

SENATE BILL NO. 111—SENATORS FORD AND ATKINSON

PREFILED FEBRUARY 1, 2015

Referred to Committee on Government Affairs

SUMMARY—Provides for the use of portable event recording devices by peace officers. (BDR 23-618)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 peace officers; requiring certain peace officers to wear a portable event recording device under certain circumstances; requiring certain law enforcement agencies to adopt policies and procedures governing the use of portable event recording devices; providing that records made by portable event recording devices are public records and may be requested under certain circumstances; 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; requiring the Advisory Commission on the Administration of Justice to review any policies and procedures adopted by a law enforcement agency governing the use of portable event recording devices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill requires: (1) certain peace officers to wear a portable
2 event recording device while on duty; and (2) certain law enforcement agencies to
3 adopt policies and procedures governing the use of portable event recording
4 devices. **Section 1** also establishes that any record made by a portable event
5 recording device is a public record which may only be requested: (1) on a per
6 incident basis; and (2) viewed at the location where the record is held if the record
7 contains confidential information.
8 Existing law authorizes investigative or law enforcement officers to intercept
9 wire or oral communications, subject to certain requirements. (NRS 179.410-
10 179.515) **Section 2** of this bill exempts a portable event recording device worn by a



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11 peace officer from the definition of an “electronic, mechanical or other device”
12 used to intercept wire or oral communication.

13 Existing law also prohibits surreptitious electronic surveillance on: (1) the
14 grounds of any facility owned or leased by the State of Nevada; (2) the property of
15 a public school; or (3) a campus of the Nevada System of Higher Education. (NRS
16 331.200, 393.400, 396.970) **Sections 3-5** of this bill create an exception for peace
17 officers wearing a portable event recording device in accordance with **section 1**
18 from certain provisions relating to unlawful surreptitious electronic surveillance.

19 **Section 6.5** of this bill requires each law enforcement agency to adopt initial
20 policies and procedures governing the use of portable event recording devices by
21 July 1, 2016. **Section 6.5** further requires the Advisory Commission on the
22 Administration of Justice to review such initial policies and procedures at a meeting
23 on or after July 1, 2016.

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. Each law enforcement agency or chief of school police*
4 *shall:*

5 *(a) Require each uniformed peace officer it employs who*
6 *routinely interacts with the public to wear a portable event*
7 *recording device while on duty.*

8 *(b) Adopt policies and procedures governing the use of*
9 *portable event recording devices, including, without limitation:*

10 *(1) Requiring activation of a portable event recording*
11 *device whenever a peace officer is:*

12 *(I) Responding to a call for service; or*

13 *(II) Initiating a law enforcement or investigative*
14 *encounter with a member of the public;*

15 *(2) Prohibiting deactivation of a portable event*
16 *recording device until the conclusion of the event described in*
17 *subparagraph (1);*

18 *(3) Protecting the privacy of persons:*

19 *(I) In private residences;*

20 *(II) Seeking to report a crime or provide information*
21 *regarding a crime or ongoing investigation anonymously; and*

22 *(III) Claiming to be a victim of a crime;*

23 *(4) Requiring that any record made by a portable event*
24 *recording device be retained by the law enforcement agency for*
25 *not less than 15 days; and*

26 *(5) Establishing disciplinary rules for peace officers who:*

27 *(I) Fail to operate a portable event recording device in*
28 *accordance with any policy or procedure adopted pursuant to this*
29 *section;*



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1 *(II) Intentionally manipulate any record made by a*
2 *portable event recording device in violation of any policy or*
3 *procedure adopted pursuant to this section; or*

4 *(III) Prematurely erase or destroy any record made by a*
5 *portable event recording device.*

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

8 *(a) Requested on a per incident basis; and*

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

12 *3. As used in this section:*

13 *(a) "Law enforcement agency" means:*

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

15 *(2) A metropolitan police department;*

16 *(3) A police department of an incorporated city;*

17 *(4) The Department of Public Safety; or*

18 *(5) The Police Department of the Nevada System of Higher*
19 *Education.*

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

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

26 179.425 "Electronic, mechanical or other device" means any
27 device or apparatus which can be used to intercept a wire or oral
28 communication other than:

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

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

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

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

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

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

42 239.010 1. Except as otherwise provided in this section and
43 NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516,
44 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160,
45 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,



1 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
2 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
3 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
4 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130,
5 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
6 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245,
7 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801,
8 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450,
9 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,
10 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140,
11 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
12 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
13 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300,
14 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
15 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
16 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140,
17 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350,
18 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,
19 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
20 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
21 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
22 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
23 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
24 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
25 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
26 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
27 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
28 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
29 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
30 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
31 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
32 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
33 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
34 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
35 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
36 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
37 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
38 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,
39 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
40 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
41 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
42 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
43 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
44 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
45 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,



1 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
2 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
3 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
4 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
5 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
6 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065,
7 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133,
8 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
9 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
10 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
11 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
12 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117,
13 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196,
14 704B.320, 704B.325, 706.1725, 710.159, 711.600, *and section 1 of*
15 *this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada
16 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and
17 unless otherwise declared by law to be confidential, all public books
18 and public records of a governmental entity must be open at all
19 times during office hours to inspection by any person, and may be
20 fully copied or an abstract or memorandum may be prepared from
21 those public books and public records. Any such copies, abstracts or
22 memoranda may be used to supply the general public with copies,
23 abstracts or memoranda of the records or may be used in any other
24 way to the advantage of the governmental entity or of the general
25 public. This section does not supersede or in any manner affect the
26 federal laws governing copyrights or enlarge, diminish or affect in
27 any other manner the rights of a person in any written book or
28 record which is copyrighted pursuant to federal law.

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

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

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

43 (a) Shall not refuse to provide a copy of that public record in a
44 readily available medium because the officer, employee or agent has



1 already prepared or would prefer to provide the copy in a different
2 medium.

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

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

8 331.220 1. Except as otherwise provided in subsection 2, it is
9 unlawful for a person to engage in any kind of surreptitious
10 electronic surveillance on the grounds of any facility owned or
11 leased by the State of Nevada without the knowledge of the person
12 being observed.

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

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

17 (b) By a law enforcement agency pursuant to a criminal
18 investigation; ~~(c)~~

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

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

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

24 393.400 1. Except as otherwise provided in subsection 2, it is
25 unlawful for a person to engage in any kind of surreptitious
26 electronic surveillance on any property of a public school without
27 the knowledge of the person being observed.

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

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

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

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

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

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

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

41 396.970 1. Except as otherwise provided in subsection 2, it is
42 unlawful for a person to engage in any kind of surreptitious
43 electronic surveillance on a campus of the System without the
44 knowledge of the person being observed.

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



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

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

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

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

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

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

14 **Sec. 6.5.** 1. Each law enforcement agency and chief of
15 school police in this State shall adopt, at a minimum, initial policies
16 and procedures as required by section 1 of this act, on or before
17 July 1, 2016.

18 2. The Advisory Commission on the Administration of Justice
19 created pursuant to NRS 176.0123 shall, at a meeting held by the
20 Commission, include as an item on the agenda a discussion of the
21 progress of law enforcement agencies and chiefs of school police in
22 this State in adopting initial policies and procedures as required by
23 section 1 of this act. The meeting must be held on or after July 1,
24 2016.

25 3. A representative of each law enforcement agency and chief
26 of school police shall attend the meeting required by subsection 2 to
27 provide a report concerning the progress of his or her agency in
28 adopting such policies and procedures.

29 4. As used in this section, "law enforcement agency" has the
30 meaning ascribed to it in section 1 of this act.

31 **Sec. 7.** 1. This section and section 6.5 of this act become
32 effective upon passage and approval.

33 2. Sections 1 to 6, inclusive, of this act become effective upon
34 passage and approval for the purpose of adopting policies and
35 procedures governing the use of portable event recording devices
36 and on January 1, 2017, for all other purposes.



