



Rep. Elaine Nekritz

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1 AMENDMENT TO SENATE BILL 1004

2 AMENDMENT NO. _____. Amend Senate Bill 1004 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 14-1, 14-2, 14-3, 14-4, and 14-5 as follows:

6 (720 ILCS 5/14-1) (from Ch. 38, par. 14-1)

7 Sec. 14-1. Definitions ~~Definition~~.

8 (a) Eavesdropping device.

9 An eavesdropping device is any device capable of being used
10 to hear or record oral conversation or intercept, ~~retain,~~ or
11 transcribe electronic communications whether such conversation
12 or electronic communication is conducted in person, by
13 telephone, or by any other means; Provided, however, that this
14 definition shall not include devices used for the restoration
15 of the deaf or hard-of-hearing to normal or partial hearing.

16 (b) Eavesdropper.

1 An eavesdropper is any person, including any law
2 enforcement officer and any party to a private conversation
3 ~~officers, who is a principal, as defined in this Article, or~~
4 who operates or participates in the operation of any
5 eavesdropping device contrary to the provisions of this Article
6 or who acts as a principal, as defined in this Article.

7 (c) Principal.

8 A principal is any person who:

9 (1) Knowingly employs another who illegally uses an
10 eavesdropping device in the course of such employment; or

11 (2) Knowingly derives any benefit or information from
12 the illegal use of an eavesdropping device by another; or

13 (3) Directs another to use an eavesdropping device
14 illegally on his or her behalf.

15 (d) Private conversation ~~Conversation~~.

16 For the purposes of this Article, "private ~~the term~~
17 conversation" means any oral communication between 2 or more
18 persons, whether in person or transmitted between the parties
19 by wire or other means, when ~~regardless of whether~~ one or more
20 of the parties intended the ~~their~~ communication to be of a
21 private nature under circumstances reasonably justifying that
22 expectation. A reasonable expectation shall include any
23 expectation recognized by law, including, but not limited to,
24 an expectation derived from a privilege, immunity, or right
25 established by common law, Supreme Court rule, or the Illinois
26 or United States Constitution.

1 (e) Private electronic ~~Electronic~~ communication.

2 For purposes of this Article, ~~the term~~ "private electronic
3 communication" means any transfer of signs, signals, writing,
4 images, sounds, data, or intelligence of any nature transmitted
5 in whole or part by a wire, radio, pager, computer,
6 electromagnetic, photo electronic or photo optical system,
7 when where the sending or and receiving party intends parties
8 intend the electronic communication to be private under
9 circumstances reasonably justifying that expectation. A
10 reasonable expectation shall include any expectation
11 recognized by law, including, but not limited to, an
12 expectation derived from a privilege, immunity, or right
13 established by common law, Supreme Court rule, or the Illinois
14 or United States Constitution ~~and the interception, recording,~~
15 ~~or transcription of the electronic communication is~~
16 ~~accomplished by a device in a surreptitious manner contrary to~~
17 ~~the provisions of this Article.~~ Electronic communication does
18 not include any communication from a tracking device.

19 (f) Bait car.

20 For purposes of this Article, "bait car" ~~the term bait car~~
21 means any motor vehicle that is not occupied by a law
22 enforcement officer and is used by a law enforcement agency to
23 deter, detect, identify, and assist in the apprehension of an
24 auto theft suspect in the act of stealing a motor vehicle.

25 (g) Surreptitious.

26 For purposes of this Article, "surreptitious" means

1 obtained or made by stealth or deception, or executed through
2 secrecy or concealment.

3 (Source: P.A. 95-258, eff. 1-1-08.)

4 (720 ILCS 5/14-2) (from Ch. 38, par. 14-2)

5 Sec. 14-2. Elements of the offense; affirmative defense.

6 (a) A person commits eavesdropping when he or she knowingly
7 and intentionally:

8 (1) Uses ~~Knowingly and intentionally~~ uses an
9 eavesdropping device, in a surreptitious manner, for the
10 purpose of overhearing, transmitting, ~~hearing~~ or recording
11 all or any part of any private conversation to which he or
12 she is not a party ~~or intercepts, retains, or transcribes~~
13 ~~electronic communication~~ unless he or she does so ~~(A)~~ with
14 the consent of all of the parties to the private ~~such~~
15 conversation ~~or electronic communication or (B) in~~
16 ~~accordance with Article 108A or Article 108B of the "Code~~
17 ~~of Criminal Procedure of 1963", approved August 14, 1963,~~
18 ~~as amended; or~~

19 (2) Uses an eavesdropping device, in a surreptitious
20 manner, for the purpose of transmitting or recording all or
21 any part of any private conversation to which he or she is
22 a party unless he or she does so with the consent of all
23 other parties to the private conversation;

24 (3) Intercepts, records, or transcribes, in a
25 surreptitious manner, any private electronic communication

1 to which he or she is not a party unless he or she does so
2 with the consent of all parties to the private electronic
3 communication;

4 (4) ~~(2)~~ Manufactures, assembles, distributes, or
5 possesses any electronic, mechanical, eavesdropping, or
6 other device knowing that or having reason to know that the
7 design of the device renders it primarily useful for the
8 purpose of the surreptitious overhearing, transmitting,
9 ~~hearing~~ or recording of private oral conversations or the
10 interception, ~~retention,~~ or transcription of private
11 electronic communications and the intended or actual use of
12 the device is contrary to the provisions of this Article;
13 or

14 (5) ~~(3)~~ Uses or discloses ~~divulges, except as~~
15 ~~authorized by this Article or by Article 108A or 108B of~~
16 ~~the "Code of Criminal Procedure of 1963", approved August~~
17 ~~14, 1963, as amended,~~ any information which he or she knows
18 or reasonably should know was obtained from a private
19 conversation or private electronic communication in
20 violation of this Article, unless he or she does so with
21 the consent of all of the parties.

22 (a-5) It does not constitute a violation of this Article to
23 surreptitiously use an eavesdropping device to overhear,
24 transmit, or record a private conversation, or to
25 surreptitiously intercept, record, or transcribe a private
26 electronic communication, if the overhearing, transmitting,

1 recording, interception, or transcription is done in
2 accordance with Article 108A or Article 108B of the Code of
3 Criminal Procedure of 1963. ~~through the use of an eavesdropping~~
4 ~~device.~~

5 (b) It is an affirmative defense to a charge brought under
6 this Article relating to the interception of a privileged
7 communication that the person charged:

8 1. was a law enforcement officer acting pursuant to an
9 order of interception, entered pursuant to Section 108A-1
10 or 108B-5 of the Code of Criminal Procedure of 1963; and

11 2. at the time the communication was intercepted, the
12 officer was unaware that the communication was privileged;
13 and

14 3. stopped the interception within a reasonable time
15 after discovering that the communication was privileged;
16 and

17 4. did not disclose the contents of the communication.

18 (c) It is not unlawful for a manufacturer or a supplier of
19 eavesdropping devices, or a provider of wire or electronic
20 communication services, their agents, employees, contractors,
21 or venders to manufacture, assemble, sell, or possess an
22 eavesdropping device within the normal course of their business
23 for purposes not contrary to this Article or for law
24 enforcement officers and employees of the Illinois Department
25 of Corrections to manufacture, assemble, purchase, or possess
26 an eavesdropping device in preparation for or within the course

1 of their official duties.

2 (d) The interception, recording, or transcription of an
3 electronic communication by an employee of a penal institution
4 is not prohibited under this Act, provided that the
5 interception, recording, or transcription is:

6 (1) otherwise legally permissible under Illinois law;

7 (2) conducted with the approval of the penal
8 institution for the purpose of investigating or enforcing a
9 State criminal law or a penal institution rule or
10 regulation with respect to inmates in the institution; and

11 (3) within the scope of the employee's official duties.

12 For the purposes of this subsection (d), "penal
13 institution" has the meaning ascribed to it in clause (c)(1) of
14 Section 31A-1.1.

15 (Source: P.A. 94-183, eff. 1-1-06.)

16 (720 ILCS 5/14-3)

17 Sec. 14-3. Exemptions. The following activities shall be
18 exempt from the provisions of this Article:

19 (a) Listening to radio, wireless electronic
20 communications, and television communications of any sort
21 where the same are publicly made;

22 (b) Hearing conversation when heard by employees of any
23 common carrier by wire incidental to the normal course of their
24 employment in the operation, maintenance or repair of the
25 equipment of such common carrier by wire so long as no

1 information obtained thereby is used or divulged by the hearer;

2 (c) Any broadcast by radio, television or otherwise whether
3 it be a broadcast or recorded for the purpose of later
4 broadcasts of any function where the public is in attendance
5 and the conversations are overheard incidental to the main
6 purpose for which such broadcasts are then being made;

7 (d) Recording or listening with the aid of any device to
8 any emergency communication made in the normal course of
9 operations by any federal, state or local law enforcement
10 agency or institutions dealing in emergency services,
11 including, but not limited to, hospitals, clinics, ambulance
12 services, fire fighting agencies, any public utility,
13 emergency repair facility, civilian defense establishment or
14 military installation;

15 (e) Recording the proceedings of any meeting required to be
16 open by the Open Meetings Act, as amended;

17 (f) Recording or listening with the aid of any device to
18 incoming telephone calls of phone lines publicly listed or
19 advertised as consumer "hotlines" by manufacturers or
20 retailers of food and drug products. Such recordings must be
21 destroyed, erased or turned over to local law enforcement
22 authorities within 24 hours from the time of such recording and
23 shall not be otherwise disseminated. Failure on the part of the
24 individual or business operating any such recording or
25 listening device to comply with the requirements of this
26 subsection shall eliminate any civil or criminal immunity

1 conferred upon that individual or business by the operation of
2 this Section;

3 (g) With prior notification to the State's Attorney of the
4 county in which it is to occur, recording or listening with the
5 aid of any device to any conversation where a law enforcement
6 officer, or any person acting at the direction of law
7 enforcement, is a party to the conversation and has consented
8 to it being intercepted or recorded under circumstances where
9 the use of the device is necessary for the protection of the
10 law enforcement officer or any person acting at the direction
11 of law enforcement, in the course of an investigation of a
12 forcible felony, a felony offense of involuntary servitude,
13 involuntary sexual servitude of a minor, or trafficking in
14 persons under Section 10-9 of this Code, an offense involving
15 prostitution, solicitation of a sexual act, or pandering, a
16 felony violation of the Illinois Controlled Substances Act, a
17 felony violation of the Cannabis Control Act, a felony
18 violation of the Methamphetamine Control and Community
19 Protection Act, any "streetgang related" or "gang-related"
20 felony as those terms are defined in the Illinois Streetgang
21 Terrorism Omnibus Prevention Act, or any felony offense
22 involving any weapon listed in paragraphs (1) through (11) of
23 subsection (a) of Section 24-1 of this Code. Any recording or
24 evidence derived as the result of this exemption shall be
25 inadmissible in any proceeding, criminal, civil or
26 administrative, except (i) where a party to the conversation

1 suffers great bodily injury or is killed during such
2 conversation, or (ii) when used as direct impeachment of a
3 witness concerning matters contained in the interception or
4 recording. The Director of the Department of State Police shall
5 issue regulations as are necessary concerning the use of
6 devices, retention of tape recordings, and reports regarding
7 their use;

8 (g-5) (Blank); ~~With approval of the State's Attorney of the~~
9 ~~county in which it is to occur, recording or listening with the~~
10 ~~aid of any device to any conversation where a law enforcement~~
11 ~~officer, or any person acting at the direction of law~~
12 ~~enforcement, is a party to the conversation and has consented~~
13 ~~to it being intercepted or recorded in the course of an~~
14 ~~investigation of any offense defined in Article 29D of this~~
15 ~~Code. In all such cases, an application for an order approving~~
16 ~~the previous or continuing use of an eavesdropping device must~~
17 ~~be made within 48 hours of the commencement of such use. In the~~
18 ~~absence of such an order, or upon its denial, any continuing~~
19 ~~use shall immediately terminate. The Director of State Police~~
20 ~~shall issue rules as are necessary concerning the use of~~
21 ~~devices, retention of tape recordings, and reports regarding~~
22 ~~their use.~~

23 ~~Any recording or evidence obtained or derived in the course~~
24 ~~of an investigation of any offense defined in Article 29D of~~
25 ~~this Code shall, upon motion of the State's Attorney or~~
26 ~~Attorney General prosecuting any violation of Article 29D, be~~

1 ~~reviewed in camera with notice to all parties present by the~~
2 ~~court presiding over the criminal case, and, if ruled by the~~
3 ~~court to be relevant and otherwise admissible, it shall be~~
4 ~~admissible at the trial of the criminal case.~~

5 ~~This subsection (g 5) is inoperative on and after January~~
6 ~~1, 2005. No conversations recorded or monitored pursuant to~~
7 ~~this subsection (g 5) shall be inadmissible in a court of law~~
8 ~~by virtue of the repeal of this subsection (g 5) on January 1,~~
9 ~~2005.~~

10 (g-6) With approval of the State's Attorney of the county
11 in which it is to occur, recording or listening with the aid of
12 any device to any conversation where a law enforcement officer,
13 or any person acting at the direction of law enforcement, is a
14 party to the conversation and has consented to it being
15 intercepted or recorded in the course of an investigation of
16 ~~involuntary servitude, involuntary sexual servitude of a~~
17 ~~minor, trafficking in persons,~~ child pornography, aggravated
18 child pornography, indecent solicitation of a child, ~~child~~
19 ~~abduction,~~ luring of a minor, sexual exploitation of a child,
20 ~~predatory criminal sexual assault of a child,~~ aggravated
21 criminal sexual abuse in which the victim of the offense was at
22 the time of the commission of the offense under 18 years of
23 age, or criminal sexual abuse by force or threat of force in
24 which the victim of the offense was at the time of the
25 commission of the offense under 18 years of age, ~~or aggravated~~
26 ~~criminal sexual assault in which the victim of the offense was~~

1 ~~at the time of the commission of the offense under 18 years of~~
2 ~~age.~~ In all such cases, an application for an order approving
3 the previous or continuing use of an eavesdropping device must
4 be made within 48 hours of the commencement of such use. In the
5 absence of such an order, or upon its denial, any continuing
6 use shall immediately terminate. The Director of State Police
7 shall issue rules as are necessary concerning the use of
8 devices, retention of recordings, and reports regarding their
9 use. Any recording or evidence obtained or derived in the
10 course of an investigation of ~~involuntary servitude,~~
11 ~~involuntary sexual servitude of a minor, trafficking in~~
12 ~~persons,~~ child pornography, aggravated child pornography,
13 indecent solicitation of a child, ~~child abduction,~~ luring of a
14 minor, sexual exploitation of a child, ~~predatory criminal~~
15 ~~sexual assault of a child,~~ aggravated criminal sexual abuse in
16 which the victim of the offense was at the time of the
17 commission of the offense under 18 years of age, or criminal
18 sexual abuse by force or threat of force in which the victim of
19 the offense was at the time of the commission of the offense
20 under 18 years of age, ~~or aggravated criminal sexual assault in~~
21 ~~which the victim of the offense was at the time of the~~
22 ~~commission of the offense under 18 years of age~~ shall, upon
23 motion of the State's Attorney or Attorney General prosecuting
24 any case involving ~~involuntary servitude, involuntary sexual~~
25 ~~servitude of a minor, trafficking in persons,~~ child
26 pornography, aggravated child pornography, indecent

1 solicitation of a child, ~~child abduction,~~ luring of a minor,
2 sexual exploitation of a child, ~~predatory criminal sexual~~
3 ~~assault of a child,~~ aggravated criminal sexual abuse in which
4 the victim of the offense was at the time of the commission of
5 the offense under 18 years of age, or criminal sexual abuse by
6 force or threat of force in which the victim of the offense was
7 at the time of the commission of the offense under 18 years of
8 age, ~~or aggravated criminal sexual assault in which the victim~~
9 ~~of the offense was at the time of the commission of the offense~~
10 ~~under 18 years of age,~~ be reviewed in camera with notice to all
11 parties present by the court presiding over the criminal case,
12 and, if ruled by the court to be relevant and otherwise
13 admissible, it shall be admissible at the trial of the criminal
14 case. Absent such a ruling, any such recording or evidence
15 shall not be admissible at the trial of the criminal case;

16 (h) Recordings made simultaneously with the use of an
17 in-car video camera recording of an oral conversation between a
18 uniformed peace officer, who has identified his or her office,
19 and a person in the presence of the peace officer whenever (i)
20 an officer assigned a patrol vehicle is conducting an
21 enforcement stop; or (ii) patrol vehicle emergency lights are
22 activated or would otherwise be activated if not for the need
23 to conceal the presence of law enforcement.

24 For the purposes of this subsection (h), "enforcement stop"
25 means an action by a law enforcement officer in relation to
26 enforcement and investigation duties, including but not

1 limited to, traffic stops, pedestrian stops, abandoned vehicle
2 contacts, motorist assists, commercial motor vehicle stops,
3 roadside safety checks, requests for identification, or
4 responses to requests for emergency assistance;

5 (h-5) Recordings of utterances made by a person while in
6 the presence of a uniformed peace officer and while an occupant
7 of a police vehicle including, but not limited to, (i)
8 recordings made simultaneously with the use of an in-car video
9 camera and (ii) recordings made in the presence of the peace
10 officer utilizing video or audio systems, or both, authorized
11 by the law enforcement agency;

12 (h-10) Recordings made simultaneously with a video camera
13 recording during the use of a taser or similar weapon or device
14 by a peace officer if the weapon or device is equipped with
15 such camera;

16 (h-15) Recordings made under subsection (h), (h-5), or
17 (h-10) shall be retained by the law enforcement agency that
18 employs the peace officer who made the recordings for a storage
19 period of 90 days, unless the recordings are made as a part of
20 an arrest or the recordings are deemed evidence in any
21 criminal, civil, or administrative proceeding and then the
22 recordings must only be destroyed upon a final disposition and
23 an order from the court. Under no circumstances shall any
24 recording be altered or erased prior to the expiration of the
25 designated storage period. Upon completion of the storage
26 period, the recording medium may be erased and reissued for

1 operational use;

2 (i) Recording of a conversation made by or at the request
3 of a person, not a law enforcement officer or agent of a law
4 enforcement officer, who is a party to the conversation, under
5 reasonable suspicion that another party to the conversation is
6 committing, is about to commit, or has committed a criminal
7 offense against the person or a member of his or her immediate
8 household, and there is reason to believe that evidence of the
9 criminal offense may be obtained by the recording;

10 (j) The use of a telephone monitoring device by either (1)
11 a corporation or other business entity engaged in marketing or
12 opinion research or (2) a corporation or other business entity
13 engaged in telephone solicitation, as defined in this
14 subsection, to record or listen to oral telephone solicitation
15 conversations or marketing or opinion research conversations
16 by an employee of the corporation or other business entity
17 when:

18 (i) the monitoring is used for the purpose of service
19 quality control of marketing or opinion research or
20 telephone solicitation, the education or training of
21 employees or contractors engaged in marketing or opinion
22 research or telephone solicitation, or internal research
23 related to marketing or opinion research or telephone
24 solicitation; and

25 (ii) the monitoring is used with the consent of at
26 least one person who is an active party to the marketing or

1 opinion research conversation or telephone solicitation
2 conversation being monitored.

3 No communication or conversation or any part, portion, or
4 aspect of the communication or conversation made, acquired, or
5 obtained, directly or indirectly, under this exemption (j), may
6 be, directly or indirectly, furnished to any law enforcement
7 officer, agency, or official for any purpose or used in any
8 inquiry or investigation, or used, directly or indirectly, in
9 any administrative, judicial, or other proceeding, or divulged
10 to any third party.

11 When recording or listening authorized by this subsection
12 (j) on telephone lines used for marketing or opinion research
13 or telephone solicitation purposes results in recording or
14 listening to a conversation that does not relate to marketing
15 or opinion research or telephone solicitation; the person
16 recording or listening shall, immediately upon determining
17 that the conversation does not relate to marketing or opinion
18 research or telephone solicitation, terminate the recording or
19 listening and destroy any such recording as soon as is
20 practicable.

21 Business entities that use a telephone monitoring or
22 telephone recording system pursuant to this exemption (j) shall
23 provide current and prospective employees with notice that the
24 monitoring or recordings may occur during the course of their
25 employment. The notice shall include prominent signage
26 notification within the workplace.

1 Business entities that use a telephone monitoring or
2 telephone recording system pursuant to this exemption (j) shall
3 provide their employees or agents with access to personal-only
4 telephone lines which may be pay telephones, that are not
5 subject to telephone monitoring or telephone recording.

6 For the purposes of this subsection (j), "telephone
7 solicitation" means a communication through the use of a
8 telephone by live operators:

9 (i) soliciting the sale of goods or services;

10 (ii) receiving orders for the sale of goods or
11 services;

12 (iii) assisting in the use of goods or services; or

13 (iv) engaging in the solicitation, administration, or
14 collection of bank or retail credit accounts.

15 For the purposes of this subsection (j), "marketing or
16 opinion research" means a marketing or opinion research
17 interview conducted by a live telephone interviewer engaged by
18 a corporation or other business entity whose principal business
19 is the design, conduct, and analysis of polls and surveys
20 measuring the opinions, attitudes, and responses of
21 respondents toward products and services, or social or
22 political issues, or both;

23 (k) Electronic recordings, including but not limited to, a
24 motion picture, videotape, digital, or other visual or audio
25 recording, made of a custodial interrogation of an individual
26 at a police station or other place of detention by a law

1 enforcement officer under Section 5-401.5 of the Juvenile Court
2 Act of 1987 or Section 103-2.1 of the Code of Criminal
3 Procedure of 1963;

4 (l) Recording the interview or statement of any person when
5 the person knows that the interview is being conducted by a law
6 enforcement officer or prosecutor and the interview takes place
7 at a police station that is currently participating in the
8 Custodial Interview Pilot Program established under the
9 Illinois Criminal Justice Information Act;

10 (m) An electronic recording, including but not limited to,
11 a motion picture, videotape, digital, or other visual or audio
12 recording, made of the interior of a school bus while the
13 school bus is being used in the transportation of students to
14 and from school and school-sponsored activities, when the
15 school board has adopted a policy authorizing such recording,
16 notice of such recording policy is included in student
17 handbooks and other documents including the policies of the
18 school, notice of the policy regarding recording is provided to
19 parents of students, and notice of such recording is clearly
20 posted on the door of and inside the school bus.

21 Recordings made pursuant to this subsection (m) shall be
22 confidential records and may only be used by school officials
23 (or their designees) and law enforcement personnel for
24 investigations, school disciplinary actions and hearings,
25 proceedings under the Juvenile Court Act of 1987, and criminal
26 prosecutions, related to incidents occurring in or around the

1 school bus;

2 (n) Recording or listening to an audio transmission from a
3 microphone placed by a person under the authority of a law
4 enforcement agency inside a bait car surveillance vehicle while
5 simultaneously capturing a photographic or video image;

6 (o) The use of an eavesdropping camera or audio device
7 during an ongoing hostage or barricade situation by a law
8 enforcement officer or individual acting on behalf of a law
9 enforcement officer when the use of such device is necessary to
10 protect the safety of the general public, hostages, or law
11 enforcement officers or anyone acting on their behalf;

12 (p) Recording or listening with the aid of any device to
13 incoming telephone calls of phone lines publicly listed or
14 advertised as the "CPS Violence Prevention Hotline", but only
15 where the notice of recording is given at the beginning of each
16 call as required by Section 34-21.8 of the School Code. The
17 recordings may be retained only by the Chicago Police
18 Department or other law enforcement authorities, and shall not
19 be otherwise retained or disseminated;

20 (q) (1) With prior request to and written or verbal approval
21 of the State's Attorney of the county in which the conversation
22 is anticipated to occur, recording or listening with the aid of
23 an eavesdropping device to a conversation in which a law
24 enforcement officer, or any person acting at the direction of a
25 law enforcement officer, is a party to the conversation and has
26 consented to the conversation being intercepted or recorded in

1 the course of an investigation of a qualified ~~drug~~ offense. The
2 State's Attorney may grant this ~~verbal~~ approval only after
3 determining that reasonable cause exists to believe that
4 inculpatory conversations concerning a qualified ~~drug~~ offense
5 will occur with ~~be committed by~~ a specified individual or
6 individuals within a designated period of time.

7 (2) Request for approval. To invoke the exception contained
8 in this subsection (q), a law enforcement officer shall make a
9 ~~written or verbal~~ request for approval to the appropriate
10 State's Attorney. The request may be written or verbal;
11 however, a written memorialization of the request must be made
12 by the State's Attorney. This request for approval shall
13 include whatever information is deemed necessary by the State's
14 Attorney but shall include, at a minimum, the following
15 information about each specified individual whom the law
16 enforcement officer believes will commit a qualified ~~drug~~
17 offense:

18 (A) his or her full or partial name, nickname or alias;

19 (B) a physical description; or

20 (C) failing either (A) or (B) of this paragraph (2),
21 any other supporting information known to the law
22 enforcement officer at the time of the request that gives
23 rise to reasonable cause to believe that the specified
24 individual will participate in an inculpatory conversation
25 concerning a qualified ~~commit a drug~~ offense.

26 (3) Limitations on ~~verbal~~ approval. Each written ~~verbal~~

1 approval by the State's Attorney under this subsection (q)
2 shall be limited to:

3 (A) a recording or interception conducted by a
4 specified law enforcement officer or person acting at the
5 direction of a law enforcement officer;

6 (B) recording or intercepting conversations with the
7 individuals specified in the request for approval,
8 provided that the verbal approval shall be deemed to
9 include the recording or intercepting of conversations
10 with other individuals, unknown to the law enforcement
11 officer at the time of the request for approval, who are
12 acting in conjunction with or as co-conspirators with the
13 individuals specified in the request for approval in the
14 commission of a qualified drug offense;

15 (C) a reasonable period of time but in no event longer
16 than 24 consecutive hours; ~~;~~

17 (D) the written request for approval, if applicable, or
18 the written memorialization must be filed, along with the
19 written approval, with the circuit clerk of the
20 jurisdiction on the next business day following the
21 expiration of the authorized period of time, and shall be
22 subject to review by the Chief Judge or his or her designee
23 as deemed appropriate by the court.

24 (3.5) The written memorialization of the request for
25 approval and the written approval by the State's Attorney may
26 be in any format, including via facsimile, email, or otherwise,

1 so long as it is capable of being filed with the circuit clerk.

2 (3.10) Beginning March 1, 2015, each State's Attorney shall
3 annually submit a report to the General Assembly disclosing:

4 (A) the number of requests for each qualified offense
5 for approval under this subsection; and

6 (B) the number of approvals for each qualified offense
7 given by the State's Attorney.

8 (4) Admissibility of evidence. No part of the contents of
9 any wire, electronic, or oral communication that has been
10 recorded or intercepted as a result of this exception may be
11 received in evidence in any trial, hearing, or other proceeding
12 in or before any court, grand jury, department, officer,
13 agency, regulatory body, legislative committee, or other
14 authority of this State, or a political subdivision of the
15 State, other than in a prosecution of:

16 (A) the qualified ~~a drug~~ offense for which approval was
17 given to record or intercept a conversation under this
18 subsection (q);

19 (B) a forcible felony committed directly in the course
20 of the investigation of the qualified ~~a drug~~ offense for
21 which ~~verbal~~ approval was given to record or intercept a
22 conversation under this subsection (q); or

23 (C) any other forcible felony committed while the
24 recording or interception was approved in accordance with
25 this subsection ~~Section~~ (q), but for this specific category
26 of prosecutions, only if the law enforcement officer or

1 person acting at the direction of a law enforcement officer
2 who has consented to the conversation being intercepted or
3 recorded suffers great bodily injury or is killed during
4 the commission of the charged forcible felony.

5 (5) Compliance with the provisions of this subsection is a
6 prerequisite to the admissibility in evidence of any part of
7 the contents of any wire, electronic or oral communication that
8 has been intercepted as a result of this exception, but nothing
9 in this subsection shall be deemed to prevent a court from
10 otherwise excluding the evidence on any other ground recognized
11 by State or federal law, nor shall anything in this subsection
12 be deemed to prevent a court from independently reviewing the
13 admissibility of the evidence for compliance with the Fourth
14 Amendment to the U.S. Constitution or with Article I, Section 6
15 of the Illinois Constitution.

16 (6) Use of recordings or intercepts unrelated to qualified
17 ~~drug~~ offenses. Whenever any private conversation or private
18 electronic wire, electronic, or oral communication has been
19 recorded or intercepted as a result of this exception that is
20 not related to an offense for which the recording or intercept
21 is admissible under paragraph (4) of this subsection (q) a drug
22 ~~offense or a forcible felony committed in the course of a drug~~
23 ~~offense~~, no part of the contents of the communication and
24 evidence derived from the communication may be received in
25 evidence in any trial, hearing, or other proceeding in or
26 before any court, grand jury, department, officer, agency,

1 regulatory body, legislative committee, or other authority of
2 this State, or a political subdivision of the State, nor may it
3 be publicly disclosed in any way.

4 (6.5) The Department of State Police shall adopt rules as
5 are necessary concerning the use of devices, retention of
6 recordings, and reports regarding their use under this
7 subsection (q).

8 (7) Definitions. For the purposes of this subsection (q)
9 only:

10 ~~"Drug offense" includes and is limited to a felony~~
11 ~~violation of one of the following: (A) the Illinois~~
12 ~~Controlled Substances Act, (B) the Cannabis Control Act,~~
13 ~~and (C) the Methamphetamine Control and Community~~
14 ~~Protection Act.~~

15 "Forcible felony" includes and is limited to those
16 offenses contained in Section 2-8 of the Criminal Code of
17 1961 as of the effective date of this amendatory Act of the
18 97th General Assembly, and only as those offenses have been
19 defined by law or judicial interpretation as of that date.

20 "Qualified offense" means and is limited to:

21 (A) a felony violation of the Cannabis Control Act,
22 the Illinois Controlled Substances Act, or the
23 Methamphetamine Control and Community Protection Act,
24 except for violations of:

25 (i) Section 4 of the Cannabis Control Act;

26 (ii) Section 402 of the Illinois Controlled

1 Substances Act; and

2 (iii) Section 60 of the Methamphetamine
3 Control and Community Protection Act; and

4 (B) first degree murder, solicitation of murder
5 for hire, predatory criminal sexual assault of a child,
6 criminal sexual assault, aggravated criminal sexual
7 assault, aggravated arson, kidnapping, aggravated
8 kidnapping, child abduction, trafficking in persons,
9 involuntary servitude, involuntary sexual servitude of
10 a minor, or gunrunning.

11 "State's Attorney" includes and is limited to the
12 State's Attorney or an assistant State's Attorney
13 designated by the State's Attorney to provide verbal
14 approval to record or intercept conversations under this
15 subsection (q).

16 (8) Sunset. This subsection (q) is inoperative on and after
17 January 1, 2018 ~~2015~~. No conversations intercepted pursuant to
18 this subsection (q), while operative, shall be inadmissible in
19 a court of law by virtue of the inoperability of this
20 subsection (q) on January 1, 2018 ~~2015~~.

21 (9) Recordings, records, and custody. Any private
22 conversation or private electronic communication intercepted
23 by a law enforcement officer or a person acting at the
24 direction of law enforcement shall, if practicable, be recorded
25 in such a way as will protect the recording from editing or
26 other alteration. Any and all original recordings made under

1 this subsection (q) shall be inventoried without unnecessary
2 delay pursuant to the law enforcement agency's policies for
3 inventorying evidence. The original recordings shall not be
4 destroyed except upon an order of a court of competent
5 jurisdiction; and

6 (r) Electronic recordings, including but not limited to,
7 motion picture, videotape, digital, or other visual or audio
8 recording, made of a lineup under Section 107A-2 of the Code of
9 Criminal Procedure of 1963.

10 (Source: P.A. 97-333, eff. 8-12-11; 97-846, eff. 1-1-13;
11 97-897, eff. 1-1-13; 98-463, eff. 8-16-13; 98-1014, eff.
12 1-1-15.)

13 (720 ILCS 5/14-4) (from Ch. 38, par. 14-4)

14 Sec. 14-4. Sentence.

15 (a) Eavesdropping, for a first offense, is a Class 4 felony
16 and, for a second or subsequent offense, is a Class 3 felony.

17 (b) The eavesdropping of an oral conversation or an
18 electronic communication of ~~between~~ any law enforcement
19 officer, State's Attorney, Assistant State's Attorney, the
20 Attorney General, Assistant Attorney General, or a judge, while
21 in the performance of his or her official duties, if not
22 authorized by this Article or proper court order, is a Class 3
23 felony, and for a second or subsequent offenses, is a Class 2
24 felony ~~1-felony~~.

25 (Source: P.A. 91-357, eff. 7-29-99; 91-657, eff. 1-1-00.)

1 (720 ILCS 5/14-5) (from Ch. 38, par. 14-5)

2 Sec. 14-5. Evidence inadmissible.

3 Any evidence obtained in violation of this Article is not
4 admissible in any civil or criminal trial, or any
5 administrative or legislative inquiry or proceeding, nor in any
6 grand jury proceedings; provided, however, that so much of the
7 contents of an alleged unlawfully intercepted, overheard or
8 recorded conversation as is clearly relevant, as determined as
9 a matter of law by the court in chambers, to the proof of such
10 allegation may be admitted into evidence in any criminal trial
11 or grand jury proceeding brought against any person charged
12 with violating any provision of this Article. Nothing in this
13 Section bars admission of evidence if all parties to the
14 private conversation or private electronic communication
15 consent to admission of the evidence.

16 (Source: Laws 1965, p. 3198.)

17 Section 97. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."