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# Alaska Network on Domestic Violence and Sexual Assault

P.O. Box 3356, ANCHORAGE, ALASKA 99510

## POSITION PAPER: House Bill 578

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of seventeen domestic violence, sexual assault, and adult crisis intervention programs throughout the State. Network programs are funded in part through grants and contracts awarded by the recently established Council on Domestic Violence and Sexual Assault in the Department of Public Safety.

Network programs have extensive experience dealing with the issue of sexual assault. Often victims contact our crisis centers immediately after the assault, involving our program advocates in the entire reporting and judicial process.

Based on experience with the offense of sexual assault and concern for the safety of our clients and the entire community the Network offers the following remarks regarding House Bill 578.

The Alaska Network on Domestic Violence and Sexual Assault fully supports HB 578.

The problem of sexual assault and other violent crimes is rapidly approaching epidemic proportions. Legislators have the power that no single concerned citizen or organization has to say to an entire class of criminal offenders that violent crimes will result in certain punishment.

Article I Section II of the Alaska Constitution does not afford the right to post conviction bail. While the right to bail is mentioned in the constitutions of all fifty states, each state's conception of bail is not the same. The Alaska Supreme Court in State v. Wassillie, 606 P.2d 797 (1980) decided that, following conviction, the right to bail pending appeal is not constitutionally mandated under the Alaska Constitution.

Article I Section II of the Alaska Constitution affords the right to bail to those accused of a criminal offense. The Alaska Statutes (AS 12.30.020) codify this right to bail pending trial.

In determining whether to release the defendant pending trial, a judicial officer must consider whether release will reasonably assure the appearance of the defendant or if the defendant will pose a danger to others and the community (AS 12.30.020 (a)). The judicial officer uses the same criteria regarding release of the convicted defendant unless he/she feels none of the guidelines will assure appearance or prevent the person from posing a danger to the community (AS 12.30.040 (a)). Presently a person may not be released on bail if convicted of murder in the first degree, robbery in the first degree, kidnapping or sexual assault in the first degree (AS 12.30.040 (b)).

HB 578 does not interfere with the traditional right to bail before conviction. HB 578 merely extends the present statute to further deny post-conviction bail to those convicted of other violent crimes. Punishment and denial of bail after conviction is compatible with our legal system and does not deny due process.

Those convicted of violent crimes pose a significant threat to society and should not be released on bail pending sentencing of appeal. Members of the community, as well as convicted criminals have a constitutional right to life and liberty and should not have to sacrifice their lives or safety as a price of granting bail to an individual convicted of a violent crime. Society deserves more.

A Felonies & Unclassified Crimes  
Bolley  
Halley

Introduced: 5/15/81  
Referred: Judiciary

Co. B Problem?  
O sub copy of case

BY THE RULES COMMITTEE  
BY REQUEST (for the Task  
Force on Violent Crime)

1 IN THE HOUSE

2 HOUSE BILL NO. 578

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to release after conviction of a  
7 criminal offense."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 12.30.040(b) is repealed and reenacted to read:

10 (b) Notwithstanding the provisions of (a) of this section, a  
11 person convicted of any of the following offenses may not be released  
12 on bail either before sentencing or pending appeal:

- 13 (1) murder in the first degree (AS 11.41.100);
- 14 (2) murder in the second degree (AS 11.41.110);
- 15 (3) manslaughter (AS 11.41.120);
- 16 (4) criminally negligent homicide (AS 11.41.130);
- 17 (X) assault in the first degree (AS 11.41.200);
- 18 (6) assault in the second degree (AS 11.41.210);
- 19 (7) assault in the third degree (AS 11.41.220);
- 20 (8) kidnapping (AS 11.41.300);
- 21 (9) sexual assault in the first degree (AS 11.41.410);
- 22 (10) sexual assault in the second degree (AS 11.41.420);
- 23 (11) robbery in the first degree (AS 11.41.500);
- 24 (12) robbery in the second degree (AS 11.41.510);
- 25 (13) burglary in the first degree (AS 11.46.300);
- 26 (14) arson in the first degree (AS 11.46.400);
- 27 (15) escape in the first degree (AS 11.56.300);
- 28 (X) (16) riot (AS 11.61.100).

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Foster ~~Parents~~ <sup>Family</sup> Assn

HSS

SA 651 } Parent of Foster Care

Stipend \$10 day → \$14 day

> do

> Assn

Cit Review Bd

⇒ Foster Parents

REVISED

POSITION PAPER

HOUSE BILL NO. 578

"An Act relating to release after conviction of a criminal offense."

House Bill No. 578, by decreasing categories of those who may be released on bond after conviction, will have some impact on the Division of Adult Corrections in terms of numbers of prisoners being held. There is not, however, data available to tell how many of those in the affected categories are presently being released. Experience does indicate that few were so released, and that in the cases where such release did occur, it was for less than the entire period of eligibility. Therefore, it would seem that the impact will not be substantial.

Recommended by:

*Walter B Jones, Jr.*  
Walter B. Jones, Jr.  
Acting Director  
Division of Adult Corrections

Date:

1-25-82

Approved by:

*Helen D. Beirne*  
Helen D. Beirne  
Commissioner

Date:

1/26/82

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 578  
 Title An Act relating to release after conviction of a criminal offense.  
 Requested by Senator Bennett Date Date 5, 1981

II. FISCAL DETAIL

Agency Affected Division of Adult Corrections, Department of Health & Social Services  
 Program Category Affected Offender Confinement, Reformation and Supv.  
 BRU, Program, Or Subprogram(s) Affected Adult Confinement  
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		8.9	9.7	10.6	11.6	12.6
400 COMMODITIES		13.9	14.9	16.2	17.6	19.2
500 EQUIPMENT						
600 LAND & STRUCTURES		683.3				
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>705.8</b>	<b>24.6</b>	<b>26.8</b>	<b>29.2</b>	<b>31.8</b>

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		705.8	24.6	26.8	29.2	31.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		*	*	*	*	*
PART TIME						
TEMPORARY						

\* Security personnel will be required. See B. Z. a. below.

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

A. Assumptions

1. Very few persons convicted of unclassified, Class A or Class B felonies are now granted bail or make bail when granted.
2. There is only a relatively short period of time between conviction and sentencing.
3. Historical data has not been gathered regarding the number of persons released on bail after conviction for offenses specified, or how long such persons were out on bail before sentencing or pending appeal.

*Roger C. Lange*

IV. DATE January 26, 1982 PREPARED BY Roger C. Lange  
 AGENCY Division of Adult Corrections  
 PHONE 465-3376

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

4. It is assumed that approximately five additional person years per year of incarceration will result if this statute amendment is adopted.
5. Since the Alaskan correctional centers are currently operating at emergency capacity levels, five additional beds would be necessary in the Alaska correctional system.

B. Cost Estimate

1. Capital Expenditures

Core facility bed prices are used here rather than bed additions to existing or planned facilities because if HB 180 and HB 293 or SB 327 pass, in effect we have another institution and a core facility is needed to support the total number of beds. A core facility includes heating and electrical plants, kitchen, administration, recreation and program areas. The estimated cost per bed in the FY 1983 Capital Budget Request for a core facility is \$136,667. That figure is used here to compute construction costs. It is:

$$\begin{aligned} \text{Capital Expenditures} &= 5 \times \$136,667 \\ &= \underline{\underline{\$683,335}} \end{aligned}$$

2. Operating Costs

a. Personal Services

No personal services are requested. It is assumed the five beds would be added to the design of a new facility after all legislation requiring new beds was analyzed. Personnel requested for larger bed increases would probably cover the staff requirements for these beds.

b. Inmate related costs (FY 1982 level)

- |                                                     |        |
|-----------------------------------------------------|--------|
| 1.) Contractual (utilities, medical services, etc.) | 8,200  |
| 2.) Commodities (food, clothing, etc.)              | 12,500 |

3. A 9% inflation rate is assumed for subsequent fiscal years.

JUDGE JAY HODGES  
604 BARNETTE  
FAIRBANKS, ALASKA 99701

Presented by N. DAVIS PA

WE, THE BELOW SIGNED, ARE CONCERNED AT THE ALARMING RATE---  
FOR EVEN ONE WOULD BE UNJUST TO THE COMMUNITY-- THAT  
PRISONERS OF THE STATE ARE ALLOWED TO ROAM FREE IN BARROW  
WHILE AWAITING THEIR SENTENCING AFTER BEING FOUND GUILTY,  
BY JURY, OF A VIOLENT CRIME: i.e., SEXUAL ASSAULTS, FOUR  
CASES +.


NAME

ADDRESS/PHONE

Jay Heath Box 289 Barrow AK 99723  
Hiladis Lomborg - Parkison Bx 188 Barrow. AK 99723  
Marvel Brannell P.O. Box 69 - Barrow - 7146  
Jay Heath - Box 289 - Barrow - 99723  
Rhonda McSwain General Delivery Barrow, AK 99723  
Valerie Strait - Box 409 Barrow, AK 99723 (7152)  
Stephen Krajcir P.O. Box 687 Barrow, AK 99723  
Dore Thompson Bx 188 Barrow AK 99723  
Robert Fry Box 930 Barrow ak. 99723  
Dennis King General delivery Nugent 99723  
D.A. Thurman P.O. Box 894 Barrow, AK  
Alice P. Neakok P.O. Box 27 Barrow, Alaska  
Albert K. Overbay P.O. Box 794 Barrow, Alaska  
Gloria L. Overbay P.O. Box 794 Barrow, Alaska  
Jane P. Overbay Box 132, Barrow, Alaska  
Elise Pathotok P.O. Box 531 Barrow, AK

cc: ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT MEMBER  
ORGANIZATIONS

Judge Jay Hoopes  
Petition

NAME	ADDRESS/TELEPHONE
Luetta m Wilhelm	Box 287- Barrow, Alaska
Ararood Guaco	Box 724 Barrow, AK
Ruth K. Murphy	Box 21 Barrow, Ak. 99723
Diane Christopher	Box 595 Barrow AK 99723 852-5131
Annie E. Potholall	Box 688 Barrow, AK 99723
Marie K. Simmonds	Box 67 Barrow, ak 99723
Baluanagarnak	Box 848 Barrow, AK 99723
Kieko Bragan	Box 470 BARROW AK 99723
Jush Maher	Box 56 BARROW AK 99723
Linda Ulvestman	Box 675 Barrow, Ak. 99723
Linda Jensen	Box 968 BARROW AK. 99723
	PO 735 BARROW AK 99723
Robert Lavitt	Box 252 Barrow AK 99723
Marion Ellis	Box 736 Barrow, AK
Bill L. Jones	Box 795 BARROW, AK

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 604 BARNETTE  
 FAIRBANKS, ALASKA 99701

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 CASES +.

NAME	ADDRESS/PHONE
Gaye Harvey	PHS Hospital, Barrow, Ak. 852-4611 x264
Patricia Sage	Box 349 Barrow, Alaska 852-4611 x 215
Cheryl A Brown	Box 402 Barrow, AK. 852-7107 Home
Deborah Wallace	Box 646 Barrow AK NONE
Lesley Donovan	Box 674 Barrow
Ida K. Vindstrand	Box 214 Barrow, AK 852-2010 Home
Charlotta A. Rogers	Box 13 P.H.S. Barrow AK 852-4611-
Larry Kell	PHS HOSPITAL BARROW AK. (852-4611) 99723
John Sage	PHS Hospital - Barrow AK - 99723 852-4611
Ursula Aleman	Box 593 Barrow, ak. 852-6350
Elizabeth [unclear]	Box 775 Barrow AK 852-7210
CLAYTON SANDERS	Box H A. BARROW AK. 852-5600-852-3997
Christa Turner	PHS Hospital, Barrow, Ak 99723
Heidi Baker	Box 721 Barrow, Alaska 99723 852-2093
Margaret Santiago	Box 391 Barrow, ak 99723 852-2269
Janet [unclear]	Box 118 Barrow, Alaska 99723 852-3829
Charles C. [unclear]	Box 275 Barrow ak 99723 852 3350

cc: ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT MEMBER ORGANIZATIONS

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604 BARNETTE  
FAIRBANKS, ALASKA 99701

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NAME

ADDRESS/PHONE

Nancy E. Alsozeak  
Emma Aishanna  
J. Jay Corn  
Shaundra Brown  
Mary Ann Pitt  
Marilyn Hutton  
Ala. Curran  
Kathleen Smith  
Karela Tolst  
Howard J. Gunn  
Barbara Kanayurak  
Dora Selmon  
E. Johnson  
Shelby Adams  
Larry Alsozeak Jr  
Edna Spaloch

P.O. Box 791, Barrow 852-6654  
P.O. Box 722 Barrow 852-<sup>un</sup>listed  
P.O. Box 256, Barrow  
P.O. Box 163 Barrow 852-6644  
P.O. Box 203, Barrow 852-7790  
P.O. Box 845, Barrow 852-1007  
P.O. Box 1612 Barrow 852-7387  
Box 901 Barrow - no phone  
Box 117 Barrow - no phone  
Box 117 Barrow  
Box 283 Barrow  
Box 304, Barrow, AK  
Box 674, Barrow  
Box 176 Barrow, AK 99723  
Box 411 Barrow, AK 99723  
Box 333 Barrow, AK 99723

cc: ALASKA NETWORK ON DOMESTIC VIOLENCE & SEXUAL ASSAULT MEMBER  
ORGANIZATIONS

# Judge Jay Hodges Petition

NAME

ADDRESS/TELEPHONE

NAME	ADDRESS/TELEPHONE
D. Storch	BN 621 BW
M. Carlson	Box 335 BW
Virginia Crosby	BOX 101 BW, AK
OWIE	Box 87 BW AK
S. Okchuk	Box 728 Bw AK
D. Ahmaozale	Box 331 Bw. AK.
C. Jungard	Box 216 Barrow, Ak
B. Kaled	Box 378 Barrow, Ak
Johnny Adams	BOX 347 Barrow, Ak 99722 (unlisted)
Earl Finkler	Box 874 Barrow
Kent Grunige	Box 142 Barrow, AK.
Joe Murphy	P.H.S. HOSPITAL BARROW AK.
Jerry Boydell	BOX 567 Barrow, AK.
Jerry Wilhelm	BOX 287 BRW. AK.
Jackie Mack	BOX 642 BRW. AKS.
Jim Richards	Box 924 - BRW, AK - 99723 - 858-6162 - 0924
Laurie L. Owen	Box 936, BW AK. 99723-0936
Cora M. Attergord	Box 101 Bw, AK. 99723
Arden Nellson	Box 610 Barrow, Alaska
Made Jackson	P.O. Box 167, BW. AK. 99723
Emily Neungingya	P.O. Box 42, Barrow, Ak 99723
Ann Roberts	P.O. Box 662 Barrow, Ak. 99723
Laurie Rice	P.O. BX # 652 BARROW, AK
Queen Carlson	Box 573, Barrow AK
Kay Graham	Box 755 Barrow, AK.
Barbara Peterson	BN 286 Barrow, Ak

JUDGE JAY HODGES  
604 BARNETTE  
FAIRBANKS, ALASKA 99701

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CASES +.

<u>NAME</u>	<u>ADDRESS/PHONE</u>
Lorrie Bodfish	Bx 575, 852-4520
Hazel Okolite	Bx 146
Bruce Marsh	Box 837 / 852-8364
Annora Featherly	Box 577 none
Susan Dorak	Box 697 unlisted
Lena Baker	Box 721 852-2269
Ethel Aknaitoak Nungavaak	Box 382 852-none
Clifford E. Baker	Box 721 852-2269
Melinda Lord	Box 686 852-2399

cc: ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSULT MEMBER  
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NAME	ADDRESS/PHONE
<i>Irene Metcalf</i>	<i>Box 136 Barrow, ak. 99723 - 852-2386</i>
<i>Sarah Jacoby</i>	<i>Box 71 Barrow, ak 99723 - 852-3999</i>
<i>Dan Kruger M.D.</i>	<i>PHS HOSPITAL, BARROW 852-4611</i>
<i>Hannah Kelayatek</i>	<i>Box 914 Barrow ak 852-7685</i>
<i>Dr. Tom B. Birch</i>	<i>Box 71 Barrow AK 99723 852-5081</i>
<i>Wilbur F. Lewisay</i>	<i>on Barrow Health Ctr, Barrow. 852-6308</i>
<i>William Graybeal</i>	<i>Box 94 BARROW, AK 852-3164</i>
<i>Jennifer Williams</i>	<i>Box 937 Barrow, AK 852-2535</i>
<i>Lynn Smith</i>	<i>PHS Hosp. Barrow, AK 852-2535</i>
<i>Bonnie M. Lewisay</i>	<i>40 Barrow Health Center, Barrow, Ak. 852-6308</i>
<i>Erica O'Connor</i>	<i>Box 593 Barrow, Alaska 852-6350</i>
<i>Jannie K. Akpik</i>	<i>Box 668 Barrow, Alaska 852-5600 ext. 310</i>
<i>Jo-Anne Powell</i>	<i>P.O. Box 635. 852-5600 x. 530</i>
<i>Mabel Santiago</i>	<i>PO Box 263 Barrow 852-5600</i>
<i>Des Dalton</i>	<i>Box 925 Barrow 852-2383</i>
<i>Suanna Jaeger</i>	<i>Box 826 Barrow 852-3350</i>

cc: ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT MEMBER ORGANIZATIONS

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604 BARNETTE  
FAIRBANKS, ALASKA 99701

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CASES +.

NAME

ADDRESS/PHONE

Carl M. Hild  
Jack A. Hild  
Valerie Street

P.O. Box 245 Barrow 852-8364

P.O. Box 245 Barrow, Ak. 99722  
852-8364.

PO Box 409 Barrow. ~~852-8364~~

cc: ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT MEMBER  
ORGANIZATIONS

# CITY OF KOTZEBUE

P.O. BOX 46  
KOTZEBUE, ALASKA 99752

KOTZEBUE POLICE DEPARTMENT  
907-442-3351

September 2?, 1981

Representative Ramona L. Barnes, Chairman  
House Judiciary Committee  
P.O. Box 3382  
Anchorage, Alaska 99510

Dear Representative Barnes:

I regret I cannot attend personally but would like to present my written comments to the House Judiciary Committee.

☆

I would like to lend my support to all but one of the proposals. I would especially give my highest recommendation to the Governors Drug Bill, House Bill #180, It is badly needed.

My one reservation is in regard to House Bill # 572 on Domestic Violence.

Most often the Police Officer answering domestic dispute calls is acting as an arbitrator and/or mediator. Injecting the Officer further into the dispute by requiring the Officer to assist one party or the other will remove their "impartial" stature and make their job harder in the future as the Officer will be viewed as an adversary by the other party involved.

The Court must be presented the documents before, service and I feel the court is the proper place for assistance to be rendered the party seeking injunctive relief.

*Donald E. Buehler*  
DONALD E. BUEHLER  
Chief of Police

cc: AS Revisions file  
Sgt Jones  
Sgt Wallace

DEB/dew

"GATEWAY TO NORTHWEST ALASKA"

TO: The House Judiciary Committee

FROM: Suzanne Lombardi  
Client Service Coordinator  
Valley Womens Resource Center

*next page* →

RE: Testimony for House Bills on Sexual Assault and Violent Crime

The Valley Womens Resource Center has been serving victims of sexual assault and domestic violence in the Matanuska-Susitna Borough for the last year. I would like to thank the Judiciary Committee for this opportunity to express our opinions on the following bills:

HB 473 Regarding Sexual Assault

We are grateful to see that the Task Force has recognized the serious effects of these crimes and are pleased to see this legislation that will enforce stiffer penalties.

We would like to suggest that along with longer sentences that there be mandated treatment programs as well as funds appropriated for treatment not only within the prison system, but for outside as well.

We have found that assailants convicted of sexual assault are usually sentenced to time without parole, and therefore, upon release there is no treatment and no hold upon them. As a result the recidivism rate for this particular crime is extremely high.

HB 572 Domestic Violence/Emergency Injunctive Relief or TRO

We are pleased to see that the breakdown has been recognized between victims being informed of the TRO and the actual carrying through of this process.

At this time we are not sure that more legislation, or more paperwork will solve this gap. The problem in our area seems to be with the original bill. To our knowledge, some women have not been informed of either the Resource Center or the option of filing a TRO.

It is our opinion that more would be accomplished if the original HB 287 was more effectively enforced.

If the victims were made aware of the existence of the Center, and if possible, a call made at the scene of the incident to our advocates, the trained staff would be able to follow through with the action and accompany the person throughout the legal system. This would cut down on police time as well as put the victim in direct contact with the Resource Center for further support systems.

We would emphasize that our situation in the Valley may differ substantially from more inaccessible areas.

CONTINUED OVER →

I would also like to address the difficulty in the process of servicing the assailants. We would like to suggest that legislation be passed that makes it mandatory that all peace officers <sup>be</sup> required to serve process so the victims can be protected and not find out upon his appearance that in fact this has not occurred.

HB 573 Tampering with a witness - making this a Class C Felony

We support this bill as in crimes such as domestic violence and sexual assault the only witness is the victim. It is not uncommon to have an assailant threaten or actually assault the victim again in order to have them revoke their testimony.

HB 578 Release on bail after certain crimes

We support this bill as many times victims are reluctant to press charges for fear of retaliation in the time before sentencing or pending appeal. Experience attests to the fact that the victims are in extreme danger, and the crime committed again, before they appear for trial.

HB 576 Regards the videotaping or the exclusion of the public during testimony of young victims of sexual assault or abuse.

We firmly support this bill for the fact that young victims are often traumatized by public testimony.

We would like to suggest that this bill be amended to include all victims of sexual assault.

In addition to this we would ask that crimes of this nature be given first priority on the court calendar.

We have found that both public testimony as well as long, protracted trials traumatize not only the victim under 16, but all victims of sexual assault and/or abuse.

