

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 840
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40525-ML-120

Short Title: Intercept Communications/All Party Consent. (Public)

Sponsors: Representative Moffitt.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE INTERCEPTION AND DISCLOSURE OF A WIRE, ORAL,
3 OR ELECTRONIC COMMUNICATION WITHOUT THE CONSENT OF ALL PARTIES
4 TO THE COMMUNICATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 15A-287 reads as rewritten:

7 "§ 15A-287. **Interception and disclosure of wire, oral, or electronic communications**
8 **prohibited.**

9 (a) Except as otherwise specifically provided in this Article, a person is guilty of a Class
10 H felony if, without the prior consent of at least one party ~~all parties~~ to the communication, the
11 ~~person~~ person does any of the following:

12 (1) Willfully intercepts, endeavors to intercept, or procures any other person to
13 intercept or endeavor to intercept, any wire, oral, or electronic
14 communication.

15 (2) Willfully uses, endeavors to use, or procures any other person to use or
16 endeavor to use any electronic, mechanical, or other device to intercept any
17 oral communication ~~when~~ when either of the following applies:

18 a. The device is affixed to, or otherwise transmits a signal through, a
19 wire, cable, or other like connection used in wire ~~communications;~~
20 ~~or communications.~~

21 b. The device transmits communications by radio, or interferes with the
22 transmission of such communications.

23 (3) Willfully discloses, or endeavors to disclose, to any other person the contents
24 of any wire, oral, or electronic communication, knowing or having reason to
25 know that the information was obtained through violation of this ~~Article;~~
26 ~~or Article.~~

27 (4) Willfully uses, or endeavors to use, the contents of any wire or oral
28 communication, knowing or having reason to know that the information was
29 obtained through the interception of a wire or oral communication in violation
30 of this Article.

31 (b) It is not unlawful under this Article for any person ~~to~~ to do any of the following:

32 (1) Intercept or access an electronic communication made through an electronic
33 communication system that is configured so that the electronic
34 communication is readily accessible to the general ~~public;~~ public.

35 (2) Intercept any radio communication which is ~~transmitted;~~ transmitted in
36 accordance with any of the following:



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- 1 a. For use by the general public, or that relates to ships, aircraft, vehicles,
2 or persons in ~~distress~~; distress.
- 3 b. By any governmental, law enforcement, civil defense, private land
4 mobile, or public safety communication system, including police and
5 fire, readily available to the general ~~public~~; public.
- 6 c. By a station operating on any authorized band within the bands
7 allocated to the amateur, citizens band, or general mobile radio
8 ~~services~~; or services.
- 9 d. By any marine or aeronautical communication ~~system~~; or system.
- 10 (3) Intercept any communication in a manner otherwise allowed by Chapter 119
11 of the United States Code.
- 12 (4) For an investigative or law enforcement officer, or a person acting under the
13 direction of an investigative or law enforcement officer, to intercept a wire,
14 oral, or electronic communication when both of the following requirements
15 are met:
- 16 a. The officer, or person acting under the direction of the officer, is a
17 party to the communication, or one of the parties to the conversation
18 has given prior consent to the interception of the communication.
- 19 b. The purpose of the interception is to obtain evidence of a criminal act.
- 20 (5) For a law enforcement officer to intercept a communication as part of making
21 a recording from a body-worn camera or dashboard camera, as those terms are
22 defined in G.S. 132-1.4A, during the course of the officer's official duties.
- 23 (6) For an employee of a telephone company to intercept a wire communication
24 for the sole purpose of tracing the origin of the communication when the
25 interception is requested by the recipient of the communication and the
26 recipient alleges that the communication is obscene, harassing, or threatening
27 in nature. Within 48 hours after the time of the interception, the individual
28 conducting the interception under this subdivision shall provide notice of the
29 interception to the local law enforcement agency that has the primary
30 responsibility for enforcing the criminal laws in the location in which the
31 interception occurred.
- 32 (7) For an employee of a public utility as defined in G.S. 62-3, or a law
33 enforcement agency, fire department, ambulance company, or other
34 emergency medical services provider, when receiving or responding to an
35 emergency call, to intercept or disclose a communication, while engaged in
36 any activity which is a necessary incident to the rendition of service or the
37 protection of life or property.
- 38 (c) It is not unlawful under this Article for an operator of a switchboard, or an officer,
39 employee, or agent of a provider of electronic communication service, whose facilities are used
40 in the transmission of a wire or electronic communication, to intercept, disclose, or use that
41 communication in the normal course of employment while engaged in any activity that is a
42 necessary incident to the rendition of his or her service or to the protection of the rights or
43 property of the provider of that service, provided that a provider of wire or electronic
44 communication service may not utilize service observing or random monitoring except for
45 mechanical or service quality control checks.
- 46 (d) It is not unlawful under this Article for an officer, employee, or agent of the Federal
47 Communications Commission, in the normal course of his employment and in discharge of the
48 monitoring responsibilities exercised by the Commission in the enforcement of Chapter 5 of Title
49 47 of the United States Code, to intercept a wire or electronic communication, or oral
50 communication transmitted by radio, or to disclose or use the information thereby obtained.

1 (e) Any person who, as a result of the person's official position or employment, has
2 obtained knowledge of the contents of any wire, oral, or electronic communication lawfully
3 intercepted pursuant to an electronic surveillance order or of the pendency or existence of or
4 implementation of an electronic surveillance order who shall knowingly and willfully disclose
5 such information for the purpose of hindering or thwarting any investigation or prosecution
6 relating to the subject matter of the electronic surveillance order, except as is necessary for the
7 proper and lawful performance of the duties of his position or employment or as shall be required
8 or allowed by law, shall be guilty of a Class G felony.

9 (f) Any person who shall, knowingly or with gross negligence, divulge the existence of
10 or contents of any electronic surveillance order in a way likely to hinder or thwart any
11 investigation or prosecution relating to the subject matter of the electronic surveillance order or
12 anyone who shall, knowingly or with gross negligence, release the contents of any wire, oral, or
13 electronic communication intercepted under an electronic surveillance order, except as is
14 necessary for the proper and lawful performance of the duties of his position or employment or
15 as is required or allowed by law, shall be guilty of a Class 1 misdemeanor.

16 (g) Any public officer who shall violate subsection (a) or (d) of this section or who shall
17 knowingly violate subsection (e) of this section shall be removed from any public office ~~he~~the
18 officer may hold and shall thereafter be ineligible to hold any public office, whether elective or
19 appointed."

20 **SECTION 2.** This act becomes effective December 1, 2021, and applies to offenses
21 committed on or after that date.