

Massachusetts Gov. Baker's administration re-files legislation to update wiretap law, crack down on violent crimes

The Baker-Polito Administration today re-filed legislation to substantially update the Commonwealth's wiretap statute to recognize the current state of communication technologies and give law enforcement better tools to combat violent crime, including rape, hate crimes, and gang-related homicides. The Administration first filed this legislation in 2017.

"As technology evolves and the public safety landscape changes, so too should the tools we use to keep our communities safe," said Governor Charlie Baker. "The commonsense changes to the wiretap statute we are again proposing today would finally update this 50-year-old statute to recognize that law enforcement should be able to use the same tools to solve a murder committed because of racial hatred or gang affiliation that they use to solve a murder committed in connection with organized crime."

"The current limits on the use of this technology needlessly limit law enforcement from investigating crimes that are just as damaging to victims and our Commonwealth as those associated with organized crime," said Lt. Governor Karyn Polito. "This legislation would help us better prevent crimes like human trafficking, sexual assault, and other offenses that have significant negative impacts on our communities."

The bill would update a statute written in 1968 to expand the authority of law enforcement to use wiretaps and secret

recordings to investigate certain serious offenses that have no connection to organized crime, such as murder, rape, and possession of explosive devices. For investigations that are connected to organized crime, the bill updates the list of offenses for which law enforcement may use these tools, eliminating some less serious offenses and adding some more serious offenses that were not established in statute in 1968, such as trafficking in human beings and firearms.

“In 1968, the wiretap law was enacted to help law enforcement and prosecutors combat the violence perpetrated by organized crime, providing a vital solution to a 20th century problem,” said Public Safety and Security Secretary Terrence Reidy. “Five decades later, the challenges facing law enforcement have evolved. The ability to tackle today’s criminal threats, including gang-related homicides and human trafficking, demand contemporary solutions and an updated wiretap law that meets the needs of the 21st century.”

The existing language of the state wiretap statute provides that electronic surveillance may only be employed when an offense is committed “in connection with organized crime,” phrasing which has dramatically restricted the Commonwealth’s ability to solve difficult cases. Massachusetts Supreme Judicial Court (SJC) justices in two different cases have noted in their written opinions that amendments to the wiretap statute could have avoided the suppression of critical evidence.

Additional provisions of the legislation would:

- Update definitions to reference electronic communications not in use in 1968, including wireless, satellite, and cellular communications;
- Explicitly cover communications between out-of-state parties regarding an in-state crime;
- Explicitly authorize Massachusetts courts to issue orders to out-of-state companies to implement court-ordered monitoring;

- Explicitly authorize law enforcement to use contractors, such as translators, to monitor communications;
- Require that law enforcement obtain an ordinary warrant for interception of information that is not the content of communications rather than a special wiretap warrant;
- Extend the amount of time that a court may authorize interception before requiring a renewal of a warrant so that, in appropriate cases, law enforcement need not seek renewals as frequently; and
- Exempt use of police body-worn cameras and cruiser-mounted cameras by readily-identifiable law enforcement personnel from the statute, so that state law does not stand in the way of police departments that wish to equip their officers with these devices. This exemption is particularly important because the Massachusetts State Police has completed implementing its body-worn camera program for all sworn troopers, and because the Baker-Polito Administration has established a 5-year, \$20 million capital grant program that aims to deploy 9,000 body-worn cameras to police officers in Massachusetts' cities and towns.

Click [here](#) to read the Governor's filing letter and the legislation.