

Amendment No. 604

Assembly Amendment to Senate Bill No. 358	(BDR 15-1008)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

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.

JDK/BAW



Date: 5/16/2021

S.B. No. 358—Revises provisions relating to wire communications.
(BDR 15-1008)



SENATE BILL NO. 358—COMMITTEE ON JUDICIARY

MARCH 25, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to wire communications.
(BDR 15-1008)

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

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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 crimes; revising provisions relating to the interception of certain wire communications; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it unlawful, with certain exceptions, to intercept or attempt to intercept any wire communication unless: (1) the interception or attempted interception is made with the prior consent of one of the parties to the communication; and (2) an emergency situation exists and it is impractical to obtain a court order. Existing law requires any person who has made an interception in an emergency situation to make a written application to a justice of the Supreme Court or district judge for ratification of the interception within 72 hours of the interception. (NRS 200.620) ~~This bill~~ Existing law additionally provides that it is not unlawful for ~~any person~~ a peace officer specifically designated by the Attorney General or the district attorney of any county, or a person acting under the direction or request of a peace officer, to intercept ~~for attempt to intercept~~ the wire electronic or oral communication of a person who has: (1) barricaded himself or herself and is not exiting or surrendering at the lawful request of a peace officer, in circumstances in which there is imminent risk of harm to the life of another person as a result of the actions of the person who is barricaded or the actions of law enforcement in resolving the barricade situation; ~~for~~ (2) created a hostage situation ~~for~~ ; or (3) threatened the imminent illegal use of an explosive. (NRS 179.463) This bill clarifies that under such circumstances, the interception or attempted interception of a wire communication: (1) is not unlawful; and (2) does not require the consent of the person whose wire communication is intercepted or attempted to be intercepted or the filing of an application for ratification by the court of the interception or attempted interception.

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

Section 1. NRS 200.620 is hereby amended to read as follows:

200.620 1. Except as otherwise provided in *subsection 5 and* NRS 179.410 to 179.515, inclusive, 209.419 and 704.195, it is unlawful for any person to intercept or attempt to intercept any wire communication unless:

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

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

9 (1) The communication was intercepted; and

10 (2) Upon application to the court, ratification of the interception was
11 denied.

12 2. This section does not apply to any person, or to the officers, employees or
13 agents of any person, engaged in the business of providing service and facilities for
14 wire communication where the interception or attempted interception is to
15 construct, maintain, conduct or operate the service or facilities of that person.

16 3. Any person who has made an interception in an emergency situation as
17 provided in paragraph (b) of subsection 1 shall, within 72 hours of the interception,
18 make a written application to a justice of the Supreme Court or district judge for
19 ratification of the interception. The interception must not be ratified unless the
20 applicant shows that:

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

23 (b) Except for the absence of a court order, the interception met the
24 requirements of NRS 179.410 to 179.515, inclusive.

25 4. NRS 200.610 to 200.690, inclusive, do not prohibit the recording, and NRS
26 179.410 to 179.515, inclusive, do not prohibit the reception in evidence, of
27 conversations on wire communications installed in the office of an official law
28 enforcement or fire-fighting agency, or a public utility, if the equipment used for
29 the recording is installed in a facility for wire communications or on a telephone
30 with a number listed in a directory, on which emergency calls or requests by a
31 person for response by the law enforcement or fire-fighting agency or public utility
32 are likely to be received. In addition, those sections do not prohibit the recording or
33 reception in evidence of conversations initiated by the law enforcement or fire-
34 fighting agency or public utility from such a facility or telephone in connection
35 with responding to the original call or request, if the agency or public utility
36 informs the other party that the conversation is being recorded.

37 **5. The interception or attempted interception of a wire communication is**
38 **not unlawful** ~~if the person is intercepting the communication of a person who~~
39 ~~has:~~

40 ~~—(a) Barricaded himself or herself and is not exiting or surrendering at the~~
41 ~~lawful request of a peace officer, in circumstances in which there is an imminent~~
42 ~~risk of harm to the life of another person as a result of the actions of the person~~
43 ~~who is barricaded or the actions of law enforcement in resolving the barricade~~
44 ~~situation; or~~

45 ~~—(b) Created a hostage situation.~~

46 ~~6. For the purposes of subsection 5:~~

47 ~~—(a) A barricade occurs when a person:~~

48 ~~—(1) Refuses to come out from a covered or enclosed position after being~~
49 ~~provided an order to exit by a peace officer; or~~

50 ~~—(2) Is contained in an open area and the presence or approach of a peace~~
51 ~~officer precipitates an imminent risk of harm to the life of another person.~~

~~1 (b) A hostage situation occurs when a person holds another person against~~
~~2 his or her will, regardless of whether the person holding the other person has~~
~~3 made a demand.~~

~~4 7. As used in this section, "peace officer" means any person upon whom~~
~~5 some or all of the powers of a peace officer are conferred pursuant to NRS~~
~~6 289.150 to 289.360, inclusive.~~ under the circumstances set forth in subsection 1
7 of NRS 179.463.