

SB

365

SENATE AMENDMENT

By SENATE JUDICIARY COMMITTEE

To: AMEND SENATE BILL No. SB 365

To: _____ HOUSE BILL No. _____

PAGE: 1. LINE: 16

delete [six] insert five

In context, the sentence will read "a felony and punishable by imprisonment for not more than [six] five years, or by a fine of not more than \$30,000, or by both....."

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER _____

DEPARTMENT _____

ATTENTION _____

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information |

Remarks:

*university
10/10/77*

FROM:
MAIL STATION NUMBER 200

DEPARTMENT Public Works

BY _____ DATE 10/10/77

BILL ANALYSIS

ASSIGNMENT DATE _____

UNASSIGNED _____

DEPARTMENT Public Safety		SPONSOR (PRINCIPAL)		BILL NO. SB 365	
DEPARTMENT POSITION Support					
DIVISION DIRECTOR Col. Anderson		DATE 3/18/80	COMMISSIONER William Nix		DATE 3/18/80
GOVERNOR'S OFFICE USE					
<input type="checkbox"/> POSITION NOTED		<input type="checkbox"/> POSITION APPROVED		<input type="checkbox"/> POSITION DISAPPROVED	
BY:		DATE:			
SUMMARY					
(1) RELATED BILLS (SIMILAR OR CONFLICTING)					
(2) OTHER AGENCIES AFFECTED BY BILL					
(2) a. ORGANIZATIONAL SUPPORT FOR BILL			(2) b. ORGANIZATIONAL OPPOSITION TO BILL		
(3) PROGRAM EFFECTS OF BILL					
(4) FISCAL IMPACT: <input checked="" type="checkbox"/> NONE <input type="checkbox"/> FISCAL ANALYSIS ATTACHED					
(5) AMENDMENTS PROPOSED:					
(6) COMMENTS:					



District Court

State of Alaska

**FIRST JUDICIAL DISTRICT
415 MAIN STREET, ROOM 400
KETCHIKAN, ALASKA
99901**

CHAMBERS OF

H. C. KEENE, Jr., JUDGE

June 29, 1979

Hon. Robert H. Ziegler, Sr.
Alaska State Senate
Ziegler, Cloudy, Smith, King & Brown
307 Bawden Street
Ketchikan, Alaska 99901

Re: Repeal of Alaska Enoch Arden Law or Presumption of
Death After Six Continuous Years of Disappearance

Dear Senator Ziegler:

Pursuant to our conversation of 28 June, 1979 relative to the holding of Presumptive Death Hearing, I have gathered the material concerning repeal of A.S. 20.05.130 which provided that a person missing for six continuous years was presumed to be dead and his estate was to be administered in accordance with the law applicable to the administration of the estate of deceased persons. (Exh. A)

It is noted that this provision was located under Title 20, Infants and Incompetents, and specifically with those sections dealing with Guardianship. Title 20 was deleted out of existence or otherwise amended by the Uniform Probate Code enactment in 1972. This particular section was disposed of by the very last sentence on the last page, 121, of the 1972 Session Laws, Chapter 78, in a most summary manner. (Exh. B)

The above action was noted in the Alaska Statutes Supplement to Title 20 solely with respect to the appointment of a guardian for a missing person. (Exh. C)

Declaration of Death for persons who are missing and presumed to have died without the location of their body is covered under the Code of Civil Procedure, Title 9. Specifically, Sections 09.55.020 - 09.55.060 cover the subject. (Exh. D)

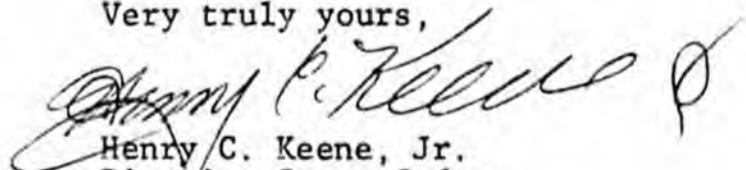
Hon. Robert H. Ziegler, Sr.
June 29, 1979
Page 2

It is my assumption from studying the various statutes and legislative action that the provision for the declaration of death for a person who had been continuously missing for more than six years was inadvertently swept away with the introduction of the Uniform Probate Code. It is felt that this provision should be effective as I indicated when you recently posed questions relative to a Presumptive Death Hearing for a person who had been last seen in 1928 when he went into the woods hunting.

My particular interest in the matter has not been too great since having been relieved of the duties of Coroner some years past. Coroners who have mentioned this to me apparently have not gone further with the subject.

It is my recommendation that a statutory provision be enacted into the Code of Civil Procedure providing that a person missing for a considerable period of time such as six years be presumed dead and a Declaration of Presumptive Death be entered. This would fill the void created by the deletion of this provision from the Guardianship Section, where it really did not belong, and would enable the survivors to administer the estate of the missing person.

Very truly yours,



Henry C. Keene, Jr.
District Court Judge

HCK:ri

Enclosures

TO: SENATOR ZIEGLER
 FROM: GUY VAN DOREN *[Signature]*
 SUBJECT: SENTENCING AND FINES FOR FELONIES AND MISDEMEANORS

Murder in the second degree...Class A felony
 Manslaughter ... Class A felony
 Negligent homicide..... Class C felony
 Assult in the First Degree... Class A felony
 " " " Second " Class B "
 " " " Third " Class A Misdemeanor
 Reckless endangerment.....Class A Misdemeanor
 Sexual Assult in the first degree...Class A felony
 " " " " Second " Class B felony

FINES

Murder in the first or second degree, or kidnaping	\$75,000.00
Class A, B, or C felony.....	50,000.00
Class A Misdemeanor.....	5,000.00
Class B Misdemeanor....	1,000.00
Violations..not to exceed.....	300.00

IMPRISONMENT

Murder in the second degree.....	5 to 99 years
Class A Felony.....	If the offense is a first felony conviction, other than for manslaughter and the defendent possessed or used a fire-arm or caused serious physical injury during commission of the crime....six (6) years....
Class B felony.....	Not more than 10 years 2nd. conviction 4 years
Class C felony.....	Not more than 5 years
Class A Misdemeanor...	Not more than 1 year
Class B Misdemeanor	Not more than 90 days



District Court

State of Alaska

FIRST JUDICIAL DISTRICT
415 MAIN STREET, ROOM 400
KETCHIKAN, ALASKA
99901

CHAMBERS OF

H. C. KEENE, Jr., JUDGE

January 21, 1980

Hon. Robert H. Ziegler, Sr.
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: Presumptive Death

Dear ^{Bob}~~Senator Ziegler~~:

This is in reply to your letter of January 16, 1980.

First and foremost, I must admit that the section pointed out by Mr. Vassar probably escaped my notice although I have considered it in the past.

However, I do not think it will fit the bill. Sec. 13.06.035 is a rule of evidence only. My evaluation is that this is not sufficient for the average magistrate or judge handling presumptive death certificates to act upon. A provision which is more in the nature of a directive or authority for specific action is needed.

I, therefore, feel that Senate Bill No. 293 is still necessary. This evaluation is based on discussions with other judicial officers and my own experience.

Very truly yours,

Henry C. Keene, Jr.
District Court Judge

HCK:ri

Enclosures

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 15, 1980

SUBJECT: Presumptive Death
(Work Order Number 7316)

TO: Senator Robert H. Ziegler, Sr.

FROM: Kenneth E. Vassar
Legislative Counsel 

Enclosed is the letter from Judge Keene with back-up "exhibits". I have found in the Uniform Probate Code (AS 13.06 - 13.36) a section which is substantially similar to the repealed section referred to in Judge Keene's letter and to the provisions of SB 293. That section is AS 13.06.035(3), which provides:

Sec. 13.06.035. EVIDENCE AS TO DEATH OR STATUS. In proceedings under this code, the rules of evidence in courts of general jurisdiction including any relating to simultaneous deaths, are applicable unless specifically displaced by the code. In addition, the following rules relating to determination of death and status are applicable:

* * *

(3) a person who is absent for a continuous period of five years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead; his death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

I regret not having seen this section previously. It appears to accomplish Judge Keene's goal.

KEV:ljb

Enclosures