
HOUSE BILL 2903

State of Washington

56th Legislature

2000 Regular Session

By Representatives Delvin, Lovick, B. Chandler, Grant, Hankins, Lisk, Buck, Ballasiotes, O'Brien, Hurst, Talcott and Fortunato

Read first time 01/24/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to law enforcement sound recordings; and amending
2 RCW 9.73.090.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.73.090 and 1989 c 271 s 205 are each amended to read
5 as follows:

6 (1) The provisions of RCW 9.73.030 through 9.73.080 shall not apply
7 to police, fire, emergency medical service, emergency communication
8 center, and poison center personnel in the following instances:

9 (a) Recording incoming telephone calls to police and fire stations,
10 licensed emergency medical service providers, emergency communication
11 centers, and poison centers;

12 (b) Video and/or sound recordings may be made of arrested persons
13 by police officers responsible for making arrests or holding persons in
14 custody before their first appearance in court. Such video and/or
15 sound recordings shall conform strictly to the following:

16 (i) The arrested person shall be informed that such recording is
17 being made and the statement so informing him shall be included in the
18 recording;

1 (ii) The recording shall commence with an indication of the time of
2 the beginning thereof and terminate with an indication of the time
3 thereof;

4 (iii) At the commencement of the recording the arrested person
5 shall be fully informed of his constitutional rights, and such
6 statements informing him shall be included in the recording;

7 (iv) The recordings shall only be used for valid police or court
8 activities;

9 (c) Sound recordings made in conjunction with video images recorded
10 by video cameras mounted in law enforcement vehicles.

11 (2) It shall not be unlawful for a law enforcement officer acting
12 in the performance of the officer's official duties to intercept,
13 record, or disclose an oral communication or conversation where the
14 officer is a party to the communication or conversation or one of the
15 parties to the communication or conversation has given prior consent to
16 the interception, recording, or disclosure: PROVIDED, That prior to
17 the interception, transmission, or recording the officer shall obtain
18 written or telephonic authorization from a judge or magistrate, who
19 shall approve the interception, recording, or disclosure of
20 communications or conversations with a nonconsenting party for a
21 reasonable and specified period of time, if there is probable cause to
22 believe that the nonconsenting party has committed, is engaged in, or
23 is about to commit a felony: PROVIDED HOWEVER, That if such
24 authorization is given by telephone the authorization and officer's
25 statement justifying such authorization must be electronically recorded
26 by the judge or magistrate on a recording device in the custody of the
27 judge or magistrate at the time transmitted and the recording shall be
28 retained in the court records and reduced to writing as soon as
29 possible thereafter.

30 Any recording or interception of a communication or conversation
31 incident to a lawfully recorded or intercepted communication or
32 conversation pursuant to this subsection shall be lawful and may be
33 divulged.

34 All recordings of communications or conversations made pursuant to
35 this subsection shall be retained for as long as any crime may be
36 charged based on the events or communications or conversations
37 recorded.

1 (3) Communications or conversations authorized to be intercepted,
2 recorded, or disclosed by this section shall not be inadmissible under
3 RCW 9.73.050.

4 (4) Authorizations issued under subsection (2) of this section
5 shall be effective for not more than seven days, after which period the
6 issuing authority may renew or continue the authorization for
7 additional periods not to exceed seven days.

8 (5) If the judge or magistrate determines that there is probable
9 cause to believe that the communication or conversation concerns the
10 unlawful manufacture, delivery, sale, or possession with intent to
11 manufacture, deliver, or sell, controlled substances as defined in
12 chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or
13 imitation controlled substances as defined in chapter 69.52 RCW, the
14 judge or magistrate may authorize the interception, transmission,
15 recording, or disclosure of communications or conversations under
16 subsection (2) of this section even though the true name of the
17 nonconsenting party, or the particular time and place for the
18 interception, transmission, recording, or disclosure, is not known at
19 the time of the request, if the authorization describes the
20 nonconsenting party and subject matter of the communication or
21 conversation with reasonable certainty under the circumstances. Any
22 such communication or conversation may be intercepted, transmitted,
23 recorded, or disclosed as authorized notwithstanding a change in the
24 time or location of the communication or conversation after the
25 authorization has been obtained or the presence of or participation in
26 the communication or conversation by any additional party not named in
27 the authorization.

28 Authorizations issued under this subsection shall be effective for
29 not more than fourteen days, after which period the issuing authority
30 may renew or continue the authorization for an additional period not to
31 exceed fourteen days.

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