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ASSEMBLY BILL NO. 512—COMMITTEE ON JUDICIARY

(ON BEHALF OF WASHOE COUNTY)

MARCH 29, 2005

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Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning interception and recording of wire or oral communications in certain situations. (BDR 14-455)

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.

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AN ACT relating to communications; authorizing the interception and recording of wire or oral communications in certain situations involving hostages and certain situations involving criminals or suspected criminals who are barricaded and resisting arrest; providing that wire or oral communications intercepted or recorded in such situations may be disclosed and introduced into evidence in judicial and administrative proceedings under certain circumstances; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 179.458 is hereby amended to read as follows:  
2     179.458 The provisions of NRS 179.410 to 179.515, inclusive,  
3 do not prohibit **[the]** :  
4     1. *The interception or recording of wire or oral*  
5 *communications by a peace officer or public utility pursuant to*  
6 *NRS 179.525; or*  
7     2. *The* recording of any telephone call by a public utility  
8 pursuant to NRS 704.195.



1       **Sec. 2.** NRS 179.525 is hereby amended to read as follows:

2       179.525 1. A supervising peace officer who, with other  
3 officers, or any peace officer who, alone, is attempting to gain  
4 control of a situation in which a person:

5       (a) Is holding another as a hostage, whether or not the life of the  
6 hostage has been threatened; or

7       (b) Has committed or is believed to have committed a crime, is  
8 barricaded in an area or structure and is resisting arrest through the  
9 use or threatened use of force,

10      ↳ may direct the public utility which provides telephone service to  
11 the area or structure in which the hostages are being held or persons  
12 are barricaded, or to an area which is close to that area or structure,  
13 to interrupt the service on, divert, reroute or otherwise make  
14 temporary changes in telephone lines to enable the peace officer  
15 making the request to establish communication with the person  
16 holding the hostage ~~§~~ or *the person who is barricaded, to establish*  
17 *communication* among peace officers, or to deny communication to  
18 the person holding the hostage ~~§~~ or *the person who is barricaded.*

19      2. *If a person:*

20      (a) *Is holding another as a hostage, whether or not the life of*  
21 *the hostage has been threatened; or*

22      (b) *Has committed or is believed to have committed a crime, is*  
23 *barricaded in an area or structure and is resisting arrest through*  
24 *the use or threatened use of force,*

25      ↳ *a peace officer, or a public utility acting upon the order of a*  
26 *peace officer, may intercept or record, or both, any wire or oral*  
27 *communication involving the person who is holding the hostage or*  
28 *the person who is barricaded.*

29      3. *The contents of any wire or oral communication that is*  
30 *intercepted or recorded pursuant to subsection 2, and any evidence*  
31 *derived therefrom, may be disclosed:*

32      (a) *To another peace officer by a peace officer who has*  
33 *obtained knowledge of the contents of the wire or oral*  
34 *communication, or the evidence derived therefrom, and may be*  
35 *used to the extent that the disclosure or use is appropriate to the*  
36 *proper performance of the official duties of the peace officer*  
37 *making the disclosure or the peace officer receiving the*  
38 *disclosure; and*

39      (b) *While giving testimony under oath or affirmation in any*  
40 *criminal, civil or administrative proceeding in any court, or before*  
41 *any administrative agency, of this State or the United States, and*  
42 *in any state or federal grand jury proceeding, by any person who*  
43 *has obtained knowledge of the contents of the wire or oral*  
44 *communication, or the evidence derived therefrom, if:*



1           (1) *A party to the proceeding files a motion with the court*  
2 *or agency to introduce the contents of the wire or oral*  
3 *communication, or the evidence derived therefrom; and*

4           (2) *The court or administrative hearing officer grants the*  
5 *motion after finding, at a hearing held in camera, that the wire or*  
6 *oral communication was lawfully intercepted or recorded in*  
7 *accordance with the provisions of subsection 2.*

8           4. Each public utility which provides telephone service in this  
9 State shall designate an employee and an alternate to supervise in  
10 performing the orders of a peace officer who is carrying out the  
11 purposes of this section.

12         ~~3-~~ 5. A reliance in good faith by a public utility on the order  
13 of a peace officer pursuant to this section constitutes a complete  
14 defense to any civil or criminal action brought against the public  
15 utility on account of any ~~[interruption,]~~ :

16         (a) *Interruption*, diversion, rerouting or change in telephone  
17 service made in response to the order ~~[ ]~~ *pursuant to subsection 1;*  
18 *or*

19         (b) *Interception or recording of any wire or oral*  
20 *communication made in response to the order pursuant to*  
21 *subsection 2.*

22         6. *As used in this section:*

23         (a) *“Contents” has the meaning ascribed to it in NRS 179.420.*

24         (b) *“Intercept” has the meaning ascribed to it in NRS 179.430.*

25         (c) *“Oral communication” has the meaning ascribed to it in*  
26 *NRS 179.440.*

27         (d) *“Record” means the acquisition of the contents of a wire or*  
28 *oral communication through the use of a recording device.*

29         (e) *“Wire communication” has the meaning ascribed to it in*  
30 *NRS 179.455.*

31         **Sec. 3.** NRS 48.077 is hereby amended to read as follows:

32         48.077 Except as limited by this section, in addition to the  
33 matters made admissible by NRS 179.465 ~~[ ]~~ *and 179.525*, the  
34 contents of any communication lawfully intercepted under the laws  
35 of the United States or of another jurisdiction before, on or after  
36 July 1, 1981, if the interception took place within that jurisdiction,  
37 and any evidence derived from such a communication, are  
38 admissible in any action or proceeding in a court or before an  
39 administrative body of this State, including , without limitation , the  
40 Nevada Gaming Commission and the State Gaming Control Board.  
41 Matter otherwise privileged under this title does not lose its  
42 privileged character by reason of any interception.

43         **Sec. 4.** NRS 200.620 is hereby amended to read as follows:

44         200.620 1. Except as otherwise provided in NRS 179.410 to  
45 179.515, inclusive, *179.525*, 209.419 and 704.195, it is unlawful for



1 any person to intercept or attempt to intercept any wire  
2 communication unless:

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

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

12 (1) The communication was intercepted; and

13 (2) Upon application to the court, ratification of the  
14 interception was denied.

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

20 3. Any person who has made an interception in an emergency  
21 situation as provided in paragraph (b) of subsection 1 shall, within  
22 72 hours of the interception, make a written application to a justice  
23 of the Supreme Court or district judge for ratification of the  
24 interception. The interception must not be ratified unless the  
25 applicant shows that:

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

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

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



1       **Sec. 5.** NRS 200.630 is hereby amended to read as follows:  
2       200.630 1. Except as otherwise provided in NRS 179.410 to  
3       179.515, inclusive, **179.525** and 704.195, a person shall not disclose  
4       the existence, content, substance, purport, effect or meaning of any  
5       wire or radio communication to any person unless authorized to do  
6       so by either the sender or receiver.

7       2. This section does not apply to any person, or the officers,  
8       employees or agents of any person, engaged in furnishing service or  
9       facilities for wire or radio communication where the disclosure is  
10      made:

11      (a) For the purpose of construction, maintenance, conduct or  
12      operation of the service or facilities of such a person;

13      (b) To the intended receiver, his agent or attorney;

14      (c) In response to a subpoena issued by a court of competent  
15      jurisdiction; or

16      (d) On written demand of other lawful authority.

17      **Sec. 6.** NRS 200.640 is hereby amended to read as follows:

18      200.640 Except as otherwise provided in NRS 179.410 to  
19      179.515, inclusive, **179.525** and 200.620, a person shall not make  
20      any connection, either physically or by induction, with the wire or  
21      radio communication facilities of any person engaged in the  
22      business of providing service and facilities for communication  
23      unless the connection is authorized by the person providing the  
24      service and facilities.

25      **Sec. 7.** NRS 200.650 is hereby amended to read as follows:

26      200.650 Except as otherwise provided in NRS 179.410 to  
27      179.515, inclusive, **179.525** and 704.195, a person shall not intrude  
28      upon the privacy of other persons by surreptitiously listening to,  
29      monitoring or recording, or attempting to listen to, monitor or  
30      record, by means of any mechanical, electronic or other listening  
31      device, any private conversation engaged in by the other persons **H**  
32      or disclose the existence, content, substance, purport, effect or  
33      meaning of any conversation so listened to, monitored or recorded,  
34      unless authorized to do so by one of the persons engaging in the  
35      conversation.







