

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 2400

**PRINTER'S NO.** 4083

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

May 21, 2012

**PRIME SPONSOR**

Representative Marsico

**HISTORY OF BILL**

Referred to JUDICIARY, May 21, 2012

Reported as amended, June 5, 2012

First consideration, June 5, 2012

Re-committed to RULES, June 5, 2012

Re-reported as committed, June 12, 2012

Second consideration, with amendments, June 12, 2012

Re-committed to APPROPRIATIONS, June 12, 2012

(Remarks see House Journal Page ), June 12, 2012

Re-reported as committed, June 13, 2012

Third consideration and final passage, June 13, 2012 (145-52)

(Remarks see House Journal Page ), June 13, 2012

In the Senate

Referred to JUDICIARY, June 15, 2012

Reported as amended, Sept. 25, 2012

First consideration, Sept. 25, 2012

Re-referred to APPROPRIATIONS, Oct. 1, 2012

Re-reported as committed, Oct. 15, 2012

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 2400 amends Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes to comprehensively update the Wiretapping and Electronic Surveillance Control Act, otherwise known as Pennsylvania's Wiretap Act.

Specifically, this legislation amends Chapter 57 of the crimes code to provide for the following:

- Amends §5702 (Definitions) by adding several new definitions for certain terms used in the Wiretap Act;

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

- Amends §5704 (Exceptions to prohibition of interception and disclosure of communications) to allow for law enforcement officers to intercept wire communications communicated to another by a third party where the officer lawfully obtains the communication;
- Adds a new subsection §5704 (17) that allows any individual to intercept the contents of any wire if that person is under a reasonable suspicion that the intercepted party is committing, about to commit or has committed a crime of violence and there is reason to believe that evidence of the crime of violence may be obtained from the interception;
- Adds a new subsection §5705 (5) to prohibit the possession of a telecommunication identification interception device;
- Amends §5712 (f) by inserting language to clarify that a compliance and assistance order issued to a provider of communication services shall apply regardless of whether the provider is headquartered within this Commonwealth, if the interception is otherwise conducted within this Commonwealth;
- Adds §5712.1 to provide "target-specific orders" that would allow wiretaps in certain situations, such as when specific information regarding a location or a precise phone number cannot be ascertained due to the target's attempts to thwart interception. The court may also issue supplementary "target specific orders" permitting the interception of additional devices where the target has changed devices;
- Amends §5713.1 (d) by modifying the definition of "emergency situation" from will to may be likely to resist with the use of weapons when involving hostage or standoff situations;
- Amends §5717 to permit the use of wiretap evidence from other jurisdictions but the recording must have been made in accordance with the laws of that jurisdiction and the laws of that jurisdiction required at least probable cause that the target of the surveillance was engaged in criminal conduct;
- Amends §5743 by deleting the word "electronic" when relating to governmental access to electronically stored records;
- Adds a new subsection §5746 (d) requiring the Attorney General to promulgate cost reimbursement regulations;
- Amends §5761 (mobile tracking devices) to permit a court having jurisdiction over an offense under investigation to authorize orders permitting the installation and use of mobile tracking devices to be state-wide, and changes the requirement that such orders shall be issued only upon the showing of probable cause rather than reasonable suspicion;
- Amends §5773 to allow the court to verbally authorize an order, provided that a written order authorizing the disclosure is issued within 72 hours of the court's verbal authorization; and

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

- Amends §5773 (c) to extend the period of authorization for use of pen registers, trap and trace devices or a telecommunication identification interception device from 30 days to 60 days.

This act shall take effect in 60 days.

### **FISCAL IMPACT:**

Then enactment of this legislation will have no adverse fiscal impact on Commonwealth funds.