



## Ohio Revised Code

### Section 2933.57 Oral order for interception without warrant of wire, oral, or electronic communication.

Effective: June 13, 1996

Legislation: House Bill 181 - 121st General Assembly

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(A) A judge of the court of common pleas may grant an oral order for an interception without a warrant of a wire, oral, or electronic communication. Upon receipt of an application under this division, the judge of the court of common pleas to whom the application is made may grant an oral order for an interception without a warrant, may include in the order a statement of the type described in division (A)(13) of section 2933.56 of the Revised Code, and shall condition the order upon the filing with the judge, within forty-eight hours, of an application for an interception warrant under section 2933.53 of the Revised Code and division (B) of this section, if the judge determines all of the following:

(1) There appear to be grounds upon which an interception warrant could be issued under section 2933.54 of the Revised Code.

(2) There is probable cause to believe that an emergency situation exists with respect to the investigation of a designated offense.

(3) There is probable cause to believe that the emergency situation involves an immediate danger of death or serious physical harm that justifies the authorization for immediate interception of a private wire, oral, or electronic communication before an application for an interception warrant could, with due diligence, be submitted to the judge and acted upon.

(B) No statement by the attorney general or the attorney general's designee pursuant to division (B)(9) of section 2933.53 is required prior to consideration of an application pursuant to this section.

(C) The judge of a court of common pleas to whom an application is made under division (A) of this section, the applicant, the prosecuting attorney or assistant prosecuting attorney who authorized the application, and any involved provider of wire or electronic communication service may tape record any telephone or other communications between any of them related to the application for, the



approval of, and the implementation of an oral order for an interception. All of the provisions of sections 2933.51 to 2933.66 of the Revised Code concerning the sealing, distribution, use, and disclosure of an application for an interception warrant apply to any tape recording between the judge, the applicant, and the prosecuting attorney or the designated assistant concerning the application for and an oral order for an interception.

(D)(1) As soon as possible after granting an oral order for an interception without a warrant, a judge shall place upon the journal of the court an entry nunc pro tunc to record the granting of the oral order. If an interception warrant is issued pursuant to the filing of an application following the granting of an oral order for an interception under this section, the judge shall issue the warrant in accordance with section 2933.54 of the Revised Code, and the warrant shall recite the granting of the oral order and shall be retroactive to the time of the oral order.

(2) Interception pursuant to an oral order under this section shall be made in accordance with section 2933.59 of the Revised Code, except that the interception shall terminate immediately when the communication sought is obtained or when the application for a warrant is denied, whichever is earlier.

(3) If no application for a warrant is made in accordance with this section within forty-eight hours following a grant of an oral order or if an application for a warrant is made in accordance with this section following the grant of an oral order but the application is denied, the content of any private wire, oral, or electronic communication intercepted under the oral order shall be treated as having been obtained in violation of this chapter, and an inventory shall be served in accordance with section 2933.61 of the Revised Code upon the person named in the application. However, a provider of wire or electronic communication service that relies in good faith on the oral order in accordance with division (B) of section 2933.65 of the Revised Code is immune from civil or criminal liability in accordance with that section.

(4) If no application for a warrant is made within forty-eight hours following a grant of an oral order under this section or if an application for a warrant is made but is denied, the judge of a court of common pleas who granted an oral order for the interception shall prepare a journal entry reciting the grant of the oral order that includes as much of the information required to be included in an interception warrant that is practical to include. All of the provisions of sections 2933.51 to 2933.63



of the Revised Code concerning the sealing, distribution, use, and disclosure of an interception warrant apply to the journal entry required by this division. The judge who granted the oral order also shall order the person who received the oral order under this section to prepare an inventory of the recordings and resumes compiled under the oral order and shall require the tape or other recording of the intercepted communication to be delivered to, and sealed by, the judge in accordance with division (B) of section 2933.59 of the Revised Code. The court served by that judge shall retain the evidence, and no person shall use or disclose the evidence in a legal proceeding, other than a civil action brought by an aggrieved person or as otherwise authorized by the order of a judge of the court of common pleas of the county in which the interception took place. In addition to other remedies or penalties provided by law, a failure to deliver a tape or other recording to the judge in accordance with this division shall be punishable as contempt by the judge directing the delivery.