

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 403

An Act to amend and reenact §§ 19.2-66 and 19.2-70 of the Code of Virginia, relating to oral intercepts.

[H 1780]

Approved March 23, 2011

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-66 and 19.2-70 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order authorizing interception of communications.

A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 or 18.2-248.1, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 ~~for the interception of a wire, electronic or oral communication shall be made in the jurisdiction where there is probable cause to believe that an offense listed in subsection A of this section was committed, is being committed, or will be committed.~~ shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if *there is probable cause to believe that an offense was committed, is being committed, or will be committed* or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if *there is probable cause to believe that an offense was committed, is being committed, or will be committed* or the physical location of the oral communication to be intercepted is within the territorial jurisdiction of the court.

3 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location.

§ 19.2-70. Reports to be filed by courts and Attorney General.

All courts of the Commonwealth and the Attorney General shall file all reports required by 18 U.S.C.A. § 2519. The Attorney General shall file a written report with the Clerks of the Senate and House of Delegates on or before December 31 of each year setting forth the number of applications made pursuant to this chapter, the number of interceptions authorized, the number of arrests resulting from each application, the number of convictions including a breakdown by offense, the cost of each application granted and the number of requests denied. Such information shall be made available by such Clerks to any member of the General Assembly upon request. *However, notwithstanding the above requirements, no report shall be made concerning a granted application until after all inventories associated with such application are served pursuant to subdivision F 4 of § 19.2-68.*