

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Criminal Code of 1961 is amended by changing Sections 14-1 and 14-3 as follows:

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

Sec. 14-1. Definition.

(a) Eavesdropping device.

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

(b) Eavesdropper.

An eavesdropper is any person, including law enforcement officers, who is a principal, as defined in this Article, or who operates or participates in the operation of any eavesdropping device contrary to the provisions of this Article.

(c) Principal.

A principal is any person who:

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

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

(3) Directs another to use an eavesdropping device illegally on his behalf.

(d) Conversation.

For the purposes of this Article, the term conversation means any oral communication between 2 or more persons regardless of whether one or more of the parties intended their communication to be of a private nature under circumstances justifying that expectation.

(e) Electronic communication.

For purposes of this Article, the term electronic communication means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, pager, computer, electromagnetic, photo electronic or photo optical system, where the sending and receiving parties intend the electronic communication to be private and the interception, recording, or transcription of the electronic communication is accomplished by a device in a surreptitious manner contrary to the provisions of this Article. Electronic communication does not include any communication from a tracking device.

(f) Bait car.

For purposes of this Article, the term bait car means any

motor vehicle that is not occupied by a law enforcement officer and is used by a law enforcement agency to deter, detect, identify, and assist in the apprehension of an auto theft suspect in the act of stealing a motor vehicle.

(Source: P.A. 91-657, eff. 1-1-00.)

(720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

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

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

(b) Hearing conversation when heard by employees of any common carrier by wire incidental to the normal course of their employment in the operation, maintenance or repair of the equipment of such common carrier by wire so long as no information obtained thereby is used or divulged by the hearer;

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

(d) Recording or listening with the aid of any device to any emergency communication made in the normal course of operations by any federal, state or local law enforcement agency or institutions dealing in emergency services, including, but not limited to, hospitals, clinics, ambulance

services, fire fighting agencies, any public utility, emergency repair facility, civilian defense establishment or military installation;

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

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

(g) With prior notification to the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded under circumstances where the use of the device is necessary for the protection of the law enforcement officer or any person acting at the direction of law enforcement, in the course of an investigation of a

forcible felony, a felony violation of the Illinois Controlled Substances Act, a felony violation of the Cannabis Control Act, a felony violation of the Methamphetamine Control and Community Protection Act, or any "streetgang related" or "gang-related" felony as those terms are defined in the Illinois Streetgang Terrorism Omnibus Prevention Act. Any recording or evidence derived as the result of this exemption shall be inadmissible in any proceeding, criminal, civil or administrative, except (i) where a party to the conversation suffers great bodily injury or is killed during such conversation, or (ii) when used as direct impeachment of a witness concerning matters contained in the interception or recording. The Director of the Department of State Police shall issue regulations as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use;

(g-5) With approval of the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded in the course of an investigation of any offense defined in Article 29D of this Code. In all such cases, an application for an order approving the previous or continuing use of an eavesdropping device must be made within 48 hours of the commencement of such use. In the absence of such an order, or upon its denial, any continuing use shall

immediately terminate. The Director of State Police shall issue rules as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use.

Any recording or evidence obtained or derived in the course of an investigation of any offense defined in Article 29D of this Code shall, upon motion of the State's Attorney or Attorney General prosecuting any violation of Article 29D, be reviewed in camera with notice to all parties present by the court presiding over the criminal case, and, if ruled by the court to be relevant and otherwise admissible, it shall be admissible at the trial of the criminal case.

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

(h) Recordings made simultaneously with a video recording of an oral conversation between a peace officer, who has identified his or her office, and a person stopped for an investigation of an offense under the Illinois Vehicle Code;

(i) Recording of a conversation made by or at the request of a person, not a law enforcement officer or agent of a law enforcement officer, who is a party to the conversation, under reasonable suspicion that another party to the conversation is committing, is about to commit, or has committed a criminal offense against the person or a member of his or her immediate

household, and there is reason to believe that evidence of the criminal offense may be obtained by the recording;

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

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

(ii) the monitoring is used with the consent of at least one person who is an active party to the marketing or opinion research conversation or telephone solicitation conversation being monitored.

No communication or conversation or any part, portion, or aspect of the communication or conversation made, acquired, or obtained, directly or indirectly, under this exemption (j), may be, directly or indirectly, furnished to any law enforcement officer, agency, or official for any purpose or used in any

inquiry or investigation, or used, directly or indirectly, in any administrative, judicial, or other proceeding, or divulged to any third party.

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

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

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

For the purposes of this subsection (j), "telephone solicitation" means a communication through the use of a



telephone by live operators:

- (i) soliciting the sale of goods or services;
- (ii) receiving orders for the sale of goods or services;
- (iii) assisting in the use of goods or services; or
- (iv) engaging in the solicitation, administration, or collection of bank or retail credit accounts.

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

(k) Electronic recordings, including but not limited to, a motion picture, videotape, digital, or other visual or audio recording, made of a custodial interrogation of an individual at a police station or other place of detention by a law enforcement officer under Section 5-401.5 of the Juvenile Court Act of 1987 or Section 103-2.1 of the Code of Criminal Procedure of 1963; ~~and~~

(l) Recording the interview or statement of any person when the person knows that the interview is being conducted by a law enforcement officer or prosecutor and the interview takes place at a police station that is currently participating in the

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Custodial Interview Pilot Program established under the Illinois Criminal Justice Information Act; ~~and~~.

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

(Source: P.A. 93-206, eff. 7-18-03; 93-517, eff. 8-6-03; 93-605, eff. 11-19-03; 94-556, eff. 9-11-05.)