

## Senate Bill No. 12-C

An act relating to the interception of communications; amending s. 934.07, F.S.; adding aircraft piracy to the list of crimes for which interception of communications may be authorized; adding solicitation to commit certain offenses to the list of crimes for which interception of communications may be authorized; authorizing application for interception by the Department of Law Enforcement of certain communications relevant to offenses that are acts of terrorism or in furtherance of acts of terrorism; amending s. 934.09, F.S.; allowing a judge, in investigations of acts of terrorism, to authorize the continued interception anywhere within the state of wire, oral, or electronic communications under specified conditions; providing for the future expiration of provisions granting such authority; providing effective dates.

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

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

934.07 Authorization for interception of wire, oral, or electronic communications.—

(1) The Governor, the Attorney General, the statewide prosecutor, or any state attorney may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with ss. 934.03-934.09, an order authorizing or approving the interception of, wire, oral, or electronic communications by:

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

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

(2) As used in this section, the term “terrorism” means an activity that:

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

2. Involves a violation of s. 815.06; and

(b) Is intended to:

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

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

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

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

934.09 Procedure for interception of wire, oral, or electronic communications.—

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

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

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

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

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

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

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

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

934.09 Procedure for interception of wire, oral, or electronic communications.—

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

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

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

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

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

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

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

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

Approved by the Governor December 10, 2001.

Filed in Office Secretary of State December 10, 2001.