

ASSEMBLY BILL NO. 496—ASSEMBLYMEN GIUNCHIGLIANI, BEERS, ARBERRY, PARKS, WILLIAMS, COLLINS, MANENDO, OHRENSCHALL, PRICE, BACHE, SEGERBLOM, HETTRICK, NEIGHBORS, LEE, BUCKLEY, CEGAVSKE, CHOWNING, THOMAS, GOLDWATER, DINI, CARPENTER, GIBBONS, BERMAN, DE BRAGA AND MORTENSON

MARCH 12, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning interception and disclosure of wire, radio or oral communications. (BDR 15-1330)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to crimes; revising the provisions concerning the interception and disclosure of wire, radio or oral communications; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 200.610 is hereby amended to read as follows:
- 2 200.610 As used in NRS 200.610 to 200.690, inclusive:
- 3 1. ***“Intercept” means the aural or other acquisition of the contents of***
- 4 ***any wire or radio communication through the use of:***
- 5 ***(a) Any electronic, mechanical or other device or apparatus that can***
- 6 ***be used to intercept a wire or radio communication other than:***
- 7 ***(1) Any telephone or telegraph instrument, equipment or facility, or***
- 8 ***any component thereof:***
- 9 ***(I) Furnished to the subscriber or user by a communications***
- 10 ***common carrier in the ordinary course of its business and being used by***
- 11 ***the subscriber or user in the ordinary course of its business; or***
- 12 ***(II) Being used by a communications common carrier in the***
- 13 ***ordinary course of its business, or by an investigative or law enforcement***
- 14 ***officer in the ordinary course of his duties; or***

1 (2) *A hearing aid or similar device being used to correct subnormal*
2 *hearing to not better than normal; or*

3 (b) *Any sending or receiving equipment.*

4 2. "Person" ~~includes public officials and law enforcement officers of~~
5 ~~the state and of a county or municipality or other political subdivision of~~
6 ~~the state.~~

7 ~~—2.]~~ *has the meaning ascribed to it in NRS 179.445.*

8 3. "Wire communication" means the transmission of writing, signs,
9 signals, pictures and sounds of all kinds by wire, cable, or other similar
10 connection between the points of origin and reception of such
11 transmission, including all facilities and services incidental to such
12 transmission, which facilities and services include, among other things, the
13 receipt, forwarding and delivering of communications.

14 ~~[3.]~~ 4. "Radio communication" means the transmission of writing,
15 signs, signals, pictures, and sounds of all kinds by radio or other wireless
16 methods, including all facilities and services incidental to such
17 transmission, which facilities and services include, among other things, the
18 receipt, forwarding and delivering of communications. The term does not
19 include the transmission of writing, signs, signals, pictures and sounds
20 broadcast by amateurs or public or municipal agencies of the State of
21 Nevada, or by others for the use of the general public.

22 **Sec. 2.** NRS 200.620 is hereby amended to read as follows:

23 200.620 1. Except as otherwise provided in NRS 179.410 to
24 179.515, inclusive, 209.419 and 704.195, it is unlawful for any person to
25 intercept or attempt to intercept any wire *or radio* communication unless:

26 (a) The interception or attempted interception is made with the prior
27 consent of one of the parties to the communication; and

28 (b) An emergency situation exists and it is impractical to obtain a court
29 order as required by NRS 179.410 to 179.515, inclusive, before the
30 interception, in which event the interception is subject to the requirements
31 of subsection 3. If the application for ratification is denied, any use or
32 disclosure of the information so intercepted is unlawful, and the person
33 who made the interception shall notify the sender and the receiver of the
34 communication that:

35 (1) The communication was intercepted; and

36 (2) Upon application to the court, ratification of the interception was
37 denied.

38 2. This section does not apply to any person, or to the officers,
39 employees or agents of any person, engaged in the business of providing
40 service and facilities for wire *or radio* communication where the
41 interception or attempted interception is to construct, maintain, conduct or
42 operate the service or facilities of that person.

1 3. Any person who has made an interception in an emergency situation
2 as provided in paragraph (b) of subsection 1 shall, within 72 hours of the
3 interception, make a written application to a justice of the supreme court or
4 district judge for ratification of the interception. The interception must not
5 be ratified unless the applicant shows that:

6 (a) An emergency situation existed and it was impractical to obtain a
7 court order before the interception; and

8 (b) Except for the absence of a court order, the interception met the
9 requirements of NRS 179.410 to 179.515, inclusive.

10 4. NRS 200.610 to 200.690, inclusive, do not prohibit the recording,
11 and NRS 179.410 to 179.515, inclusive, do not prohibit the reception in
12 evidence, of conversations on wire **or radio** communications installed in
13 the office of an official law enforcement or fire-fighting agency, or a
14 public utility, if the equipment used for the recording is installed in a
15 facility for wire communications or on a telephone with a number listed in
16 a directory, on which emergency calls or requests by a person for response
17 by the law enforcement or fire-fighting agency or public utility are likely
18 to be received. In addition, those sections do not prohibit the recording or
19 reception in evidence of conversations initiated by the law enforcement or
20 fire-fighting agency or public utility from such a facility or telephone in
21 connection with responding to the original call or request, if the agency or
22 public utility informs the other party that the conversation is being
23 recorded.

24 **Sec. 3.** NRS 179.430 is hereby amended to read as follows:

25 179.430 "Intercept" means the aural **or other** acquisition of the
26 contents of any wire or oral communication through the use of any
27 electronic, mechanical or other device or of any sending or receiving
28 equipment.

29 **Sec. 4.** The amendatory provisions of this act do not apply to offenses
30 that were committed before October 1, 1999.