



SPONSOR: Sen. Gay & Rep. Griffith
Sens. Hoffner, S. McBride; Reps. Baumbach, K. Johnson,
K. Williams

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 91

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2405, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2405. Authorities permitted to apply for order authorizing interception.

4 The Attorney General, Chief Deputy Attorney General, Director of the Division of Civil Rights and Public Trust,
5 Director of the Family Division, Director of the Fraud and Consumer Protection Division, State Prosecutor or Chief
6 Prosecutor of any county may apply to a judge authorized to receive intercept applications and the judge, in accordance
7 with § 2407 of this title, may grant an order authorizing the interception by investigative or law-enforcement officers of
8 wire, ~~oral~~ oral, or electronic communications when the interception may provide ~~evidence~~: evidence of any of the
9 following:

10 (1) Of the commission of the offense of racketeering, murder, kidnapping, human trafficking, gambling, robbery,
11 bribery, extortion, dealing in narcotic drugs or dangerous drugs, dealing in central nervous system depressant or stimulant
12 drugs, dealing in controlled substances or counterfeit controlled substances, prison escape, jury tampering, fraud, official
13 misconduct, deprivation of civil rights, hate crimes, or stalking; ~~stalking~~.

14 (2) Of the commission of any felony creating a risk of physical injury to a ~~person~~; person.

15 (3) Of any conspiracy or solicitation to commit any of the offenses set forth in paragraph (1) or (2) of this ~~section~~;
16 ~~or section~~.

17 (4) Aiding in the apprehension of the perpetrator of any of the offenses set forth in this section.

SYNOPSIS

Delaware law on the application to an authorized judge for the intercept of wire communications was written prior to the creation of the statutory divisions of Family, Fraud and Consumer Protection, and Civil Rights and Public Trust, within the Delaware Department of Justice. This would allow for the divisions leading, for example, sensitive fraud, public corruption, white collar, civil rights and hate crimes investigations to apply to the Superior Court for wire intercepts, and further makes clear that such investigations fall within the purview of the electronic surveillance chapter. Human trafficking is already included in the statute, but its investigations and prosecutions now fall under the jurisdiction of the Family Division.

Author: Senator Gay