

Amendment No. 740

Senate Amendment to Assembly Bill No. 313 First Reprint (BDR 14-421)

Proposed by: Senate Committee on Judiciary

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MNM/BAW



Date: 5/20/2013

A.B. No. 313—Prohibits the tracking of a mobile phone by an investigative or law enforcement officer without a court order in certain circumstances. (BDR 14-421)



ASSEMBLY BILL NO. 313—ASSEMBLYWOMAN PIERCE

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—~~[Prohibits the tracking of a mobile phone by an investigative or law enforcement officer without a court order in certain circumstances.]~~ Creates a statutory subcommittee of the Advisory Commission on the Administration of Justice. (BDR 14-421)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: 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 criminal procedure; ~~[generally prohibiting an investigative or law enforcement officer from tracking a mobile phone without a court order; authorizing certain investigative or law enforcement officers to apply to the district court for such an order or extension thereof; authorizing district courts to enter an order authorizing the tracking of a mobile phone in certain circumstances;]~~ creating a statutory subcommittee of the Advisory Commission on the Administration of Justice to consider issues concerning electronic surveillance by law enforcement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 4 of this bill authorizes an investigative or law enforcement officer who is responsible for an ongoing criminal investigation to apply to the district court for an order or an extension of an order which authorizes the tracking of a mobile phone. Section 5 of this bill authorizes the district court to enter an ex parte order authorizing the tracking of a mobile phone if the court determines that there is probable cause for belief that the information likely to be obtained by such tracking is relevant to the ongoing criminal investigation. Such an order or extension of an order cannot exceed 30 days. Section 2 of this bill generally prohibits an investigative or law enforcement officer from tracking a mobile phone without obtaining such an order.]~~

This bill creates in statute the Subcommittee on Search and Seizure Law and Technology of the Advisory Commission on the Administration of Justice. This bill requires: (1) the Chair of the Commission to appoint the members of the Subcommittee; (2) that the Subcommittee consist of legislative members and certain nonlegislative members; (3) the Chair of the Subcommittee to be a legislative member of the Commission; and (4) the Subcommittee to consider issues concerning electronic surveillance by law enforcement and to evaluate, review and submit a report to the

Commission with findings and recommendations concerning such issues for proposed legislation. This bill also sets forth the salaries and per diem that members of the Subcommittee may receive.

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

Delete existing sections 1 through 5 of this bill and replace with the following new sections 1 through 3:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created the Subcommittee on Search and Seizure Law and Technology of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee. The Subcommittee must consist of legislative and nonlegislative members, including, without limitation:

(a) A representative of the public defender's office in Washoe County.

(b) A representative of the public defender's office in Clark County.

(c) A representative of the State Public Defender's Office.

(d) A member of the private criminal defense bar.

(e) A representative of a civil liberties organization.

(f) A representative of the district attorney's office in Washoe County.

(g) A representative of the district attorney's office in Clark County.

(h) A representative of the Attorney General.

(i) A representative of a law enforcement agency located within the jurisdiction of Washoe County.

(j) A representative of a law enforcement agency located within the jurisdiction of Clark County.

(k) A representative of the academic community with specialized knowledge in the field of search and seizure law and technology.

(l) A representative from the compliance division of a national telecommunications carrier authorized to do business in this State.

3. The Chair of the Commission shall designate one of the legislative members of the Commission as Chair of the Subcommittee.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall consider issues concerning electronic surveillance by law enforcement, including, without limitation, access by a law enforcement agency to historical and prospective geolocation data generated by a telecommunications device for tracking purposes and the use of mobile tracking devices, and shall evaluate, review and submit a report to the Commission with findings and recommendations concerning such issues for proposed legislation.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive

1 the per diem allowance and travel expenses provided for state officers and
2 employees generally.

3 Sec. 2. NRS 176.0121 is hereby amended to read as follows:

4 176.0121 As used in NRS 176.0121 to 176.0129, inclusive, and section 1 of
5 this act, "Commission" means the Advisory Commission on the Administration of
6 Justice.

7 Sec. 3. This act becomes effective on July 1, 2013, and expires by
8 limitation on July 31, 2015.