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86

FROM SENATOR
KURTTLA

SB 86: BACKGROUND

State compensation for victims of violent crimes was a response to the growing concern that while an offender's rights were protected the rights of the victim were often overlooked. California was the first state to address this issue and in 1965 enacted a Victim Compensation Program. As of January 1, 1983, thirty-four states plus the District of Columbia had established similar programs.

AS 18.67, establishing a Violent Crimes Compensation Board, was adopted by the state legislature in 1972. The purpose of this legislation is:

to facilitate and permit the payment of compensation to innocent persons injured, to dependents of persons killed, and to certain other persons who by virtue of their relationship to the victim of a crime incur actual and reasonable expense as a result of certain serious crimes or in attempts to prevent the commission of crime or to apprehend suspected criminals. AS 18.67.010.

The Violent Crimes Compensation Board is in the Department of Public Safety. The Board is composed of three members appointed by the governor. It is the duty of the board to review and rule on all applications received. Payment of compensation can be ordered if personal injury or death resulted from:

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of a crime; or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: murder in any degree, manslaughter, criminally negligent homicide, assault in the first or second degree, kidnapping, sexual assault in any degree, sexual abuse of a minor, robbery in any degree, contributing to the delinquency of a minor under AS 11.15.130(a)(4), or threats to do bodily harm. AS 18.67.101.

Victim compensation covers reasonable expenses incurred; loss of earnings power due to incapacibility; job retraining or employment - oriented rehabilitative services; pecuniary loss to the dependents of the deceased victim; and other reasonable loss determined by the board. AS 18.67.110.

Presently compensation is made payable to or for the benefit of the injured person; to a person responsible for the maintenance of the victim; or to the dependent of a deceased victim. AS 18.67.080. The total amount of compensation is limited to \$25,000 per victim per incident for losses and expenses not covered by collateral sources. Life insurance proceeds are not treated as a collateral source AS 18.67.090. However, in the case of the death of a victim who has more than one eligible dependent compensation may not exceed \$40,000. AS 18.67.130.

Additional limitations exist under the current state statute. No compensation may be awarded unless an application to the board for compensation was made within two years after the date of the incident and the incident was reported to the police within five days of its occurrence or within five days of the time when a report could reasonably have been made. AS 18.67.130.

Presently no compensation may be awarded if the victim:

- (1) is a relative of the offender;
- (2) is, at the time of the personal injury or at the time of the injury which results in the death of the victim living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender or with a member of the offender's family;
- (3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or
- (4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to injure or kill the victim.

The bill as introduced would revise the statutes affecting the Violent Crimes Compensation Board as follows:

- (1) AS 18.67.080 would be amended by adding a new paragraph, which would allow compensation to be paid directly to the provider of the service.

Result: The victim receives necessary services and the provider is ensured of payment with a minimal amount of red tape.

Argument for: In situations where the provider has given services to the victim without charge the board must make joint payment to the victim or his representative and the provider. Nola Capp, administration to the board, has encountered numerous cases where payment never reached the provider. With the addition of this new paragraph the administrative procedures will be reduced.

Argument against: The only possible argument against this addition might be the concern that victims who paid for the service would not be reimbursed. This can be countered with the administrative safeguard already in existence. The Board requires receipts of all expenses paid by the victim and also notifies the provider that if payment has already been made then the award of compensation is to be passed on to the victim.

- (2) The bill repeals AS 18.67.130(b) (1) and (2), which deny compensation to the victim if he or she is a relative of the offender, member of the offender's household, maintaining a sexual relationship with the offender or with a member of the offender's family.

Result: The purpose of AS 18.67.10 - AS 18.67.130, "to facilitate and permit the payment of compensation to innocent persons injured" will only be achieved if all "innocent victims" are treated equally.

Arguments for: The relation between the victim and the offender should not work as a financial disadvantage if the victim is innocent, reports the crime and cooperates with the local law enforcement officials. Each case that comes to the board is investigated completely and a determination is made as to whether or not compensation should be awarded. Thus we already have sufficient safeguards in existence to weed out any fabricated stories. Also, since compensation only covers those reasonable expenses incurred as a result of the personal injury nothing is to be gained. The present restriction primarily denies compensation for victims of domestic violence and incest. Rural Alaska presents another problem due to the fact that the population is sparse, housing is often limited and many people are distantly related.

Arguments against: If relatives are allowed to be

compensated for injuries sustained as a result of criminal activity the offender is benefiting from his/her misconduct. Counter: Only reasonable expenses incurred are compensated, thus no financial gain.

Victims of domestic violence will get compensated but might not file charges. Counter: the crime must now be reported under AS 18.67.130, and if this bill passes in its entirety, the victim would be required to aid in the apprehension and conviction of the offender. Once again, the board carefully scrutinizes each case.

Relatives or members of same household are more likely to conspire for financial gain. Counter: where is the gain if only expenses incurred are compensated?

(3) AS 18.67.130(b) would be amended by adding a new paragraph. No compensation may be awarded if the victim:

refuses to give reasonable cooperation to state or local law-enforcement agencies in their efforts to apprehend and convict the offender for the crime resulting in the personal injury, unless good cause for the refusal is shown the board.

Result: Although the victim must presently report the incident within five days of its occurrence, this would strengthen the amount of assistance imposed on the recipient of compensation.

Arguments for: This provides the local law enforcement agency with additional support in the apprehension and conviction of offenders. In many ways this is already required because of the reporting requirement. Even a hostile victim/witness can be subpoenaed by the prosecution. More importantly this additional requirement would counter the argument that relatives or members of a household, if eligible for compensation, would conspire to defraud the state through collusion.

Arguments against: Certain victims might argue that this is an unreasonable requirement, particularly if further mental anxiety would occur. However, each case is reviewed individually and the amendment gives the board the discretion to determine whether "good cause" is shown for noncompliance.

Defense attorneys might use this compensation/cooperation requirement to impeach the credibility of a victim/witness with a "bought" testimony argument. The counter argument is that the victim/witness only is reimbursed for reasonable expenses incurred as a result of the perpetrator's criminal conduct. No real financial gain.

Final Note

A victim is a victim and if innocent should be treated as such.

In 1982 the basic provisions of this bill were introduced in the House by Halford and Clocksin (HB 869) and in the Senate, by Bradley (SB 620).

SB 620 restricted compensation if at the time of application for compensation (the victim) was living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender."

This provision only speaks to the time of making application and nothing prevents reconciliation, if that was the point to be made. Because of this I find this provision to be without real merit.

Supporters of the Bill

- *Council on Domestic Violence and Sexual Assault
- *Caren Robinson, speaking for the Network on Domestic Violence and Sexual Assault
- *Nola Capp, administrator of the Violent Crimes Compensation Board
- *Katie Hurley, speaking for the Commission on the Status of Women

Revised

NATIONAL CONFERENCE OF STATE LEGISLATURES

STATE PROFILES

STATE VICTIM COMPENSATION PROGRAMS

ALASKA.....Year Effective: 1972
Source of Revenue: General Tax
Maximum Award: \$25,000* Minimum Award: --
Financial Needs Test: No Police Rept. Req.: 5 days
File with Commission: 2 years Son of Sam Provision: Yes
Out of State Residents Covered: Yes

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CALIFORNIA...Year Effective: 1965
Source of Revenue: Penalty Assessments
Maximum Award: \$23,000 Minimum Award \$100
Financial Needs Test: Yes Police Rept. Req.: Yes
File with Commission: 1 year Son of Sam Provision: No
Out of State Residents Covered: No

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COLORADO.....Year Effective: 1982
Source of Revenue: Penalty Assessments
Maximum Award: \$1,500 Minimum Award: \$25
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 6 mos Son of Sam Provision: No
Out of State Residents Covered: No

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CONNECTICUT..Year Effective: 1979
Source of Revenue: Penalty Assessments
Maximum Award: \$10,000 Minimum Award: \$100
Financial Needs Test: No Police Rept. Req.: 5 days
File with Commission: 2 yrs Son of Sam Provision: No
Out of State Residents Covered: Yes**

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DELAWARE.....Year Effective: 1975
Source of Revenue: Penalty Assessments
Maximum Award: \$10,000 Minimum Award: \$25
Financial Needs Test: No Police Rept. Req.: Yes
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: Yes

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FLORIDA.....Year Effective: 1978
Source of Revenue: General Tax OR Penalty Assessments
Maximum Award: \$10,000 Minimum Award: --
Financial Needs Test: Yes Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: No

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HAWAII.....Year Effective: 1967
Source of Revenue: General Tax
Maximum Award: \$10,000 Minimum Award: --
Financial Needs Test: No Police Rept. Req.: Yes
File with Commission: 18 mos Son of Sam Provision: No

Out of State Residents Covered: Yes

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N DAKOTA.....Year Effective: 1975
Source of Revenue: General Tax
Maximum Award: \$25,000 Minimum Award: \$100
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: --
Out of State Residents Covered: Yes

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OHIO.....Year Effective: 1976
Source of Revenue: Penalty Assessments
Maximum Award: \$50,000 Minimum Award: --
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: Yes

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OKLAHOMA.....Year Effective: 1981
Source of Revenue: Penalty Assessments
Maximum Award: \$10,000 Minimum Award: --
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: Yes
Out of State Residents Covered: Yes

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OREGON.....Year Effective: 1978
Source of Revenue: General Tax
Maximum Award: \$23,000 Minimum Award: \$250
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 6 mos Son of Sam Provision: No
Out of State Residents Covered: Yes

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PENNSYLVANIA...
Year Effective: 1977
Source of Revenue: Penalty Assessments
Maximum Award: \$25,000 Minimum Award: \$100
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: Yes**

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TENNESSEE....Year Effective: 1976
Source of Revenue: Penalty Assessments
Maximum Award: \$10,000 Minimum Award: \$100
Financial Needs Test: No Police Rept. Req.: 48 hrs
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: Yes

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TEXAS.....Year Effective: 1980
Source of Revenue: Penalty Assessments
Maximum Award: \$50,000 Minimum Award: --
Financial Needs Test: Yes Police Rept. Req.: 72 hrs
File with Commission: 180 days Son of Sam Provision: Yes
Out of State Residents Covered: No

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VIRGINIA.....Year Effective: 1976
Source of Revenue: Penalty Assessments

Maximum Award: \$10,000 Minimum Award: \$100
Financial Needs Test: Yes Police Rept. Req.: 48 hrs
File with Commission: 6 mos Son of Sam Provision: No
Out of State Residents Covered: Yes**

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W VIRGINIA...Year Effective: 1981
Source of Revenue: Penalty assessments
Maximum Award: \$20,000 Minimum Award: --
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 2 yrs Son of Sam Provision: No
Out of State Residents Covered: Yes

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WISCONSIN...Year Effective: 1977
Source of Revenue: General Tax
Maximum Award: \$12,000 Minimum Award: --
Financial Needs Test: No Police Rept. Req.: 5 days
File with Commission: 2 yrs Son of Sam Provision: No
Out of State Residents Covered: Yes

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Maximum Award includes medical expenses, lost earnings, and funeral expenses.

** \$25,000 per victim; \$40,000 if there are 2 or more surviving dependents.
* If victim is a resident of a state that compensates out-of-state residents

* NCSL STAFF CONTACT: Mindy GAYNES *
* 303/443-6600 *
* REV. DATE: 01/15/82 292- *

***** ARTICLES *****

TITLE: ALTERNATIVE SENTENCING: A WAY OUT?
AUTHOR: GREENHOUSE, L.
PERIODICAL: STATE LEGISLATURES.
VOLUME INFORMATION: VOL. 5, NO. 2
DATE 02/01/79
SCOPE
CA DC FE GE IL MA MD TN VA
ABSTRACT

THIS ARTICLE PRESENTS THE NOTION THAT BOTH ECONOMY AND JUSTICE ARE WELL SERVED BY FORMS OF PUNISHMENT OTHER THAN PRISON. IT CONTENDS THAT POLICIES THAT INCREASE THE DURATION AND FREQUENCY OF PRISON SENTENCES ARE BY FAR THE MOST EXPENSIVE WAYS TO DEAL WITH THE CRIME PROBLEM, SO IT IS SURPRISING THAT NEW SENTENCING LAWS AND THE PRISON BUILDING BOOM HAVE SO FAR ESCAPED PROPOSITION 13 FEVER. THEIR IMMUNITY FROM THE FISCAL SCYTHE IS NOT DUE TO ANY GREAT PUBLIC OR LEGISLATIVE SATISFACTION WITH THE PRISON SYSTEM, WHICH MANY BELIEVE HAS FAILED MISERABLY TO REHABILITATE PRISONERS OR DETER CRIMES. ILL. INCLUDED.
NCSL IDENTIFICATION NUMBER: ART7900041

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 06 Date on Bill: 1-27-83
 Title: An Act Relating To Compensation for Victims of Violent Crimes
 Sponsor: Senators Kertulla and Fischer
 Requestor: Senate Judiciary

1. Estimated fiscal impacts on:

a. Expenditures:

		(Thousands of Dollars)			
		FY 83	FY 84	FY 85	FY 86
Capital					
Operating			341.1	349.9	371.0
Total			341.1	349.9	371.0

b. Revenues:

Revenue					
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2. Source of funds to offset fiscal impact of bill:

Not Identified by Sponsors of Bill.

3. Assumptions:

If the proposed legislation is enacted it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation, and we would receive 10 death claims and 5 would be awarded, including 2 claims with one dependent per incident and 3 claims with multiple dependents. There will be additional hearings as with the change in statute, the Board will want to be certain the offender will not receive any of the compensation.

4. Disclaimer:

This statement has not been reviewed by the CMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Nola K. Capp Phone: 465-3040
 Division: Violent Crime Compensation Board Date: _____

Approved by Commissioner: Robert J. Sundberg *RJS by TP/H* Date: 2/18/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to CMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

FISCAL NOTE DETAIL
 BILL NO. SB 86

EXPENDITURES		FY 83	FY 84	FY 85	FY 86
100	Personal Services		26.6	28.2	29.9
200	Travel		7.9	8.4	8.3
300	Contractual		17.1	9.1	9.7
400	Commodities				
500	Equipment		2.5		
600	Land & Structures				
700	Grants, Claims, etc.		287.0	304.2	322.5
800	Miscellaneous				
TOTAL			341.1	349.9	371.0
FUNDING					
General Fund			341.1	349.9	371.0
Federal Funds					
Program Receipts					
Inter-Agency Receipts					
Other					
POSITIONS					
Full Time			1	1	1
Part Time/Seasonal					
Non-Perm					
Months					

ANALYSIS:

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation. The average award is \$4500.00 per claim so 26 claims would total \$117,000. It is estimated the program would receive 10 death claims and 5 would be awarded: 2 claims at one dependent per incident would be \$50,000 and 3 claims for multiple dependents would be \$120,000 for a total estimated grant money of \$287,000.

Because there will be an increase of claims, it is determined it will be necessary to have one more board meeting at a cost of \$1500.00. Because of the repeal of the statute it is anticipated there would be 8 hearings at \$200 for travel per hearing. The reason for more hearings is because of the change in the statute, the Board will want to be certain the offender will not receive any of the compensation and because of circumstances in some cases, they may order a hearing prior to a final determination by the Board.

The current staff for the Violent Crimes Compensation Board consists of two persons. This change in the statute would necessitate the addition of a clerk typist (range 8) and associated costs, including equipment.

(continued)

Under contractual services, there would be a need for a terminal only for the IBM displaywriter at \$3000.00 per year. There would be the cost of hearing officers' fees for 8 hearings at \$700 per hearing and a total cost of \$5600. Since this will be a major change in the statute, the public must be made aware through TV spots, radio and newspapers. Production of the TV spots will be a one time expense as will the radio spots. These spots should cost around \$6500 plus another \$1000 for public notices in newspapers around the state.

The costs are assumed to begin 7/1/83.

1.	POSITION TITLE Clerk-Typist III				RANGE/STEP 8B	BARC. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE			AMOUNT							
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		19,176								
6.	Benefits		3,367								
7.	Supplemental Benefits		1,175								
8.	Fixed Benefits		2,880								
9.	TOTAL PERSONAL SERVICES		01		26,598						
10.	Travel		02								
11.	Contractual		03								
12.	Commodities		04								
13.	Equipment		05		2,484						
14.	Other										
15.	TOTAL COST				29,082						
16.	RECEIPT CODE	FUNDING SOURCE									
17.		Federal Receipts 1002									
18.		G.F. Match 1003									
19.		General Funds 1004		29,082							
20.		I-A Receipts 1005									
21.		Program Receipts 1028									
		Other									
FOR B&M USE ONLY											
4A KEY NUMBER _____											

The number of claims received annually by the Violent Crimes Compensation Board has doubled since 1976 and is projected to double again during the two-year period ending 6/30/84. Yet the program has only the same two-person staff it had in 1973.

It is anticipated the change in the statute will increase the number of claims by 50. This increase, on top of the existing understaffing, will necessitate the addition of a clerk-typist and associated costs, including equipment.

Since this is a major change in the statute, all the applications, brochures and posters will have to be redone. The public must be made aware of the changes through TV, radio and newspapers, again much clerical work. There will be an increase in hearings, which must be transcribed verbatim.

The equipment costs include a desk, chair, file cabinet, table, calculator and transcriber.

13 REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
PROGRAM Crime Identification & Apprehension
BRU Violent Crimes Compensation Board
COMPONENT

FY 84

Page 1 of 1

Revised Date 2/2/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 86(FIN)
 Title: "Act Relating to Compensation for
 Sponsor: Sen. Kertulla
 Requestor House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Crime ID
 BRU, Program of Subprogram(s) Affected: Victims"
 Violent Crimes Compensation Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		26.6	28.2	29.9	31.7	33.6
200 TRAVEL		7.9	8.4	8.9	9.4	10.0
300 CONTRACTUAL		17.1	9.1	9.7	10.3	10.9
400 COMMODITIES						
500 EQUIPMENT		2.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		287.0	304.2	322.5	341.9	362.4
TOTAL OPERATING		341.1	545.9	371.0	393.3	416.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		341.1	349.9	371.0	393.3	416.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of funds not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis See Attached

Prepared By: Nola K. Capp Phone: 465-3040
 Division: Violent Crimes' Compensation Board Date: 5-6-83
 Approved by Commissioner: [Signature] Date: 5/9/83
 Department: Public Safety

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

ANALYSIS

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The current staff for the Violent Crimes Compensation Board consists of two persons. This change in the statute would necessitate the addition of a clerk typist (range 8) and associated costs, including equipment.

Under contractual services, there would be a need for a terminal only for the IBM displaywriter at \$3000.00 per year. There would be the cost of hearing officers' fees for 8 hearings at \$700 per hearing and a total cost of \$5600. Since this will be a major change in the statute, the public must be made aware through TV spots, radio and newspapers. Production of the TV spots will be a one time expense as will the radio spots. These spots should cost around \$6500 plus another \$1000 for public notices in newspapers around the State.