

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 3021

By: Worthen

COMMITTEE SUBSTITUTE

An Act relating to common carriers; amending 13 O.S. 2021, Sections 176.2 and 176.11, which relate to the Security of Communications Act; expanding scope of certain definition; updating statutory citation; changing entity that receives written reports concerning interceptions; directing the Clerk of the Court of Criminal Appeals to maintain reports as confidential records; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 13 O.S. 2021, Section 176.2, is amended to read as follows:

Section 176.2 As used in the Security of Communications Act:

1. "Aggrieved person" means a person who was a party to any intercepted wire, oral or electronic communication or a person against whom the interception was directed;

2. "Aural acquisition" means obtaining knowledge of a communication through the sense of hearing which is contemporaneous with the communication;

1        3. "Aural transfer" means a transfer containing the human voice  
2 at any point between and including the point of origin and the point  
3 of reception;

4        4. "Communication common carrier" means, for the purposes of  
5 the Security of Communications Act only, any telephone or telegraph  
6 company, rural telephone cooperative, communications transmission  
7 company or other public communications company under the laws of  
8 this state;

9        5. "Communication facility" means any and all public and  
10 private instrumentalities used or useful in the transmission of  
11 writing, signs, signals, pictures, or sounds of all kinds and  
12 includes mail, telephone, wire, radio, and all other means of  
13 communication;

14        6. "Contents", when used with respect to any wire, oral or  
15 electronic communication, includes any information concerning the  
16 substance, purport or meaning of that communication;

17        7. "Electronic communication" means any transfer of signs,  
18 signals, writing, images, sounds, data, or intelligence of any  
19 nature transmitted in whole or in part by a wire, radio,  
20 electromagnetic, photoelectronic or ~~photooptical~~ photo-optical  
21 system, but does not include:

- 22            a. any wire or oral communication,
- 23            b. any communication made through a tone-only paging  
24                device, or

1           c.    any communication from a tracking device;

2           8.    "Electronic, mechanical or other device" means any device or  
3 apparatus which can be used to intercept a wire, oral or electronic  
4 communication other than:

5           a.    any telephone or telegraph instrument, equipment or  
6                facility or any component thereof furnished to the  
7                subscriber or user by a communication common carrier  
8                or other lawful supplier in the ordinary course of its  
9                business which is being used by the subscriber or user  
10              in the ordinary course of its business, or being used  
11              by a communication common carrier in the ordinary  
12              course of business or being used by a law enforcement  
13              officer in the ordinary course of duties, or

14          b.    a hearing aid or similar device being used to correct  
15                subnormal hearing to not better than normal;

16          9.    "Intercept" means the aural acquisition of the contents of  
17 any wire, oral or electronic communication through the use of any  
18 electronic, mechanical or other device;

19          10.   "Judge of competent jurisdiction" means the Presiding Judge  
20 of the Court of Criminal Appeals or any other Judge of the Court of  
21 Criminal Appeals designated by the Presiding Judge;

22          11.   "Law enforcement officer" means any person who is employed  
23 by the United States, this state or political subdivision thereof  
24 and is empowered by law to conduct investigations of, or to make

1 arrests for, offenses enumerated in the Security of Communications  
2 Act or similar federal offenses and any attorney authorized by law  
3 to prosecute or participate in the prosecution of such offenses;

4 12. "Oral communication" means any communication uttered by a  
5 person exhibiting an expectation that such communication is not  
6 subject to interception under circumstance justifying such  
7 expectation;

8 13. "Person" means any individual, partnership, association,  
9 joint-stock company, trust, corporation or political subdivision  
10 including an employee or agent thereof; and

11 14. "Wire communication" means any aural transfer made in whole  
12 or in part through the use of facilities for the transmission of  
13 communications by the aid of wire, cable or other like connection  
14 between the point of origin and the point of reception, including  
15 the use of such connection in a switching station, furnished or  
16 operated by any person engaged in providing or operating such  
17 facilities for the transmission of intrastate, interstate or foreign  
18 communications or communications affecting intrastate, interstate or  
19 foreign commerce.

20 SECTION 2. AMENDATORY 13 O.S. 2021, Section 176.11, is  
21 amended to read as follows:

22 Section 176.11 A. Within thirty (30) days after the expiration  
23 of an order, or each extension thereof, entered under Section 7  
24 176.7 of this ~~act~~ title, or the denial of an order approving an

1 interception, the judge of competent jurisdiction shall ~~submit in~~  
2 file a sealed, written report ~~to~~ with the ~~Administrative Director of~~  
3 ~~the Courts~~ Clerk of the Court of Criminal Appeals that includes the  
4 following information:

- 5 1. The fact that an order or extension was applied for;
- 6 2. The kind of order or extension applied for;
- 7 3. The fact that the order or extension was granted as applied  
8 for, was modified, or was denied;
- 9 4. The period of interceptions authorized by the order, and the  
10 number and duration of any extensions of the order;
- 11 5. The offense specified in the order or application, or  
12 extension of an order;
- 13 6. The identity of the law enforcement officer and the agency  
14 making the request for the application and the district attorney  
15 requesting the Attorney General to make the application; and
- 16 7. The nature of the facilities from which or the place where  
17 communications were to be intercepted.

18 B. In January of each year, the Attorney General shall ~~submit~~  
19 ~~in~~ file a sealed, written report ~~to~~ with the ~~Administrative Director~~  
20 ~~of the Courts~~ Clerk of the Court of Criminal Appeals that includes  
21 the following information:

- 22 1. Regarding an order or extension:
  - 23 a. the fact that it was applied for,
  - 24 b. the kind applied for,

- c. the fact that it was granted as applied for, was modified, or was denied,
- d. the period of interceptions authorized, and the number and duration of any extensions of the order,
- e. the offense specified,
- f. the identity of the law enforcement officer and the agency making the request for the application and the district attorney requesting the Attorney General to make the application, and
- g. the nature of the facilities from which or the place where communications were to be intercepted;

2. A general description of the interceptions made under such order or extension, including:

- a. the approximate nature and frequency of incriminating communications intercepted,
- b. the approximate nature and frequency of other communications intercepted,
- c. the approximate number of persons whose communications were intercepted, and
- d. the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

1       3. The number of arrests resulting from interceptions made  
2 under such order or extension, and the offenses for which arrests  
3 were made;

4       4. The number of trials resulting from such interceptions;

5       5. The number of motions to suppress made with respect to such  
6 interceptions, and the number granted or denied;

7       6. The number of convictions resulting from such interceptions  
8 and the offenses for which the convictions were obtained and a  
9 general assessment of the importance of the interceptions; and

10       7. The information required by paragraphs 2 through 6 of this  
11 subsection with respect to orders or extensions obtained in a  
12 preceding calendar year.

13       C. The Clerk of the Court of Criminal Appeals shall maintain  
14 the reports submitted pursuant to this section as confidential  
15 records which shall not be disclosed or made public absent an order  
16 from the Presiding Judge of the Court of Criminal Appeals.

17       SECTION 3. This act shall become effective November 1, 2022.

18  
19       58-2-10840       JBH       03/01/22  
20  
21  
22  
23  
24