

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 ~~for 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) Existing law additionally provides that it is not unlawful for 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 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; (2) created a hostage situation; 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:

1 **Section 1.** NRS 200.620 is hereby amended to read as follows:
2 200.620 1. Except as otherwise provided in **subsection 5 and**
3 NRS 179.410 to 179.515, inclusive, 209.419 and 704.195, it is
4 unlawful for any person to intercept or attempt to intercept any wire
5 communication unless:

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

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

15 (1) The communication was intercepted; and

16 (2) Upon application to the court, ratification of the
17 interception was denied.

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

23 3. Any person who has made an interception in an emergency
24 situation as provided in paragraph (b) of subsection 1 shall, within
25 72 hours of the interception, make a written application to a justice
26 of the Supreme Court or district judge for ratification of the
27 interception. The interception must not be ratified unless the
28 applicant shows that:

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

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

33 4. NRS 200.610 to 200.690, inclusive, do not prohibit the
34 recording, and NRS 179.410 to 179.515, inclusive, do not prohibit
35 the reception in evidence, of conversations on wire communications
36 installed in the office of an official law enforcement or fire-fighting
37 agency, or a public utility, if the equipment used for the recording is
38 installed in a facility for wire communications or on a telephone
39 with a number listed in a directory, on which emergency calls or
40 requests by a person for response by the law enforcement or fire-
41 fighting agency or public utility are likely to be received. In
42 addition, those sections do not prohibit the recording or reception in



1 evidence of conversations initiated by the law enforcement or fire-
2 fighting agency or public utility from such a facility or telephone in
3 connection with responding to the original call or request, if the
4 agency or public utility informs the other party that the conversation
5 is being recorded.
6 *5. The interception or attempted interception of a wire*
7 *communication is not unlawful under the circumstances set forth*
8 *in subsection 1 of NRS 179.463.*

