

CERTIFICATION OF ENROLLMENT
SUBSTITUTE HOUSE BILL 2903

56th Legislature
2000 Regular Session

Passed by the House March 8, 2000
Yeas 96 Nays 2

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate March 7, 2000
Yeas 44 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2903** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2903

AS AMENDED BY THE SENATE

Passed Legislature - 2000 Regular Session

State of Washington 56th Legislature 2000 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Delvin, Lovick, B. Chandler, Grant, Hankins, Lisk, Buck, Ballasiotes, O'Brien, Hurst, Talcott and Fortunato)

Read first time 02/03/2000. Referred to Committee on .

1 AN ACT Relating to law enforcement sound recordings; amending RCW
2 9.73.090 and 9.73.080; creating a new section; and prescribing
3 penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature intends, by the enactment of
6 this act, to provide a very limited exception to the restrictions on
7 disclosure of intercepted communications.

8 **Sec. 2.** RCW 9.73.090 and 1989 c 271 s 205 are each amended to read
9 as follows:

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

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

16 (b) Video and/or sound recordings may be made of arrested persons
17 by police officers responsible for making arrests or holding persons in

1 custody before their first appearance in court. Such video and/or
2 sound recordings shall conform strictly to the following:

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

6 (ii) The recording shall commence with an indication of the time of
7 the beginning thereof and terminate with an indication of the time
8 thereof;

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

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

14 (c) Sound recordings that correspond to video images recorded by
15 video cameras mounted in law enforcement vehicles. All law enforcement
16 officers wearing a sound recording device that makes recordings
17 corresponding to videos recorded by video cameras mounted in law
18 enforcement vehicles must be in uniform. A sound recording device
19 which makes a recording pursuant to this subsection (1)(c) may only be
20 operated simultaneously with the video camera. No sound recording
21 device may be intentionally turned off by the law enforcement officer
22 during the operation of the video camera.

23 No sound or video recording made under this subsection (1)(c) may
24 be duplicated and made available to the public by a law enforcement
25 agency subject to this section until final disposition of any criminal
26 or civil litigation which arises from the incident or incidents which
27 were recorded. Such sound recordings shall not be divulged or used by
28 any law enforcement agency for any commercial purpose.

29 A law enforcement officer shall inform any person being recorded by
30 sound under this subsection (1)(c) that a sound recording is being made
31 and the statement so informing the person shall be included in the
32 sound recording, except that the law enforcement officer is not
33 required to inform the person being recorded if the person is being
34 recorded under exigent circumstances. A law enforcement officer is not
35 required to inform a person being recorded by video under this
36 subsection (1)(c) that the person is being recorded by video.

37 (2) It shall not be unlawful for a law enforcement officer acting
38 in the performance of the officer's official duties to intercept,
39 record, or disclose an oral communication or conversation where the

1 officer is a party to the communication or conversation or one of the
2 parties to the communication or conversation has given prior consent to
3 the interception, recording, or disclosure: PROVIDED, That prior to
4 the interception, transmission, or recording the officer shall obtain
5 written or telephonic authorization from a judge or magistrate, who
6 shall approve the interception, recording, or disclosure of
7 communications or conversations with a nonconsenting party for a
8 reasonable and specified period of time, if there is probable cause to
9 believe that the nonconsenting party has committed, is engaged in, or
10 is about to commit a felony: PROVIDED HOWEVER, That if such
11 authorization is given by telephone the authorization and officer's
12 statement justifying such authorization must be electronically recorded
13 by the judge or magistrate on a recording device in the custody of the
14 judge or magistrate at the time transmitted and the recording shall be
15 retained in the court records and reduced to writing as soon as
16 possible thereafter.

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

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

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

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

32 (5) If the judge or magistrate determines that there is probable
33 cause to believe that the communication or conversation concerns the
34 unlawful manufacture, delivery, sale, or possession with intent to
35 manufacture, deliver, or sell, controlled substances as defined in
36 chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or
37 imitation controlled substances as defined in chapter 69.52 RCW, the
38 judge or magistrate may authorize the interception, transmission,
39 recording, or disclosure of communications or conversations under

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

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

17 **Sec. 3.** RCW 9.73.080 and 1989 c 271 s 209 are each amended to read
18 as follows:

19 (1) Except as otherwise provided in this chapter, any person who
20 violates RCW 9.73.030 is guilty of a gross misdemeanor.

21 (2) Any person who knowingly alters, erases, or wrongfully
22 discloses any recording in violation of RCW 9.73.090(1)(c) is guilty of
23 a gross misdemeanor.

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