

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 976 Session of  
2001

INTRODUCED BY HESS, SATHER, FAIRCHILD, FLEAGLE, SAYLOR, LEDERER,  
CAPPABIANCA, GEORGE, R. MILLER, STERN, YEWIC, GEIST, WILT,  
WOJNAROSKI, HORSEY, SHANER, WANSACZ, HARHAI AND MAHER,  
MARCH 14, 2001

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 26, 2002

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, ~~further providing for theft of~~ <—  
3 ~~services.~~ FURTHER PROVIDING FOR RAPE, FOR INVOLUNTARY DEVIATE <—  
4 SEXUAL INTERCOURSE, FOR AGGRAVATED INDECENT ASSAULT AND FOR  
5 REPORTING CRIMINAL INJURIES; DEFINING "SUSPECTED CRIMINAL  
6 ACTIVITY" FOR PURPOSES OF WIRETAPPING AND ELECTRONIC  
7 SURVEILLANCE; AND FURTHER PROVIDING FOR CERTAIN EXCEPTIONS,  
8 FOR ORDER AUTHORIZING INTERCEPTION OF WIRE, ELECTRONIC OR  
9 ORAL COMMUNICATIONS, FOR APPLICATION FOR ORDER AND FOR  
10 EMERGENCY SITUATIONS.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 ~~Section 1. Section 3926 of Title 18 of the Pennsylvania~~ <—  
14 ~~Consolidated Statutes is amended by adding a subsection to read:~~  
15 ~~§ 3926. Theft of services.~~

16 \* \* \*

17 ~~(f.1) Theft of gasoline. If a person is convicted of retail~~  
18 ~~theft of gasoline under this section, the court shall, in~~  
19 ~~addition to any other penalty authorized by law, order the~~  
20 ~~operating privilege of the person suspended. A copy of the order~~

~~shall be transmitted to the Department of Transportation. The duration of the suspension shall be as follows:~~

~~(1) For a first offense, a period of 60 days from the date of suspension.~~

~~(2) For a second offense, a period of 180 days from the date of suspension.~~

~~(3) For a third and subsequent offense, a period of one year from the date of suspension. Reinstatement of operating privilege shall be governed by 75 Pa.C.S. § 1545 (relating to restoration of operating privilege).~~

~~\* \* \*~~

~~SECTION 1. SECTION 5702 OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:~~

~~SECTION 1. SECTION 3101 OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:~~  
~~§ 3101. DEFINITIONS.~~

~~SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT PROVISIONS OF THIS CHAPTER WHICH ARE APPLICABLE TO SPECIFIC PROVISIONS OF THIS CHAPTER, THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:~~

~~\* \* \*~~

~~"SERIOUS BODILY INJURY." AS DEFINED IN SECTION 2301 (RELATING TO DEFINITIONS).~~

~~\* \* \*~~

~~SECTION 2. SECTIONS 3121, 3123, 3125 AND 5106 OF TITLE 18 ARE AMENDED TO READ:~~

~~§ 3121. RAPE.~~

~~(A) OFFENSE DEFINED.--A PERSON COMMITS A FELONY OF THE FIRST DEGREE WHEN [HE OR SHE] THE PERSON ENGAGES IN SEXUAL INTERCOURSE~~

1 WITH A COMPLAINANT:

2 (1) BY FORCIBLE COMPULSION.

3 (2) BY THREAT OF FORCIBLE COMPULSION THAT WOULD PREVENT  
4 RESISTANCE BY A PERSON OF REASONABLE RESOLUTION.

5 (3) WHO IS UNCONSCIOUS OR WHERE THE PERSON KNOWS THAT  
6 THE COMPLAINANT IS UNAWARE THAT THE SEXUAL INTERCOURSE IS  
7 OCCURRING.

8 (4) WHERE THE PERSON HAS SUBSTANTIALLY IMPAIRED THE  
9 COMPLAINANT'S POWER TO APPRAISE OR CONTROL HIS OR HER CONDUCT  
10 BY ADMINISTERING OR EMPLOYING, WITHOUT THE KNOWLEDGE OF THE  
11 COMPLAINANT, DRUGS, INTOXICANTS OR OTHER MEANS FOR THE  
12 PURPOSE OF PREVENTING RESISTANCE.

13 (5) WHO SUFFERS FROM A MENTAL DISABILITY WHICH RENDERS  
14 THE COMPLAINANT INCAPABLE OF CONSENT.

15 [(6) WHO IS LESS THAN 13 YEARS OF AGE.]

16 (B) ADDITIONAL PENALTIES.--IN ADDITION TO THE PENALTY  
17 PROVIDED FOR BY SUBSECTION (A), A PERSON MAY BE SENTENCED TO AN  
18 ADDITIONAL TERM NOT TO EXCEED TEN YEARS' CONFINEMENT AND AN  
19 ADDITIONAL AMOUNT NOT TO EXCEED \$100,000 WHERE THE PERSON  
20 ENGAGES IN SEXUAL INTERCOURSE WITH A COMPLAINANT AND HAS  
21 SUBSTANTIALLY IMPAIRED THE COMPLAINANT'S POWER TO APPRAISE OR  
22 CONTROL HIS OR HER CONDUCT BY ADMINISTERING OR EMPLOYING,  
23 WITHOUT THE KNOWLEDGE OF THE COMPLAINANT, ANY SUBSTANCE FOR THE  
24 PURPOSE OF PREVENTING RESISTANCE THROUGH THE INDUCEMENT OF  
25 EUPHORIA, MEMORY LOSS AND ANY OTHER EFFECT OF THIS SUBSTANCE.

26 (C) RAPE OF A CHILD.--A PERSON COMMITS A FELONY OF THE FIRST  
27 DEGREE WHEN THE PERSON ENGAGES IN SEXUAL INTERCOURSE WITH A  
28 COMPLAINANT WHO IS LESS THAN 13 YEARS OF AGE.

29 (D) RAPE OF A CHILD WITH SERIOUS BODILY INJURY.--A PERSON  
30 COMMITS A FELONY OF THE FIRST DEGREE WHEN THE PERSON ENGAGES IN

1 SEXUAL INTERCOURSE WITH A COMPLAINANT WHO IS LESS THAN 13 YEARS  
2 OF AGE AND THE COMPLAINANT SUFFERS SERIOUS BODILY INJURY IN THE  
3 COURSE OF THE OFFENSE.

4 (E) SENTENCES.--NOTWITHSTANDING THE PROVISIONS OF SECTION  
5 1103 (RELATING TO SENTENCE OF IMPRISONMENT FOR FELONY), A PERSON  
6 CONVICTED OF AN OFFENSE UNDER:

7 (1) SUBSECTION (C) SHALL BE SENTENCED TO A TERM OF  
8 IMPRISONMENT WHICH SHALL BE FIXED BY THE COURT AT NOT MORE  
9 THAN 40 YEARS.

10 (2) SUBSECTION (D) SHALL BE SENTENCED UP TO A MAXIMUM  
11 TERM OF LIFE IMPRISONMENT.

12 § 3123. INVOLUNTARY DEVIATE SEXUAL INTERCOURSE.

13 (A) OFFENSE DEFINED.--A PERSON COMMITS A FELONY OF THE FIRST  
14 DEGREE WHEN [HE OR SHE] THE PERSON ENGAGES IN DEVIATE SEXUAL  
15 INTERCOURSE WITH A COMPLAINANT:

16 (1) BY FORCIBLE COMPULSION;

17 (2) BY THREAT OF FORCIBLE COMPULSION THAT WOULD PREVENT  
18 RESISTANCE BY A PERSON OF REASONABLE RESOLUTION;

19 (3) WHO IS UNCONSCIOUS OR WHERE THE PERSON KNOWS THAT  
20 THE COMPLAINANT IS UNAWARE THAT THE SEXUAL INTERCOURSE IS  
21 OCCURRING;

22 (4) WHERE THE PERSON HAS SUBSTANTIALLY IMPAIRED THE  
23 COMPLAINANT'S POWER TO APPRAISE OR CONTROL HIS OR HER CONDUCT  
24 BY ADMINISTERING OR EMPLOYING, WITHOUT THE KNOWLEDGE OF THE  
25 COMPLAINANT, DRUGS, INTOXICANTS OR OTHER MEANS FOR THE  
26 PURPOSE OF PREVENTING RESISTANCE;

27 (5) WHO SUFFERS FROM A MENTAL DISABILITY WHICH RENDERS  
28 HIM OR HER INCAPABLE OF CONSENT; OR

29 [(6) WHO IS LESS THAN 13 YEARS OF AGE; OR]

30 [(7)] (6) WHO IS LESS THAN 16 YEARS OF AGE AND THE

PERSON IS FOUR OR MORE YEARS OLDER THAN THE COMPLAINANT AND  
THE COMPLAINANT AND PERSON ARE NOT MARRIED TO EACH OTHER.

(B) DEFINITION.--AS USED IN THIS SECTION, THE TERM "FORCIBLE  
COMPULSION" INCLUDES, BUT IS NOT LIMITED TO, COMPULSION  
RESULTING IN ANOTHER PERSON'S DEATH, WHETHER THE DEATH OCCURRED  
BEFORE, DURING OR AFTER THE SEXUAL INTERCOURSE.

(C) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE WITH A CHILD.--A  
PERSON COMMITS A FELONY OF THE FIRST DEGREE WHEN THE PERSON  
ENGAGES IN DEVIATE SEXUAL INTERCOURSE WITH A COMPLAINANT WHO IS  
LESS THAN 13 YEARS OF AGE.

(D) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE WITH A CHILD WITH  
SERIOUS BODILY INJURY.--A PERSON COMMITS A FELONY OF THE FIRST  
DEGREE WHEN THE PERSON ENGAGES IN DEVIATE SEXUAL INTERCOURSE  
WITH A COMPLAINANT WHO IS LESS THAN 13 YEARS OF AGE AND THE  
COMPLAINANT SUFFERS SERIOUS BODILY INJURY IN THE COURSE OF THE  
OFFENSE.

(E) SENTENCES.--NOTWITHSTANDING THE PROVISIONS OF SECTION  
1103 (RELATING TO SENTENCE OF IMPRISONMENT FOR FELONY), A PERSON  
CONVICTED OF AN OFFENSE UNDER:

(1) SUBSECTION (C) SHALL BE SENTENCED TO A TERM OF  
IMPRISONMENT WHICH SHALL BE FIXED BY THE COURT AT NOT MORE  
THAN 40 YEARS.

(2) SUBSECTION (D) SHALL BE SENTENCED UP TO A MAXIMUM  
TERM OF LIFE IMPRISONMENT.

§ 3125. AGGRAVATED INDECENT ASSAULT.

(A) OFFENSES DEFINED.--EXCEPT AS PROVIDED IN SECTIONS 3121  
(RELATING TO RAPE), 3122.1 (RELATING TO STATUTORY SEXUAL  
ASSAULT), 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL  
INTERCOURSE) AND 3124.1 (RELATING TO SEXUAL ASSAULT), A PERSON  
WHO ENGAGES IN PENETRATION, HOWEVER SLIGHT, OF THE GENITALS OR

1 ANUS OF A COMPLAINANT WITH A PART OF THE PERSON'S BODY FOR ANY  
2 PURPOSE OTHER THAN GOOD FAITH MEDICAL, HYGIENIC OR LAW  
3 ENFORCEMENT PROCEDURES COMMITS AGGRAVATED INDECENT ASSAULT, [A  
4 FELONY OF THE SECOND DEGREE,] IF:

5 (1) THE PERSON DOES SO WITHOUT THE COMPLAINANT'S  
6 CONSENT;

7 (2) THE PERSON DOES SO BY FORCIBLE COMPULSION;

8 (3) THE PERSON DOES SO BY THREAT OF FORCIBLE COMPULSION  
9 THAT WOULD PREVENT RESISTANCE BY A PERSON OF REASONABLE  
10 RESOLUTION;

11 (4) THE COMPLAINANT IS UNCONSCIOUS OR THE PERSON KNOWS  
12 THAT THE COMPLAINANT IS UNAWARE THAT THE PENETRATION IS  
13 OCCURRING;

14 (5) THE PERSON HAS SUBSTANTIALLY IMPAIRED THE  
15 COMPLAINANT'S POWER TO APPRAISE OR CONTROL HIS OR HER CONDUCT  
16 BY ADMINISTERING OR EMPLOYING, WITHOUT THE KNOWLEDGE OF THE  
17 COMPLAINANT, DRUGS, INTOXICANTS OR OTHER MEANS FOR THE  
18 PURPOSE OF PREVENTING RESISTANCE;

19 (6) THE COMPLAINANT SUFFERS FROM A MENTAL DISABILITY  
20 WHICH RENDERS HIM OR HER INCAPABLE OF CONSENT;

21 (7) THE COMPLAINANT IS LESS THAN 13 YEARS OF AGE; OR

22 (8) THE COMPLAINANT IS LESS THAN 16 YEARS OF AGE AND THE  
23 PERSON IS FOUR OR MORE YEARS OLDER THAN THE COMPLAINANT AND  
24 THE COMPLAINANT AND THE PERSON ARE NOT MARRIED TO EACH OTHER.

25 (B) AGGRAVATED INDECENT ASSAULT OF A CHILD.--A PERSON  
26 COMMITTS AGGRAVATED INDECENT ASSAULT OF A CHILD WHEN THE PERSON  
27 VIOLATES SUBSECTION (A)(1), (2), (3), (4), (5) OR (6) AND THE  
28 COMPLAINANT IS LESS THAN 13 YEARS OF AGE.

29 (C) GRADING AND SENTENCES.--

30 (1) AN OFFENSE UNDER SUBSECTION (A) IS A FELONY OF THE

1       SECOND DEGREE.

2           (2) AN OFFENSE UNDER SUBSECTION (B) IS A FELONY OF THE  
3       FIRST DEGREE.

4   § 5106. FAILURE TO REPORT INJURIES BY FIREARM OR CRIMINAL ACT.

5       (A) OFFENSE DEFINED.--[A] EXCEPT AS SET FORTH IN SUBSECTION  
6   (A.1), A PHYSICIAN, INTERN OR RESIDENT, OR ANY PERSON  
7   CONDUCTING, MANAGING OR IN CHARGE OF ANY HOSPITAL OR PHARMACY,  
8   OR IN CHARGE OF ANY WARD OR PART OF A HOSPITAL, TO WHOM SHALL  
9   COME OR BE BROUGHT ANY PERSON:

10           (1) SUFFERING FROM ANY WOUND OR OTHER INJURY INFLICTED  
11       BY HIS OWN ACT OR BY THE ACT OF ANOTHER, WHICH CAUSED DEATH  
12       OR SERIOUS BODILY INJURY, OR INFLICTED BY MEANS OF A DEADLY  
13       WEAPON AS DEFINED IN SECTION 2301 [OF THIS TITLE] (RELATING  
14       TO DEFINITIONS); OR

15           (2) UPON WHOM INJURIES HAVE BEEN INFLICTED IN VIOLATION  
16       OF ANY PENAL LAW OF THIS COMMONWEALTH;  
17   COMMITTS A SUMMARY OFFENSE IF [HE] THE REPORTING PARTY FAILS TO  
18   REPORT SUCH INJURIES IMMEDIATELY, BOTH BY TELEPHONE AND IN  
19   WRITING, TO THE CHIEF OF POLICE OR OTHER HEAD OF THE POLICE  
20   DEPARTMENT OF THE LOCAL GOVERNMENT, OR TO THE PENNSYLVANIA STATE  
21   POLICE. THE REPORT SHALL STATE THE NAME OF THE INJURED PERSON,  
22   IF KNOWN, [HIS] THE INJURED PERSON'S WHEREABOUTS AND THE  
23   CHARACTER AND EXTENT OF [HIS] THE PERSON'S INJURIES.

24       (A.1) EXCEPTION.--IN CASES OF BODILY INJURY AS DEFINED IN  
25   SECTION 2301 (RELATING TO DEFINITIONS), FAILURE TO REPORT UNDER  
26   SUBSECTION (A)(2) DOES NOT CONSTITUTE AN OFFENSE IF ALL OF THE  
27   FOLLOWING APPLY:

28           (1) THE VICTIM IS AN ADULT AND HAS SUFFERED BODILY  
29       INJURY.

30           (2) THE INJURY WAS INFLICTED BY AN INDIVIDUAL WHO:

1           (I) IS THE CURRENT OR FORMER SPOUSE OF THE VICTIM;  
2           (II) IS A CURRENT OR FORMER SEXUAL OR INTIMATE  
3           PARTNER OF THE VICTIM;  
4           (III) SHARES BIOLOGICAL PARENTHOOD WITH THE VICTIM;  
5           OR  
6           (IV) IS OR HAS BEEN LIVING AS A SPOUSE OF THE  
7           VICTIM.

8           (3) THE VICTIM HAS BEEN INFORMED:

9           (I) OF THE DUTY TO REPORT UNDER SUBSECTION (A)(2);

10          AND

11          (II) THAT THE REPORT UNDER SUBSECTION (A)(2) CANNOT  
12          BE MADE WITHOUT THE VICTIM'S CONSENT.

13          (4) THE VICTIM DOES NOT CONSENT TO THE REPORT UNDER  
14          SUBSECTION (A)(2).

15          (5) THE VICTIM HAS BEEN PROVIDED WITH A REFERRAL TO THE  
16          APPROPRIATE VICTIM SERVICE AGENCY SUCH AS A DOMESTIC VIOLENCE  
17          OR SEXUAL ASSAULT PROGRAM.

18          (B) IMMUNITY GRANTED.--NO PHYSICIAN OR OTHER PERSON SHALL BE  
19 SUBJECT TO CIVIL OR CRIMINAL LIABILITY BY REASON OF [MAKING A  
20 REPORT REQUIRED BY] COMPLYING WITH THIS SECTION.

21          (C) PHYSICIAN-PATIENT PRIVILEGE UNAVAILABLE.--IN ANY  
22 JUDICIAL PROCEEDING RESULTING FROM A REPORT PURSUANT TO THIS  
23 SECTION, THE PHYSICIAN-PATIENT PRIVILEGE SHALL NOT APPLY IN  
24 RESPECT TO EVIDENCE REGARDING SUCH INJURIES OR THE CAUSE  
25 THEREOF. THIS SUBSECTION SHALL NOT APPLY WHERE A REPORT IS NOT  
26 MADE PURSUANT TO SUBSECTION (A.1).

27          (D) REPORTING OF CRIME ENCOURAGED.--NOTHING IN THIS CHAPTER  
28 PRECLUDES A VICTIM FROM REPORTING THE CRIME THAT RESULTED IN  
29 INJURY.

30          (E) AVAILABILITY OF INFORMATION.--A PHYSICIAN OR OTHER



1 INDIVIDUAL MAY MAKE AVAILABLE INFORMATION CONCERNING DOMESTIC  
2 VIOLENCE OR SEXUAL ASSAULT TO ANY INDIVIDUAL SUBJECT TO THE  
3 PROVISIONS OF THIS CHAPTER.

4 SECTION 3. SECTION 5702 OF TITLE 18 IS AMENDED BY ADDING A  
5 DEFINITION TO READ:

6 § 5702. DEFINITIONS.

7 AS USED IN THIS CHAPTER, THE FOLLOWING WORDS AND PHRASES  
8 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
9 CONTEXT CLEARLY INDICATES OTHERWISE:

10 \* \* \*

11 "SUSPECTED CRIMINAL ACTIVITY." A PARTICULAR OFFENSE THAT HAS  
12 BEEN, IS OR IS ABOUT TO OCCUR AS SET FORTH UNDER SECTION  
13 5709(3)(II) (RELATING TO APPLICATION FOR ORDER), ANY  
14 COMMUNICATIONS TO BE INTERCEPTED AS SET FORTH UNDER SECTION  
15 5709(3)(III), OR ANY OF THE CRIMINAL ACTIVITY SET FORTH UNDER  
16 SECTION 5709(3)(IV) ESTABLISHING PROBABLE CAUSE FOR THE ISSUANCE  
17 OF AN ORDER.

18 \* \* \*

19 SECTION ~~2~~ 4. SECTIONS 5706(B)(2), 5708, 5709 AND 5713(A) OF <—  
20 TITLE 18 ARE AMENDED TO READ:

21 § 5706. EXCEPTIONS TO PROHIBITIONS IN POSSESSION, SALE,  
22 DISTRIBUTION, MANUFACTURE OR ADVERTISEMENT OF  
23 ELECTRONIC, MECHANICAL OR OTHER DEVICES.

24 \* \* \*

25 (B) RESPONSIBILITY.--

26 \* \* \*

27 (2) THE DIVISION OR BUREAU OR SECTION OF THE  
28 PENNSYLVANIA STATE POLICE RESPONSIBLE FOR CONDUCTING THE  
29 TRAINING IN THE TECHNICAL ASPECTS OF WIRETAPPING AND  
30 ELECTRONIC SURVEILLANCE AS REQUIRED BY SECTION 5724 (RELATING

1 TO TRAINING) MAY BUY AND POSSESS ANY ELECTRONIC, MECHANICAL  
2 OR OTHER DEVICE WHICH IS TO BE USED BY INVESTIGATIVE OR LAW  
3 ENFORCEMENT OFFICERS FOR PURPOSES OF INTERCEPTION AS  
4 AUTHORIZED UNDER SECTION 5704(2), (5) AND (12), 5712, 5713 OR  
5 5713.1 FOR THE PURPOSE OF TRAINING. HOWEVER, ANY ELECTRONIC,  
6 MECHANICAL OR OTHER DEVICE BOUGHT OR POSSESSED UNDER THIS  
7 PROVISION MAY BE LOANED TO OR USED BY INVESTIGATIVE OR LAW  
8 ENFORCEMENT OFFICERS FOR PURPOSES OF INTERCEPTION AS  
9 AUTHORIZED UNDER SECTION 5704(2), (5) AND (12), 5712, 5713 OR  
10 5713.1 ONLY UPON WRITTEN APPROVAL BY THE ATTORNEY GENERAL OR  
11 A DEPUTY ATTORNEY GENERAL DESIGNATED IN WRITING BY THE  
12 ATTORNEY GENERAL OR THE DISTRICT ATTORNEY OR AN ASSISTANT  
13 DISTRICT ATTORNEY DESIGNATED IN WRITING BY THE DISTRICT  
14 ATTORNEY OF THE COUNTY WHEREIN [THE INTERCEPTION IS TO BE  
15 MADE] THE SUSPECTED CRIMINAL ACTIVITY HAS BEEN, IS OR IS  
16 ABOUT TO OCCUR.

17 \* \* \*

18 § 5708. ORDER AUTHORIZING INTERCEPTION OF WIRE, ELECTRONIC OR  
19 ORAL COMMUNICATIONS.

20 THE ATTORNEY GENERAL, OR, DURING THE ABSENCE OR INCAPACITY OF  
21 THE ATTORNEY GENERAL, A DEPUTY ATTORNEY GENERAL DESIGNATED IN  
22 WRITING BY THE ATTORNEY GENERAL, OR THE DISTRICT ATTORNEY OR,  
23 DURING THE ABSENCE OR INCAPACITY OF THE DISTRICT ATTORNEY, AN  
24 ASSISTANT DISTRICT ATTORNEY DESIGNATED IN WRITING BY THE  
25 DISTRICT ATTORNEY OF THE COUNTY WHEREIN [THE INTERCEPTION IS TO  
26 BE MADE] THE SUSPECTED CRIMINAL ACTIVITY HAS BEEN, IS OR IS  
27 ABOUT TO OCCUR, MAY MAKE WRITTEN APPLICATION TO ANY SUPERIOR  
28 COURT JUDGE FOR AN ORDER AUTHORIZING THE INTERCEPTION OF A WIRE,  
29 ELECTRONIC OR ORAL COMMUNICATION BY THE INVESTIGATIVE OR LAW  
30 ENFORCEMENT OFFICERS OR AGENCY HAVING RESPONSIBILITY FOR AN

1 INVESTIGATION INVOLVING SUSPECTED CRIMINAL ACTIVITIES WHEN SUCH  
2 INTERCEPTION MAY PROVIDE EVIDENCE OF THE COMMISSION OF ANY OF  
3 THE FOLLOWING OFFENSES, OR MAY PROVIDE EVIDENCE AIDING IN THE  
4 APPREHENSION OF THE PERPETRATOR OR PERPETRATORS OF ANY OF THE  
5 FOLLOWING OFFENSES:

6 (1) UNDER THIS TITLE:

7 SECTION 911 (RELATING TO CORRUPT ORGANIZATIONS)

8 SECTION 2501 (RELATING TO CRIMINAL HOMICIDE)

9 SECTION 2502 (RELATING TO MURDER)

10 SECTION 2503 (RELATING TO VOLUNTARY MANSLAUGHTER)

11 SECTION 2702 (RELATING TO AGGRAVATED ASSAULT)

12 SECTION 2706 (RELATING TO TERRORISTIC THREATS)

13 SECTION 2709(B) (RELATING TO HARASSMENT AND STALKING)

14 SECTION 2716 (RELATING TO WEAPONS OF MASS

15 DESTRUCTION)

16 SECTION 2901 (RELATING TO KIDNAPPING)

17 SECTION 3121 (RELATING TO RAPE)

18 SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL  
19 INTERCOURSE)

20 SECTION 3124.1 (RELATING TO SEXUAL ASSAULT)

21 SECTION 3125 (RELATING TO AGGRAVATED INDECENT  
22 ASSAULT)

23 SECTION 3301 (RELATING TO ARSON AND RELATED OFFENSES)

24 SECTION 3302 (RELATING TO CAUSING OR RISKING  
25 CATASTROPHE)

26 SECTION 3502 (RELATING TO BURGLARY)

27 SECTION 3701 (RELATING TO ROBBERY)

28 SECTION 3921 (RELATING TO THEFT BY UNLAWFUL TAKING OR  
29 DISPOSITION)

30 SECTION 3922 (RELATING TO THEFT BY DECEPTION)

1           SECTION 3923 (RELATING TO THEFT BY EXTORTION)

2           SECTION 4701 (RELATING TO BRIBERY IN OFFICIAL AND  
3           POLITICAL MATTERS)

4           SECTION 4702 (RELATING TO THREATS AND OTHER IMPROPER  
5           INFLUENCE IN OFFICIAL AND POLITICAL MATTERS)

6           SECTION 5512 (RELATING TO LOTTERIES, ETC.)

7           SECTION 5513 (RELATING TO GAMBLING DEVICES, GAMBLING,  
8           ETC.)

9           SECTION 5514 (RELATING TO POOL SELLING AND  
10          BOOKMAKING)

11          SECTION 5516 (RELATING TO FACSIMILE WEAPONS OF MASS  
12          DESTRUCTION)

13          SECTION 6318 (RELATING TO UNLAWFUL CONTACT OR  
14          COMMUNICATION WITH MINOR)

15          (2) UNDER THIS TITLE, WHERE SUCH OFFENSE IS DANGEROUS TO  
16          LIFE, LIMB OR PROPERTY AND PUNISHABLE BY IMPRISONMENT FOR  
17          MORE THAN ONE YEAR:

18          SECTION 910 (RELATING TO MANUFACTURE, DISTRIBUTION OR  
19          POSSESSION OF DEVICES FOR THEFT OF TELECOMMUNICATIONS  
20          SERVICES)

21          SECTION 3925 (RELATING TO RECEIVING STOLEN PROPERTY)

22          SECTION 3926 (RELATING TO THEFT OF SERVICES)

23          SECTION 3927 (RELATING TO THEFT BY FAILURE TO MAKE  
24          REQUIRED DISPOSITION OF FUNDS RECEIVED)

25          SECTION 3933 (RELATING TO UNLAWFUL USE OF COMPUTER)

26          SECTION 4108 (RELATING TO COMMERCIAL BRIBERY AND  
27          BREACH OF DUTY TO ACT DISINTERESTEDLY)

28          SECTION 4109 (RELATING TO RIGGING PUBLICLY EXHIBITED  
29          CONTEST)

30          SECTION 4117 (RELATING TO INSURANCE FRAUD)

SECTION 4305 (RELATING TO DEALING IN INFANT CHILDREN)

SECTION 4902 (RELATING TO PERJURY)

SECTION 4909 (RELATING TO WITNESS OR INFORMANT TAKING  
BRIBE)

SECTION 4911 (RELATING TO TAMPERING WITH PUBLIC  
RECORDS OR INFORMATION)

SECTION 4952 (RELATING TO INTIMIDATION OF WITNESSES  
OR VICTIMS)

SECTION 4953 (RELATING TO RETALIATION AGAINST WITNESS  
OR VICTIM)

SECTION 5101 (RELATING TO OBSTRUCTING ADMINISTRATION  
OF LAW OR OTHER GOVERNMENTAL FUNCTION)

SECTION 5111 (RELATING TO DEALING IN PROCEEDS OF  
UNLAWFUL ACTIVITIES)

SECTION 5121 (RELATING TO ESCAPE)

SECTION 5504 (RELATING TO HARASSMENT BY COMMUNICATION  
OR ADDRESS)

SECTION 5902 (RELATING TO PROSTITUTION AND RELATED  
OFFENSES)

SECTION 5903 (RELATING TO OBSCENE AND OTHER SEXUAL  
MATERIALS AND PERFORMANCES)

SECTION 7313 (RELATING TO BUYING OR EXCHANGING  
FEDERAL FOOD ORDER COUPONS, STAMPS, AUTHORIZATION CARDS  
OR ACCESS DEVICES)

(3) UNDER THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN  
AS THE TAX REFORM CODE OF 1971, WHERE SUCH OFFENSE IS  
DANGEROUS TO LIFE, LIMB OR PROPERTY AND PUNISHABLE BY  
IMPRISONMENT FOR MORE THAN ONE YEAR:

SECTION 1272 (RELATING TO SALES OF UNSTAMPED  
CIGARETTES)

SECTION 1273 (RELATING TO POSSESSION OF UNSTAMPED  
CIGARETTES)

SECTION 1274 (RELATING TO COUNTERFEITING)

(4) ANY OFFENSE SET FORTH UNDER SECTION 13(A) OF THE ACT  
OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED  
SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, NOT INCLUDING THE  
OFFENSE DESCRIBED IN CLAUSE (31) OF SECTION 13(A).

(5) ANY OFFENSE SET FORTH UNDER THE ACT OF NOVEMBER 15,  
1972 (P.L.1227, NO.272).

(6) ANY CONSPIRACY TO COMMIT ANY OF THE OFFENSES SET  
FORTH IN THIS SECTION.

(7) UNDER THE ACT OF NOVEMBER 24, 1998 (P.L.874,  
NO.110), KNOWN AS THE MOTOR VEHICLE CHOP SHOP AND ILLEGALLY  
OBTAINED AND ALTERED PROPERTY ACT.

§ 5709. APPLICATION FOR ORDER.

EACH APPLICATION FOR AN ORDER OF AUTHORIZATION TO INTERCEPT A  
WIRE, ELECTRONIC OR ORAL COMMUNICATION SHALL BE MADE IN WRITING  
UPON THE PERSONAL OATH OR AFFIRMATION OF THE ATTORNEY GENERAL OR  
A DISTRICT ATTORNEY OF THE COUNTY WHEREIN [THE INTERCEPTION IS  
TO BE MADE] THE SUSPECTED CRIMINAL ACTIVITY HAS BEEN, IS OR IS  
ABOUT TO OCCUR AND SHALL CONTAIN ALL OF THE FOLLOWING:

(1) A STATEMENT OF THE AUTHORITY OF THE APPLICANT TO  
MAKE SUCH APPLICATION.

(2) A STATEMENT OF THE IDENTITY AND QUALIFICATIONS OF  
THE INVESTIGATIVE OR LAW ENFORCEMENT OFFICERS OR AGENCY FOR  
WHOM THE AUTHORITY TO INTERCEPT A WIRE, ELECTRONIC OR ORAL  
COMMUNICATION IS SOUGHT.

(3) A SWORN STATEMENT BY THE INVESTIGATIVE OR LAW  
ENFORCEMENT OFFICER WHO HAS KNOWLEDGE OF RELEVANT INFORMATION  
JUSTIFYING THE APPLICATION, WHICH SHALL INCLUDE:

1 (I) THE IDENTITY OF THE PARTICULAR PERSON, IF KNOWN,  
2 COMMITTING THE OFFENSE AND WHOSE COMMUNICATIONS ARE TO BE  
3 INTERCEPTED.

4 (II) THE DETAILS AS TO THE PARTICULAR OFFENSE THAT  
5 HAS BEEN, IS BEING, OR IS ABOUT TO BE COMMITTED.

6 (III) THE PARTICULAR TYPE OF COMMUNICATION TO BE  
7 INTERCEPTED.

8 (IV) A SHOWING THAT THERE IS PROBABLE CAUSE TO  
9 BELIEVE THAT SUCH COMMUNICATION WILL BE COMMUNICATED ON  
10 THE WIRE COMMUNICATION FACILITY INVOLVED OR AT THE  
11 PARTICULAR PLACE WHERE THE ORAL COMMUNICATION IS TO BE  
12 INTERCEPTED.

13 (V) THE CHARACTER AND LOCATION OF THE PARTICULAR  
14 WIRE COMMUNICATION FACILITY INVOLVED OR THE PARTICULAR  
15 PLACE WHERE THE ORAL COMMUNICATION IS TO BE INTERCEPTED.

16 (VI) A STATEMENT OF THE PERIOD OF TIME FOR WHICH THE  
17 INTERCEPTION IS REQUIRED TO BE MAINTAINED, AND, IF THE  
18 CHARACTER OF THE INVESTIGATION IS SUCH THAT THE  
19 AUTHORIZATION FOR INTERCEPTION SHOULD NOT AUTOMATICALLY  
20 TERMINATE WHEN THE DESCRIBED TYPE OF COMMUNICATION HAS  
21 BEEN FIRST OBTAINED, A PARTICULAR STATEMENT OF FACTS  
22 ESTABLISHING PROBABLE CAUSE TO BELIEVE THAT ADDITIONAL  
23 COMMUNICATIONS OF THE SAME TYPE WILL OCCUR THEREAFTER.

24 (VII) A PARTICULAR STATEMENT OF FACTS SHOWING THAT  
25 OTHER NORMAL INVESTIGATIVE PROCEDURES WITH RESPECT TO THE  
26 OFFENSE HAVE BEEN TRIED AND HAVE FAILED, OR REASONABLY  
27 APPEAR TO BE UNLIKELY TO SUCCEED IF TRIED OR ARE TOO  
28 DANGEROUS TO EMPLOY.

29 (4) WHERE THE APPLICATION IS FOR THE RENEWAL OR  
30 EXTENSION OF AN ORDER, A PARTICULAR STATEMENT OF FACTS

1       SHOWING THE RESULTS THUS FAR OBTAINED FROM THE INTERCEPTION,  
2       OR A REASONABLE EXPLANATION OF THE FAILURE TO OBTAIN SUCH  
3       RESULTS.

4           (5) A COMPLETE STATEMENT OF THE FACTS CONCERNING ALL  
5       PREVIOUS APPLICATIONS, KNOWN TO THE APPLICANT MADE TO ANY  
6       COURT FOR AUTHORIZATION TO INTERCEPT A WIRE, ELECTRONIC OR  
7       ORAL COMMUNICATION INVOLVING ANY OF THE SAME FACILITIES OR  
8       PLACES SPECIFIED IN THE APPLICATION OR INVOLVING ANY PERSON  
9       WHOSE COMMUNICATION IS TO BE INTERCEPTED, AND THE ACTION  
10      TAKEN BY THE COURT ON EACH SUCH APPLICATION.

11          (6) A PROPOSED ORDER OF AUTHORIZATION FOR CONSIDERATION  
12      BY THE JUDGE.

13          (7) SUCH ADDITIONAL TESTIMONY OR DOCUMENTARY EVIDENCE IN  
14      SUPPORT OF THE APPLICATION AS THE JUDGE MAY REQUIRE.

15   § 5713. EMERGENCY SITUATIONS.

16      (A) APPLICATION.--WHENEVER, UPON INFORMAL APPLICATION BY THE  
17   ATTORNEY GENERAL OR A DESIGNATED DEPUTY ATTORNEY GENERAL  
18   AUTHORIZED IN WRITING BY THE ATTORNEY GENERAL OR A DISTRICT  
19   ATTORNEY OR AN ASSISTANT DISTRICT ATTORNEY AUTHORIZED IN WRITING  
20   BY THE DISTRICT ATTORNEY OF A COUNTY WHEREIN [THE INTERCEPTION  
21   IS TO BE MADE] THE SUSPECTED CRIMINAL ACTIVITY HAS BEEN, IS OR  
22   IS ABOUT TO OCCUR, A JUDGE DETERMINES THERE ARE GROUNDS UPON  
23   WHICH AN ORDER COULD BE ISSUED PURSUANT TO THIS CHAPTER, AND  
24   THAT AN EMERGENCY SITUATION EXISTS WITH RESPECT TO THE  
25   INVESTIGATION OF AN OFFENSE DESIGNATED IN SECTION 5708 (RELATING  
26   TO ORDER AUTHORIZING INTERCEPTION OF WIRE, ELECTRONIC OR ORAL  
27   COMMUNICATIONS), AND INVOLVING CONSPIRATORIAL ACTIVITIES  
28   CHARACTERISTIC OF ORGANIZED CRIME OR A SUBSTANTIAL DANGER TO  
29   LIFE OR LIMB, DICTATING AUTHORIZATION FOR IMMEDIATE INTERCEPTION  
30   OF WIRE, ELECTRONIC OR ORAL COMMUNICATIONS BEFORE AN APPLICATION



1 FOR AN ORDER COULD WITH DUE DILIGENCE BE SUBMITTED TO HIM AND  
2 ACTED UPON, THE JUDGE MAY GRANT ORAL APPROVAL FOR SUCH  
3 INTERCEPTION WITHOUT AN ORDER, CONDITIONED UPON THE FILING WITH  
4 HIM, WITHIN 48 HOURS THEREAFTER, OF AN APPLICATION FOR AN ORDER  
5 WHICH, IF GRANTED, SHALL RECITE THE ORAL APPROVAL AND BE  
6 RETROACTIVE TO THE TIME OF SUCH ORAL APPROVAL. SUCH INTERCEPTION  
7 SHALL IMMEDIATELY TERMINATE WHEN THE COMMUNICATION SOUGHT IS  
8 OBTAINED OR WHEN THE APPLICATION FOR AN ORDER IS DENIED,  
9 WHICHEVER IS EARLIER. IN THE EVENT NO APPLICATION FOR AN ORDER  
10 IS MADE, THE CONTENT OF ANY WIRE, ELECTRONIC OR ORAL  
11 COMMUNICATION INTERCEPTED SHALL BE TREATED AS HAVING BEEN  
12 OBTAINED IN VIOLATION OF THIS SUBCHAPTER.

13 \* \* \*

14 Section ~~2-3~~ 5. This act shall take effect in 60 days.

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