

CHAPTER.....

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.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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:

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

(b) An emergency situation exists and it is impractical to obtain
a court order as required by NRS 179.410 to 179.515, inclusive,
before the interception, in which event the interception is subject to
the requirements of subsection 3. If the application for ratification is
denied, any use or disclosure of the information so intercepted is



unlawful, and the person who made the interception shall notify the sender and the receiver of the communication that:

(1) The communication was intercepted; and

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

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

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

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

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

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

5. The interception or attempted interception of a wire communication is not unlawful under the circumstances set forth in subsection 1 of NRS 179.463.

