

HOUSE BILL NO. 223

INTRODUCED BY CONROY

IN THE HOUSE

January 17, 1979	Introduced and referred to Committee on Judiciary.
January 25, 1979	Committee recommend bill do pass as amended. Report adopted.
January 26, 1979	Printed and placed on members' desks.
January 27, 1979	Second reading, do pass.
January 29, 1979	Considered correctly engrossed.
January 30, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

January 31, 1979	Introduced and referred to Committee on Judiciary.
March 7, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 9, 1979	Second reading, concurred in.
March 13, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 14, 1979	Returned from second house. Concurred in as amended.
March 16, 1979	Second reading, amendments adopted.

March 17, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 223

INTRODUCED BY

Conroy

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 45-8-213, MCA, TO PERMIT SUPERVISORY LAW ENFORCEMENT PERSONNEL TO CONTROL TELEPHONE COMMUNICATIONS TO AND FROM A PERSON HOLDING HOSTAGES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-8-213, MCA, is amended to read:

"45-8-213. Privacy in communications. (1) Except as provided in subsection (3), a person commits the offense of violating privacy in communications if he knowingly or purposely:

(a) with the purpose to terrify, intimidate, threaten, harass, annoy, or offend, communicates with any person by telephone and uses any obscene, lewd, or profane language, suggests any lewd or lascivious act, or threatens to inflict injury or physical harm to the person or property of any person (the use of obscene, lewd, or profane language or the making of a threat or lewd or lascivious suggestions is prima facie evidence of an intent to terrify, intimidate, threaten, harass, annoy, or offend);

(b) uses a telephone to attempt to extort money or any other thing of value from any person or to disturb by

repeated telephone calls the peace, quiet, or right of privacy of any person at the place where the telephone call or calls are received;

(c) records or causes to be recorded any conversation by use of a hidden electronic or mechanical device which reproduces a human conversation without the knowledge of all parties to the conversation. Subsection (c) does not apply to duly elected or appointed public officials or employees when the transcription or recording is done in the performance of official duty, to persons speaking at public meetings, or to persons given warning of the recording.

(d) by means of any machine, instrument, or contrivance or in any other manner:

(i) reads or attempts to read any message or learn the contents thereof while it is being sent over a telegraph line;

(ii) learns or attempts to learn the contents of any message while it is in a telegraph office or is being received thereat or sent therefrom; or

(iii) uses, attempts to use, or communicates to others any information so obtained;

(e) discloses the contents of a telegraphic message or any part thereof addressed to another person without the permission of such person, unless directed to do so by the lawful order of a court; or

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1 (f) opens or reads or causes to be read any sealed
2 letter not addressed to himself without being authorized to
3 do so by either the writer of the letter or the person to
4 whom it is addressed or, without the like authority,
5 publishes any of the contents of the letter knowing the same
6 to have been unlawfully opened.

7 (2) A person convicted of the offense of violating
8 privacy in communications shall be fined not to exceed \$500
9 or imprisoned in the county jail for a term not to exceed 6
10 months, or both.

11 (3) A supervisory law enforcement official who has
12 jurisdiction in a geographical area where hostages are being
13 held and who has probable cause to believe that the holder
14 of the hostages is committing a crime may order a telephone
15 security employee to cut, reroute, or divert telephone lines
16 in order to prevent the holder of the hostages from
17 communicating with any person other than a law enforcement
18 officer or an individual authorized by a law enforcement
19 officer. A telephone security employee acting in good faith
20 under an order given pursuant to this subsection does not
21 commit the offense of violating privacy in communications."

-End-

Approved by Committee
on Judiciary

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 45-8-213, MCA, TO PERMIT SUPERVISORY LAW ENFORCEMENT
6 PERSONNEL TO CONTROL TELEPHONE COMMUNICATIONS TO AND FROM A
7 PERSON HOLDING HOSTAGES."
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10 Section 1. Section 45-8-213, MCA, is amended to read:
11 "45-8-213. Privacy in communications. (1) Except as
12 provided in subsection (3), a person commits the offense of
13 violating privacy in communications if he knowingly or
14 purposely:

15 (a) with the purpose to terrify, intimidate, threaten,
16 harass, annoy, or offend, communicates with any person by
17 telephone and uses any obscene, lewd, or profane language,
18 suggests any lewd or lascivious act, or threatens to inflict
19 injury or physical harm to the person or property of any
20 person (the use of obscene, lewd, or profane language or the
21 making of a threat or lewd or lascivious suggestions is
22 prima facie evidence of an intent to terrify, intimidate,
23 threaten, harass, annoy, or offend);

24 (b) uses a telephone to attempt to extort money or any
25 other thing of value from any person or to disturb by

1 repeated telephone calls the peace, quiet, or right of
2 privacy of any person at the place where the telephone call
3 or calls are received;

4 (c) records or causes to be recorded any conversation
5 by use of a hidden electronic or mechanical device which
6 reproduces a human conversation without the knowledge of all
7 parties to the conversation. Subsection (c) does not apply
8 to duly elected or appointed public officials or employees
9 when the transcription or recording is done in the
10 performance of official duty, to persons speaking at public
11 meetings, or to persons given warning of the recording.

12 (d) by means of any machine, instrument, or
13 contrivance or in any other manner:

14 (i) reads or attempts to read any message or learn the
15 contents thereof while it is being sent over a telegraph
16 line;

17 (ii) learns or attempts to learn the contents of any
18 message while it is in a telegraph office or is being
19 received thereat or sent therefrom; or

20 (iii) uses, attempts to use, or communicates to others
21 any information so obtained;

22 (e) discloses the contents of a telegraphic message or
23 any part thereof addressed to another person without the
24 permission of such person, unless directed to do so by the
25 lawful order of a court; or

1 (f) opens or reads or causes to be read any sealed
 2 letter not addressed to himself without being authorized to
 3 do so by either the writer of the letter or the person to
 4 whom it is addressed or, without the like authority,
 5 publishes any of the contents of the letter knowing the same
 6 to have been unlawfully opened.

7 (2) A person convicted of the offense of violating
 8 privacy in communications shall be fined not to exceed \$500
 9 or imprisoned in the county jail for a term not to exceed 6
 10 months, or both.

11 ~~(3) A supervisory law enforcement official who has~~
 12 ~~jurisdiction in a geographical area where hostages are being~~
 13 ~~held and who has probable cause to believe that the holder~~
 14 ~~of the hostages is committing a crime may order a PREVIOUSLY~~
 15 ~~DESIGNATED telephone security employee OR OTHER TELEPHONE~~
 16 ~~COMPANY OFFICIAL TO ARRANGE to cut, reroute, or divert~~
 17 ~~telephone lines in order to prevent the holder of the~~
 18 ~~hostages from communicating with any person other than a law~~
 19 ~~enforcement officer or an individual authorized by a law~~
 20 ~~enforcement officer. THE SERVING TELEPHONE COMPANY WITHIN~~
 21 ~~THE GEOGRAPHICAL AREA OF A LAW ENFORCEMENT AGENCY SHALL~~
 22 ~~DESIGNATE A TELEPHONE COMPANY SECURITY EMPLOYEE OR OTHER~~
 23 ~~TELEPHONE COMPANY OFFICIAL AND AN ALTERNATE TO PROVIDE ALL~~
 24 ~~REQUIRED ASSISTANCE TO LAW ENFORCEMENT OFFICIALS TO CARRY~~
 25 ~~OUT THE PURPOSES OF THIS SUBSECTION. A telephone security~~

1 ~~employee OR OTHER TELEPHONE COMPANY OFFICIAL acting in good~~
 2 ~~faith under an order given pursuant to this subsection does~~
 3 ~~not commit the offense of violating privacy in~~
 4 ~~communications."~~

-End-

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 6 PERSONNEL TO CONTROL TELEPHONE COMMUNICATIONS TO AND FROM A
 7 PERSON HOLDING HOSTAGES."
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 10 Section 1. Section 45-8-213, MCA, is amended to read:
 11 "45-8-213. Privacy in communications. (1) ~~Except as~~
 12 ~~provided in subsection (3),~~ a person commits the offense of
 13 violating privacy in communications if he knowingly or
 14 purposely:
 15 (a) with the purpose to terrify, intimidate, threaten,
 16 harass, annoy, or offend, communicates with any person by
 17 telephone and uses any obscene, lewd, or profane language,
 18 suggests any lewd or lascivious act, or threatens to inflict
 19 injury or physical harm to the person or property of any
 20 person (the use of obscene, lewd, or profane language or the
 21 making of a threat or lewd or lascivious suggestions is
 22 prima facie evidence of an intent to terrify, intimidate,
 23 threaten, harass, annoy, or offend);
 24 (b) uses a telephone to attempt to extort money or any
 25 other thing of value from any person or to disturb by

1 repeated telephone calls the peace, quiet, or right of
 2 privacy of any person at the place where the telephone call
 3 or calls are received;
 4 (c) records or causes to be recorded any conversation
 5 by use of a hidden electronic or mechanical device which
 6 reproduces a human conversation without the knowledge of all
 7 parties to the conversation. Subsection (c) does not apply
 8 to duly elected or appointed public officials or employees
 9 when the transcription or recording is done in the
 10 performance of official duty, to persons speaking at public
 11 meetings, or to persons given warning of the recording.
 12 (d) by means of any machine, instrument, or
 13 contrivance or in any other manner:
 14 (i) reads or attempts to read any message or learn the
 15 contents thereof while it is being sent over a telegraph
 16 line;
 17 (ii) learns or attempts to learn the contents of any
 18 message while it is in a telegraph office or is being
 19 received thereat or sent therefrom; or
 20 (iii) uses, attempts to use, or communicates to others
 21 any information so obtained;
 22 (e) discloses the contents of a telegraphic message or
 23 any part thereof addressed to another person without the
 24 permission of such person, unless directed to do so by the
 25 lawful order of a court; or

1 (f) opens or reads or causes to be read any sealed
 2 letter not addressed to himself without being authorized to
 3 do so by either the writer of the letter or the person to
 4 whom it is addressed or, without the like authority,
 5 publishes any of the contents of the letter knowing the same
 6 to have been unlawfully opened.

7 (2) A person convicted of the offense of violating
 8 privacy in communications shall be fined not to exceed \$500
 9 or imprisoned in the county jail for a term not to exceed 6
 10 months, or both.

11 (3) A supervisory law enforcement official who has
 12 jurisdiction in a geographical area where hostages are being
 13 held and who has probable cause to believe that the holder
 14 of the hostages is committing a crime may order a PREVIOUSLY
 15 DESIGNATED telephone security employee OR OTHER TELEPHONE
 16 COMPANY OFFICIAL TO ARRANGE to cut, reroute, or divert
 17 telephone lines in order to prevent the holder of the
 18 hostages from communicating with any person other than a law
 19 enforcement officer or an individual authorized by a law
 20 enforcement officer. THE SERVING TELEPHONE COMPANY WITHIN
 21 THE GEOGRAPHICAL AREA OF A LAW ENFORCEMENT AGENCY SHALL
 22 DESIGNATE A TELEPHONE COMPANY SECURITY EMPLOYEE OR OTHER
 23 TELEPHONE COMPANY OFFICIAL AND AN ALTERNATE TO PROVIDE ALL
 24 REQUIRED ASSISTANCE TO LAW ENFORCEMENT OFFICIALS TO CARRY
 25 OUT THE PURPOSES OF THIS SUBSECTION. A telephone security

1 employee OR OTHER TELEPHONE COMPANY OFFICIAL acting in good
 2 faith under an order given pursuant to this subsection does
 3 not commit the offense of violating privacy in
 4 communications."

-End-

1 HOUSE BILL NO. 223
 2 INTRODUCED BY CONROY
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND--SECTION
 5 ~~45-8-213, ---MCA, ---FB~~ PERMIT SUPERVISORY LAW ENFORCEMENT
 6 PERSONNEL TO CONTROL TELEPHONE COMMUNICATIONS TO AND FROM A
 7 PERSON HOLDING HOSTAGES AND TO LIMIT THE LIABILITY OF
 8 TELEPHONE COMPANY OFFICIALS; AMENDING SECTION 45-8-213,
 9 MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 45-8-213, MCA, is amended to read:
 13 "45-8-213. Privacy in communications. (1) ~~Except as~~
 14 ~~provided in subsection (1)~~ [SECTION 2], a person commits the
 15 offense of violating privacy in communications if he
 16 knowingly or purposely:
 17 (a) with the purpose to terrify, intimidate, threaten,
 18 harass, annoy, or offend, communicates with any person by
 19 telephone and uses any obscene, lewd, or profane language,
 20 suggests any lewd or lascivious act, or threatens to inflict
 21 injury or physical harm to the person or property of any
 22 person (the use of obscene, lewd, or profane language or the
 23 making of a threat or lewd or lascivious suggestions is
 24 prima facie evidence of an intent to terrify, intimidate,
 25 threaten, harass, annoy, or offend);

1 (b) uses a telephone to attempt to extort money or any
 2 other thing of value from any person or to disturb by
 3 repeated telephone calls the peace, quiet, or right of
 4 privacy of any person at the place where the telephone call
 5 or calls are received;
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 9 parties to the conversation. Subsection (c) does not apply
 10 to duly elected or appointed public officials or employees
 11 when the transcription or recording is done in the
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1 permission of such person, unless directed to do so by the
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6 whom it is addressed or, without the like authority,
7 publishes any of the contents of the letter knowing the same
8 to have been unlawfully opened.

9 (2) A person convicted of the offense of violating
10 privacy in communications shall be fined not to exceed \$500
11 or imprisoned in the county jail for a term not to exceed 6
12 months, or both.

13 ~~NEW SECTION. SECTION 2. CONTROL OF TELEPHONE~~
14 ~~COMMUNICATIONS TO AND FROM A PERSON HOLDING HOSTAGES --~~
15 ~~NONLIABILITY OF TELEPHONE COMPANY OFFICIALS. A supervisory~~
16 ~~law enforcement official who has jurisdiction in a~~
17 ~~geographical area where hostages are being held and who has~~
18 ~~probable cause to believe that the holder of the hostages is~~
19 ~~committing a crime may order a PREVIOUSLY DESIGNATED~~
20 ~~telephone security employee OR OTHER TELEPHONE COMPANY~~
21 ~~OFFICIAL TO ARRANGE to cut, reroute, or divert telephone~~
22 ~~lines in order to prevent the holder of the hostages from~~
23 ~~communicating with any person other than a law enforcement~~
24 ~~officer or an individual authorized by a law enforcement~~
25 ~~officer. THE SERVING TELEPHONE COMPANY WITHIN THE~~

1 ~~GEOGRAPHICAL AREA OF A LAW ENFORCEMENT AGENCY SHALL~~
2 ~~DESIGNATE A TELEPHONE COMPANY SECURITY EMPLOYEE OR OTHER~~
3 ~~TELEPHONE COMPANY OFFICIAL AND AN ALTERNATE TO PROVIDE ALL~~
4 ~~REQUIRED ASSISTANCE TO LAW ENFORCEMENT OFFICIALS TO CARRY~~
5 ~~OUT THE PURPOSES OF THIS SUBSECTION SECTION. A telephone~~
6 ~~security employee OR OTHER TELEPHONE COMPANY OFFICIAL acting~~
7 ~~in good faith under an order given pursuant to this~~
8 ~~subsection SECTION does not commit the offense of violating~~
9 ~~privacy in communications AND IS NOT LIABLE IN ANY CIVIL~~
10 ~~ACTION BROUGHT AS A RESULT OF SUCH GOOD FAITH ACTIONS."~~

11 ~~SECTION 3. CODIFICATION. SECTION 2 IS INTENDED TO BE~~
12 ~~CODIFIED AS AN INTEGRAL PART OF TITLE 69, CHAPTER 6.~~

-End-

March 7, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 223, be amended as follows:

1. Title, lines 4 and 5.

Strike: "AMEND SECTION 45-8-213, MCA, TO"

2. Title, line 7.

Following: "HOSTAGES"

Insert: "AND TO LIMIT THE LIABILITY OF TELEPHONE COMPANY OFFICIALS;
AMENDING SECTION 45-8-213, MCA"

3. Page 1, line 12.

Following: "in"

Strike: "subsection (3)"

Insert: "[section 2]"

4. Page 3, line 11.

Following: line 10

Strike: "(3)"

Insert: "NEW SECTION. Section 2. Control of telephone communications
to and from a person holding hostages--nonliability of telephone
company officials.

5. Page 3, line 25.

Following: "THIS"

Strike: "SUBSECTION"

Insert: "section"

6. Page 4, line 2.

Following: "this"

Strike: "subsection"

Insert: "section"

7. Page 4, line 4.

Following: "communications"

Insert: "and is not liable in any civil action brought as a result
of such good faith actions"

8. Page 4.

Following: line 4

Insert: "Section 3. Codification. Section 2 is intended to be
codified as an integral part of Title 69, chapter 6."