

§712. Exceptions

1. Switchboard operators, communication common carrier agent. It is not a violation of this chapter for an operator of a switchboard or an officer, employee or agent of any communication common carrier, as defined in this chapter, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is a necessary incident to the rendition of service or to the protection of the rights or property of the carrier of the communication, provided that the communication common carriers shall not utilize service for observing or random monitoring, except for mechanical or service quality control checks, nor shall any such officer, employee or agent use or disclose to another the contents as defined in this chapter of the communication so intercepted.

[PL 1987, c. 680, §5 (NEW).]

2. Investigative officers. It is not a violation of this chapter for an investigative officer, or for another employee of the Department of Corrections authorized to exercise law enforcement powers as described in Title 34-A, section 3011, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity that is related to the administration of criminal justice as defined in Title 16, section 703, subsection 1 for the purposes of the Criminal History Record Information Act or as defined in Title 16, section 803, subsection 2 for the purposes of the Intelligence and Investigative Record Information Act; or while engaged in any activity that is related to the administration of juvenile justice if:

A. Either the sender or receiver of that communication is a person residing in an adult or juvenile correctional facility administered by the Department of Corrections; and [PL 2009, c. 93, §1 (AMD).]

B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception, which includes:

(1) Providing the resident with a written notification statement;

(2) Posting written notification next to every telephone at the facility that is subject to monitoring; and

(3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call. [PL 1997, c. 361, §3 (AMD).]

C. [PL 1997, c. 361, §3 (RP).]

This subsection does not authorize any interference with the attorney-client privilege.

[PL 2021, c. 365, §3 (AMD); PL 2021, c. 365, §37 (AFF).]

3. Jail investigative officer. It is not a violation of this chapter for a jail investigative officer, as defined in this chapter, or for a jail employee acting at the direction of a jail investigative officer to intercept, disclose or use that communication in the normal course of employment while engaged in any activity that is related to the administration of criminal justice as defined in Title 16, section 703, subsection 1 for the purposes of the Criminal History Record Information Act or as defined in Title 16, section 803, subsection 2 for the purposes of the Intelligence and Investigative Record Information Act if:

A. Either the sender or the receiver of that communication is a person residing in an adult section of the jail; and [PL 2011, c. 507, §5 (AMD).]

B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception, which includes:

(1) Providing the resident with a written notification statement;

- (2) Posting written notification next to every telephone at the jail that is subject to monitoring; and
- (3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call. [PL 1997, c. 361, §4 (NEW).]

This subsection does not authorize any interference with the attorney-client privilege. [PL 2015, c. 470, §9 (AMD).]

4. Disclosure to another state agency. It is not a violation of this chapter for the contents of an interception of any oral communication or wire communication that has been legally obtained pursuant to subsection 2 or 3 to be disclosed to a state agency if related to the statutory functions of that agency. [PL 2011, c. 507, §6 (NEW).]

SECTION HISTORY

PL 1973, c. 561 (NEW). PL 1973, c. 788, §61 (AMD). PL 1979, c. 701, §12 (AMD). PL 1987, c. 680, §5 (RPR). PL 1995, c. 182, §1 (AMD). PL 1997, c. 361, §§3,4 (AMD). PL 2009, c. 93, §1 (AMD). PL 2011, c. 507, §§4-6 (AMD). PL 2013, c. 80, §4 (AMD). PL 2015, c. 470, §§8, 9 (AMD). PL 2021, c. 365, §3 (AMD). PL 2021, c. 365, §37 (AFF).

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