

HB

1 1 4

# SENATE COMMITTEE REPORT

DATE: 4/4/03

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 4/15/03

State Affairs Committee considered CS FOR HOUSE BILL NO. 114(JUD)(title am)

## HB 114 ISSUANCE OF SEARCH WARRANTS

"An Act relating to the issuance of a search warrant upon the sworn testimony or affidavit of a person communicated by telephone, other appropriate means, or facsimile machine."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

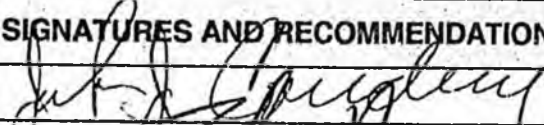
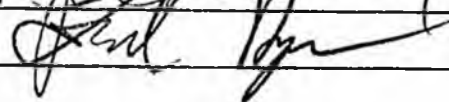

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DOC	2/25/03		✓	1
ACS	2/20/03		✓	2
DOL	2/4/03		✓	3
DPS	3/4/03		✓	4

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
	✓			
	✓			
CHAIR: 	✓			

# ALASKA COURT SYSTEM

## SPONSOR STATEMENT CSHB 114(JUD)(title am)

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 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.

# 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 4/8/03 7:58 AM  
Approved by: Stephanie Cole, Administrative Director Date 4/8/03  
Agency: Alaska Court System

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: CSHB 114(JUD)  
 (H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Department of Corrections  
 Title Issuance of Search Warrants BRU Administration & Operations  
 Component \_\_\_\_\_  
 Sponsor House Rules Committee Component No. \_\_\_\_\_  
 Requester \_\_\_\_\_

**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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	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
<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>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</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>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

This bill has no fiscal impact to the Department of Corrections.

Prepared by: Jerry D. Burnett, Director  
 Division: Administrative Services  
 Approved by: Portia C.K. Parker, Assistant Commissioner  
 Agency: Department of Corrections

Phone 465-3339  
 Date/Time 2/28/03 3:30 PM  
 Date 2/28/2003

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 114(JUD)  
(H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
Title "An Act relating to the issuance of a search BRU Criminal Division  
warrant>' Component All  
Sponsor House Rules Committee by Request  
Requester House Judiciary Component No. \_\_\_\_\_

**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  
Check 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)  
This bill allows the issuance of a search warrant upon sworn oral testimony by telephone if waiting for in-person testimony would result in a significant delay in obtaining or executing the search warrant and the delay might interfere with an ongoing investigation.  
  
Passage of this legislation would have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
Division: Attorney General's Office Date/Time 3/4/03 2:32 PM  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 3/4/2003  
Agency: Department of Law

# FISCAL NOTE

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

Fiscal Note Number: 4  
 Bill Version: CSHB 114(JUD)  
 (H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): N/A Dept. Affected: Public Safety  
 Title: An Act relating to the issuance of a search warrant. BRU: AST Detachments  
 Component: AST Detachments  
 Sponsor: House Rules  
 Requester: Governor Component No.: 2325

**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)

No fiscal impact.

Prepared by: Lieutenant Matthew Leveque  
 Division: Alaska State Troopers  
 Approved by: William Tandeske, Commissioner  
 Agency: Department of Public Safety

Phone 907 269-0390  
 Date/Time 3/4/03 11:20 AM  
 Date 3/4/2003

# 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