

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO CRIMINAL PROCEDURE -- INTERCEPTION OF WIRE AND ORAL COMMUNICATIONS -- WHERE APPLICATIONS MAY BE MADE

Introduced By: Representatives McEntee, Craven, Vella-Wilkinson, and Knight

Date Introduced: March 02, 2022

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-5.1-3 and 12-5.1-4 of the General Laws in Chapter 12-5.1 entitled
2 "Interception of Wire and Oral Communications" are hereby amended to read as follows:

3 **12-5.1-3. Where application may be made.**

4 Application for an order to intercept wire, electronic, or oral communication may be made
5 to the presiding justice of the superior court [or an associate justice of the superior court designated](#)
6 [by the presiding justice](#) or the senior associate justice of the superior court whenever the presiding
7 justice shall deem it necessary to disqualify himself or herself from entering the order.

8 **12-5.1-4. Issuance of orders.**

9 (a) Upon the application as provided in § 12-5.1-2 the presiding justice of the superior
10 court, [or an associate justice of the superior court designated by the presiding justice](#), or the senior
11 associate justice of the superior court when the presiding justice shall disqualify himself or herself
12 from entering the order, may enter an ex parte order, as required or as modified, authorizing the
13 interception of wire, electronic, or oral communications if the presiding justice of the superior court
14 determines on the basis of the facts submitted by the applicant that:

15 (1) There is probable cause for belief that an individual is committing, has committed, or
16 is about to commit a particular designated offense;

17 (2) There is probable cause for belief that particular communications concerning that
18 offense will be obtained through the interception;

1 (3) Normal investigative procedures have been tried and have failed or reasonably appear
2 to be unlikely to succeed if tried, or to be too dangerous;

3 (4) There is probable cause for belief that the facilities from which, or the place where, the
4 wire, electronic, or oral communications are to be intercepted, are being used, or are about to be
5 used, in connection with the commission of the offense, or are leased to, listed in the name of, or
6 commonly used by the individual.

7 (b) If the facilities from which a wire, electronic, or oral communication is to be intercepted
8 are public, no order of authorization shall be issued unless the court, in addition to the matters
9 provided in subsection (a) of this section, determines that there is a special need to intercept wire
10 communications over the facilities.

11 (c) If the facilities from which, or the place where, the wire, electronic, or oral
12 communications are to be intercepted, are being used, or are about to be used, or are leased to, listed
13 in the name of, or commonly used by, a licensed attorney-at-law, or an ordained minister of the
14 gospel, priest, or rabbi of any denomination, or is a place used primarily for habitation by a husband
15 and wife, no order shall be issued unless the presiding justice of the superior court, in addition to
16 the matters provided in subsection (a) of this section, determines that there is a special need to
17 intercept wire, electronic, or oral communications over those facilities or in those places, and that
18 the interceptions will be so conducted as to minimize or eliminate interception of privileged
19 communication between lawyers and clients, clergy and confidants, or husbands and wives.

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

=====
LC004875
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE -- INTERCEPTION OF WIRE AND ORAL
COMMUNICATIONS -- WHERE APPLICATIONS MAY BE MADE

- 1 This act would allow the presiding justice of the superior court to designate an associate
- 2 justice of the superior court to accept application for wire taps.
- 3 This act would take effect upon passage.

=====
LC004875
=====