

SENATE CS FOR CS FOR HOUSE BILL NO. 414(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/2/06

Referred: Rules

Sponsor(s): REPRESENTATIVES KOTT, Lynn, Elkins

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 by adding a new subsection to read:

6 (b) In addition to exercising authority under (a) of this section, on
7 consideration of an application relating to a private communication of a minor, the
8 court may enter an ex parte order authorizing the interception of the private
9 communication. The court may enter the order only if the court determines, on the
10 basis of the application, that there is probable cause, which may include a finding that
11 a parent of a minor has consented in good faith to the interception of a communication
12 of the minor based on the parent's objectively reasonable belief that it is necessary for
13 the welfare of the minor and is in the best interest of the minor. In this subsection,
14 "minor" and "parent" have the meanings given in AS 42.20.390.

1 * **Sec. 2.** AS 42.20.320(a) is amended to read:

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

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

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

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

14 (4) recording or listening with the aid of any device to an emergency
15 communication made in the normal course of operations by a federal, state, or local
16 law enforcement agency or institutions dealing in emergency services, including
17 hospitals, clinics, ambulance services, fire fighting agencies, a public utility
18 emergency repair facility, civilian defense establishment, or military installations;

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

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

23 (7) interception, listening, or recording of communications by a peace
24 officer, or a person acting under the direction or request of a peace officer, in an
25 emergency where the communications are received from a device that intercepts the
26 communications of a person

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

30 (B) holding another person hostage; or

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

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

5 (A) the interception and monitoring occurs

6 (i) during the investigation of a crime or the arrest of a
 7 person for a crime; and

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

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

12 (C) the communication intercepted is not recorded;

13 **(9) interception of a private communication to which a minor is a**
 14 **party by a parent of the minor, except that interception of a private**
 15 **communication between a minor and the minor's attorney or guardian ad litem**
 16 **or between a minor and a child-custody investigator is not exempt from the**
 17 **provisions of AS 42.20.300 and 42.20.310.**

18 * **Sec. 3.** AS 42.20.390 is amended by adding new paragraphs to read:

19 (11) "minor" means a child under 18 years of age who has not had the
 20 disabilities of a minor removed as described in AS 09.55.590;

21 (12) "parent" means a natural person who is the minor's natural or
 22 adoptive parent, or who has been legally appointed as the minor's guardian, with
 23 parental rights that are not terminated by court order and who is not prohibited by
 24 court order from communicating with the minor, or a stepparent as defined in
 25 AS 25.23.240 who is not prohibited by court order from communicating with the
 26 minor.