

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing  
5 Sections 14-1, 14-2, 14-3, 14-4, and 14-5 as follows:

6 (720 ILCS 5/14-1) (from Ch. 38, par. 14-1)

7 Sec. 14-1. Definitions ~~Definition~~.

8 (a) Eavesdropping device.

9 An eavesdropping device is any device capable of being used  
10 to hear or record oral conversation or intercept, ~~retain,~~ or  
11 transcribe electronic communications whether such conversation  
12 or electronic communication is conducted in person, by  
13 telephone, or by any other means; Provided, however, that this  
14 definition shall not include devices used for the restoration  
15 of the deaf or hard-of-hearing to normal or partial hearing.

16 (b) Eavesdropper.

17 An eavesdropper is any person, including any law  
18 enforcement officer and any party to a private conversation  
19 ~~officers, who is a principal, as defined in this Article, or~~  
20 who operates or participates in the operation of any  
21 eavesdropping device contrary to the provisions of this Article  
22 or who acts as a principal, as defined in this Article.

23 (c) Principal.

1 A principal is any person who:

2 (1) Knowingly employs another who illegally uses an  
3 eavesdropping device in the course of such employment; or

4 (2) Knowingly derives any benefit or information from  
5 the illegal use of an eavesdropping device by another; or

6 (3) Directs another to use an eavesdropping device  
7 illegally on his or her behalf.

8 (d) Private conversation ~~Conversation~~.

9 For the purposes of this Article, "private ~~the term~~  
10 conversation" means any oral communication between 2 or more  
11 persons, whether in person or transmitted between the parties  
12 by wire or other means, when ~~regardless of whether~~ one or more  
13 of the parties intended the ~~their~~ communication to be of a  
14 private nature under circumstances reasonably justifying that  
15 expectation. A reasonable expectation shall include any  
16 expectation recognized by law, including, but not limited to,  
17 an expectation derived from a privilege, immunity, or right  
18 established by common law, Supreme Court rule, or the Illinois  
19 or United States Constitution.

20 (e) Private electronic ~~Electronic~~ communication.

21 For purposes of this Article, ~~the term~~ "private electronic  
22 communication" means any transfer of signs, signals, writing,  
23 images, sounds, data, or intelligence of any nature transmitted  
24 in whole or part by a wire, radio, pager, computer,  
25 electromagnetic, photo electronic or photo optical system,  
26 when ~~where~~ the sending or ~~and~~ receiving party intends ~~parties~~

1 ~~intend~~ the electronic communication to be private under  
2 circumstances reasonably justifying that expectation. A  
3 reasonable expectation shall include any expectation  
4 recognized by law, including, but not limited to, an  
5 expectation derived from a privilege, immunity, or right  
6 established by common law, Supreme Court rule, or the Illinois  
7 or United States Constitution ~~and the interception, recording,~~  
8 ~~or transcription of the electronic communication is~~  
9 ~~accomplished by a device in a surreptitious manner contrary to~~  
10 ~~the provisions of this Article.~~ Electronic communication does  
11 not include any communication from a tracking device.

12 (f) Bait car.

13 For purposes of this Article, "bait car" ~~the term bait car~~  
14 means any motor vehicle that is not occupied by a law  
15 enforcement officer and is used by a law enforcement agency to  
16 deter, detect, identify, and assist in the apprehension of an  
17 auto theft suspect in the act of stealing a motor vehicle.

18 (g) Surreptitious.

19 For purposes of this Article, "surreptitious" means  
20 obtained or made by stealth or deception, or executed through  
21 secrecy or concealment.

22 (Source: P.A. 95-258, eff. 1-1-08.)

23 (720 ILCS 5/14-2) (from Ch. 38, par. 14-2)

24 Sec. 14-2. Elements of the offense; affirmative defense.

25 (a) A person commits eavesdropping when he or she knowingly

1 and intentionally:

2 (1) Uses ~~Knowingly and intentionally~~ uses an  
3 eavesdropping device, in a surreptitious manner, for the  
4 purpose of overhearing, transmitting, ~~hearing~~ or recording  
5 all or any part of any private conversation to which he or  
6 she is not a party ~~or intercepts, retains, or transcribes~~  
7 ~~electronic communication~~ unless he or she does so ~~(A)~~ with  
8 the consent of all of the parties to the private ~~such~~  
9 conversation ~~or electronic communication or (B) in~~  
10 ~~accordance with Article 108A or Article 108B of the "Code~~  
11 ~~of Criminal Procedure of 1963", approved August 14, 1963,~~  
12 ~~as amended; or~~

13 (2) Uses an eavesdropping device, in a surreptitious  
14 manner, for the purpose of transmitting or recording all or  
15 any part of any private conversation to which he or she is  
16 a party unless he or she does so with the consent of all  
17 other parties to the private conversation;

18 (3) Intercepts, records, or transcribes, in a  
19 surreptitious manner, any private electronic communication  
20 to which he or she is not a party unless he or she does so  
21 with the consent of all parties to the private electronic  
22 communication;

23 (4) ~~(2)~~ Manufactures, assembles, distributes, or  
24 possesses any electronic, mechanical, eavesdropping, or  
25 other device knowing that or having reason to know that the  
26 design of the device renders it primarily useful for the

1 purpose of the surreptitious overhearing, transmitting,  
2 ~~hearing~~ or recording of private oral conversations or the  
3 interception, ~~retention,~~ or transcription of private  
4 electronic communications and the intended or actual use of  
5 the device is contrary to the provisions of this Article;  
6 or

7 (5) ~~(3)~~ Uses or discloses ~~divulges, except as~~  
8 ~~authorized by this Article or by Article 108A or 108B of~~  
9 ~~the "Code of Criminal Procedure of 1963", approved August~~  
10 ~~14, 1963, as amended,~~ any information which he or she knows  
11 or reasonably should know was obtained from a private  
12 conversation or private electronic communication in  
13 violation of this Article, unless he or she does so with  
14 the consent of all of the parties.

15 (a-5) It does not constitute a violation of this Article to  
16 surreptitiously use an eavesdropping device to overhear,  
17 transmit, or record a private conversation, or to  
18 surreptitiously intercept, record, or transcribe a private  
19 electronic communication, if the overhearing, transmitting,  
20 recording, interception, or transcription is done in  
21 accordance with Article 108A or Article 108B of the Code of  
22 Criminal Procedure of 1963. ~~through the use of an eavesdropping~~  
23 ~~device.~~

24 (b) It is an affirmative defense to a charge brought under  
25 this Article relating to the interception of a privileged  
26 communication that the person charged:

1           1. was a law enforcement officer acting pursuant to an  
2           order of interception, entered pursuant to Section 108A-1  
3           or 108B-5 of the Code of Criminal Procedure of 1963; and

4           2. at the time the communication was intercepted, the  
5           officer was unaware that the communication was privileged;  
6           and

7           3. stopped the interception within a reasonable time  
8           after discovering that the communication was privileged;  
9           and

10          4. did not disclose the contents of the communication.

11          (c) It is not unlawful for a manufacturer or a supplier of  
12          eavesdropping devices, or a provider of wire or electronic  
13          communication services, their agents, employees, contractors,  
14          or venders to manufacture, assemble, sell, or possess an  
15          eavesdropping device within the normal course of their business  
16          for purposes not contrary to this Article or for law  
17          enforcement officers and employees of the Illinois Department  
18          of Corrections to manufacture, assemble, purchase, or possess  
19          an eavesdropping device in preparation for or within the course  
20          of their official duties.

21          (d) The interception, recording, or transcription of an  
22          electronic communication by an employee of a penal institution  
23          is not prohibited under this Act, provided that the  
24          interception, recording, or transcription is:

25               (1) otherwise legally permissible under Illinois law;

26               (2) conducted with the approval of the penal

1 institution for the purpose of investigating or enforcing a  
2 State criminal law or a penal institution rule or  
3 regulation with respect to inmates in the institution; and  
4 (3) within the scope of the employee's official duties.

5 For the purposes of this subsection (d), "penal  
6 institution" has the meaning ascribed to it in clause (c) (1) of  
7 Section 31A-1.1.

8 (Source: P.A. 94-183, eff. 1-1-06.)

9 (720 ILCS 5/14-3)

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

12 (a) Listening to radio, wireless electronic  
13 communications, and television communications of any sort  
14 where the same are publicly made;

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

20 (c) Any broadcast by radio, television or otherwise whether  
21 it be a broadcast or recorded for the purpose of later  
22 broadcasts of any function where the public is in attendance  
23 and the conversations are overheard incidental to the main  
24 purpose for which such broadcasts are then being made;

25 (d) Recording or listening with the aid of any device to

1 any emergency communication made in the normal course of  
2 operations by any federal, state or local law enforcement  
3 agency or institutions dealing in emergency services,  
4 including, but not limited to, hospitals, clinics, ambulance  
5 services, fire fighting agencies, any public utility,  
6 emergency repair facility, civilian defense establishment or  
7 military installation;

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

10 (f) Recording or listening with the aid of any device to  
11 incoming telephone calls of phone lines publicly listed or  
12 advertised as consumer "hotlines" by manufacturers or  
13 retailers of food and drug products. Such recordings must be  
14 destroyed, erased or turned over to local law enforcement  
15 authorities within 24 hours from the time of such recording and  
16 shall not be otherwise disseminated. Failure on the part of the  
17 individual or business operating any such recording or  
18 listening device to comply with the requirements of this  
19 subsection shall eliminate any civil or criminal immunity  
20 conferred upon that individual or business by the operation of  
21 this Section;

22 (g) With prior notification to the State's Attorney of the  
23 county in which it is to occur, recording or listening with the  
24 aid of any device to any conversation where a law enforcement  
25 officer, or any person acting at the direction of law  
26 enforcement, is a party to the conversation and has consented

1 to it being intercepted or recorded under circumstances where  
2 the use of the device is necessary for the protection of the  
3 law enforcement officer or any person acting at the direction  
4 of law enforcement, in the course of an investigation of a  
5 forcible felony, a felony offense of involuntary servitude,  
6 involuntary sexual servitude of a minor, or trafficking in  
7 persons under Section 10-9 of this Code, an offense involving  
8 prostitution, solicitation of a sexual act, or pandering, a  
9 felony violation of the Illinois Controlled Substances Act, a  
10 felony violation of the Cannabis Control Act, a felony  
11 violation of the Methamphetamine Control and Community  
12 Protection Act, any "streetgang related" or "gang-related"  
13 felony as those terms are defined in the Illinois Streetgang  
14 Terrorism Omnibus Prevention Act, or any felony offense  
15 involving any weapon listed in paragraphs (1) through (11) of  
16 subsection (a) of Section 24-1 of this Code. Any recording or  
17 evidence derived as the result of this exemption shall be  
18 inadmissible in any proceeding, criminal, civil or  
19 administrative, except (i) where a party to the conversation  
20 suffers great bodily injury or is killed during such  
21 conversation, or (ii) when used as direct impeachment of a  
22 witness concerning matters contained in the interception or  
23 recording. The Director of the Department of State Police shall  
24 issue regulations as are necessary concerning the use of  
25 devices, retention of tape recordings, and reports regarding  
26 their use;

1           (g-5) (Blank); ~~With approval of the State's Attorney of the~~  
2 ~~county in which it is to occur, recording or listening with the~~  
3 ~~aid of any device to any conversation where a law enforcement~~  
4 ~~officer, or any person acting at the direction of law~~  
5 ~~enforcement, is a party to the conversation and has consented~~  
6 ~~to it being intercepted or recorded in the course of an~~  
7 ~~investigation of any offense defined in Article 29D of this~~  
8 ~~Code. In all such cases, an application for an order approving~~  
9 ~~the previous or continuing use of an eavesdropping device must~~  
10 ~~be made within 48 hours of the commencement of such use. In the~~  
11 ~~absence of such an order, or upon its denial, any continuing~~  
12 ~~use shall immediately terminate. The Director of State Police~~  
13 ~~shall issue rules as are necessary concerning the use of~~  
14 ~~devices, retention of tape recordings, and reports regarding~~  
15 ~~their use.~~

16           ~~Any recording or evidence obtained or derived in the course~~  
17 ~~of an investigation of any offense defined in Article 29D of~~  
18 ~~this Code shall, upon motion of the State's Attorney or~~  
19 ~~Attorney General prosecuting any violation of Article 29D, be~~  
20 ~~reviewed in camera with notice to all parties present by the~~  
21 ~~court presiding over the criminal case, and, if ruled by the~~  
22 ~~court to be relevant and otherwise admissible, it shall be~~  
23 ~~admissible at the trial of the criminal case.~~

24           ~~This subsection (g-5) is inoperative on and after January~~  
25 ~~1, 2005. No conversations recorded or monitored pursuant to~~  
26 ~~this subsection (g-5) shall be inadmissible in a court of law~~

1 ~~by virtue of the repeal of this subsection (g-5) on January 1,~~  
2 ~~2005,~~

3 (g-6) With approval of the State's Attorney of the county  
4 in which it is to occur, recording or listening with the aid of  
5 any device to any conversation where a law enforcement officer,  
6 or any person acting at the direction of law enforcement, is a  
7 party to the conversation and has consented to it being  
8 intercepted or recorded in the course of an investigation of  
9 ~~involuntary servitude, involuntary sexual servitude of a~~  
10 ~~minor, trafficking in persons,~~ child pornography, aggravated  
11 child pornography, indecent solicitation of a child, ~~child~~  
12 ~~abduction,~~ luring of a minor, sexual exploitation of a child,  
13 ~~predatory criminal sexual assault of a child,~~ aggravated  
14 criminal sexual abuse in which the victim of the offense was at  
15 the time of the commission of the offense under 18 years of  
16 age, or criminal sexual abuse by force or threat of force in  
17 which the victim of the offense was at the time of the  
18 commission of the offense under 18 years of age, ~~or aggravated~~  
19 ~~criminal sexual assault in which the victim of the offense was~~  
20 ~~at the time of the commission of the offense under 18 years of~~  
21 ~~age.~~ In all such cases, an application for an order approving  
22 the previous or continuing use of an eavesdropping device must  
23 be made within 48 hours of the commencement of such use. In the  
24 absence of such an order, or upon its denial, any continuing  
25 use shall immediately terminate. The Director of State Police  
26 shall issue rules as are necessary concerning the use of

1 devices, retention of recordings, and reports regarding their  
2 use. Any recording or evidence obtained or derived in the  
3 course of an investigation of ~~involuntary servitude,~~  
4 ~~involuntary sexual servitude of a minor, trafficking in~~  
5 ~~persons,~~ child pornography, aggravated child pornography,  
6 indecent solicitation of a child, ~~child abduction,~~ luring of a  
7 minor, sexual exploitation of a child, ~~predatory criminal~~  
8 ~~sexual assault of a child,~~ aggravated criminal sexual abuse in  
9 which the victim of the offense was at the time of the  
10 commission of the offense under 18 years of age, or criminal  
11 sexual abuse by force or threat of force in which the victim of  
12 the offense was at the time of the commission of the offense  
13 under 18 years of age, ~~or aggravated criminal sexual assault in~~  
14 ~~which the victim of the offense was at the time of the~~  
15 ~~commission of the offense under 18 years of age~~ shall, upon  
16 motion of the State's Attorney or Attorney General prosecuting  
17 any case involving ~~involuntary servitude, involuntary sexual~~  
18 ~~servitude of a minor, trafficking in persons,~~ child  
19 pornography, aggravated child pornography, indecent  
20 solicitation of a child, ~~child abduction,~~ luring of a minor,  
21 sexual exploitation of a child, ~~predatory criminal sexual~~  
22 ~~assault of a child,~~ aggravated criminal sexual abuse in which  
23 the victim of the offense was at the time of the commission of  
24 the offense under 18 years of age, or criminal sexual abuse by  
25 force or threat of force in which the victim of the offense was  
26 at the time of the commission of the offense under 18 years of

1 ~~age, or aggravated criminal sexual assault in which the victim~~  
2 ~~of the offense was at the time of the commission of the offense~~  
3 ~~under 18 years of age,~~ be reviewed in camera with notice to all  
4 parties present by the court presiding over the criminal case,  
5 and, if ruled by the court to be relevant and otherwise  
6 admissible, it shall be admissible at the trial of the criminal  
7 case. Absent such a ruling, any such recording or evidence  
8 shall not be admissible at the trial of the criminal case;

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

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

24 (h-5) Recordings of utterances made by a person while in  
25 the presence of a uniformed peace officer and while an occupant  
26 of a police vehicle including, but not limited to, (i)

1 recordings made simultaneously with the use of an in-car video  
2 camera and (ii) recordings made in the presence of the peace  
3 officer utilizing video or audio systems, or both, authorized  
4 by the law enforcement agency;

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

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

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

1 household, and there is reason to believe that evidence of the  
2 criminal offense may be obtained by the recording;

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

11 (i) the monitoring is used for the purpose of service  
12 quality control of marketing or opinion research or  
13 telephone solicitation, the education or training of  
14 employees or contractors engaged in marketing or opinion  
15 research or telephone solicitation, or internal research  
16 related to 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 marketing or  
20 opinion research conversation or telephone solicitation  
21 conversation being monitored.

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

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

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

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

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

25 For the purposes of this subsection (j), "telephone  
26 solicitation" means a communication through the use of a

1 telephone by live operators:

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

3 (ii) receiving orders for the sale of goods or  
4 services;

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

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

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

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

23 (l) Recording the interview or statement of any person when  
24 the person knows that the interview is being conducted by a law  
25 enforcement officer or prosecutor and the interview takes place  
26 at a police station that is currently participating in the

1 Custodial Interview Pilot Program established under the  
2 Illinois Criminal Justice Information Act;

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

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

21 (n) Recording or listening to an audio transmission from a  
22 microphone placed by a person under the authority of a law  
23 enforcement agency inside a bait car surveillance vehicle while  
24 simultaneously capturing a photographic or video image;

25 (o) The use of an eavesdropping camera or audio device  
26 during an ongoing hostage or barricade situation by a law

1 enforcement officer or individual acting on behalf of a law  
2 enforcement officer when the use of such device is necessary to  
3 protect the safety of the general public, hostages, or law  
4 enforcement officers or anyone acting on their behalf;

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

13 (q) (1) With prior request to and written or verbal approval  
14 of the State's Attorney of the county in which the conversation  
15 is anticipated to occur, recording or listening with the aid of  
16 an eavesdropping device to a conversation in which a law  
17 enforcement officer, or any person acting at the direction of a  
18 law enforcement officer, is a party to the conversation and has  
19 consented to the conversation being intercepted or recorded in  
20 the course of an investigation of a qualified drug offense. The  
21 State's Attorney may grant this ~~verbal~~ approval only after  
22 determining that reasonable cause exists to believe that  
23 inculpatory conversations concerning a qualified drug offense  
24 will occur with ~~be committed by~~ a specified individual or  
25 individuals within a designated period of time.

26 (2) Request for approval. To invoke the exception contained

1 in this subsection (q), a law enforcement officer shall make a  
2 ~~written or verbal~~ request for approval to the appropriate  
3 State's Attorney. The request may be written or verbal;  
4 however, a written memorialization of the request must be made  
5 by the State's Attorney. This request for approval shall  
6 include whatever information is deemed necessary by the State's  
7 Attorney but shall include, at a minimum, the following  
8 information about each specified individual whom the law  
9 enforcement officer believes will commit a qualified drug  
10 offense:

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

12 (B) a physical description; or

13 (C) failing either (A) or (B) of this paragraph (2),  
14 any other supporting information known to the law  
15 enforcement officer at the time of the request that gives  
16 rise to reasonable cause to believe that the specified  
17 individual will participate in an inculpatory conversation  
18 concerning a qualified ~~commit a drug~~ offense.

19 (3) Limitations on ~~verbal~~ approval. Each written ~~verbal~~  
20 approval by the State's Attorney under this subsection (q)  
21 shall be limited to:

22 (A) a recording or interception conducted by a  
23 specified law enforcement officer or person acting at the  
24 direction of a law enforcement officer;

25 (B) recording or intercepting conversations with the  
26 individuals specified in the request for approval,

1 provided that the verbal approval shall be deemed to  
2 include the recording or intercepting of conversations  
3 with other individuals, unknown to the law enforcement  
4 officer at the time of the request for approval, who are  
5 acting in conjunction with or as co-conspirators with the  
6 individuals specified in the request for approval in the  
7 commission of a qualified drug offense;

8 (C) a reasonable period of time but in no event longer  
9 than 24 consecutive hours; -

10 (D) the written request for approval, if applicable, or  
11 the written memorialization must be filed, along with the  
12 written approval, with the circuit clerk of the  
13 jurisdiction on the next business day following the  
14 expiration of the authorized period of time, and shall be  
15 subject to review by the Chief Judge or his or her designee  
16 as deemed appropriate by the court.

17 (3.5) The written memorialization of the request for  
18 approval and the written approval by the State's Attorney may  
19 be in any format, including via facsimile, email, or otherwise,  
20 so long as it is capable of being filed with the circuit clerk.

21 (3.10) Beginning March 1, 2015, each State's Attorney shall  
22 annually submit a report to the General Assembly disclosing:

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

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

1 (4) Admissibility of evidence. No part of the contents of  
2 any wire, electronic, or oral communication that has been  
3 recorded or intercepted as a result of this exception may be  
4 received in evidence in any trial, hearing, or other proceeding  
5 in or before any court, grand jury, department, officer,  
6 agency, regulatory body, legislative committee, or other  
7 authority of this State, or a political subdivision of the  
8 State, other than in a prosecution of:

9 (A) the qualified ~~a drug~~ offense for which approval was  
10 given to record or intercept a conversation under this  
11 subsection (q);

12 (B) a forcible felony committed directly in the course  
13 of the investigation of the qualified ~~a drug~~ offense for  
14 which ~~verbal~~ approval was given to record or intercept a  
15 conversation under this subsection (q); or

16 (C) any other forcible felony committed while the  
17 recording or interception was approved in accordance with  
18 this subsection ~~Section~~ (q), but for this specific category  
19 of prosecutions, only if the law enforcement officer or  
20 person acting at the direction of a law enforcement officer  
21 who has consented to the conversation being intercepted or  
22 recorded suffers great bodily injury or is killed during  
23 the commission of the charged forcible felony.

24 (5) Compliance with the provisions of this subsection is a  
25 prerequisite to the admissibility in evidence of any part of  
26 the contents of any wire, electronic or oral communication that

1 has been intercepted as a result of this exception, but nothing  
2 in this subsection shall be deemed to prevent a court from  
3 otherwise excluding the evidence on any other ground recognized  
4 by State or federal law, nor shall anything in this subsection  
5 be deemed to prevent a court from independently reviewing the  
6 admissibility of the evidence for compliance with the Fourth  
7 Amendment to the U.S. Constitution or with Article I, Section 6  
8 of the Illinois Constitution.

9 (6) Use of recordings or intercepts unrelated to qualified  
10 ~~drug~~ offenses. Whenever any private conversation or private  
11 electronic wire, electronic, or oral communication has been  
12 recorded or intercepted as a result of this exception that is  
13 not related to an offense for which the recording or intercept  
14 is admissible under paragraph (4) of this subsection (q) a drug  
15 ~~offense or a forcible felony committed in the course of a drug~~  
16 ~~offense~~, no part of the contents of the communication and  
17 evidence derived from the communication may be received in  
18 evidence in any trial, hearing, or other proceeding in or  
19 before any court, grand jury, department, officer, agency,  
20 regulatory body, legislative committee, or other authority of  
21 this State, or a political subdivision of the State, nor may it  
22 be publicly disclosed in any way.

23 (6.5) The Department of State Police shall adopt rules as  
24 are necessary concerning the use of devices, retention of  
25 recordings, and reports regarding their use under this  
26 subsection (q).

1 (7) Definitions. For the purposes of this subsection (q)  
2 only:

3 ~~"Drug offense" includes and is limited to a felony~~  
4 ~~violation of one of the following: (A) the Illinois~~  
5 ~~Controlled Substances Act, (B) the Cannabis Control Act,~~  
6 ~~and (C) the Methamphetamine Control and Community~~  
7 ~~Protection Act.~~

8 "Forcible felony" includes and is limited to those  
9 offenses contained in Section 2-8 of the Criminal Code of  
10 1961 as of the effective date of this amendatory Act of the  
11 97th General Assembly, and only as those offenses have been  
12 defined by law or judicial interpretation as of that date.

13 "Qualified offense" means and is limited to:

14 (A) a felony violation of the Cannabis Control Act,  
15 the Illinois Controlled Substances Act, or the  
16 Methamphetamine Control and Community Protection Act,  
17 except for violations of:

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

19 (ii) Section 402 of the Illinois Controlled  
20 Substances Act; and

21 (iii) Section 60 of the Methamphetamine  
22 Control and Community Protection Act; and

23 (B) first degree murder, solicitation of murder  
24 for hire, predatory criminal sexual assault of a child,  
25 criminal sexual assault, aggravated criminal sexual  
26 assault, aggravated arson, kidnapping, aggravated

1           kidnapping, child abduction, trafficking in persons,  
2           involuntary servitude, involuntary sexual servitude of  
3           a minor, or gunrunning.

4           "State's Attorney" includes and is limited to the  
5           State's Attorney or an assistant State's Attorney  
6           designated by the State's Attorney to provide verbal  
7           approval to record or intercept conversations under this  
8           subsection (q).

9           (8) Sunset. This subsection (q) is inoperative on and after  
10          January 1, 2018 ~~2015~~. No conversations intercepted pursuant to  
11          this subsection (q), while operative, shall be inadmissible in  
12          a court of law by virtue of the inoperability of this  
13          subsection (q) on January 1, 2018 ~~2015~~.

14          (9) Recordings, records, and custody. Any private  
15          conversation or private electronic communication intercepted  
16          by a law enforcement officer or a person acting at the  
17          direction of law enforcement shall, if practicable, be recorded  
18          in such a way as will protect the recording from editing or  
19          other alteration. Any and all original recordings made under  
20          this subsection (q) shall be inventoried without unnecessary  
21          delay pursuant to the law enforcement agency's policies for  
22          inventorying evidence. The original recordings shall not be  
23          destroyed except upon an order of a court of competent  
24          jurisdiction; and

25          (r) Electronic recordings, including but not limited to,  
26          motion picture, videotape, digital, or other visual or audio

1 recording, made of a lineup under Section 107A-2 of the Code of  
2 Criminal Procedure of 1963.

3 (Source: P.A. 97-333, eff. 8-12-11; 97-846, eff. 1-1-13;  
4 97-897, eff. 1-1-13; 98-463, eff. 8-16-13; 98-1014, eff.  
5 1-1-15.)

6 (720 ILCS 5/14-4) (from Ch. 38, par. 14-4)  
7 Sec. 14-4. Sentence.

8 (a) Eavesdropping, for a first offense, is a Class 4 felony  
9 and, for a second or subsequent offense, is a Class 3 felony.

10 (b) The eavesdropping of an oral conversation or an  
11 electronic communication of ~~between~~ any law enforcement  
12 officer, State's Attorney, Assistant State's Attorney, the  
13 Attorney General, Assistant Attorney General, or a judge, while  
14 in the performance of his or her official duties, if not  
15 authorized by this Article or proper court order, is a Class 3  
16 felony, and for a second or subsequent offense, is a Class 2  
17 felony ~~felony~~.

18 (Source: P.A. 91-357, eff. 7-29-99; 91-657, eff. 1-1-00.)

19 (720 ILCS 5/14-5) (from Ch. 38, par. 14-5)  
20 Sec. 14-5. Evidence inadmissible.

21 Any evidence obtained in violation of this Article is not  
22 admissible in any civil or criminal trial, or any  
23 administrative or legislative inquiry or proceeding, nor in any  
24 grand jury proceedings; provided, however, that so much of the

1 contents of an alleged unlawfully intercepted, overheard or  
2 recorded conversation as is clearly relevant, as determined as  
3 a matter of law by the court in chambers, to the proof of such  
4 allegation may be admitted into evidence in any criminal trial  
5 or grand jury proceeding brought against any person charged  
6 with violating any provision of this Article. Nothing in this  
7 Section bars admission of evidence if all parties to the  
8 private conversation or private electronic communication  
9 consent to admission of the evidence.

10 (Source: Laws 1965, p. 3198.)

11 Section 97. Severability. The provisions of this Act are  
12 severable under Section 1.31 of the Statute on Statutes.

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.