

CHAPTER 22

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 08-1130

BY REPRESENTATIVE(S) Garza-Hicks, Balmer, Gardner B., Gardner C., Kerr J., King, Lambert, Looper, May M., McNulty, Rose, Stephens, Summers, Swalm, Jahn, Liston, Massey, Mitchell V., and Stafford;
also SENATOR(S) Tapia, and Morse.

AN ACT**CONCERNING COURT ORDERS ALLOWING THE INTERCEPTION OF COMMUNICATIONS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The introductory portion to 16-15-102 (1) (a) and 16-15-102 (6), Colorado Revised Statutes, are amended, and the said 16-15-102 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

16-15-102. Ex parte order authorizing the interception of wire, oral, or electronic communications. (1) (a) An ex parte order authorizing or approving the interception of any wire, oral, or electronic communication may be issued by any judge of competent jurisdiction of the state of Colorado upon application of the attorney general or a district attorney, OR HIS OR HER DESIGNEE IF THE ATTORNEY GENERAL OR DISTRICT ATTORNEY IS ABSENT FROM HIS OR HER JURISDICTION, showing by affidavit that there is probable cause to believe that evidence will be obtained of the commission of any one of the crimes enumerated in this subsection (1) or that one of said enumerated crimes will be committed:

(c) FOR THE PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (1):

(I) THE DISTRICT ATTORNEY SHALL DESIGNATE THE ASSISTANT DISTRICT ATTORNEY OR THE CHIEF DEPUTY DISTRICT ATTORNEY; AND

(II) THE ATTORNEY GENERAL SHALL DESIGNATE EITHER THE CHIEF DEPUTY ATTORNEY GENERAL OR THE DEPUTY ATTORNEY GENERAL OF THE CRIMINAL SECTION OF THE OFFICE OF THE ATTORNEY GENERAL.

(6) ~~NO~~ AN order entered under this section may NOT authorize or approve the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

interception of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization nor in any event longer than thirty days. Such thirty-day period begins the first day on which the investigative or law enforcement officer begins to conduct an interception under the order or ten days after the order is entered, whichever occurs earlier. An extension of an order may be granted but only upon application for an extension made in accordance with subsection (2) of this section and the court making the findings required by subsection (4) of this section. The period of ~~the~~ AN extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and EACH extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception under this section, and must terminate upon attainment of the authorized objective, or in any event in thirty days. No more than ~~one~~ THREE ~~extension~~ EXTENSIONS may be granted for any order entered under this section. In the event that the intercepted communication is in a code or foreign language and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception made pursuant to this section may be conducted in whole or in part by government personnel or by an individual operating pursuant to a contract with the government and acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 17, 2008