

HOUSE BILL NO. 169

**IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY THE HOUSE JUDICIARY COMMITTEE BY REQUEST

**Introduced: 2/25/91
Referred: Judiciary, Finance**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the issuance of a search warrant by facsimile machine."**

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

3 *** Section 1.** AS 12.35.015 is repealed and reenacted to read:

4 Sec. 12.35.015. **ISSUANCE OF SEARCH WARRANT UPON TESTIMONY**
5 **COMMUNICATED BY TELEPHONE OR OTHER MEANS.** (a) A judicial officer may issue
6 a search warrant upon the sworn oral testimony of a person communicated by telephone or other
7 appropriate means if the judicial officer finds that there is probable cause to believe that

8 (1) the presentation of the applicant's affidavit or testimony personally before the
9 judicial officer would result in delay in obtaining a search warrant and in executing the search;
10 and

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

12 (b) A judicial officer shall place under oath each person whose testimony forms a basis
13 of the application and each person applying for the search warrant. The judicial officer shall
14 record the proceeding by using a voice recording device.

1 (c) A search warrant issued by a judicial officer may be transmitted by facsimile machine
2 to the applicant. The facsimile search warrant shall serve as an original.

3 (d) If a facsimile search warrant cannot be transmitted to the applicant under (c) of this
4 section, the applicant shall prepare a document to be known as a duplicate original warrant and
5 shall read it verbatim to the judicial officer. The judicial officer shall enter, verbatim, on an
6 original search warrant what is read to the judicial officer. The judicial officer may direct that
7 the duplicate original search warrant be modified.

8 (e) Except as provided in (c) of this section, if a search warrant is issued under this
9 section, the judicial officer shall orally authorize the applicant to sign the judicial officer's name
10 on the duplicate original search warrant. The judicial officer shall immediately sign the original
11 search warrant and enter on the face of the original search warrant the exact time when the
12 search warrant was ordered to be issued.

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

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