

ASSEMBLY BILL NO. 306—COMMITTEE ON JUDICIARY

MARCH 8, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning interception and disclosure of wire, radio or oral communications. (BDR 15-1303)

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

~

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 penalties; 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 199.540 is hereby amended to read as follows:
2 199.540 1. It is unlawful for an officer or employee of a court or law
3 enforcement agency, or any employee of a communications common
4 carrier, landlord, custodian or other person who is ordered pursuant to
5 subsection 2 of NRS 179.475 to furnish information, facilities and
6 technical assistance necessary to accomplish an authorized interception of
7 a wire , *radio* or oral communication, having knowledge that an order has
8 been applied for or has been issued authorizing the interception of a wire ,
9 *radio* or oral communication in accordance with NRS 179.410 to 179.515,
10 inclusive, *and sections 8 and 9 of this act*, to:
11 (a) Give notice of the interception; or
12 (b) Attempt to give notice of the interception,
13 to any person with the intent to obstruct, impede or prevent the interception
14 of the wire , *radio* or oral communication.
15 2. It is unlawful for an officer or employee of a court or law
16 enforcement agency, or any employee of a communications common
17 carrier, landlord, custodian or other person who is ordered pursuant to
18 subsection 2 of NRS 179.475 to furnish information, facilities and
19 technical assistance necessary to accomplish an authorized interception of
20 a wire , *radio* or oral communication, having knowledge that an order has
21 been applied for or has been issued authorizing the use of a pen register or
22 trap and trace device to:
23 (a) Give notice of the use of the pen register or device; or



1 (b) Attempt to give notice of the use of the pen register
2 or device,
3 to any person with the intent to obstruct, impede or prevent that use.

4 3. A person who violates any provision of subsection 1 or 2 is guilty of
5 a category D felony and shall be punished as provided in NRS 193.130.

6 4. *As used in this section:*

7 (a) *“Communications common carrier” has the meaning ascribed to it*
8 *in section 8 of this act.*

9 (b) *“Interception” has the meaning ascribed to the term “intercept” in*
10 *NRS 179.430.*

11 (c) *“Oral communication” has the meaning ascribed to it in NRS*
12 *179.440.*

13 (d) *“Radio communication” has the meaning ascribed to it in section*
14 *9 of this act.*

15 (e) *“Wire communication” has the meaning ascribed to it in NRS*
16 *179.455.*

17 **Sec. 2.** NRS 200.610 is hereby amended to read as follows:

18 200.610 As used in NRS 200.610 to 200.690, inclusive:

19 1. ~~“Person” includes public officials and law enforcement officers of~~
20 ~~the state and of a county or municipality or other political subdivision of~~
21 ~~the state.~~

22 ~~2. “Wire communication” means the transmission of writing, signs,~~
23 ~~signals, pictures and sounds of all kinds by wire, cable, or other similar~~
24 ~~connection between the points of origin and reception of such transmission,~~
25 ~~including all facilities and services incidental to such transmission, which~~
26 ~~facilities and services include, among other things, the receipt, forwarding~~
27 ~~and delivering of communications.~~

28 ~~3. “Radio communication” means the transmission of writing, signs,~~
29 ~~signals, pictures, and sounds of all kinds by radio or other wireless~~
30 ~~methods, including all facilities and services incidental to such~~
31 ~~transmission, which facilities and services include, among other things, the~~
32 ~~receipt, forwarding and delivering of communications. The term does not~~
33 ~~include the transmission of writing, signs, signals, pictures and sounds~~
34 ~~broadcast by amateurs or public or municipal agencies of the State of~~
35 ~~Nevada, or by others for the use of the general public.] “Contents” has the~~
36 ~~meaning ascribed to it in NRS 179.420.~~

37 2. *“Intercept” has the meaning ascribed to it in NRS 179.430.*

38 3. *“Oral communication” has the meaning ascribed to it in NRS*
39 *179.440.*

40 4. *“Person” has the meaning ascribed to it in NRS 179.445.*

41 5. *“Radio communication” has the meaning ascribed to it in section*
42 *9 of this act.*

43 6. *“Wire communication” has the meaning ascribed to it in NRS*
44 *179.455.*

45 **Sec. 3.** NRS 200.620 is hereby amended to read as follows:

46 200.620 1. Except as otherwise provided in *subsection 2 or* NRS
47 *179.410 to 179.515, inclusive, and sections 8 and 9 of this act,* 209.419
48 and 704.195, it is unlawful for any person to intercept or attempt to
49 intercept any wire *or radio* communication unless ~~‡~~



* A B 3 0 6 *

1 ~~—(a) The~~ *the* interception or attempted interception is made with the
2 prior consent ~~of one~~ of the parties to the *communication*.

3 *2. A person may intercept or attempt to intercept a wire or radio*
4 *communication if:*

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

7 (b) An emergency situation exists and it is impractical to obtain a court
8 order as required by NRS 179.410 to 179.515, inclusive, *and sections 8*
9 *and 9 of this act* before the interception, in which event the interception is
10 subject to the requirements of subsection ~~3-4~~ 4. If the application for
11 ratification is denied, any use or disclosure of the information so
12 intercepted is unlawful, and the person who made the interception shall
13 notify the sender and the receiver of the communication that:

14 (1) The communication was intercepted; and
15 (2) Upon application to the court, ratification of the interception was
16 denied.

17 ~~12-1~~ 3. This section does not apply to any person, or to the officers,
18 employees or agents of any person, engaged in the business of providing
19 service and facilities for wire *or radio* communication where the
20 interception or attempted interception is to construct, maintain, conduct or
21 operate the service or facilities of that person.

22 ~~13-1~~ 4. Any person who has made an interception in an emergency
23 situation as provided in ~~paragraph (b) of subsection 1-~~ *subsection 2* shall,
24 within 72 hours of the interception, make a written application to a justice
25 of the supreme court or district judge for ratification of the interception.
26 The interception must not be ratified unless the applicant shows that:

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

29 (b) Except for the absence of a court order, the interception met the
30 requirements of NRS 179.410 to 179.515, inclusive ~~1-~~

31 ~~—4-~~, *and sections 8 and 9 of this act.*

32 5. NRS 200.610 to 200.690, inclusive, do not prohibit the recording,
33 and NRS 179.410 to 179.515, inclusive, *and sections 8 and 9 of this act* do
34 not prohibit the reception in evidence, of conversations on wire *or radio*
35 communications installed in the office of an official law enforcement or
36 fire-fighting agency, or a public utility, if the equipment used for the
37 recording is installed in a facility for wire *or radio* communications or on a
38 telephone with a number listed in a directory, on which emergency calls or
39 requests by a person for response by the law enforcement or fire-fighting
40 agency or public utility are likely to be received. In addition, those sections
41 do not prohibit the recording or reception in evidence of conversations
42 initiated by the law enforcement or fire-fighting agency or public utility
43 from such a facility or telephone in connection with responding to the
44 original call or request, if the agency or public utility informs the other
45 party that the conversation is being recorded.

46 **Sec. 4.** NRS 200.630 is hereby amended to read as follows:


47 200.630 1. Except as otherwise provided in NRS 179.410 to
48 179.515, inclusive, *and sections 8 and 9 of this act* and 704.195, a person
49 shall not disclose the ~~existence, content, substance, purport, effect or~~



* A B 3 0 6 *

1 ~~meaning~~ *contents* of any wire or radio communication to any person
2 unless ~~authorized to do so by either the sender or receiver.~~ *the disclosure*
3 *is made with the prior consent of the parties to the communication.*
4 2. This section does not apply to any person, or the officers, employees
5 or agents of any person, engaged in furnishing service or facilities for wire
6 or radio communication where the disclosure is made:
7 (a) For the purpose of construction, maintenance, conduct or operation
8 of the service or facilities of such a person;
9 (b) To the intended receiver, his agent or attorney;
10 (c) In response to a subpoena issued by a court of competent
11 jurisdiction; or
12 (d) On written demand of other lawful authority.
13 **Sec. 5.** NRS 200.650 is hereby amended to read as follows:
14 200.650 1. Except as otherwise provided in NRS 179.410 to
15 179.515, inclusive, *and sections 8 and 9 of this act* and 704.195, ~~a person~~
16 ~~shall not intrude upon the privacy of other persons by surreptitiously~~
17 ~~listening to, monitoring or recording, or attempting to listen to, monitor or~~
18 ~~record.~~ *it is unlawful for any person to intercept or attempt to intercept,*
19 by means of any ~~mechanical,~~ electronic, *mechanical* or other ~~listening~~
20 device, any ~~private conversation~~ *oral communication* engaged in by ~~the~~
21 other persons, or *to* disclose the ~~existence, content, substance, purport,~~
22 ~~effect or meaning~~ *contents* of any ~~conversation so listened to, monitored~~
23 ~~or recorded, unless authorized to do so by one of the persons engaging in~~
24 ~~the conversation.~~ *oral communication so intercepted, unless the*
25 *interception, attempted interception or disclosure is made with the prior*
26 *consent of the parties to the communication.*
27 2. *“Electronic, mechanical or other device” has the meaning*
28 *ascribed to it in NRS 179.425.*
29 **Sec. 6.** NRS 200.690 is hereby amended to read as follows:
30 200.690 1. A person who willfully and knowingly violates NRS
31 200.620 to 200.650, inclusive:
32 (a) Shall be punished for a category D felony as provided in NRS
33 193.130.
34 (b) Is liable to ~~at~~ *each* person whose wire, *radio* or oral
35 communication is intercepted without his *prior* consent for:
36 (1) Actual damages or liquidated damages of \$100 per day of
37 violation but not less than \$1,000, whichever is greater;
38 (2) Punitive damages; and
39 (3) His costs reasonably incurred in the action, including a reasonable
40 attorney’s fee,
41 all of which may be recovered by civil action.
42 2. A good faith reliance by a public utility on a written request for
43 interception by one party to a conversation is a complete defense to any
44 civil or criminal action brought against the public utility on account of the
45 interception.
46 **Sec. 7.** Chapter 179 of NRS is hereby amended by adding thereto the
47 provisions set forth as sections 8 and 9 of this act.



- 1 **Sec. 8.** *“Communications common carrier” means any person who*
2 *provides a service that allows a user or subscriber to send or receive a*
3 *wire, radio or oral communication.*
- 4 **Sec. 9.** 1. *“Radio communication” means the transmission of*
5 *writing, signs, signals, pictures, and sounds of all kinds by radio or other*
6 *wireless methods, including all facilities and services incidental to such*
7 *transmission, which facilities and services include, without limitation, the*
8 *receiving, forwarding and delivering of communications.*
- 9 2. *The term does not include the transmission of writing, signs,*
10 *signals, pictures and sounds broadcasted by:*
- 11 (a) *Amateurs;*
12 (b) *The State of Nevada or a political subdivision of the State of*
13 *Nevada; or*
14 (c) *Another person for the use of the general public.*
- 15 **Sec. 10.** NRS 179.410 is hereby amended to read as follows:
16 179.410 As used in NRS 179.410 to 179.515, inclusive, *and sections 8*
17 *and 9 of this act*, except where the context otherwise requires, the words
18 and terms defined in NRS 179.415 to 179.455, inclusive, *and sections 8*
19 *and 9 of this act*, have the meanings ascribed to them in those sections.
- 20 **Sec. 11.** NRS 179.415 is hereby amended to read as follows:
21 179.415 “Aggrieved person” means a person who was a party to any
22 intercepted wire , *radio* or oral communication or a person against whom
23 the interception was directed.
- 24 **Sec. 12.** NRS 179.420 is hereby amended to read as follows:
25 179.420 “Contents” when used with respect to any wire , *radio* or oral
26 communication includes any information concerning the identity of the
27 parties to such communication or the existence, substance, purport or
28 meaning of that communication.
- 29 **Sec. 13.** NRS 179.425 is hereby amended to read as follows:
30 179.425 “Electronic, mechanical  or other device” means any device
31 or apparatus which can be used to intercept a wire , *radio* or oral
32 communication other than:
- 33 1. Any telephone or telegraph instrument, equipment or facility, or any
34 component thereof:
- 35 (a) Furnished to the subscriber or user by a communications common
36 carrier in the ordinary course of its business and being used by the
37 subscriber or user in the ordinary course of its business; or
38 (b) Being used by a communications common carrier in the ordinary
39 course of its business, or by an investigative or law enforcement officer in
40 the ordinary course of his duties.
- 41 2. A hearing aid or similar device being used to correct subnormal
42 hearing to not better than normal.
- 43 **Sec. 14.** NRS 179.430 is hereby amended to read as follows:
44 179.430 “Intercept” means the aural *or other* acquisition of the
45 contents of any wire , *radio* or oral communication through the use of any
46 electronic, mechanical or other device or of any sending or receiving
47 equipment.



1 **Sec. 15.** NRS 179.460 is hereby amended to read as follows:

2 179.460 1. The attorney general or the district attorney of any county
3 may apply to a supreme court justice or to a district judge in the county
4 where the interception is to take place for an order authorizing the
5 interception of wire , *radio* or oral communications, and the judge may, in
6 accordance with NRS 179.470 to 179.515, inclusive, grant an order
7 authorizing the interception of wire , *radio* or oral communications by
8 investigative or law enforcement officers having responsibility for the
9 investigation of the offense as to which the application is made, when the
10 interception may provide evidence of the commission of murder,
11 kidnapping, robbery, extortion, bribery, destruction of public property by
12 explosives, a sexual offense against a child or the commission of any
13 offense which is made a felony by the provisions of chapter 453 or 454 of
14 NRS.

15 2. A good faith reliance by a public utility on a court order ~~shall~~
16 ~~constitute~~ *constitutes* a complete defense to any civil or criminal action
17 brought against the public utility on account of any interception made
18 pursuant to the order.

19 3. As used in this section, "sexual offense against a child" includes any
20 act upon a child constituting:

- 21 (a) Incest pursuant to NRS 201.180;
22 (b) Lewdness with a child pursuant to NRS 201.230;
23 (c) Annoyance or molestation of a child pursuant to NRS 207.260;
24 (d) Sado-masochistic abuse pursuant to NRS 201.262;
25 (e) Sexual assault pursuant to NRS 200.366;
26 (f) Statutory sexual seduction pursuant to NRS 200.368; or
27 (g) Open or gross lewdness pursuant to NRS 201.210.

28 **Sec. 16.** NRS 179.465 is hereby amended to read as follows:

29 179.465 1. Any investigative or law enforcement officer who, by any
30 means authorized by NRS 179.410 to 179.515, inclusive, *and sections 8*
31 *and 9 of this act* or 704.195 or 18 U.S.C. §§ 2510 to 2520, inclusive, has
32 obtained knowledge of the contents of any wire , *radio* or oral
33 communication, or evidence derived therefrom, may disclose the contents
34 to another investigative or law enforcement officer or use the contents to
35 the extent that the disclosure or use is appropriate to the proper
36 performance of the official duties of the officer making or receiving the
37 disclosure.

38 2. Any person who has received, by any means authorized by NRS
39 179.410 to 179.515, inclusive, *and sections 8 and 9 of this act* or 704.195
40 or 18 U.S.C. §§ 2510 to 2520, inclusive, or by a statute of another state,
41 any information concerning a wire , *radio* or oral communication, or
42 evidence derived therefrom intercepted in accordance with the provisions
43 of NRS 179.410 to 179.515, inclusive, *and sections 8 and 9 of this act*
44 may disclose the contents of that communication or the derivative evidence
45 while giving testimony under oath or affirmation in any criminal
46 proceeding in any court or before any grand jury in this state, or in any
47 court of the United States or of any state, or in any federal or state grand
48 jury proceeding.



1 3. An otherwise privileged wire , *radio* or oral communication
2 intercepted in accordance with, or in violation of, the provisions of NRS
3 179.410 to 179.515, inclusive, *and sections 8 and 9 of this act* or 18
4 U.S.C. §§ 2510 to 2520, inclusive, does not lose its privileged character.

5 4. When an investigative or law enforcement officer engaged in
6 intercepting wire , *radio* or oral communications as authorized by NRS
7 179.410 to 179.515, inclusive, *and sections 8 and 9 of this act* intercepts
8 wire , *radio* or oral communications relating to offenses other than those
9 specified in the order provided for in NRS 179.460, the contents of the
10 communications and the evidence derived therefrom may be disclosed or
11 used as provided in subsection 1. The direct evidence derived from the
12 communications is inadmissible in a criminal proceeding, but any other
13 evidence obtained as a result of knowledge obtained from the
14 communications may be disclosed or used as provided in subsection 2
15 when authorized or approved by a justice of the supreme court or district
16 judge who finds upon application made as soon as practicable that the
17 contents of the communications were intercepted in accordance with the
18 provisions of NRS 179.410 to 179.515, inclusive, *and sections 8 and 9 of*
19 *this act* or 18 U.S.C. §§ 2510 to 2520, inclusive.

20 **Sec. 17.** NRS 179.470 is hereby amended to read as follows:

21 179.470 1. Each application for an order authorizing the interception
22 of a wire , *radio* or oral communication must be made in writing upon oath
23 or affirmation to a justice of the supreme court or district judge and must
24 state the applicant's authority to make such application. Each application
25 must include the following information:

26 (a) The identity of the investigative or law enforcement officer making
27 the application, and the officer authorizing the application.

28 (b) A full and complete statement of the facts and circumstances relied
29 upon by the applicant to justify his belief that an order should be issued,
30 including:

31 (1) Details as to the particular offense that is being, has been or is
32 about to be committed.

33 (2) A particular description of the nature and location of the facilities
34 from which or the place where the communication is to be intercepted, the
35 facilities to be used and the means by which such interception is to be
36 made.

37 (3) A particular description of the type of communications sought to
38 be intercepted.

39 (4) The identity of the person, if known, who is committing, has
40 committed or is about to commit an offense and whose communications
41 are to be intercepted.

42 (c) A full and complete statement as to whether or not other
43 investigative procedures have been tried and failed or why they reasonably
44 appear to be unlikely to succeed if tried or to be too dangerous.

45 (d) A statement of the period of time for which the interception is
46 required to be maintained. If the nature of the investigation is such that the
47 authorization for interception should not automatically terminate when the
48 described type of communication has been obtained, a particular



* A B 3 0 6 *

1 description of facts establishing probable cause to believe that additional
2 communications of the same type will occur thereafter.

3 (e) A full and complete statement of the facts concerning all previous
4 applications known to the person authorizing and making the application
5 made to any judge for authorization to intercept wire , *radio* or oral
6 communications involving any of the same persons, facilities or places
7 specified in the application, and the action taken by the judge on each such
8 application.

9 (f) Where the application is for the extension of an order, a statement
10 setting forth the results thus far obtained from the interception, or a
11 reasonable explanation of the failure to obtain such results.

12 2. The judge may require the applicant to furnish additional testimony
13 or documentary evidence under oath or affirmation in support of the
14 application. Oral testimony must be reduced to writing.

15 3. Upon such application the judge may enter an ex parte order, as
16 requested or as modified, authorizing interception of wire , *radio* or oral
17 communications within the territorial jurisdiction of the court in which the
18 judge is sitting, if the judge determines on the basis of the facts submitted
19 by the applicant that:

20 (a) There is probable cause for belief that a person is committing, has
21 committed or is about to commit an offense for which interception is
22 authorized by NRS 179.460.

23 (b) There is probable cause for belief that particular communications
24 concerning that offense will be obtained through such interception.

25 (c) Normal investigative procedures have been tried and have failed or
26 reasonably appear to be unlikely to succeed if tried or appear to be too
27 dangerous.

28 (d) There is probable cause for belief that the facilities from which, or
29 the place where, the wire , *radio* or oral communications are to be
30 intercepted are being used or are about to be used by such person in
31 connection with the commission of such offense or are leased to, listed in
32 the name of, or commonly used by such person.

33 **Sec. 18.** NRS 179.475 is hereby amended to read as follows:

34 179.475 1. Each order authorizing the interception of any wire ,
35 *radio* or oral communication ~~shall~~ *must* specify:

36 (a) The identity of the person, if known, whose communications are to
37 be intercepted.

38 (b) The nature and location of the place where or communication
39 facilities to which authority to intercept is granted, the facilities to be used
40 and the means by which such interceptions ~~shall~~ *are to* be made.

41 (c) A particular description of the type of communication sought to be
42 intercepted, and a statement of the particular offense to which it relates.

43 (d) The identity of the agency authorized to intercept the
44 communications, and of the person authorizing the application.

45 (e) The period of time during which such interception is authorized,
46 including a statement as to whether or not the interception ~~shall~~ *must*
47 automatically terminate when the described communication has been first
48 obtained.



1 2. An order authorizing the interception of a wire , *radio* or oral
2 communication ~~{shall}~~ *must*, upon request of the applicant, direct that a
3 communications common carrier, landlord, custodian or other person shall
4 furnish the applicant forthwith all information, facilities, and technical
5 assistance necessary to accomplish the interception unobtrusively and with
6 a minimum of interference with the services that such carrier, landlord,
7 custodian, or person is according the person whose communications are to
8 be intercepted. Any communications common carrier, landlord, custodian
9 or other person furnishing such facilities or technical assistance ~~{shall}~~
10 *must* be compensated therefor by the applicant at the prevailing rates.

11 3. No order entered under this section may authorize the interception
12 of any wire , *radio* or oral communication for any period longer than is
13 necessary to achieve the objective of the authorization, and in no event
14 longer than 30 days. Extensions of an order may be granted, but only upon
15 application for an extension made in accordance with the procedures
16 provided in NRS 179.470. The period of extension ~~{shall}~~ *must* be no
17 longer than the authorizing judge deems necessary to achieve the purposes
18 for which it was granted and in no event for longer than 30 days. Every
19 order and extension thereof ~~{shall}~~ *must* contain a provision that the
20 authorization to intercept ~~{shall}~~ *must* be executed as soon as practicable,
21 ~~{shall}~~ *must* be conducted in such a way as to minimize the interception of
22 communications not otherwise subject to interception under this statute,
23 and ~~{shall}~~ *must* terminate upon attainment of the authorized objective, or
24 in any event in 30 days.

25 **Sec. 19.** NRS 179.485 is hereby amended to read as follows:

26 179.485 The contents of any wire , *radio* or oral communication
27 intercepted by any means authorized by NRS 179.410 to 179.515,
28 inclusive, ~~{shall}~~ *and sections 8 and 9 of this act, must*, if possible, be
29 recorded on tape or wire or other comparable device. The recording of the
30 contents of any wire , *radio* or oral communication ~~tunder~~ *pursuant to*
31 this section ~~{shall}~~ *must* be done in such a way as will protect the recording
32 from editing or other alterations. Immediately upon the expiration of the
33 period of the order, or extensions thereof, such recordings ~~{shall}~~ *must* be
34 made available to the judge issuing such order and sealed under his
35 directions. Custody of the recordings ~~{shall}~~ *must* be placed with
36 whomever the judge directs. ~~{They shall}~~ *The recordings must* not be
37 destroyed except upon an order of the judge issuing such order and in any
38 event ~~{shall}~~ *must* be kept for 10 years. Duplicate recordings may be made
39 for use or disclosure pursuant to the provisions of subsection 1 of NRS
40 179.465 for investigations. The presence of the seal provided for by this
41 section, or a satisfactory explanation for the absence thereof, is a
42 prerequisite for the use or disclosure of the contents of any wire , *radio* or
43 oral communication or evidence derived therefrom ~~tunder~~ *pursuant to*
44 subsection 2 of NRS 179.465.

45 **Sec. 20.** NRS 179.495 is hereby amended to read as follows:

46 179.495 1. Within a reasonable time but not later than 90 days after
47 the termination of the period of an order or any extension thereof, the judge
48 who issued the order shall cause to be served on the chief of the
49 investigation division of the department of motor vehicles and public



1 safety, persons named in the order and any other parties to intercepted
2 communications, an inventory which must include notice of:

3 (a) The fact of the entry and a copy of the order.

4 (b) The fact that during the period wire , *radio* or oral communications
5 were or were not intercepted.

6 The inventory filed pursuant to this section is confidential and must not be
7 released for inspection unless subpoenaed by a court of competent
8 jurisdiction.

9 2. The judge, upon receipt of a written request from any person who
10 was a party to an intercepted communication or from the person's attorney,
11 shall make available to the person or his counsel those portions of the
12 intercepted communications which contain his conversation. On an ex
13 parte showing of good cause to a district judge, the serving of the inventory
14 required by this section may be postponed for such time as the judge may
15 provide.

16 **Sec. 21.** NRS 179.500 is hereby amended to read as follows:

17 179.500 The contents of any intercepted wire , *radio* or oral
18 communication or evidence derived therefrom ~~shall~~ *must* not be received
19 in evidence or otherwise disclosed in any trial, hearing or other proceeding
20 in any court of this state unless each party, not less than 10 days before the
21 trial, hearing or proceeding, has been furnished with a copy of the court
22 order and accompanying application under which the interception was
23 authorized and a transcript of any communications intercepted. Such 10-
24 day period may be waived by the judge if he finds that it was not possible
25 to furnish the party with such information 10 days before the trial, hearing
26 or proceeding and that the party will not be prejudiced by the delay in
27 receiving such information.

28 **Sec. 22.** NRS 179.505 is hereby amended to read as follows:

29 179.505 1. Any aggrieved person in any trial, hearing or proceeding
30 in or before any court, department, officer, agency or other authority of this
31 state, or a political subdivision thereof, may move to suppress the contents
32 of any intercepted wire , *radio* or oral communication, or evidence derived
33 therefrom, on the grounds that:

34 (a) The communication was unlawfully intercepted.

35 (b) The order of authorization under which it was intercepted is
36 insufficient on its face.

37 (c) The interception was not made in conformity with the order of
38 authorization.

39 (d) The period of the order and any extension had expired.

40 2. Such motion ~~shall~~ *must* be made before the trial, hearing or
41 proceeding unless there was no opportunity to make such motion or the
42 person was not aware of the grounds of the motion. If the motion is
43 granted, the contents of the intercepted wire , *radio* or oral communication,
44 or evidence derived therefrom, ~~shall~~ *must* be treated as having been
45 obtained in violation of NRS 179.410 to 179.515, inclusive ~~+~~ , *and*
46 *sections 8 and 9 of this act*. The judge, upon the filing of such motion by
47 the aggrieved person, may in his discretion make available to the aggrieved
48 person or his counsel for inspection such portions of the intercepted



* A B 3 0 6 *

1 communication or evidence derived therefrom as the judge determines to
2 be in the interest of justice.

3 **Sec. 23.** NRS 179.515 is hereby amended to read as follows:

4 179.515 1. In January of each year, the attorney general and the
5 district attorney of each county shall report to the Administrative Office of
6 the United States Courts the information required to be reported pursuant
7 to 18 U.S.C. § 2519. A copy of the report must be filed with the
8 investigation division of the department of motor vehicles and public
9 safety. In the case of a joint application by the attorney general and a
10 district attorney, both shall make the report.

11 2. Every justice of the supreme court or district judge who signs an
12 order authorizing or denying an interception shall, within 30 days after the
13 termination of the order or any extension thereof, file with the investigation
14 division of the department of motor vehicles and public safety on forms
15 approved by the division a report containing the same information required
16 to be reported pursuant to 18 U.S.C. § 2519. The report must also indicate
17 whether a party to an intercepted wire *or radio* communication had
18 consented to the interception.

19 3. The willful failure of any officer to report any information known to
20 him which is required to be reported pursuant to subsection 1 or 2
21 constitutes malfeasance in office and, in such cases, the secretary of state
22 shall, when the wrong becomes known to him, institute legal proceedings
23 for the removal of that officer.

24 4. The investigation division of the department of motor vehicles and
25 public safety shall, on or before April 30 of each year, compile a report
26 consisting of a summary and analysis of all reports submitted to the
27 division pursuant to this section during the previous calendar year. The
28 report is a public record and may be inspected by any person during the
29 regular office hours of the division.

30 **Sec. 24.** The amendatory provisions of this act do not apply to
31 offenses committed before October 1, 2001.

32 **Sec. 25.** The amendatory provisions of this act do not apply to an
33 action pursuant to NRS 200.690 filed before October 1, 2001.

