

HOUSE JOURNAL

ALASKA STATE LEGISLATURE

TWENTY-SECOND LEGISLATURE -- FIRST SESSION

Juneau, Alaska

Monday

February 19, 2001

Forty-third Day

Pursuant to adjournment the House was called to order by Speaker Porter at 11:04 a.m.

Roll call showed 32 members present. Representatives Kohring, Moses, and Murkowski had been previously excused from a call of the House today. Representatives Croft and Mulder were absent and their presence was noted later.

Representative James moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Masek - from today to 9:30 p.m., plane time, February 20, 2001 (amended from page 335)

Representative Harris - from today to 9:30 a.m., plane time, February 20, 2001 (amended from page 326)

Representative Kerttula - from today to 9:30 p.m., plane time, February 20, 2001

The invocation was offered by the Chaplain Kevin Araki of the Juneau Baha'i Community. Representative Davies moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it appears below:

O Divine Providence! This assemblage is composed of Thy friends who are attracted to Thy beauty and are set ablaze by the fire of Thy love. Turn these souls into heavenly angels, resuscitate them through the breath of Thy Holy Spirit, grant them eloquent tongues and resolute hearts, bestow upon them heavenly power and merciful susceptibilities, cause them to

become the promulgators of the oneness of mankind and the cause of love and concord in the world of humanity, so that the perilous darkness of ignorant prejudice may vanish through the light of the Sun of Truth, this dreary world may become illumined, this material realm may absorb the rays of the world of spirit, these different colours may merge into one colour and the melody of praise may rise to the kingdom of Thy sanctity. Verily, Thou art the Omnipotent and the Almighty! 'Abdu'l-Baha'

The Pledge of Allegiance was led by Representative Morgan.

CERTIFICATION OF THE JOURNAL

Representative James moved and asked unanimous consent that the journal for the 40th, 41st, and 42nd legislative days, House Journal Supplement No. 2 and House & Senate Joint Journal Supplement No. 3 be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

* * * * *

Representative Bunde introduced Shannon Smith, Guest Page, from Juneau.

**The presence of Representative Mulder was noted.

MESSAGES FROM THE SENATE

A message dated February 16, 2001, was read stating the Senate has passed the following, and they are transmitted for consideration:

FIRST READING AND REFERENCE OF SENATE RESOLUTIONS

SJR 7

CS FOR SENATE JOINT RESOLUTION NO. 7(RES) by the Senate Resources Committee:

Supporting reinstatement of the United States Department of the Interior directive exempting the United States Bureau of Land Management in Alaska from the mandatory wilderness review process.

was read the first time and referred to the Resources Committee.

SJR 10

SENATE JOINT RESOLUTION NO. 10 by Senators Austerman, Wilken, Kelly, Cowdery, Elton, Leman, Pearce, Taylor, Lincoln, and Ward:

Urging the United States Congress to fully fund the operational readiness and recapitalization requirements of the United States Coast Guard.

was read the first time and referred to the House Special Committee on Military and Veterans' Affairs.

**FIRST READING AND REFERENCE
OF SENATE BILLS**

SB 21

SENATE BILL NO. 21 by Senator Olson, entitled:

"An Act increasing the maximum civil fine that may be imposed by the State Medical Board as a disciplinary sanction."

was read the first time and referred to the Health, Education & Social Services and Judiciary Committees.

A Senate letter of intent was attached (Senate Journal page 410).

COMMUNICATIONS

The following were received:

Dept. of Education & Early Development
Alaska Commission on Postsecondary Education
Annual Report 1999-2000

Office of the Governor
Office of Equal Employment Opportunity
2000 Annual Report
February 15, 2001
(as required by AS 44.19.451)

REPORTS OF STANDING COMMITTEES

SB 10

The Finance Committee has considered:

SENATE BILL NO. 10

"An Act extending the termination date of the Board of Public Accountancy."

The report was signed by Representatives Mulder and Williams, Co-chairs, with the following individual recommendations:

Do pass (9): Bunde, Harris, Croft, Davies, Lancaster, Hudson, Foster, Mulder, Williams

The following fiscal note(s) apply:

2. Fiscal, House Finance Committee/Dept. of Community & Economic Development

SB 10 was referred to the Rules Committee for placement on the calendar.

INTRODUCTION OF CITATIONS

The following citations were introduced and referred to the Rules Committee for placement on the calendar:

In Memoriam - Sumner Stanley Woodman
By Representative Scalzi

In Memoriam - Diana M. Craig
By Representative Green

**INTRODUCTION, FIRST READING, AND REFERENCE
OF HOUSE BILLS****HB 132**

HOUSE BILL NO. 132 by the House Judiciary Committee by request, entitled:

"An Act relating to the possession or distribution of alcohol in a local option area; requiring liquor license applicants to submit fingerprints for the purpose of conducting a criminal history background check, and relating to the use of criminal justice information by the Alcoholic Beverage Control Board; providing for a review of alcohol server education courses by the Alcoholic Beverage Control Board every two years; and providing for an effective date."

was read the first time and referred to the Labor & Commerce, Judiciary, and Finance Committees.

HB 133

HOUSE BILL NO. 133 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to restitution for criminal and delinquency acts; authorizing the state to collect restitution on behalf of victims of crime and delinquent acts and the release of certain information related to that collection; relating to the forfeiture of certain cash and other security for payment of other restitution; relating to access by the Violent Crimes Compensation Board to certain records regarding delinquency acts to award compensation to victims; relating to immunity for damages related to certain collections of restitution; amending Rule 82, Alaska Rules of Civil Procedure; and providing for an effective date."

was read the first time and referred to the Judiciary and Finance Committees.

The following fiscal note(s) apply:

1. Fiscal, Dept. of Law

The Governor's transmittal letter dated February 16, 2001, appears below:

"Dear Speaker Porter:

Victims of crime or delinquent acts have had their integrity and their sense of security undermined. Their property is often lost or damaged. As a means to recover some measure of economic and psychological wholeness, the court may order an offender to pay restitution to the victim. Unfortunately, many victims never receive that repayment for monetary loss or damages caused by an offender. Those who do often had to first struggle through a frustrating and confusing system.

This bill I am transmitting today addresses this gross injustice by setting up a simple restitution collection program for victims. Under this proposal, the system will work for the victim, instead of forcing the victim to work the system.

The bill authorizes the Department of Law (department) to collect restitution payments on behalf of victims. The department already has expertise in collecting money due the state. Extending this authority to restitution collection will help victims in a concrete and useful way. Under this collection authority, the department will be able to attach Permanent Fund Dividends, garnish wages, and take other measures to seek full restitution payment to victims.

The bill also identifies a source of money to pay victim restitution -- money or other security that has been forfeited to the court as a result of a defendant's violation of bail or conditions of release. Currently, those forfeited assets are deposited in the state general fund. The state would be able to seek a separate judgment to replace any of this forfeited money to the general fund. This provision essentially puts the victim in a priority creditor status, but retains the defendant's obligation to pay or forfeit the full amounts ordered by the court.

Criminal justice professionals today tout the value of restorative justice. Basic restorative justice principles include holding offenders accountable for their conduct that harms victims and the community. Accountability means accepting responsibility and taking action to repair the harm done to the victim. This bill recognizes a key element

of restorative justice - restitution - and makes that element a reality by strengthening collection efforts for crime victims.

I urge your prompt and favorable consideration of this important legislation.

Sincerely,
/s/
Tony Knowles
Governor"

HB 134

HOUSE BILL NO. 134 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to the rights of crime victims, the crime of violating a protective injunction, mitigating factors in sentencing for an offense, and the return of certain seized property to victims; clarifying that a violation of certain protective orders is contempt of the authority of the court; expanding the scope of the prohibition of compromise based on civil remedy of misdemeanor crimes involving domestic violence; providing for protective relief for victims of stalking that is not domestic violence and for the crime of violating an order for that relief; providing for continuing education regarding domestic violence for certain persons appointed by the court; making certain conforming amendments; amending Rules 65.1 and 100(a), Alaska Rules of Civil Procedure; amending Rules 10, 11, 13, 16, and 17, Alaska District Court Rules of Civil Procedure; and amending Rule 9, Alaska Rules of Administration."

was read the first time and referred to the Judiciary and Finance Committees

The following fiscal note(s) apply:

1. Indeterminate, Dept. of Administration
2. Indeterminate, Dept. of Corrections
3. Zero, Dept. of Law

The Governor's transmittal letter dated February 16, 2001, appears below:

"Dear Speaker Porter:

The Victims' Rights Amendment to the Alaska Constitution was approved by 87 percent of Alaska voters and has been in effect since December 30, 1994. Since then, we have continued to learn more about the difficulties crime victims face and how we may be able to assist them through changes within the legal system. This bill I am transmitting today proposes several measures to further protect victims and help them deal with the problems they encounter. Each proposal is described in further detail below.

- Allowing a mitigated presumptive sentence for speedy no contest or guilty pleas;
- Simplifying procedures for victims to recover stolen property;
- Establishing a crime for violating protective injunctions in child in need of aid cases;
- Extending current disallowance of civil compromise in some domestic violence cases to all domestic violence cases;
- Simplifying the process for stalking victims to get protection orders;
- Establishing that a protective order violation could cause at least a contempt of court charge and fine;
- Requiring officials working with custody disputes be trained in domestic violence law.

Mitigated Presumptive Sentences. The bill allows the court to mitigate a presumptive sentence when the defendant pleads no contest or guilty within 30 days after being charged. The reasoning is that early admission on the part of the defendant relieves the victim of some of the suffering involved in long, drawn out court procedures. This concept has already been recognized by the courts as a non-statutory mitigating factor. State v. McKinney, 946 P.2d 456 (Alaska 1997).

Recovering Stolen Property. The bill establishes a simplified procedure for theft victims to recover property that is in the possession of a law enforcement agency after having been recovered from a

pawnshop or secondhand dealer. The current process is based on federal procedure and requires the victim to initiate formal legal proceedings to recover property. Under this less formal procedure, the victim could file a petition in state court supported by affidavit of ownership. The pawnshop or secondhand dealer can file a response supported by affidavit. Ownership may then be decided based on the information in the affidavits.

Protective Injunction Violations. Alaska law authorizes the court to issue a protective injunction in child in need of aid (CINA) proceedings that orders perpetrators to stay away from a child. These are similar to protective orders in domestic violence cases. Unlike domestic violence protective orders, however, it is not a separate crime to violate a protective injunction for a child in a CINA proceeding. The bill corrects this unjust inconsistency by making it a class A misdemeanor for a perpetrator to violate the CINA injunction.

Civil Compromise in Domestic Violence Cases. Alaska allows a person charged with a misdemeanor that harms a person or property to enter into a civil compromise by agreeing to pay the victim for personal costs, such as medical expenses or property damage. If the victim appears in court and acknowledges in writing that the defendant has paid the damages, the court may dismiss the charges, even if the prosecution objects to the dismissal. There are several exceptions in the statute allowing for civil compromise. One of the exceptions disallows compromise of cases between spouses and former spouses, or persons living together in a family or spousal relationship. The exception does not, however, include all domestic violence crimes. For example, it does not include domestic violence by a person who lived with another person if the court determines that the relationship was not a spousal relationship. This bill extends the disallowance of civil compromise to all cases involving domestic violence as defined in the Domestic Violence Prevention and Victim Protection Act of 1996. Civil compromise is not appropriate in domestic violence cases. This bill ensures that it will not occur.

Protection From Stalking. Stalking is a crime that may be unconnected to domestic violence yet also warrants protection for the victim. These stalking victims are often children and their families. The current procedure for obtaining protection in these types of

stalking cases requires a filing fee and, usually, an attorney to handle the complicated paperwork. Victims may not have the resources for this effort and therefore go unprotected. This bill establishes a procedure similar to that for a domestic violence protective order, a simple process with no filing fee or need for sophisticated knowledge of the legal system. The clerk of court would provide forms for requesting protection and assistance in completing them. Violation of certain provisions of a stalking protective order of this type would be a class A misdemeanor.

Protective Order Violations. Currently, not all violations of a protective order result in consequences to the offender. Typically, the more dangerous violations carry a criminal charge; others may have no direct consequence. This bill establishes that a person who violates any provision of a protective order may, at a minimum be held in contempt of court.

Domestic Violence Training. It's important that anyone officially involved in custody disputes, such as guardians ad litem, child custody investigators, and mediators, be trained in domestic violence laws. These persons need to understand statutory provisions that prohibit mediation in domestic violence cases and that require consideration of evidence of domestic violence in custody determinations.

Victim protection is a priority of all Alaskans. I urge your prompt and favorable consideration of this bill.

Sincerely,
/s/
Tony Knowles
Governor"

CONSIDERATION OF THE DAILY CALENDAR

SECOND READING OF HOUSE BILLS

HB 16

The following was read the second time:

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 16

"An Act relating to cities incorporated under state law that are home rule communities; and providing for an effective date."

with the:	Journal Page
CRA RPT CS(CRA) 5DP 1NR	256
FN1: (LAW)	257
FIN RPT CS(CRA) 8DP 1NR	339
FN1: (LAW)	340

Representative James moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO.
16(CRA)
(same title)

There being no objection, it was so ordered.

Representative James moved and asked unanimous consent that CSSSHB 16(CRA) be considered engrossed, advanced to third reading, and placed on final passage. There being no objection, it was so ordered.

CSSSHB 16(CRA) was read the third time.

**The presence of Representative Croft was noted.

The question being: "Shall CSSSHB 16(CRA) pass the House?" The roll was taken with the following result:

CSSSHB 16(CRA)
Third Reading
Final Passage

YEAS: 33 NAYS: 1 EXCUSED: 6 ABSENT: 0

Yeas: Berkowitz, Bunde, Chenault, Cissna, Coghill, Crawford, Croft, Davies, Dyson, Fate, Foster, Green, Guess, Halcro, Hayes, Hudson, James, Joule, Kapsner, Kookesh, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Porter, Rokeberg, Scalzi, Stevens, Whitaker, Williams, Wilson

Nays: Ogan

Excused: Harris, Kerttula, Kohring, Masek, Moses, Murkowski

And so, CSSSHB 16(CRA) passed the House.

Representative James moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

CSSSHB 16(CRA) was referred to the Chief Clerk for engrossment.

HB 109

The following was read the second time:

HOUSE BILL NO. 109

"An Act relating to failure by an election official to execute the voter's certificate on an absentee ballot or by a person authorized by law to execute the voter's certificate on a questioned ballot."

with the:	Journal Page
STA RPT 7DP	340
FN1: ZERO(GOV)	340

HB 109 will be advanced to third reading on the February 21, 2001, calendar.

LEGISLATIVE CITATIONS

Representative James moved and asked unanimous consent that the House approve the citations on the calendar. There being no objection, the following citations were approved and sent to enrolling:

Honoring - Sergeant Scott Waggoner

By Representatives Hayes, Porter, Berkowitz, Bunde, Cissna, Coghill, Crawford, Croft, Davies, Dyson, Foster, Green, Guess, Halcro, Hayes, Hudson, James, Kerttula, Kohring, Kookesh, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Stevens, Williams, Wilson

Honoring - Norm Blakely, Soldotna Chamber of Commerce Person of the Year

By Representatives Lancaster, Porter, Berkowitz, Bunde, Chenault, Cissna, Crawford, Croft, Davies, Dyson, Green, Guess, Halcro, Hayes, Hudson, James, Kerttula, Kohring, Kott, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Scalzi, Stevens, Williams, Wilson; Senator Torgerson

Honoring - Alexa Prunella

By Senator Taylor; Representatives Wilson, Porter, Berkowitz, Bunde, Cissna, Crawford, Croft, Davies, Dyson, Guess, Halcro, Hayes, Hudson, James, Kerttula, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Stevens, Williams, Wilson

Honoring - Gilbert and Bernice Mort

By Senator Green; Representatives Kohring, Porter, Berkowitz, Bunde, Cissna, Crawford, Croft, Davies, Dyson, Guess, Halcro, Hayes, Hudson, James, Kerttula, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Stevens, Williams, Wilson

In Memoriam - Senator Pearse Michael Walsh

By Representatives Foster, Porter, Berkowitz, Bunde, Cissna, Coghill, Crawford, Croft, Davies, Dyson, Fate, Guess, Halcro, Hayes, Hudson, James, Kerttula, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Scalzi, Stevens, Williams, Wilson

In Memoriam - Gerald O'Meagher Kempton

By Representatives Croft, Porter, Berkowitz, Bunde, Cissna, Coghill, Crawford, Davies, Dyson, Foster, Guess, Halcro, Hayes, Hudson, James, Kerttula, Kookesh, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Stevens, Williams

In Memoriam - Phyllis Engdahl Kempton

By Representatives Croft, Porter, Berkowitz, Bunde, Cissna, Coghill, Crawford, Davies, Dyson, Foster, Guess, Halcro, Hayes, Hudson, James, Kerttula, Kookesh, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Stevens, Williams

In Memoriam - Gail Scibor

By Representatives Hayes, Porter, Berkowitz, Bunde, Cissna, Coghill, Crawford, Croft, Davies, Dyson, Fate, Foster, Guess, Halcro, Hudson, James, Kerttula, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Stevens, Williams; Senator Wilken

In Memoriam - Genie Chance

By Representatives Kerttula, Hudson, Porter, Berkowitz, Bunde, Cissna, Coghill, Crawford, Croft, Davies, Dyson, Fate, Foster, Guess, Halcro, Hayes, Hudson, James, Kookesh, Kott, Lancaster, McGuire, Meyer, Morgan, Mulder, Murkowski, Ogan, Stevens, Williams; Senator Elton

UNFINISHED BUSINESS

Representative James moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Guess - from 5:00 p.m., plane time, February 22 to 9:20 a.m., plane time, March 7, 2001 (amended from page 132)

Representative Murkowski - from 1:30 p.m., plane time, March 1 to 9:34 p.m., plane time, March 5; and from 7:14 p.m., plane time, March 16 to 9:34 p.m., plane time, March 18, 2001

* * * * *

Representative Fate requested that the members stand for a moment of silence to honor the life of Bill Hagar.

HCR 1

Representative Halcro added his name as cosponsor to:

HOUSE CONCURRENT RESOLUTION NO. 1
Relating to establishing a Task Force on a Statewide
Comprehensive Energy Plan.

HB 16

Representatives Cissna, Croft, and James added their names as
cosponsors to:

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO.
16(CRA)
"An Act relating to cities incorporated under state law that are
home rule communities; and providing for an effective date."

SJR 10

Representatives Wilson and Stevens added their names as cross
sponsors to:

SENATE JOINT RESOLUTION NO. 10
Urging the United States Congress to fully fund the operational
readiness and recapitalization requirements of the United States
Coast Guard.

SJR 12

Representative McGuire added her name as cross sponsor to:

SENATE JOINT RESOLUTION NO. 12(title am)
Urging the United States Congress to amend the tax code to
eliminate the marriage penalty.

ENGROSSMENT

HB 16

CSSSHB 16(CRA) was engrossed, signed by the Speaker and Chief
Clerk and transmitted to the Senate for consideration.

ANNOUNCEMENTS

House committee schedules are published daily under separate cover.

Majority Caucus Speaker's Chamber upon adj., 2/19

Joint Session

U.S. Senator Frank Murkowski's address 11:00 a.m., 2/21

ADJOURNMENT

Representative James moved and asked unanimous consent that the House adjourn until 10:00 a.m., February 21, 2001. There being no objection, the House adjourned at 11:43 a.m.

Suzi Lowell
Chief Clerk