

The Just Criminal Justice Group, LLC



Michael A. DiLauro, Esq.
Owner/Manager

February 25, 2025

Representative Robert E. Craven, Sr., Chairman
House Judiciary Committee
The Statehouse
Providence, RI 02903

RE: House Bill No. 5359

BY Place, Fascia, Quattrocchi, Lombardi, Cruz, Felix, Hull

ENTITLED, AN ACT RELATING TO CRIMINAL PROCEDURE -- SEARCH WARRANTS -- INDICTMENTS, INFORMATION AND COMPLAINTS -- BILL OF RIGHTS ENHANCEMENT (Requires law enforcement to obtain consent before placing audio or video recorders on the private property of another.)

Dear Chairman Craven and Members of the House Judiciary Committee:

This act would: 1) Require law enforcement to obtain consent or a warrant before placing audio or video recorders on the private property of another. A violation of this act would make any evidence inadmissible in any court proceedings and 2) Prohibit prosecutions for violations of criminal laws in this state if the violation arises from the same set of facts or acts for which a defendant has been acquitted in federal court or another jurisdiction, unless there exists newly discovered evidence substantially warranting prosecution in this state. The Just Criminal Justice Group, LLC (JCJG) is proud to lend its support to this thoughtful piece of legislation.

SECTION 1. Requiring that law enforcement obtain consent or a warrant before placing audio or video recorders on the private property of another.

The legislation is needed for diverse reasons including:

1. The legislative approach to addressing this issue provides consistency across the board for law enforcement. Rather than the 'case by case' rules created by the courts that develop over time as the result of litigation, this legislation provides clear and 'up front' guidelines that are easy to recognize and adhere to. It therefore reduces the risk of losing a piece of evidence necessary for a successful prosecution that can result when applicable rules prescribing predicates for admissibility are unclear or still evolving.
2. The legislation is also consistent with a long history of the General Assembly providing law enforcement with bright line rules that balance the reliability and admissibility of evidence with privacy concerns. For example:

- a. § 9-19-25. *Illegally seized evidence inadmissible.* Provides that “In the trial of any action in any court of this state, no evidence shall be admissible where the evidence shall have been procured by, through, or in consequence of any illegal search and seizure as prohibited in § 6 of article 1 of the constitution of the state of Rhode Island.”

Enacted by the
General Assembly in 1938.

- b. § 12-5.1-1 to 16. *Interception of Wire and Oral Communications Act.*

Enacted by the
General Assembly in 1969.

- c. § 12-5.2-1 to 5. *Pen Registers and Trap and Trace Devices.*

Enacted by the
General Assembly in 1992.

- d. § 12-32-1 to 6. *Cellphone tracking.*

Enacted by the
General Assembly in 2016.

3. This provision strikes the proper balance between public safety and privacy concerns especially considering the most recent advances in technology that allow law enforcement virtually unfettered access to the information and materials where individuals enjoy a reasonable expectation of privacy.

SECTION 2. Prohibits prosecutions for violations of criminal laws in this state if the violation arises from the same set of facts or acts for which a defendant has been acquitted in federal court or another jurisdiction, unless there exists newly discovered evidence substantially warranting prosecution in this state.

The legislation, which enhances the federal and state constitutional protections against twice being put in jeopardy for the same offense, is needed for diverse reasons including:

1. Prevent Government Overreach: Double jeopardy protections safeguard individuals from being subjected to the harassment and overreach of the government. Without these protections, prosecutors could repeatedly pursue charges against an individual, even after acquittal or mistrial, leading to a waste of judicial resources and potentially ruining the defendant's life through constant legal battles.
2. Promoting Finality and Certainty in Legal Proceedings: Double jeopardy laws promote finality in legal proceedings by ensuring that once a person has been acquitted or convicted of a crime, they cannot be retried for the same offense. This promotes public confidence in the legal system by providing certainty and closure to both defendants and victims.

3. Upholding Individual Rights: Double jeopardy protections are rooted in the principle of protecting individual rights against government oppression. By preventing multiple prosecutions for the same offense, these laws safeguard individuals' rights to fair treatment under the law and protect against arbitrary government action.
4. Avoiding Double Punishment: Allowing multiple prosecutions for the same offense could result in individuals being subjected to double punishment, which is fundamentally unfair and unjust. Double jeopardy laws ensure that individuals are not unfairly punished multiple times for the same conduct, regardless of the outcome of previous legal proceedings.
5. Preserving Judicial Resources: Enhancing double jeopardy protections helps conserve judicial resources by preventing the need for repeated trials and legal proceedings for the same offense. This allows courts to focus their time and resources on new cases and other pressing legal matters, improving the efficiency of the legal system as a whole.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Michael A. DiLauro", with a long horizontal flourish extending to the right.

Michael A. DiLauro, Esq.
The Just Criminal Justice Group, L.L.C.