

HB

465

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 2, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 3/1/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 465

HOUSE BILL NO. 465 MONITOR PHONE CALLS OF PRISONERS

"An Act relating to telephone access and monitoring inside correctional facilities."

RECOMMENDATIONS:

- be replaced with _____ the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____ fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) 2/2/90 Corrections
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

Mark Boyer w/amendment
(re: ombudsman)

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u>		✓	
<u>[Signature]</u>		✓	
<u>[Signature]</u>			✓

[Signature]
Chairman's Signature

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 465

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to telephone access and monitoring
7 inside correctional facilities."

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

9 * Section 1. AS 33.30.231 is amended to read:

10 Sec. 33.30.231. TELEPHONE [ACCESS AND] MONITORING INSIDE CORREC-
11 TIONAL FACILITIES. [INSTITUTIONS. (a) EXCEPT AS PROVIDED IN (b) OF
12 THIS SECTION, A PRISONER SHALL HAVE REASONABLE ACCESS TO A TELEPHONE.

13 (b) A PRISONER WHO IS CLASSIFIED MAXIMUM CUSTODY, IS PLACED IN
14 SEGREGATION AS PUNISHMENT FOR A RULE INFRACTION, OR IS PLACED IN
15 SEGREGATION BECAUSE THE PRISONER POSES A THREAT TO OTHERS OR TO THE
16 SECURITY OF A CORRECTIONAL FACILITY MAY NOT HAVE ACCESS TO A TELEPHONE
17 EXCEPT TO COMMUNICATE WITH AN ATTORNEY, TO OTHERWISE COMMUNICATE AS
18 PROVIDED IN AS 12.25.150, OR IN AN EMERGENCY AS DETERMINED APPROPRIATE
19 BY THE COMMISSIONER.

20 (c)] Notwithstanding AS 42.20.300 and 42.20.310, in order to
21 preserve the security and orderly administration of the correctional
22 facility [INSTITUTION] and to protect the public, the commissioner may
23 authorize the use of monitoring or recording equipment to listen to a
24 telephone conversation of a prisoner convicted of a crime, if a
25 warning is posted by the telephone informing the prisoner that a call
26 may be monitored or recorded. A telephone call between an attorney
27 and a prisoner may not be monitored or recorded except when authorized
28 by a court.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

CC
14B 465

February 1, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to access and monitoring of telephone calls in correctional facilities.

The bill repeals limitations on access to telephones by prisoners who are classified maximum custody or in segregation. The bill also repeals the authority to monitor telephone calls of prisoners who have not been convicted of a crime. It leaves intact the authority to monitor calls of convicted prisoners.

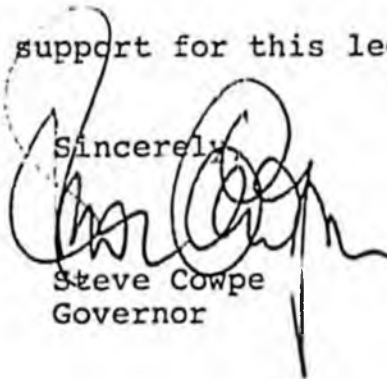
In 1983, the superior court in Cleary v. Smith signed an order granting reasonable access to telephones for all prisoners except those in punitive segregation. The order also prohibited monitoring telephone calls of pretrial detainees. In 1986, as a response to telephone abuses by a relatively small number of prisoners, the legislature passed AS 33.30.231 (sec. 6, ch. 88, SLA 1986). That statute precludes access to telephones, except to call an attorney, for inmates classified maximum custody or in segregation, and authorizes the monitoring of telephone calls of all prisoners. This bill would repeal those provisions in the statute which conflict with the court order. While the plaintiffs in Cleary have challenged the constitutionality of AS 33.30.231 in light of the 1983 court order, the state and Cleary plaintiffs have reached agreement on how to avoid this costly litigation and still afford adequate protection to the public from inmate telephone abuses.

The Department of Corrections will shortly be implementing a collect-call-only system (except to attorneys) for

prisoners, which will identify the caller as a prisoner and permit the person called an opportunity to refuse the call. This system, coupled with enactment of this bill, will protect the public from telephone abuses yet still allow the level of communication by prisoners envisioned in the 1983 court order.

I respectfully request your support for this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowpe", written over the word "Sincerely,".

Steve Cowpe
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to telephone access
 inside correctional facilities."
 Sponsor: Rules
 Requestor: Governor

Agency Affected: Department of Corrections
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Susan E. Knighton

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 12/27/89

Susan Humphrey-Barnett

Approved by Commissioner: _____ Date: 12/27/89
 Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
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- Requestor
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- Impacted Agency(ies)

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. HESS

3-1-90