

ASSEMBLY BILL NO. 162—ASSEMBLYMEN MUNFORD,
WHEELER; OHRENSCHALL AND SHELTON

FEBRUARY 13, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the use of portable event recording devices by law enforcement. (BDR 23-443)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 peace officers; requiring certain peace officers to wear a portable event recording device while on duty; requiring certain law enforcement agencies to adopt policies and procedures governing the use of portable event recording devices; exempting the use of portable event recording devices from the provisions governing the interception of certain communications; exempting the use of portable event recording devices upon certain property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires: (1) certain peace officers to wear a portable event recording device while on duty; and (2) certain law enforcement agencies to adopt policies and procedures relating to the use of portable event recording devices.

Existing law authorizes investigative or law enforcement officers to intercept wire or oral communications, subject to certain requirements. (NRS 179.410-179.515) **Section 2** of this bill exempts a portable event recording device worn by a peace officer from the definition of an “electronic, mechanical or other device” used to intercept wire or oral communication. Existing law also prohibits the surreptitious electronic surveillance on: (1) the grounds of any facility owned or leased by the State of Nevada; (2) the property of a public school; or (3) a campus of the Nevada System of Higher Education. (NRS 331.200, 393.400, 396.970)



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13 **Sections 3-5** of this bill create an exception from certain unauthorized electronic
14 surveillance conducted pursuant to **section 1**.

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

1 **Section 1.** Chapter 289 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. Each law enforcement agency shall:*

4 *(a) Require each peace officer it employs to wear a portable*
5 *event recording device while on duty.*

6 *(b) Adopt policies and procedures governing the use of*
7 *portable event recording devices.*

8 *2. As used in this section:*

9 *(a) "Law enforcement agency" means:*

10 *(1) The sheriff's office of a county;*

11 *(2) A metropolitan police department;*

12 *(3) A police department of an incorporated city; or*

13 *(4) The Nevada Highway Patrol.*

14 *(b) "Portable event recording device" means a device issued to*
15 *a peace officer by a law enforcement agency to be worn on his or*
16 *her body and which records both audio and visual events*
17 *occurring during an encounter with a member of the public while*
18 *performing his or her duties as a peace officer.*

19 **Sec. 2.** NRS 179.425 is hereby amended to read as follows:

20 179.425 "Electronic, mechanical or other device" means any
21 device or apparatus which can be used to intercept a wire or oral
22 communication other than:

23 1. Any telephone instrument, equipment or facility, or any
24 component thereof:

25 (a) Furnished to the subscriber or user by a communications
26 common carrier in the ordinary course of its business and being used
27 by the subscriber or user in the ordinary course of its business; or

28 (b) Being used by a communications common carrier in the
29 ordinary course of its business, or by an investigative or law
30 enforcement officer in the ordinary course of his or her duties.

31 2. A hearing aid or similar device being used to correct
32 subnormal hearing to not better than normal.

33 *3. A portable event recording device, as defined in section 1*
34 *of this act.*

35 **Sec. 3.** NRS 331.220 is hereby amended to read as follows:

36 331.220 1. Except as otherwise provided in subsection 2, it is
37 unlawful for a person to engage in any kind of surreptitious
38 electronic surveillance on the grounds of any facility owned or



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1 leased by the State of Nevada without the knowledge of the person
2 being observed.

3 2. Subsection 1 does not apply to any electronic surveillance:

4 (a) Authorized by a court order issued to a public officer, based
5 upon a showing of probable cause to believe that criminal activity is
6 occurring on the property under surveillance;

7 (b) By a law enforcement agency pursuant to a criminal
8 investigation; ~~(d)~~

9 (c) *By a peace officer pursuant to section 1 of this act; or*

10 (d) Which is necessary as part of a system of security used to
11 protect and ensure the safety of persons on the grounds of the
12 facility.

13 **Sec. 4.** NRS 393.400 is hereby amended to read as follows:

14 393.400 1. Except as otherwise provided in subsection 2, it is
15 unlawful for a person to engage in any kind of surreptitious
16 electronic surveillance on any property of a public school without
17 the knowledge of the person being observed.

18 2. Subsection 1 does not apply to any electronic surveillance:

19 (a) Authorized by a court order issued to a public officer, based
20 upon a showing of probable cause to believe that criminal activity is
21 occurring on the property of the public school under surveillance;

22 (b) By a law enforcement agency pursuant to a criminal
23 investigation;

24 (c) *By a peace officer pursuant to section 1 of this act;*

25 (d) Which is necessary as part of a system of security used to
26 protect and ensure the safety of persons on the property of the public
27 school; or

28 ~~(d)~~ (e) Of a class or laboratory when authorized by the teacher
29 of the class or laboratory.

30 **Sec. 5.** NRS 396.970 is hereby amended to read as follows:

31 396.970 1. Except as otherwise provided in subsection 2, it is
32 unlawful for a person to engage in any kind of surreptitious
33 electronic surveillance on a campus of the System without the
34 knowledge of the person being observed.

35 2. Subsection 1 does not apply to any electronic surveillance:

36 (a) Authorized by a court order issued to a public officer, based
37 upon a showing of probable cause to believe that criminal activity is
38 occurring on the property under surveillance;

39 (b) By a law enforcement agency pursuant to a criminal
40 investigation;

41 (c) *By a peace officer pursuant to section 1 of this act;*

42 (d) Which is necessary as part of a system of security used to
43 protect and ensure the safety of persons on the campus; or

44 ~~(d)~~ (e) Of a class or laboratory when authorized by the teacher
45 of the class or laboratory.



- 1 **Sec. 6.** The provisions of NRS 354.599 do not apply to any
2 additional expenses of a local government that are related to the
3 provisions of this act.
4 **Sec. 7.** This act becomes effective on January 1, 2016.

