

2A:156 A-3

### LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 2A:156 A-3 et al ("Wiretapping act-- amendments")

**LAWS OF:** 1989 **CHAPTER:** 85

**BILL NO:** A3545, A892, A2477, A3759

**SPONSOR(S):** Franks and others

**Date Introduced:** June 29, 1988

**Committee:** **Assembly:** Judiciary  
**Senate:** Judiciary

**Amended during passage:** Yes **Assembly Committee substitute enacted.**

**Date of Passage:** **Assembly:** November 21, 1988  
**Senate:** May 1, 1989

**Date of Approval:** June 1, 1989

**Following statements are attached if available:**

<b>Sponsor statement:</b>		Yes
<b>Committee statement:</b>	<b>Assembly</b>	Yes
	<b>Senate</b>	Yes
<b>Fiscal Note:</b>		No
<b>Veto Message:</b>		No
<b>Message on Signing:</b>		No
<b>Following were printed:</b>		
<b>Reports:</b>		No
<b>Hearings:</b>		No

RDV



P.L. 1989, CHAPTER 85, *approved June 1, 1989*  
Assembly Committee Substitute for  
1988 Assembly Nos. 3545, 892, 2477 and 3759 (*First Reprint*)

1 AN ACT to amend the "New Jersey Wiretapping and Electronic  
Surveillance Control Act," approved January 14, 1969  
3 (P.L.1968, c.409).

5 BE IT ENACTED by the Senate and General Assembly of the  
State of New Jersey:

7 1. Section 3 of P.L.1968, c.409 (C.2A:156A-3) is amended to  
read as follows:

9 3. Except as otherwise specifically provided in this act, any  
person who:

11 a. [Willfully] Purposely intercepts, endeavors to intercept, or  
procures any other person to intercept or endeavor to intercept  
13 any wire or oral communication; or

b. [Willfully] Purposely discloses or endeavors to disclose to  
15 any other person the contents of any wire or oral communication,  
or evidence derived therefrom, knowing or having reason to know  
17 that the information was obtained through the interception of a  
wire or oral communication; or

19 c. [Willfully] Purposely uses or endeavors to use the contents  
of any wire or oral communication, or evidence derived  
21 therefrom, knowing or having reason to know, that the  
information was obtained through the interception of a wire or  
23 oral communication;

shall be guilty of a [misdemeanor and shall be fined not more  
25 than \$10,000.00 or imprisoned not more than 5 years, or both]  
crime of the third degree. Subsections b. and c. of this section  
27 shall not apply to the contents of any wire or oral  
communication, or evidence derived therefrom, that has become  
29 common knowledge or public information.<sup>1</sup>

(cf: P.L.1968, c.409, s.3)

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
Senate SJU committee amendments adopted February 23, 1989.

1       12. Section 5 of P.L.1968, c. 409 (C.2A:156A-5) is amended to  
read as follows:

3       5. Except as otherwise specifically provided in section 6 of  
this act, any person who:

5       a. [Willfully] Purposely possesses an intercepting device,  
knowing or having reason to know that the design of such device  
7 renders it primarily useful for the purpose of the surreptitious  
interception of a wire or oral communication;

9       b. [Willfully] Purposely sells an intercepting device, knowing or  
having reason to know that the design of such device renders it  
11 primarily useful for the purpose of the surreptitious interception  
of a wire or oral communication;

13       c. [Willfully] Purposely distributes an intercepting device,  
knowing or having reason to know that the design of such device  
15 renders it primarily useful for the purpose of the surreptitious  
interception of a wire or oral communication;

17       d. [Willfully] Purposely manufactures or assembles an  
intercepting device, knowing or having reason to know that the  
19 design of such device renders it primarily useful for the purpose  
of the surreptitious interception of a wire or oral communication;  
21 or

      e. [Willfully] Purposely places in any newspaper, magazine,  
23 handbill, or other publication any advertisement of any  
intercepting device, knowing or having reason to know that the  
25 design of such device renders it primarily useful for the purpose  
of the surreptitious interception of a wire or oral communication  
27 or of any intercepting device where such advertisement promotes  
the use of such device for the purpose of the surreptitious  
29 interception of a wire or oral communication;

      shall be guilty of a [misdemeanor and shall be fined not more  
31 than \$10,000.00 or imprisoned not more than 5 years, or both]  
crime of the third degree.<sup>1</sup>

33 (cf: P.L.1975, c.131, s.2)

35 <sup>1</sup>[1.] 3.<sup>1</sup> Section 8 of P.L.1968, c.409 (C.2A:156A-8) is  
amended to read as follows:

37       8. The Attorney General, a county prosecutor or with the  
approval of the Attorney General, except in those investigations  
directly involving possible misconduct by officials and employees  
39 of the Department of Law and Public Safety, the chairman of the

1 State Commission of Investigation when authorized by a majority  
of the members of that commission, or a person designated to act  
3 for such an official and to perform his duties in and during his  
actual absence or disability, may authorize, in writing, an ex  
5 parte application to a judge designated to receive the same for an  
order authorizing the interception of a wire or oral  
7 communication by the investigative or law enforcement officers  
or agency having responsibility for an investigation when such  
9 interception may provide evidence of the commission of the  
offense of murder, kidnapping, gambling, robbery, bribery,  
11 [extortion, loansharking, mayhem, violations of section 19 of the  
"New Jersey Controlled Dangerous Substances Act," P.L.1970,  
13 c.226 (C.4:21-19) except possession of 84 grams or less of  
marihuana,] a violation of N.J.S.2C:21-19 punishable by  
15 imprisonment for more than one year, terroristic threats,  
violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5,  
17 violations of sections 112 through 116, inclusive, of the "Casino  
Control Act," P.L.1977, c.110 (C.5:12-112 through 116), arson,  
19 burglary, [embezzlement] theft and related offenses punishable  
by imprisonment for more than one year, escape, forgery,  
21 [receiving stolen property punishable by imprisonment for more  
than 1 year,] alteration of motor vehicle identification numbers,  
23 [or larceny punishable by imprisonment for more than 1 year,]  
unlawful manufacture, purchase, use, or transfer of firearms, [or]  
25 unlawful possession or use of [bombs] destructive devices or  
explosives, racketeering or a violation of subsection g. of  
27 N.J.S.2C:5-2, leader of organized crime, organized criminal  
activity directed toward the unlawful transportation, storage,  
29 disposal, discharge, release, abandonment or disposition of any  
harmful, hazardous, toxic, destructive, or polluting substance,  
31 violations of subsection b. of N.J.S.2C:24-4 or any conspiracy to  
commit any of the foregoing offenses or which may provide  
33 evidence aiding in the apprehension of the perpetrator or  
perpetrators of any of the foregoing offenses.

35 (cf: P.L.1978, c.51, s.3)

37 <sup>1</sup>[2.] <sup>4.1</sup> Section 12 of P.L.1988, c.409 (C.2A:156A-12) is  
amended to read as follows:

39 12. Each order authorizing the interception of any wire or oral  
communication shall state:

- 1       a. The judge is authorized to issue the order;
- 2       b. The identity of, or a particular description of, the person, if
- 3 known, whose communications are to be intercepted;
- 4       c. The character and location of the particular communication
- 5 facilities as to which, or the particular place of the
- 6 communication as to which, authority to intercept is granted;
- 7       d. A particular description of the type of the communication
- 8 to be intercepted and a statement of the particular offense to
- 9 which it relates;
- 10       e. The identity of the investigative or law enforcement
- 11 officers or agency to whom the authority to intercept a wire or
- 12 oral communication is given and the identity of whoever
- 13 authorized the application; and
- 14       f. The period of time during which such interception is
- 15 authorized, including a statement as to whether or not the
- 16 interception shall automatically terminate when the described
- 17 communication has been first obtained.

18       No order entered under this section shall authorize the

19 interception of any wire or oral communication for a period of

20 time in excess of that necessary under the circumstances. Every

21 order entered under this section shall require that such

22 interception begin and terminate as soon as practicable and be

23 conducted in such a manner as to minimize or eliminate the

24 interception of such communications not otherwise subject to

25 interception under this act by making reasonable efforts,

26 whenever possible, to reduce the hours of interception authorized

27 by said order. [In no case shall an] Except as provided below in

28 subsection g. of this section, no order entered under this section

29 shall authorize the interception of wire or oral communications

30 for any period exceeding 20 days. Extensions or renewals of such

31 an order may be granted for two additional periods of not more

32 than 10 days. No extension or renewal shall be granted unless an

33 application for it is made in accordance with this section, and the

34 court makes the findings required by sections 10, 11 and this

35 section.

36       g. Orders entered under this section to provide evidence of

37 racketeering in violation of N.J.S.2C:41-2, leader of organized

38 crime in violation of subsection g. of N.J.S.2C:5-2, or leader of

39 narcotics trafficking network in violation of N.J.S.2C:35-3, may

1 authorize the interception of wire or oral communications for a  
2 period not to exceed 30 days and extensions or renewals of any  
3 order may be granted for additional periods of not more than 30  
4 days, without limitation on the number of extension or renewal  
5 orders <sup>1</sup>; provided, however, that orders authorized pursuant to  
6 this subsection shall not exceed six months<sup>1</sup>.

7 h. Whenever an order authorizing an interception is entered,  
8 the order may require reports to be made to the judge who issued  
9 the order showing what progress has been made toward  
10 achievement of the authorized objective and the need for  
11 continued interception. Such reports shall be made at such  
12 intervals as the court may require.

13 An order authorizing the interception of a wire or oral  
14 communication shall, upon request of the applicant, direct that a  
15 communication common carrier shall furnish the applicant  
16 forthwith all information, facilities and technical assistance  
17 necessary to accomplish the interception unobtrusively and with a  
18 minimum of interference with the services that such carrier is  
19 affording the person whose communications are to be intercepted.

20 The obligation of a communication common carrier under such  
21 an order may include but is not limited to conducting, for good  
22 cause shown, an in-progress trace during an interception  
23 provided, however, that a county prosecutor must receive the  
24 approval of the Attorney General or his designee prior to  
25 requesting an order which includes an in-progress trace. Any  
26 communication common carrier furnishing such facilities or  
27 technical assistance shall be compensated therefor by the  
28 applicant at the prevailing rates. Said carrier shall be immune  
29 from civil liability for any assistance rendered to the applicant  
30 pursuant to this section.

31 (cf: P.L.1978, c.51, s.5)

32 <sup>15.</sup> Section 19 of P.L.1968, c.409 (C.2A:156A-19) is amended to  
33 read as follows:

34 19. Except as specifically authorized pursuant to this act any  
35 person who knowingly uses or discloses the existence of an order  
36 authorizing interception of a wire or oral communication or the  
37 contents of, or information concerning, an intercepted wire or  
38 oral communication or evidence derived therefrom, is guilty of a  
39 [misdemeanor] crime of the third degree.<sup>1</sup>

(cf: P.L.1968, c.409, s.19)

1     ~~3.~~ 6.<sup>1</sup> Section 28 of P.L.1968, c.409 is amended to read as  
follows:

3     28. This act shall take effect January 1, 1969 and remain in  
effect until [~~July 1, 1989~~] July 1, 1994.

5     (cf: P.L.1968, c.50, s.1)

7     ~~4.~~ 7.<sup>1</sup> This act shall take effect immediately.

7

9

**CRIMINAL JUSTICE**  
**Criminal Investigation and Arrest**

11

Amends the wiretapping act to expand circumstances under which  
13     electronic surveillance is allowed and deletes obsolete references.

**ASSEMBLY, No. 3545**

**STATE OF NEW JERSEY**

INTRODUCED JUNE 29, 1988

By Assemblymen FRANKS and ROMA

1 **AN ACT** to amend the "New Jersey Wiretapping and Electronic  
2 **Surveillance Control Act,"** approved January 14, 1969 (P.L.  
3 1968, c. 409).

5 **BE IT ENACTED** by the Senate and General Assembly of the  
6 **State of New Jersey:**

7 1. Section 8 of P.L. 1968, c. 409 (C. 2A:156A-8) is amended to  
8 read as follows:

9 8. The Attorney General, a county prosecutor or with the  
10 approval of the Attorney General, except in those investigations  
11 directly involving possible misconduct by officials and employees  
12 of the Department of Law and Public Safety, the chairman of the  
13 State Commission of Investigation when authorized by a majority  
14 of the members of that commission, or a person designated to act  
15 for such an official and to perform his duties in and during his  
16 actual absence or disability, may authorize, in writing, an ex  
17 parte application to a judge designated to receive the same for an  
18 order authorizing the interception of a wire or oral  
19 communication by the investigative or law enforcement officers  
20 or agency having responsibility for an investigation when such  
21 interception may provide evidence of the commission of the  
22 offense of murder, kidnapping, gambling, robbery, bribery,  
23 [extortion, loansharking, mayhem, violations of section 19 of the  
24 "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.  
25 226 (C. 24:21-19) except possession of 84 grams or less of  
26 marihuana,] a violation of N.J.S. 2C:21-19 punishable by  
27 imprisonment for more than one year, terroristic threats,  
28 violations of N.J.S. 2C:35-3, N.J.S. 2C:35-4 and N.J.S. 2C:35-5,  
29 violations of sections 112 through 116, inclusive, of the "Casino  
30 Control Act," P.L. 1977, c. 110 (C. 5:12-112 through 116), arson,  
31 burglary, [embezzlement] theft and related offenses punishable  
by imprisonment for more than one year, escape, forgery,

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.



1 receiving stolen property punishable by imprisonment for more  
2 than 1 year, alteration of motor vehicle identification numbers,  
3 or larceny punishable by imprisonment for more than 1 year,  
4 unlawful manufacture, purchase, use, or transfer of firearms, [or]  
5 unlawful possession or use of [bombs] destructive devices or  
6 explosives, racketeering or a violation of N.J.S. 2C:5-2g, leader  
7 of organized crime, unlawful transportation, storage, disposal,  
8 discharge, release, abandonment or disposition of any harmful,  
9 hazardous, toxic, destructive, or polluting substance, or any  
10 conspiracy to commit any of the foregoing offenses or which may  
11 provide evidence aiding in the apprehension of the perpetrator or  
12 perpetrators of any of the foregoing offenses.

13 (cf: P.L. 1978, c. 51, s. 3)

14 2. Section 12 of P.L. 1968, c. 409 (C. 2A:156A-12) is amended  
15 to read as follows:

16 12. Each order authorizing the interception of any wire or oral  
17 communication shall state:

- 18 a. The judge is authorized to issue the order;
- 19 b. The identity of, or a particular description of, the person, if  
20 known, whose communications are to be intercepted;
- 21 c. The character and location of the particular communication  
22 facilities as to which, or the particular place of the  
23 communication as to which, authority to intercept is granted;
- 24 d. A particular description of the type of the communication  
25 to be intercepted and a statement of the particular offense to  
26 which it relates;
- 27 e. The identity of the investigative or law enforcement  
28 officers or agency to whom the authority to intercept a wire or  
29 oral communication is given and the identity of whoever  
30 authorized the application; and
- 31 f. The period of time during which such interception is  
32 authorized, including a statement as to whether or not the  
33 interception shall automatically terminate when the described  
34 communication has been first obtained.

35 No order entered under this section shall authorize the  
36 interception of any wire or oral communication for a period of  
37 time in excess of that necessary under the circumstances. Every  
38 order entered under this section shall require that such  
39 interception begin and terminate as soon as practicable and be

1 conducted in such a manner as to minimize or eliminate the  
interception of such communications not otherwise subject to  
3 interception under this act by making reasonable efforts,  
whenever possible, to reduce the hours of interception authorized  
5 by said order. [In no case shall an] Except as provided below in  
6 subsection g. of this section, no order entered under this section  
7 shall authorize the interception of wire or oral communications  
8 for any period exceeding 20 days. Extensions or renewals of such  
9 an order may be granted for two additional periods of not more  
10 than 10 days. No extension or renewal shall be granted unless an  
11 application for it is made in accordance with this section, and the  
12 court makes the findings required by sections 10, 11 and this  
13 section.

14 g. Orders entered under this section to provide evidence of  
15 racketeering in violation of N.J.S. 2C:41-2, leader of organized  
16 crime in violation of N.J.S. 2C:5-2g, or leader of narcotics  
17 trafficking network in violation of N.J.S. 2C:35-3, may authorize  
18 the interception of wire or oral communications for a period not  
19 to exceed 30 days and extensions or renewals of any order may be  
20 granted for additional periods of not more than 30 days, without  
21 limitation on the number of extension or renewal orders.

22 h. Whenever an order authorizing an interception is entered,  
23 the order may require reports to be made to the judge who issued  
24 the order showing what progress has been made toward  
25 achievement of the authorized objective and the need for  
26 continued interception. Such reports shall be made at such  
27 intervals as the court may require.

28 An order authorizing the interception of a wire or oral  
29 communication shall, upon request of the applicant, direct that a  
30 communication common carrier shall furnish the applicant  
31 forthwith all information, facilities and technical assistance  
32 necessary to accomplish the interception unobtrusively and with a  
33 minimum of interference with the services that such carrier is  
34 affording the person whose communications are to be intercepted.

35 The obligation of a communication common carrier under such  
36 an order may include but is not limited to conducting, for good  
37 cause shown, an in-progress trace during an interception  
38 provided, however, that a county prosecutor must receive the  
39 approval of the Attorney General or his designee prior to

1 requesting an order which includes an in-progress trace. Any  
2 communication common carrier furnishing such facilities or  
3 technical assistance shall be compensated therefor by the  
4 applicant at the prevailing rates. Said carrier shall be immune  
5 from civil liability for any assistance rendered to the applicant  
6 pursuant to this section.

7 (cf: P.L. 1978, c. 51, s. 5)

8 3. This act shall take effect immediately.

9

11 STATEMENT

13 This bill amends the "New Jersey Wiretapping and Electronic  
14 Surveillance Control Act" to delete references to crimes which  
15 are now obsolete in favor of references to analogous offenses  
16 under the Penal Code.

17 In addition this bill adds new offenses to the coverage of this  
18 act to permit law enforcement officials to use electronic  
19 surveillance techniques (1) to secure evidence of the offenses of  
20 leader of organized crime and leader of narcotics trafficking  
21 network, (2) to secure evidence of racketeering violations, and (3)  
22 to secure evidence of serious environmental crimes.

23 With respect to the crimes of racketeering, leader of organized  
24 crime and leader of narcotics trafficking network, the bill would  
25 extend the time limits of initial authorization orders from 20 to  
26 30 days, and would permit an unlimited number of 30 day renewal  
27 orders.

29

30 CRIMINAL JUSTICE

31 Criminal Investigation and Arrest

33 Amends the wiretapping act to expand circumstances under which  
34 electronic surveillance is allowed and deletes obsolete references.

**ASSEMBLY, No. 2477**

**STATE OF NEW JERSEY**

INTRODUCED FEBRUARY 18, 1988

By Assemblywoman SMITH, Assemblyman KYRILLOS, and  
Assemblywoman CRECCO

1 AN ACT to amend the "New Jersey Wiretapping and Electronic  
2 Surveillance Control Act," approved January 14, 1969 (P.L.  
3 1968, c. 409).

5 BE IT ENACTED by the Senate and General Assembly of the  
6 State of New Jersey:

7 1. Section 8 of P.L. 1968, c. 409 (C. 2A:156A-8) is amended to  
8 read as follows:

9 8. The Attorney General, a county prosecutor or with the  
10 approval of the Attorney General, except in those investigations  
11 directly involving possible misconduct by officials and employees  
12 of the Department of Law and Public Safety, the chairman of the  
13 State Commission of Investigation when authorized by a majority  
14 of the members of that commission, or a person designated to act  
15 for such an official and to perform his duties in and during his  
16 actual absence or disability, may authorize, in writing, an ex  
17 parte application to a judge designated to receive the same for an  
18 order authorizing the interception of a wire or oral  
19 communication by the investigative or law enforcement officers  
20 or agency having responsibility for an investigation when such  
21 interception may provide evidence of the commission of the  
22 offense of murder, kidnapping, gambling, robbery, bribery,  
23 extortion, loansharking, mayhem, violations of [section 19 of the  
24 "New Jersey Controlled Dangerous Substances Act," P.L. 1970, c.  
25 226 (C. 24:21-19)] N.J.S. 2C:35-5 except possession of 84 grams  
26 or less of marijuana, violations of sections 112 through 116,  
27 inclusive, of the "Casino Control Act," P.L. 1977, c. 110 (C.  
28 5:12-112 through 116), arson, burglary, embezzlement, escape,  
29 forgery, receiving stolen property punishable by imprisonment for  
30 more than one year, alteration of motor vehicle identification  
31 numbers, or larceny punishable by imprisonment for more than

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 one year, unlawful manufacture, purchase, use, or transfer of  
firearms, or unlawful possession or use of bombs or explosives,  
3 violations of subsection b. of N.J.S. 2C:24-4, or any conspiracy to  
commit any of the foregoing offenses or which may provide  
5 evidence aiding in the apprehension of the perpetrator or  
perpetrators of any of the foregoing offenses.

7 (cf: P.L. 1978, c. 51, s. 3)

2. This act shall take effect immediately.

9

11

**STATEMENT**

13 This bill would permit law enforcement officials to use  
wiretaps in cases involving child pornography.

15

17

**CRIMINAL JUSTICE**

**Criminal Investigation and Arrest**

19

**Extends wiretap law to cases involving child pornography.**

# ASSEMBLY, No. 359

## STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 22, 1988

By Assemblymen BENNETT, PALAIA, Kyrillos,  
Assemblywomen Smith, Farragher and Assemblyman Smith

1 AN ACT concerning environmental offenses and amending  
P.L.1968, c.409.

3

BE IT ENACTED by the Senate and General Assembly of the  
5 State of New Jersey:

1 Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to  
7 read as follows:

8. The Attorney General, a county prosecutor or with the  
9 approval of the Attorney General, except in those investigations  
directly involving possible misconduct by officials and employees  
11 of the Department of Law and Public Safety, the chairman of the  
State Commission of Investigation when authorized by a majority  
13 of the members of that commission, or a person designated to act  
for such an official and to perform his duties in and during his  
15 actual absence or disability, may authorize, in writing, an ex  
parte application to a judge designated to receive the same for an  
17 order authorizing the interception of a wire or oral  
communication by the investigative or law enforcement officers  
19 or agency having responsibility for an investigation when such  
interception may provide evidence of the commission of the  
21 offense of murder, kidnapping, gambling, robbery, bribery,  
extortion, loansharking, mayhem, violations of [section 19 of the  
23 "New Jersey Controlled Dangerous Substances Act," P.L.1970,  
c.226 (C.24:21-19) except possession of 84 grams or less of  
25 marihuana] N.J.S.2C:35-4, N.J.S.2C:35-5, or N.J.S.2C:35-6,  
violations of sections 112 through 116, inclusive, of the "Casino  
27 Control Act," P.L.1977, c.110 (C.5:12-112 through 116), arson,  
burglary, embezzlement, escape, forgery, receiving stolen  
29 property punishable by imprisonment for more than 1 year,  
alteration of motor vehicle identification numbers, or larceny  
31 punishable by imprisonment for more than 1 year, unlawful  
manufacture, purchase, use, or transfer of firearms, or unlawful  
33 possession or use of bombs or explosives, or unlawful  
transportation, storage, disposal, discharge, release.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 abandonment, or disposition of any harmful, hazardous, toxic,  
2 destructive, or polluting substance, or violations of the "Solid  
3 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the  
4 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et  
5 seq.), N.J.S.2C:17-2, the "Freshwater Wetlands Protection Act,"  
6 P.L.1987, c.156 (C.13:9B-1 et seq.), the "Ocean Dumping  
7 Enforcement Act," P.L.1988, c.61 (C.58:10A-47 et seq.), or any  
8 other environmental law a violation of which is an offense, or any  
9 conspiracy to commit any of the foregoing offenses or which may  
10 provide evidence aiding in the apprehension of the perpetrator or  
11 perpetrators of any of the foregoing offenses.

(cf: P.L.1978, c.51, s.3)

13 2. This act shall take effect immediately.

15

#### STATEMENT

17

18 This bill would amend the "New Jersey Wiretapping and  
19 Electronic Surveillance Control Act" to also authorize  
20 wiretapping and electronic surveillance for unlawful  
21 transportation, storage, disposal, discharge, release,  
22 abandonment, or disposition of any harmful, hazardous, toxic,  
23 destructive, or polluting substance and for criminal violations of  
24 the "Solid Waste Management Act," the "Water Pollution Control  
25 Act," N.J.S.2C:17-2, the "Freshwater Wetlands Protection Act,"  
26 the "Ocean Dumping Enforcement Act," and any other  
27 environmental law a violation of which is an offense.

28 The bill would also make a technical change to delete a  
29 repealed statute and incorporate a reference to the  
30 "Comprehensive Drug Reform Act of 1987" for substantially the  
31 same offense.

32 This bill is necessary to help deter environmental crime,  
33 especially illegal dumping of wastes.

35

#### ENVIRONMENT

37

#### Criminal Justice

38 Amends "New Jersey Wiretapping and Electronic Surveillance  
39 Control Act" to include environmental offenses.

**ASSEMBLY, No. 892**  
**STATE OF NEW JERSEY**

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman KERN

1    **AN ACT** to amend the "New Jersey Wiretapping and Electronic  
3        Surveillance Control Act," approved January 14, 1969 (P.L.  
      1968, c. 409).

5        **BE IT ENACTED** by the Senate and General Assembly of the  
      State of New Jersey:

7        1. Section 8 of P.L. 1968, c. 409 (C. 2A:156A-8) is amended  
      to read as follows:

9        8. The Attorney General, a county prosecutor or with the  
      approval of the Attorney General, except in those investigations  
11       directly involving possible misconduct by officials and  
      employees of the Department of Law and Public Safety, the  
13       chairman of the State Commission of Investigation when  
      authorized by a majority of the members of that commission, or  
15       a person designated to act for such an official and to perform  
      his duties in and during his actual absence or disability, may  
17       authorize, in writing, an ex parte application to a judge  
      designated to receive the same for an order authorizing the  
19       interception of a wire or oral communication by the  
      investigative or law enforcement officers or agency having  
21       responsibility for an investigation when such interception may  
      provide evidence of the commission of the offense of murder,  
23       kidnapping, gambling, robbery, bribery, theft by extortion,  
      ~~[loansharking, mayhem]~~ a violation of N.J.S. 2C:21-19  
25       punishable by imprisonment for more than one year, terroristic  
      threats, violations of section 19 of the "New Jersey Controlled  
27       Dangerous Substances Act," P.L. 1970, c. 226 (C. 34:21-19)  
      except possession of 84 grams or less of marihuana, violations of  
29       sections 112 through 118, inclusive, of the "Casino Control  
      Act," P.L. 1977, c. 110 (C. 5:12-112 through 116), arson,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.



1 burglary, [embezzlement] theft punishable by imprisonment for  
2 more than one year, escape, forgery, receiving stolen property  
3 punishable by imprisonment for more than one year, [alteration  
4 of motor vehicle identification numbers, or larceny punishable  
5 by imprisonment for more than one year,] alteration of motor  
6 vehicle identification numbers unlawful manufacture, purchase,  
7 use, or transfer of firearms, [or] unlawful possession or use of  
8 [bombs] destructive devices or explosives, racketeering,  
9 unlawful transportation, storage, disposal, discharge, release,  
10 abandonment or disposition of any solid waste or any harmful,  
11 hazardous, toxic, destructive, or polluting substance hindering  
12 apprehension or prosecution or official misconduct or any  
13 conspiracy to commit any of the foregoing offenses or which  
14 may provide evidence aiding in the apprehension of the  
15 perpetrator or perpetrators of any of the foregoing offenses.

16 2. Section 12 of P.L. 1998, c. 409 (C. 2A:156A-12) is amended  
17 to read as follows:

18 12. Each order authorizing the interception of any wire or  
19 oral communication shall state:

- 20 a. The judge is authorized to issue the order;
- 21 b. The identity of, or a particular description of, the person,  
22 if known, whose communications are to be intercepted;
- 23 c. The character and location of the particular  
24 communication facilities as to which, or the particular place of  
25 the communication as to which, authority to intercept is granted;
- 26 d. A particular description of the type of the communication  
27 to be intercepted and a statement of the particular offense to  
28 which it relates;
- 29 e. The identity of the investigative or law enforcement  
30 officers or agency to whom the authority to intercept a wire or  
31 oral communication is given and the identity of whoever  
32 authorized the application; and
- 33 f. The period of time during which such interception is  
34 authorized, including a statement as to whether or not the  
35 interception shall automatically terminate when the described  
36 communication has been first obtained.

37 No order entered under this section shall authorize the  
38 interception of any wire or oral communication for a period of  
39 time in excess of that necessary under the circumstances.

1 Every order entered under this section shall require that such  
interception begin and terminate as soon as practicable and be  
3 conducted in such a manner as to minimize or eliminate the  
interception of such communications not otherwise subject to  
5 interception under this act by making reasonable efforts,  
whenever possible, to reduce the hours of interception  
7 authorized by said order. In no case shall an order entered under  
this section authorize the interception of wire or oral  
9 communications for any period exceeding [20] 30 days. to  
Extensions or renewals of such an order may be granted for two  
11 additional periods of not more than [10] 15 days. No extension  
or renewal shall be granted unless an application for it is made  
13 in accordance with this section, and the court makes the  
findings required by sections 10, 11 and this section.

15 Whenever an order authorizing an interception is entered, the  
order may require reports to be made to the judge who issued  
17 the order showing what progress has been made toward  
achievement of the authorized objective and the need for  
19 continued interception. Such reports shall be made at such  
intervals as the court may require.

21 An order authorizing the interception of a wire or oral  
communication shall, upon request of the applicant, direct that  
23 a communication common carrier shall furnish the applicant  
forthwith all information, facilities and technical assistance  
25 necessary to accomplish the interception unobtrusively and with  
a minimum of interference with the services that such carrier is  
27 affording the person whose communications are to be  
intercepted.

29 The obligation of a communication common carrier under such  
an order may include but is not limited to conducting, for good  
31 cause shown, an in-progress trace during an interception  
provided, however, that a county prosecutor must receive the  
33 approval of the Attorney General or his designee prior to  
requesting an order which includes an in-progress trace. Any  
35 communication common carrier furnishing such facilities or  
technical assistance shall be compensated therefor by the  
37 applicant at the prevailing rates. Said carrier shall be immune  
from civil liability for any assistance rendered to the applicant  
39 pursuant to this section.

3. This act shall take effect immediately.

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**STATEMENT**

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This bill would change the "New Jersey Wiretapping and Electronic Surveillance Control Act" by deleting references to crimes which are now obsolete in favor of references to analogous offenses under the "New Jersey Code of Criminal Justice." The bill also amends the act to permit law enforcement officials to use electronic surveillance techniques (1) in cases of crimes involving solid waste or hazardous substances, (2) to secure evidence of racketeering violations, and (3) to secure evidence of the offenses of official misconduct, hindering apprehension or prosecution, terroristic threats, and theft offenses punishable by imprisonment for more than one year.

**CRIMINAL JUSTICE**  
**Criminal Investigation and Arrest**

Amends the "New Jersey Wiretapping and Electronic Surveillance Control Act" to expand circumstances under which electronic surveillance is allowed and corrects obsolete references to laws.

**ASSEMBLY JUDICIARY COMMITTEE**  
**STATEMENT TO**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, Nos. 3545, 892, 2477 and 3759**  
**STATE OF NEW JERSEY**

**DATED: OCTOBER 13, 1988**

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3545/892/2477/3759. The committee substitute amends the wiretapping law to add new offenses to the act so as to permit law enforcement officials to use electronic surveillance techniques (1) to secure evidence of the offenses of leader of organized crime and leader of narcotics trafficking network, (2) to secure evidence of racketeering violations, (3) to secure evidence of organized criminal activity directed toward serious environmental crimes and (4) to secure evidence of child pornography.

With respect to the crimes of racketeering, leader of organized crime and leader of narcotics trafficking network, the committee substitute extends the time limit of initial authorization orders from 20 to 30 days, and permits an unlimited number of renewal orders for 30 days.

The committee substitute also deletes obsolete references.

A 3542

**SENATE JUDICIARY COMMITTEE**

**STATEMENT TO**

**ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 3545, 892, 2477 and 3759**

**with committee amendments**

**STATE OF NEW JERSEY**

**DATED: FEBRUARY 23, 1989**

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Committee Substitute for Assembly Bill Nos. 3545, 892, 2477 and 3759.

Presently, the authorization for the "New Jersey Wiretapping and Electronic Surveillance Control Act" expires on July 1, 1989. This bill would extend authorization for the wiretap statute until July 1, 1994.

The bill would also add new crimes to the list of crimes for which law enforcement officers can seek wiretaps. Those offenses are: leader of organized crime network; leader of a narcotics trafficking network; racketeering; organized criminal activity involving the unlawful storage or disposal of hazardous substances and child pornography.

With respect to the crimes of racketeering, leader of an organized crime network and leader of a narcotics trafficking network, the bill would set the length of the initial wiretap authorization order at 30 days and would permit an unlimited number of renewal orders. The committee amended this provision to limit the maximum length of the type of wiretap order to six months. Normally under the wiretap statute, an initial authorization runs for 20 days and law enforcement officers may be granted two extensions of not more than 10 days.

The committee also amended three sections of the present statute dealing with criminal penalties for violations of the wiretap law. The amendments update the terminology used in these sections to conform to the terminology of Title 2C. The amendments to these sections also clarify that criminal violations of the wiretap statute are to be graded as crimes of the third degree.