 5717. Investigative disclosure or use of contents of wire,
15 electronic or oral communications or derivative
16 evidence.

17 Law enforcement personnel. -- Any investigative or law (a) 18 enforcement officer who, under subsection (a.1) [or (b)], (a.2), 19 (b) or (c), has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, 20 may disclose such contents or evidence to another investigative 21 or law enforcement officer to the extent that such disclosure is 22 23 appropriate to the proper performance of the official duties of 24 the officer making or receiving the disclosure.

25 \* \* \*

26 (a.2) Civilians.--Any person other than an investigative or
 27 law enforcement officer who, as party to the communication, has
 28 obtained knowledge of the contents of any wire, electronic or
 29 oral communication, or evidence derived from any wire,

30 <u>electronic or oral communication</u>, may disclose the contents or

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1	evidence to an investigative or law enforcement officer, if the
2	contents or evidence is evidence of a crime of violence or a
3	felony of the first degree.
4	* * *
5	(c) Otherwise authorized personnel. Any person who, by any
6	(C) OTHERWISE AUTHORIZED PERSONNEL
7	(1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), ANY PERSON
8	WHO, BY ANY means authorized by the laws of another state or
9	the Federal Government, has obtained knowledge of the
10	contents of any wire, electronic or oral communication, or
11	evidence derived from any wire, electronic or oral
12	communication, may disclose the contents or evidence to an
13	investigative or law enforcement officer and may disclose the
14	contents or evidence where otherwise admissible while giving
15	testimony under oath or affirmation in any proceeding in any
16	<u>court of this Commonwealth.</u>
17	(2) THE CONTENTS OF A NONCONSENSUAL INTERCEPTION
18	AUTHORIZED BY THE LAWS OF THE FEDERAL GOVERNMENT OR ANOTHER
19	STATE SHALL NOT BE ADMISSIBLE UNLESS THE INTERCEPTION WAS
20	AUTHORIZED BY A COURT UPON A FINDING OF PROBABLE CAUSE THAT
21	THE TARGET OF THE SURVEILLANCE IS ENGAGED OR WILL ENGAGE IN A
22	VIOLATION OF THE CRIMINAL LAWS OF THE FEDERAL GOVERNMENT OR
23	ANY STATE.
24	Section 8. Section 5721.1(a) of Title 18 is amended by
25	adding a paragraph to read:
26	§ 5721.1. Evidentiary disclosure of contents of intercepted
27	communication or derivative evidence.
28	(a) Disclosure in evidence generally
29	* * *
30	(4) Notwithstanding any provisions of this subchapter

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1 and if the knowledge was obtained from a person not acting at the direction or with the knowledge and consent of law 2 enforcement, any law enforcement or investigative officer who 3 has obtained knowledge of the contents of any wire, 4 electronic or oral communication, or evidence derived from 5 any wire, electronic or oral communication, may disclose the 6 7 contents or evidence in any matter related to any criminal, quasi-criminal, forfeiture, administrative enforcement or 8 9 professional disciplinary proceedings as follows: (i) In any court, board or agency of this 10 11 Commonwealth, another state or the United States. 12 (ii) Before any Federal or state grand jury or 13 investigating grand jury. \* \* \* 14 Section 9. Section 5743(a) and (b) of Title 18 are amended 15 16 to read: § 5743. Requirements for governmental access. 17 18 (a) Contents of [electronic] communications in electronic 19 storage. -- Investigative or law enforcement officers may require the disclosure by a provider of [electronic] communication 20 service of the contents of [an electronic] <u>a</u> communication which 21 is in electronic storage in [an electronic] <u>a</u> communication 22 23 system for: 24 One hundred eighty days or less only pursuant to a (1)25 warrant issued under the Pennsylvania Rules of Criminal 26 Procedure. 27 (2) More than 180 days by the means available under 28 subsection (b). 29 (b) Contents of [electronic] communications in a remote computing service .--30 20120HB2400PN3728 - 17 -

1 (1) Investigative or law enforcement officers may 2 require a provider of remote computing service to disclose 3 the contents of any [electronic] communication to which this 4 paragraph is made applicable by paragraph (2):

5 (i) without required notice to the subscriber or 6 customer if the investigative or law enforcement officer 7 obtains a warrant issued under the Pennsylvania Rules of 8 Criminal Procedure; or

9 (ii) with prior notice from the investigative or law 10 enforcement officer to the subscriber or customer if the 11 investigative or law enforcement officer:

12 (A) uses an administrative subpoena authorized
13 by a statute or a grand jury subpoena; or

14 (B) obtains a court order for the disclosure15 under subsection (d);

16 except that delayed notice may be given pursuant to section 17 5745 (relating to delayed notice).

18 (2) Paragraph (1) is applicable with respect to [an
19 electronic] <u>a</u> communication which is held or maintained on
20 that service:

(i) On behalf of and received by means of electronic
transmission from, or created by means of computer
processing of communications received by means of
electronic transmission from, a subscriber or customer of
the remote computing service.

(ii) Solely for the purpose of providing storage or
computer processing services to the subscriber or
customer, if the provider is not authorized to access the
contents of any such communication for the purpose of
providing any services other than storage or computer

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1 processing. \* \* \* 2 3 Section 10. Section 5746 of Title 18 is amended by adding a subsection to read: 4 § 5746. Cost reimbursement. 5 6 \* \* \* 7 (d) Regulations. -- The Attorney General shall promulgate 8 regulations to implement this section. 9 Section 11. Sections 5761(b) and (c)(4), 5772(a) and 5773(a) 10 and (c) of Title 18 are amended to read: 11 § 5761. Mobile tracking devices. \* \* \* 12 13 (b) Jurisdiction.--Orders permitted by this section may authorize the use of mobile tracking devices [within the 14 15 jurisdiction of the court of common pleas, and outside that 16 jurisdiction,] if the device is installed and monitored within [the jurisdiction of the court of common pleas.] this 17 18 Commonwealth. The court issuing the order must have jurisdiction 19 over the offense under investigation. 20 (c) Standard for issuance of order. -- An order authorizing the use of one or more mobile tracking devices may be issued to 21 an investigative or law enforcement officer by the court of 22 23 common pleas upon written application. Each application shall be 24 by written affidavit, signed and sworn to or affirmed before the 25 court of common pleas. The affidavit shall: \* \* \* 26 27 (4) provide a statement setting forth all facts and 28 circumstances which provide the applicant with [a reasonable 29 suspicion] probable cause that criminal activity has been, is 30 or will be in progress and that the use of a mobile tracking

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device will yield information relevant to the investigation
 of the criminal activity.

3 \* \* \*

§ 5772. Application for an order for use of certain devices. 4 5 Application. -- The Attorney General or a deputy attorney (a) general designated in writing by the Attorney General or a 6 district attorney or an assistant district attorney designated 7 8 in writing by the district attorney may make application for an order or an extension of an order under section 5773 (relating 9 10 to issuance of an order for use of certain devices) authorizing 11 or approving disclosure of mobile communications tracking\_ 12 information or, if necessary, the production and disclosure of 13 mobile communications tracking information, the installation and 14 use of a pen register, a trap and trace device or a 15 telecommunication identification interception device under this 16 subchapter, in writing, under oath or equivalent affirmation, to a court of common pleas having jurisdiction over the offense 17 18 under investigation or to any Superior Court judge when an 19 application for an order authorizing interception of [wire or 20 electronic] communications is or has been made for the targeted 21 telephone or another application for interception under this subchapter has been made involving the same investigation. 22 \* \* \* 23

24 § 5773. Issuance of an order for use of certain devices.

(a) In general.--Upon an application made under section 5772
(relating to application for an order for use of certain
devices), the court shall enter an ex parte order authorizing
<u>the disclosure of mobile communications tracking information</u>,
the installation and use of a pen register, a trap and trace
device or a telecommunication identification interception device

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within [the jurisdiction of the court if the court] this 1 2 Commonwealth if the court finds that there is probable cause to 3 believe that information relevant to an ongoing criminal investigation will be obtained by such installation and use on 4 the targeted telephone. If exigent circumstances exist, the 5 court may verbally authorize the disclosure of mobile\_ 6 7 communications tracking information, the installation and use of 8 a pen register, a trap and trace device or a telecommunication 9 identification interception device. The written order 10 authorizing the disclosure must be entered within 72 hours of the court's verbal authorization. 11 \* \* \* 12 13 (c) Time period and extensions.--14 (1)An order issued under this section shall authorize 15 the installation and use of a pen register, trap and trace device or a telecommunication identification interception 16 17 device for a period not to exceed [30] 60 days. 18 (2)Extensions of such an order may be granted but only 19 upon an application for an order under section 5772 and upon 20 the judicial finding required by subsection (a). The period 21 of each extension shall be for a period not to exceed 30 22 days. 23 \* \* \* 24 Section 12. This act shall take effect in 60 days.

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