

2021 -- H 5724

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LC001705
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- INTERCEPTION OF WIRE AND ORAL
COMMUNICATIONS

Introduced By: Representatives McEntee, Craven, and Caldwell

Date Introduced: February 24, 2021

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-5.1-1 of the General Laws in Chapter 12-5.1 entitled "Interception
2 of Wire and Oral Communications" is hereby amended to read as follows:

3 **12-5.1-1. Definitions.**

4 As used in this chapter:

5 (1) "Aggrieved person" means an individual who was a party to any intercepted wire,
6 electronic, or oral communication or against whom the interception was directed.

7 (2) "Communications common carrier" has the same meaning given the term "common
8 carrier" by 47 U.S.C. § 153(11).

9 (3) "Contents," when used with respect to any wire, electronic, or oral communication,
10 includes any information concerning the identity of the parties to that communication or the
11 existence, substance, purport, or meaning of that communication.

12 (4) "Designated offense" means the offenses of:

13 (i) Murder, robbery, kidnapping, extortion, assault with a dangerous weapon, and assault
14 with intent to rob or murder;

15 (ii) Arson in the first degree, arson in the second degree, or arson in the third degree;

16 (iii) Bribery or larceny involving the receipt of stolen property of a value of more than five
17 hundred dollars (\$500);

18 (iv) Any violation of chapter 28 of title 21 where the offense is punishable by imprisonment

1 for more than one year;

2 (v) Any violation of chapters 19, 47, or 51 of title 11, where the offense is punishable by
3 imprisonment for more than one year;

4 (vi) The lending of money at a rate of interest in violation of law;

5 (vii) Being a fugitive from justice for any of the offenses provided in this subdivision; ~~and~~

6 (viii) Any violation of chapter 67.1 of title 11 where the offense is punishable by
7 imprisonment for more than one year; or

8 ~~(viii)~~(ix) Conspiracy to commit any of the offenses provided in this subdivision.

9 (5) "Electronic communication" means any transfer of signs, signals, writing, images,
10 sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio,
11 electromagnetic, photoelectronic or photooptical system, but does not include:

12 (i) Any wire or oral communication;

13 (ii) Any communication made through a tone-only paging device; or

14 (iii) Any communication from a tracking device.

15 (6) "Electronic communication service" means any service which provides to users the
16 ability to send or receive wire or electronic communications.

17 (7) "Electronic, mechanical, or other device" means any device or apparatus which can be
18 used to intercept wire, electronic, or oral communications other than:

19 (i) Any telephone or telegraph instrument, equipment, or facility or any component of
20 telephone or telegraph instruments, equipment, or facilities, furnished to the subscriber or user by
21 a provider of wire or electronic communication service in the ordinary course of its business, and
22 being used by the subscriber or user in the ordinary course of business, or by an investigative or
23 law enforcement officer in the ordinary course of his or her duties; or

24 (ii) A hearing aid or similar device which is being used to correct subnormal hearing to
25 normal.

26 (8) "Intercept" means aural or other acquisition of the contents of any wire, electronic, or
27 oral communication through the use of any electronic, mechanical, or other device.

28 (9) "Investigative or law enforcement officer" means any officer of the United States, this
29 state, or a political subdivision of this state, who is empowered by law to conduct investigations of,
30 or to make arrests for, the designated offenses, the attorney general, and his or her assistants.

31 (10) "Oral communications" means any oral communication uttered by a person exhibiting
32 an expectation that the communication is not subject to interception under circumstances justifying
33 that expectation, but the term does not include any electronic communication.

34 (11) "Person" means any individual, partnership, association, joint stock company, trust,

1 or corporation, whether or not any of the foregoing is an officer, agent, or employee of the United
2 States, a state, or a political subdivision of a state.

3 (12) "User" means any person or entity who:

4 (i) Uses an electronic communication service; and

5 (ii) Is duly authorized by the provider of the service to engage in that use; photooptical or
6 photoelectronic facilities for the transmission of electronic communications, and any computer
7 facilities or related electronic equipment for the electronic storage of the communications.

8 (13) "Wire communications" means any aural transfer made in whole or in part through
9 the use of facilities for the transmission of communications by the aid of wire, cable, or other like
10 connection between the point of origin and the point of reception, (including the use of the
11 connection in a switching station) furnished or operated by any person engaged in providing or
12 operating the facilities for the transmission of communications. The term includes any electronic
13 storage of the communication.

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would add felony violations of the Uniform Act of Prevention of and Remedies
2 for Human Trafficking as a designated offense for an application for an order under the Interception
3 of Wire and Oral Communication statute.

4 This act would take effect upon passage.

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