

CS FOR HOUSE BILL NO. 414(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/17/06

Referred: Judiciary

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to allowing a parent or guardian of a minor to intercept the private
2 communications of the minor and to consent to an order authorizing law enforcement to
3 intercept the private communications of the minor."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 12.37.030 is amended to read:

6 **Sec. 12.37.030. Requirements for an order authorizing a communications**
7 **interception.** Upon consideration of an application, the court may enter an ex parte
8 order authorizing the interception of a private communication if the court determines,
9 on the basis of the application, that **a parent or guardian of a minor has consented**
10 **to the interception of a communication of the minor in good faith and based on**
11 **an objectively reasonable belief that it is necessary for the welfare of the minor**
12 **and in the best interest of the minor or that**

13 (1) there is probable cause to believe that the person whose
14 communication is to be intercepted is committing, has committed, or is planning to

1 commit an offense listed in AS 12.37.010;

2 (2) there is probable cause to believe that a communication concerning
3 the offense may be obtained through the interception;

4 (3) there is probable cause to believe that the facility from which, or
5 the place where, the communication is to be intercepted, is, has been, or is about to be
6 used in connection with the commission of the offense, or is leased to, listed in the
7 name of, or commonly used by, the person whose communication is to be intercepted;

8 (4) normal investigative procedures with respect to the offense have
9 been tried and have failed or reasonably appear to be either unlikely to succeed if tried
10 or too dangerous to employ; and

11 (5) if the application, other than an application for an extension, is for
12 an order to intercept a communication of a person, or involving a communications
13 facility, that was the subject of a previous application, the current application is based
14 upon new evidence or information different from and in addition to the evidence or
15 information offered to support the previous application.

16 * **Sec. 2.** AS 12.37.900 is amended by adding a new paragraph to read:

17 (16) "minor" has the meaning given in AS 42.20.390.

18 * **Sec. 3.** AS 42.20.320(a) is amended to read:

19 (a) The following activities are exempt from the provisions of AS 42.20.300
20 and 42.20.310:

21 (1) listening to a radio or wireless communications of any sort where
22 the same are publicly made;

23 (2) hearing conversation when heard by employees of a common
24 carrier by wire incidental to the normal course of their employment in the operation,
25 maintenance, or repair of the equipment of the common carrier by wire, provided the
26 information obtained is not used or divulged in any manner by the hearer;

27 (3) a broadcast by radio or other means whether it is a live broadcast or
28 recorded for the purpose of later broadcasts of any function where the public is in
29 attendance and the conversations that are overheard are incidental to the main purpose
30 for which the broadcast is then being made;

31 (4) recording or listening with the aid of any device to an emergency

1 communication made in the normal course of operations by a federal, state, or local
 2 law enforcement agency or institutions dealing in emergency services, including
 3 hospitals, clinics, ambulance services, fire fighting agencies, a public utility
 4 emergency repair facility, civilian defense establishment, or military installations;

5 (5) inadvertent interception of telephone conversations over party
 6 lines;

7 (6) a peace officer, or a person acting at the direction or request of a
 8 peace officer, engaging in conduct authorized by or under AS 12.37;

9 (7) interception, listening, or recording of communications by a peace
 10 officer, or a person acting under the direction or request of a peace officer, in an
 11 emergency where the communications are received from a device that intercepts the
 12 communications of a person

13 (A) barricaded and not exiting or surrendering at the direction
 14 or request of a peace officer, in circumstances where there is an imminent risk
 15 of harm to life or property;

16 (B) holding another person hostage; or

17 (C) threatening the imminent illegal use of an explosive;

18 (8) the interception by a peace officer of an oral communication by use
 19 of an electronic, mechanical, or other eavesdropping device that is concealed on or
 20 carried on the person of the peace officer and that transmits that oral communication
 21 by means of radio to a receiving unit that is monitored by other peace officers, if

22 (A) the interception and monitoring occurs

23 (i) during the investigation of a crime or the arrest of a
 24 person for a crime; and

25 (ii) for the purpose of ensuring the safety of the peace
 26 officer conducting the investigation or making the arrest;

27 (B) the peace officer who intercepts the oral communication is
 28 a party to the communication and has consented to the interception; and

29 (C) the communication intercepted is not recorded;

30 **(9) interception of a private communication to which a minor is a**
 31 **party by a parent or guardian of the minor, except that interception of a private**

