

# FINAL BILL REPORT

## HB 1023

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Synopsis as Enacted

**Brief Description:** Eliminating wire tap authorization reporting to the administrative office of the courts.

**Sponsors:** Representatives Walen, Goodman, Reeves, Thai and Ormsby; by request of Administrative Office of the Courts.

**House Committee on Civil Rights & Judiciary**

**Senate Committee on Law & Justice**

### **Background:**

The Washington Privacy Act restricts the interception or recording of private communications or conversations. As a general rule, it is unlawful for any person to intercept or record a private communication or conversation without first obtaining the consent of all persons participating in the communication or conversation. The Privacy Act also prohibits the installation and use of pen registers and trap and trace devices, which record telephone numbers dialed from or coming into a telephone line, as well as cell site simulator devices. There are a number of exceptions to these restrictions, including provisions allowing court orders authorizing the interception and recording of private communications or conversations or use of such devices.

*Judicial Authorizations.* With prior judicial authorization, the police may intercept a communication without the consent of any party if there are reasonable grounds to believe evidence will be obtained that is essential to the protection of national security, the preservation of human life, or the prevention of arson or riot. Initial authorizations under this circumstance can last up to 15 days. If at least one party to a communication has consented, the police may get prior judicial authorization for an interception upon a showing of probable cause that the communication will reveal evidence of a felony. A court may authorize the installation and use of a pen register, trap and trace device, or cell site simulator device if the court finds that the information likely to be gained is relevant to an ongoing criminal investigation and there is probable cause to believe that the device will

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lead to evidence of a crime, contraband, fruits of crime, items criminally possessed, weapons, or things by means of which a crime has been committed or reasonably appears about to be committed.

*Reporting Requirements.* Judges of the superior courts are required to annually report on authorizations issued under the Privacy Act to the Administrative Office of the Courts (AOC), including authorizations for pen registers and trap and trace devices. The annual report must include information on: the number of applications made and authorizations issued; the periods of the authorizations; the number and duration of renewed authorizations; the crimes in connection with which the communications were sought; and the names of the applicants.

Superior court judges must also report to the AOC specified information relating to requests for authorizations to intercept and record communications where one party has consented within 30 days after expiration of the authorization. These reports must include specified information relating to the authorization, including the offense specified in the authorization; the law enforcement officer and agency for whom it was made; and whether an arrest resulted from the communication that was the subject of the authorization.

In addition, the Chief Justice of the Washington Supreme Court must annually report to the Governor and the Legislature on operation of the Privacy Act, including recommended improvements to effectuate the purposes of the act and assure and protect individual rights.

**Summary:**

The provision is repealed that requires reports to the AOC from superior court judges concerning the operation of and judicial authorizations issued under the Privacy Act, as well as the annual report from the Chief Justice of the Washington Supreme Court on operation of and recommended improvements to the Privacy Act.

**Votes on Final Passage:**

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| House  | 90 | 5 |
| Senate | 48 | 0 |

**Effective:** July 23, 2023