

SENATE No. 1093

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick M. O'Connor

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 adoption of the accompanying bill:

An Act providing a defense to prosecution for violations of the wiretap law for interceptions made to make a record of threats, harassment or other crimes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/23/2023</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>3/27/2023</i>

SENATE No. 1093

By Mr. O'Connor, a petition (accompanied by bill, Senate, No. 1093) of Patrick M. O'Connor and Angelo J. Puppolo, Jr. for legislation to provide a defense to prosecution for violations of the wiretap law for interceptions made to make a record of threats, harassment or other crimes. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act providing a defense to prosecution for violations of the wiretap law for interceptions made to make a record of threats, harassment or other crimes.

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

1 SECTION 1. Paragraph D of said section 99 of said chapter 272, as so appearing, is
2 hereby amended by the insertion of the following language as subparagraph (1) (g): for any
3 person to commit and interception, attempt to commit an interception or procure another to
4 commit or attempt an interception, or to aid and abet or jointly commit or attempt to commit or
5 procure an interception of any communication made by another to the person making the
6 interception in circumstances under which the interception is made in order to make a record of
7 threats, harassment, or other crimes in relation to divorce or child custody matters or in relation
8 to orders issued under Chapter 209A or 258E.

9 SECTION 2. Paragraph D of said section 99 of said chapter 272 as so appearing, is
10 hereby amended by insertion of the following language as subparagraph (2) (f) Any person who
11 has committed an interception of any communication made by another in circumstances under

12 which the interception is made to make a record of threats, harassment, or other crimes in
13 relation to divorce or custody matters or in relation to orders issued under Chapter 209A or 258E
14 may disclose said recording.

15 SECTION 3. Paragraph D of said section 99 of said chapter 272, as so appearing, is
16 hereby amended by the insertion of the following language as subparagraph (2) (g) Any person
17 who has committed an interception of any communication made by another in circumstances
18 under which the interception is made in order to make a record of threats, harassment, or other
19 crimes in relation to divorce or child custody matters, or in relation to orders issued under
20 Chapter 209A or 258E bears the burden of proof, in a prosecution for such interception, or
21 attempt, or procurement of such interception, or for disclosure of such interception, to
22 demonstrate by a preponderance of the evidence that said conduct was exempt or permitted
23 under this section.