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# MEMORANDUM

# State of Alaska

TO: Senator Victor Fisher

DATE: April 16, 1982

FILE NO:

TELEPHONE NO:

FROM:

*Dana Fabe*  
Dana Fabe  
Public Defender

SUBJECT: SSSB 685

Thank you for inviting me to comment on the sponsor substitute for Senate Bill No. 685, "An Act relating to unlawful conduct of minors." Our agency is appointed to represent juvenile offenders who cannot afford to retain an attorney. It is my personal opinion that the bill has a number of problems.

The statutory scheme for juvenile offenders now provides that where the court finds any juvenile offender to be untreatable, juvenile jurisdiction may be "waived" and the offender tried as an adult. SSSB 685 would change the law to automatically waive juvenile jurisdiction for all children 16 or over who have been charged with Class A or unclassified felonies. The bill further provides that if the child wishes to petition the court to retain juvenile jurisdiction over him, he may do so but the burden of proving amenability to treatment is his. I see the following problems with this approach:

1. Shift of focus from treatability of offender. The presumptive sentencing provisions of the adult criminal code focus the court's attention almost entirely on the circumstances of the offense rather than the offender. Such factors as the defendant's age, his family background, any drug or alcohol problems which he might have, and his attitude towards treatment and rehabilitation are ignored by the presumptive sentencing provisions of the adult criminal code. These factors are routinely focused upon in the juvenile justice system. It would appear that if there is any place in the system that the rehabilitation of the individual offenders should be emphasized it is in the juvenile justice system.

Many of our juvenile clients have been physically and psychologically abused by their parents. Many have drug and alcohol problems. Many are simply immature and unduly subject to peer pressure. These factors are not recognized as mitigating factors for sentencing under the adult criminal code. Yet, they may be the primary motivators for an offense such as robbing a liquor store in order to obtain alcohol. Thus, my first problem with this bill is that it would radically shift the focus from treating juveniles and preventing them from re-entering the system, to punishing them as adults without concern for the motivating factors behind the offense or amenability to treatment.

2. Increased jail sentences. The adult criminal code establishes severe sentences of presumptive or mandatory incarceration for many persons convicted of Class A or unclassified felonies. A 16 year old who robs a liquor store in order to obtain alcohol and has a firearm in his possession would receive a mandatory presumptive term of six (6) years without the possibility of parole under the adult criminal code.

The bill provides that that 16 year old would remain in a juvenile institution for a period before being transferred at the age of 19 to an adult penitentiary. This sentencing scheme would certainly alter the current treatment emphasis at a juvenile facility such as McLaughlin. Persons with lengthy periods of incarceration would be mixed with juvenile runaways and other kids who do not have serious problems.

Furthermore, a 19 year old youth who is transferred into an adult correctional facility and incarcerated with adult offenders may find himself abused physically and psychologically by the adult inmates. In my opinion, incarceration of youthful offenders who committed crimes as juveniles with adults would be counter-productive to the goals of rehabilitation and reducing recidivism.

3. Waiver hearings -- increased court time. Because this bill sets up a procedure by which any juvenile may challenge his being waived into adult court, the number of waiver hearings are going to increase drastically.

As the law presently stands, professionals from the juvenile intake division and Health and Social Services make a screening determination regarding whether a child is a serious enough offender to be waived into adult court. The primary focus is his amenability to treatment. Waiver hearings are held in the cases where those professionals feel that a juvenile is not amenable to treatment. The revised law will necessitate waiver hearings in virtually every case.

A defense attorney who represents a 16 year old charged with a serious felony will most certainly have to challenge the waiver into adult court in order to effectively represent his client and protect his client's exposure. If the presumptive waiver procedure were not challenged, and the child were later incarcerated for a lengthy period of time, post-conviction relief actions regarding the effectiveness of counsel would certainly result, taking up the time of the appellate courts. Waiver hearings would probably involve psychiatric testimony and testimony of family and friends of the juvenile. These hearings would

be time consuming, would occur in almost all cases, and would often result in appeals. This is not an obstructionist view of the system; it is a realistic one, since post-conviction relief challenges on the effectiveness of counsel would certainly result where no attempt was made to keep the child within the juvenile justice system.

The courts do waive juvenile offenders who are not amenable to treatment under the present law. For example, I represented a client charged with killing two taxi drivers who was waived into adult court in a summary fashion based on his prior contact with the juvenile justice system and the nature of the offense. See: J.R. v. State, 616 P.2d 865 (Alaska 1980). This is not an isolated case. See e.g. N.P.A. v. State, 604 P.2d 599 (Alaska 1980). If the legislature wishes to waive more juvenile offenders into the adult court system, changes should be made in the waiver standards; perhaps to make it easier to waive a 16 year old charged with Class A or unclassified felony into adult court.

Again, I appreciate your asking my opinion on this very important matter. If I can answer questions about the specific workings of our office, particularly in terms of juvenile offenders, please do not hesitate to call me.

## SUMMARY OF SSSB 685

There are three separate and distinct concerns addressed by this legislation; 1.) the prosecution of certain minors in adult criminal court, 2.) the disclosure of the final disposition of cases involving minors to victims and 3.) adjusting the maximum allowable recovery amount to victims of juveniles who destroy property.

\*Sec. 1. provides that juveniles convicted in adult court may be sentenced to juvenile facilities until age 19. Further provides that the juvenile may be transferred to an adult facility at age 19 if more than one year remains for the term of imprisonment.

\*Sec. 2. allows victims of juveniles to know the disposition of cases informally adjusted.

\*Sec. 3. repeals and reenacts the provisions relating to waiver of juvenile jurisdiction. Provides that minors 16 years or older shall be tried as adults for unclassified and Class A felonies in addition to the waiver standards in current law.

\*Sec. 4. provides method for juveniles waived under 47.10.060(a)(1) to petition the court to reopen the case as a juvenile proceeding.

\*Sec. 5. provides that victims may know the disposition of cases adjudicated under juvenile hearings.

\*Sec. 6. allows information discussed in Sections 2, 5, and 7 to be released.

\*Sec. 7. provides that victims may know the disposition of juvenile detention hearings.

\*Sec. 8. raises the recoverable amount from \$2000 to \$5000 in civil actions against parents of minors who destroy property.

\*Sec. 9. sets out exemptions for parents of emancipated minors or minors not under parental control from provisions of Section 8. Also allows for civil recovery from emancipated juveniles.

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

UNCLASSIFIED FELONIES

Murder in the First Degree

AS 11.41.100

20-99 years

Murder in the Second Degree

AS 11.41.110

5-99 years

Kidnapping

AS 11.41.300

5-99 years

CLASS A FELONIES

Attempted Murder or

Kidnapping

AS 11.31.100(d) (1)

Solicitation of Murder

or Kidnapping

AS 11.31.110(c) (1)

Manslaughter

AS 11.41.120

Assault I

AS 11.41.200

Sexual Assault I

AS 11.41.410

Robbery I

AS 11.41.500

Arson I

AS 11.46.400

Escape I

AS 11.56.300

Criminal Possession of  
Explosives with Intent  
to Commit Murder or  
Kidnapping

AS 11.61.240(b) (1)

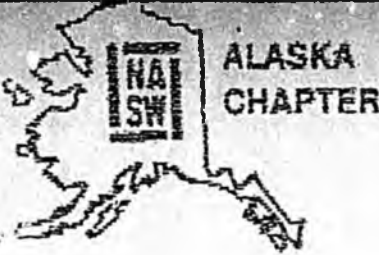
\* SECTION 8

<u>PERCENT CHANGE IN CONSUMER PRICE INDEX</u>					
	<u>Year</u>	<u>Dec. -</u>		<u>Year</u>	<u>Dec. -</u>
	<u>Average</u>	<u>to Dec.</u>		<u>Average</u>	<u>to Dec.</u>
1970	5.9%	5.5%	1976	5.8%	4.8%
1971	4.3%	3.4%	1977	6.5%	6.8%
1972	3.3%	3.4%	1978	7.7%	9.0%
1973	6.2%	8.8%	1979	11.3%	13.3%
1974	11.0%	12.2%	1980 est	13.4%	12.5%
1975	9.1%	7.0%	1981 est	10.0%	10.5%

The original limit (\$2000) was adopted in 1967. The cumulative rate of inflation since that time exceeds 100 %. In order, therefore, to reflect the value of 1967 dollars the limitation should be approximately doubled. The proposed amendment to \$5000 anticipates a continued decline in the value of dollars in the future.

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ORIGINAL.

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ORIGINAL.



NATIONAL  
ASSOCIATION OF  
SOCIAL WORKERS, INC.

P.O. BOX 10430  
FAIRBANKS, ALASKA 99701  
907-456-5914

April 13, 1982

Senator Vic Fischer  
Chairman- State Affairs Committee  
Juneau, Ak. 99811

Dear Senator Fischer:

The Alaska Chapter of the National Association of Social Workers believes the community is adequately protected by a juvenile court which is empowered to waive a hardened juvenile offender to adult court. Rather than placing all juveniles accused of Class A felonies over to adult court, the statute should be amended to provide clearer direction as to when such waivers should occur. The Alaska Chapter of NASW opposes SB 685 on the basis that a less cumbersome remedy to the problem of protecting the public from hardened juvenile offenders is in order.

We support that section of the bill which would disclose information concerning the disposition of the case to the victim of the juvenile crime committed. However, we oppose the release of the names of juvenile offenders to the victim on the basis that juvenile offenders should be provided with the maximum opportunity for rehabilitation and a chance to start over again.

If SB 685 in its present form is passed or similar legislation, we strongly recommend that juvenile offenders be sent to juvenile institutions rather than being incarcerated with adult offenders because of the potential for them to be sexually or physically abused.

We also recommend that Section 21A.00 be amended by adding for consideration by the judge the best interests of the minor.

Finally, we strongly oppose the piecemeal approach to changing juvenile laws and recommend the reconstruction of a juvenile law through the taking a comprehensive look at juvenile law and recommending changes to the legislative body.

Sincerely,

Marie Schindler, MEd.  
Executive Director

Alaska Chapter - National Association of Social Workers

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ORIGINAL.

LANGDON PSYCHIATRIC CORPORATION  
A PROFESSIONAL CORPORATION

PSYCHIATRY

ARON S. WOLF, M.D., F.A.P.A.  
JAMES McGUIRE, M.D.  
JERRY SCHRADER, M.D.

CLINICAL PSYCHOLOGY

JAMES HARPER, Ph.D.  
BRUCE N. SMITH, Ph.D.

PSYCHIATRIC SOCIAL WORK

NICKI J. NIELSEN, M.S.W., A.C.S.W.  
HELEN CRAIG, M.S.W., A.C.S.W.  
DONALD SPARROW, M.S.W., A.C.S.W.  
RANDALL JONES, M.A.  
ELIZABETH ROBINSON, M.S.W., A.C.S.W.

READING THERAPY

TROY SULLIVAN, Ed.D.

Anchorage Office  
4001 Dale Street  
Anchorage, Alaska 99504  
(907) 279-0461

Valley Office  
Wasilla Village Center  
Suite 202  
Wasilla, Alaska 99687  
MAILING ADDRESS:  
P. O. Box 540  
(907) 376-2447

April 13, 1982

Senator Vic Fischer  
Senate State Affairs  
Pouch V  
Juneau, AK 99811

Dear Senator Fischer:

We the undersigned urge you to oppose passage of Senate Bill 685 which addresses the issue of treating juveniles as adults in the criminal system.

In reality, juveniles can be waived into the adult system under the present statute at the discretion of the judge. Rather than instituting new statutes to solve the problem, it may be more worthwhile re-evaluating the way the present law is used. This is where the changes should occur.

Thank you for your consideration of this matter.

*Elizabeth Robinson*

Elizabeth Robinson, A.C.S.W.

*Jerry L. Schrader*

Jerry L. Schrader, M.D.

Sincerely,

*Aron S. Wolf*

Aron S. Wolf, M.D., F.A.P.A.

*Helen J. Craig*

Helen Craig, M.S.W., A.C.S.W.

*Bruce N. Smith*

Bruce N. Smith, Ph.D.

*Troy Sullivan*

Troy Sullivan, Ed.D.

*Nicki J. Nielsen*

Nicki J. Nielsen, M.S.W., A.C.S.W.

*Donald L. Sparrow*

Donald L. Sparrow, M.S.W., A.C.S.W.

*Randall Jones*

Randall Jones, M.A.

*James R. McGuire*

James R. McGuire, M.D.

*James F. Harper*

James F. Harper, Ph.D.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. \_\_\_\_\_ Senate Bill No. 685  
Title "An Act relating to unlawful conduct of minors."  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Department of Public Safety  
Program Category Affected Administration of Justice/Public Protection  
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)						
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

	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 February 3, 1982 PREPARED BY Francis C. Allan  
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)

April 13, 1982

Senate State Affairs Committee  
Senator Vic Fisher, Chairman,  
Pouch V  
Juneau, AK 99811

Cecilia Kleinkauf  
4201 McInnes  
Anchorage, AK

Dear Senator Fisher and Members of the Senate State  
Affairs Committee:

I am writing to express my concerns about Sponsor Substitute for SB 685 which is now before you. This legislation proposes changes in present state law relating to the court's jurisdiction over minors who are charged with certain crimes. At present, the statutes provide that any minor regardless of the crime he/she has committed, is dealt with by the juvenile court unless a hearing determines that the minor should be prosecuted as an adult. In that event, the court "waives" jurisdiction of the juvenile over to the adult courts. In my opinion, present statutes provide adequately for the protection of both the juvenile and society, and do not need to be changed.

Section 3 of Sponsor Substitute for SB 685 changes the present statute to provide an automatic waiver to adult court for juveniles accused of certain felonies without a hearing. Section 4 provides for hearing only upon petition by the juvenile within 10 days of the waiver. The hearing is not automatic and requires that a juvenile have legal counsel in order to assure he/she can take advantage of this provision. I have great concern that the juvenile's right to an attorney under juvenile statutes will expire under the present version of the bill, and also that a public defender might not yet be appointed, leaving the juvenile without legal representation during the short, 10-day period during which he/she can petition for a hearing.

Should the juvenile secure a hearing under Section 4, the considerations of the court do not include a requirement to consider the best interests of a minor -- an amendment I believe should be made to Section 4.

Sections 5 and 6 of the Bill provide for information to the victim of the crime, which should not include release of the name of the juvenile, in my opinion. Section 6 appears to repeal that protection and I oppose it.

page 2

If, in the legislature's wisdom, it believes this legislation is needed, then at all costs I urge you to see to it that juveniles are not confined in adult prisons -- where research has confirmed they become immediate victims of homosexual rape. Sponsor Substitute for SB 685 does provide in Section 1 that a juvenile waived to adult court shall be confined in a juvenile facility until reaching the age of majority. If you approve this Bill, please retain that section and make it mandatory for the court, not discretionary.

If the legislature believes that present children's statutes need to be amended, then I suggest a more thoughtful and comprehensive approach. In 1975 and 1976 when reform of children's law was deemed necessary, the legislature established the Children's Code Task Force to review those statutes, study other State's laws and recommend coordinated and comprehensive revisions. I had the privilege to be a member of that Task Force and believe it to be a rational and progressive method of statute review which has obvious advantages over a piecemeal approach. I urge you to consider establishing a similar commission or task force to recommend needed statute changes to the legislature. The issues addressed in Sponsor Substitute for SB 685, together with other issues legislators believe need attention, could be assigned to such a task force with requirements for a report to the First Session of the 13th Alaska Legislature.

In closing, may I reiterate that the very small number of juveniles represented by this legislation and the adequacy of present statutes for dealing with these cases in my opinion make this legislation unnecessary.

Sincerely,

*Cecilia Kleinkauf*  
Cecilia Kleinkauf, MSW, ACSW  
Associate Professor  
Chair, Social Work Department  
University of Alaska

CK:jf

cc: Senator Rodey

**NASA POSITION PAPER**

Anchorage Unit of the Alaska Chapter of the National Association of Social Workers was actively involved in the 1975-76 Children's Code Task Force and continues its strong interest in the area of children and the law.

The Anchorage Unit of NASA wants to repeat the Chapter's position on the prosecution of juveniles, which is that the community can be adequately protected and juvenile crime addressed by a juvenile court which is empowered to waive a hardened juvenile offender to adult court and when the juvenile court has clear direction from the statutes when such waivers should occur.

Sponsor Substitute for SB 585 addresses the concerns that juveniles not be held in adult court for every offense; however, the Anchorage Unit believes that the proposed legislation indulges in "overkill." Very few children would be affected by SSSB 585. The justice system should be asked to provide accurate statistics, but it is our sense that the numbers of children involved are very low. With so few children involved, we feel that the present statute should adequately allow the court system to address the few cases that this bill seems concerned with.

Additionally, the philosophy of the juvenile court has been to allow for some deviance and experimentation on the part of young people before they assume adult responsibilities. While there may be some justification for propelling a very few juveniles into adult status, we believe that this should be done only after careful, individual attention is given to such a case. An automatic waiver is not in the best interests of the community.

Finally, we suggest that the time has come for a reactivation of a Children's Code Task Force by the Legislature, in order to effect a comprehensive, systematic examination and possible revision of laws affecting children in this state.

*L. Wesley for Elizabeth M. Robinson*

Elizabeth M. Robinson, ACSW  
Co-Chair, Anchorage Unit  
South Central Representative, State Board  
National Association of Social Workers

2061 Cliffside Drive  
Anchorage, AK 99501  
907-279-8873

MSG 82-00020776 PRTY 1 04/13/82 17:44:04 ORIG: LA01 IN= 0006 OUT= 01  
FROM: CINDY, ANCH TO: JNU INFO  
TARGET: LJH2 SUBJ: POM PAGE 00

TO: SENATOR FISCHER

FROM: LIANNE WESLEY, P.O. BOX 1251, ANCH. 99510 349-1478 HM

URGE THAT YOU REJECT SSSB 685. THE PRESENT STATUTE IS ADEQUATE TO DEAL WITH MINORS WHO SHOULD BE BOUND OVER TO ADULT COURT. SENDING JUVENILES TO ADULT JAILS DOES NOT PROTECT THE COMMUNITY OR THE JUVENILES. URGE YOU RECALL A JUVENILE JUSTICE TASK FORCE.

MSG 82-00020799 PRTY 1 04/13/82 18:05:34 ORIG: LA02 IN= 0017 OUT= 0136  
FROM: CHERYL/ANCH TO: JNU INFO  
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: SENATORS FISCHER, COLLETTA, BRADLEY, ELIASON, STIMSON

FROM: FRED BECKER  
3601 E 15TH  
ANCHORAGE AK 99504 272-9957

*Fingerprint*

I SUPPORT SB 688 AND VERY SINCERELY HOPE THAT YOU DISTINGUISHED GENTLEMEN DO SO ALSO.

FROM: RONALD IRVINE, 926 W. 26TH APT 202, ANCH. 99503 279-4422 EX 210

I FULLY SUPPORT HB 344 AND WISH YOU LUCK ON GETTING IT PASSED.

FROM: BARBARA MC CULLOUGH, 30-330 A CHERRY DR., ELMENDORF A.F.B. 99506  
279-4422 EX 210

I FULLY SUPPORT HB 344. I AM A VICTIM OF RAPE AND EVEN THOUGH I WAS ABLE TO IDENTIFY THE ASSAILANT, HE WAS NOT APPREHENDED DUE TO A LACK OF INTEREST FROM THE STATE POLICE.

FROM: HELEN ORMSBY, 2921 MEADOWCREEK DR., EAGLE RIVER, 99577 694-2823

SSSB 685

THE PRESENT STATUTES REGARDING JUVENILE OFFENDERS ARE ADEQUATE. JUVENIL CAN ABE WAIVED TO CRIMINAL COURT BY THE JUDGE AFTER A HEARING. PLEASE DO NOT AUTOMATICALLY TURN CHILDREN OVER TO THE ADULT COURT WITHOUT A HEARING. I URG YOU TO VOTE AGAINST THIS BILL.

*N file*

MSG 82-00019442 PRTY 1 04/06/82 17:34:31 ORIG: LA01 IN= 0006 OUT= 0110  
FROM: CINDY, ANCH TO: JNU INFO  
TARGET: 1JH2 SUBJ: POM PAGE 000

TO: SENATORS FISCHER, COLLETTA, ELIASON, BRADLEY, RODEY, STIMSON, BENNETT  
PARR, AND RAY  
FROM: ROBERT SYTHE, SRA BOX 37, ANCH. 99507 344-1735 HM

PLEASE DO NOT SUPPORT SB 685. THE IMPACT OF PROSCUTING ALL JUVENILE  
OFFENDERS, AGE 16 AND OLDER, IN THE ADULT CRIMINAL JUSTICE SYSTEM HAS NOT  
BEEN ADQUATELY EXPLORED.

MSG 82-00015389 PRY 1 03/19/82 15:17:59 ORIG: LA02 IN= 0002 OUT= 0077  
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO  
TARGET: LJH2 SUBJ: POM PAGE 0003

TO: SENATORS FISCHER AND RODEY  
FROM: MIRIAM NERZ  
1340 E. 12TH  
ANCHORAGE 99501 (H) 279-6287

I DO NOT SUPPORT SB 685. PLEASE STRENGTHEN CURRENT WAIVER SYSTEM FOR TRYING JUVENILES.

MSG 82-00020905 PRTY 1 04/14/82 11 13:17 ORIG: LF00 IN= 0004 OUT= 0049  
FROM: DEBBIE/FRX TO: JUNO INFO  
TARGET: LJH2 SUBJ: FOMS

PAGE 0007

TO: SEN. FISCHER

FR: TIM BUTLER, REGIONAL CENTER FOR ALCOHOL AND OTHER ADDICTIONS  
333 DUNBAR APT. A, FAIRBANKS, AK 99701 H. 456-2088 W. 452-6411

RE: SB 685

MS. PLEASE NOTE MY OPPOSITION TO PASSAGE OF THIS BILL.

FR: FLOY ANN MAC PHEE, SR BOX 40591, FAIRBANKS, AK 99701 H. 452-3968 W. 452-18

MS. I OPPOSE SB 685

EO1

MSG 82-00020905 PRTY 1 04/14/82 11:13:17 ORIG: LF00 IN= 0004 OUT= 0048  
FROM: DEBBIE/FBX TO: JUNO INFO  
TARGET: LJH2 SUBJ: FOMS  
PAGE 0006

TO: SEN. FISCHER, COLLETTA, BRADLEY, ELIASON, STIMSON

FR: JERRY W. CALDWELL, 4371-R 9TH STREET, FT. WAINWRIGHT, AK 99703  
356-1061 W. 353-1212

RE: SB 685

MS: I WISH TO OPPOSE THE PASSAGE OF SB 685 BECAUSE IT WOULD TAKE AWAY THE  
LEEWAY OF AN INFORMED JUDGE TO DECIDE WHETHER A PARTICULAR JUVENILE SHOULD BE  
REMANDED TO ADULT COURT. THE LAW AS IT STANDS SEEMS TO ALREADY ALLOW FOR  
SELECTIONS WAITING FOR JUVENILE PROSECUTION.

-----EOM

MSG 82-00015016 PRTY 1 03/18/82 14:00:34 ORIG: LA00 IN= 0007 CUT= 0093  
FROM: EFFIE TO: JNU INFO  
TARGET: LJM2 SUBJ: P.O.M. PAGE 0002

TO: SENATORS BENNETT, BRADLEY, COLLETTA, ELIASON, FISCHER  
BARR, RAY, RODEY, STIMSON

FR: PAMELA MONTGOMERY, SRA BOX 37, ANCHORAGE 99507 344-1735

DO NOT SUPPORT ~~SB 495~~ THE IMPACT OF PROSECUTING ALL OLDER TEENAGERS  
IN THE ADULT JUDICIAL SYSTEM HAS NOT BEEN ADEQUATELY EXPLORED.

MSG 02-00015053 PRTY 1 03/18/82 15:13:37 ORIG: LA00 IN= 0011 OUT= 0110  
FROM: CAROL, ANCH. TO: JUNEAU INFO  
TARGET: LJH2 SUBJ: POM  
PAGE 0007

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TO: SEN. VIC FISCHER

FROM: MICHAEL DONAHUE  
938 W. 23RD AVENUE  
ANCHORAGE 99503 (H) 276-2259 (W) 277-0533

RE: SB 485

PLEASE, WE DO NOT WANT ACROSS THE BOARD TREATMENT OF JUVENILES AS  
ADULTS UNDER SB 485. THE CURRENT WAIVER SYSTEM IS A GOOD SYSTEM -  
18 YEAR OLDS SHOULD BE INDIVIDUALLY SCREENED FOR AMENABILITY FOR  
TREATMENT. NOT ACCEPTABLE IS TREATMENT OF ALL AS ADULTS.

MSG 52-00015053 PRTY 1 03/18/82 15:13:37 ORIG: LA00 IN= 0011 OUT= 0110  
FROM: CAROL, ANCH. TO: JUNEAU INFO  
TARGET: LHM2 SUBJ: POM PAGE 0002

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TO: SENATORS FISCHER AND RODEY

FROM: CAROL HOGGINS WOLFE  
PO BOX 1535  
PALMER 99645 (H) 688-3882 (W) 279-0551

RE: SB 485

I DO NOT SUPPORT SB 485. PLEASE UTILIZE CURRENT WAIVER SYSTEM.

POSITION PAPER  
SPONSOR SUBSTITUTE FOR SENATE BILL NO. 685

"An Act relating to unlawful conduct of minors."

Sponsor Substitute for Senate Bill No. 685 would add additional provisions to AS 12.55, AS 47.10, and AS 34.50. The amendments can be organized into the following topic areas. Section 3 of the act amends AS 47.10 to require the court to order a children's proceeding closed and jurisdiction over a minor waived if the court finds that there is probable cause for believing that the minor is 16 years of age or older and delinquent because he committed an unclassified or Class A felony. Section 4 further amends AS 47.10 to allow a minor, if a case is closed, to petition the court within 10 days to reopen the case and to require the court to grant the petition if it finds by a preponderance of the evidence that the interests of justice would be best served if the minor is not prosecuted as an adult. Section 1 of Sponsor Substitute for Senate Bill No. 685 amends AS 12.55 to require the court to order a minor defendant waiver under AS 47.10.060 to be confined in an institution designated by the Department of Health and Social Services for offenders under age 18 years of age and to be transferred to an adult correctional facility when the defendant reaches 19 years of age if more than one year remains of the offender's term of imprisonment. Sections 2, 5, 6, and 7 of Sponsor Substitute for Senate Bill No. 685 would require that the court disclose to the victim of a minor the manner in which the court informally or formally disposed of a matter concerning the minor and the results of any hearing held to determine the need to detain the minor. In addition, the parents, guardians, and other immediate members of the victim's family would be entitled to receive the same information from the court. Finally, Section 8 of Senate Bill No. 685 would amend AS 34.50 by raising from \$2,000 to \$5,000 the amount of damages which may be recovered in a civil action from the parents or legal guardian of a minor who destroys real or personal property. In addition, Section 8 of the Bill provides for civil action to be brought against an emancipated minor to recover damages caused by the minor and relieving the parents or legal guardian of the minor from legal responsibility for those damages.

The affect of Section 3 [AS 47.10.060(a)] contained in Sponsor Substitute for Senate Bill No. 685 would be an increase in the number of juveniles subject to prosecution under the adult criminal statutes and an increased liability of juveniles so convicted to sanctions which are more severe, both in nature and duration, than those to which they would have been liable under the juvenile code. Thus, the focus in dealing with older juveniles accused of serious violent crimes would be primarily upon increasing the accountability of the offender for his actions. The Department supports this change in focus, as under present law, the accountability of older, violent juvenile offenders is insufficient and the ability of the Department to provide rehabilitation of an adequate duration is too severely restricted. In addition, the Department supports Section 4 [AS 47 10.060 (f)] which allows some flexibility for unusual cases by providing the youthful offender a period of 10 days to request a "transfer back" of the case from the adult court to the juvenile court.

Section 1 (AS 12.55.015) of Sponsor Substitute for Senate Bill No. 685 which requires the court to order waived juveniles to serve their terms of imprisonment in juvenile correctional facilities until the offender reaches the age of 19 is generally supported by the Department. However, the Department would recommend that (d)(2), Line 16 of this section be amended to change the age from 19 to 18.

This change would make the age in this section consistent with the age of majority. An analysis of the most recent available arrest data indicates that an estimated 28 juvenile offenders would have been subjected to prosecution as adults during CY 1981 as a result of the waiver of jurisdiction provisions in Sponsor Substitute for Senate Bill No. 685. If Section 1, Line 16, is not amended to reduce the age from 19 to 18, this Bill will result in a substantial fiscal impact to the juvenile corrections system. It is estimated by analyzing adult sentencing data, as well as data on length of time served, that the Division will need to add 10 new beds to the McLaughlin Youth Center's Closed Treatment Unit to house 18 and 19 year old sentenced offenders.

Sections 2, 5, 6, and 7 of Sponsor Substitute for Senate Bill No. 685 would amend AS 47.10 to mandate the disclosure of information about informal or formal children's proceedings concerning minors to the victims of offenses committed by those minors. This would alter present law which prohibits any such disclosure without specific order of the court. This provision would infuse clarity and uniformity into the matter of disclosure of information to victims which is presently treated variously by courts in the four judicial districts depending upon the differing circumstances of each specific case. The Department is supportive of the concept of informing the victim of an offense of the outcome, either formal or informal, of court proceedings concerning delinquent minors. The Department believes that the provisions contained in Sponsor Substitute for Senate Bill No. 685 would accomplish this purpose satisfactorily.

Sections 8 and 9 of Sponsor Substitute for Senate Bill No. 685 which increases the civil monetary liability of parents for property damage caused by their minor children and which render an emancipated minor civilly liable for his actions are supported by the Department as a means of insuring that innocent victims do not suffer a loss when payment of restitution by a minor is not feasible or forthcoming.

In summary, the Department supports Sections 2 through 9 of Sponsor Substitute for Senate Bill No. 685. In addition, the Department supports Section 1 of Sponsor Substitute for Senate Bill No. 685, but recommends amending (d)(2), Line 16, by changing the age from 19 to 18.

RECOMMENDED BY: John R. Pugh  
John R. Pugh, Director  
Division of Family and  
Youth Services

DATE: 4/15/82

APPROVED BY: Helen D. Beirne  
Helen D. Beirne  
Commissioner

DATE: 4-20-82

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Sponsor Substitute for Senate Bill No. 685  
Title "An Act relating to unlawful conduct of minors."  
Requested by Senate Judiciary Date April 12, 1982

II. FISCAL DETAIL

Agency Affected Health and Social Services  
Program Category Affected Offender Confinement, Reformation, & Supervision  
BRU, Program, Or Subprogram(s) Affected Adult Confinement; Youth Services  
(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			352.2	666.4	713.0	762.9
200 TRAVEL			4.0	10.4	11.3	12.4
300 CONTRACTUAL			45.9	121.1	132.0	143.9
400 COMMODITIES			30.1	97.0	105.7	115.2
500 EQUIPMENT			3.2	5.6	-	-
600 LAND & STRUCTURES		2,818.0				
700 GRANTS, CLAIMS, ETC.			38.6	68.5	74.7	81.4
TOTAL	- 0 -	2,818.0	474.6	969.0	1,036.7	1,115.8

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	- 0 -	2,818.0	474.0	969.0	1,036.7	1,115.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	- 0 -	- 0 -	8	15	15	15
PART TIME						
TEMPORARY						

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

A. Enactment of Sponsor Substitute for Senate Bill No. 685 will have a fiscal impact on both Youth Services within the Division of Family and Youth Services and Adult Confinement within the Division of Adult Corrections. Since the new language would treat individuals sixteen years and older as adults for unclassified and class A felonies, the time served by convicted sixteen and seventeen year-olds would increase substantially.

It is the estimate of the Department of Health and Social Services that ultimately an additional 42 beds will be needed to care for this group of individuals in a secure setting. Detail of this estimate follows.

*Roger C. Lange*

IV. DATE April 15, 1982 PREPARED BY Roger C. 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)

JCC

B. Youth Services Impact

Enactment of this bill would require the construction of a 10-bed brick and steel addition to the McLaughlin Youth Center. Construction should be completed for opening in FY 1984. The unit would be separated from other units of the detention center so that the older inmates could be separate from the younger, less sophisticated offenders.

Eight additional staff would be required to supervise this unit:  
2 Youth Counselors III and 6 Youth Counselors II.

Costs

- 1) Capital Expenditure - FY 1983  
10 beds @ approximately \$130,000 per bed.  
10 x \$130,000 = \$1,300,000
- 2) Operating Expenditures - Begin FY 1984

Personal Services	\$ 352,200
Travel	4,000
Contractual Services	45,900
Commodities	30,100
Equipment	3,200
Benefits to Individuals	<u>38,600</u>
Total	\$ 474,000

C. Adult Confinement

It is assumed that no appreciable bed impact will be experienced by the Division of Adult Corrections until FY 1985. This is based on the assumption that the average age of offenders affected by this legislation will be 17 years, and will serve one year in a juvenile facility prior to transfer to an adult facility. This fiscal note identifies a need for 22 additional beds, although the legislation will result in 10 additional beds being needed at the rate of 1 bed per year after FY 1987. This is a result of the average period of confinement of 15 years for persons convicted of unclassified felonies.

Based upon arrest data indicating 28 persons 16 and 17 years of age being arrested annually for crimes in the unclassified and Class A felony categories, and using conviction rates and average sentence lengths for adult offenders, the following is predicted:

1) Unclassified Felony

One conviction per year with an average sentence of 15 years to serve (20 years less good time) will require 13 additional beds. It is noted that only 3 of these beds will be required during the period covered by this fiscal note and that is the number requested. The additional 10 beds will have to be considered for capital projects planned for completion after FY 1987, if this proposed legislation is enacted.

2) Class A Felony with Gun

Five convictions per year with one waived to juvenile status and one sentenced so as to serve all time in a juvenile facility. Therefore, it is estimated there will be three individuals who will serve a period of 2.5 years each in an adult facility.

$$3 \times 2.5 = 7.5 \text{ person years or beds}$$

3) Class A Felony without Gun

Eight convictions per year with one waived to juvenile status and two sentenced so as to serve all time in a juvenile facility. Therefore, 5 individuals will serve an average of 2.4 years in an adult facility.

$$5 \times 2.4 = 12 \text{ person years or beds}$$

4) Total beds required through FY 1987 is 22.

5) Cost Estimates

a) Capital expenditures:

22 beds at \$69,000 per bed  
 $22 \times \$69,000 = \$1,518,000$

b) Operating expenditures:

It is estimated that 7 positions will be required to provide security and support for these 22 beds: 1 Correctional Officer III, 5 Correctional Officers II, and 1 Institutional Counselor. Costs for these positions will not occur until FY 1985, the anticipated opening date for the new beds.

FY 1985 Costs

Personal Services	\$ 289,500
Travel	6,000
Contractual Services	71,000
Commodities	64,200
Equipment	5,600
Inmate Gratuities	<u>26,400</u>
Total	\$ 462,700

Inflation of 7% for Personal Services and 9% for all other expenditure object groups was assumed when calculating subsequent fiscal years.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL  
JUNEAU, ALASKA 99811

April 19, 1982

Nancy Grozek, Aide  
Senator Fischer's Office  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

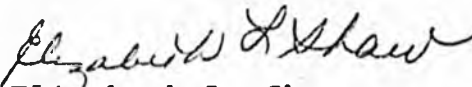
Dear Ms. Grozek:

I discussed with the Attorney General my testifying for the Department of Law on SB 685. We both agreed that my testimony would be redundant as Barry Stern can speak for the Department of Law while John Pugh would be able to present statistical information.

I'm sorry that I cannot be of more direct assistance at this time.

Sincerely,

WILSON L. CONDON  
ATTORNEY GENERAL

By:   
Elizabeth L. Shaw  
Assistant Attorney General

WLC:ELS:vrb

Page 3, Line 15

Insert after "felony" and before ";" the following:

"however, the court may retain jurisdiction if the court finds by a preponderance of the evidence that the interests of justice would be best served if the minor is not prosecuted as an adult."

Lear  
4/22/82

Original sponsors: Rodey, Bradley,  
Dankworth, et al

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 685 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unlawful conduct of minors."

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

8 Section 1. AS 12.55.015 is amended by adding a new subsection to read:

9 (d) If the court sentences a defendant to a term of imprisonment  
10 and the defendant is a minor over whom children's court jurisdiction is  
11 waived under AS 47.10.060, the court shall

12 (1) order that the defendant be confined in an institution  
13 designated by the Department of Health and Social Services for offenders  
14 under 18 years of age; and

15 (2) order that the defendant be transferred to an adult  
16 correctional facility when the defendant reaches 19 years of age if more  
17 than one year then remains of the defendant's term of imprisonment.

18 \* Sec. 2. AS 34.50.020(a) is amended to read:

19 (a) Except as provided in (e) of this section, a [A] person, muni-  
20 cipal corporation, association, village, school district or religious or  
21 charitable organization, incorporated or unincorporated, may recover  
22 damages in a civil action in an amount not to exceed \$5,000 [\$2,000] and  
23 court costs, from either parent or both parents or the legal guardian or  
24 person having the legal custody of an unemancipated minor under the age  
25 of 18 years, who maliciously or wilfully destroys real or personal  
26 property belonging to the person, municipal corporation, association,  
27 village, school district or religious or charitable organization.

28 \* Sec. 3. AS 34.50.020 is amended by adding new subsections to read:

29 (c) For the purposes of this section a minor is considered emanci-

*Minor Sentenced as an Adult  
Can be placed in Juvenile Institution*

1 pated and a parent or legal guardian or person having legal custody is  
2 not liable for property damage caused by the minor if the court deter-  
3 mines that

4 (1) the disabilities of minority have been removed under  
5 AS 09.55.590;

6 (2) the minor is a resident of the state, is at least 16 years  
7 of age, is living separate and apart from the minor's parents or legal  
8 guardian or person having legal custody, and is capable of self-support  
9 and of managing personal financial affairs; or

10 (3) the minor is living separate and apart from the minor's  
11 parents or legal guardian or person having legal custody and engages in  
12 conduct that results in a judgment under AS 47.10.080(a) that the minor  
13 is a delinquent minor and that also is the basis for a civil action for  
14 damages to property under this section.

15 (d) If the court determines that a minor is emancipated under (c)  
16 of this section, the minor may be sued in a civil action for injuries  
17 caused by the minor as if the minor were an adult.

18 (e) The provisions of (a) of this section do not apply to destruc-  
19 tion of property by an unemancipated minor under the age of 18 years  
20 who maliciously or wilfully destroys property at the time the minor is a  
21 ward of the state under AS 47.10.080(f).

22 \* Sec. 4. AS 47.10.020(a) is amended to read:

23 (a) Whenever a person informs the court of the facts which bring a  
24 minor within this chapter, the court shall appoint a competent person or  
25 agency to make a preliminary inquiry and report for the information of  
26 the court to determine whether the interests of the public or of the  
27 minor require that further action be taken. Upon the receipt of the  
28 report, the court may informally adjust or dispose of the matter without  
29 a hearing, or it may authorize the person having knowledge of the facts

1 of the case to file with the court a petition setting out the facts.  
2 Where the court informally adjusts or disposes of the matter, the minor  
3 may not be detained or taken into the custody of the court, and the  
4 matter shall be closed by the court upon adjustment or disposition.  
5 Upon request of the victim or the victim's parent or guardian, the court  
6 shall disclose to the victim of the minor or to the victim's parent or  
7 guardian the manner in which it informally adjusted or disposed of the  
8 matter. The court may not disclose the identity of the minor.

9 \* Sec. 5. AS 47.10.060(a) is repealed and reenacted to read:

10 (a) The court shall order a case closed and, subject to the pro-  
11 visions of AS 12.55.015(d), the minor may be prosecuted as if the minor  
12 were an adult if the court finds at a hearing on a petition

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

16 (2) that the minor is not amenable to treatment under this  
17 chapter and there is probable cause to believe that the minor is delin-  
18 quent.

19 \* Sec. 6. AS 47.10.060 is amended by adding a new subsection to read:

20 (f) If a case is closed under (a)(1) of this section, the minor  
21 may petition the court within 10 days to reopen the case. The case  
22 shall be reopened if the court finds by a preponderance of the evidence  
23 that the interests of justice would be best served if the minor is not  
24 prosecuted as an adult. In making this finding, the court shall con-  
25 sider

26 (1) the criminal and personal history of the minor and the  
27 likelihood of rehabilitation;

28 (2) the seriousness of the minor's present offense in rela-  
9 tion to other offenses committed by the minor;

1 (3) the need to confine the minor to prevent further harm to  
2 the public;

3 (4) the circumstances of the offense and the extent to which  
4 the offense harmed a victim or endangered the public safety or order;

5 (5) the effect of prosecuting the minor as an adult in deter-  
6 ring the minor or other minors from future criminal conduct;

7 (6) the best interest of the minor.

8 \* Sec. 7. AS 47.10.080(a) is amended to read:

9 (a) The court, at the conclusion of the hearing, or thereafter as  
10 the circumstances of the case may require, shall find and enter a judg-  
11 ment that the minor is or is not a delinquent or a child in need of aid.  
12 The court shall disclose the results of the hearing in accordance with  
13 AS 47.10.020(a).

14 \* Sec. 8. AS 47.10.090 is amended by adding a new subsection to read:

15 (d) The provisions of this section prohibiting disclosure of  
16 information relating to a minor do not apply to a disclosure to a victim  
17 or the victim's parent or guardian under AS 47.10.020(a), 47.10.080(a),  
18 and 47.10.140(d).

19 \* Sec. 9. AS 47.10.140(d) is amended to read:

20 (d) If the court finds that probable cause exists, it shall deter-  
21 mine whether the minor should be detained pending the hearing on the  
22 petition or released. It may either order the minor held in detention  
23 or order the minor [HIM] to be released to the custody of a suitable  
24 person pending the hearing on the petition. If the court finds no prob-  
25 able cause, it shall order the minor released and close the case. The  
26 court shall disclose the results of the hearing in accordance with  
27 AS 47.10.020(a).

↳ Prosecution of Minors -  
Heinous -

↳ Disposition of Juveniles -

↳ Inflationary Adjustment -

B. Adult Confinement

It is assumed that no appreciable bed impact will be experienced by the Division of Adult Corrections until FY 1984. This is based on the assumption that the average age of offenders affected by this legislation will be 17 years, and will serve one year in a juvenile facility prior to transfer to an adult facility. This fiscal note identifies a need for 32 additional beds, although the legislation will result in 10 additional beds being needed at the rate of 1 bed per year after FY 1986. This is a result of the average period of confinement of 15 years for persons convicted of unclassified felonies.

Based upon arrest data indicating 28 persons 16 and 17 years of age being arrested annually for crimes in the unclassified and Class A felony categories, and using conviction rates and average sentence lengths for adult offenders, the following is predicted:

1.) Unclassified Felony

One conviction per year with an average sentence of 15 years to serve (20 years less good time) will require 14 additional beds. It is noted that only 4 of these beds will be required during the period covered by this fiscal note and that is the number requested. The additional 10 beds will have to be considered for capital projects planned for completion after FY 1986, if this proposed legislation is enacted.

2.) Class A Felony with Gun

Five convictions per year with one waived to juvenile status and one sentenced so as to serve all time in a juvenile facility. Therefore, it is estimated there will be three individuals who will serve a period of 3.5 years each in an adult facility.

$$3 \times 3.5 = 10.5 \text{ person years or beds}$$

3.) Class A Felony without Gun

Eight convictions per year with one waived to juvenile status and two sentenced so as to serve all time in a juvenile facility. Therefore, it is estimated there will be five individuals who will serve a period of 3.4 years each in an adult facility.

$$5 \times 3.4 = 17 \text{ person years or beds}$$

4.) Total beds required through FY 1986 is 32.

5.) Cost Estimates

a) Capital expenditures:

32 beds at \$69,000 per bed  
 $32 \times \$69,000 = \$2,208,000$

b) Operating expenditures:

It is estimated that 7 positions will be required to provide security and support for these 32 beds: 1 Correctional Officer III, 5 Correctional Officer II, and 1 Institutional Counselor. Costs for these positions will not occur until FY 1984, the anticipated opening date for the new beds.