



Rep. John M. Cabello

Filed: 5/18/2020

10100HB1883ham001

LRB101 05772 RLC 71095 a

1 AMENDMENT TO HOUSE BILL 1883

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1883 by replacing  
3 everything after the enacting clause with the following:

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

6 (720 ILCS 5/14-3)

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

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

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

1           hearer;

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

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

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

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

1 requirements of this subsection shall eliminate any civil  
2 or criminal immunity conferred upon that individual or  
3 business by the operation of this Section;

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

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

10 (g-5) (Blank);

11 (g-6) With approval of the State's Attorney of the  
12 county in which it is to occur, recording or listening with  
13 the aid of any device to any conversation where a law  
14 enforcement officer, or any person acting at the direction  
15 of law enforcement, is a party to the conversation and has  
16 consented to it being intercepted or recorded in the course  
17 of an investigation of child pornography, aggravated child  
18 pornography, indecent solicitation of a child, luring of a  
19 minor, sexual exploitation of a child, aggravated criminal  
20 sexual abuse in which the victim of the offense was at the  
21 time of the commission of the offense under 18 years of  
22 age, or criminal sexual abuse by force or threat of force  
23 in which the victim of the offense was at the time of the  
24 commission of the offense under 18 years of age. In all  
25 such cases, an application for an order approving the  
26 previous or continuing use of an eavesdropping device must

1 be made within 48 hours of the commencement of such use. In  
2 the absence of such an order, or upon its denial, any  
3 continuing use shall immediately terminate. The Director  
4 of State Police shall issue rules as are necessary  
5 concerning the use of devices, retention of recordings, and  
6 reports regarding their use. Any recording or evidence  
7 obtained or derived in the course of an investigation of  
8 child pornography, aggravated child pornography, indecent  
9 solicitation of a child, luring of a minor, sexual  
10 exploitation of a child, aggravated criminal sexual abuse  
11 in which the victim of the offense was at the time of the  
12 commission of the offense under 18 years of age, or  
13 criminal sexual abuse by force or threat of force in which  
14 the victim of the offense was at the time of the commission  
15 of the offense under 18 years of age shall, upon motion of  
16 the State's Attorney or Attorney General prosecuting any  
17 case involving child pornography, aggravated child  
18 pornography, indecent solicitation of a child, luring of a  
19 minor, sexual exploitation of a child, aggravated criminal  
20 sexual abuse in which the victim of the offense was at the  
21 time of the commission of the offense under 18 years of  
22 age, or criminal sexual abuse by force or threat of force  
23 in which the victim of the offense was at the time of the  
24 commission of the offense under 18 years of age be reviewed  
25 in camera with notice to all parties present by the court  
26 presiding over the criminal case, and, if ruled by the

1 court to be relevant and otherwise admissible, it shall be  
2 admissible at the trial of the criminal case. Absent such a  
3 ruling, any such recording or evidence shall not be  
4 admissible at the trial of the criminal case;

5 (h) Recordings made simultaneously with the use of an  
6 in-car video camera recording of an oral conversation  
7 between a uniformed peace officer, who has identified his  
8 or her office, and a person in the presence of the peace  
9 officer whenever (i) an officer assigned a patrol vehicle  
10 is conducting an enforcement stop; or (ii) patrol vehicle  
11 emergency lights are activated or would otherwise be  
12 activated if not for the need to conceal the presence of  
13 law enforcement.

14 For the purposes of this subsection (h), "enforcement  
15 stop" means an action by a law enforcement officer in  
16 relation to enforcement and investigation duties,  
17 including but not limited to, traffic stops, pedestrian  
18 stops, abandoned vehicle contacts, motorist assists,  
19 commercial motor vehicle stops, roadside safety checks,  
20 requests for identification, or responses to requests for  
21 emergency assistance;

22 (h-5) Recordings of utterances made by a person while  
23 in the presence of a uniformed peace officer and while an  
24 occupant of a police vehicle including, but not limited to,  
25 (i) recordings made simultaneously with the use of an  
26 in-car video camera and (ii) recordings made in the

1 presence of the peace officer utilizing video or audio  
2 systems, or both, authorized by the law enforcement agency;

3 (h-10) Recordings made simultaneously with a video  
4 camera recording during the use of a taser or similar  
5 weapon or device by a peace officer if the weapon or device  
6 is equipped with such camera;

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

19 (i) Recording of a conversation made by or at the  
20 request of a person, not a law enforcement officer or agent  
21 of a law enforcement officer, who is a party to the  
22 conversation, under reasonable suspicion that another  
23 party to the conversation is committing, is about to  
24 commit, or has committed a criminal offense against the  
25 person or a member of his or her immediate household, and  
26 there is reason to believe that evidence of the criminal

1 offense may be obtained by the recording;

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

10 (i) the monitoring is used for the purpose of  
11 service quality control of marketing or opinion  
12 research or telephone solicitation, the education or  
13 training of employees or contractors engaged in  
14 marketing or opinion research or telephone  
15 solicitation, or internal research related to  
16 marketing or opinion research or telephone  
17 solicitation; and

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

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



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

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

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

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

1           For the purposes of this subsection (j), "telephone  
2 solicitation" means a communication through the use of a  
3 telephone by live operators:

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

5           (ii) receiving orders for the sale of goods or  
6 services;

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

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

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

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

25          (l) Recording the interview or statement of any person  
26 when the person knows that the interview is being conducted

1 by a law enforcement officer or prosecutor and the  
2 interview takes place at a police station that is currently  
3 participating in the Custodial Interview Pilot Program  
4 established under the Illinois Criminal Justice  
5 Information Act;

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

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

25 (n) Recording or listening to an audio transmission  
26 from a microphone placed by a person under the authority of

1 a law enforcement agency inside a bait car surveillance  
2 vehicle while simultaneously capturing a photographic or  
3 video image;

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

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

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

1 to the conversation being intercepted or recorded in the  
2 course of an investigation of a qualified offense. The  
3 State's Attorney may grant this approval only after  
4 determining that reasonable cause exists to believe that  
5 inculpatory conversations concerning a qualified offense  
6 will occur with a specified individual or individuals  
7 within a designated period of time.

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

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

21 (B) a physical description; or

22 (C) failing either (A) or (B) of this paragraph  
23 (2), any other supporting information known to the law  
24 enforcement officer at the time of the request that  
25 gives rise to reasonable cause to believe that the  
26 specified individual will participate in an

1           inculpatory conversation concerning a qualified  
2           offense.

3           (3) Limitations on approval. Each written approval by  
4           the State's Attorney under this subsection (q) shall be  
5           limited to:

6                   (A) a recording or interception conducted by a  
7                   specified law enforcement officer or person acting at  
8                   the direction of a law enforcement officer;

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

18                  (C) a reasonable period of time but in no event  
19                  longer than 24 consecutive hours;

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

1 the court.

2 (3.5) The written memorialization of the request for  
3 approval and the written approval by the State's Attorney  
4 may be in any format, including via facsimile, email, or  
5 otherwise, so long as it is capable of being filed with the  
6 circuit clerk.

7 (3.10) Beginning March 1, 2015, each State's Attorney  
8 shall annually submit a report to the General Assembly  
9 disclosing:

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

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

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

22 (A) the qualified offense for which approval was  
23 given to record or intercept a conversation under this  
24 subsection (q);

25 (B) a forcible felony committed directly in the  
26 course of the investigation of the qualified offense

1           for which approval was given to record or intercept a  
2           conversation under this subsection (q); or

3           (C) any other forcible felony committed while the  
4           recording or interception was approved in accordance  
5           with this subsection (q), but for this specific  
6           category of prosecutions, only if the law enforcement  
7           officer or person acting at the direction of a law  
8           enforcement officer who has consented to the  
9           conversation being intercepted or recorded suffers  
10          great bodily injury or is killed during the commission  
11          of the charged forcible felony.

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

24          (6) Use of recordings or intercepts unrelated to  
25          qualified offenses. Whenever any private conversation or  
26          private electronic communication has been recorded or



1 intercepted as a result of this exception that is not  
2 related to an offense for which the recording or intercept  
3 is admissible under paragraph (4) of this subsection (q),  
4 no part of the contents of the communication and evidence  
5 derived from the communication may be received in evidence  
6 in any trial, hearing, or other proceeding in or before any  
7 court, grand jury, department, officer, agency, regulatory  
8 body, legislative committee, or other authority of this  
9 State, or a political subdivision of the State, nor may it  
10 be publicly disclosed in any way.

11 (6.5) The Department of State Police shall adopt rules  
12 as are necessary concerning the use of devices, retention  
13 of recordings, and reports regarding their use under this  
14 subsection (q).

15 (7) Definitions. For the purposes of this subsection  
16 (q) only:

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

23 "Qualified offense" means and is limited to:

24 (A) a felony violation of the Cannabis Control  
25 Act, the Illinois Controlled Substances Act, or  
26 the Methamphetamine Control and Community

1 Protection Act, except for violations of:

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

3 (ii) Section 402 of the Illinois  
4 Controlled Substances Act; and

5 (iii) Section 60 of the Methamphetamine  
6 Control and Community Protection Act; and

7 (B) first degree murder, solicitation of  
8 murder for hire, predatory criminal sexual assault  
9 of a child, criminal sexual assault, aggravated  
10 criminal sexual assault, aggravated arson,  
11 kidnapping, aggravated kidnapping, child  
12 abduction, trafficking in persons, involuntary  
13 servitude, involuntary sexual servitude of a  
14 minor, unlawful sale or delivery of firearms,  
15 firearms trafficking, unlawful sale or delivery of  
16 firearms on the premises of any school, or  
17 gunrunning.

18 "State's Attorney" includes and is limited to the  
19 State's Attorney or an assistant State's Attorney  
20 designated by the State's Attorney to provide verbal  
21 approval to record or intercept conversations under  
22 this subsection (q).

23 (8) Sunset. This subsection (q) is inoperative on and  
24 after January 1, 2023. No conversations intercepted  
25 pursuant to this subsection (q), while operative, shall be  
26 inadmissible in a court of law by virtue of the

1 inoperability of this subsection (q) on January 1, 2023.

2 (9) Recordings, records, and custody. Any private  
3 conversation or private electronic communication  
4 intercepted by a law enforcement officer or a person acting  
5 at the direction of law enforcement shall, if practicable,  
6 be recorded in such a way as will protect the recording  
7 from editing or other alteration. Any and all original  
8 recordings made under this subsection (q) shall be  
9 inventoried without unnecessary delay pursuant to the law  
10 enforcement agency's policies for inventorying evidence.  
11 The original recordings shall not be destroyed except upon  
12 an order of a court of competent jurisdiction; and

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

17 (Source: P.A. 100-572, eff. 12-29-17; 101-80, eff. 7-12-19.)".