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**HOUSE BILL 2903**

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**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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