

HB

187

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 2, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-19-93

The JUDICIARY 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:

be replaced with _____ [] the same title

[] have attached amendments(s)

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

2 (INDETERMINATE) fiscal note(s) ADMIN (3-1); DPS (4-2-93)

[] zero fiscal note _____

2 zero fiscal note(s) ADMIN; LAW (3-1-93)

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Porter</i>	<input checked="" type="checkbox"/>				
<i>Paul Phillips</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				

Brian Porter
CHAIRMAN'S SIGNATURE

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 1, 1993

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/01/93

The LABOR AND COMMERCE Committee considered:

HB 187

HOUSE BILL NO. 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 _____ [] a new title

[] have attached amendments(s)

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Public SAFETY

fiscal note(s) ~~Adm.~~

zero fiscal note Adm., Public Safety, Law

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Foster</i>	✓	<i>Joe Sutton</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	
<i>Bill Hudson</i>	✓	<i>[Signature]</i>		✓	

Bill Hudson
CHAIRMAN'S SIGNATURE

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) ~~465-5806~~

465-6735

April 2, 1993

Honorable Brian Porter
Chairman, House Judiciary Committee
Alaska House of Representatives
Alaska State Capitol, Room 122
Juneau, AK 99801

Re: HB 187 ("wiretapping bill")

Dear Representative Porter:

We understand that the "wiretapping bill" of the governor's crime package (HB 187) has been referred to your committee. The Department of Law urges an early hearing on this important legislation (HB 187).

Prosecutors and law enforcement personnel throughout the state have indicated to the Department of Law that Alaska statutes need this tailored amendment. The attorney general has indicated to me that he wishes to personally testify before the legislature to explain the importance of this bill.

We appreciate your consideration of this request. If you need more information, please let me know.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By:

Deborah E. Behr
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Charles E. Cole, Attorney General

Dean Guaneli, Assistant Attorney General

Lori Nottingham, Deputy Legislative Liaison

BILL NO: HB 187

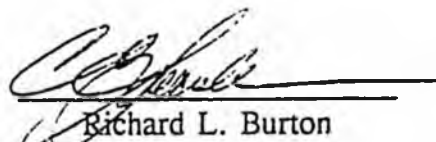
DATE: March 24, 1993

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

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 Usara
 Agency: Administration

Date: 2/10/93

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FISCAL NOTE

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

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

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
---------	---	---	---	---	---	---

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 Usera
 Agency: Administration

Date: 2/10/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. 187

KIO. 2

PS 2 of 2

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.

FISCAL NOTE

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

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: February 16, 1993
 Title: "...authorizing the interception of private communications related...to criminal offenses..."
 Sponsor: Rules Committee/Req. 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						
SIJPLIES						
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

pg 2 of 2

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. 2
 Bill 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: 269-5691
 Division: Alaska State Troopers Date: 3/17/93
 Approved by Commissioner: *[Signature]* Date: 3/25/93
 Agency: Richard A. Burton, Dept. 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

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

Rep. Brian Porter, Chairman

HB 187 Interception of Private Communications
 HB 132 Extend Resource Extraction Permit/Lease
 SB 149 Revision of Banking Code
 SB 112 Uniform Commercial Code Revisions

House Judiciary Committee

Date: April 19, 1993

Place: Capitol Room 120

Subject of Meeting: SB 84 Revoke Driver's License
 if False ID Used; SB 86 Fund Transfers Under the UCC

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
LT. CHRIS STOCKARD	PUBLIC SAFETY	450 Whittier St Juneau				(Y) N	HB 187 - FOR QUESTIONS ONLY ✓
Juanita Hensley	DPS/DMV	Box 111200	99811		4335	(Y) N	SB 84
Bill Kelder	SEN. KERTTALA	Room 427, Capitol Bldg Juneau 99801-1112			4834	(Y) N	SB 86 & SB 112 ✓
JOSH FINK	SEN. KELLY				3819	(Y) N	SB 84 ✓
JOSH FINK	SEN. KELLY				3819	(Y) N	SB 149 ✓
BUD JAEGER	ALASKA INSURANCE AGENTS	301 SEWARD ST. JUNEAU	99801		586-2414	(Y) N	SB 149 ✓
BEN WILLIAMS	REP. TOM BRICE	STATE CAPITOL	99801		73466	(Y) N	CSHB 132 (ND)
Margot Knuth	law - crim	Box 110300	99811		84049	(Y) N	HB 187
JEFF BUSH	Commerce - Banking + Securities	175 S. Franklin, Ste. 318, Juneau	99801		463-4150	(Y) N	SB 149 ✓
						Y N	
						Y N	
						Y N	