

1 HB17
2 214571-1
3 By Representatives Reynolds, Whitt, Stringer, Robertson and
4 Simpson
5 RFD: Judiciary
6 First Read: 11-JAN-22
7 PFD: 09/01/2021

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8 SYNOPSIS: This bill would authorize the Attorney
9 General to submit an application to a circuit court
10 judge to intercept any wire or electronic
11 communication if there is probable cause to believe
12 an individual is committing, has committed, or is
13 about to commit certain felony drug offenses.

14 This bill would specify the procedures for
15 obtaining an intercept order, the information that
16 must be included in an intercept order, the
17 limitations of an intercept order, and the means by
18 which the communication is to be intercepted.

19 This bill would provide for the extension of
20 intercept orders under certain conditions and would
21 prohibit the destruction of recorded communications
22 for a specified time frame.

23 This bill would allow an investigative
24 officer to submit a written request to the Attorney
25 General, through the Secretary of the Alabama State
26 Law Enforcement Agency, requesting the Attorney
27 General apply for an intercept order.

1 This bill would specify under what
2 conditions recorded communications may be disclosed
3 and would provide civil and criminal penalties for
4 certain unauthorized disclosures.

5 Amendment 621 of the Constitution of Alabama
6 of 1901, as amended by Amendment 890, now appearing
7 as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, prohibits a
9 general law whose purpose or effect would be to
10 require a new or increased expenditure of local
11 funds from becoming effective with regard to a
12 local governmental entity without enactment by a
13 2/3 vote unless: it comes within one of a number of
14 specified exceptions; it is approved by the
15 affected entity; or the Legislature appropriates
16 funds, or provides a local source of revenue, to
17 the entity for the purpose.

18 The purpose or effect of this bill would be
19 to require a new or increased expenditure of local
20 funds within the meaning of the amendment. However,
21 the bill does not require approval of a local
22 governmental entity or enactment by a 2/3 vote to
23 become effective because it comes within one of the
24 specified exceptions contained in the amendment.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

2
3 Relating to wiretapping; to add a new Chapter 2A to
4 Title 20, Code of Alabama 1975; to authorize the Attorney
5 General to submit an application to a circuit court judge to
6 intercept any wire or electronic communication under certain
7 circumstances; to specify the procedures for obtaining an
8 intercept order, the information that must be included in an
9 intercept order, the limitations of an intercept order, and
10 the means by which the communication is to be intercepted; to
11 provide for the extension of intercept orders under certain
12 conditions; to prohibit the destruction of recorded
13 communications for a specified time frame; to allow an
14 investigative officer to submit a written request to the
15 Attorney General, through the Secretary of the Alabama State
16 Law Enforcement Agency, requesting the Attorney General apply
17 for an intercept order; to specify under what conditions
18 recorded communications may be disclosed; to provide for civil
19 and criminal penalties for violations; to provide penalties
20 for unauthorized disclosures; and in connection therewith
21 would have as its purpose or effect the requirement of a new
22 or increased expenditure of local funds within the meaning of
23 Amendment 621 of the Constitution of Alabama of 1901, as
24 amended by Amendment 890, now appearing as Section 111.05 of
25 the Official Recompilation of the Constitution of Alabama of
26 1901.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall be known and may be cited
2 as the Agent Billy Clardy III Act.

3 Section 2. Chapter 2A, commencing with Sections
4 20-2A-1, is added to Title 20, Code of Alabama 1975, to read
5 as follows:

6 §20-2A-1.

7 For the purposes of this chapter, the following
8 terms shall have the following meanings:

9 (1) AGENCY. Alabama State Law Enforcement Agency.

10 (2) AGGRIEVED INDIVIDUAL. An individual who was a
11 party to an intercepted wire or electronic communication or an
12 individual against whom the interception was directed.

13 (3) ATTORNEY GENERAL. The Attorney General of the
14 State of Alabama or his or her designee.

15 (4) COMMUNICATION COMMON CARRIER. The term as
16 defined in 47 U.S.C. § 153(11) or a provider of communication
17 services.

18 (5) CONTENTS. When used with respect to a wire or
19 electronic communication, any information concerning the
20 identity of the parties to the communication or the existence,
21 substance, purport, or meaning of that communication.

22 (6) ELECTRONIC COMMUNICATION. Any transfer of an
23 electronic or other signal, including any fax signal, computer
24 generated signal, other similar signal, or scrambled or
25 encrypted signal transferred via wire, radio, electromagnetic,
26 photoelectric, or photo optical system from one party to

1 another in which the involved parties may reasonably expect
2 the communication to be private.

3 (7) ELECTRONIC, MECHANICAL, OR OTHER DEVICE. A
4 device or apparatus primarily designed or used for the
5 nonconsensual interception of wire or electronic
6 communications.

7 (8) INTERCEPT. The aural or other acquisition of the
8 contents of a wire or electronic communication through the use
9 of an electronic, mechanical, or other device.

10 (9) INVESTIGATIVE OFFICER. A special agent of the
11 agency, a special agent of the Attorney General's office, or
12 any other law enforcement officer designated by the secretary
13 of the agency who meets guidelines established by the
14 secretary and who has successfully completed a training course
15 approved by the Attorney General on the legal and technical
16 aspects of the interception and use of wire or electronic
17 communications.

18 (10) JUDGE OF COMPETENT JURISDICTION. A circuit
19 court judge in the county where the intercept is expected to
20 take place or a circuit court judge designated by the Chief
21 Justice of the Supreme Court or by the Alabama Supreme Court
22 to hear intercept applications or where the interception takes
23 place.

24 (11) PROSECUTOR. A district attorney or his or her
25 designee.

26 (12) SECRETARY. The Secretary of the Alabama State
27 Law Enforcement Agency or his or her designee.

1 (13) WIRE COMMUNICATION. A communication made in
2 whole or in part through the use of facilities for the
3 transmission of communications by the aid of wire, cable, or
4 other like connection between the point of origin and the
5 point of reception furnished or operated by an individual
6 engaged as a common carrier in providing or operating the
7 facilities for the transmission of communications.

8 §20-2A-2.

9 (a) No individual or other agency, other than the
10 Alabama State Law Enforcement Agency, may own or possess an
11 electronic, mechanical, or other device.

12 (b) Only investigative officers may install,
13 operate, or monitor an electronic, mechanical, or other
14 device.

15 (c) Any law enforcement officer may assist in the
16 operation and monitoring of an interception of a wire or
17 electronic communication as long as an investigative officer
18 is present at all times.

19 (d) The agency shall perform audits on the
20 electronic, mechanical, or other devices.

21 (e) The secretary may approve the use of an
22 electronic, mechanical, or other device that is being used by
23 a federal agency, as long as the approval is made in writing
24 and attached to the original affidavit.

25 §20-2A-3.

26 Orders authorizing, approving, or extending the
27 interception of wire or electronic communications may be

1 granted, subject to this chapter, when the intercept may
2 provide or has provided evidence an individual is committing,
3 has committed, or is about to commit a felony drug offense
4 included in Article 5, commencing with Section 13A-12-201, of
5 Chapter 12, of Title 13A.

6 §20-2A-4.

7 (a) (1) An investigative officer may submit a written
8 request to the secretary requesting the secretary apply for an
9 intercept order. If the secretary approves the request, the
10 secretary may submit a written request to the Attorney General
11 requesting the Attorney General apply for an intercept order
12 to a judge of competent jurisdiction. The written request
13 shall be on a form approved by the Attorney General and shall
14 include an affidavit.

15 (2) The affidavit shall include all of the
16 following:

17 a. The identity of the investigating officer making
18 the application.

19 b. A statement of the facts and circumstances relied
20 upon by the applicant to justify the belief that an order
21 should be issued, including all of the following:

22 1. Details of the specific offense that has been
23 committed, is being committed, or will be committed.

24 2. A particular description of the nature and
25 location of the communications facilities from which, or the
26 place where, the communication is to be intercepted.

1 3. A particular description of the type of
2 communication sought to be intercepted.

3 4. The identity of the individual, if known, whose
4 communications are to be intercepted.

5 c. A statement that other investigative procedures
6 have been attempted and failed, reasonably appear to be
7 unlikely to succeed if attempted, or are too dangerous to be
8 attempted.

9 d. A statement of the period of time the intercept
10 is required to be maintained, including a statement of whether
11 the intercept will automatically terminate when the described
12 communication is first obtained. If the authorization for the
13 intercept does not automatically terminate when the described
14 type of communication is obtained, facts that establish
15 probable cause to believe additional communications of the
16 same type will occur.

17 e. A statement of the facts concerning all previous
18 applications known to the applicant, made to any judge for
19 approval of an intercept involving the same individual,
20 facilities, or places specified in the application and the
21 action taken by the judge, if known.

22 f. If the application is for the extension of an
23 order, a statement explaining the results obtained from the
24 intercept or a reasonable explanation of the failure to obtain
25 required results.

1 (b) (1) The Attorney General shall review the request
2 and decide whether it is appropriate to submit an application
3 to a judge of competent jurisdiction for an intercept order.

4 (2) If the Attorney General decides to submit an
5 application, he or she shall notify the secretary or the
6 investigative officer.

7 (3) If the Attorney General declines to submit an
8 application, he or she shall send the secretary or the
9 investigative officer a notice of declination within 10 days.

10 §20-2A-5.

11 (a) Upon receiving an application from the Attorney
12 General for an intercept order, a judge of competent
13 jurisdiction may enter an ex parte intercept order as
14 requested or as modified, authorizing an intercept within the
15 territorial jurisdiction of the court if the judge determines
16 all of the following:

17 (1) There is probable cause to believe that an
18 individual is committing, has committed, or is about to commit
19 a felony drug offense included in Article 5, commencing with
20 Section 13A-12-201, of Chapter 12, of Title 13A.

21 (2) There is probable cause to believe that specific
22 communications concerning that offense will be obtained
23 through the intercept.

24 (3) Normal investigative procedures have been
25 attempted and have failed, reasonably appear to be unlikely to
26 succeed if attempted, or are too dangerous to be attempted.

1 (4) There is probable cause to believe that the
2 facilities from which, or the place where, the wire or
3 electronic communications are to be intercepted are being
4 used, or are about to be used, in connection with the
5 commission of the offense, or are being leased to, listed in
6 the name of, or commonly used by the individual described in
7 the application.

8 (b) Each intercept order authorizing or approving
9 the interception of a wire or electronic communication shall
10 specify all of the following:

11 (1) The identity of the individual, if known, whose
12 communications are to be intercepted.

13 (2) The nature and location of the communications
14 facilities which, or the place where, authority to intercept
15 is granted, and the means by which the intercept may be made.

16 (3) A description of the type of communication
17 sought to be intercepted and a statement of the particular
18 offense to which it relates.

19 (4) The identity of the agency authorized to
20 intercept the communications and the individual requesting the
21 application.

22 (5) The period of time the intercept is authorized,
23 including a statement of whether the intercept automatically
24 terminates when the described communication is first obtained.

25 (c) The intercept order authorizing the intercept,
26 upon request of the applicant, shall direct that a
27 communication common carrier, custodian, or other individual

1 furnish the applicant all information, facilities, and
2 technical assistance necessary to accomplish the intercept
3 unobtrusively and with a minimum of interference with the
4 services that the carrier, custodian, or other individual is
5 providing the individual whose communications are to be
6 intercepted. Any communication common carrier, custodian, or
7 other individual furnishing facilities or technical assistance
8 shall be compensated by the applicant for reasonable expenses
9 incurred in providing facilities or assistance at the
10 prevailing rates.

11 (d) (1) An intercept order entered pursuant to this
12 chapter may not authorize the interception of a wire or
13 electronic communication for any period longer than is
14 necessary to achieve the objective of the authorization, and
15 in no event for more than 30 days. The 30-day period begins
16 either when the investigative officer first begins to conduct
17 an intercept under the intercept order, or 10 days after the
18 order is entered, whichever is sooner.

19 (2) The issuing judge may grant extensions of an
20 intercept order, but only upon an application for an extension
21 made in accordance with this chapter. The period of extension
22 may not be for any period longer than the authorizing judge
23 deems necessary to achieve the objective for which it is
24 granted, and in no event may the extension be for more than 30
25 days. To be valid, each order and extension of an order shall
26 provide that the authorization to intercept be executed as
27 soon as practicable, be conducted in a way that minimizes the

1 interception of communications not otherwise subject to
2 interception under this chapter, and terminate upon obtaining
3 the authorized objective or within 30 days, whichever occurs
4 sooner.

5 (e) Whenever an order authorizing an intercept is
6 entered pursuant to this chapter, the order may require
7 reports to the judge who issued the order showing what
8 progress has been made toward achieving the authorized
9 objective and the need for continued interception. Reports
10 shall be made at any interval required by the judge.

11 (f) A judge who issues an order authorizing the
12 interception of a wire or electronic communication may not
13 hear a criminal prosecution in which evidence derived from the
14 interception may be used or in which the order may be an
15 issue.

16 (g) For jurisdictional purposes, the territorial
17 jurisdiction pursuant to subsection (a) includes both the
18 location of the device and the original listening post. A
19 judge in either jurisdiction, or a circuit court judge
20 designated by the Chief Justice of the Supreme Court or by the
21 Alabama Supreme Court to hear intercept applications, has the
22 authority to issue an intercept order.

23 §20-2A-6.

24 (a) The contents of a wire or electronic
25 communication intercepted by means authorized by this chapter
26 shall be recorded on tape, wire, or other comparable device,
27 to the extent practicable. The recording of the contents of a

1 wire or electronic communication under this section shall be
2 performed in a way that protects the recording from editing or
3 other alterations.

4 (b) Immediately following the expiration of an
5 intercept order, or all extensions, if any, the recordings
6 shall be made available to the judge issuing the order and
7 shall be sealed. Custody of the recordings shall be wherever
8 the judge orders. The recordings may not be destroyed until at
9 least 10 years after the date of expiration of the order and
10 the last extension, if any. A recording may be destroyed only
11 by order of the judge who authorized the interception, or his
12 or her successor.

13 (c) Duplicate recordings may be made for use or
14 disclosure pursuant to Section 20-2A-8 for investigative
15 purposes. One copy shall remain in the custody of the judge
16 and one copy shall be given to the entity that executed the
17 intercept order.

18 (d) The presence of a seal as required in subsection
19 (b), or a satisfactory explanation of its absence, shall be a
20 prerequisite for the use or disclosure of the contents of any
21 wire or electronic communication or any evidence derived from
22 the communication under Section 20-2A-8.

23 (e) A violation of this section shall be punished as
24 contempt of court.

25 §20-2A-7.

26 (a) The judge of competent jurisdiction shall seal
27 each application made, and order granted, under this chapter.

1 Custody of the applications and orders shall be wherever the
2 judge orders. An application or order may be disclosed only
3 upon a showing of good cause before a judge of competent
4 jurisdiction. An application or order may not be destroyed
5 until at least 10 years after the date it was sealed. An
6 application or order may be destroyed only by order of the
7 judge who authorized the interception, or his or her
8 successor.

9 (b) A violation of this section shall be punished as
10 contempt of court.

11 §20-2A-8.

12 (a) Within a reasonable time, but not later than 90
13 days after the date an application for an order is denied or
14 after the date an order, or the last extension, if any,
15 expires, the judge who granted or denied the application shall
16 serve an inventory on the individuals named in the order or
17 the application or any other parties to the intercepted
18 communications deemed appropriate by the issuing judge, if
19 any. The inventory shall include a notice of all of the
20 following:

21 (1) The entry of the order or the application.

22 (2) The date of the entry and the period of
23 authorized interception or the date of denial of the
24 application.

25 (3) Whether wire or electronic communications were
26 intercepted during the authorized period.

1 (b) Upon a motion, the judge may make available for
2 inspection to any individual or individuals whose
3 communications have been intercepted, or their counsel, any
4 portion of an intercepted communication, application, or order
5 the judge determines is in the interest of justice to disclose
6 to that individual.

7 (c) Upon an ex parte showing of good cause to the
8 judge, the serving of the inventory required by this section
9 may be postponed, but evidence derived from an order under
10 this chapter may not be disclosed in any trial until after the
11 inventory has been served.

12 §20-2A-9.

13 (a) The contents of an intercepted wire or
14 electronic communication, or evidence derived from the
15 communication, may not be entered in evidence or otherwise
16 disclosed in a trial, hearing, or other proceeding in a
17 federal or state court unless each party has been furnished a
18 copy of the court order and application under which the
19 intercept was authorized or approved, at least 10 days before
20 the date of the trial, hearing, or other proceeding. The
21 10-day period may be waived by the judge if he or she finds it
22 is not possible to furnish the party with the information 10
23 days before the trial, hearing, or proceeding and that the
24 party will not be prejudiced by the delay in receiving the
25 information.

26 (b) An aggrieved individual charged with an offense
27 in a trial, hearing, or proceeding in or before a court,

1 department, officer, agency, regulatory body, or other
2 authority of the United States or of this state or a political
3 subdivision of this state, may move to suppress the contents
4 of an intercepted wire or electronic communication or evidence
5 derived from the communication on any of the following
6 grounds:

7 (1) The communication was unlawfully intercepted.

8 (2) The order authorizing the interception is
9 insufficient on its face.

10 (3) The interception was not made in conformity with
11 the order.

12 (c) The motion to suppress shall be made before the
13 trial, hearing, or proceeding, unless there was no opportunity
14 to make the motion before the trial, hearing, or proceeding,
15 or the individual was not aware of the grounds of the motion
16 before the trial, hearing, or proceeding. The hearing on the
17 motion shall be held in camera upon the written request of the
18 aggrieved individual. If the motion is granted, the contents
19 of the intercepted wire or electronic communication, and
20 evidence derived from the communication, shall be treated as
21 inadmissible evidence. The judge, on the filing of the motion
22 by the aggrieved individual, shall make available for
23 inspection to the aggrieved individual, or his or her counsel,
24 any portion of the intercepted communication, or evidence
25 derived from the communication, that the judge determines is
26 in the interest of justice to make available.

27 §20-2A-10.

1 (a) Any law enforcement officer who obtains, by any
2 means authorized by this chapter, knowledge of the contents of
3 a wire or electronic communication, or evidence derived from
4 the communication, may disclose the contents, or evidence
5 derived, to another law enforcement officer if the disclosure
6 is appropriate to the proper performance of the official
7 duties of the officer making or receiving the disclosure.

8 (b) Any law enforcement officer who obtains, by any
9 means authorized by this chapter, knowledge of the contents of
10 a wire or electronic communication, or evidence derived from
11 the communication, may use the contents, or evidence derived,
12 if the use is appropriate to the proper performance of the
13 official duties of the officer.

14 (c) Any individual who receives, by any means
15 authorized by this chapter, information concerning a wire or
16 electronic communication, or evidence derived from the
17 communication, may disclose the contents of the communication,
18 or evidence derived from the communication, while giving
19 testimony in any proceeding held under the authority of the
20 United States, this state, or a political subdivision of this
21 state.

22 (d) No privileged wire or electronic communication
23 intercepted in accordance with, or in violation of, this
24 chapter shall lose its privileged character.

25 (e) When an investigative officer, while engaged in
26 intercepting wire or electronic communications in a manner
27 authorized by this chapter, intercepts communications relating

1 to an offense other than those specified in the intercept
2 order, the contents of, and evidence derived from, the
3 communication may be disclosed or used as provided by
4 subsection (a) and (b). The contents of, and any evidence
5 derived from the communication may be used under subsection
6 (c) when a judge of competent jurisdiction finds, on a
7 subsequent application, that the contents were otherwise
8 intercepted in accordance with this chapter. The subsequent
9 application shall be made as soon as practicable.

10 §20-2A-11.

11 (a) On or before January 31 of each year, any judge
12 who has issued an order, or an extension of an order, pursuant
13 to Section 20-2A-5 that expired during the preceding year, or
14 who has denied approval of an intercept order during the
15 preceding year, shall report to the Administrative Office of
16 the United States Courts all of the following:

17 (1) The fact that an order or extension was sought.

18 (2) The kind of order or extension sought.

19 (3) The fact that the order or extension was granted
20 as applied for, was modified, or was denied.

21 (4) The period of intercepts authorized by the order
22 and the number and duration of any extensions of the order.

23 (5) The offense specified in the order, application,
24 or extension.

25 (6) The identity of the officer making the request
26 and the individual authorizing the application.

1 (7) The nature of the facilities or the place where
2 communications were to be intercepted.

3 (b) On or before March 31 of each year, the Attorney
4 General shall report to the Administrative Office of the
5 United States Courts the following information for the
6 preceding calendar year:

7 (1) The information required by subsection (a) with
8 respect to each application for an order or extension made.

9 (2) A general description of the intercepts made
10 under each order or extension, including the approximate
11 nature and frequency of incriminating communications
12 intercepted, the approximate nature and frequency of other
13 communications intercepted, the approximate number of
14 individuals whose communications were intercepted, and the
15 approximate nature, amount, and cost of the manpower and other
16 resources used in the interceptions.

17 (3) The number of arrests resulting from
18 interceptions made under each order or extension and the
19 offenses for which arrests were made.

20 (4) The number of trials resulting from intercepts.

21 (5) The number of motions to suppress made with
22 respect to intercepts and the number granted or denied.

23 (6) The number of convictions resulting from
24 intercepts, the offenses for which the convictions were
25 obtained, and a general assessment of the importance of the
26 intercepts.

1 (7) The information required by subdivisions (2)
2 through (6) with respect to orders or extensions obtained.

3 (c) Any judge required to file a report with the
4 Administrative Office of the United States Courts and the
5 Attorney General shall forward a copy of the report to the
6 secretary by March 15 of each year.

7 (d) On or before April 15 of each year, the
8 secretary shall submit to the Alabama Administrative Office of
9 Courts a report of all intercepts conducted pursuant to this
10 chapter and terminated during the preceding calendar year.
11 Such report shall include all of the following:

12 (1) All reports received by judges and the report
13 received by the Attorney General, as required by this section.

14 (2) The number of agency personnel and other
15 designated law enforcement officers authorized to possess,
16 install, or operate electronic, mechanical, or other devices.

17 (3) The number of agency personnel and other
18 designated law enforcement officers who participated or
19 engaged in the seizure of intercepts pursuant to this chapter
20 during the preceding calendar year.

21 (4) The total cost to the agency of all activities
22 and procedures relating to the seizure of intercepts during
23 the preceding calendar year, including costs of equipment,
24 manpower, and expenses incurred as compensation for use of
25 facilities or technical assistance provided by the agency.

26 §20-2A-12.

1 (a) An individual whose wire or electronic
2 communication is intercepted, disclosed, or used in violation
3 of this chapter shall have a civil cause of action against any
4 individual who intercepts, discloses, or uses or procures
5 another individual to intercept, disclose, or use the
6 communication, and is entitled to recover from the individual
7 or entity which engaged in the violation any of the following:

8 (1) Actual damages.

9 (2) Punitive damages.

10 (3) Reasonable attorney's fees and other litigation
11 costs reasonably incurred.

12 (b) This section does not apply to any of the
13 following individuals if acting in a reasonable manner
14 pursuant to this chapter:

15 (1) An operator of a switchboard, or an officer,
16 employee, or agent of a communication common carrier whose
17 facilities are used in the transmission of a wire
18 communication, who intercepts a communication, or who
19 discloses or uses an intercepted communication in the normal
20 course of employment while engaged in an activity that is a
21 necessary incident to the rendition of service or to the
22 protection of the rights or property of the carrier of the
23 communication.

24 (2) An officer, employee, or agent of a
25 communication common carrier who employs or uses any equipment
26 or device that may be attached to any telephonic equipment of
27 any subscriber which permits the interception and recording of

1 any telephonic communications solely for the purposes of
2 business service improvements.

3 (3) An officer, employee, or agent of a
4 communication common carrier who provides information,
5 facilities, or technical assistance to an investigative
6 officer who is authorized as provided by this chapter to
7 intercept a wire or electronic communication.

8 (4) An individual acting under authority of law who
9 intercepts a wire or electronic communication if the
10 individual is a party to the communication, or if one of the
11 parties to the communication has given prior consent to the
12 interception.

13 (5) An individual not acting under authority of law
14 who intercepts a wire or electronic communication if the
15 individual is a party to the communication, or if one of the
16 parties to the communication has given prior consent to the
17 interception, unless the communication is intercepted for the
18 purpose of committing any criminal or tortious act in
19 violation of the Constitution or laws of the United States or
20 of this state or for the purpose of committing any other
21 injurious act.

22 (c) A good faith reliance on a court order is a
23 complete defense to any civil cause of action brought under
24 this chapter.

25 §20-2A-13.

26 Any individual who knowingly and intentionally
27 possesses, installs, operates, or monitors an electronic,

1 mechanical, or other device in violation of this chapter shall
2 be guilty of a Class C felony.

3 §20-2A-14.

4 (a) This chapter does not apply to an individual who
5 is a subscriber to a telephone operated by a communication
6 common carrier and who intercepts a communication on a
7 telephone to which he or she subscribes.

8 (b) This chapter does not apply to individuals who
9 are members of the household of the subscriber who intercepts
10 communications on a telephone in the home of the subscriber.

11 §20-2A-15.

12 The secretary may issue an administrative subpoena
13 to a communication common carrier or a provider of
14 communication services to compel production of business
15 records if the records requested satisfy both of the
16 following:

17 (1) Are local or long-distance toll records or
18 subscriber information.

19 (2) Are material to an active investigation of a
20 felony violation of the Alabama Uniform Controlled Substance
21 Act, as provided in Chapter 2, being conducted by a special
22 agent of the agency.

23 Section 3. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621, as amended
27 by Amendment 890, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of Alabama of 1901,
2 as amended, because the bill defines a new crime or amends the
3 definition of an existing crime.

4 Section 4. This act shall become effective on
5 February 1, 2023, following its passage and approval by the
6 Governor, or its otherwise becoming law.