

# ALASKA COURT SYSTEM

## SPONSOR STATEMENT HOUSE BILL 114

[House Bill 114](#) has been 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 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, as is often the case, 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. This frequently means that he or she must 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 allow a faxed affidavit in support of a search warrant to be accepted without restriction, just as if it had been hand-delivered to the court. It would also expand the circumstances under which the court may accept a faxed affidavit in support of a search warrant and telephonic testimony to include circumstances where the faxed affidavit or telephonic testimony would avoid a delay in obtaining the warrant and that delay would interfere with an ongoing investigation.

These minor changes to the search warrant statute should facilitate law enforcement in many communities around the state. Thank you for your consideration of this request.