

DATE: April 1, 1980

80-27

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. R. Heath <i>RH</i>	P. Liepshutz <i>WV</i>	1. J. Crim.	_____
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

SUBJECT: Interception of Communications

BILL No. AND SPONSOR: SB 410 by Senator Beard

I. SUMMARY:

A. Present Situation:

Section 934.03, Florida Statutes, states that it is generally unlawful for a person to intercept a wire or oral communication unless all parties to the communication have given their consent. Section 934.03(2) provides that a law enforcement officer, or a person acting under the direction of a law enforcement officer, may lawfully intercept a wire or oral communication when such person is a party to the communication, or has given his prior consent to the interception, and the purpose of the interception is to obtain evidence of criminal activity. In addition, licensed ambulance services, fire stations employing firefighters, public utilities, public entities with published emergency numbers, or any agency which operates an emergency telephone number "911" system, may intercept and record incoming wire communications on such published emergency telephone numbers.

B. Effect of Proposed Changes:

This bill adds subsection (10) to section 934.02, Florida Statutes, defining "law enforcement agency" as any agency of the United States, Florida, or a political subdivision of Florida "if the primary responsibility of the agency is the prevention and detection of crime or enforcement of the penal, traffic, or highway laws of this state, and its agents and officers are empowered by law to conduct criminal investigations and to make arrests."

The bill also allows a law enforcement agency, as defined in s. 934.02(10), Florida Statutes, to lawfully intercept and record incoming wire communications on published emergency telephone numbers.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: None.

B. Government: None.

III. COMMENTS:

This bill is very similar to Senate Bill 365 by Senator Fechtel. That bill also provides that a law enforcement agency may lawfully intercept and record incoming wire communications on published emergency telephone numbers.

However, "law enforcement agency" in that bill is defined in s. 934.22, Florida Statutes, and is incorporated by reference into s. 934.02(2)(g), Florida Statutes. The definitions in the two bills are very similar.

IV. AMENDMENTS:

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DATE: April 17, 1980 (UPDATED)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. R. Heath <i>EH</i>	P. Liepshutz <i>WNL</i>	1. J. Crim.	Favorable
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

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However, "law enforcement agency" in that bill is defined in s. 934.22, Florida Statutes, and is incorporated by reference into s. 934.02(2)(g), Florida Statutes. The definitions in the two bills are very similar.

IV. AMENDMENTS:

None.

DATE: June 24, 1980 (UPDATED).

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. R. Heath <i>RH</i>	P. Liepshutz <i>WML</i>	1. J. Crim.	Favorable
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

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BILL NO. AND SPONSOR: SB 410 by Senator Beard

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II. ECONOMIC IMPACT AND FISCAL NOTE:

- A. Public: None.
- B. Government: None.

III. COMMENTS:

This bill is very similar to Senate Bill 365 by Senator Fechtel. That bill also provides that a law enforcement agency may lawfully intercept and record incoming wire communications on published emergency telephone numbers.

However, "law enforcement agency" in that bill is defined in s. 934.22, Florida Statutes, and is incorporated by reference into s. 934.02(2)(g), Florida Statutes. The definitions in the two bills are very similar.

FINAL UPDATE: CS/HB 532 & 630 was substituted for SB 410 and passed the Senate, 39-0, and approved by the Governor on May 20, 1980. Assigned Chapter 80-27, Laws of Florida.

BILL ACTION REPORT

(CS-75: File with Secretary of Senate)

(S) ~~(XX)~~ BILL NO. 410

COMMITTEE ON JUDICIARY-CRIMINAL

DATE April 17, 1980

Date Reported April 18, 1980

TIME 9:00 a.m. - 12 noon

FINAL ACTION:

PLACE Room "C" Senate Office Building

X Favorably with \_\_\_\_\_ amendments

OTHER COMMITTEE REFERENCES:  
(In order shown)

\_\_\_\_\_ Favorably with Committee Substitute

\_\_\_\_\_ Unfavorably

OTHER: \_\_\_\_\_ Temporarily Passed

\_\_\_\_\_ Reconsidered

\_\_\_\_\_ Not Considered

THE VOTE WAS:

FINAL BILL VOTE		SENATORS	Aye		Nay		Aye		Nay		Aye		Nay	
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay		
		BEARD												
		CARLUCCI												
BY	VOICE	DUNN												
	VOTE	POOLE												
		STEINBERG												
		MYERS												
		TOTAL												
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

(Attach additional page if necessary)

Please Complete: The key sponsor appeared ( )  
 A Senator appeared ( )  
 Sponsor's aide appeared ( )  
 Other appearance ( )

March 11, 1980

HB 532 by Representative Kelly

Authorizes law enforcement agencies to intercept and record incoming wire communications.

Other Committees of Reference

Robert M. ...  
Chairman None

Edwin L. ...

I. Statement of the Problem

HB 534 Law enforcement agencies, such as a municipal police department, are not allowed to record incoming wire communications, although ambulance services, fire stations and public utilities are so authorized.

II. Fiscal Impact

Other ...  
None Apparent

III. Comments

A. Discussion

Presently, ambulance services, fire stations, public utilities and agencies operating an emergency telephone number "911" system are authorized under §934.03(2)(g), Florida Statutes, to intercept and record incoming wire communications. The specific language of the statute does not include law enforcement agencies, such as a municipal police department, within the list of agencies so authorized to intercept and record incoming telephone calls. The statute's language does authorize "any other entity with published telephone numbers" to so record emergency calls but it is the opinion of the Attorney General that "a municipal police department is not an "other entity" within the purview of §934.03(2)(g)1, Florida Statutes. See AGO 079-93.

This legislation would clear up any possible ambiguity by adding law enforcement agencies to those entities authorized to intercept and record incoming wire communications.

B. Constitutionality

The bill appears to be constitutional.

C. Legislative Intent

Adequately expressed.

IV. Amendments

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