

STATE OF ILLINOIS  
OFFICE OF THE GOVERNOR  
SPRINGFIELD, 62706GEORGE H. RYAN  
GOVERNOR

August 2, 2002

To the Honorable Members of the  
Illinois House of Representatives  
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill.2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 4074 entitled, "AN ACT in relation to criminal law," with my specific recommendation for change.

House Bill 4074 amends the Code of Criminal Procedure of 1963 to allow retired police officers to become trained as electronic criminal surveillance officers in order to conduct court authorized non-consensual electronic criminal surveillance. The bill defines retired police officer and prohibits the retired officer from carrying a firearm at any time while carrying out their electronic surveillance duties.

Under current law only specially trained and certified law enforcement officers on active duty can carry out court authorized non-consensual electronic criminal surveillance. The current Electronic Criminal Surveillance law requires the State Police to train and certify the officers. There are three levels of training and certification:

(1) Electronic Criminal Surveillance Officer I (ECSO I) is certified to (i) prepare petitions for the authority to intercept private oral communications in accordance with the provisions of electronic surveillance law; (ii) intercept and supervise the interception of private oral communications; (iii) handle, safeguard, and use evidence derived from such private oral communications; and (iv) operate and maintain equipment used to intercept private oral communications.

(2) Electronic Criminal Surveillance Officer II is certified to carry out ECSO I duties, plus to install, maintain and remove non-consensual electronic criminal surveillance devices when court authorized non-consensual entry of property is not required.

(3) Electronic Criminal Surveillance Officer III is certified to carry out ECSO I and ECSO II duties, plus when authorized by the courts to enter property to install, maintain or remove non-consensual electronic criminal surveillance devices. Currently only law enforcement officers assigned to a dedicated electronic criminal surveillance unit may apply for ECSO III training and certification.

It is my understanding that during the legislative process, House Bill 4074 was described as allowing retired police officers, who are properly trained and certified by the State Police, to carry out Electronic Criminal Surveillance Officer I duties of monitoring intercepted communications. I fully support that purpose, which will free up police officers to carry out other more pressing duties. However, nothing in House Bill 4074 limits retired officers at ECSO I duties or allows the State Police to decline to train retired police officers at ECSO II and ECSO III levels. I believe it is important that this legislation be so limited to avoid any confusion. Also, I do not believe that retired police officers, who by the terms of this bill are prohibited from carrying a firearm, should conduct the ECSO II and ECSO III duties. There are not a large number of non-consensual electronic surveillance operations carried out each year, so there is not any pressing need for anyone other

than active duty police officers to carry out ECSO II and ECSO III duties. The intent of House Bill 4074 can be fully satisfied by limiting retired officers to currently defined Electronic Criminal Surveillance Officer I duties.

For these reasons, I hereby return House Bill 4074 with the following specific recommendation for change.

on page 2, line 34, after the period, by inserting the following:

"A retired law enforcement officer may be certified by the Illinois State Police only to (i) prepare petitions for the authority to intercept private oral communications in accordance with the provisions of this Act; (ii) intercept and supervise the interception of private oral communications; (iii) handle, safeguard, and use evidence derived from such private oral communications; and (iv) operate and maintain equipment used to intercept private oral communications."

With this change, House Bill 4074 will have my approval.

I respectfully request your concurrence.

Sincerely,  
s/GEORGE H. RYAN  
Governor