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COMMITTEE REPORT

SENATE

16782

FURTHER: ~~XXXXXX~~
~~XXXXXX~~
FINANCE

Date: March 10, 1963

Mr. President:

The Committee on INDUSTRY has had SB 774

relating to sexual assault

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:

John G. Anderson, H. R. ...

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. Senate Bill No. 714
 Title "An Act relating to sexual assault."
 Requested by Senate Judiciary Date March 1, 1982

II. FISCAL DETAIL
 Agency Affected 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				1.5	2.5	2.7
400 COMMODITIES				2.7	4.4	4.8
500 EQUIPMENT						
600 LAND & STRUCTURES		138.0				
700 GRANTS, CLAIMS, ETC.				.2	.3	.4
TOTAL	-0-	138.0	-0-	4.4	7.2	7.9

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	138.0	-0-	4.4	7.2	7.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS
 *It is assumed that staff would be available when these beds would be incorporated into a larger facility.

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

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

Sexual assault in the second degree is an uncommon offense, now occurring at the rate of three to five incidences per year. The persons convicted of this offense now serve an average sentence of 2 years.

If this offense is made a Class B felony, it is expected that the average sentence would be 2.5 years.

Therefore, there would be an increase in space requirements of 2 beds beginning in approximately 18 months.

Costs

- Capital costs for two beds at \$69,000 per bed equals \$138,000. It is anticipated that these beds would be incorporated into another capital project.

IV. DATE March 9, 1982 PREPARED BY Roger C. Lange by wk
 AGENCY Division of Adult Corrections

Original: Legislative Finance PHONE 465-3376
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

JCC

2. Incremental costs for food, clothing, medical, etc. would be experienced beginning in FY 1985, when the longer sentences would result in extended incarceration for the offenders.

JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which makes two changes to the statutes defining the crimes of sexual assault. In this period of soaring violent crime rates, particularly in the area of sexual assault, it is important that our statutes be as clear as possible in describing prohibited conduct and provide appropriate penalties that can be imposed upon conviction.

The first change, in AS 11.41.420(a)(1), clarifies that forcible sexual contact without the consent of a person constitutes the crime of sexual assault in the second degree, a class B felony punishable by a maximum sentence of 10 years. The term "without consent" is defined in AS 11.41.470(3) and is the same term used to define the crime of Sexual Assault in the First Degree prohibiting forcible sexual penetration. AS 11.- 41.410(a)(1).

The second change adds the crime of sexual assaults on victims who are physically incapacitated or who are suffering from a mental disorder or defect and are therefore incapable of giving effective consent to AS 11.41.420. Several cases of this nature have recently been brought to the attention of prosecuting attorneys where particularly aggravated instances of sexual assaults have occurred, and most law enforcement agencies feel that a stiffer penalty is more appropriate. Currently, this conduct is classified in AS 11.41.430 as a class C felony punishable by a maximum sentence of five years. This bill repeals AS 11.41.430 and raises this penalty by classifying the conduct as sexual assault in the second degree, a class B felony with a maximum sentence of 10 years.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Jay S. Hammond".

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____
Title An Act relating to sexual assault
Requested by Governor Hammond Date January 15, 1982

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
Program Category Affected Offender Confinement Reformation & Supervisor
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		1.3	1.4	1.5	1.7	1.8
400 COMMODITIES		2.5	2.7	3.0	3.2	3.5
500 EQUIPMENT						
600 LAND & STRUCTURES		136.7				
700 GRANTS, CLAIMS, ETC.		6	7	7	8	8
TOTAL		141.1	4.8	5.2	5.7	6.1

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		141.1	4.8	5.2	5.7	6.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

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

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

A. Assumptions. The best analysis of information available at this time indicates that:

1. An average of three persons will be convicted of sexual assault in the second degree for acts that had previously been classified as sexual assault in the third degree.
2. Approximately one-third of all felony offenders fall within the provision of presumptive sentencing.
3. Presumptive sentence length for these acts changing from third to second degree sexual assault would increase from the current two years of imprisonment to four years.
4. With good time earned, the average length of sentence served would increase one and one-half years. There would be an average of one individual per year with this increased time to serve.
5. Therefore, on the conservative side, there would be need for one additional bed in the Alaska correctional system if this bill is enacted. This additional bed would have to be planned into a future capital project. (continued)

IV. DATE January 29, 1982 PREPARED BY Roger C. Lange *Roger C. Lange*

Original: Legislative Finance AGENCY Division of Adult Corrections

cc: Budget and Management PHONE 465-3376

Prime Sponsor (First Legislator Named)

fcc

B. Fiscal Impact:

1. Capital Expenditures

There will be the need for one additional bed. Estimated costs per bed in the Division of Adult Corrections FY 1983 Capital Budget Request is \$136,700. Therefore, the capital needs are:

Capital Expenditures	=	1 x \$136,700
	=	\$136,700

2. Operating Costs - FY 1983

The only costs identified are the incremental expenditures attributable to an individual inmate. These include food, clothing, medical and gratuity payments.

Contractual (Medical)	\$1300.
Commodities (food, clothing)	2500.
Gratuities	600.

Other operational costs, including personal services, would have to be met in the budget for the new facility to which this bed would be added.

3. Inflation of 9% was used for subsequent fiscal years.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____
 Title Changes to statutes defining the crimes of sexual assault
 Requested by the Governor's Office Date 12/21/81

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Prosecution

(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		Ø	Ø	Ø	Ø	Ø

FUNDING (Thousands of Dollars)

GENERAL FUND		Ø	Ø	Ø	Ø	Ø
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		Ø	Ø	Ø	Ø	Ø
PART TIME						
TEMPORARY						

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

This Act clarifies existing statutes and adds the crime of sexual assaults on victims who are physically incapacitated or who are suffering from a mental disorder or defect and are therefor incapable of giving effective consent to AS 11.41.420. Since the effect of these changes will be to improve existing prosecution efforts, no additional or new costs will result from approval of the Act.

IV. DATE December 21, 1981 PREPARED BY Richard I. Pegues, Director, Admin. Services
 AGENCY Department of Law
 PHONE 465-3672
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)