

HB137 INTRODUCED



1 HB137

2 J723YNF-1

3 By Representatives Reynolds, Starnes, Sells, Bedsole, Moore

4 (P), Treadaway, Wood (R), Pettus, Rigsby

5 RFD: Judiciary

6 First Read: 04-Feb-25



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SYNOPSIS:

Under existing law, the Attorney General may submit an application to a circuit court judge to intercept any wire or electronic communication if there is probable cause to believe an individual is committing, has committed, or is about to commit certain felony drug offenses. The request to intercept a wire or electronic communication is initiated by an investigative officer of the Alabama State Law Enforcement Agency or the Attorney General's office.

This bill would allow an interpreter to monitor a wire or electronic communication in certain circumstances.

In 2022, the Legislature enacted the Agent Billy Clardy III Act which created a state wiretapping program. As part of that law, the entire act is set to repeal on February 1, 2026.

This act would remove the repealer language, thereby keeping the act in effect indefinitely.

A BILL
TO BE ENTITLED
AN ACT



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29 Relating to wiretaps; to amend Sections 20-2B-1 and
30 20-2B-12, Code of Alabama 1975, and to add Section 20-2B-2.1
31 to the Code of Alabama 1975, to allow interpreters to monitor
32 a wire or electronic communication in certain circumstances;
33 and to repeal Section 20-2B-12, Code of Alabama 1975, thereby
34 keeping the act in effect indefinitely.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. Sections 20-2B-1 and 20-2B-12, Code of
37 Alabama 1975, are amended to read as follows:

38 "§20-2B-1

39 (a) This chapter shall be known and may be cited as the
40 Agent Billy Clardy III Act.

41 (b) For the purposes of this chapter, the following
42 terms have the following meanings:

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

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

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

49 (4) COMMUNICATION COMMON CARRIER. The term as defined
50 in 47 U.S.C. § 153(11).

51 (5) COMMUNICATIONS SERVICE PROVIDER. A provider of
52 communication service as defined in Section 37-2A-2.

53 (6) CONTENTS. When used with respect to a wire or
54 electronic communication, any information concerning the
55 identity of the parties to the communication or the existence,
56 substance, purport, or meaning of that communication.



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57 (7) ELECTRONIC COMMUNICATION. Any transfer of an
58 electronic or other signal, including any fax signal, computer
59 generated signal, other similar signal, or scrambled or
60 encrypted signal transferred via wire, radio, electromagnetic,
61 photoelectric, or photo optical system from one party to
62 another in which the involved parties may reasonably expect
63 the communication to be private.

64 (8) ELECTRONIC, MECHANICAL, OR OTHER DEVICE. A device
65 or apparatus primarily designed or used for the nonconsensual
66 interception of wire or electronic communications.

67 (9) FOREIGN LANGUAGE. Any language not recognized as
68 the official language of this state as provided in Section
69 36.01 of the Constitution of Alabama of 2022.

70 ~~(9)~~ (10) INTERCEPT. The aural or other acquisition of
71 the contents of a wire or electronic communication through the
72 use of an electronic, mechanical, or other device.

73 (11) INTERPRETIVE SERVICES. Assistance in interpreting
74 intercepted wire or electronic communications that contain
75 coded language or foreign language and in minimizing the
76 interception of communications that are not subject to
77 interception under this chapter.

78 ~~(10)~~ (12) INVESTIGATIVE OFFICER. A special agent of the
79 agency, a special agent of the Attorney General's office, or
80 any other law enforcement officer of this state designated by
81 the secretary of the agency who meets guidelines established
82 by the secretary and who has successfully completed a training
83 course approved by the Attorney General on the legal and
84 technical aspects of the interception and use of wire or



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85 electronic communications.

86 ~~(11)~~ (13) JUDGE OF COMPETENT JURISDICTION. A circuit
87 court judge in the county where the intercept is expected to
88 take place or a circuit court judge designated by the Chief
89 Justice of the Supreme Court or by the Alabama Supreme Court
90 to hear intercept applications or where the interception takes
91 place.

92 (14) PERSON. An individual, firm, copartnership,
93 association, or corporation.

94 ~~(12)~~ (15) PROSECUTOR. A district attorney or his or her
95 designee.

96 (16) QUALIFIED INTERPRETER. An individual who is
97 qualified, through training or experience satisfactory to the
98 secretary, to interpret coded language or a foreign language
99 and who is approved by the secretary to provide interpretive
100 services for an intercept pursuant to Section 20-2B-2.1.

101 ~~(13)~~ (17) SECRETARY. The Secretary of the Alabama State
102 Law Enforcement Agency or his or her designee.

103 ~~(14)~~ (18) WIRE COMMUNICATION. A communication made in
104 whole or in part through the use of facilities for the
105 transmission of communications by the aid of wire, cable, or
106 other like connection between the point of origin and the
107 point of reception furnished or operated by an individual
108 engaged as a communication common carrier or communications
109 service provider in providing or operating the facilities for
110 the transmission of communications."

111 "§20-2B-12

112 (a) An individual whose wire or electronic



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113 communication is intercepted, disclosed, or used in violation
114 of this chapter shall have a civil cause of action against any
115 ~~individual who~~ person that intercepts, discloses, or uses, or
116 procures another ~~individual person~~ to intercept, disclose, or
117 use, the communication, and ~~is entitled to~~ may recover from
118 the ~~individual or entity which~~ person or persons that engaged
119 in the violation any of the following:

- 120 (1) Actual damages.
- 121 (2) Punitive damages.
- 122 (3) Reasonable attorney's fees and other litigation
123 costs reasonably incurred.

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

127 (1) An operator of a switchboard, or an officer,
128 employee, or agent of a communication common carrier or a
129 communications service provider whose facilities are used in
130 the transmission of a wire communication, who intercepts a
131 communication, or who discloses or uses an intercepted
132 communication in the normal course of employment while engaged
133 in an activity that is a necessary incident to the rendition
134 of service or to the protection of the rights or property of
135 the carrier of the communication.

136 (2) An officer, employee, or agent of a communication
137 common carrier or communications service provider who employs
138 or uses any equipment or device that may be attached to any
139 telephonic equipment of any subscriber which permits the
140 interception and recording of any telephonic communications



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141 solely for the purposes of business service improvements.

142 (3) An officer, employee, or agent of a communication
143 common carrier or communications service provider who provides
144 information, facilities, or technical assistance to an
145 investigative officer who is authorized as provided by this
146 chapter to intercept a wire or electronic communication.

147 (4) An individual acting under authority of law who
148 intercepts a wire or electronic communication if the
149 individual is a party to the communication, or if one of the
150 parties to the communication has given prior consent to the
151 interception.

152 (5) An individual not acting under authority of law who
153 intercepts a wire or electronic communication if the
154 individual is a party to the communication, or if one of the
155 parties to the communication has given prior consent to the
156 interception, unless the communication is intercepted for the
157 purpose of committing any criminal or tortious act in
158 violation of the Constitution or laws of the United States or
159 of this state or for the purpose of committing any other
160 injurious act.

161 (c) A good faith reliance on a court order is a
162 complete defense to any civil cause of action brought under
163 this chapter."

164 Section 2. Section 20-2B-2.1 is added to the Code of
165 Alabama 1975, to read as follows:

166 §20-2B-2.1

167 (a) Subject to the approval of the secretary, an
168 intercept authorized pursuant to this chapter may be conducted



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169 with the aid of interpretive services in the following
170 circumstances:

171 (1) In anticipation of intercepting a wire or
172 electronic communication using coded language or a foreign
173 language, one or more qualified interpreters may be present
174 during the intercept, as long as an investigative officer is
175 also present.

176 (2) If an intercepted communication uses coded language
177 or a foreign language and a qualified interpreter is not
178 available during the intercept, one or more qualified
179 interpreters may provide interpretive services as soon as
180 practicable after the intercept.

181 (b) Before providing interpretive services, a qualified
182 interpreter who is not a law enforcement officer of this state
183 shall take an oath that he or she will provide a true
184 interpretation in an understandable manner to the best of his
185 or her skill or judgment.

186 (c) The state may enter into contracts for interpretive
187 services pursuant to this chapter.

188 Section 3. Section 20-2B-16, Code of Alabama 1975,
189 which provides for the repeal of the Agent Billy Clardy III
190 Act, which creates a state wiretap program, on February 1,
191 2026, is repealed.

192 Section 4. This act shall become effective on June 1,
193 2025.