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## House of Representatives

Commonwealth of Pennsylvania  
Harrisburg

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**SUBJECT:** Introduction of Legislation - Wiretap Act  
**TO:** All House Members  
**FROM:** Representative Ron Marsico

I will soon be offering legislation to update Pennsylvania's Wiretap Act. The changes are needed to keep one-step ahead of criminal defendants that deal drugs, engage in organized crime, intimidate witnesses and victims, possess child pornography and support terrorist activity. Unfortunately under current law criminals and criminal organizations have a decided advantage against law enforcement and use the fact that our laws fail to reflect current technology to their advantage.

That is because the last time the Act was updated was in 1998. Since then, technology has made historic advances, advances that law enforcement is not able to presently keep up with. In 1998 no one used or even contemplated using digital telephony, caller ID, or voice mail. These ways to communicate are commonplace now and the Wiretap Act needs to keep up with modern technology in order to track and bring to justice the most serious criminals.

The goal of this legislation is not to permit the tracking of conversations or communications of law abiding individuals. Instead, the goal is to permit law enforcement to do what it does best – to investigate, identify, apprehend and prosecute criminals.

A few of the changes I am proposing would:

- Permit the use of law enforcement's interception and recordings which are voluntarily made
- Allow law enforcement officers to have access to properly obtained inmate recordings.
- Allow audio taping on school buses. Currently videotaping is permitted on school buses, however there is some debate regarding audio taping. This would settle the debate and permit both audio and video taping on school buses for student security and discipline purposes.

- Allow information obtained through illegal civilian wiretap interceptions to be used but only in criminal investigations and prosecutions. The creation of this new section would not make it legal for civilians to tap each other. The prohibition and penalties for illegal wiretapping by civilians would remain unchanged; however the law enforcement would not be prohibited from using them in investigations.
- Permit a person who obtains knowledge of an oral communication by means authorized by the laws of another state or federal government to disclose information from that communication to law enforcement officers for use in its investigation or at trial.
- Permit target-specific wiretaps when additional specificity, such as location or a precise phone number, is lacking because of the criminals' intention to thwart interception by changing locations and phones. With the advent of prepaid cell phones, this update to our existing law is imperative and mirrors the current federal law. The wire would simply follow the suspect and not a particular location or phone number. To obtain a Target Specific wiretap order, the court requires law enforcement to prove why specificity is not feasible, who the target is and the stated purpose. A court must then make a judicial finding that specification is not practical. This is a much heavier burden than is required for an ordinary order under existing law.
- Properly extend the permissible range of certain tracking devices, as long as the court issuing the orders approving their use has jurisdiction over the offense under investigation and that the devices are monitored within the Commonwealth. This change would recognize the reality that the world as we know it has grown smaller and that criminal can easily take their nefarious activities across jurisdictional boundaries.

My bill would update and supplement our existing Wiretap Act so that the legislation addresses the technology of today, and not technology as it existed in 1998 when we made the last legislative changes. Currently, it is the criminals who are taking advantage of this technology and not law enforcement. This bill is necessary to allow law enforcement the ability to utilize the advances in technology to better protect our citizens.

If you would like to co-sponsor this bill, please contact Anna or Michelle at 783-2014 or via e-mail at [mmoore@pahousegop.com](mailto:mmoore@pahousegop.com). Thank you.