

By Senators Brown-Waite and Smith

10-627-02

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 by the  
10          Department of Law Enforcement of certain  
11          communications relevant to offenses that are  
12          acts of terrorism or in furtherance of acts of  
13          terrorism; amending s. 934.09, F.S.; allowing a  
14          judge, in investigations of acts of terrorism,  
15          to authorize the continued interception  
16          anywhere within the state of wire, oral, or  
17          electronic communications under specified  
18          conditions; providing for the future expiration  
19          of provisions granting such authority;  
20          providing effective dates.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Section 934.07, Florida Statutes, is  
25   amended to read:

26           934.07 Authorization for interception of wire, oral,  
27   or electronic communications.--

28           (1) The Governor, the Attorney General, the statewide  
29   prosecutor, or any state attorney may authorize an application  
30   to a judge of competent jurisdiction for, and such judge may  
31   grant in conformity with ss. 934.03-934.09, an order

1 authorizing or approving the interception of wire, oral, or  
2 electronic communications by:

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

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

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

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

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

31 (b) Is intended to:

1           1. Intimidate, injure, or coerce a civilian  
2 population;

3           2. Influence the policy of a government by  
4 intimidation or coercion; or

5           3. Affect the conduct of government through  
6 destruction of property, assassination, murder, kidnapping, or  
7 aircraft piracy.

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

10           934.09 Procedure for interception of wire, oral, or  
11 electronic communications.--

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

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

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

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

30           3. The judge finds that such showing has been  
31 adequately made.

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

6  
7 Consistent with this paragraph and limited to investigations  
8 of acts of terrorism, as that term is defined in s. 934.07,  
9 the court may authorize continued interception within this  
10 state, both within and outside its jurisdiction, if the  
11 original interception occurred within its jurisdiction.

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

15           934.09 Procedure for interception of wire, oral, or  
16 electronic communications.--

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

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

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24 enforcement agency and is approved by the Governor, the  
25 Attorney General, the statewide prosecutor, or a state  
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28 be committing the offense and whose communications are to be  
29 intercepted and the applicant makes a showing that there is  
30 probable cause to believe that the person's actions could have  
31 the effect of thwarting interception from a specified facility

1 ~~or that the person whose communications are to be intercepted~~  
2 ~~has removed, or is likely to remove, himself or herself to~~  
3 ~~another judicial circuit within the state.~~

4 3. The judge finds that such showing has been  
5 adequately made.

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

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

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

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21 SENATE SUMMARY

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