

SENATE BILL NO. 111—SENATORS FORD AND ATKINSON

PREFILED FEBRUARY 1, 2015

Referred to Committee on Government Affairs

SUMMARY—Providing for the use of portable event recording devices by local law enforcement agencies in certain counties. (BDR 23-618)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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 in certain counties to wear a portable event recording device while on duty; requiring local law enforcement agencies in certain counties to adopt policies and procedures governing the use of portable event recording devices; exempting the use of portable event recording devices from 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, in a county whose population is 100,000 or more (currently Clark and Washoe Counties): (1) certain peace officers to wear a portable event recording device while on duty; and (2) certain local law enforcement agencies to adopt policies and procedures governing 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 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 for peace



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15 officers wearing a portable event recording device in accordance with **section 1**
16 from certain provisions relating to unlawful surreptitious electronic surveillance.

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. In a county whose population is 100,000 or more, each***
4 ***local law enforcement agency shall:***

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

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

9 ***2. As used in this section:***

10 ***(a) "Local law enforcement agency" has the meaning ascribed***
11 ***to it in NRS 179D.050.***

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

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

18 179.425 "Electronic, mechanical or other device" means any
19 device or apparatus which can be used to intercept a wire or oral
20 communication other than:

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

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

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

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

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

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

34 331.220 1. Except as otherwise provided in subsection 2, it is
35 unlawful for a person to engage in any kind of surreptitious
36 electronic surveillance on the grounds of any facility owned or
37 leased by the State of Nevada without the knowledge of the person
38 being observed.

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



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(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.

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

393.400 1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on any property of a public school 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 of the public school under surveillance;

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

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

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

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

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

396.970 1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on a campus of the System 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;

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

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

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

Sec. 6. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.



1 **Sec. 7.** This act becomes effective upon passage and approval
2 for the purpose of adopting policies and procedures governing the
3 use of portable event recording devices and on October 1, 2015, for
4 all other purposes.

