

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3021

By: Worthen

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8                               COMMITTEE SUBSTITUTE

9           An Act relating to common carriers; amending 13 O.S.  
10       2021, Sections 176.2 and 176.11, which relate to the  
11       Security of Communications Act; expanding scope of  
12       certain definition; updating statutory citation;  
13       changing entity that receives written reports  
14       concerning interceptions; directing the Clerk of the  
15       Court of Criminal Appeals to maintain reports as  
16       confidential records; and providing an effective  
17       date.

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

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

21       Section 176.2 As used in the Security of Communications Act:

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

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

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

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

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

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

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

- a. any wire or oral communication,
- b. any communication made through a tone-only paging device, or
- c. any communication from a tracking device;

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

- a. any telephone or telegraph instrument, equipment or facility or any component thereof furnished to the subscriber or user by a communication common carrier or other lawful supplier in the ordinary course of its business which is being used by the subscriber or user in the ordinary course of its business, or being used by a communication common carrier in the ordinary course of business or being used by a law enforcement officer in the ordinary course of duties, or
- b. a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

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

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

1        11. "Law enforcement officer" means any person who is employed  
2 by the United States, this state or political subdivision thereof  
3 and is empowered by law to conduct investigations of, or to make  
4 arrests for, offenses enumerated in the Security of Communications  
5 Act or similar federal offenses and any attorney authorized by law  
6 to prosecute or participate in the prosecution of such offenses;

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

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

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

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

1       Section 176.11 A. Within thirty (30) days after the expiration  
2 of an order, or each extension thereof, entered under Section 7  
3 176.7 of this ~~act~~ title, or the denial of an order approving an  
4 interception, the judge of competent jurisdiction shall ~~submit in~~  
5 file a sealed, written report ~~to~~ with the ~~Administrative Director of~~  
6 ~~the Courts~~ Clerk of the Court of Criminal Appeals that includes the  
7 following information:

8           1. The fact that an order or extension was applied for;

9           2. The kind of order or extension applied for;

10          3. The fact that the order or extension was granted as applied  
11 for, was modified, or was denied;

12          4. The period of interceptions authorized by the order, and the  
13 number and duration of any extensions of the order;

14          5. The offense specified in the order or application, or  
15 extension of an order;

16          6. The identity of the law enforcement officer and the agency  
17 making the request for the application and the district attorney  
18 requesting the Attorney General to make the application; and

19          7. The nature of the facilities from which or the place where  
20 communications were to be intercepted.

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

1. Regarding an order or extension:

- a. the fact that it was applied for,
- 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;

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

4. The number of trials resulting from such interceptions;

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON UTILITIES, dated 03/01/2022 - DO PASS, As Amended.