Session Law 69-17

Florida Senate & House of Representatives

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**LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT**

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**Committee Records**

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HISTORY OF LEGISLATION
1969 REGULAR SESSION
FLORIDA LEGISLATURE

pre pared by:

Legislative Information Division
Joint Legislative Management Committee
Holland Bldg. Rm. 94 - 488-4371
HB 1 GENERAL BILL, BY SCHULTZ
HUMAN RESOURCES, ESTABLISHES FLORIDA COMMISSION ON HUMAN RESOURCES AND PROVIDES
FOR THE APPOINTMENT OF ITS MEMBERSHIP.
4/08 HOUSE- INTRODUCED, REFERRED TO STATE GOVERNMENTAL ORGANIZATION &
EFFICIENCY - HJ 0001; ALSO REFERRED TO COMMERCE - HJ 0002
5/19 HOUSE- EXTENSION OF TIME GRANTED COMMITTEE
6/02 HOUSE- EXTENSION OF TIME GRANTED COMMITTEE
6/06 HOUSE- DIED IN COMMITTEE

2 GENERAL BILL, BY GAUTIER (COMPANY SB 0080)
WIRE TAPPING, AUTHORIZES WIRE TAPPING AND ELECTRONIC SURVEILLANCE BY CERTAIN
OFFICERS UPON ORDER BY COURTS OF SPECIFIED JURISDICTION.
4/08 HOUSE- INTRODUCED, REFERRED TO CRIME AND LAW ENFORCEMENT - HJ 0002;
RECOMMENDED FAVORABLE WITH AMENDMENTS, PLACED ON CALENDAR - HJ
0038
4/09 HOUSE- PASSED AS AMENDED; YEAS 093 NAYS 022 - HJ 0049; MOTION TO
RECONSIDER PENDING - HJ 0049
4/10 HOUSE- RECONSIDERED, PASSED AS FURTHER AMENDED; YEAS 096 NAYS 012 - HJ
0061
4/11 SENATE- RECEIVED, REFERRED TO JUDICIARY - SJ 0046
4/17 SENATE- RECEIVED, REFERRED TO JUDICIARY - SJ
0100
4/29 SENATE- SUBSTITUTED FOR SB 80 - SJ 0177; AMENDMENTS ADOPTED - SJ 0177;
AMENDMENT PENDING - SJ 0177
4/30 SENATE- PASSED AS AMENDED; YEAS 041 NAYS 001 - SJ 0185
5/02 HOUSE- CONCURRED IN AMENDMENTS TOTALING 4 - HJ 0323; REFUSED TO CONCUR IN
ONE AMENDMENT - HJ 0323; REQUESTED SENATE TO RECEDE - HJ 0323
5/05 SENATE- RECEDED FROM ONE AMENDMENT - SJ 0223
5/08 HOUSE- SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR - HJ 0415
5/16 BECAME LAW WITHOUT APPROVAL 05/16 - HJ 0530
5/23 CHAPTER NO. 69-17

HB 3 GENERAL BILL, BY GAUTIER (COMPANY SB 0211)
SEARCH WARRANTS, AMENDS SEC. 933.18, F.S. TO INCLUDE AUTHORITY FOR ISSUANCE OF
SEARCH WARRANT FOR SEARCH OF DWELLING WHERE NARCOTICS OR DRUG ABUSE LAWS ARE
BEING VIOLATED.
4/08 HOUSE- INTRODUCED, REFERRED TO CRIME AND LAW ENFORCEMENT - HJ 0002;
RECOMMENDED FAVORABLE WITH AMENDMENTS, PLACED ON CALENDAR - HJ
0038
4/10 HOUSE- PASSED AS AMENDED; YEAS 105 NAYS 000 - HJ 0060
4/14 SENATE- RECEIVED, REFERRED TO JUDICIARY - SJ 0053
4/30 SENATE- RECOMMENDED FAVORABLE, PLACED ON CALENDAR - SJ 0192
5/02 SENATE- SUBSTITUTED FOR SB 211 - SJ 0215; PASSED; YEAS 039 NAYS 000 - SJ
0215
5/08 HOUSE- SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR - HJ 0415
5/16 BECAME LAW WITHOUT APPROVAL 05/16 - HJ 0530
5/23 CHAPTER NO. 69-18

HB 4 GENERAL BILL, BY GAUTIER (COMPANY SB 0076) (SIMILAR HB 1014)
RESIDENCY REQUIREMENTS, AMENDS SECS. 112.02 AND 112.03, F.S. (RELATING TO
RESIDENCY REQUIREMENT FOR EMPLOYMENT OF COUNTY OR STATE EMPLOYEES) TO ELIMINATE
RESIDENCY REQUIREMENT FOR EMPLOYMENT OF LAW ENFORCEMENT OFFICERS.
4/08 HOUSE- INTRODUCED, REFERRED TO CRIME AND LAW ENFORCEMENT - HJ 0002;
RECOMMENDED FAVORABLE, PLACED ON CALENDAR - HJ 0038
4/10 HOUSE- PASSED AS AMENDED; YEAS 103 NAYS 001 - HJ 0060
4/14 SENATE- RECEIVED, REFERRED TO GOVERNMENTAL ORGANIZATION - SJ 0093
4/16 SENATE- SUBREFERRED TO STATE GOVERNMENT - SJ 0099
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SB 76 -CONTINUED-
RESIDENCY REQUIREMENT FOR EMPLOYMENT OF COUNTY OR STATE EMPLOYEES TO ELIMINATE RESIDENCY REQUIREMENT FOR EMPLOYMENT OF LAW ENFORCEMENT OFFICERS.
4/08 SENATE- INTRODUCED, REFERRED TO JUDICIARY -SJ 0009; RECOMMENDED UNFAVORABLE, LAID ON TABLE UNDER RULE -SJ 0032

SB 77 GENERAL BILL, BY SHEVIN (COMPANION HB 0026)
FIREARMS, PROVIDES THAT WHOEVER DURING THE COMMISSION OF ANY CRIME USES OR ATTEMPTS TO USE OR CARRIES ON OR ABOUT HIS PERSON ANY FIREARM SHALL UPON CONVICTION BE GUILTY OF A FELONY IN ADDITION TO THE PRINCIPAL CRIME BEING COMMITTED.
4/08 SENATE- INTRODUCED, REFERRED TO JUDICIARY -SJ 0009; SUBREFERRED TO LAW AND ORDER -SJ 0031; RECOMMENDED FAVORABLE WITH AMENDMENTS, PLACED ON CALENDAR -SJ 0031
4/09 SENATE- AMENDMENTS ADOPTED -SJ 0035; AMENDMENT PENDING -SJ 0035
4/11 SENATE- PASSED AS AMENDED; YEAS 029 NAYS 009 -SJ 0048
4/15 HOUSE- RECEIVED, REFERRED TO CRIME AND LAW ENFORCEMENT -HJ 0144
5/08 HOUSE- EXTENSION OF TIME GRANTED COMMITTEE
5/21 HOUSE- RECOMMENDED FAVORABLE WITH AMENDMENTS, PLACED ON CALENDAR -HJ 0666
6/06 HOUSE- DIED ON CALENDAR

SB 78 GENERAL BILL, BY SHEVIN (COMPANION HB 0007)
WITNESS SUBPOENAS, AMENDS SEC. 11.08, F.S., BY AUTHORIZING "A DULY CONSTITUTED AGENT OF A FLORIDA LEGISLATIVE COMMITTEE" TO SERVE SUBPOENA OR OTHER PROCESS ISSUED BY A LEGISLATIVE COMMITTEE.
4/08 SENATE- INTRODUCED, REFERRED TO JUDICIARY -SJ 0009; SUBREFERRED TO JURISPRUDENCE -SJ 0031; RECOMMENDED FAVORABLE, PLACED ON CALENDAR -SJ 0031
4/16 SENATE- PASSED AS AMENDED; YEAS 033 NAYS 001 -SJ 0098
4/18 HOUSE- RECEIVED, REFERRED TO JUDICIARY -HJ 0186
5/13 HOUSE- EXTENSION OF TIME GRANTED COMMITTEE
5/22 HOUSE- EXTENSION OF TIME GRANTED COMMITTEE
5/23 HOUSE- WITHDRAWN FROM COMMITTEE, PLACED ON CALENDAR -HJ 0727; PASSED; YEAS 093 NAYS 000 -HJ 0727
5/29 SENATE- SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR -SJ 0641
6/06 BECAME LAW WITHOUT APPROVAL 06/06
6/06 CHAPTER NO. 69-72

SB 79 GENERAL BILL, BY SHEVIN (SIMILAR HB 0057)
WEAPONS REGULATION, AMENDS SEC. 790.01 ET. AL., PROVIDES FOR LICENSING OF FIREARMS; INVESTIGATION OF APPLICANTS FOR FIREARM LICENSE; PROHIBITS SAWS-D OFF SHOTGUNS AND OTHER WEAPONS.
4/08 SENATE- INTRODUCED, REFERRED TO JUDICIARY -SJ 0009; SUBREFERRED TO LAW AND ORDER -SJ 0031; RECOMMENDED UNFAVORABLE, LAID ON TABLE UNDER RULE -SJ 0032

SB 80 GENERAL BILL, BY SHEVIN (COMPANION HB 0002)
WIRE TAPPING, AUTHORIZES WIRE TAPPING AND ELECTRONIC SURVEILLANCE BY CERTAIN OFFICERS UPON ORDER BY COURTS OF SPECIFIED JURISDICTION.
4/08 SENATE- INTRODUCED, REFERRED TO JUDICIARY -SJ 0009; SUBREFERRED TO LAW AND ORDER -SJ 0031
4/22 SENATE- WITHDRAWN FROM COMMITTEE, PLACED ON CALENDAR -SJ 0132
4/29 SENATE- AMENDMENT ADOPTED -SJ 0174; COMPANION HOUSE BILL SUBSTITUTED -SJ 0174
4/30 SENATE- WITHDRAWN FROM FURTHER CONSIDERATION, COMPANION BILL PASSED

SB 81 GENERAL BILL, BY MYERS (SIMILAR HB 0973)
CONTINUED ON NEXT PAGE
required by this chapter, an additional delinquent fee of one dollar ($1.00) shall be paid. The delinquent fee shall be forwarded to the Department of Public Safety. Delinquent fees collected in counties operating inspection stations pursuant to section 325.27 shall be credited against the 40c remittance required herein. All other delinquent fees shall be deposited in the general revenue fund. Said fee shall not be applicable to state agencies. Inspection certificates may be ordered only by licensed safety equipment inspection stations and self-inspectors as may be duly appointed from the safety inspection station. Any order for inspection certificates placed in person at the department of public safety must be accompanied by written authorization upon forms furnished by the department from the station to which the certificates are to be issued. If order is placed by a person other than the person in whose name the station is licensed, or if authorization is not presented, the certificates will be delivered in a manner to be determined by the department. Orders received by mail will be filled and delivered to the requesting inspection station in a manner to be determined by the department. Licensed inspection stations and self-inspectors will, upon request, be furnished forms required to be used by this part. All licensed stations are hereby required to keep an adequate supply of inspection certificates on hand at all times.

Section 5. Section 325.32, Florida Statutes, is repealed.

Section 6. Section 325.28, Florida Statutes, is amended to read:

325.28 Inspection stickers of other states and carriers certified by the Interstate Commerce Commission or Florida Public Service Commission.—Every law enforcement officer of this state shall recognize any current official inspection sticker affixed to any motor vehicle from another state. Vehicles operating under Certificate of the Interstate Commerce Commission or Florida Public Service Commission subject to United States Department of Transportation safety regulations are exempt from displaying a Florida official inspection sticker; provided they have attached or display valid certificate number issued by the Interstate Commerce Commission or Florida Public Service Commission.

Section 7. This act shall be effective immediately upon becoming a law.
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Section 7. This act shall be effective immediately upon becoming a law.
law enforcement and the administration of justice.

(4) To safeguard the privacy of innocent persons, the interception of wire or oral communications where none of the parties to the communication has consented to the interception should be allowed only when authorized by a court of competent jurisdiction and should remain under the control and supervision of the authorizing court. Interception of wire and oral communications should further be limited to certain major types of offenses and specific categories of crime with assurance that the interception is justified and that the information obtained thereby will not be misused.

Section 2. Definitions.—As used in this chapter:

(1) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate or foreign communications;

(2) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

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

(4) "Electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business, or being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(5) "Person" means any employee, or agent of the state or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation;

(6) "Investigative or law enforcement officer" means any officer of the state or political subdivision thereof who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(7) "Contents," when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication;

(8) "Judge of competent jurisdiction" means justice of the supreme court, judge of a district court of appeal, circuit judge, or judge of any court of record having felony jurisdiction of the state;

(9) "Aggrieved person" means a person who was a party to any intercepted wire or oral communication or a person against whom the interception was directed.

Section 3. Interception and disclosure of wire or oral communications prohibited.—

(1) Except as otherwise specifically provided in this chapter any person who:

(a) Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire or oral communication;

(b) Willfully uses, endeavors to use, or procures any other person to use or endeavor to use, any electronic, mechanical, or other device to intercept any oral communication when:

1. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

2. Such device transmits communications by radio, or interferes with the transmission of such communication;

(c) Willfully discloses, or endeavors to disclose, to any other person the contents of any wire or oral communication,
CHAPTER 69-17 LAWS OF FLORIDA

Section 6. Prohibition of use as evidence of intercepted wire or oral communications.—Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof, if the disclosure of that information would be in violation of this chapter.

Section 7. Authorization for interception of wire or oral communications.—The Governor or Attorney General or, any state attorney or any county solicitor, having jurisdiction to prosecute felonies in their respective jurisdictions, may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with this chapter, an order authorizing or approving the interception of wire or oral communications by the Florida bureau of law enforcement, or any law enforcement agency of the state or any political subdivision thereof having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, gambling (when the same is of an organized nature or carried on as a conspiracy in violation of the laws of this state), robbery, burglary, grand larceny, prostitution, criminal usury, abortion, bribery, extortion, or dealing in narcotic drugs or other dangerous drugs, or any conspiracy to commit any violation of the laws of this state relating to the crimes specifically enumerated above.

Section 8. Authorization for disclosure and use of intercepted wire or oral communications.—

(1) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

(3) Any person who has received, by any means authorized by this chapter, any information concerning a wire or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of this chapter may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court of the state or in any grand jury proceeding, if such testimony is otherwise admissible.

(4) No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this chapter shall lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire or oral communications in the manner authorized herein, intercepts wire or oral communications relating to offenses for which an order or authorization or approval could have been secured pursuant to Section 7 of this chapter, other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application shall be made as soon as practicable.

Section 9. Procedure for interception of wire or oral communications.—

(1) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;
The fifth meeting of the House of Representatives' Committee on Crime and Law Enforcement began at 3:00 p.m., February 3, 1969, Room 282, Holland Building, Tallahassee, Florida. The meeting was called to order by the Chairman, Representative Quillian S. Yancey, and the roll was taken by the secretary. Members of the Committee present were:

Representative Ed Blackburn, Jr.
Representative R. Earl Dixon
Representative Henton D. Elmore
Representative George Firestone
Representative Jeff D. Gautier
Representative William L. Gibson
Representative Gerald Lewis
Representative Joseph M. Martinez, Jr.
Representative Jim K. Tillman
Representative Tom Tobiassen
Representative C. Lavon Ward
Representative Roger West
Representative Lew Whitworth
Representative Roger H. Wilson
Representative Quillian S. Yancey
The Chairman opened the meeting by explaining the manual which has been prepared by the staff. These books are not complete, but will have new material added from time to time. They are to be the property of the Committee on Crime and Law Enforcement (present and future committees), and therefore, should be left with the secretary.

Here the following bills were considered:

**HOUSE BILL 2, (WIRE TAPPING)**

House Bill 2 was introduced by Representative Jeff D. Gautier. This bill was drafted by Mr. Ed Miller of the Florida Bureau of Law Enforcement, in accordance with the Federal wire tapping bill which passed Congress during the last session.

Mr. Edward L. Stanton, of Dade County, was in attendance and spoke in favor of the bill, pointing out that there should be a section which allows for the ingress and egress of the equipment to be used.

Mr. Miller briefly explained the details of the bill. It is largely a verbatim copy of Title Three of the Omnibus Crime and Control Act which was signed into law by the President of the United States last July.

Mr. Miller and Mr. Johnston (Committee Counsel) have prepared several amendments which will be incorporated in the final drafting of the bill.

Mr. Jack Madigan, Tallahassee attorney, related that this bill was considered at a recent conference of Sheriff's held in the city of Jacksonville. They unanimously endorsed the necessity for some type legislation to authorize electronic surveillance under certain guarded circumstances.
Mr. George R. Georgieff and Judge Reeves Bowen (both from the Attorney General's Office) spoke briefly to the committee concerning the passage of this bill. Mr. Georgieff pointed out several parts which he considered to be worthy of special thought or possible stressing, while Judge Bowen expressed his desire for a less complex, less wordy bill.

Representative Tillman asked that the committee consider every aspect of the bill. It was his opinion (as well as others on the committee) that a less complicated bill is needed, one with less verbage; one that would unshackle law enforcement.

Mr. Johnston stated that since Florida Statutes prohibit wire-tapping of any kind in the State of Florida at this time, anything that this bill might do is a step toward unshackling the law enforcement authorities. Perhaps it is complicated, and might require certain restrictions, but it will permit wire tapping by a properly authorized person.

It was moved and carried unanimously to defer this bill to the sub-committee for re-work and further study, to be taken up again at the meeting on March 3, 1969.

HOUSE BILL 46, (DIVISION OF YOUTH SERVICES)

House Bill 46 was introduced by Representative Jeff D. Gautier and Representative George Firestone.

Mr. O. J. Keller, Director of the Division of Youth Services, was present to speak for the bill. He stated that another bill (HB 217) had been filed by Representative Gautier which was a much broader, more inclusive bill, but he requested that the committee consider this bill (HB 46) as a back-up measure, in case the large codification
HOUSE COMMITTEE ON CRIME AND LAW ENFORCEMENT

The seventh meeting of the House of Representatives' Committee on Crime and Law Enforcement began at 3:00 p.m., Monday, March 3, 1969, Room 268, Holland Building, Tallahassee, Florida. The meeting was called to order by the Chairman, Representative Quillian S. Yancey, and the roll was taken by the secretary. Members of the Committee present were:

Representative Ed Blackburn, Jr.
Representative Henton D. Elmore, Jr.
Representative George Firestone
Representative Jeff D. Gautier
Representative William L. Gibson
Representative Gerald Lewis
Representative Joseph M. Martinez, Jr.
Representative Jim K. Tillman
Representative Tom Tobiassen
Representative C. Lavon Ward
Representative Roger West
Representative Lew Whitworth
Representative Roger H. Wilson
Representative Quillian S. Yancey

Absent was:

Representative R. Earl Dixon
Here the following bills were considered:

**HOUSE BILL 227, (REWARDS FOR INFORMATION/ARMED ROBBERY)**

House Bill 227, introduced by Representative Ted Alvarez, was postponed until the next meeting at his request.

**HOUSE BILL 57, (GUN CONTROL)**

House Bill 57 was introduced by Representative Jeff D. Gautier, who in explaining the bill, stated that after eliminating certain sections (which he proposed to do through an amendment) the bill would be an updating of the old law which had not been changed since 1901.

Representative Gautier proposed the following amendment:

Strike Sections 4, 5, 6, 7, 8, and 17. The amendment was adopted.

Representative Jim K. Tillman proposed the following amendment:

Section 10, page 14, line 11, strike: Florida Game and Fresh Water Fish Commission and insert the following: "Police Standards Council." The amendment was adopted.

Representatives Firestone and Gautier proposed the following amendment:

Section 2, page 7, line 6, add (5) "Nothing herein contained shall relate to persons licensed and regulated as defined in Chapter 493, Florida Statutes when acting in the performance of duties as provided in said statutes." The amendment was adopted.

Representative Ed Blackburn, Jr. proposed the following amendment:

Section 9, page 11, line 21, strike "while" and insert the following: "for." The amendment was adopted.
Representative Joseph M. Martinez, Jr. proposed the following amendment:

Section 1, page 4, line 23, strike: entire paragraph seven (7) and renumber the following paragraphs. The amendment was adopted.

Another amendment proposed by Representative Martinez:
Section 24, page 30, line 4, strike: "provided, that said firearms are carried to and from such activities securely encased and unloaded." The amendment was adopted.

After discussion on the bill by members of the committee, Mr. Thomas Rudge of the Brevard County Sheriff's Department, Mr. Ed Cowart of the Attorney General's Office and others, the following amendment was proposed by Representatives Martinez and West:

Page 3, line 7, strike the enacting clause. The amendment was adopted.

HOUSE BILL 2 (WIRE TAP AND ELECTRONIC SURVEILLANCE)

House Bill 2 was introduced by Representative Jeff D. Gautier who proposed the following four amendments:

1. Section 2, page 4, line 21, strike: "general criminal jurisdiction," and insert the following: "record."

2. Section 7, page 8, line 30, strike "Commissioner of the Florida Bureau of Law Enforcement" and insert the following: "Governor, the Attorney General or."

3. Section 9, page 15, line 10, strike: "Commissioner of the Florida Bureau of Law Enforcement" and insert the following: "Governor, the Attorney General or any."

4. Section 9, page 15, line 15, after the words "threatening the" insert the following: "national or state."
All four amendments were adopted.

Representative Martinez proposed the following amendment:
Section 6, page 9, line 21, strike: "violation of the laws of this state" and insert the following: "of the foregoing offenses."
The amendment was adopted.

After discussion on the bill by the committee and comments by Mr. Ed Miller of the Florida Bureau of Law Enforcement, the bill was reported favorably.

At this time, Representative Tom Tobiassen moved that the committee reconsider the vote on the amendment striking the enacting clause of House Bill 57. The motion was adopted.

Law enforcement officers from Brevard County, Arnold B. Siems and Thomas Rudge, spoke before the committee and urged the passage of this bill.

Upon Representative George Firestone's motion, the committee referred House Bill 57 to a sub-committee. Representative Quillian Yancey, Chairman, appointed the following as members of the sub-committee on weapons and firearms:

Representative George Firestone, Sub-Committee Chairman
Representative Ed Blackburn, Jr.
Representative Jim K. Tillman
Representative Tom Tobiassen
Representative C. Lavon Ward

The sub-committee will meet on Sunday, March 16, at 2:00 p.m., in the committee room, room 291 of the Holland Building.

Due to the lateness of the hour, the seven bills pertaining to bail were postponed until the March 17 meeting.

The Committee rose at 6:05 p.m.
Journals of the House of Representatives

ORGANIZATION SESSION

and

FIRST REGULAR SESSION

of the FIRST LEGISLATURE
[under the Constitution as Revised in 1968]

NOVEMBER 12, 1968

and

APRIL 8, 1969, through JUNE 6, 1969

[Including a record of transmittal of Acts to the Governor subsequent to sine die adjournment]
CONSIDERATION OF THE SPECIAL ORDER

HB 2—A bill to be entitled An act relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

was adopted.

was taken up and read the second time by title.

The Committee on Crime & Law Enforcement offered the following amendment:

In Section 2, on page 4, line 21, strike "general criminal jurisdiction" and insert the following: record

Mr. Gautier moved the adoption of the amendment which was adopted.

The Committee on Crime & Law Enforcement offered the following amendment:

In Section 7, on page 8, line 30, strike "Commissioner of the Florida Bureau of Law Enforcement" and insert the following: Governor or Attorney General or

Mr. Gautier moved the adoption of the amendment which was adopted.

The Committee on Crime & Law Enforcement offered the following amendment:

In Section 9, on page 15, line 21, strike "violation of the laws of this state" and insert the following: Governor, the Attorney General or any

Mr. Gautier moved the adoption of the amendment which was adopted.

The Committee on Crime & Law Enforcement offered the following amendment:

In Section 9, on page 17, line 13, after the word "after" strike remainder of line 13, line 14, and through the word "or" on line 15.

Mr. D'Alemberte moved the adoption of the amendment which was adopted.

Representative King offered the following amendment: In Section 10, on page 20, strike all of lines 11 through 14.

Mr. King moved the adoption of the amendment.

Pending consideration thereof—

Representatives Gautier, Wilson, and Fortune offered the following substitute amendment:

In Section 10, on page 20, line 11, strike all after the word "order" and all of line 12.

Mr. Gautier moved the adoption of the substitute amendment which was adopted. The vote was:

Yeas—71

Alvarez Firestone Melvin Tillman, R. J.
Arnold Fortune Miers Tobissien
Baker Fulford Mixson Tucker
Bassett Gautier Nease Turlington
Baumgartner Gillespie Nerdard Tyrell
Blackburn Gilson Ogden Walker
Brannen Graham Pettigrew Ward
Brantley Grizzle Poorbaugh Westberry
Clark, David Gustafson Reed Wood
Clark, J. R. Hartnett Reedy Woodward
Conway Heath Shaw Yancey
Davis Hes Singleton
Dixson James Tillman, J. K.

Nays—38

Alvarez Earle Lancaster Tillman, R. J.
Arnold Elmore Lindsey Tobissien
Bassett Gautier Miers Tucker
Bevis Gibson Moudley Tyrell
Blackburn Gillespie Nease Tyrell
Brannen Gorman Nerdard Ward
Clark, J. R. Grizzle Poorbaugh Westberry
Conway Gustafson Reed Wood
Crider Hartnett Register West
Craig Hes Singleton
Culbreath Heath Roberts Whiston
Davie Kershaw Smith Yardley
Dubbin Lancaster Smith Yardley
Earle MacKay Stafford Yancey
Elmore Matthews Tillman, J. K.

Representative Middlemas, D'Alemberte, and Wilson offered the following amendment:

In Section 9, on page 17, line 13, after the word "after" strike remainder of line 13, line 14, and through the word "or" on line 15.

Representatives Middlemas, D'Alemberte, and Wilson offered the following amendment:

In Section 9, on page 17, line 13, after the word "after" strike remainder of line 13, line 14, and through the word "or" on line 15.

Mr. D'Alemberte moved the adoption of the amendment which was adopted.

Representative King offered the following amendment: In Section 10, on page 20, strike all of lines 11 through 14.

Mr. King moved the adoption of the amendment.

Pending consideration thereof—

Representatives Gautier, Wilson, and Fortune offered the following substitute amendment:

In Section 10, on page 20, line 11, strike all after the word "order" and all of line 12.

Mr. Gautier moved the adoption of the substitute amendment which was adopted. The vote was:

Yeas—71

Alvarez Firestone Melvin Tillman, R. J.
Arnold Fortune Miers Tobissien
Baker Fulford Mixson Tucker
Bassett Gautier Nease Turlington
Baumgartner Gillespie Nerdard Tyrell
Blackburn Gilson Ogden Walker
Brannen Graham Pettigrew Ward
Brantley Grizzle Poorbaugh Westberry
Clark, David Gustafson Reed Wood
Clark, J. R. Hartnett Register West
Conway Heath Roberts Whiston
Craig Hes Singleton
Culbreath Heath Roberts Whiston
Davie Kershaw Smith Yardley
Dubbin Lancaster Smith Yardley
Earle MacKay Stafford Yancey
Elmore Matthews Tillman, J. K.

Nays—38

Alvarez Earle Lancaster Tillman, R. J.
Arnold Elmore Lindsey Tobissien
Bassett Gautier Miers Tucker
Bevis Gibson Moudley Tyrell
Blackburn Gillespie Nease Tyrell
Brannen Gorman Nerdard Ward
Clark, J. R. Grizzle Poorbaugh Westberry
Conway Gustafson Reed Wood
Crider Hartnett Register West
Craig Hes Singleton
Culbreath Heath Roberts Whiston
Davie Kershaw Smith Yardley
Dubbin Lancaster Smith Yardley
Earle MacKay Stafford Yancey
Elmore Matthews Tillman, J. K.

Representative Reedy was recorded as voting Nay.
Representative Lewis offered the following amendment:

In Section 7, on page 8, line 31, strike “any state attorney or any county solicitor.”

Mr. Lewis moved the adoption of the amendment.

Pending consideration thereof—

Representative Whitson offered the following substitute amendment:

In Section 7, on page 9, line 1, after the word “solicitor,” insert the words “having jurisdiction to prosecute felonies”

Mr. Whitson moved the adoption of the substitute amendment which was adopted.

Representative Register offered the following amendment:

In Section 7, on page 9, line 17, after the words “dangerous drugs” strike the remainder of the section and insert the following:

Mr. Register moved the adoption of the amendment which was adopted.

Representative Pratt offered the following amendment:

In Section 2, on page 4, line 20, strike the comma and the remainder of the sentence and insert a period.

Mr. Pratt moved the adoption of the amendment.

Pending consideration thereof—

Representatives Ware and Whitson offered the following substitute amendment:

In Section 2, on page 4, line 21, after the word “record”, insert “having felony”

Mr. Ware moved the adoption of the substitute amendment which was adopted.

Representative Middlemas offered the following amendment:

In Section 8, on page 10, line 23 strike entire subsection 5

Mr. Middlemas moved the adoption of the amendment which failed of adoption. The vote was:

**Yea—24**

Bird, Heath
Brantley, Heath
Caldwell, Martinez, E. L.
D'Alemberge, Martinez, J. M.
Fullford, Lewis
Gallen, MacKay
Gause, Martinez, E. L.
King, Pettigrew

**Nay—81**

Alvarez, Earle
Andrews, Elmore
Arnold, Heath
Baker, Heath
Bassett, Heath
Baumgartner, Heath
Bevis, Heath
Blackburn, Heath
Bothwell, Heath
Brannen, Heath
Chapman, Heath
Clark, Dick
Crabtree, Heath
Craig, Heath
Crider, Heath
Culbreath, Heath
Danahy, Heath
Davis, Heath
Dixen, Heath
Dubbin, Heath

Representative West offered the following amendment:

In Section 4, on pages 7 and 8, line 3, strike all of section 4.

Mr. West moved the adoption of the amendment which failed of adoption. The vote was:

**Yea—36**

Bird, Heath
Culbreath, Heath
Davis, Heath
Earle, Heath
Featherstone, Lewis
Fullford, MacKay
Gallen, Martinez, E. L.
Grizzle, Martinez, J. M.
Gustafson, Nease

**Nay—71**

Alvarez, Danahy
Andrews, Dixon
Arnold, Dubbin
Baker, Eilmore
Bassett, Firestone
Baumgartner, Fleece
Bevis, Fortune
Blackburn, Gaultier
Bothwell, Gibson
Brantley, Glisson
Caldwell, Gorman
Chapman, Graham
Clark, Dick
Clark, J. R.
Conway, James
Craig, Jordan
Crider, Kershaw
D'Alemberge, Lancaster

Representative Crabtree was recorded as voting Nay.

Representative Pratt offered the following amendment:

In Section 9, on page 13, line 7, strike “, or is about to commit”

Mr. Pratt moved the adoption of the amendment.

On motion by Mr. Fleece, the amendment was laid on the table.

Representative West offered the following amendment:

In Section 9, on page 12, line 16, strike “authorizing and”

Mr. West moved the adoption of the amendment which failed of adoption.

Representatives Graham and Gautier offered the following amendment:

In Section 8, on page 10, line 27, after the word “offenses” add: for which an order of authorization or approval could have been secured pursuant to Section 7 of this chapter,

Mr. Graham moved the adoption of the amendment which was adopted. The vote was:

**Yea—65**

Andrews, Elmore
Arnold, Dixon
Bassett, Firestone
Baumgartner, Fleece
Brannen, Fulford
Brantley, Gallen
Caldwell, Gorman
Chapman, Gautier
Clark, David
Clark, Dick
Craig, James
Crider, Jordan
Culbreath, Kershaw
Danahy, Lancaster
Davis, Melvin
Dixen, Miers
Dubbin, Mixson

**Nay—77**

Anthony, Earle
Arnold, Heath
Baker, Heath
Bassett, Heath
Baumgartner, Heath
Bevis, Heath
Blackburn, Heath
Bothwell, Heath
Brannen, Heath
Chapman, Heath
Clark, Dick
Crabtree, Heath
Craig, Heath
Crider, Heath
Culbreath, Heath
Danahy, Heath
Davis, Heath
Dixen, Heath
Dubbin, Heath

April 9, 1969
Nays—36

Alvarez  Gustafson  Poorbaugh  Shaw
Baker    Heath    Powell    Singleton
Bevis    Hess      Prominski  Tucker
Blackburn James  Redman  Turlington
Bothwell Moudry    Reed    Tyre
Crider   Nease     Roberts  Walker
Davis    Nergard  Robinson  Ward
Dixon    Nichols  Savage   Wolson
Earle    Ogden    Sessums  Wood

Representative Crabtree was recorded as voting Yea, and Representative Bevis changed his vote from Nay to Yea.

Representative King offered the following amendment:

In Section 9 (8)(d), on pages 17 and 18, strike all of subsections (d) 1., 2., and 3.

Mr. King moved the adoption of the amendment.

Pending consideration thereof, Mr. King withdrew the amendment.

Representative Crabtree offered the following amendment:

In Section 11, on page 20, strike lines 15 and 16 and insert the following: Section 11. If any provision of this act is held to be invalid for any purpose, such holding shall not operate to effect the remaining provisions of the act.

Section 12. This act shall take effect upon becoming a law.

Mr. Crabtree moved the adoption of the amendment which was adopted.

Representative King offered the following amendment:

In Section 4, on page 7, line 20, strike "ten thousand dollars ($10,000.00) or imprisoned in the state penitentiary not more than five (5) years, " and insert the following: five hundred dollars ($500.00) or imprisoned for not more than six months,

Mr. King moved the adoption of the amendment.

Pending consideration thereof—

Representatives Fleece, Whitson, and Dubbin offered the following substitute amendment:

In Section 4, on page 7, line 18, after "surreptitious" insert the following: third party

Mr. Fleece moved the adoption of the substitute amendment.

Pending consideration thereof—

Representative King offered the following amendment to the substitute amendment:

In Section 4, on page 7, lines 20, 21, and 22 strike "ten thousand dollars ($10,000.00) or imprisoned in the state penitentiary not more than five (5) years, " and insert the following: four hundred dollars ($400.00) or imprisonment for not more than 120 days,

Mr. King moved the adoption of the amendment to the substitute amendment.

Mr. Reed moved the previous question on the passage of HB 2 and all pending amendments, which was agreed to.

Pending consideration of the amendment to the substitute amendment—

On motion by Mr. Gautier, the rules were waived and HB 2 , as amended, was read the third time by title. The vote was:

Yes—89

Mr. Speaker  Baumgartner  Chapman  Craig
Alvarez    Bevis      Clark, David  Danahy
Andrews  Blackburn  Clark, J. R.  Dixon
Arnold    Brannen  Clark, J. R.  Dubbin
Baker     Brantley  Conway  Elmore
Bassett   Caldwell  Crabtree  Firestone
Fleece    Jordan    Pettigrew  Sweeney
Fortune   Kershaw    Powell    Tillman, J. K.
Fullford  Lancaster  Randell  Tobiaszen
Gallen    Lindsey  Redman  Tucker
Gautier   MacKay    Reeves  Turlington
Gibson    Martinez, J. M.  Register  Tyrrell
Gillespie Glisson    McNulty  Walker
Gorman    Melvin    Miers    Ward
Graham    Mixson    Mixson  Ware
Gustafson Heath    Moudry  Westberry
Hector    Nease     Ogden    Whitworth
Hess      Nergard  Singleton  Wolfson
Hodes     Nichols  Ogden    Woodward
Holloway  Ogden    Sessums  Wood
James

Yea—93

Mr. Speaker  Elmore    Martinez, J. M.  Sackett
Alvarez    Firestone  Matthews  Sessums
Andrews  Fleece  McNulty  Shaw
Arnold    Fulford  Melvin  Singleton
Baker    Gautier  Miers    Smith
Bassett  Gibson    Mixon    Sweeney
Baumgartner Bevis  Moudry  Tillman, J. K.
Bird      Glisson    Nease    Tillman, R. J.
Blackburn Gorman    Nergard  Toibassen
Bothwell  Gustafson  Ogden    Turlington
Brannen  Hartnett  Pettigrew  Tyre
Brantley  Heath    Powell   Tyrell
Caldwell  Hester    Prominski  Walker
Chapman   Hess      Randell  Ward
Clark, David  Hodes    Redman  Ware
Clark, Dick  James    Reed  Westberry
Clark, J. R.  Jordan    Reddy  Whitson
Conway    Kershaw  Reeves  Whitworth
Crabtree  Lancaster  Register  Wilton
Craig     Lindsey    Renick  Wolfson
Danahy    MacKay  Roberts  Woodward
Dixon    Martinez, E. L.  Ryals  Wood
Dubbin

Nays—23

Bird  Grizzle    Pratt    Stafford
Bothwell  Grizzle  Prominski  Tillman, R. J.
Crider   King    Reed    West
D’Alemberte  Lewis  Nichols  Whitson
Davis    Martinez, E. L.  Savage  Wood
Earle    Middlemas  Spicola

Years—93

Yeas—93

Mr. Speaker  Elmore    Martinez, J. M.  Sackett
Alvarez    Firestone  Matthews  Sessums
Andrews  Fleece  McNulty  Shaw
Arnold    Fulford  Melvin  Singleton
Baker    Gautier  Miers    Smith
Bassett  Gibson    Mixon    Sweeney
Baumgartner Bevis  Moudry  Tillman, J. K.
Bird      Glisson    Nease    Tillman, R. J.
Blackburn Gorman    Nergard  Toibassen
Bothwell  Gustafson  Ogden    Turlington
Brannen  Hartnett  Pettigrew  Tyre
Brantley  Heath    Powell   Tyrell
Caldwell  Hester    Prominski  Walker
Chapman   Hess      Randell  Ward
Clark, David  Hodes    Redman  Ware
Clark, Dick  James    Reed  Westberry
Clark, J. R.  Jordan    Reddy  Whitson
Conway    Kershaw  Reeves  Whitworth
Crabtree  Lancaster  Register  Wilton
Craig     Lindsey    Renick  Wolfson
Danahy    MacKay  Roberts  Woodward
Dixon    Martinez, E. L.  Ryals  Wood
Dubbin

Nays—22

Cridor    Galen    Middlemas  Spicola
D’Alemberte  Grizzle  Prati  Stafford
Davis    Harris  Robinson  Stevens
Earle    Holloway  Rowell  West
Fortune  Firestone  King    Savage

Representatives Culbreath and Poorbaugh were recorded as voting Yea, and Representative Crider changed his vote from Nay to Yea.

So the bill passed, as amended.

Mr. Whitson moved that the House reconsider the vote by which HB 2 passed and left the motion pending.

Presentation of Congressman Gibbons

Mr. Sessums presented Congressman Sam M. Gibbons of the Sixth District, a former member of the House of Representatives and Senate. The Speaker invited Congressman Gibbons to the rostrum, where he extended greetings.

HB 89 was taken up, together with:

CS for HB 89—A bill to be entitled An act adopting the uniform anatomical gift law; authorizing the gift of all or part of a human body after death for specified purposes: repealing
Fortune
Firestone
Glisson
Fleece
Featherstone
Gibson
Graham
Gillespie
Gustafson
Hartnett
Earle
Featherstone
Firestone
Fleece
Fortune
Gautier
Gibson
Gillemie
Glison
Gorman
Graham
Gustafson
Hartnett
Heath
Nichols
Ogaben
Poorbaugh
Pratt
Reed
Reed
Reed
Roberts
Rowell
Rowell
Sackett
Sacco
Sacco
Singleton
Smith
Spicola
Stevens
Sweeny
Tillman, J. K.
Tillman, R. J.
Tobiasen
Tucker
Turlington
Tyre
Tyrrell
Walker
West
West
West
Whitmore
Wilson
Wood
Woodward
Yancey

Nays—1:

Gallen

Representatives Fulford, Harris, Randell, and Reedy were recorded as voting Yea.

So the bill passed, as amended, and was ordered engrossed.

On motion by Mr. Reed, HB 512 was withdrawn from the Committee on Retirement & Personnel and from further consideration.

Excused

Representative Elmore was excused from attending the remainder of the session today.

Report from the Committee on Appropriations

Mr. Turlington, Chairman of the Committee on Appropriations, was recognized to discuss a preliminary draft of the General Appropriations Bill, copies of which were distributed to Members. Mr. Turlington said it was the intention of the Speaker and of the Committee that the bill be taken up in the House on Tuesday, April 22. He invited prior consultation and preparation by Members having either questions or amendments.

HB 6–A bill to be entitled An act relating to the Florida bureau of law enforcement; amending subsection 23.086(5)(b), Florida Statutes, to provide for the service of arrest warrants, capias or other court process; granting subpoena duces tecum authority; providing an effective date.

—was taken up and read the second time by title.

The Committee on Crime & Law Enforcement offered the following amendment:

In Section 1, on page 1, line 27, strike “books, letters, or other documentary evidence” and insert the following: telephone records, wire service records, or any records pertaining to telephone service or wire service under the jurisdiction of the Florida Public Service Commission.

Mr. J. M. Martinez moved the adoption of the amendment.

Pending consideration thereof—

Representative Pratt offered the following substitute amendment:

In Section 1, on page 1, lines 25 through 29, strike “The bureau may compel by subpoena duces tecum signed by the commissioner the production of any books, letters, or other documentary evidence it may desire to examine in reference to any matter being properly investigated by the bureau.”

Mr. Pratt moved the adoption of the substitute amendment.

Pending consideration thereof—

Representatives Wolfson and Gautier offered the following amendment to the substitute amendment:

In Section 1, on page 1, lines 27 and 28, strike "books, letters, or other documentary evidence" and insert the following: telephone records, wire service records, or any records pertaining to telephone service or wire service under the jurisdiction of the Florida Public Service Commission.

Mr. Gautier moved the adoption of the amendment to the substitute amendment, which was adopted.

The question recurred on the adoption of the substitute amendment, as amended, which was adopted.

On motion by Mr. J. M. Martinez, the rules were waived and HB 6, as amended, was read the third time by title. On passage, the vote was:

Yea—97

Mr. Speaker
Alvarez
Arnold
Baker
Basset
Bevins
Blackburn
Brannen
Baldwin
Bland
Clark, David
Clark, Dick
Clark, J. R.
Conway
Craig
Cridler
Culbreath
D'Alemberte
Danahy
Davis
Dixon
Dubbin
Earle
Featherstone
Firestone
Fleece
Fortune
Gautier
Gibson
Glison
Gorman
Graham
Gustafson
Hartnett
Heath
Nichols
Ogaben
Poorbaugh
Pratt
Sacco
Singleton
Smith
Spicola
Stevens
Sweeny
Tillman, J. K.
Tillman, R. J.
Tobiasen
Tucker
Turlington
Tyre
Tyrrell
Walker
West
West
West
Whitmore
Wilson
Wood
Woodward
Yancey

Yeas—97

Gallen
Middlemas
Powell
Pratt
Nichols

Nays—9

Gallen
Middlemas
Powell
Pratt
Nichols

Representative Harris was recorded as voting Yea.

So the bill passed, as amended, and was ordered engrossed.

On motion by Mr. Whitson, the rules were waived and the House reverted to the order of—

MATTERS ON RECONSIDERATION

HB 2–A bill to be entitled An act relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

—was taken up, pending on motion by Mr. Whitson to reconsider the vote by which the bill passed, as amended.

The question recurred on the motion to reconsider, which was agreed to, and HB 2 was placed on third reading.

Representative Whitson offered the following amendment:

In Section 2, on page 4, line 21, after the word “felony” insert the following: jurisdiction
Mr. Whitson moved the adoption of the amendment which was adopted by two-thirds vote.

Representative Whitson offered the following amendment:

In Section 3, on page 6, line 31, after the word ‘criminal’ strike the remainder of the sentence and insert the following: act.

Mr. Whitson moved the adoption of the amendment which was adopted by two-thirds vote.

Representatives Savage, Whitson, and West offered the following amendment:

In Section 4, on page 7, line 16, strike “knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications;” and insert the following: with the intention of rendering it primarily useful for the purpose of the illegal interception of wire or oral communications as specifically defined by this act;

Mr. Whitson moved the adoption of the amendment which was adopted by two-thirds vote.

Representative Whitson offered the following amendment:

In Section 4, on page 8, line 1, after the word “with,” insert the following: or bidding upon contracts with, or in the course of doing business with

Mr. Whitson moved the adoption of the amendment which was adopted by two-thirds vote.

Representative King offered the following amendment:

In Section 11, on page 20, line 16, strike the period and insert the following: and shall be effective until April 30, 1970.

Mr. King moved the adoption of the amendment.

On motion by Mr. Gautier, the amendment was laid on the table. The vote was:

Yea—96

Mr. Speaker Dubbin Lindsey Savage
Alvarez Earl MacKay Sesums
Arnold E. Firestone Martinez, J. M. Singleton
Andrews Fleece Matthews Smith
Baker Fortune McNulty Sweeney
Bassett Fulford Melvin Tillman, J. K.
Baumgartner Gautier Miers Tillman, R. J.
Blackburn Gibson Mixson Tobiasen
Boothwell Gillespie Moudry Tucker
Brennan Glisson Nease Turlington
Brantley Gorman Nergard Tyre
Caldwell Graham Ogden Tyrell
Chapman Grizzle Poorbaugh Walker
Clark, David Gustafson Powell Ward
Clark, Dick Hartnett Randell Ware
Clark, J. R. Heath Redman West
Conway Hess Reed Westberry
Crabtree Hodes Reeves Whiston
Craig Holloway Register Whithworth
Cridge James Renick Wilson
Culbreath Jordan Roberts Wolfson
Danahy Kershaw Robinson Wood
Davis King Rude Woodward
Dixon Lancaster Sackett Yancey

Nay—12

D’Alemberte Harris Middlemas Rowell
Featherstone Lewis Nichols Spicola
Gallen Martinez, E. L. Pratt Stevens

Representatives Bevis, Hector and Reedy were recorded as voting Yea.

So the bill passed, as amended, and was ordered engrossed.

CONTINUATION OF CONSIDERATION
OF THE SPECIAL ORDER

HB 289—A bill to be entitled An act relating to narcotic drugs; adding section 398.031, F. S.; to provide that a person, not previously convicted of a violation of chapters 398 or 404, F. S., if convicted of a first offense of possession of not more than four (4) grams of any part of the plant cannabis sativa shall be punished by imprisonment for not less than ten (10) days nor more than one (1) year in the county jail or by fine of $1,000 or by both fine and imprisonment; providing an effective date.

was taken up and read the second time by title.

The Committee on Crime & Law Enforcement offered the following amendment:

In Section 1, on page 1, line 25, strike “sativa”

Mr. Gautier moved the adoption of the amendment which was adopted.

The Committee on Crime & Law Enforcement offered the following amendment:

In Section 1, on page 1, lines 18 through 28, strike Section 1 and insert the following: Section 1. Chapter 398 is amended by adding section 398.031 to read:

398.031. Any person not previously convicted of any violation under Chapter 398 or Chapter 404, F. S., who shall be convicted of possession of not more than four (4) grams of Cannabis shall be punished by imprisonment for not less than ten (10) days nor more than one (1) year in the county jail, and may, in addition thereto, be fined not more than one thousand dollars ($1,000.00).

Mr. Gautier moved the adoption of the amendment which failed adoption.

Representative Gautier offered the following amendment:

In the title, on page 1, line 11, strike “sativa”.
Journal of the Senate
State of Florida

First Regular Session
Under the Constitution as Revised in 1968
April 8 Through June 6, 1969
BE IT FURTHER RESOLVED that the Department of Education and the Board of Archives and History shall cooperate to the fullest extent with the Committee.

BE IT FURTHER RESOLVED that the collected funds exceed the amount required for completion of the Valley Forge project, the Committee shall use the remaining funds for a similar Veteran's memorial on State land in the Capital City of Tallahassee.

BE IT FURTHER RESOLVED that upon completion of their duties, the Committee shall render a detailed financial statement to the Legislative Auditor of the State of Florida.

Was taken up and read the second time in full. On motion by Senator Young SCR 502 was adopted and certified to the House. The vote was: Yeas-48 Nays-None

Mr. President Friday Lane Thomas
Askew de la Parte Knopke Shevin
Bafalis Duckett Lane Slade
Barron Fincher McClain Stolzenburg
Barrow Friday Myers Stone
Beaufort Gong Ott Thomas
Bell Gunter Plante Trask
Bishop Haverfield Pope Weber
Boyd Henderson Poston Weisenborn
Broxson Hollahan Reuter Williams
Chiles Horne Saunders Wilson
Daniel Johnson Sayler Young

UNFINISHED BUSINESS

SB 8—A bill to be entitled An act relating to drug abuse; amending chapter 404, Florida Statutes, by adding section 404.045 authorizing the Florida Board of Health after notice and hearing to designate nonprescription drugs that are subject to abuse and providing that drugs so designated shall thereafter be dispensed only by licensed pharmacists or hospital employees under specified conditions.

Was taken up with pending amendment, having been amended and retained on second reading April 28.

Senator Scarborough offered the following substitute amendment which was adopted:

In Section 1(1), line 20, page 1, strike all of sub-section (1) and insert the following: (1) After due notice and public hearing, the Florida State Board of Health may by rule designate any nonprescription drug which has a similar effect as drugs defined in 404.01(1)(2)(3) as having a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

On motion by Senator Bafalis, the rules were waived and SB 8 as further amended was read the third time by title, passed and ordered engrossed. The vote was: Yeas-33 Nays-7

Mr. President Deeb Karl Scarborough
Askew de la Parte Knopke Shevin
Bafalis Duckett Lane Slade
Barron Fincher McClain Stolzenburg
Beaufort Gong Ott Thomas
Bell Gunter Plante Trask
Bishop Haverfield Pope Weber
Boyd Henderson Poston Weisenborn
Broxson Hollahan Reuter Williams
Chiles Horne Saunders Wilson
Daniel Johnson Sayler Young

Nays-7

Bishop Duckett Reuter Williams
Broxson Plante Stone

Senators Johnson and Barrow were recorded as voting yea.

SECOND READING

Consideration of SB 206 was deferred, the bill retaining its place on the Calendar.

Senator Shevin requested unanimous consent to take up HB 2 out of order. Senator Karl objected.

SB 80—A bill to be entitled An act relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability; and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

Was taken up and read the second time by title.

The Committee on Judiciary offered the following amendment which was moved by Senator Horne:

In Section 9, line 15, page 15, add words national or state between words "the" and "security".

Senator Shevin offered the following substitute amendment which was adopted:

In Section 1, line 23, page 1, strike everything beginning with "Section 1—Legislative Findings..." and insert the following: Section 1. Legislative findings. On the basis of its own investigations and of published studies, the legislature makes the following findings:

(1) Wire communications are normally conducted through the use of facilities which form part of an intrastate network. The same facilities are used for interstate and intrastate communications.

(2) In order to protect effectively the privacy of wire and oral communications, to protect the integrity of court and administrative proceedings, and to prevent the obstruction of interstate commerce, it is necessary for the legislature to define the circumstances and conditions under which the interception of wire and oral communications may be authorized, to prohibit any unauthorized interception of such communications, and the use of the contents thereof in evidence in courts and administrative proceedings.

(3) Organized criminals make extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.

(4) To safeguard the privacy of innocent persons, the interception of wire or oral communications where none of the parties to the communication has consented to the interception should be limited to certain major types of offenses and specific categories of offenses, with assurance that the interception is justified and that the information obtained thereby will not be misused.

Section 2. Definitions.—As used in this chapter:

(1) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate or foreign communications.

(2) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation.

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

(4) "Electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business, or being used by a communications common carrier in the ordinary course of its business.
business, or by an investigative or law enforcement officer in the ordinary course of his duties;

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(5) "Person" means any employee, or agent of the state or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation;

(6) "Investigative or law enforcement officer" means any officer of the state or political subdivision thereof who is empowered by law to conduct investigations of or to make arrest as therein enumerated in this chapter and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(7) "Contents," when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication;

(8) "Judge of competent jurisdiction" means justice of the supreme court, judge of a district court of appeal, circuit judge, or judge of any court of record having felony jurisdiction of the state;

(9) "Aggrieved person" means a person who was a party to any intercepted wire or oral communication or a person against whom the interception was directed.

Section 3. Interception and disclosure of wire or oral communications prohibited.—

(1) Except as otherwise specifically provided in this chapter, any person who:

(a) Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire or oral communication;

(b) Willfully uses, endeavors to use, or procures any other person to use or endeavor to use, any electronic, mechanical, or other device to intercept any oral communication when:

1. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

2. Such device transmits communications by radio, or interferes with the transmission of such communication;

(c) Willfully discloses, or endeavors to disclose, to any other person the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of wire or oral communication in violation of this subsection; or

(d) Willfully uses, or endeavors to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection; shall be fined not more than ten thousand dollars ($10,000.00) or imprisoned in the state penitentiary for not more than five (5) years, or by both such fine and imprisonment, upon conviction therefor.

(2) It shall not be unlawful under this section for:

(a) A communication common carrier or an officer, agent or employee of, or a person under contract with, a communication common carrier, in the normal course of the communication common carrier's business, or

(b) An officer, agent, or employee of, or a person under contract with, or bidding upon contracts with, or in the course of doing business with the United States, a state, or a political subdivision thereof, in the normal course of the activities of the United States, a state, or a political subdivision thereof, to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess, or sell any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications.

Section 5. Confiscation of wire or oral communication intercepting devices.—Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed or sold in violation of this chapter may be seized and forfeited to the state.

Section 6. Prohibition of use as evidence of intercepted wire or oral communications.—Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof, if the disclosure of that information would be in violation of this chapter.

Section 7. Authorization for interception of wire or oral communications.—The Governor or Attorney General or, any state attorney or state attorney of a political subdivision in the state, or a political subdivision thereof, may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with this chapter, an order authorizing or approving the interception of wire or oral communications by the Florida bureau of law enforcement, or any law enforcement agency of this state or any political subdivision thereof having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, gambling (when the same is of an organized nature or carried on as a conspiracy in violation of the laws of this state), robbery, burglary, grand larceny, abortion, bribery, extortion, or dealing in narcotic...
drugs or other dangerous drugs, or any conspiracy to commit
violation of the laws of this state relating to the crimes
specified above.

Section 8. Authorization for disclosure and use of intercepted
wire or oral communications.—

(1) Any investigative or law enforcement officer who, by any
means authorized by this chapter, has obtained knowledge of
the contents of any wire or oral communication, or evidence
derived therefrom, may disclose such contents to another inves-
tigative or law enforcement officer to the extent that such
disclosure is appropriate to the proper performance of the
official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any
means authorized by this chapter, has obtained knowledge of
the contents of any wire or oral communication or evidence
derived therefrom may use such contents to the extent such use
is appropriate to the proper performance of his official duties.

(3) Any person who has received, by any means authorized
by this chapter, any information concerning a wire or oral
communication, or evidence derived therefrom intercepted in
accordance with the provisions of this chapter may disclose the
contents of that communication or such derivative evidence
while giving testimony under oath or affirmation in any crim-
inal proceeding in any court of the state or in any grand jury
proceeding.

(4) No otherwise privileged wire or oral communication inter-
cepted in accordance with, or in violation of, the provisions of
this chapter shall lose its privileged character.

(5) When an investigative or law enforcement officer, while
engaged in intercepting wire or oral communications in the
manner authorized herein, intercepts wire or oral communica-
tions relating to offenses for which an order or authorization or
approval could have been secured pursuant to Section 7 of this
chapter, other than those specified in the order of authorization
or approval, the contents thereof, and evidence derived there-
from, may be disclosed or used as provided in subsections (1)
and (2) of this section. Such contents and any evidence derived
therefrom may be used under subsection (3) of this section
when authorized or approved by a judge of competent jurisdic-
tion where such judge finds that the facts and statements of
the application are otherwise subject to interception under this
chapter, and must state the applicant's authority to make
such interception, or a reasonable explanation of the failure to
obtain such results.

(6) Where the application is for the extension of an order, a
statement setting forth the results thus far obtained from the
interception, or a reasonable explanation of the failure to ob-
tain such results.

(7) The judge may require the applicant to furnish additional
testimony or documentary evidence in support of the applica-
tion.

(8) Upon such application the judge may enter an ex parte
order, as requested or as modified, authorizing or approving
interception of wire or oral communications within the territo-
rial jurisdiction of the court in which the judge is sitting, if the
judge determines on the basis of the facts submitted by the
applicant that:

(a) There is probable cause for belief that an individual is
committing, has committed, or is about to commit a particular
offense enumerated in section 7 of this chapter;

(b) There is probable cause for belief that particular com-
munications concerning that offense will be obtained through
such interception;

(c) Normal investigative procedures have been tried and have
failed or reasonably appear to be unlikely to succeed if tried or
to be too dangerous;

(d) There is probable cause for belief that the facilities from
which, or the place where, the wire or oral communications are
to be intercepted are being used, or are about to be used, in
connection with the commission of such offense, or are leased
to, listed in the name of, or commonly used by such person.

(9) Each order authorizing or approving the interception of
any wire or oral communication shall specify:

(a) The identity of the person, if known, whose communica-
tions are to be intercepted;

(b) The nature and location of the communications facilities
as to which, or the place where, authority to intercept is
granted;

(c) A particular description of the type of communication
sought to be intercepted, and a statement of the particular
offense to which it relates;

(d) The identity of the agency authorized to intercept the
communications, and of the person authorizing the application;

(e) The period of time during which such interception is
authorized, including a statement as to whether or not the
interception shall automatically terminate when the described
communication has been first obtained.

(10) No order entered under this section may authorize or
approve the interception of any wire or oral communication for
any period longer than is necessary to achieve the objective of
the authorization, or in any event longer than thirty days.
Extensions of an order may be granted, but only upon applica-
tion for an extension made in accordance with subsection (1)
of this section and the court making the findings required by
subsection (3) of this section. The period of extension shall be
no longer than the authorizing judge deems necessary to achieve
the purpose for which it was granted and in no event for
longer than thirty days. Every order and extension thereof shall
contain a provision that the authorization to intercept shall be
executed as soon as practicable, shall be conducted in such a
way as to minimize the interception of communications not
to be intercepted under this chapter, and must terminate upon attainment of the authorized objective, or in
any event in thirty days.

(11) Whenever an order authorizing interception is entered
pursuant to this chapter, the order may require reports to be
made to the judge who issued the order showing what progress
has been made toward achievement of the authorized objective.
and the need for continued interception. Such reports shall be made at such intervals as the judge may require.

(7) (a) The contents of any wire or oral communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subsection shall be kept in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge determining such portions of the intercepted communication or evidence derived therefrom under subsection (3) of section 8 of this chapter.

(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time but not later than ninety (90) days after the termination of the period of interception, the issuing or denying judge shall cause to be served, on the parties named in the order or application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of:

1. The fact of the entry of the order or the application;
2. The date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and
3. The fact that during the period wire or oral communications were or were not intercepted. The judge, upon the filing of a motion, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom.

The contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(b) In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the order or application for an order of approval, if the attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty (30) days after the date the order was entered and shall be diligently prosecuted.

Section 10. Recovery of civil damages authorized.—Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this chapter shall have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and shall be entitled to recover from any such person:

1. Actual damages but not less than liquidated damages computed at the rate of one hundred dollars ($100.00) a day for each day of violation or one thousand dollars ($1,000.00), whichever is higher;
2. Punitive damages;
3. A reasonable attorney’s fee and other litigation costs reasonably incurred.

A good faith reliance on a court order shall constitute a complete defense to any civil or criminal action under the laws of this state.

Section 11. If any provision of this act is held to be invalid for any purpose, such holding shall not operate to effect the remaining provisions of the act.

Section 12. This act shall take effect upon becoming a law.

On motion by Senator Shevin, HB 2, a companion measure to SB 80 as amended, was substituted therefor.

HB 2—A bill to be entitled An act relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting the use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

On motion by Senator Shevin, the rules were waived and HB 2 was read the second time by title.

The Committee on Judiciary offered the following amendment which was adopted on motion by Senator Shevin:

In Section 7, line 13, page 9, after the word “kidnapping,” insert rape.

The Committee on Judiciary also offered the following amendment which was adopted on motion by Senator Shevin:

In Section 7, line 16, page 9, after the words “grand larceny,” insert the following: prostitution, criminal usury.

The Committee on Judiciary also offered the following amendment which was adopted on motion by Senator Shevin:

In Section 9(7)(a), line 25, page 15, strike “subsection (7)(d)” and insert section 8

The Committee on Judiciary also offered the following amendment which was moved by Senator Shevin:
In Section 9, line 7, page 15, insert the following:

(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated and authorized by the commissioner of the Florida bureau of law enforcement, state attorney or county solicitor acting in their respective jurisdiction, who reasonably determines that:

(a) An emergency situation exists with respect to conspiratorial activities threatening the security interest or to conspiratorial activities characteristic of organized crime that requires a wire or oral communication to be intercepted before an order authorizing such interception can with due diligence be obtained, and

(b) There are grounds upon which an order could be entered under this chapter to authorize such interception, may intercept such wire or oral communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (8)(d) of this section on the person named in the application.

and renumber remaining subsections in section nine

On motion by Senator Plante, the rules were waived and consideration of HB 2 as amended with pending amendment was deferred until engrossed copies of the bill and pending Senate amendments could be delivered to each Senator.

SB 490—A bill to be entitled An act relating to district school systems; personnel; amending the introductory paragraph and subsection (8) of section 230.23, Florida Statutes; deleting any reference to school trustees in the appointment of personnel; prescribing dead-lines for the school board to act on recommendations for re-appointment of instructional personnel; making editorial changes; amending the introductory paragraph and paragraphs (c) and (d) of subsection (7) of section 230.33, Florida Statutes, requiring the superintendent to submit nominations of instructional personnel directly to the school board; prescribing dead-lines for nominations for re-appointment of instructional personnel; deleting any reference to school trustees; making editorial changes; providing an effective date.

Was taken up and read the second time by title. On motion by Senator Boyd, the rules were waived and SB 490 was read the third time by title, passed and certified to the House. The vote was: Yeas—40 Nays—None

Mr. President

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<tr>
<th>SB 490</th>
<th>SB 193</th>
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<tr>
<td>Sections 230.23, 230.33, Florida Statutes</td>
<td>An act relating to tuberculosis hospitals; amending section 392.242, Florida Statutes, to provide that should the Southwest Florida T.B. Hospital in Tampa cease to serve as a tuberculosis hospital, the last remaining state tuberculosis hospital in Florida shall be named and designated the W. T. Edwards Tuberculosis Hospital; providing an effective date.</td>
<td>An act to be entitled An act relating to the Florida insurance code; amending Section 626.0617 Florida Statutes by adding a new subsection, providing for the furnishing of information from insurance companies requesting or charging additional premiums for automobile liability or cancelling existing policies prior to a determination of fault for an accident on the part of the insured, or determination of other circumstances that warrant an additional premium charge or cancellation; providing an effective date.</td>
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<tr>
<td>Reprinted from Governor's message</td>
<td>Senator Barrow was recorded as voting yea.</td>
<td>Senator Barrow was recorded as voting yea.</td>
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| Bafalis | Duckert | Duckert |
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| Marcus | McKinsley | Marcus |
| Askew | Friday | Askew |
| Bafalis | Gong | Bafalis |
| Barron | Gunter | Barron |
| Beaufort | Haverfield | Beaufort |
| Bell | Henderson | Bell |
| Bishop | Hollahan | Bishop |
| Boyd | Johnson | Boyd |
| Broxson | Knopke | Broxson |
| Chiles | Lane | Chiles |
| Daniel | McClain | Daniel |
| Duckert | Myers | Duckert |
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| Stolzenburg | Stone | Stolzenburg |
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| Trask | Trask | Trask |
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Senator Weisenborn withdrew the pending amendment.

Senator Wilson offered the following amendment which was adopted:

In Section 1, line 2, page 2, add a new subsection

(3) Nothing in this section shall be considered as applying to sheriffs, deputy sheriffs, city or town marshals, policemen, constables, United States Marshals or their deputies; or official guards of state prisons or correctional systems who have been so designated by the director of the institution.

Senator Wilson also offered the following amendment which was adopted:

In title, line 9, page 1, after the word "misdemeanor;" insert the following:

providing exceptions;

Senator Pope offered the following amendment which was adopted:

Line 18, page 1, following “whoever” add except as otherwise provided in this chapter

On motion by Senator Shevin, CS for SB 43 as amended was read the third time by title, passed and ordered engrossed. The vote was: Yeas-41 Nays-None

Mr. President  de la Parte  Lane  Stolzenburg
Askew  Ducker  Myers  Thomas
Barrow  Fincher  Ott  Trask
Beaufort  Friday  Plante  Weber
Bell  Gong  Pope  Weisenborn
Bishop  Gunter  Poston  Williams
Boyd  Haverfield  Reuter  Wilson
Broxson  Hollahan  Saunders  Young
Chiles  Home  Sager  Shevin
Daniel  Johnson  Scarnborough  Deeb
Deeb  Knopke  Shevin

Senator Henderson was recorded as voting yea.

HB 2—A bill to be entitled An act relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

Was taken up with pending amendment, having been amended April 29.

The pending amendment failed.

The Committee on Judiciary offered the following amendment which was adopted on motion by Senator Shevin:

In Section 12, line 19, page 19, strike all of line 19 and insert the following: September 1, 1969.

Senator Myers offered the following amendment which was adopted:

In Section 8, line 10, page 10, after “grand jury proceeding,” strike the period and insert the following: “if such testimony is otherwise admissible”

* On motion by Senator Shevin, HB 2 as further amended was read the third time by title, passed and certified to the House. The vote was:

Yea—41

Mr. President  Beaufort  Chiles  Friday
Askew  Bell  Deeb  Gong
Bafalis  Bishop  de la Parte  Gunter
Barron  Boyd  Ducker  Haverfield
Barrow  Broxson  Fincher  Henderson

Senators Poston, Weissenborn, Scarborough and Reuter were recorded as voting yea.

LOCAL BILLS ON SECOND READING

SB 514—A bill to be entitled An act relating to Citrus County; empowering the board of county commissioners of Citrus County to establish and enforce zoning regulations for all territory in Citrus County that lies within one (1) mile of the right-of-way of the Cross Florida Barge Canal and tributaries thereof; except any part thereof that lies within the municipal limits of any incorporated municipality; empowering the board to regulate and restrict height, number of stories, and size of buildings and other structures, the percentage of lot that may be covered, the size of stories, the number and size of openings, the density of population, and the location and use of buildings, structures, and land and water for trade, industry, residence, agriculture, or other specific uses; empowering the board to divide said territory into districts, and within such districts to regulate and restrict the erection and construction, alteration, and repair, use of buildings and structures and land and water; providing for the appointment of a zoning commission and a board of adjustment; providing for the adoption of building, plumbing, and electrical codes; providing remedies and penalties; and enacting a number of other acts; to provide for violation of this act; any order, resolution, or regulation made under the authority conferred hereby; providing an effective date.

Was taken up and read the second time by title. On motion by Senator Karl the rules were waived and SB 514 was read the third time by title, passed and certified to the House. The vote was: Yeas—41 Nays—None

Mr. President  Ducker  Knopke  Stone
Bafalis  Fincher  Lane  Thomas
Barron  Friday  McClain  Trask
Bell  Gong  Ott  Weise
Beaufort  Gunter  Plante  Weisenborn
Bishop  Haverfield  Pope  Williams
Boyd  Henderson  Saunders  Wilson
Broxson  Hollahan  Sayler  Young
Chiles  Home  Sager  Shevin
Daniel  Horne  Scarnborough  Deeb
Deeb  Johnson  Shevin  de la Parte
Karl  Stolzenburg

SB 515—A bill to be entitled An act relating to Citrus County, Florida; relating to law libraries, filing fees in the Circuit, County Judge's and Small Claims Court in Citrus County, Florida, imposing additional filing fees in such courts and appropriating same for a County Law Library setting the amount of such additional filing fees, providing for the collection of said additional filing fees; providing for said funds to be used for the establishment and maintenance of a County Law Library; providing for the administration of said law library, declaring the establishment and maintenance of said library to be a public need and a general county purpose; declaring the purchase of law books and legal periodicals for placement in said County Law Library to be a general county purpose; providing that all property belonging to said library shall be deemed to be held and used as a charitable public trust; providing for payment of monies collected in Citrus County, pursuant to Chapter 63-604, Laws of Florida, Acts of 1963, into said trust; providing for a Librarian; repealing all laws in conflict herewith and providing an effective date.

Was taken up and read the second time by title. On motion by Senator Karl, the rules were waived and SB 515 was read the third time by title, passed and certified to the House. The vote was: Yeas—41 Nays—None

Mr. President  Barrow  Boyd  Deeb
Bafalis  Beaufort  Broxson  de la Parte
Barron  Bishop  Daniel  Ducker

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Barrow, the rules were waived and the Committee on Commerce and Licensed Businesses was granted an additional 6 legislative days for the consideration of Senate Bills 463, 578, 574, 618, 623, 635, 636, 637, 640, 641, 642, 674 and 384.

On motion by Senator Hollahan, by two-thirds vote, SB 564 was withdrawn from the Committee on Governmental Organization.

On motion by Senator Hollahan, by two-thirds vote, SB 494 was withdrawn from the Committee on Governmental Organization and placed on the Calendar.

On motions by Senator Lane, by two-thirds vote, SB 455 was withdrawn from the Committee on Rules and Calendar and Commerce and Licensed Businesses and from the Senate.

On motion by Senator de la Parte, the rules were waived and the Committee on Health, Welfare, and Institutions was granted an additional 10 days for the consideration of Senate Bills 443 and 624.

On motion by Senator Friday, the rules were waived and the Committee on Governmental Organization was granted an additional 5 legislative days for the consideration of all bills now in the Committee.

On motions by Senator Poston, by two-thirds vote, SB 806 was withdrawn from the Committee on Education and from the Senate.

On motions by Senator Horne, by two-thirds vote, SB 850 was withdrawn from the Committee on Judiciary and from the Senate.

On motions by Senator Henderson, by two-thirds vote, SB 269 was withdrawn from the Committee on Commerce and Licensed Businesses and from the Senate.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable John E. Mathews, Jr.

Sir:

I am directed to inform the Senate that the House of Representatives has adopted SCR 887.

Respectfully,

ALLEN MORRIS
Clerk, House of Representatives

The concurrent resolution contained in the above message was ordered enrolled.

The Honorable John E. Mathews, Jr.

Si:

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments 2, 3, 4 and 5 to

By Representative Gautier

HB 2—A bill to be entitled An act relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

—and has refused to concur in Senate amendment 1 which reads as follows:

In Section 7, line 13, page 9, after the word ‘‘kidnapping,’’ insert the following: ‘‘rape,’’

—and requests the Senate to recommit therefrom. In the event the Senate refuses to recommit, requests the President of the Senate to appoint a Conference Committee to confer with a like Committee to be appointed by the Speaker of the House to adjust the differences on Senate amendment 1 to HB 2.

Respectfully,

ALLEN MORRIS
Clerk, House of Representatives

On motion by Senator Shevin, the Senate reeded from the Senate amendment to HB 2. The action of the Senate was certified to the House.

The Honorable John E. Mathews, Jr.

May 2, 1969
President of the Senate

Sir:

I am directed to inform the Senate that the House of Representatives has passed—

By Representative Blackburn—

HB 460—A bill to be entitled An act relating to death benefits of firemen; amending section 112.191(2)(a), Florida Statutes, relating to the definition of the term ‘‘fireman’’; amending section 112.191(2)(a), Florida Statutes, relating to conditions for receiving death benefits; providing an effective date.

—and requests the concurrence of the Senate therein.

Respectfully,

ALLEN MORRIS
Clerk, House of Representatives

HB 460, contained in the above message, was read the first time by title and referred to the Committee on Ways and Means.

The Honorable John E. Mathews, Jr.

May 2, 1969
President of the Senate

Sir:

I am directed to inform the Senate that the House of Representatives has passed, as amended—

By The Committee on Elections—

CS for HBs 113, 134, 139, 173, 187, and 192—A bill to be entitled An act relating to elections; amending section 97.021(6), Florida Statutes, adding certain electors to definition of ‘‘absent elector’’; amending section 97.031(2), Florida Statutes, changing the period within which a nonregistered elector must execute an oath to vote in national elections; amending section 97.051, Florida Statutes, conforming the oath of an elector to the State Constitution; amending sections 101.62(3) and 101.64(1), Florida Statutes, providing for a change in the application for absentee elector’s ballot and elector’s certificate; amending section 101.68(1), Florida Statutes, to require the board of county canvassers to reconcile the absentee ballots to be counted with the absentee ballot applications, absentee ballots mailed and absentee ballots received as provided in section 101.63, Florida Statutes; amending section 99.033(1) and (3), Florida Statutes, extending the time for write-in candidates to certify information to the secretary of state; extending the time for the secretary of state to certify names to counties; amending section 97.063, Florida Statutes to provide for notification of elections to servicemen overseas by the supervisor of
### ROLL CALL VOTE

Vote on **HB 2 - Wire Tapping**

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<thead>
<tr>
<th>Name</th>
<th>Aye</th>
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<tr>
<td>Blackburn, Ed, Jr.</td>
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<td>Elmore, Henton D.</td>
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<td>Yancey, Quillian S.</td>
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Vote taken on **February 3, 1969**

Unanimous referred to 

Each committee for further study. Report 

Docket on 3-3-69.
A bill to be entitled
An act relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Legislative findings.—On the basis of its own investigations and of published studies, the legislature makes the following findings:

(1) Wire communications are normally conducted through the use of facilities which form part of an intrastate network. The same facilities are used for interstate and intrastate communications.

(2) In order to protect effectively the privacy of wire and oral communications, to protect the
integrity of court and administrative proceedings, and to prevent the obstruction of intrastate commerce, it is necessary for the legislature to define the circumstances and conditions under which the interception of wire and oral communications may be authorized, to prohibit any unauthorized interception of such communications, and the use of the contents thereof in evidence in courts and administrative proceedings.

(3) Organized criminals make extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.

(4) To safeguard the privacy of innocent persons, the interception of wire or oral communications where none of the parties to the communication has consented to the interception should be allowed only when authorized by a court of competent jurisdiction and should remain under the control and supervision of the authorizing court. Interception of wire and oral communications should further be limited to certain major types of offenses and specific categories of crime with assurance that the interception is justified and that the information obtained thereby will not be misused.

Section 2. Definitions.—As used in this chapter:

(1) "Wire communication" means any communication made in whole or in part through the use of
facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate or foreign communications;

(2) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

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

(4) "Electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business, or being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties,

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than
normal;

(5) "Person" means any employee, or agent of
the state or political subdivision thereof, and any
individual, partnership, association, joint stock
company, trust, or corporation;

(6) "Investigative or law enforcement officer"
means any officer of the state or political subdivi-
sion thereof who is empowered by law to conduct inves-
tigations of or to make arrests for offenses enumer-
ated in this chapter and any attorney authorized by
law to prosecute or participate in the prosecution of
such offenses;

(7) "Contents," when used with respect to any
wire or oral communication, includes any information
concerning the identity of the parties to such com-
munication or the existence, substance, purport, or
meaning of that communication;

(8) "Judge of competent jurisdiction" means
justice of the supreme court, judge of a district
court of appeal, circuit judge, or judge of any court
of general criminal jurisdiction of the state;

(9) "Aggrieved person" means a person who was
a party to any intercepted wire or oral communication
or a person against whom the interception was
directed.

Section 3. Interception and disclosure of
wire or oral communications prohibited.--

(1) Except as otherwise specifically provided
in this chapter any person who:

(a) Willfully intercepts, endeavors to inter-
cept, or procures any other person to intercept or
endavor to intercept, any wire or oral communication;

(b) Willfully uses, endeavors to use, or pro-
cures any other person to use or endeavor to use, any
electronic, mechanical, or other device to intercept
any oral communication when:

1. Such device is affixed to, or otherwise
transmits a signal through, a wire, cable, or other
like connection used in wire communication; or

2. Such device transmits communications by
radio, or interferes with the transmission of such
communication;

(c) Willfully discloses, or endeavors to
disclose, to any other person the contents of any
wire or oral communication, knowing or having reason
to know that the information was obtained through the
interception of a wire or oral communication in
violation of this subsection; or

(d) Willfully uses, or endeavors to use, the
contents of any wire or oral communication, knowing
or having reason to know that the information was
obtained through the interception of a wire or oral
communication in violation of this subsection;
shall be fined not more than ten thousand dollars
($10,000.00) or imprisoned in the state penitentiary
for not more than five (5) years, or by both such
fine and imprisonment, upon conviction therefor.

(2) (a) It shall not be unlawful under this
chapter for an operator of a switchboard, or an
officer, employee, or agent of any communication com-
mon carrier, whose facilities are used in the trans-
mission of a wire communication, to intercept,
disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication; provided, that said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(b) It shall not be unlawful under this chapter for an officer, employee, or agent of the federal communications commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of chapter 5 of title 47 of the United States code, to intercept a wire communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(c) It shall not be unlawful under this chapter for a person acting under color of law to intercept a wire or oral communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the laws of
this state or for the purpose of committing any other
injurious act.

Section 4. Manufacture, distribution, possession, and advertising of wire or oral communication
intercepting devices prohibited.

(1) Except as otherwise specifically provided
in this chapter, any person who willfully:

(a) Sends through the mail, or sends or
carries any electronic, mechanical, or other device,
knowing or having reason to know that the design of
such device renders it primarily useful for the pur­
pose of the surreptitious interception of wire or
oral communications;

(b) Manufactures, assembles, possesses, or
sells any electronic, mechanical, or other device,
knowing or having reason to know that the design of
such device renders it primarily useful for the pur­
pose of the surreptitious interception of wire or
oral communications;

shall be fined not more than ten thousand dollars
($10,000.00) or imprisoned in the state penitentiary
not more than five (5) years, or by both such fine
and imprisonment, upon conviction therefor.

(2) It shall not be unlawful under this sec­
tion for:

(a) A communication common carrier or an
officer, agent or employee of, or a person under con­
tact with, a communication common carrier, in the
normal course of the communication common carrier's
business, or

(b) An officer, agent, or employee of, or a
person under contract with, the United States, a state or a political subdivision thereof, in the normal course of the activities of the United States, a state or a political subdivision thereof, to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess, or sell any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications.

Section 5. Confiscation of wire or oral communication intercepting devices.--Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed or sold in violation of this chapter may be seized and forfeited to the state.

Section 6. Prohibition of use as evidence of intercepted wire or oral communications.--Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof, if the disclosure of that information would be in violation of this chapter.

Section 7. Authorization for interception of wire or oral communications.--The commissioner of the Florida bureau of law enforcement, any state
attorney or any county solicitor, in their respective jurisdictions, may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with this chapter, an order authorizing or approving the interception of wire or oral communications by the Florida bureau of law enforcement, or any law enforcement agency of this state or any political subdivision thereof having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, gambling (when the same is of an organized nature or carried on as a conspiracy in violation of the laws of this state), robbery, burglary, grand larceny, abortion, bribery, extortion, or dealing in narcotic drugs or other dangerous drugs, or other crime dangerous to life, limb or property, and punishable by imprisonment in the state penitentiary for more than one (1) year as designated in any applicable state statute, or any conspiracy to commit any violation of the laws of this state.

Section 8. Authorization for disclosure and use of intercepted wire or oral communications.--

(1) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance
of the official duties of the officer making or
receiving the disclosure.

(2) Any investigative or law enforcement
officer who, by any means authorized by this chapter,
has obtained knowledge of the contents of any wire
or oral communication or evidence derived therefrom
may use such contents to the extent such use is appro-
propriate to the proper performance of his official
duties.

(3) Any person who has received, by any means
authorized by this chapter, any information concern-
ing a wire or oral communication, or evidence derived
therefrom intercepted in accordance with the provi-
sions of this chapter may disclose the contents of
that communication or such derivative evidence while
giving testimony under oath or affirmation in any
criminal proceeding in any court of the state or in
any grand jury proceeding.

(4) No otherwise privileged wire or oral com-
munication intercepted in accordance with, or in
violation of, the provisions of this chapter shall
lose its privileged character.

(5) When an investigative or law enforcement
officer, while engaged in intercepting wire or oral
communications in the manner authorized herein,
intercepts wire or oral communications relating to
offenses other than those specified in the order of
authorization or approval, the contents thereof, and
evidence derived therefrom, may be disclosed or used
as provided in subsections (1) and (2) of this sec-
tion. Such contents and any evidence derived
therefrom may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application shall be made as soon as practicable.

Section 9. Procedure for interception of wire or oral communications.

(1) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including details as to the particular offense that has been, is being, or is about to be committed, a particular description of the nature and location of the facilities from which, or the place where, the communications is to be intercepted, a particular description of the type of communications sought to be intercepted, the identity of the person, if known, committing the offense and whose communications are to be intercepted;

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(c) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) A statement of the period of time for which the interception is required to be maintained.

If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(f) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(¿) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(3) Upon such application the judge may enter an ex parte order, as requested or as modified.
authorizing or approving interception of wire or oral communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 7 of this chapter;

(b) There is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(c) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) There is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

(4) Each order authorizing or approving the interception of any wire or oral communication shall specify:

(a) The identity of the person, if known, whose communications are to be intercepted;

(b) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) A particular description of the type of
communication sought to be intercepted, and a state-
ment of the particular offense to which it relates;

(d) The identity of the agency authorized to
intercept the communications, and of the person
authorizing the application; and

(e) The period of time during which such
interception is authorized, including a statement as
to whether or not the interception shall automatically
terminate when the described communication has been
first obtained.

(5) No order entered under this section may
authorize or approve the interception of any wire or
oral communication for any period longer than is neces-
sary to achieve the objective of the authorization,
nor in any event longer than thirty days. Extensions
of an order may be granted, but only upon application
for an extension made in accordance with subsection
(1) of this section and the court making the findings
required by subsection (5) of this section. The
period of extension shall be no longer than the author-
izing judge deems necessary to achieve the purposes
for which it was granted and in no event for longer
than thirty days. Every order and extension thereof
shall contain a provision that the authorization to
intercept shall be executed as soon as practicable,
shall be conducted in such a way as to minimize the
interception of communications not otherwise subject
to interception under this chapter, and must terminate
upon attainment of the authorized objective, or in
any event in thirty days.

(6) Whenever an order authorizing interception
is entered pursuant to this chapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require.

(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated and authorized by the commissioner of the Florida bureau of law enforcement, state attorney or county solicitor acting in their respective jurisdiction, who reasonably determines that:

(a) An emergency situation exists with respect to conspiratorial activities threatening the security interest or to conspiratorial activities characteristic of organized crime that requires a wire or oral communication to be intercepted before an order authorizing such interception can with due diligence be obtained, and

(b) There are grounds upon which an order could be entered under this chapter to authorize such interception, may intercept such wire or oral communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier.
In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (8)(d) of this section on the person named in the application.

(8) (a) The contents of any wire or oral communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subsection shall be kept in such way as will protect the recording from editing or other alterations.

Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsection (8)(d) 1. and 2. of this section for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under subsection (3) of section 8 of this chapter.
(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time but not later than ninety (90) days after the filing of an application for an order of approval under subsection (7)(b) of this section which is denied or the termination of the period of an order or extension thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of:

1. The fact of the entry of the order or the application;

2. The date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

3. The fact that during the period wire or oral communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to such person or his
counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction, the serving of the inventory required by this subsection may be postponed.

(9) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding unless each party, not less than ten (10) days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten (10) days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(10) (a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that:

1. The communication was unlawfully intercepted;

2. The order of authorization or approval under which it was intercepted is insufficient on its face; or
3. The interception was not made in conformity
with the order of authorization or approval.

Such motion shall be made before the trial, hearing,
or proceeding unless there was no opportunity to make
such motion or the person was not aware of the grounds
of the motion. If the motion is granted, the contents
of the intercepted wire or oral communication, or
evidence derived therefrom, shall be treated as hav­
ing been obtained in violation of this chapter. The
judge, upon the filing of such motion by the aggrieved
person, may in his discretion make available to the
aggrieved person or his counsel for inspection such
portions of the intercepted communication or evidence
derived therefrom as the judge determines to be in the
interests of justice.

(b) In addition to any other right to appeal,
the state shall have the right to appeal from an
order granting a motion to suppress made under para­
graph (a) of this subsection, or the denial of an
application for an order of approval, if the attorney
shall certify to the judge or other official granting
such motion or denying such application that the
appeal is not taken for purposes of delay. Such
appeal shall be taken within thirty (30) days after
the date the order was entered and shall be diligently
prosecuted.

Section 10. Recovery of civil damages author­
ized.--Any person whose wire or oral communication
is intercepted, disclosed, or used in violation of
this chapter shall have a civil cause of action
against any person who intercepts, discloses, or
use, or procure any other person to intercept, dis-
close, or use such communications, and shall be en-
titled to recover from any such person:

(1) Actual damages but not less than liqui-
dated damages computed at the rate of one hundred
dollars ($100.00) a day for each day of violation or
one thousand dollars ($1,000.00), whichever is higher;

(2) Punitive damages; and

(3) A reasonable attorney's fee and other
litigation costs reasonably incurred.

A good faith reliance on a court order or on the pro-
visions of subsection (7) of section 9 of this chapter
shall constitute a complete defense to any civil or
criminal action under the laws of this state.

Section 11. This act shall take effect
immediately upon becoming law.
**ROLL CALL VOTE**

**vote on HB 2 - Wire Tapping**

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<tr>
<th>Name</th>
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<td>Blackburn, Ed, Jr.</td>
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<td>Yancey, Quillian S.</td>
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Vote taken on **February 3, 1969**, 1969

unanimous referral to
Judiciary Committee for
further study. Report
back on 3-3-69.
A bill to be entitled
An act relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Legislative findings.—On the basis of its own investigations and of published studies, the legislature makes the following findings:

(1) Wire communications are normally conducted through the use of facilities which form part of an intrastate network. The same facilities are used for interstate and intrastate communications.

(2) In order to protect effectively the privacy of wire and oral communications, to protect the
integrity of court and administrative proceedings, and to prevent the obstruction of intrastate commerce, it is necessary for the legislature to define the circumstances and conditions under which the interception of wire and oral communications may be authorized, to prohibit any unauthorized interception of such communications, and the use of the contents thereof in evidence in courts and administrative proceedings.

(3) Organized criminals make extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.

(4) To safeguard the privacy of innocent persons, the interception of wire or oral communications where none of the parties to the communication has consented to the interception should be allowed only when authorized by a court of competent jurisdiction and should remain under the control and supervision of the authorizing court. Interception of wire and oral communications should further be limited to certain major types of offenses and specific categories of crime with assurance that the interception is justified and that the information obtained thereby will not be misused.

Section 2. Definitions.—As used in this chapter:

(1) "Wire communication" means any communication made in whole or in part through the use of
facilities for the transmission of communications by
the aid of wire, cable, or other like connection
between the point of origin and the point of reception
furnished or operated by any person engaged as a common
carrier in providing or operating such facilities for
the transmission of intrastate, interstate or foreign
communications;

(2) "Oral communication" means any oral com­
munication uttered by a person exhibiting an expecta­
tion that such communication is not subject to
interception under circumstances justifying such
expectation;

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

(4) "Electronic, mechanical, or other device"
means any device or apparatus which can be used to
intercept a wire or oral communication other than:

(a) Any telephone or telegraph instrument,
equipment or facility, or any component thereof fur­
nished to the subscriber or user by a communications
common carrier in the ordinary course of its business
and being used by the subscriber or user in the
ordinary course of its business, or being used by a
communications common carrier in the ordinary course
of its business, or by an investigative or law en­
forcement officer in the ordinary course of his
duties;

(b) A hearing aid or similar device being
used to correct subnormal hearing to not better than
normal;

(5) "Person" means any employee, or agent of
the state or political subdivision thereof, and any
individual, partnership, association, joint stock
company, trust, or corporation;

(6) "Investigative or law enforcement officer"
means any officer of the state or political subdivi-
sion thereof who is empowered by law to conduct inves-
tigations of or to make arrests for offenses enumer-
ated in this chapter and any attorney authorized by
law to prosecute or participate in the prosecution of
such offenses;

(7) "Contents," when used with respect to any
wire or oral communication, includes any information
concerning the identity of the parties to such com-
munication or the existence, substance, purport, or
meaning of that communication;

(8) "Judge of competent jurisdiction" means
justice of the supreme court, judge of a district
court of appeal, circuit judge, or judge of any court
of general criminal jurisdiction of the state;

(9) "Aggrieved person" means a person who was
a party to any intercepted wire or oral communication
or a person against whom the interception was
directed.

Section 3. Interception and disclosure of
wire or oral communications prohibited.

(1) Except as otherwise specifically provided
in this chapter any person who:

(a) Willfully intercepts, endeavors to inter-
cept, or procures any other person to intercept or
endavor to intercept, any wire or oral communication;

(b) Willfully uses, endeavors to use, or pro-
cures any other person to use or endeavor to use, any
electronic, mechanical, or other device to intercept
any oral communication when:

1. Such device is affixed to, or otherwise
transmits a signal through, a wire, cable, or other
like connection used in wire communication; or

2. Such device transmits communications by
radio, or interferes with the transmission of such
communication;

(c) Willfully discloses, or endeavors to
disclose, to any other person the contents of any
wire or oral communication, knowing or having reason
to know that the information was obtained through the
interception of a wire or oral communication in
violation of this subsection; or

(d) Willfully uses, or endeavors to use, the
contents of any wire or oral communication, knowing
or having reason to know that the information was
obtained through the interception of a wire or oral
communication in violation of this subsection;
shall be fined not more than ten thousand dollars
($10,000.00) or imprisoned in the state penitentiary
for not more than five (5) years, or by both such
fine and imprisonment, upon conviction therefor.

(2) (a) It shall not be unlawful under this
chapter for an operator of a switchboard, or an
officer, employee, or agent of any communication com-
mon carrier, whose facilities are used in the trans-
mission of a wire communication, to intercept,
disclose, or use that communication in the normal
course of his employment while engaged in any activity
which is a necessary incident to the rendition of his
service or to the protection of the rights or property
of the carrier of such communication; provided, that
said communication common carriers shall not utilize
service observing or random monitoring except for
mechanical or service quality control checks.

(b) It shall not be unlawful under this chapter for an officer, employee, or agent of the federal
communications commission, in the normal course of
his employment and in discharge of the monitoring
responsibilities exercised by the commission in the
enforcement of chapter 5 of title 47 of the United
States code, to intercept a wire communication, or
oral communication transmitted by radio, or to dis­
close or use the information thereby obtained.

(c) It shall not be unlawful under this chapter for a person acting under color of law to inter­
cept a wire or oral communication, where such person
is a party to the communication or one of the parties
to the communication has given prior consent to such
interception.

(d) It shall not be unlawful under this chapter for a person not acting under color of law to
intercept a wire or oral communication where such per­
son is a party to the communication or where one of
the parties to the communication has given prior con­
sent to such interception unless such communication
is intercepted for the purpose of committing any
criminal or tortious act in violation of the laws of
Section 4. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited.

(1) Except as otherwise specifically provided in this chapter, any person who willfully:

(a) Sends through the mail, or sends or carries any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications;

(b) Manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications;

shall be fined not more than ten thousand dollars ($10,000.00) or imprisoned in the state penitentiary not more than five (5) years, or by both such fine and imprisonment, upon conviction therefor.

(2) It shall not be unlawful under this section for:

(a) A communication common carrier or an officer, agent or employee of, or a person under contract with, a communication common carrier, in the normal course of the communication common carrier's business, or

(b) An officer, agent, or employee of, or a
person under contract with, the United States, a state
or a political subdivision thereof, in the normal
course of the activities of the United States, a state
or a political subdivision thereof, to send through
the mail, send or carry in interstate or foreign com-
merce, or manufacture, assemble, possess, or sell any
electronic, mechanical, or other device, knowing or
having reason to know that the design of such device
renders it primarily useful for the purpose of the
surreptitious interception of wire or oral communi-
cations.

Section 5. Confiscation of wire or oral com-
munication intercepting devices.-- Any electronic,
mechanical, or other device used, sent, carried,
manufactured, assembled, possessed or sold in viola-
tion of this chapter may be seized and forfeited to
the state.

Section 6. Prohibition of use as evidence of
intercepted wire or oral communications.--Whenever
any wire or oral communication has been intercepted,
no part of the contents of such communication and no
evidence derived therefrom may be received in evidence
in any trial, hearing, or other proceeding in or be-
fore any court, grand jury, department, officer,
agency, regulatory body, legislative committee, or
other authority of the state, or a political subdi-
vision thereof, if the disclosure of that information
would be in violation of this chapter.

Section 7. Authorization for interception of
wire or oral communications.-- The commissioner of
the Florida bureau of law enforcement, any state
attorney or any county solicitor, in their respective jurisdictions, may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with this chapter, an order authorizing or approving the interception of wire or oral communications by the Florida bureau of law enforcement, or any law enforcement agency of this state or any political subdivision thereof having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, gambling (when the same is of an organized nature or carried on as a conspiracy in violation of the laws of this state), robbery, burglary, grand larceny, abortion, bribery, extortion, or dealing in narcotic drugs or other dangerous drugs, or other crime dangerous to life, limb or property, and punishable by imprisonment in the state penitentiary for more than one (1) year as designated in any applicable state statute, or any conspiracy to commit any violation of the laws of this state.

Section 8. Authorization for disclosure and use of intercepted wire or oral communications.--

(1) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance
of the official duties of the officer making or
receiving the disclosure.

(2) Any investigative or law enforcement
officer who, by any means authorized by this chapter,
has obtained knowledge of the contents of any wire
or oral communication or evidence derived therefrom
may use such contents to the extent such use is appro­
priate to the proper performance of his official
duties.

(3) Any person who has received, by any means
authorized by this chapter, any information concern­
ing a wire or oral communication, or evidence derived
therefrom intercepted in accordance with the provi­
sions of this chapter may disclose the contents of
that communication or such derivative evidence while
giving testimony under oath or affirmation in any
criminal proceeding in any court of the state or in
any grand jury proceeding.

(4) No otherwise privileged wire or oral com­
munication intercepted in accordance with, or in
violation of, the provisions of this chapter shall
lose its privileged character.

(5) When an investigative or law enforcement
officer, while engaged in intercepting wire or oral
communications in the manner authorized herein,
intercepts wire or oral communications relating to
offenses other than those specified in the order of
authorization or approval, the contents thereof, and
evidence derived therefrom, may be disclosed or used
as provided in subsections (1) and (2) of this sec­
tion. Such contents and any evidence derived

10
therefrom may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application shall be made as soon as practicable.

Section 9. Procedure for interception of wire or oral communications.--

(1) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including details as to the particular offense that has been, is being, or is about to be committed, a particular description of the nature and location of the facilities from which, or the place where, the communications is to be intercepted, a particular description of the type of communications sought to be intercepted, the identity of the person, if known, committing the offense and whose communications are to be intercepted;
(c) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(f) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(3) Upon such application the judge may enter an ex parte order, as requested or as modified,
authorizing or approving interception of wire or oral communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 7 of this chapter;

(b) There is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(c) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) There is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

(4) Each order authorizing or approving the interception of any wire or oral communication shall specify:

(a) The identity of the person, if known, whose communications are to be intercepted;

(b) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) A particular description of the type of
communication sought to be intercepted, and a statement of the particular offense to which it relates; (d) The identity of the agency authorized to intercept the communications, and of the person authorizing the application; and (e) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

(5) No order entered under this section may authorize or approve the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (5) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days.

(6) Whenever an order authorizing interception
is entered pursuant to this chapter, the order may
require reports to be made to the judge who issued
the order showing what progress has been made toward
achievement of the authorized objective and the need
for continued interception. Such reports shall be
made at such intervals as the judge may require.

(7) Notwithstanding any other provision of
this chapter, any investigative or law enforcement
officer, specially designated and authorized by the
commissioner of the Florida bureau of law enforce­
ment, state attorney or county solicitor acting in
their respective jurisdiction, who reasonably deter­
mines that:

(a) An emergency situation exists with respect
to conspiratorial activities threatening the security
interest or to conspiratorial activities character­
istic of organized crime that requires a wire or oral
communication to be intercepted before an order
authorizing such interception can with due diligence
be obtained, and

(b) There are grounds upon which an order
could be entered under this chapter to authorize such
interception,
may intercept such wire or oral communication if an
application for an order approving the interception
is made in accordance with this section within forty­
eight hours after the interception has occurred, or
begins to occur. In the absence of an order, such
interception shall immediately terminate when the
communication sought is obtained or when the appli­
cation for the order is denied, whichever is earlier.
(8) (a) The contents of any wire or oral communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subsection shall be kept in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsection (8)(d) 1. and 2. of this section for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under subsection (3) of section 8 of this chapter.
(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time but not later than ninety (90) days after the filing of an application for an order of approval under subsection (7)(b) of this section which is denied or the termination of the period of an order or extension thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of:

1. The fact of the entry of the order or the application;

2. The date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

3. The fact that during the period wire or oral communications were or were not intercepted. The judge, upon the filing of a motion, may in his discretion make available to such person or his
(9) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding unless each party, not less than ten (10) days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten (10) days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(10) (a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that:

1. The communication was unlawfully intercepted;
2. The order of authorization or approval under which it was intercepted is insufficient on its face; or
3. The interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(b) In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the denial of an application for an order of approval, if the attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty (30) days after the date the order was entered and shall be diligently prosecuted.

Section 10. Recovery of civil damages authorized.-- Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this chapter shall have a civil cause of action against any person who intercepts, discloses, or
hand or procures any other person to intercept, disclose, or use such communications, and shall be entitled to recover from any such person:

(1) Actual damages but not less than liquidated damages computed at the rate of one hundred dollars ($100.00) a day for each day of violation or one thousand dollars ($1,000.00), whichever is higher;

(2) Punitive damages; and

(3) A reasonable attorney's fee and other litigation costs reasonably incurred.

A good faith reliance on a court order or on the provisions of subsection (7) of section 9 of this chapter shall constitute a complete defense to any civil or criminal action under the laws of this state.

Section 11. This act shall take effect immediately upon becoming law.
SENATE BILL NO. 80

TO BE ENTITLED

AN ACT relating to wire tapping and electronic surveillance; prohibiting interception and disclosure of wire or oral communications or the manufacture, distribution or possession of wire or oral communication intercepting devices by unauthorized persons and prescribing criminal penalties and confiscation of equipment therefor; prohibiting use as evidence of unauthorized intercepted wire or oral communications; providing for authorization of interception, disclosure and use as evidence of legally intercepted wire or oral communications; establishing procedure for such interception; creating civil liability and specifying damages for illegal use of wire tap or electronic listening device; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Legislative findings.—On the basis of its own investigations and of published studies, the legislature makes the following findings:

1 Wire communications are normally conducted through the use of facilities which form part of
an intrastate network. The same facilities are used
for interstate and intrastate communications.

(2) In order to protect effectively the pri-

vacy of wire and oral communications, to protect the

integrity of court and administrative proceedings,
and to prevent the obstruction of intrastate com-
merce, it is necessary for the legislature to define
the circumstances and conditions under which the
interception of wire and oral communications may be
authorized, to prohibit any unauthorized intercep-
tion of such communications, and the use of the con-
tents thereof in evidence in courts and administra-
tive proceedings.

(3) Organized criminals make extensive use
of wire and oral communications in their criminal
activities. The interception of such communications
to obtain evidence of the commission of crimes or to
prevent their commission is an indispensable aid to
law enforcement and the administration of justice.

(4) To safeguard the privacy of innocent per-
sons, the interception of wire or oral communications
where none of the parties to the communication has
consented to the interception should be allowed only
when authorized by a court of competent jurisdiction
and should remain under the control and supervision
of the authorizing court. Interception of wire and
oral communications should further be limited to
certain major types of offenses and specific cate-
PAGE 2

gories of crime with assurance that the interception is justified and that the information obtained there-by will not be misused.

Section 2. Definitions.—As used in this chapter:

(1) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate or foreign communications;

(2) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

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

(4) "Electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or oral communications other than:
(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business, or being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(5) "Person" means any employee, or agent of the state or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation;

(6) "Investigative or law enforcement officer" means any officer of the state or political subdivision thereof who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(7) "Contents," when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such com-
Page 4

16 communication or the existence, substance, purport, or
17 meaning of that communication;

18 (8) "Judge of competent jurisdiction" means
19 justice of the supreme court, judge of a district
20 court of appeal, circuit judge, or judge of any court of general criminal jurisdiction of the state; or
21
22 (9) "Aggrieved person" means a person who was
23 a party to any intercepted wire or oral communication
24 or a person against whom the interception was
25 directed.

26 Section 3. Interception and disclosures of
27 wire or oral communications prohibited.—

28 (1) Except as otherwise specifically provided
29 in this chapter any reason who:

30 (a) Willfully intercepts, endeavors to inter-
31 cept, or procures any other person to intercept or

Page 5

1 endeavor to intercept, any wire or oral communication;

2 (b) Willfully uses, endeavors to use, or pro-
3 cures any other person to use or endeavor to use, any
4 electronic, mechanical, or other device to intercept
5 any oral communication when:

6 1. Such device is affixed to, or otherwise
7 transmits a signal through, a wire, cable, or other
8 like connection used in wire communication; or

9 2. Such device transmits communications by
radio, or interferes with the transmission of such communication;

(c) Willfully discloses, or endeavors to disclose, to any other person the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection; or

(d) Willfully uses, or endeavors to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection; shall be fined not more than ten thousand dollars ($10,000.00) or imprisoned in the state penitentiary for not more than five (5) years, or by both such fine and imprisonment, upon conviction therefor.

(2) (a) It shall not be lawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication; provided, that said communication common carriers shall not utilize
service observing or random monitoring except for mechanical or service quality control checks.

(b) It shall not be unlawful under this chapter for an officer, employee, or agent of the federal communications commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of chapter 5 of title 47 of the United States code, to intercept a wire communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(c) It shall not be unlawful under this chapter for a person acting under color of law to intercept a wire or oral communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the laws of this state or for the purpose of committing any other injurious act.
Section 4. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited.—

(1) Except as otherwise specifically provided in this chapter, any person who willfully:

(a) Sends through the mail, or sends or carries any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications;

(b) Manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications;

shall be fined not more than ten thousand dollars ($10,000.00) or imprisoned in the state penitentiary not more than five (5) years, or by both such fine and imprisonment, upon conviction therefor.

(2) It shall not be unlawful under this section for:

(a) A communication common carrier or an officer, agent or employee of, or a person under contract with, a communication common carrier, in the normal course of the communication common carrier's business, or

(b) An officer, agent, or employee of, or a
person under contract with, the United States, a state, or a political subdivision thereof, in the normal course of the activities of the United States, a state or a political subdivision thereof, to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess, or sell any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications.

Section 5. Confiscation of wire or oral communication intercepting devices.—Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed or sold in violation of this chapter may be seized and forfeited to the state.

Section 6. Prohibition of use as evidence of intercepted wire or oral communications.—Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof, if the disclosure of that information would be in violation of this chapter.

Section 7. Authorization for interception of wire or oral communications.—The commissioner of
attorney or any county solicitor, in their respective
jurisdictions, may authorize an application to a judge
of competent jurisdiction for, and such judge may
grant in conformity with this chapter, an order
authorizing or approving the interception of wire or
oral communications by the Florida bureau of law en-
forcement, or any law enforcement agency of this
state or any political subdivision thereof having
responsibility for the investigation of the offense
as to which the application is made, when such inter-
ception may provide or has provided evidence of the
commission of the offense of murder, kidnapping,
gambling (when the same is of an organized nature or
carried on as a conspiracy in violation of the laws
of this state), robbery, burglary, grand larceny,
abortion, bribery, extortion, or dealing in narcotic
drugs or other dangerous drugs, or other crime
dangerous to life, limb or property, and punishable
by imprisonment in the state penitentiary for more
than one (1) year as designated in any applicable
state statute, or any conspiracy to commit any vio-
lation of the laws of this state.

Section 8. Authorization for disclosure and
use of intercepted wire or oral communications.—

(1) Any investigative or law enforcement
officer who, by any means authorized by this chapter,
has obtained knowledge of the contents of any wire
or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

Any person who has received, by any means authorized by this chapter, any information concerning a wire or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of this chapter may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court of the state or in any grand jury proceeding.

No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this chapter shall lose its privileged character.

When an investigative or law enforcement
24 officer, while engaged in intercepting wire or oral communications in the manner authorized herein, intercepts wire or oral communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application shall be made as soon as practicable.

Section 9. Procedure for interception of wire or oral communications.—

(1) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant’s authority to make such application. Each application shall include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;
(b) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including details as to the particular offense that has been, is being, or is about to be committed, a particular description of the nature and location of the facilities from which, or the place where, the communications is to be intercepted, a particular description of the type of communications sought to be intercepted, the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(c) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communications has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application,
made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(f) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(3) Upon such application the judge may enter an ex parte order, as requested or as modified,

authorizing or approving interception of wire or oral communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 7 of this chapter;

(b) There is probable cause for belief that particular communications concerning that offense will be obtained through such interception;
(c) Normal investigative procedures have been tried and have failed or reasonably appear to be un-likely to succeed if tried or to be too dangerous; 

(d) There is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

(4) Each order authorizing or approving the interception of any wire or oral communication shall specify:

(a) The identity of the person, if known, whose communications are to be intercepted;

(b) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) The identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(e) The period of time during which such interception is authorized, including a statement as
(5) No order entered under this section may authorize or approve the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days.

(6) Whenever an order authorizing interception is entered pursuant to this chapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need
for continued interception. Such reports shall be made at such intervals as the judge may require.

(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated and authorized by the commissioner of the Florida Bureau of Investigative Services, state attorney or county solicitor acting in their respective jurisdiction, who reasonably determines that:

(a) An emergency situation exists with respect to conspiratorial activities threatening the security interest or to conspiratorial activities characteristic of organized crime that requires a wire or oral communication to be intercepted before an order authorizing such interception can with due diligence be obtained, and

(b) There are grounds upon which an order could be entered under this chapter to authorize such interception, may intercept such wire or oral communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier.

In the event such application for approval is denied,
or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (8) (d) of this section on the person named in the application.

(8) (a) The contents of any wire or oral communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subsection shall be kept in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsection (8) (d) 1. and 2. of this section for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under subsection (3) of section 8 of this chapter.
(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time but not later than ninety (90) days after the filing of an application for an order of approval under subsection (7) (b) of this section which is denied or the termination of the period of an order or extension thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of:

1. The fact of the entry of the order or the application;

2. The date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

3. The fact that during the period wire or oral communications were or were not intercepted.
The judge, upon the filing of a motion, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction, the serving of the inventory required by this subsection may be postponed.

(9) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding unless each party, not less than ten (10) days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten (10) days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(10) (a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that:
1. The communication was unlawfully intercepted;

2. The order of authorization or approval under which it was intercepted is insufficient on its face; or

3. The interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(b) In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the denial of an application for an order of approval, if the attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such
appeal shall be taken within thirty (30) days after the date the order was entered and shall be diligently prosecuted.

Section 10. Recovery of civil damages authorized.—Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this chapter shall have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and shall be entitled to recover from any such person:

(1) Actual damages but not less than liquidated damages computed at the rate of one hundred dollars ($100.00) a day for each day of violation or one thousand dollars ($1,000.00), whichever is higher;

(2) Punitive damages; and

(3) A reasonable attorney's fee and other litigation costs reasonably incurred.

A good faith reliance on a court order or on the provisions of subsection (7) of section 9 of this chapter shall constitute a complete defense to any civil or criminal action under the laws of this state.

Section 11. This act shall take effect immediately upon becoming law.