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COMMITTEE REPORT

SENATE

FURTHER:

Date: _____

Mr. President:

The Committee on _____ has had _____

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

March 10, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

SB 535 - "An Act relating to criminal laws of the state."

SB 635 - "An Act relating to liability of public officers and employees for an injury resulting from a determination relating to probation or parole."

SB 714 - "An Act relating to sexual assault."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 P.M. Committee members present were: Senators Rodey, Ray, Parr, and Anderson. Senator Bennett was absent.

001 - Call to order.

005 - Chairman Rodey brings SB 635 before the committee.

011 - Senator Ray gives overview of the bill.

079 - Kermit Humphries, Division of Corrections, testified, stating that the Department of Health and Social Services was neither for or against SB 635.

123 - Senator Ray moves to pass SB 635 from committee with a do pass recommendation. There was no objection and the bill was passed.

149 - Chairman Rodey next brought SB 714 before the committee.

158 - Barry Stern, Department of Law, gives an overview of the bill.

483 - Senator Anderson moves to adopt a zero fiscal note instead of the Department of Health and Social Services' fiscal note.

494 - Senator Parr objects.

497 - Mr. Humphries, Division of Corrections, testifies stating that the fiscal note would allow for funding required to supply additional space for the anticipated additional inmates.

643 - Chairman asked for a vote on the adoption of the zero fiscal note. Senator Parr voted no, Senators Ray, Rodey, and Anderson voted yes. The zero fiscal note was recommended by the Committee.

652 - Senator Ray moves to pass SB 714 from committee with individual recommendations. There was no objection and the bill was passed. Senator Rodey signed do pass, Senators Parr, Anderson, and Ray signed no recommendation.

660 - The last item on the agenda was SB 535.

667 - Mr. Bruce explains the latest committee substitute to the bill and asks for Committee direction on sections 7 and 8 of the committee substitute.

695 - Barry Stern, Department of Law suggests removing section 7 in order to reflect a zero fiscal note.

820 - Senator Anderson asked that the committee hold the bill over until Monday, March 15, so that he could review it further. There was no objection.

SIDE TWO

035 - Senator Rodey moves that Sec. 7 and Sec. 8 be deleted from the committee substitute.

040 - Senator Ray objects, then withdraws his objection. The amendment was adopted.

101 - Gordon Evans, Multivisions, testifies asking to include Sec. 5 of the original bill in the committee substitute to enable criminal charges to be exercised against sellers of pirate antennas for access to illegal visions.

120 - Chairman Rodey holds the bill over to allow time for staff to develop language for Gordon Evan's amendment, and to insure that persons owning satellite reception dishes would not be harmed.

406 - Chairman Rodey adjourned at 2:40 P.M.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for Senate Bill 635 (HESS)
Title "Liability of Public Offices & Employees...Relating to Probation & Parole"
Requested by RAY Date March 1, 1982

II. FISCAL DETAIL
Agency Affected Department of Health & Social Services
Program Category Affected Offender Confinement, Reformation & Supervision
BRU, Program, Or Subprogram(s) Affected Parole 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 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-

NO FISCAL IMPACT

FUNDING (Thousands of Dollars)

NO FISCAL IMPACT

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

POSITIONS

NO POSITIONS

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

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

NO FISCAL IMPACT

IV. DATE March 9, 1982 PREPARED BY Samuel H. Trivette *ST*
AGENCY H & S S Parole Board
Original: Legislative Finance PHONE 465-3384
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

STATE OF ALASKA

JAY S. HANROND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

January 28, 1982

Hon. Charles Parr, Chair
Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SB 635; Immunity of public
employees from liability for
parole/probation decisions

Dear Senator Parr:

At your request, we have reviewed SB 635, regarding immunity of public employees from liability for decisions regarding probation or parole. We understand that the bill is intended to protect persons who have responsibility for making parole and probation decisions from civil liability for injuries which may be inflicted by persons on parole or probation. We believe that the bill as drafted would probably be interpreted to achieve this result.

However, since the term "public employee" is not defined either in the bill or in the chapters of Title 33 which the bill amends, there is room for doubt whether the bill would protect members of the parole board or the commissioner of health and social services, who are not generally considered to be employees. Members of the parole board are considered as employees for the purposes of worker's compensation, AS 23.30.-242, but not for other purposes, including compensation or leave accrual. AS 39.20, 39.20.150. Commissioners are considered to be officers rather than employees of the state under AS 39.

This potential ambiguity may be removed by amending section 2 of the bill to include "A public officer or employee or member of the parole board . . ." Since section 1 of the bill amends AS 33.05, the Probation Administration Act, it need not refer to the parole board. It should, however, include "public officer" as well as "public employee."

As an alternative to perpetuating the distinctions between officers, employees, and members of boards and commis-

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Hon. Charles Parr
Chair, Senate HESS Committee

January 29, 1982
Page #2

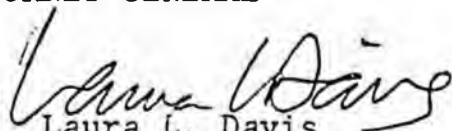
sions, you could amend the bill to provide as follows:

No person who has authority to make probation/
parole determinations may be held civilly lia-
ble for injuries resulting from an act or omis-
sion within the scope of that authority.

We hope that these comments are helpful.

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Laura L. Davis
Assistant Attorney General

LLD/pjg

cc: Hon. Bill Ray
Alaska State Senate