

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 748

Short Title: Drug Enforcement Improvement Act.

(Public)

Sponsors: Senator Rand.

Referred to: Judiciary I.

March 22, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCEDURE FOR IMPLEMENTING AN ORDER FOR ELECTRONIC SURVEILLANCE, TO PROVIDE THAT IN CERTAIN CIRCUMSTANCES IT IS NOT NECESSARY TO IDENTIFY THE PLACE WHERE THE COMMUNICATION WILL BE INTERCEPTED BY ELECTRONIC SURVEILLANCE, AND ALSO TO PROVIDE THE TIME FRAME WITHIN WHICH THE ELECTRONIC SURVEILLANCE IN AN UNDISCLOSED LOCATION MAY BEGIN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-293(c) reads as rewritten:

"(c) No order entered under this Article may authorize the 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 30 days. Such 30-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or 10 days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with G.S. 15A-291 and the panel making the findings required by subsection (a) of this section. The period of extension ~~may shall~~ be no longer than the ~~panel determines to be~~ authorizing judge deems necessary to achieve the purpose for which it was granted and in no event for longer than ~~15~~30 days. Every order and extension thereof must contain a provision that the authorization to intercept be executed as soon as practicable, be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this Article, and terminate upon attainment of the authorized objective, or in any event in 30 days, days or 15 days, as is appropriate. In the event 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 the interception. An interception under this Article may be conducted in whole or in part by government

1 personnel, or by an individual operating under a contract with the government, acting
2 under the supervision of an investigative or law enforcement officer authorized to
3 conduct the interception."

4 **SECTION 2.** G.S. 15A-294 is amended by adding the following new
5 subsections to read:

6 "(i) The requirements of G.S. 15A-293(b)(2) and G.S. 15A-293(a)(4) relating to
7 the specification of the facilities from which, or the place where, the communication is
8 to be intercepted do not apply if:

9 (1) In the case of an application with respect to the interception of an oral
10 communication:

11 a. The application is by a State investigative or law enforcement
12 officer and is approved by the Attorney General or his designee;

13 b. The application contains a full and complete statement as to
14 why the specification is not practical and identifies the person
15 committing the offense and whose communications are to be
16 intercepted; and

17 c. The three-judge panel finds that the specification is not
18 practical.

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

21 a. The application is by a State investigative or law enforcement
22 officer and is approved by the Attorney General or his designee;

23 b. The application identifies the person believed to be committing
24 the offense and whose communications are to be intercepted,
25 and the applicant makes a showing that there is probable cause
26 to believe that the person's actions could have the effect of
27 thwarting interception from a specified facility;

28 c. The three-judge panel finds that the showing has been
29 adequately made; and

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

35 (j) An interception of a communication under an order with respect to which the
36 requirements of G.S. 15A-293(b)(2) and G.S. 15A-293(a)(4) do not apply by reason of
37 subsection (i) of this section shall not begin until the place where the communication is
38 to be intercepted is ascertained by the person implementing the interception order. A
39 provider of wire or electronic communications service that has received an order as
40 provided for in subsection (i) of this section may move the court to modify or quash the
41 order on the grounds that its assistance with respect to the interception cannot be
42 performed in a timely or reasonable fashion. The court, upon notice to the government,
43 shall decide such a motion expeditiously."

44 **SECTION 3.** This act becomes effective December 1, 2005.