SENATE DOCKET, NO. 942 FILED ON: 1/17/2013

SENATE . . . . . No. 654

The Commonwealth of Massachusetts

PRESENTED BY:

Katherine M. Clark

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act updating the wire interception law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Katherine M. Clark	*Fifth Middlesex*
Barry R. Finegold	*Second Essex and Middlesex*
Angelo J. Puppolo, Jr.	*12th Hampden*
Michael R. Knapik	*Second Hampden and Hampshire*
Thomas M. Stanley	*9th Middlesex*
Bruce E. Tarr	*First Essex and Middlesex*
Attorney General Martha Coakley	*1 Ashburton Place 20th floor* *Boston, MA 02108*

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By Ms. Clark, a petition (accompanied by bill, Senate, No. 654) of Katherine M. Clark, Barry R. Finegold, Angelo J. Puppolo, Jr., Michael R. Knapik and other members of the General Court for legislation to update the wire interception law. The Judiciary.

The Commonwealth of Massachusetts

An Act updating the wire interception law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 99 of chapter 272 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subsection A.

SECTION 2. Subsection B of said section 99 of said chapter 272, as so appearing, is hereby amended by striking out the definition of "wire communication" and inserting in place thereof the following definition:-

1. The term "wire communication" means any transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of such communications and shall include: any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, but shall not include: (i) any communication made through a tone-only paging device; (ii) any communication from a tracking device, defined as an electronic or mechanical device which permits the tracking of the movement of a person or object; or (iii) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

SECTION 3. Said subsection B of said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out the definition of "intercepting device" and inserting in place thereof the following definition:-

3. The term "intercepting device" means any device or apparatus which is capable of transmitting, receiving, amplifying, or recording a wire or oral communication other than a hearing aid or similar device which is being used to correct subnormal hearing to normal and

24 other than a pen register or trap and trace device obtained by court order on application from the
25 prosecutor and other than any telephone or telegraph instrument, equipment, facility, or a
26 component thereof, (a) furnished to the subscriber or user by a communications common carrier
27 in the ordinary course of business under its tariff and being used by the subscriber or user in the
28 ordinary course of its business; or (b) being used by a communications common carrier in the
29 ordinary course of its business.

30 SECTION 4. Said subsection B of said section 99 of said chapter 272, as so appearing, is
31 hereby further amended by striking out the definition of "designated offense" and inserting in
32 place thereof the following definition:-

33 7. The term "designated offense" shall include the following offenses: murder or
34 manslaughter, except under chapter 90 or 90B or section 13 ½ of chapter 265; any violation of
35 chapter 94C; the illegal use, possession or carrying of a firearm, sawed-off shotgun, machine
36 gun, assault weapon, large capacity weapon or covert weapon as defined by section 121 of
37 chapter 140; any license violation under sections 121 to 131P, inclusive, of chapter 140; arson;
38 assault and battery with a dangerous weapon; bribery; burglary; child enticement in violation of
39 sections 26C and 26D of chapter 265; money laundering in violation of chapter 267A;
40 embezzlement; enterprise crime in violation of chapter 271A; extortion; forgery; gaming in
41 violation of sections 38, 39, 40, 41 and 43 of chapter 23K and sections 16 A and 17 of chapter
42 271; human trafficking in violation of sections 50 through 53 of chapter 265; kidnapping;
43 larceny; lending of money or things of value in violation of the general laws; mayhem; perjury;
44 prostitution; rape as defined in sections 22, 22A, 22B, 22C, 23, 23A, 23B, 24 and 24B of chapter
45 265; robbery; subornation of perjury; any violation of sections 13B, 13D or 13E of chapter 268
46 and sections 29A , 29B and 105 of chapter 272; any felony under chapter 269; any violation of
47 this section; being an accessory to any of the foregoing offense and conspiracy or attempt or
48 solicitation to commit any of the foregoing offenses.

49 SECTION 5. Said section 99 of said chapter 272, as so appearing, is hereby further
50 amended by striking out, in line 357, the word "fifteen" and inserting in place thereof the
51 following figure:- 30.

52 SECTION 6. Said section 99 of said chapter 272, as so appearing, is hereby further
53 amended by striking out, in lines 389-390, the word and figure "fifteen (15)" and inserting in
54 place thereof the following figure:- 30.