

By Senators Brown-Waite and Smith

10-683A-02

1 A bill to be entitled
2 An act relating to the interception of
3 communications; amending s. 934.07, F.S.;
4 adding aircraft piracy to the list of crimes
5 for which interception of communications may be
6 authorized; adding solicitation to commit
7 certain offenses to the list of crimes for
8 which interception of communications may be
9 authorized; authorizing application for
10 interception by the Department of Law
11 Enforcement of certain communications relevant
12 to offenses that are acts of terrorism or in
13 furtherance of acts of terrorism; amending s.
14 934.09, F.S.; allowing a judge, in
15 investigations of acts of terrorism, to
16 authorize the continued interception anywhere
17 within the state of wire, oral, or electronic
18 communications under specified conditions;
19 providing for the future expiration of
20 provisions granting such authority; providing
21 effective dates.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 934.07, Florida Statutes, is
26 amended to read:

27 934.07 Authorization for interception of wire, oral,
28 or electronic communications.--

29 (1) The Governor, the Attorney General, the statewide
30 prosecutor, or any state attorney may authorize an application
31 to a judge of competent jurisdiction for, and such judge may

1 grant in conformity with ss. 934.03-934.09, an order
2 authorizing or approving the interception of wire, oral, or
3 electronic communications by:

4 (a) The Department of Law Enforcement or any law
5 enforcement agency as defined in s. 934.02 having
6 responsibility for the investigation of the offense as to
7 which the application is made when such interception may
8 provide or has provided evidence of the commission of the
9 offense of murder, kidnapping, aircraft piracy, arson,
10 gambling, robbery, burglary, theft, dealing in stolen
11 property, criminal usury, bribery, or extortion; any violation
12 of chapter 893; any violation of the provisions of the Florida
13 Anti-Fencing Act; any violation of chapter 895; any violation
14 of chapter 896; any violation of chapter 815; any violation of
15 chapter 847; any violation of s. 827.071; any violation of s.
16 944.40; or any conspiracy or solicitation to commit any
17 violation of the laws of this state relating to the crimes
18 specifically enumerated in this paragraph above.

19 (b) The Department of Law Enforcement for the
20 investigation of the offense as to which the application is
21 made when such interception may provide or has provided
22 evidence of the commission of any offense that may be an act
23 of terrorism or in furtherance of an act of terrorism or
24 evidence of any conspiracy or solicitation to commit any such
25 violation.

26 (2) As used in this section, the term "terrorism"
27 means an activity that:

28 (a)1. Involves a violent act or an act dangerous to
29 human life which is a violation of the criminal laws of this
30 state or of the United States; or

31 2. Involves a violation of s. 815.06; and

- 1 (b) Is intended to:
2 1. Intimidate, injure, or coerce a civilian
3 population;
4 2. Influence the policy of a government by
5 intimidation or coercion; or
6 3. Affect the conduct of government through
7 destruction of property, assassination, murder, kidnapping, or
8 aircraft piracy.

9 Section 2. Paragraph (b) of subsection (11) of section
10 934.09, Florida Statutes, is amended to read:

11 934.09 Procedure for interception of wire, oral, or
12 electronic communications.--

13 (11) The requirements of subparagraph (1)(b)2. and
14 paragraph (3)(d) relating to the specification of the
15 facilities from which, or the place where, the communication
16 is to be intercepted do not apply if:

17 (b) In the case of an application with respect to a
18 wire or electronic communication:

19 1. The application is by an agent or officer of a law
20 enforcement agency and is approved by the Governor, the
21 Attorney General, the statewide prosecutor, or a state
22 attorney.

23 2. The application identifies the person believed to
24 be committing the offense and whose communications are to be
25 intercepted and the applicant makes a showing that there is
26 probable cause to believe that the person's actions could have
27 the effect of thwarting interception from a specified facility
28 or that the person whose communications are to be intercepted
29 has removed, or is likely to remove, himself or herself to
30 another judicial circuit within the state.

31

1 3. The judge finds that such showing has been
2 adequately made.

3 4. The order authorizing or approving the interception
4 is limited to interception only for such time as it is
5 reasonable to presume that the person identified in the
6 application is or was reasonably proximate to the instrument
7 through which such communication will be or was transmitted.

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9 Consistent with this paragraph and limited to investigations
10 of acts of terrorism, as that term is defined in s. 934.07,
11 the court may authorize continued interception within this
12 state, both within and outside its jurisdiction, if the
13 original interception occurred within its jurisdiction.

14 Section 3. Effective July 1, 2004, paragraph (b) of
15 subsection (11) of section 934.09, Florida Statutes, as
16 amended by this act, is amended to read:

17 934.09 Procedure for interception of wire, oral, or
18 electronic communications.--

19 (11) The requirements of subparagraph (1)(b)2. and
20 paragraph (3)(d) relating to the specification of the
21 facilities from which, or the place where, the communication
22 is to be intercepted do not apply if:

23 (b) In the case of an application with respect to a
24 wire or electronic communication:

25 1. The application is by an agent or officer of a law
26 enforcement agency and is approved by the Governor, the
27 Attorney General, the statewide prosecutor, or a state
28 attorney.

29 2. The application identifies the person believed to
30 be committing the offense and whose communications are to be
31 intercepted and the applicant makes a showing that there is

1 probable cause to believe that the person's actions could have
2 the effect of thwarting interception from a specified facility
3 ~~or that the person whose communications are to be intercepted~~
4 ~~has removed, or is likely to remove, himself or herself to~~
5 ~~another judicial circuit within the state.~~

6 3. The judge finds that such showing has been
7 adequately made.

8 4. The order authorizing or approving the interception
9 is limited to interception only for such time as it is
10 reasonable to presume that the person identified in the
11 application is or was reasonably proximate to the instrument
12 through which such communication will be or was transmitted.

13
14 ~~Consistent with this paragraph and limited to investigations~~
15 ~~of acts of terrorism, as that term is defined in s. 934.07,~~
16 ~~the court may authorize continued interception within this~~
17 ~~state, both within and outside its jurisdiction, if the~~
18 ~~original interception occurred within its jurisdiction.~~

19 Section 4. Except as otherwise provided in this act,
20 this act shall take effect upon becoming a law.

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23 SENATE SUMMARY

24 Provides for a judge to authorize the interception of
25 communications for the purpose of an investigation
26 involving aircraft piracy. Provides for a judge to
27 authorize the Department of Law Enforcement to intercept
28 certain communications relevant to an offense that is an
29 act of terrorism or that furthers an act of terrorism.
30 Authorizes a judge to allow the continued interception of
31 communications anywhere within the state under specified
circumstances. Provides for the future expiration of
provisions granting such authority. (See bill for
details.)