SENATE JOURNAL

ALASKA STATE LEGISLATURE

TWENTY-SECOND LEGISLATURE -- FIRST SESSION

Juneau, Alaska

Tuesday

February 20, 2001

Forty-fourth Day

Pursuant to adjournment the Senate was called to order by President Halford at 11:24 a.m.

The roll showed twenty members present.

The prayer was offered by the Chaplain, The Reverend Kathleen Wakefield of St. Brendan's Episcopal Church. Senator Hoffman moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

Gracious God, Holy and Mighty One, Creator of the Universe: we thank You for this new day. We remember those who are sick or suffering, the hungry, the homeless, prisoners and hostages. Bless our work this day, bless our going out and our coming in. And as we celebrate President's Day this week, we thank You for the blessings of freedom that we enjoy - help us also to remember the attendant responsibilities that such freedom entails. Amen.

Senator Cowdery led the Senate in the Pledge of Allegiance.

Certification

Senator Leman moved and asked unanimous consent that the journals for the fortieth through forty-third legislative days, Senate Journal Supplement No. 2 and House and Senate Joint Journal Supplement No. 3 be approved as certified by the Secretary. Without objection, it was so ordered.

Messages from the House

HJR 6

Message dated February 16 was read, stating the House concurred in the Senate amendments to CS FOR HOUSE JOINT RESOLUTION NO. 6(RES), thus adopting:

SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 6(RES) am S Relating to opposition to the inclusion of national forests in Alaska within former President Clinton's Roadless Area Conservation rule and supporting the overturning of this inclusion by litigation, by congressional action, or by action of President Bush.

#END

Messages dated February 16 and 19 were read, stating the House passed and transmitted for consideration:

First Reading and Reference of House Bills

HB 16

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 16(CRA) BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE, entitled:

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

was read the first time and referred to the Community and Regional Affairs and Finance Committees.

HB 117

CS FOR HOUSE BILL NO. 117(FIN) am BY THE HOUSE FINANCE COMMITTEE, entitled:

"An Act making supplemental and other appropriations; and providing for an effective date."

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

Introduction and Reference of Senate Bills

SB 99

SENATE BILL NO. 99 BY SENATOR HALFORD, entitled:

"An Act relating to the DNA identification registration system."

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

SB 100

SENATE BILL NO. 100 BY SENATOR HALFORD, entitled:

"An Act relating to the regulation of aeronautics and communications and to civil liability relating to aircraft runways, airfields, and landing areas."

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

SB 101

SENATE BILL NO. 101 BY SENATOR OLSON, entitled:

"An Act relating to emergency equipment to be carried on aircraft."

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

SR 102

SENATE BILL NO. 102 BY SENATORS THERRIAULT, Phillips, entitled:

"An Act relating to the information required in an application for, and to display of social security numbers on, certain licenses and instructional permits; and providing for an effective date."

was read the first time and referred to the State Affairs and Finance Committees.

SB 103

SENATE BILL NO. 103 BY THE SENATE STATE AFFAIRS COMMITTEE, entitled:

"An Act relating to election campaigns and legislative ethics; and providing for an effective date."

was read the first time and referred to the State Affairs and Judiciary Committees.

SB 104

SENATE BILL NO. 104 BY SENATOR TORGERSON, entitled:

"An Act relating to state aid for volunteer services; and providing for an effective date."

was read the first time and referred to the Community and Regional Affairs and Finance Committees.

SB 105

SENATE BILL NO. 105 BY SENATORS HALFORD, Donley, entitled:

"An Act relating to victims' rights; relating to establishing an office of victims' rights; relating to compensation of victims of violent crimes; relating to eligibility for a permanent fund dividend for persons convicted of and incarcerated for certain offenses; relating to notice of appropriations concerning victims' rights; amending Rule 16, Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an effective date."

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

SB 106

SENATE BILL NO. 106 BY THE SENATE 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 information was published today:

Fiscal Note No. 1, indeterminate, Department of Administration Fiscal Note No. 2, indeterminate, Department of Corrections Fiscal Note No. 3, zero, Department of Law

Governor's transmittal letter dated February 16:

Dear President Halford:

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.

<u>Protective Injunction Violations</u>. 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.

<u>Protection From Stalking</u>. 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.

<u>Protective Order Violations</u>. 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.

<u>Domestic Violence Training</u>. 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

SB 107

SENATE BILL NO. 107 BY THE SENATE 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 information was published today: Fiscal Note. No. 1, Department of Law

Governor's transmittal letter dated February 16:

Dear President Halford:

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

Consideration of the Calendar

Citations

Honoring – Alexa Prunella Senator(s) Taylor, Wilken, Hoffman, Pearce, Elton, Kelly, Davis, Lincoln, Green, Austerman, Halford Representative(s) Wilson

Honoring – Norm Blakeley, Soldotna Chamber of Commerce Person of the Year Representative(s) Lancaster Senator(s) Torgerson, Wilken, Leman, Hoffman, Pearce, Elton, Kelly, Davis, Taylor, Lincoln, Green, Austerman, Halford

Honoring – Sergeant Scott Waggoner Representative(s) Hayes Senator(s) Wilken, Leman, Hoffman, Pearce, Elton, Kelly, Davis, Taylor, Lincoln, Green, Austerman, Halford

In Memoriam – Gerald O'Meagher Kempton Representative(s) Croft Senator(s) Wilken, Leman, Hoffman, Pearce, Elton, Kelly, Davis, Taylor, Lincoln, Green, Austerman, Phillips, Halford

In Memoriam – Phyllis Engdahl Kempton Representative(s) Croft Senator(s) Wilken, Leman, Hoffman, Pearce, Elton, Kelly, Davis, Taylor, Lincoln, Green, Austerman, Phillips, Halford

In Memoriam – Senator Pearse Michael Walsh Representative(s) Foster Senator(s) Halford, Wilken, Leman, Phillips, Hoffman, Pearce, Elton, Kelly, Davis, Taylor, Lincoln, Green, Austerman

In Memoriam – Gail Scibor Representative(s) Hayes Senator(s) Wilken, Hoffman, Pearce, Elton, Kelly, Davis, Taylor, Lincoln, Green, Austerman, Halford

Senator Leman moved and asked unanimous consent that the citations be adopted. Without objection, the citations were adopted and referred to the Secretary for transmittal.

Unfinished Business

Senator Olson moved and asked unanimous consent to be excused from a call of the Senate from afternoon, February 20 through February 25. Without objection, Senator Olson was excused.

Senators Donley, Leman, Taylor moved and asked unanimous consent to be excused from a call of the Senate on February 23. Without objection, Senators Donley, Leman, Taylor were excused.

Senator Lincoln moved and asked unanimous consent to be excused from a call of the Senate March 13 through 16. Without objection, Senator Lincoln was excused.

SB 78

Senator Austerman moved and asked unanimous consent to be shown as a cosponsor on SENATE BILL NO. 78 "An Act relating to municipal regulation of radio antennas." Without objection, it was so ordered.

Announcements

Announcements are at the end of the journal.

Adjournment

Senator Leman moved and asked unanimous consent that the Senate stand in adjournment until 10:45 a.m., February 21, 2001. Without objection, the Senate adjourned at 11:39 a.m.

Heidi Vogel Secretary of the Senate

February 2001

Announcements

Americans with Disabilities Act Notice - Persons with disabilities who require special accommodation or alternative communication formats to access committee meetings may contact the appropriate committee office or the Legislative Information Office in their community. Reasonable advance notice is needed to accommodate the request. For further information, call the ADA Coordinator at 465-3854 Voice/465-4980 TDD.

STANDING COMMITTEES

COMMUNITY & REGIONAL AFFAIRS

Feb 21	Wednesday No Meeting Scheduled	Fahrenkamp 203	1:30 PM
Feb 23	Friday No Meeting Scheduled	Fahrenkamp 203	1:30 PM
	FINA	NCE	
Feb 20 SB 95	Tuesday APPROP: GRANT TO Bills Previously Heard/S	Senate Finance 532 ARCTIC POWER FOR AN Scheduled	
Feb 20	Tuesday	Senate Finance 532	7:00 PM
+= SB 73 += SB 74 HB 117 +	APPROP. FAST TRACK SUPPLE	MB Director	IONS
Feb 21 += SB 29	Wednesday APPROP: GOVERNOR Bills Previously Heard/S		9:00 AM
Feb 22 = SB 29	Thursday APPROP: GOVERNOR	Senate Finance 532 L'S CAPITAL BUDGET	9:00 AM

Bills Previously Heard/Scheduled

FINANCE (continued)

Feb	23		Friday	Senate Finance 532	9:00 AM
+	SB	72	TAKE A CHILD HUN	ITING SEASON	
	SB	65	PAY EQUITY FOR ST	ΓATE EMPLOYEES	
	SB	84	PUBLIC UTILITY JO	INT ACTION AGENCIES	
			<pending referral=""></pending>		
	SB	64	HIGH SCHOOL DIPL	OMA FOR CERTAIN WW	II VETS
			Bills Previously Heard	/Scheduled	

HEALTH, EDUCATION & SOCIAL SERVICES

Feb 21	Wednesday	Butrovich 205	1:30 PM	
+	HS Graduation Quali	fying Exam Hearing:		
	Dept of EED: HSGQ	E Scores		
+	Discussion on Senate	Bill:		
	HIGH SCHOOL GRA	ADUATION QUALIFYIN	G EXAM	
	<pending and="" introduction="" referral=""></pending>			
	Bills Previously Heard/Scheduled			
Feb 24	Saturday	Butrovich 205	10:30 AM	
+	Time Change			
	HS Graduation Quali	fving Exam Hearing:		
	Testimony from School Administrators, Teachers and			
	Special Education Directors			
	Bills Previously Hear			
	Dilis i leviously fical	d/ Scheduled		

JUDICIARY

Feb 21	Wednesday	Beltz 211	1:30 PM
+ SB 84	PUBLIC UTILITY JOINT ACT	ION AGENCIES	
+ SB 81	NONADEMPTION OF TRANS	FERS IN TRUSTS	S
+= SB 37	PHYSICIAN NEGOTIATIONS	WITH HEALTH I	INSURE
Feb 23	Friday	Beltz 211	1:30 PM
	No Meeting Scheduled		

LABOR & COMMERCE

Feb 20	Tuesday	Beltz 211	1:30 PM
+ SB 66	FINANCIAL INSTITUTIONS		
Feb 22	Thursday	Beltz 211	1:30 PM
+	Dept of Labor and Workforce Dev		
	Worker's Compensation Audit Rej	port Review	
E.L 27	T 1	D.4-211	1.20 DM
Feb 27	Tuesday	Beltz 211	1:30 PM
	Joint w/(H) Confirmation Hearing		
	Kathleen B. Schreiber, Eagle Rive Linda C. Thomas, Juneau	51	
	· ·		
	Daphne E. Brown, Anchorage		
	Patrick H. Kalen, Fairbanks		
	Dr. Robert E. Miller, Anchorage		
	Darae Crews, Anchorage		
	Sheryl L. Sutton, Juneau	_	
	Larry Allen Ungerecht, Anchorage	e	
	Richard D. Brickley, Fairbanks		
	Aaron T. Isaacs, Klawock	Doint	
	Anthony (Tony) J. Joslyn, Anchor Point		
		Jeffrey L. Thompson, Anchorage	
	The Honorable Cliff Davidson, Ko	outak	
	Carla L. Meek, Juneau		
	James A. Hage, Fairbanks		
	Stephen F. Turner, Anchorage		
	Clarence Bolden, Anchorage		
	Gail Dossman, Anchorage		
	Lottie M. Michael, Anchorage		
	James S. Strandberg, Anchorage	ale au lea	
	Col William (Bill) McDonald, Fai	roanks	
	John A. Abshire, Wasilla		
	Valerie K. Baffone, Anchorage		
	Richard H. Behrends, Juneau		
	John Giuchici, Fairbanks		
	Stephen T. Hagedorn, Anchorage	D:	
	Andrew (Bear) J. Piekarski, Eagle	Kiver	
	Marc D. Stemp, Bethel		
	Robin E. Ward, Anchorage		

LABOR & COMMERCE (continued)

Mar 01 Thursday Beltz 211 1:30 PM
Confirmation Hearings

Vince Coan, Wasilla Ronald L. Otte, Anchorage

RESOURCES

Feb 21 Wednesday Butrovich 205 3:30 PM

+ SB 77 NET PROFIT SHARE UNDER/OVERPAYMENTS

+ HJR 7 ENDORSING ANWR LEASING

Feb 23 Friday Butrovich 205 3:30 PM

No Meeting Scheduled

RULES

Feb 20 Tuesday Fahrenkamp 203 10:45 AM

-- Meeting Canceled --

SB 19 CHILD SUPPORT ENFORCEMENT/SOC SEC. #

STATE AFFAIRS

Feb 20 Tuesday Beltz 211 3:30 PM

HCR 5 UNIFORM RULES 20(A), 37, AND 49(A)(4)

SCR 4 ALASKA TARTAN DAY

SB 82 2001 REVISOR'S BILL

+ SB 93 ARCTIC WINTER GAMES TEAM ALASKA TRUST Bills Previously Heard/Scheduled

Feb 22 Thursday Beltz 211 3:30 PM

SB 92 REMOVAL OF MEMBERS OF THE PF BOARD

+ SB 103 ELECTION CAMPAIGNS AND LEGISLATIVE ETHICS

TRANSPORTATION

Feb 20 SB 70	Tuesday FRED ZHAROFF MEN	Butrovich 205	1:30 PM		
		MORIAL BRIDGE RANS' MEMORIAL HIGH	HWAY		
		MUNICIPALITIES FOR			
		ANNING ORGANIZATIO			
Feb 22	Thursday	Butrovich 205	1:30 PM		
	No Meeting Scheduled				
Feb 23	Friday	Anch Lio Conf Rm	1:30 PM		
+	Time and Location C		11001111		
		Future Transportation Need	S		
	FINANCE SUB	COMMITTEES			
CO	OMMUNITY AND ECO	NOMIC DEVELOPMENT	Γ		
Feb 22	Thursday	Senate Finance 532	3:30 PM		
	Follow-up on Dept Ove	erview			
EDUCATION & EARLY DEVELOPMENT					
Feb 20	Tuesday	Terry Miller 104	8:00 AM		
	Student Enrollment Rev				
	Statewide Corresponder	nce Study Programs			
E.I. 22	T11	T M'II 104	0.00 43/		
Feb 22	Thursday Continuation of Child O	Terry Miller 104	8:00 AM		
	Continuution of Cliffa C	Zui C 155UC5			
Feb 27		House Finance 519	3:30 PM		
	T 1 //TT) TO 11 TO				
	Joint w/(H) Pupil Trans	portation Review			

FISH & GAME

Feb 20 Tuesday Senate Finance 532 1:30 PM

Dept Overview: Commissioner's Office, Admin Services, Boards, Facilities

Feb 22 Thursday Senate Finance 532 1:30 PM

Div of Sport Fish, Div of Subsistence, Div of Wildlife Conservation

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LABOR & WORKFORCE DEVELOPMENT

Feb 22 Thursday Butrovich 205 3:45 PM

-- Location Change --

Employment Security Division

REVENUE

Feb 22 Thursday Senate Finance 532 12:00 PM

+ Missions and Measures

Revenue Supplemental Requests

JOINT COMMITTEES

ADMINISTRATIVE REGULATION REVIEW

Feb 20 Tuesday Fahrenkamp 203 2:45 PM

Review of Past and Proposed Regulations Regulatory and Jurisdictional Concerns/ State vs Federal Govts: Ron Somerville Proposed Regulation Review Bill

ARMED SERVICES COMMITTEE

Feb 22 Thursday House Finance 519 3:30 PM

Alaska's Space Mission and Military

Force Projection:

Adjutant General Phil Oates,

Military & Veterans Affairs Commissioner

11:00 AM

Friday

Feb 23

LEGISLATIVE BUDGET & AUDIT

LEGISLATIVE BUDGET & AUDIT				
Feb 28	•	House Finance 519	12:00 PM	
	OTHER M	EETINGS		
	CHILDREN	'S CAUCUS		
Feb 23 +	Friday (following Joint Session Children's Advocacy Co		12:00 PM	
	FISHERIE	S CAUCUS		
Feb 22 +	Thursday Ecosystem Changes Fisheries Implications	Butrovich 205	12:00 PM	
JOINT SESSION				
Feb 21	Wednesday U.S. Senator Frank Mur	House Chamber kowski's Annual Message	11:00 AM	

House Chamber

Chief Justice Dana Fabe's State of the Judiciary Message