

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 24, 2015

3:30 p.m.

MEMBERS PRESENT

Senator Click Bishop, Chair
Senator Bert Stedman, Vice Chair
Senator Lyman Hoffman
Senator Anna MacKinnon
Senator Dennis Egan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 13

"An Act prohibiting the state and municipalities from using assets to assist a federal agency in collecting certain telephone records or electronic data without a warrant; prohibiting the state from cooperating with a federal agency in collecting certain telephone records or electronic data without a warrant; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 13

SHORT TITLE: WARRANTLESS SEARCH OF ELECTRONIC DATA

SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/21/15	(S)	PREFILE RELEASED 1/16/15
01/21/15	(S)	READ THE FIRST TIME - REFERRALS
01/21/15	(S)	CRA, JUD
03/19/15	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/19/15	(S)	Heard & Held
03/19/15	(S)	MINUTE(CRA)
03/24/15	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR BILL WIELECHOWSKI
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of SB 13.

STUART THOMPSON, representing himself
Meadow Lakes, Alaska
POSITION STATEMENT: Supports SB 13.

KRIS SELL, Vice President
Alaska Peace Officers Association
Juneau, Alaska
POSITION STATEMENT: Opposes SB 13.

RODNEY DIAL, Lieutenant
Alaska State Troopers
Department of Public Safety
Ketchikan, Alaska
POSITION STATEMENT: Opposes SB 13.

ACTION NARRATIVE

[3:30:30 PM](#)

CHAIR CLICK BISHOP called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Egan, MacKinnon, Hoffman, and Chair Bishop.

SB 13-WARRANTLESS SEARCH OF ELECTRONIC DATA

[3:31:12 PM](#)

CHAIR BISHOP announced the consideration of SB 13. [CSSB 13, labeled 29-LS0006\W, was before the committee.]

[3:31:28 PM](#)

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, explained that he made a presentation regarding SB 13 during the previous week. He reiterated that SB 13 will prohibit state, local municipalities, or communities from assisting what is defined as a "federal data collection and surveillance agency" in collecting certain telephone records and electronic data without a warrant. He explained that the bill stems from concerns voiced by Alaskans and people across the country about inappropriate collection, eavesdropping, and spying by the National Security Agency (NSA) on American citizens. He noted

that both support and concerns were addressed at the previous committee meeting.

SENATOR WIELECHOWSKI said some law enforcement agencies have submitted letters of opposition. He divulged that his office has contacted some of the law enforcement agencies since the previous meetings in addition to a discussion with the Department of Law. He revealed that the bill does not have a consensus from law enforcement and he opined that he does not ever expect to have consensus from law enforcement.

He remarked that he does not think the bill does what law enforcement thinks it does. He reiterated that he has no intention to prohibit law enforcement from working with federal agencies in child pornography cases or other legitimate law enforcement activities. He explained that the bill's intent is to stop federal surveillance agencies, like the NSA, from conducting inappropriate, illegal, and unconstitutional activities that the state should not be supporting at all.

He pointed out that the definition for the federal surveillance agency was taken from similar legislation taken up in Texas and Utah. He noted that similar legislation is being pursued in 17 different states. He noted that the bill has another referral in the Senate Judiciary Committee that he is a member of and added that he would be happy to work with law enforcement in the committee to tighten the federal agency definition even more.

He opined that the dispute really is the definition of what is a federal data collection and surveillance agency. He revealed that other states have had the same definition fight in Montana, Utah, and Texas. He said ultimately the decision is a policy call.

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SENATOR STEDMAN joined the committee.

[3:35:09 PM](#)

CHAIR BISHOP announced that the committee will take public comment.

[3:35:38 PM](#)

STUART THOMPSON, representing himself, Meadow Lakes, Alaska, stated that he supports SB 13. He pointed out that constitutional conflicts exist between surveillance and investigatory procedures.

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KRIS SELL, Vice President, Alaska Peace Officers Association (APOA), Juneau, Alaska, said the APOA board opposes SB 13. She specified that APOA considered SB 13 and came to the consensus not to support it. She said local law enforcement works very closely with its federal partners and noted that their FBI partners are often on the perimeter for drug calls. She detailed that local law enforcement works side by side with federal agencies in cases that involve drugs, sex trafficking, and child pornography.

She said APOA believes SB 13 potentially drives an unnecessary wedge between local law enforcement and federal agencies that include the FBI, NOAA, and the U.S. Forest Service. She remarked that she might not be able to share a text message or e-mail with a federal agent because the agency does not have a warrant and she could not share her legally obtained information for a federal prosecution, something that could potentially hurt the public.

She asked that the committee consider what the bill is actually saying. She noted that the bill's sponsor has said the legislation is about the CIA and NSA, but potentially the bill could harm Alaska law enforcement because local law enforcement works so closely with its federal counterparts.

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RODNEY DIAL, Lieutenant, Alaska State Troopers, Department of Public Safety (DPS), Ketchikan, Alaska, said DPS opposes SB 13. He said the department certainly appreciates the changes to the bill that narrowed the scope; however, the department has some concerns and prefers that the legislation specify by name the agencies to exclude or the agencies that are not part of the legislation. He explained that most federal law enforcement agencies can obtain some electronic data with a subpoena and not a warrant. He summarized that DPS is concerned that the bill would limit its ability to assist in complex joint investigations.

SENATOR STEDMAN said he was not interested in jeopardizing Alaska's children any more than they already have to be subjected to. He asserted that he is not very favorable on loosening restrictions if the result makes it easier for the child pornography folks to function and get around. He noted that several arrests have been made in his district the last several years and one involved a past mayor in Ketchikan that went on for years, an act that the community found appalling. He

stated that society is better off when tighter restrictions are placed on issues like child pornography. He pointed out that law enforcement agencies throughout Southeast Alaska have been doing a very good job the last few years ratcheting up the pressure on the drug industry and have had several big busts. He expressed that he does not want to see law enforcement's hands tied and asked to make sure they are on board as the bill moves forward. He summarized that he does not like eavesdropping more than anybody else, but he noted that he would like law enforcement agencies to have access to data in order to deal with internet cyber-crime.

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CHAIR BISHOP asked Mr. Dial to verify that DPS would like to see the bill's definitions tightened up to a specific agency name.

MR. DIAL answered that the department discussed possible implications from the bill and noted that DPS receives 15 to 30 requests for information per month from federal agencies. He reiterated that DPS suggests that SB 13 be designed specifically to prevent eavesdropping with agencies specified by name. He explained that specifying agencies would make it easier to determine if information about a suspect was gathered by means other than a search warrant.

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At ease

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CHAIR BISHOP called the committee back to order. He asked Senator Wielechowski to work on language with law enforcement before the committee moves the bill forward.

SENATOR WIELECHOWSKI opined that there probably was a reason why legislation similar to SB 13 has not passed in any state in the country yet. He explained that the core issue is how to define what the federal agency is in a way that includes the NSA, but does not include the FBI and some of the other organizations that work with local law enforcement. He noted requests from law enforcement about naming the agencies, but remarked that agencies other than the NSA could be involved and naming organizations can be legally tricky and unrealistic.

He asserted that SB 13 does not cover child pornography and does not change the collection of text messages and e-mails. He said he will be happy to work with law enforcement, but conceded that he does not know if getting a product that law enforcement

agrees with is possible because there has never been a product that law enforcement has agreed with in any state in the country that he is aware of on a bill like SB 13.

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CHAIR BISHOP closed public comment.

[3:50:03 PM](#)

CHAIR BISHOP announced that SB 13 will be held in committee.

[3:50:31 PM](#)

There being no further business to come before the committee, Chair Bishop adjourned the Senate Community and Regional Affairs Standing Committee hearing at 3:50 p.m.