

## **COMMITTEE BILL ANALYSIS**

**Bill:** House Bill 2400

**Printer's No.:** 3728

**Sponsor:** Rep. Marsico

**Prepared by:** Gregg Warner

**Synopsis:** This bill makes omnibus amendments to Chapter 57 of the Crimes Code, Title 18 of the Pennsylvania Consolidated Statutes, the Wiretapping and Electronic Surveillance Control Act.

### **Summary:**

#### **Exceptions to prohibition of interception and disclosure of communications**

Section 5704(17) 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 (this is known as the victim exception).

Section 5704(2)(i) permits a law enforcement officer who has lawfully obtained a communication device to receive and respond to a communication voluntarily sent by a third person to that device.

#### **"Target specific" wiretaps**

Section 5712.1 allow for target-specific 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 issue supplementary "target specific" orders permitting the interception of additional devices where the target has changed devices.

#### **Wiretap evidence legally obtained in other jurisdictions**

Section 5717 permits the use of wiretap evidence from other jurisdictions but the intercepted 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.

#### **"Clean hands" provision**

Section 5717(a.2) allows a law enforcement officer to use the contents of a wire communication obtained by someone else as long as the contents show evidence of a crime of violence or a felony of the first degree. The law enforcement officer received the communication with "clean hands" regardless of how it may have been obtained originally.

**Mobile communications tracking device**

Section 5761(b) permits a court having jurisdiction over an offense to authorize the installation and use of mobile tracking devices upon a showing of probable cause that the use of the device will yield information relevant to an investigation of criminal activity.

**Signed, written record**

Section 5702 includes a definition of “signed, written record” to allow for electronic signatures by law enforcement officers under the wiretap act.

**Emergency hostage and barricade situations**

Sections 5704(12) and 5713.1 allow for an interception where the person “may resist with the use of weapons.” The bill also allows for an interception if the person is “threatening suicide or harm to himself or others.”

**Effective date**

This act takes effect in 60 days.

**Background:** The House passed House Bill 2400 on June 13, 2012 by a vote of 145 to 52.

The Senate Judiciary Committee held a public hearing on the wiretap act on March 13, 2012.