
SENATE BILL NO. 257—SENATORS PICKARD, HAMMOND;
GOICOECHEA, OHRENSCHALL AND SETTELMAYER

MARCH 11, 2019

JOINT SPONSORS: ASSEMBLYMEN LEAVITT,
COHEN; AND ROBERTS

Referred to Committee on Judiciary

SUMMARY—Provides that certain evidence is inadmissible in an action or proceeding involving domestic relations. (BDR 4-37)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to evidence; providing that certain evidence is inadmissible in an action or proceeding involving domestic relations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law sets forth the general admissibility of various types of evidence in
2 various types of legal actions and proceedings. (Chapter 48 of NRS) Existing law
3 also prohibits: (1) the interception of wire communications without a court order
4 unless the interception is made with the prior consent of one of the parties to the
5 communication or an emergency situation exists and it is impractical to obtain a
6 court order until later; and (2) a person from surreptitiously listening to, monitoring
7 or recording, by means of any mechanical, electronic or other listening device, any
8 private conversation engaged in by the other persons, or disclosing the existence,
9 content, substance, purport, effect or meaning of any conversation so listened to,
10 monitored or recorded, unless authorized to do so by one of the persons engaging in
11 the conversation. (NRS 200.620, 200.650)

12 The Nevada Supreme Court has held that a tape recording, made by a father
13 when he placed a recording device in a child’s backpack in violation of NRS
14 200.650, was not per se inadmissible in a child custody proceeding, and the district
15 court has discretion to determine whether to admit the illegally obtained evidence.
16 (*Abid v. Abid*, 133 Nev. Adv. Op. 94 (2017))

17 **Section 1** of this bill provides that evidence is inadmissible in any action or
18 proceeding involving domestic relations, such as a child custody case, if the



19 evidence was obtained in violation of the statutes prohibiting the unauthorized
20 interception of wire communications or the surreptitious listening to, monitoring or
21 recording, by means of any mechanical, electronic or other listening device, of a
22 private conversation engaged in by other persons. **Section 2** of this bill clarifies that
23 the changes to existing law made by **section 1** apply to any action or proceeding
24 that is pending on October 1, 2019, or commenced on or after October 1, 2019.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 48.077 is hereby amended to read as follows:
2 48.077 **1.** Except as limited by this ~~[section.]~~ **subsection**, in
3 addition to the matters made admissible by NRS 179.465, the
4 contents of any communication lawfully intercepted under the laws
5 of the United States or of another jurisdiction before, on or after
6 July 1, 1981, if the interception took place within that jurisdiction,
7 and any evidence derived from such a communication, are
8 admissible in any action or proceeding in a court or before an
9 administrative body of this State, including, without limitation, the
10 Nevada Gaming Commission and the Nevada Gaming Control
11 Board. Matter otherwise privileged under this title does not lose its
12 privileged character by reason of any interception.

13 **2.** *Evidence of the contents of any wire communication or*
14 *conversation that was obtained in violation of any provision of*
15 *NRS 200.610 to 200.690, inclusive, is not admissible in any action*
16 *or proceeding brought pursuant to title 11 of NRS. As used in this*
17 *subsection:*

18 **(a)** *“Contents” when used with respect to any wire*
19 *communication or conversation includes any information*
20 *concerning the identity of the parties to the wire communication*
21 *or conversation and the existence, substance, purport or meaning*
22 *of that wire communication or conversation.*

23 **(b)** *“Wire communication” has the meaning ascribed to it in*
24 *NRS 200.610.*

25 **Sec. 2.** The amendatory provisions of this act apply to any
26 action or proceeding that is:

- 27 1. Pending on October 1, 2019; or
28 2. Commenced on or after October 1, 2019.

