

2 **SHB 2903** - S AMD - 203
3 By Senators Heavey and McCaslin

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 9.73.090 and 1989 c 271 s 205 are each amended to
8 read as follows:

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

12 (a) Recording incoming telephone calls to police and fire stations,
13 licensed emergency medical service providers, emergency communication
14 centers, and poison centers;

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

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

22 (ii) The recording shall commence with an indication of the time of
23 the beginning thereof and terminate with an indication of the time
24 thereof;

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

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

30 (c) Sound recordings that correspond to video images recorded by
31 video cameras mounted in law enforcement vehicles. All law enforcement
32 officers wearing a sound recording device that makes recordings
33 corresponding to videos recorded by video cameras mounted in law
34 enforcement vehicles must be in uniform. Such sound recordings shall
35 not be divulged or used by any law enforcement agency for any
36 commercial purpose.

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

20 Any recording or interception of a communication or conversation
21 incident to a lawfully recorded or intercepted communication or
22 conversation pursuant to this subsection shall be lawful and may be
23 divulged.

24 All recordings of communications or conversations made pursuant to
25 this subsection shall be retained for as long as any crime may be
26 charged based on the events or communications or conversations
27 recorded.

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

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

35 (5) If the judge or magistrate determines that there is probable
36 cause to believe that the communication or conversation concerns the
37 unlawful manufacture, delivery, sale, or possession with intent to
38 manufacture, deliver, or sell, controlled substances as defined in
39 chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or

1 imitation controlled substances as defined in chapter 69.52 RCW, the
2 judge or magistrate may authorize the interception, transmission,
3 recording, or disclosure of communications or conversations under
4 subsection (2) of this section even though the true name of the
5 nonconsenting party, or the particular time and place for the
6 interception, transmission, recording, or disclosure, is not known at
7 the time of the request, if the authorization describes the
8 nonconsenting party and subject matter of the communication or
9 conversation with reasonable certainty under the circumstances. Any
10 such communication or conversation may be intercepted, transmitted,
11 recorded, or disclosed as authorized notwithstanding a change in the
12 time or location of the communication or conversation after the
13 authorization has been obtained or the presence of or participation in
14 the communication or conversation by any additional party not named in
15 the authorization.

16 Authorizations issued under this subsection shall be effective for
17 not more than fourteen days, after which period the issuing authority
18 may renew or continue the authorization for an additional period not to
19 exceed fourteen days."

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23 On page 1, line 1 of the title, after "recordings;" strike the
24 remainder of the title and insert "and amending RCW 9.73.090."

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