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STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

JAY S. HAMMOND, GOVERNOR

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March 27, 1981

The Honorable Donald E. Clocksin
Chairman, Health, Education and
Social Services Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Re: House Bill 345

Dear Representative Clocksin:

You have asked for the Department of Law's position on House Bill 345, an Act relating to compensation for victims of violent crimes. Basically, we are in agreement with the primary purpose of this legislation, to provide compensation for the victims of domestic violence who suffer substantial injury and out-of-pocket loss as a result of actions by persons with whom they are involved. However, the bill raises three significant problems.

First, consideration should be given to the increased potential for fraudulent claims which a close, ongoing relationship between individuals presents. This is not to say that victims of crimes committed by an individual who is related are not an appropriate class for receipt of violent crime compensation, rather the nature of the relationship is simply one where appropriate checks to preclude fraudulent claims will be very difficult to devise.

A second concern which is somewhat more serious from our perspective is the potential for impeachment of the credibility of victims at trial which could result from the proposed change in the eligibility standards. This concern arises out of the possibility mentioned above for an increased incidence of fraudulent claims. Any competent defense attorney is going to attempt to suggest that the prospect for monetary gain is a considerable incentive to fabricated testimony.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 345

Title "An Act relating to compensation for victims of violent crimes; & providing for an
Requested by effective date." Date March 13, 1981

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Social & Economic Assistance for the General Population

BRU, Program, or Subprogram(s) Affected Division of Adult & Aging Services - Adult Services BRU

(Note: If more than one budget component is affected, separate line-item amounts and heading for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

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IV. DATE

PREPARED BY _____
AGENCY _____
PHONE _____

Original Legislative Bureau
cc. Budget and Management
Public Service Unit (For Information)

POSITION PAPER
ON
HOUSE BILL NO. 345

"An Act relating to compensation for victims of violent crimes; and providing for an effective date."

The Department of Health and Social Services supports the concept of recognizing that domestic violence is a crime in this state under AS 11.41 and therefore compensation should be awarded, as with other crimes. However the reality does exist that according to conservative estimates, 60-75% of the victims return home to an assaulting situation, which can be repeated many times, with the victim being injured. If the present amendment were passed, because the victim has returned home, the assaulter could ultimately be the recipient of the compensation, which we believe would not be the sponsors' intent. The Department, therefore suggests that in the cases of 18.67.130 (b) (1) and (2) that the payments be made to the provider of the medical, legal, etc. services, not the victim, to prevent the assaulter from having access to such compensation.

The other possibility would be to provide shelter and support networks with sufficient funds for medical assistance, providing up to a specific amount, such as \$1,000. It would not be practical for the domestic violence programs to make individual receipts and offer an extended period of time which could require them to sort out and handle many individual cases to which many of the shelters are not staffed to handle. Also, the shelters would have the standard offering of termination provided for, and that is essential in payment within the between shelter programs. This report is prepared according to the shelter rate base program.

Approved by: *[Signature]*
Director, Division of
Domestic Violence
Dept. of Health and
Social Services

Date: *[Signature]*

Approved by: *[Signature]*
Director, Division of
Domestic Violence
Dept. of Health and
Social Services

Date: 3/27/81

the date of the personal injury or death, and the personal injury or death was the result of an incident or offense listed in § 100 of this chapter which had been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within five days of the time when a report could reasonably have been made.

(b) No compensation may be awarded if the victim

(1) is a relative of the offender;

(2) is at the time of the personal injury or death of the victim living with the offender as a member of his family or household, or maintaining a sexual relationship, whether illicit or not, with the person or with a member of his family;

(3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or

(4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to run the victim down.

(c) No compensation may be awarded under this chapter in an amount in excess of \$10,000 and all payments shall be made in a lump sum.

(d) Orders for payment of compensation under this chapter may be made only as to injuries or death resulting from incidents or offenses occurring on and after July 1, 1971. (§ 1 ch 203 SLA 1972)

Sec. 18.67.140. Recovery from offender. When an order for the payment of compensation for personal injury or death is made under this chapter, the board, upon payment of the amount of the order, is subrogated to the cause of action of the applicant against the person responsible for the injury or death and is entitled to bring an action against the person for the amount of the damages sustained by the applicant. If an amount greater than that paid under the order is recovered and collected in the action, the board shall pay the balance to the applicant. (§ 1 ch 203 SLA 1972)

Sec. 18.67.150. False claim. A person who knowingly makes a false claim under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$500, or by imprisonment for not more than one year, or by both, and shall forfeit any benefit received and shall repay the state for payment of compensation made under this chapter. (§ 1 ch 203 SLA 1972)

Sec. 18.67.160. Survival and abatement. The rights to compensation created under this chapter are personal and do not survive the death of a victim or dependent entitled to them, except that if the death occurs after an application for compensation has been filed with the Violent Crimes Compensation Board, the proceeding does not abate, but may be continued by the legal representative of the decedent's estate. (§ 1 ch 203 SLA 1972)

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Finally, it has been our frequent experience that victims in these types of cases often change their minds about prosecuting, and at times become completely uncooperative. Payment of compensation to victims who do eventually reconcile with the offender and who no longer cooperate in a prosecution would mean that the perpetrators could conceivably benefit monetarily from the commission of the crime.

For the above reasons, we are opposed to the bill in its present form. However, we do have a suggestion for an alternative approach to the dilemma found in present eligibility standards. Funding for compensation to these victims could be channeled through the statewide shelter system, as the individuals who operate this program are in continuous contact with these victims. Under eligibility standards established by them, appropriate funds could be provided to the victims for out-of-pocket expenses, living costs, medical treatment, and perhaps even for training. We feel that this type of approach matches the victim with qualified personnel who are better able to make the eligibility decisions.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: 

Patrick W. Conheady
Assistant Attorney General

PWC:sl

cc: Arthur H. Peterson
Assistant Attorney General

Nola Capp
Executive Director
Violent Crimes Compensation Board



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Public Safety	Sponsor (Principal) Clocksin, Brown & Malone	Bill Number HB 345
Department Position Oppose		
Division Director Nola Capp <i>Nola Capp</i>	Date 3/20/81	Commissioner William R. Nixon <i>WRN</i>
		Date 3-23-81

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) None	1. b) Other Agencies Affected by Bill None
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

This bill would repeal the sections in the act relating to compensation for violent crimes which now excludes victims who are related to the offender or living with the offender. This bill would open the program to battered wives or husbands. If they are made eligible for awards, the Board anticipates many cases where the battering parent/spouse forces the victim to file claims and then benefits from the award received. The caseload would double, necessitating an increase in budget, both to fund awards and to pay for larger staff. The Board would have to meet more frequently, putting an extra burden on the attorney and doctor on the Board.

4. Fiscal Impact None Fiscal Note Attached

5. Amendments Proposed

6. Comments

Rather than increasing the budget of the Violent Crimes Compensation Board, the goal of the bill would be more effectively accomplished by funneling the money directly to the rape/assault centers. The needs of these victims would be better served where refuge and counselling could be obtained.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 345
 Title "An Act relating to compensation for victims of violent crimes; & providing an
 Requested by Locksin, Brown & Malone Date 5/19/81 effective date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Violent Crimes Compensation Board
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	6.0	28.7	31.0	33.5	36.2	39.1
200 TRAVEL	.5	2.0	2.2	2.4	2.6	2.8
300 CONTRACTUAL	.2	1.0	1.1	1.2	1.3	1.4
400 COMMODITIES	.1	.5	.5	.6	.7	.8
500 EQUIPMENT	1.5					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	30.0	150.0	162.0	175.0	189.0	204.1
TOTAL	38.2	182.2	196.8	212.7	229.8	248.2

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	38.2	182.2	196.8	212.7	229.8	248.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	1	1	1	1	1	1
PART TIME						
TEMPORARY						

III ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

If the proposed legislation is enacted, it is anticipated that claims would double.

The current staff for the Violent Crimes Compensation Board consists of the program administrator and a clerical position. The anticipated increase in casework will necessitate the addition of an Administrative Assistant (Range 12), and associated costs, including equipment.

The estimated impact for FY 81 is based on an effective date of April 15, 1981. (The proposed legislation reads "takes effect immediately.") The FY 81 amount is prorated from estimated FY 82 costs. Beyond FY 83, an 8% inflation factor has been applied.

IV. DATE 03/23/81

PREPARED BY J. Marcia Lynn McKenzie, Budget Analyst
 AGENCY Department of Public Safety
 PHONE 465-4549

Original Legislative Finance
 cc Budget and Management
 Prime Sponsor (First Legislator Named)

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