

Introduced: 1/27/82
Referred: Judiciary

1 IN THE SENATE

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2 SENATE BILL NO. 687

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the issuance of search warrants;
7 and changing Rule 37, Rules of Criminal Procedure."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 12.35.010 is amended by adding a new subsection to read:

10 (b) A judicial officer may issue a search warrant upon the sworn
11 oral testimony of a person communicated by telephone or other appropri-
12 ate means in accordance with AS 12.35.015.

13 * Sec. 2. AS 12.35 is amended by adding a new section to read:

14 Sec. 12.35.015. ISSUANCE OF SEARCH WARRANT UPON SWORN ORAL TESTI-
15 MONY COMMUNICATED BY TELEPHONE OR OTHER APPROPRIATE MEANS. (a) A
16 judicial officer may issue a search warrant upon the sworn oral testi-
17 mony of a person communicated by telephone or other appropriate means if
18 the judicial officer finds that there is probable cause to believe that

19 (1) the presentation of the applicant's affidavit or testi-
20 mony personally before the judicial officer would result in delay in
21 obtaining a search warrant and in executing the search; and

22 (2) the delay might result in loss or destruction of the
23 evidence subject to seizure.

24 (b) A judicial officer shall place under oath each person whose
25 testimony forms a basis of the application and each person applying for
26 the search warrant. The judicial officer shall record the proceeding by
27 using a voice recording device. The judicial officer shall, without
28 unnecessary delay, have the recording transcribed, shall certify the
29 accuracy of the transcription, and shall file the original recording and

1 the transcription with the court.

2 (c) The applicant for the search warrant shall prepare a document
3 to be known as a duplicate original warrant and shall read it verbatim
4 to the judicial officer. The judicial officer shall enter, verbatim, on
5 an original search warrant what is read to him. The judicial officer
6 may direct that the duplicate original search warrant be modified.

7 (d) If a search warrant is issued under this section, the judicial
8 officer shall orally authorize the applicant to sign the judicial offi-
9 cer's name on the duplicate original search warrant. The judicial
10 officer shall immediately sign the original search warrant and enter on
11 the face of the original search warrant the exact time when the search
12 warrant was ordered to be issued.

13 (e) The person who executes a search warrant issued under this
14 section shall enter the exact time of execution on the face of the
15 duplicate original search warrant.

16 (f) Absent a finding of bad faith, evidence obtained under a
17 warrant issued under this section is not subject to a motion to suppress
18 on the ground that the circumstances did not support its issuance under
19 (a) of this section.

20 * Sec. 3. AS 12.35.120 is amended to read:

21 Sec. 12.35.120. DEFINITION OF SEARCH WARRANT. A search warrant is
22 an order in writing, signed by a judge or magistrate or signed at the
23 direction of a judicial officer in accordance with AS 12.35.015, directed
24 to a peace officer, commanding him to search for personal property and
25 bring it before the judge or magistrate.

26 * Sec. 4. AS 12.35.015, added by sec. 2 of this Act, has the effect of
27 changing Rule 37, Rules of Criminal Procedure, by allowing search warrants to
28 be issued upon sworn oral testimony communicated by telephone or other
29 appropriate means.