

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 249 Session of  
1995

INTRODUCED BY DERMODY, MAYERNIK, LEDERER, GIGLIOTTI, DeWEESE,  
STABACK, PESCI, D. R. WRIGHT, CLARK, McCALL, MELIO, LAUGHLIN,  
READSHAW, DALEY, VAN HORNE, MASLAND, COY, WOZNIAK, CORRIGAN,  
TIGUE, RUDY, PETRONE, WOGAN, ROONEY, BATTISTO, TRELLO,  
COLAFELLA, MARKOSEK, KING, M. N. WRIGHT, FAJT, TULLI AND  
SATHER, JANUARY 24, 1995

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 24, 1995

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for exceptions to  
3 the interception and disclosure of communications by inmates  
4 of correctional institutions.

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

7 Section 1. Section 5704 of Title 18 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a paragraph to read:

9 § 5704. Exceptions to prohibition of interception and  
10 disclosure of communications.

11 It shall not be unlawful under this chapter for:

12 \* \* \*

13 (13) Employees of the Department of Corrections to  
14 intercept, record, monitor or divulge any telephone calls  
15 from an inmate in a facility operated by or for the  
16 department under the following conditions:

17 (i) All personal calls made by inmates shall be

1 collect calls only. The calls will be "operator  
2 announcement" type calls. The person receiving the call  
3 shall be notified that the call is coming from a  
4 correctional institution and that it will be recorded and  
5 monitored. A repeated, recorded message can be used to  
6 periodically announce to the receiver that the call is  
7 originating from a correctional facility.

8 (ii) The department will adhere to the following  
9 procedures and restrictions when intercepting, recording,  
10 monitoring or divulging any telephone calls from an  
11 inmate in a facility operated by or for the department as  
12 provided for by this paragraph:

13 (A) Before the implementation of this paragraph,  
14 all inmates of the facility shall be notified in  
15 writing that, as of the effective date of this  
16 paragraph, their telephone conversations may be  
17 intercepted, recorded, monitored or divulged.

18 (B) Unless otherwise provided for in this  
19 paragraph, after intercepting or recording a  
20 telephone conversation, only the superintendent or a  
21 designee of the superintendent shall have access to  
22 that recording.

23 (C) The contents of an intercepted and recorded  
24 telephone conversation shall be divulged only as is  
25 necessary to safeguard the orderly operation of the  
26 facility, in response to a court order, or in the  
27 prosecution or investigation of any crime.

28 (D) All telephone conversations that are  
29 recorded according to this paragraph, unless being  
30 used in the ongoing investigation or prosecution of a

1           crime or as necessary to assure the orderly operation  
2           of the correctional facility, shall be destroyed one  
3           year after the intercepting and recording.

4           (iii) So as to safeguard the attorney-client  
5           privilege, the department shall not intercept, record,  
6           monitor or divulge any conversation between an inmate and  
7           an attorney unless there is reasonable suspicion to  
8           believe that the attorney is involved in or assisting a  
9           violation of institution rules or criminal activity. The  
10          department shall promulgate procedures insuring  
11          compliance with this subparagraph.

12          Section 2. Section 5708(a)(1) of Title 18 is amended to  
13 read:

14 § 5708. Order authorizing interception of wire, electronic or  
15 oral communications.

16 (a) Authorization.--Except in cases referred to in  
17 subsection (b), the Attorney General, or, during the absence or  
18 incapacity of the Attorney General, a deputy attorney general  
19 designated in writing by the Attorney General, or the district  
20 attorney or, during the absence or incapacity of the district  
21 attorney, an assistant district attorney designated in writing  
22 by the district attorney of the county wherein the interception  
23 is to be made, may make written application to any Superior  
24 Court judge for an order authorizing the interception of a wire,  
25 electronic or oral communication by the investigative or law  
26 enforcement officers or agency having responsibility for an  
27 investigation involving suspected criminal activities when such  
28 interception may provide evidence of the commission of any of  
29 the following offenses, or may provide evidence aiding in the  
30 apprehension of the perpetrator or perpetrators of any of the

1 following offenses:

2 (1) Under this title:

3 Section 911 (relating to corrupt organizations)

4 Section 2501 (relating to criminal homicide)

5 Section 2502 (relating to murder)

6 Section 2503 (relating to voluntary manslaughter)

7 Section 2706 (relating to terroristic threats)

8 Section 2901 (relating to kidnapping)

9 Section 3121 (relating to rape)

10 Section 3123 (relating to involuntary deviate sexual  
11 intercourse)

12 Section 3301 (relating to arson and related offenses)

13 Section 3302 (relating to causing or risking  
14 catastrophe)

15 Section 3502 (relating to burglary)

16 Section 3701 (relating to robbery)

17 Section 3921 (relating to theft by unlawful taking or  
18 disposition)

19 Section 3922 (relating to theft by deception)

20 Section 3923 (relating to theft by extortion)

21 Section 4701 (relating to bribery in official and  
22 political matters)

23 Section 4702 (relating to threats and other improper  
24 influence in official and political matters)

25 Section 5121 (relating to escape)

26 Section 5123 (relating to contraband)

27 Section 5512 (relating to lotteries, etc.)

28 Section 5513 (relating to gambling devices, gambling,  
29 etc.)

30 Section 5514 (relating to pool selling and

1           bookmaking)

2           \* \* \*

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