

Amendment No. 268

Assembly Amendment to Assembly Bill No. 162 (BDR 23-443)

Proposed by: Assembly Committee on Government Affairs

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

Adoption of this amendment will REMOVE the unfunded mandate from A.B. 162.

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of *green bold underlining* is language proposed to be added 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 proposed to be retained in this amendment.

MKM/NCA



Date: 4/14/2015

A.B. No. 162—Revises provisions governing the use of portable event recording devices by law enforcement. (BDR 23-443)



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~~ authorizing 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; providing that, with certain limitations, records made by portable event recording devices are public records; 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) authorizes certain peace officers to wear a portable event recording device while on duty; and (2) requires certain law enforcement agencies to adopt policies and procedures relating to the use of portable event recording devices. Section 1 also establishes that any record made by a portable event recording device is a public record which may be: (1) requested only on a per incident basis; and (2) inspected only at the location where the record is held if the record contains confidential information.

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

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

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

1. ~~Each~~ A law enforcement agency shall
~~(a) Require each~~ may require uniformed peace officer officers that it
employs to wear a portable event recording device while on duty.

~~(b) Adopt~~ If a law enforcement agency so requires, the law enforcement
agency shall adopt policies and procedures governing the use of portable event
recording devices ~~it~~, which must include, without limitation:

(a) Except as otherwise provided in paragraph (d), requiring activation of a
portable event recording device whenever a peace officer is responding to a call
for service or at the initiation of any other law enforcement or investigative
encounter between a uniformed peace officer and a member of the public;

(b) Except as otherwise provided in paragraph (d), prohibiting deactivation
of a portable event recording device until the conclusion of a law enforcement or
investigative encounter;

(c) Prohibiting the recording of general activity;

(d) Protecting the privacy of persons:

(1) In a private residence;

(2) Seeking to report a crime or provide information regarding a crime or
ongoing investigation anonymously; or

(3) Claiming to be a victim of a crime;

(e) Limiting the period for which a video recorded by a portable event
recording device must be retained; and

(f) Establishing disciplinary rules for peace officers who:

(1) Fail to operate a portable event recording device in accordance with
any departmental policies;

(2) Manipulate a video recorded by a portable event recording device; or

(3) Prematurely erase a video recorded by a portable event recording
device.

2. Any record made by a portable event recording device pursuant to this
section is a public record which may be:

(a) Requested only on a per incident basis; and

(b) Available for inspection only at the location where the record is held if
the record contains confidential information that may not otherwise be redacted.

3. As used in this section:

(a) "Law enforcement agency" means:

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

(2) A metropolitan police department;

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

(4) The Nevada Highway Patrol.

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

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

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

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

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

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

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

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

Sec. 2.5. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,

645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, and section 1 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

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

331.220 1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on the grounds of any facility owned or leased by the State of Nevada without the knowledge of the person being observed.

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

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

(b) By a law enforcement agency pursuant to a criminal investigation; ~~for~~

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

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

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

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

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

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

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

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

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

13 ~~(e)~~ (e) Of a class or laboratory when authorized by the teacher of the class or
14 laboratory.

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

16 396.970 1. Except as otherwise provided in subsection 2, it is unlawful for a
17 person to engage in any kind of surreptitious electronic surveillance on a campus of
18 the System without the knowledge of the person being observed.

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

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

23 (b) By a law enforcement agency pursuant to a criminal 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 protect and
26 ensure the safety of persons on the campus; or

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

29 **Sec. 6.** ~~[The provisions of NRS 354.599 do not apply to any additional
30 expenses of a local government that are related to the provisions of this act.]~~
31 **(Deleted by amendment.)**

32 **Sec. 7.** This act becomes effective on January 1, 2016.