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STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

POUCH H-05
JUNEAU, ALASKA 99811
PHONE: (907) 465-3170

Document No. 15-82

January 25, 1982

The Honorable Ramona Barnes
Chairperson, House Judiciary
Committee
Alaska State Legislature
House of Representatives
Pouch V
Juneau, Alaska 99811

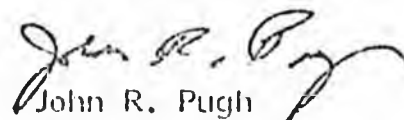
Dear Representative Barnes:

Enclosed is suggested language for amending the statute dealing with waiver of jurisdiction over juveniles which you requested at the January 22, 1982 hearing on House Bill No. 632.

These suggested amendments accomplish several things:

1. Provide for automatic waiver of juveniles over 16 years of age who have committed serious violent crimes (unclassified and Class A felonies).
2. Allow waiver of other juveniles by a finding of a preponderance of the evidence that they are: a) delinquent; and b) probably cannot be rehabilitated by age 19. (The change in age from 20 as in the present law eliminates a statutory inconsistency which bases the test of amenability to treatment upon age 20 but allows the court to order treatment only until age 19.)
3. Limit the discretion of the court by requiring that the court base a determination of amenability to treatment upon the seriousness of the alleged offense and the harm it caused, the past delinquent behavior of the accused juvenile, and the likely cause of the delinquent behavior, and available treatment. Present law only suggests that the court may consider some of those factors.

Sincerely,


John R. Pugh
Director

Enclosure

JRP:RW:kk

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL

For an Act entitled: "An Act relating to juvenile offenders."

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

*Section 1. AS 47.10.060(a) is amended to read:

(a) The court shall order a case closed and the minor may be prosecuted as if he were an adult if the court finds at a hearing on a petition

(1) that the minor was 16 years of age at the time of the offense and that there is probable cause to believe that the minor has committed an unclassified or class A felony; or

(2) that there is probable cause to believe that the minor is a delinquent and that the minor is not amenable to treatment under this chapter.

*Section 2. AS 47.10.070(d) is amended to read:

(d) A minor is unamenable to treatment under this chapter if he cannot be rehabilitated by treatment under this chapter before he reaches 19 years of age. In determining whether a minor is unamenable to treatment, the court shall consider

(1) the seriousness of the offense the minor is alleged to have committed;

(2) the circumstances of the offense and the extent to which the offense harmed the victim or endangered the public safety;

(3) the minor's history of delinquency;

(4) the probable cause of the minor's delinquent behaviour;

(5) the facilities available to the Division of Family and Youth Services for treating the minor.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

21 - CONFERENCE COMMITTEES:

- (1) Presiding officer appoints 3 members in each house to committee, house of origin can vote. If no agreement same committee tries again. In actual practice, bill is dead after first attempt.
- (2) Rule 41 - Presiding officer of each house appoints three members.
- (3) Limited to points of disagreement only. Must be on members' desks 24 hours prior to voting.
- (4) J.R. Sec. 15 One body can request, other body shall comply.
- (5) J.R. 28 - three members from each house, with one who voted in minority. Can appoint three committees, with all new members.
- (6) Only one conference committee is appointed, votes yes or no, any action including amendments are by majority vote.
- (8) "We have no conference committees . . . this has not caused any major problem."
- (9) Report only on the differences between the two houses. No substance foreign to the bills before the conferees shall be included in the report. Seven day time limit. New conferees appointed. Must be read two days before vote. Only amendments can be recommended.
- (10) S.R. 161 - grants broad powers of conference.
- (11) Open to public. Reports must be on legislators' desks 24 hours prior to voting. Chairman of primary committee of referral is conference committee chairman; minority make-up in proportion. On Budget, Chairman of Finance and chairman of standing committees are involved. Authority of conference committee is limited solely to differences between House and Senate versions. Can not insert any new or unrelated material.
- (12) The chairman of appropriate standing committees will be among conferees. Amendments of disagreement are discussed. In practice, conference committees are used very infrequently. It is instead decided informally under a new bill.
- (13) Conference committee on appropriations: 1) report must sit on members desks 1 days before voting; 2) only subjects directly relating to differences referred to conference committee can be considered. Equal number of members from each house appointed to conference committees. Majority must agree on report. Time deadlines for final passage.
- (14) Report must be approved by minority and majority attorneys before vote. Report must be on legislators' desks 24 hours before voting. Unanimous consent of all conference committee members required. All amendments must be on legislators' desks 1 hour prior to voting.
- (15) Composed of 5 members, 3 majority, 2 minority.
- (16) Maxium of two conference committees appointed. If cannot agree, bill is dead. Can only consider "germane" matters. Members must have copy of conference committee report prior to voting. All meetings open to the public.
- (17) S.R. 43, H.R. 43 - The Committee on Committees shall select members for conference committees. Three members from each house. Conference committee report shall limit itself to the matters in controversy. Second and subsequent conference committees may be appointed.
- (18) Appointees include: 1) Chairman of committee of referral; 2) Author of bill; 3) at large member. Changes must be explained to all members prior to floor vote.
- (19) J.R. 16 - appointed by President and Speaker, 3 members from each house. Committee has ten days to reach an agreement. Neither house has to accept.
- (20) Request for conference committee comes from house of origin. Three members to each committee, may be elected by ballot. S.R. 26, 59, 60, 61 H.R. 24, 59, 60, 61
- (21) Only matters of documented differences can be discussed. A second conference committee is permitted.
- (22) J.R. 8 - Bill fails after two conference committees refuse to agree. J.R. 7 - confined to matters of difference only. Conference committee may recommend amendments if agreement reached affects other parts of bill.
- (23) S.R. 56 - Sponsors, those in favor of bill and standing committee members given priority (whenever practical). A subcommittee of Rules appoints conferees. Committee is composed of 1 or 5 members - in practice, at least one minority member serves on each committee.
- (24) If conference committee is deadlined, conferees will report back to floor and new conference committee is appointed. Conference committee reports can be amended by concurrent resolution.
- (25) J.R. 23 - composed of 5 members from each house, majority of each will sign.
- (26) Open to the public. Report must be on legislators' desks 24 hours prior to voting - exception is the final legislative day.
- (27) There are no conference committees since Nebraska has a unicameral system.
- (28) Two conference committees are the maximum number allowed - they have power to rewrite the bill.
- (29) H.R. 41 - non-germane amendment not allowed - defined as any subject matter not contained in either House or Senate bill. S.R. 43 - 24 hours required before action can be taken. J.R. 8 - bill fails if no agreement. Majority/minority representation as equal as possible. Unanimous vote of conferees required.
- (30) Conference (Reference Committees) rules have a variety of provisions for different situations occurring with different bills. Amendments are used to add information to make bills identical.
- (31) J.R. 3-1 - three members from each house appointed by presiding officers to attempt to agree upon amendments in dispute. In practice, conferees include: chairman of major committees involved and member of minority. If no agreement, the conference committee reports back. If neither house then accepts conferees, bill is dead.
- (32) J.R. V, Sec. 1 - May be called by Speaker, President or by resolution. Members must include sponsor(s) of bill, committee chairman or designee, no limit to how many conference committees.

41 - CONFERENCE COMMITTEES (COMINT 10):

- (33) Only such matters as are in difference between the houses shall be considered and the conference report shall deal only with such matters. If conferees fail to agree, new conference committees can be appointed. Reports must be on members' desks 24 hours prior to vote soon floor.
- (34) J.R. 6 - composed of five members from each house. Open to the public. Must confine recommendations to the stated differences between versions.
- (35) Three members appointed from each house by presiding officer. In practice, conferees include: 1) sponsor of bill; 2) chairman of committee of referral; 3) minority member. Several succeeding conference committees may be appointed, if no agreement - although this is rarely needed.
- (36) Only matters of disagreement between the 2 houses or matters germane to the bill. Sponsor of bill requests conference committee or accepts other house's amendment. Report must be on legislators' desks prior to consideration. If no agreement after one conference committee, bill is dead.
- (37) Amendment within scope of two houses. Another conference committee can be appointed in lack of agreement.
- (38) H.R. 48, S.R. 81 - Both rules state the conference committee are confined to considering only the differences between versions.
- (40) J.R. 4 - House proposing an amendment which is opposed by other house requests committee of conference be appointed and names its conferees. If conference committee fails to agree on any plan of settlement or if report is not concurred in by both houses it is lost. Conference committee can not insert any new matter nor can they add or delete any matter agreed upon by both houses.
- (41) Any member can have modification or amendments divided and the question of concurrence taken separately. Appointed by presiding officers of each house with members being "representative of the decision... under consideration."
- (42) In Senate, report must be on legislators' desks 24 hours prior to voting, except for last 2 days of session.
- (43) Authorized by each house and appointed by presiding officers. If conferees should go outside scope of conference committee, houses must pass concurrent resolution on each amendment.
- (44) J.R. 26 - New conference committee may be appointed unless other house votes to refuse further conference.
- (45) If first conference committee does not agree, term conference committee is formed. Bill is dead after second conference committee without both houses' concurrence.
- (46) Conference committee confined to matters under controversy. Chairman of Committee of Referral selects conferees. Sponsor of bill is first choice. Two conference committees allowed - no powers of free conference, very specific. To pass, bill from conference committee must receive same recorded vote as required to pass bill.
- (47) J.R. 6 - Must refuse to agree requests conference committee with concurrence of other house. S.R. 2 - President appoints members from Senate.
- (48) J.R. 3 - five members on committee. Only report subject matter of the amendment. If committee can not agree bill is dead. All meetings open to public.
- (49) J.R. 3 - three members from each house. Second conference committee can be formed if first committee can not reach agreement.
- (50) J.R. 2-1, 2-2, 1-1

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 633

Title "An Act prohibiting personal recognizance release when the offense charged is

Requested by Anderson Date 1/11/82 a violent crime

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services

Program Category Affected Offender Confinement, Reformation & Supervision

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						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	-0-	-0-	-0-	-0-	-0-	-0-
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	-0-	-0-	-0-	-0-	-0-	-0-
FULL TIME						
PART TIME						
TEMPORARY						

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

It is relatively uncommon for anyone to be granted R.O.R. release from pre-trial incarceration having been charged with those offenses listed in this bill. Thus the infrequency of such occurrences plus the normally short length of pre-trial detention seems to imply that any impact from this statute upon Corrections' bed space needs will be quite small.

IV. DATE 1-21-82

PREPARED BY

Roger C. Lange
Roger Lange

AGENCY

Division of Adult Corrections

Original: Legislative Finance

PHONE

465-3376

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

Barry Stern → ^{bill to} Limit Class A, unclassified felony.

Introduced: 1/11/82
Referred: Judiciary

1 IN THE HOUSE

BY ANDERSON

2 HOUSE BILL NO. 633

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting personal recognizance release when
7 the offense charged is a violent crime."

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

9 * Section 1. AS 12.30.020(a) is amended to read:

10 (a) A person charged with an offense shall, at his first appear-
11 ance before a judicial officer, be ordered released pending trial on his
12 personal recognizance or upon the execution of an unsecured appearance
13 bond in an amount specified by the judicial officer unless prohibited
14 under (i) of this section or unless the officer determines that the
15 release of the person will not reasonably assure the appearance of the
16 person as required, or will pose a danger to other persons and the
17 community. If the offense with which a person is charged is a felony,
18 on motion of the prosecuting attorney, the judicial officer may allow
19 the prosecuting attorney up to 48 hours to demonstrate that release of
20 the person on his personal recognizance or upon the execution of an
21 unsecured appearance bond will not reasonably assure the appearance of
22 the person, or will pose a danger to other persons and the community.

23 * Sec. 2. AS 12.30.020 is amended by adding a new subsection to read:

24 (i) A person charged with any of the following offenses may not be
25 ordered released pending trial on his personal recognizance:

- 26 (1) murder in the first degree (AS 11.41.100);
- 27 (2) murder in the second degree (AS 11.41.110);
- 28 (3) manslaughter (AS 11.41.120);
- 29 (4) criminally negligent homicide (AS 11.41.130);

Discretionary
Connelly → Go further →
Heiniller → What type of bail?

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- (5) assault in the first degree (AS 11.41.200);
- (6) assault in the second degree (AS 11.41.210);
- (7) assault in the third degree (AS 11.41.220);
- (8) kidnapping (AS 11.41.300);
- * (9) sexual assault in the first degree (AS 11.41.410);
- * (10) sexual assault in the second degree (AS 11.41.420);
- (11) robbery in the first degree (AS 11.41.500);
- (12) robbery in the second degree (AS 11.41.510);
- (13) burglary in the first degree (AS 11.46.300);
- (14) arson in the first degree (AS 11.46.400);
- (15) escape in the first degree (AS 11.56.300);
- (16) riot (AS 11.61.100).

*Listed
Fairbairn*

*Should be left up for judgement → Connelly
(discretion)*



Alaska Judicial Council

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EDMOND W. BURKE
CHIEF JUSTICE
SUPREME COURT

January 15, 1982

Ms. Julia Coster
House Judiciary Committee
Pouch V
Juneau, AK 99811

Dear Julia:

This is in response to your request for statistical information concerning the relationship between the custodial status (own recognizance, bail, etc.) of felony offenders and income.

The data used in this analysis includes all felony offenses committed in Anchorage, Fairbanks and Juneau in 1980 that resulted in a conviction. Also, the custodial status variable relates to the time of sentencing. Finally, the analysis is limited to violent felony offenses, including those cases described by the Judicial Council in its "Preliminary Report of 1980 Felony Sentencing Patterns" as Class 1 and 2 offenses.

TABLE I
Custodial Status at Time of
Sentencing by Level of Monthly Income
(1980 Violent Felonies)

<u>Monthly Income</u>	<u>Custodial Status</u>			<u>Totals</u>
	<u>Own</u> <u>Recogn.</u>	<u>Bail</u>	<u>Jailed</u>	
Less Than \$500	15.8% (16)	28.7% (29)	55.5% (56)	100% n=101
\$500-\$1200	35.7% (5)	57.2% (8)	7.1% (1)	100% n=14
Over \$1200	17.9% (5)	42.9% (12)	39.2% (11)	100% n=28
Totals	(26)	(49)	(68)	N=143

The above distributions indicate that offenders with the lowest monthly income (under \$500) are most likely (55.5%) to have been jailed at the time of sentencing -- i.e., they did not make bail and were not released on their own recognizance. Conversely, offenders with a monthly income over \$500 (including the "\$500 - \$1200" and "Over \$1200" groups) were most likely to have been free on bail at the time of sentencing.

Overall, only 26 or 18% of all violent offenders were free on their own recognizance at the time of sentencing.

Table II, below, provides a distribution of custodial status by race.

Ms. Julia Coster
January 15, 1982
Page Three

TABLE II

Custodial Status at Time of
Sentencing by Defendant's Race
(1980 Violent Felonies)

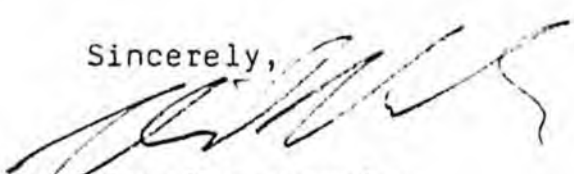
<u>Defendant's Race</u>	<u>Own Recogn.</u>	<u>Bail</u>	<u>Jailed</u>	<u>Totals</u>
Black	7.1% (1)	57.1% (8)	35.8% (5)	100% n=14
Native	17.0% (8)	31.9% (15)	51.1% (24)	100% n=47
Caucasian	27.2% (22)	30.9% (25)	41.9% (34)	100% n=81
Other Minority	23.1% (3)	30.8% (4)	46.1% (6)	100% n=13
Totals	(34)	(52)	(69)	

These distributions indicate that Caucasian offenders were most likely, and Black offenders least likely, to have been released on their own recognizance at the time of sentencing. Black offenders, however, were also most likely to have been released on bail at the time of sentencing. Finally, Native and minority offenders were proportionately more likely than Black and Caucasian offenders to have been jailed at the time of sentencing.

I hope these figures are of some help to you. I have also enclosed a copy of a letter I recently sent to Melissa Fouse, Senator Sturgulewski's aide, which includes further information on the topic of custodial status.

Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,



Nicholas Maroules
Executive Director

Enclosure



Alaska Judicial Council

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January 14, 1982

CHAIRMAN EX OFFICIO
EDMOND W. BURKE
CHIEF JUSTICE
SUPREME COURT

Melissa Fouse
Office of Senator Sturgulewski
Pouch V
Juneau, Alaska 99811

Dear Melissa:

This is to confirm the statistical information I provided you in our telephone conversation of January 14, regarding the number of serious felony offenders released on their own recognizance. As I explained to you on the phone, the Judicial Council's data includes information on custodial status -- i.e., own recognizance, bail, etc. -- at the time of sentencing. The data includes all offenses committed in 1980 that were originally charged as a felony that resulted in a conviction in Anchorage, Fairbanks, and Juneau.

<u>Offense</u>	<u>Number of Cases</u>	<u>Number cases on own recogn. at sentencing</u>	
		<u>N</u>	<u>% of all cases</u>
Murder 1	5	0	0%
Murder 2	3	0	0%
Kidnapping	1	0	0%
Manslaughter	3	0	0%
Assault 1	10	2	20%
Sex. Assault 1	10	2	0%

Melissa Fouse
January 14, 1982
Page Two

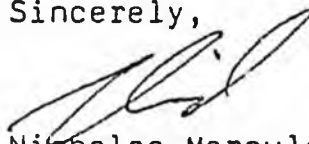
<u>Offense</u>	<u>Number of Cases</u>	<u>Number cases on own recogn. at sentencing</u>	
		<u>'N</u>	<u>% of all cases</u>
Robbery 1	13	0	0%
Assault 2	23	3	13%
Sex. Assault 2	1	0	0%
Robbery 2	8	1	12%
Negligent Homocide	1	1	100%

I have enclosed three recent Judicial Council reports that you may find helpful. They include, (1) Alaska Felony Sentences: 1976-1979, (2) "Preliminary Report on Fish and Game Offense Sentences", and (3) "Preliminary Report of 1980 Felony Sentencing Patterns"

I hope the information I have included, above, is helpful. Please do not hesitate to contact me if we can be of any further assistance.

I look forward to meeting with you in Juneau in the near future.

Sincerely,



Nicholas Maroules
Executive Director

Enclosures: as stated

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 633

Title "An Act prohibiting personal recognizance release...."

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected Administration of Justice

BRU, Program, Or Subprogram(s) Affected Alaska State Troopers

(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						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify source)						
POSITIONS	-0-	-0-	-0-	-0-	-0-	-0-

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						
	-0-	-0-	-0-	-0-	-0-	-0-

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

No fiscal impact is anticipated.

IV. DATE January 20, 1982 PREPARED BY Francis C. Allan, AST
 AGENCY Department of Public Safety
 PHONE 269-5691
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)