

HB

465

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 465 (Judiciary)

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(a) is amended to read:

10 (a) A [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, A] prisoner
11 shall have reasonable access to a telephone except when access is
12 suspended as punishment for conviction of a rule infraction or pending
13 a hearing for a rule infraction involving telephone abuse. A sus-
14 pension under this subsection must be reasonable in length and may not
15 prohibit telephone communication between the prisoner and an attorney
16 or between the prisoner and the office of the ombudsman.

17 * Sec. 2. AS 33.30.231(c) is amended to read:

18 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to
19 preserve the security and orderly administration of the correctional
20 facility [INSTITUTION] and to protect the public, the commissioner may
21 authorize the use of monitoring or recording equipment to listen to a
22 telephone conversation of a prisoner incarcerated following conviction
23 of a crime, if a warning is posted by the telephone informing the
24 prisoner that a call may be monitored or recorded. A recording of a
25 telephone call made under this subsection shall be kept confidential,
26 and access to the recording and its contents is limited to persons who
27 are acting within the scope of their official duties and whose access
28 to specific recordings has been authorized by the facility superinten-
29 dent. A telephone call between an attorney and a prisoner or between

1 the office of the ombudsman and a prisoner may not be monitored or re-
2 corded except when authorized by a court.

3 * Sec. 3. AS 33.30.231(b) is repealed.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29



State of Alaska
Ombudsman

Duncan C. Fowler

April 19, 1990

Jan Faiks, Chair
Senate Judiciary Committee
Alaska State Senate
Post Office Box V
Juneau, Alaska 99811-3000

RECEIVED

APR 20 1990

JAN FAIKS
SENATE OFFICE

Reply to:

- P.O. Box 102636
Anchorage, AK 99510-2636
(907) 563-3673
(800) 478-2624
- P.O. Box WO
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970
- P.O. Box 74358
Fairbanks, AK 99707
(907) 452-4001
(800) 478-3257

RE: HB 465 (JUD)

Dear Senator Faiks:

A bill relating to inmate telephone calls, HB 465 (JUD), has been referred to your committee for review. I know it is getting near the end of the session. I hope you will be able to schedule this bill before your committee.

My interest in this bill is twofold. Although the bill does help bring state law into line with the *Cleary Partial Settlement Agreement*, it also insures certain phone communications with this office will not be abused.

When the Alaska Ombudsman Act passed in 1975, inmates did not have the same access to telephones as today. However, the 1975 act did provide that all inmate mail, to or from the ombudsman, be promptly handled unopened by officials. That provision recognized the state's potential for liability in institutional settings (medical as well as correctional). It guaranteed a way for those in custody to seek and receive help in confidence without potential abuse by their "keepers."

From my perspective, HB 465 (JUD) modernizes the provisions of the Ombudsman Act. It provides access and prohibits monitoring of inmate calls to this office. And, frankly, it is cheaper and faster for us to deal with inmate complaints over the telephone than it is by mail.

Please let me know if you can schedule this bill. I would be happy to appear before your committee and answer any questions you may have regarding my interest in this legislation. This is a bill that Commissioner Humphrey-Barnett and I have worked on and both support.

Sincerely,

Duncan C. Fowler
Ombudsman

DCF:pjc

cc: Susan Humphrey-Barnett, Commissioner
Department of Corrections
Mike Stark, Assistant Attorney General

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

CC
1-13-90

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.

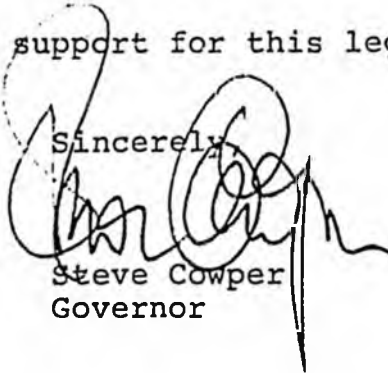
In 1983, the superior court in Cleary v. Smith signed an order granting reasonable access to telephones for all prisoners except those in punitive segregation. The order also prohibited monitoring telephone calls of pretrial detainees. In 1986, as a response to telephone abuses by a relatively small 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 Cowper", written over the word "Sincerely,".

Steve Cowper
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-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

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: Susan Humphrey-Barnett Date: 12/27/89
 Agency: Department of Corrections

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Sec. 33.30.221. Superintendent of correctional facility may administer oaths and acknowledgments. The superintendent of a correctional facility or the superintendent's assistant may administer oaths to and take acknowledgments from a prisoner, but may not request or accept compensation from a prisoner for acts performed under this section. (§ 6 ch 88 SLA 1986)

Secs. 33.30.225 — 33.30.227. [Repealed, § 12 ch 88 SLA 1986.]

Sec. 33.30.231. Telephone access and monitoring inside correctional institutions. (a) Except as provided in (b) of this section, a prisoner shall have reasonable access to a telephone.

(b) A prisoner who is classified maximum custody, is placed in segregation as punishment for a rule infraction, or is placed in segregation because the prisoner poses a threat to others or to the security of a correctional facility may not have access to a telephone except to communicate with an attorney, to otherwise communicate as provided in AS 12.25.150, or in an emergency as determined appropriate by the commissioner.

(c) Notwithstanding AS 42.20.300 and 42.20.310, in order to preserve the security and orderly administration of the institution and to protect the public, the commissioner may authorize the use of monitoring or recording equipment to listen to a telephone conversation of a prisoner if a warning is posted by the telephone informing the prisoner that a call may be monitored or recorded. A telephone call between an attorney and a prisoner may not be monitored or recorded except when authorized by a court. (§ 6 ch 88 SLA 1986)

Sec. 33.30.241. Effect of judgment of conviction on civil rights. (a) A person who is convicted of a felony involving moral turpitude as defined in AS 15.60.010 is disqualified from voting in a state or municipal election until the person's unconditional discharge.

(b) A person who is convicted of a felony is disqualified from serving as a juror until the person's unconditional discharge.

(c) In this section "unconditional discharge" has the meaning given in AS 12.55.185. (§ 6 ch 88 SLA 1986)

Cross references. — For loss and restoration of voting rights after certain felony convictions, see AS 15.05.030.