

the office under this chapter and the number of cases where charges were filed.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

## CHAPTER 260

[Substitute House Bill No. 36]

### HOSTAGE OR BARRICADE SITUATIONS—TELEPHONE COMMUNICATIONS—RECORDING OR ISOLATING

AN ACT Relating to isolating and recording telephone communications in emergency situations; and amending RCW 70.85.100 and 9.73.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 28, Laws of 1979 and RCW 70.85.100 are each amended to read as follows:

(1) The supervising law enforcement official having jurisdiction in a geographical area who reasonably believes that ((one or more hostages are being held)) a person is barricaded, or one or more persons are holding another person or persons hostage within that area ((and who has probable cause to believe that the holder of such hostages is committing a crime)) may order a telephone company employee designated pursuant to RCW 70.85.110 to arrange to cut, reroute, or divert telephone lines for the purpose of preventing telephone communications between the barricaded person or hostage holder and any person other than a peace officer or a person authorized by the peace officer.

(2) As used in this section:

(a) A "hostage holder" is one who commits or attempts to commit any of the offenses described in RCW 9A.40.020, 9A.40.030, or 9A.40.040; and

(b) A "barricaded person" is one who establishes a perimeter around an area from which others are excluded and either:

(i) Is committing or is immediately fleeing from the commission of a violent felony; or

(ii) Is threatening or has immediately prior threatened a violent felony or suicide; or

(iii) Is creating or has created the likelihood of serious harm within the meaning of chapter 71.05 RCW relating to mental illness.

Sec. 2. Section 1, chapter 93, Laws of 1967 ex. sess. as amended by section 1, chapter 363, Laws of 1977 ex. sess. and RCW 9.73.030 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, it shall be unlawful for any individual, partnership, corporation, association, or the state of

Washington, its agencies, and political subdivisions to intercept, or record any:

(a) Private communication transmitted by telephone, telegraph, radio, or other device between two or more individuals between points within or without the state by any device electronic or otherwise designed to record and/or transmit said communication regardless how such device is powered or actuated, without first obtaining the consent of all the participants in the communication;

(b) Private conversation, by any device electronic or otherwise designed to record or transmit such conversation regardless how the device is powered or actuated without first obtaining the consent of all the persons engaged in the conversation.

(2) Notwithstanding the provisions of subsection (1) of this section, wire communications or conversations (a) of an emergency nature, such as the reporting of a fire, crime, or other disaster, or (b) which convey threats of extortion, blackmail, bodily harm, or other unlawful requests or demands, or (c) which occur anonymously or repeatedly or at an extremely inconvenient hour, or (d) which relate to communications by a hostage holder or barricaded person as defined in RCW 70.85.100, whether or not conversation ensues, may be recorded with the consent of one party to the conversation.

(3) Where consent by all parties is needed pursuant to this chapter, consent shall be considered obtained whenever one party has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that such communication or conversation is about to be recorded or transmitted: PROVIDED, That if the conversation is to be recorded that said announcement shall also be recorded.

(4) An employee of any regularly published newspaper, magazine, wire service, radio station, or television station acting in the course of bona fide news gathering duties on a full time or contractual or part time basis, shall be deemed to have consent to record and divulge communications or conversations otherwise prohibited by this chapter if the consent is expressly given or if the recording or transmitting device is readily apparent or obvious to the speakers. Withdrawal of the consent after the communication has been made shall not prohibit any such employee of a newspaper, magazine, wire service, or radio or television station from divulging the communication or conversation.

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