

HB

187

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 20, 1993

FURTHER REFERRALS:

Date of Committee Action: 4/25/93

The FINANCE Committee considered:
HOUSE BILL NO. 187

HB 187

INTERCEPTION OF PRIVATE COMMUNICATIONS

"An Act authorizing the interception of private communications related to the commission of certain criminal offenses; making related amendments to statutes relating to eavesdropping and wiretapping; relating to the penalty for violation of statutes relating to eavesdropping and unauthorized interception, publication, or use of private communications; and providing for an effective date."

RECOMMENDATIONS:

[] the same title

be replaced with CS HB 187 (Fin)

[x] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[x] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS:

[x] fiscal impact Court

[x] fiscal note(s) PS 4/12/93
DOA 3/1/93

[] zero fiscal note

[x] zero fiscal note(s) DOA 3/1/93
LAW 3/1/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Ronald J. Larson</i>	X	<i>EP, Muehan</i>		X	
<i>Lesley Martin</i>	X	<i>Sean Parnell</i>		X	
<i>Mark Hanley</i>	X	<i>Bar Gussendorf</i>		X	
		<i>Fay Brown</i>		✓	
		<i>Frank Theriault</i>		X	
		<i>Richard Foster</i>		X	

Ronald J. Larson *EP Muehan*
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. HB 187

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act authorizing interception of BRU: Trial Courts
private communications... Components: _____
 Sponsor: House Rules at request of the Governor
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL	2.5					
CONTRACTUAL						
SUPPLIES	2.5					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	5.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	5.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	5.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
 Division: Alaska Court System Date: 04/22/93

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CSC*
 Agency: Alaska Court System Date: 04/22/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska Court System
Fiscal Analysis
HB 187

Travel (one-time cost)

This legislation will require the expedited development of a series of up to fifteen new forms for use in the superior courts. The court system will convene a special meeting of the standing Forms Committee to develop procedures and forms required by this legislation. It is anticipated that the Forms Committee will need one meeting of three days to complete the tasks. The travel cost of this fiscal note is comprised of transportation and per diem costs for Forms Committee members stationed outside of Anchorage.

\$2,500

Commodities (one-time cost)

Printing forms and instructional materials and distribution to superior courts

2,500

Total estimated cost

\$5,000

FISCAL NOTE

No. 1
 Bill Version: HB 187
 (H) Publish Date: 3/1/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act authorizing the interception of private communications.
 Sponsor: Governor
 Requestor: Rules Committee

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Nancy Bear Usera
 Agency: Administration

Date: 2/10/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 4
Bill Version: HB 187
(H) Publish Date: 3/1/93

Revision Date: February 16, 1993
Title: "...authorizing the interception of private communications related...to criminal offenses..."
Sponsor: Rules Committee/Reg. of the Governor
Requestor: Governor's Office/OMB

Department Affected: Department of Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Richard I. Peques

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: February 16, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: February 16, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. 187
NO. 4
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ANALYSIS (Continued):

This bill would authorize the interception of private communications by state law enforcement officers to investigate the serious crimes of murder, kidnapping, and specified drug offenses. Federal law allows states to enact wiretapping laws only if, like this bill, they are at least as restrictive and protective of private communications as federal law.

These protections include allowing only the attorney general or a person designated in writing or by law to act for the attorney general to apply to the court for an order to authorize the wiretapping; limiting the authorization to investigations for only the very serious crimes of murder, kidnapping, or unclassified felony drug offenses; limiting the time period for which the wiretap is authorized; requiring a showing to the court that normal investigative procedures have failed to succeed or are too dangerous to employ; requiring that there be probable cause to believe that the wiretap will secure the evidence being sought; and requiring stringent records keeping and security procedures of law enforcement agencies in the conduct of a wiretapping operation.

Additionally, the bill requires that careful reports about each interception made during the year must be prepared by the attorney general and filed with the federal government. All tapes or other recordings must be transferred to the court, where they are to be kept under seal. Furthermore, notice of the interception must be given by the court in almost all circumstances following the interception. Any evidence derived from an unlawful interception will be suppressed. Finally, the bill increases the criminal penalty for eavesdropping or unauthorized interception, publication, or use of private communications to a class A misdemeanor. These substantial safeguards have been carefully tailored to insure that state constitutional protections, such as Alaska's right of privacy, have been met.

Under the bill, the Department of Law's involvement will include applying for court orders to permit the interception of private communications and the preparation and filing the annual report about interceptions. We do not anticipate that there will be a large number of interceptions, because of the limited circumstance under which they may or could be undertaken. Therefore, we do not believe that the bill will have a fiscal impact for the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 5
Version: HB 187
(H) Publish Date: 4/2/93

Revision _____ Dept. Affected: Public Safety
 Title: "An act authorizing the interception
of private communications." BRU: Alaska State Troopers
 Sponsor: House Rules Component: Criminal Investigations Bureau
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 830

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	75.6	75.6	75.6	75.6	75.6	75.6
TRAVEL	4.2	4.2	4.2	4.2	4.2	4.2
CONTRACTUAL	12.0	12.0	12.0	12.0	12.0	12.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	20.2	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	112.0	91.8	91.8	91.8	91.8	91.8

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.0	91.8	91.8	91.8	91.8	91.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	112.0	91.8	91.8	91.8	91.8	91.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: Francis C. Allan Phone: 269-5891
 Division: Alaska State Troopers Date: 3/17/93
 Approved by Commissioner: *[Signature]* Date: 3/25/93
 Agency: Richard Y. Burton, Dir. of Public Safety

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The court authorized interception of private communications by law enforcement officers to investigate serious crimes such as murder, kidnapping, and specified drug offenses is an effective tool for law enforcement, however, it has proven to be extremely labor intensive. The following impact is based primarily upon discussions with federal and state law enforcement officials that have utilized wiretap provisions in their jurisdictions.

It is anticipated that warrants will be obtained to authorize monitoring for periods of approximately 10 to 14 days even though warrants could be obtained to extend the monitoring for longer periods. This monitoring can be complicated by the fact that some conversations monitored may involve non-English speaking participants which will necessitate the need for bi-lingual interpreters and transcribers to augment the investigators on a 24-hour a day basis. If monitoring for example, involves more than one phone line or location, then additional monitoring teams will have to be established, further increasing the costs for personnel, professional and contractual services.

The following is a summary of the estimated costs based upon three wiretaps being utilized each year. This estimate only includes those additional costs that may be incurred to train, equip, implement, monitor, record and document the wiretap in accordance with statutory requirements that may be incurred during a criminal investigation.

Personal Services

Additional overtime for existing personnel:

A) Investigators
(Calculated at Range 77 Step K):

24 hrs x \$54 per x 15 days x 3 cases = \$58.3

B) Clerical support
(Calculated at Range 8 Step D):

16 hrs X \$24 per x 15 days x 3 cases = 17.3

Personal Services Subtotal \$75.6

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ACG.3

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Travel

Training courses covering wiretapping
equipment, laws & regulations - 6 x
Investigators (2 per shift / 6 per day),
7 days, travel & per diem 4.2

Contractual

A) Utilities

Call Line Identification

\$181 x 3 cases = \$543 .5

Pen Register / Monitoring Unit

\$224 x 3 cases = \$672 .7

B) Translator / interpreter

24 hrs x \$30 per x 15 days x 1 case = 10.8

Contractual Subtotal 12.0

Equipment

Monitoring unit x 2 = 20.2

Total \$112.0

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 2
Bill Version: HB 187
(H) Publish Date: 3/1/93

Revision Date: _____
Title: "An Act relating to wiretapping for criminal investigations or murder, kidnapping and serious drug offenses . . ."
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING

CAPITAL
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REVENUE FUND SOURCE:
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	.	.	.	.	.	.

POSITIONS:

FULL-TIME	.	.	.	.	.	.
PART-TIME						
TEMPORARY	.	.	.	.	.	.

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary.)
See Attached.

Prepared by: John Salemi, Public Defender
Division: Public Defender Agency

Phone: 279-7541
Date: _____

Approved by Commissioner: Nancy Bear Usery
Agency: Administration

Date: 3/1/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. 187

NO. 2

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ANALYSIS: (continued)

This wiretapping bill is limited to certain types of offenses (murder, kidnapping and serious drug offenses). While it is unlikely that authorized wiretapping would be regularly used in kidnapping or murder cases, the pool of serious drug offenses presents a separate matter. As public counsel in criminal cases the Public Defender Agency would be required to review all applications for wiretapping authorization, would necessarily prepare challenges to said applications, and would ultimately defend the cases. In the context of defense preparation significant time might have to be spent reviewing the contents of the "wired" conversations. There is no question that the passage of this bill will increase the work of the Public Defender Agency. To what extent there is an increase would be highly speculative.

BILL NO: HB 187

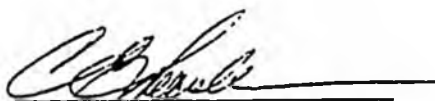
DATE: March 24, 1993

TITLE: "An Act authorizing the interception of private communications related to the commission of certain criminal offenses. . ."

CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322

HB 187 permits the interception of communications (wire tapping) for the purpose of investigating certain felony crimes. Crimes for which wire tapping may be used to investigate: 1) Murder in the First Degree; 2) Murder in the Second Degree; 3) Kidnapping; 4) Class A or unclassified drug offenses which are for Misconduct Involving a Controlled Substance (MICS) in the first degree, an unclassified felony; 5) and (MICS) in the second degree, a class A felony offense.

This legislation will provide Alaskan law enforcement agencies with a valuable tool presently utilized by the Federal government and many states, to intercept communications to aid in investigating individuals who have committed, are committing, or are planning to commit a very serious offense.


Richard L. Burton
Commissioner