

HB

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ALASKA COURT SYSTEM  
State of Alaska  
Office of the Administrative Director

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April 15, 2003

The Honorable Ralph Seekins  
Chair, Senate Judiciary Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Senator Seekins:

The Alaska Court System respectfully requests that you schedule CSHB 114(JUD)(title am) for a hearing before the Senate Judiciary Committee at your earliest convenience.

Committee Substitute for House Bill 114(JUD)(title am) was introduced at the request of the Supreme Court of the State of Alaska to fix a small but time-consuming and costly problem with the way search warrants are requested.

In order for a peace officer to obtain a search warrant, he or she must present evidence sufficient to convince a judge that probable cause exists to believe that the item or place to be searched is in some way related to or evidence of a crime. That evidence comes in the form of either a written affidavit or oral testimony. Providing such evidence is not a problem if the officer and the judge are in the same community. The officer may either drop off a signed affidavit and or personally testify before the judge. The situation is different when the officer and the judge are not in the same community. In those cases the testimony must come in either through a faxed affidavit, telephonic testimony or through a third person.

Current law (AS 12.35.015(a)) restricts faxed affidavits and telephonic testimony to only those situations where the evidence to be searched is in danger of being lost or destroyed. In all other cases the officer must call another peace officer in the community where the judge is located, tell him or her the facts and have that officer either fill out and sign an affidavit or appear personally before the judge. If no officer is available for this errand then the one in need of the search warrant must either wait until someone is available or, in some cases, fly into the community where the judge is located and personally petition for the warrant.

A common scenario where this problem arises is when a village police officer seizes what he or she believes to be contraband liquor. The officer needs a search warrant to open the package but because he or she has seized the item to be searched it is not in

danger of being lost or destroyed. Because of this the officer is precluded from applying for a search warrant telephonically or by fax. In some cases this has led to the officer having to fly to the nearest community that has a judicial officer in order to obtain the warrant. This adds unnecessary expense and delay to the process.

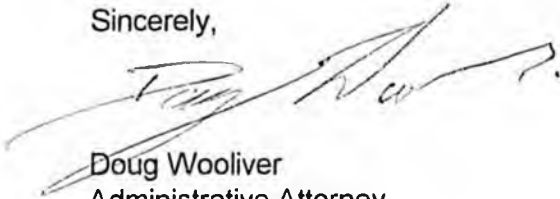
The change requested by the supreme court would expand the circumstances under which the court may accept faxed affidavits and telephonic testimony to include circumstances where the fax or testimony would avoid a delay in obtaining the warrant and that delay might interfere with an ongoing investigation.

This bill does not in any way change the standard that must be met before the judge can actually issue the warrant.

The minor change requested by CSHB 114(JUD)(title am) should facilitate law enforcement in many communities around the state.

Thank you for your consideration of this request.

Sincerely,



Doug Wooliver  
Administrative Attorney  
Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB 114(JUD)(title am)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Issuance of Search Warrants BRU Alaska Court System  
 Component Trial Courts  
 Sponsor House Rules by Request  
 Requester Senate State Affairs Component No. 768

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The Alaska Court System does not anticipate any fiscal impact by the passage of CSHB 114 (JUD)(title am).

Prepared by: Doug Wooliver, Administrative Attorney Phone \_\_\_\_\_  
 Division: Alaska Court System Date/Time 4/15/03 3:16 PM  
 Approved by: Stephanie Cole, Administrative Director Date 4/15/2003  
 Agency: Alaska Court System

**Subject: HB 114 (Search Warrants)**

**Date: Mon, 28 Apr 2003 10:55:54 -0800**

**From: Matthew Leveque <matthew\_leveque@dps.state.ak.us>**

**Organization: Department of Public Safety**

**To: brian\_hove@legis.state.ak.us**

**CC: Juanita M Hensley <juanita\_hensley@dps.state.ak.us>,  
Doug Wooliver <dwooliver@courts.state.ak.us>**

Mr. Hove,

I have been available (at the LIO or off net) for questions when other committees have considered HB 114 (An Act relating to the issuance of a search warrant upon the sworn testimony of...) That bill comes before Senate Judiciary on Friday, May 2, 2003. Due to a schedule conflict, I will not be available to the committee that day.

The Department of Public Safety would like Senator Seekins and the committee to know that Commissioner Tandeske fully supports HB 114.

If I can answer any questions before or after the hearing, please let me know. Will you please make copies of this email available to committee members? Thank you.

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