

2021 -- H 5735

=====  
LC001623  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

---

A N A C T

RELATING TO CRIMINAL OFFENSES – PUBLIC UTILITIES

Introduced By: Representatives Fellela, Serpa, Phillips, Messier, Costantino, Perez, and  
Cardillo

Date Introduced: February 24, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-35-21 of the General Laws in Chapter 11-35 entitled "Public  
2 Utilities" is hereby amended to read as follows:

3 **11-35-21. Unauthorized interception, disclosure or use of wire, electronic, or oral**  
4 **communication.**

5 (a) Except as otherwise specifically provided in chapter 5.1 of title 12, any person: (1) who  
6 willfully intercepts, attempts to intercept, or procures any other person to intercept or attempt to  
7 intercept, any wire, electronic, or oral communication; (2) who willfully discloses or attempts to  
8 disclose to any person the contents of any wire, electronic, or oral communication, knowing, or  
9 having reason to know that the information was obtained through interception of a wire, electronic,  
10 or oral communication in violation of this section; or (3) who willfully uses or attempts to use the  
11 contents of any wire, electronic, or oral communication, knowing, or having reason to know, that  
12 the information was obtained through interception of a wire, electronic, or oral communication in  
13 violation of this section; shall be imprisoned for not more than five (5) years.

14 (b) The provisions of subdivisions (a)(2) and (3) of this section shall not apply to the  
15 contents of any wire, electronic, or oral communication, or evidence derived from those contents,  
16 which has become common knowledge or public information.

17 (c) It shall not be unlawful under this chapter for:

18 (1) An operator of a switchboard, or an officer, agent, or employee of a communication  
19 common carrier, whose facilities are used in the transmission of a wire, electronic, or oral

1 communication, to intercept, disclose, or use that communication in the normal course of his or her  
2 employment while engaged in any activity which is a necessary incident to the rendition of his or  
3 her service or to the protection of the rights or property of the carrier of the communication. No  
4 communication common carrier shall utilize service observing or random monitoring except for  
5 mechanical or service quality control checks;

6 (2) A person acting under color of law to intercept a wire, electronic, or oral  
7 communication, where that person is a party to the communication, or where one of the parties to  
8 the communication has given prior consent to the interception; or

9 (3) A person not acting under color of law to intercept a wire, electronic, or oral  
10 communication, where the person is a party to the communication, and advises, notifies, or  
11 somehow conveys to the other party or parties that they are recording the conversation and the other  
12 party or parties consent to the recording of the conversation ~~or one of the parties to the~~  
13 ~~communication has given prior consent to the interception~~ unless the communication is intercepted  
14 for the purpose of committing any criminal or tortious act in the violation of the constitution or  
15 laws of the United States or of any state or for the purpose of committing any other injurious act.

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

=====  
LC001623  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES – PUBLIC UTILITIES

\*\*\*

1           This act would require any person recording an oral communication, whether in person,  
2 telephonically or otherwise, to inform the other party or parties that the communications are being  
3 recorded.

4           This act would take effect upon passage.

=====  
LC001623  
=====