

COMMITTEE REPORT

SENATE

FURTHER:

2/24/83

Date: 3/10/83

Mr. President:

The Committee on FINANCE has had SB 86

Relating to compensation for victims of violent crimes

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 SB 86 (Timard) same title
 new title
- and recommends do pass
- 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



From The
**SENATE
FINANCE COMMITTEE**

March 10, 1983

LEGAL SERVICES,

Please prepare the attached draft
Committee Substitute in final form.
The bill was reported out of Senate
Finance at this morning's meeting and
will be read across and referred to
Rules at the 10:00 floor session today.
Please return the final to Suzi or
Kathy, Room 510, Capitol Building.

Thank you,

Kathy
4780

Original sponsors: Kerttula, V.Fischer,
Ray and Ziegler

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 86 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to compensation for victims of
7 violent crimes."

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

9 * Section 1. AS 18.67.080(a) is amended by adding a new paragraph to
10 read:

11 (4) directly to the provider of a service provided as a
12 result of the personal injury or death of the victim.

13 * Sec. 2. AS 18.67.130(b) is amended by adding a new paragraph to read:

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

18 * Sec. 3. AS 18.67 is amended by adding a new section to read:

19 Sec. 18.67.162. CRIME VICTIM COMPENSATION FUND. There is
20 created a crime victim compensation fund which shall be administered
21 by the Violent Crimes Compensation Board. The fund consists of money
22 appropriated to it by the legislature. The fund shall be administered
23 in accordance with the provisions of this chapter. Money distributed
24 from the fund shall be in addition to other sources of compensation
25 provided in this chapter.

26 * Sec. 4. AS 18.67.130(b)(1) - (2) are repealed.
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STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CR-86 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 GIB 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 TPI* Date: 2/18/83
 Department: Public Safety

5. Distribution:

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

2/15/83

FISCAL NOTE DETAIL
BILL NO. SB 86

EXPENDITURES	FY 83	FY 34	FY 35	FY 86
100 Personal Services		26.6	28.2	29.9
200 Travel		7.9	8.4	8.9
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 \$800 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	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BR' 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						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		29,082						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		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

01-1136 (7/82) - 13

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

*B... 3/10/83
F/W Rec'd 5/11/83*

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
 "Victims" BRU, Program of Subprogram(s) Affected: 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	349.9	371.0	393.3	416.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		341.1	349.9	371.0	393.3	416.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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)

3/8/83

ANALYSIS

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3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	1		2		3					
	PERSONAL SERVICES									
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14.	Other									
15.	TOTAL COST				29,082					
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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

MEMORANDUM

State of Alaska

TO: The Honorable Senator Don Bennett
Alaska State Legislature
Juneau, Alaska

DATE: 3/9/83

FILE NO:

TELEPHONE NO:

465-3040

FROM: Nola K. Capp *NKC*
Administrator
Violent Crimes Compensation Board
Department of Public Safety

SUBJECT:

Dispositions
of Cases

In FY82, the following is a breakdown on the disposition of the 132 claims heard by the Violent Crimes Compensation Board:

Offender Unknown	44
Referred to API (final disposition unknown)	4
Suspect, but no arrest	18
Conviction, no restitution order	40
Conviction, restitution order	5
Prosecution declined	4
Prosecution deferred	3
Prosecution dismissed	3
Found not guilty (jury trial)	5
Not a crime covered by our statute	6

cc: Paul Conger, DPS Leg. Liaison

3/7/83

MEMORANDUM

TO: Senate Finance Committee Members

FROM: Senator Vic Fischer

RE: SB 86, relating to compensation for victims of violent crimes

NOTE: Two members have added their names as cosponsors of SB 86; the sponsorship should now read : Kerttula, V. Fischer, Ray, Zeigler.

Attached please find a package of information on SB 86; this package consists of:

1. The bill
 2. The statutes amended by this legislation
 3. Preliminary Statement of Fiscal Impact (NOTE: my staff has contacted the OMB requesting the final SFI. At this time the OMB has not provided this information.)
 4. Senate Judiciary Committee Letter of Intent
 5. Memorandum from Senate Advisory Council to Senator Kerttula, explaining provisions of SB 86
 6. Position paper from Dept. of Public Safety supporting bill
 7. Position paper from Alaska Commission on the Status of Women
 8. Position paper from Alaska Network on Domestic Violence
- Ms. Nola Capp, Administrator of the Violent Crime Compensation Board, is expected to testify before the Senate Finance Committee.

Introduced: 1/27/83
Referred: Judiciary and Finance

1 IN THE SENATE

BY KERTTULA AND V. FISCHER

2

SENATE BILL NO. 86

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to compensation for victims of
7 violent crimes."

7

8

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

9

* Section 1. AS 18.67.080(a) is amended by adding a new paragraph to

10 read:

11

(4) directly to the provider of a service provided as a

12

result of the personal injury or death of the victim.

13

* Sec. 2. AS 18.67.130(b) is amended by adding a new paragraph to read:

14

(5) refuses to give reasonable cooperation to state or

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local law-enforcement agencies in their efforts to apprehend and

16

convict the offender for the crime resulting in the personal injury,

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unless good cause for the refusal is shown the board.

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* Sec. 3. AS 18.67.130(b)(1) - (2) are repealed.

Sec. 18.66.900. Definitions. In this chapter:

(1) "council" means the Council on Domestic Violence and Sexual Assault;

(2) "crisis intervention and prevention program" means a community program that provides information, education, counseling, and referral services to individuals experiencing personal crisis related to domestic violence or sexual assault and to individuals in personal or professional transition, excluding correctional half-way houses, outpatient mental health programs, and drug or alcohol rehabilitation programs;

(3) "domestic violence" means a crime specified in AS 11.41 when the victim is a spouse or a former spouse of the defendant, or a member of the social unit comprised of those living together in the same dwelling as the defendant;

(4) "domestic violence program" means a program that provides services to the victims of domestic violence, their families, or perpetrators of domestic violence;

(5) "local community entity" means a city or borough or other political subdivision of the state, a nonprofit organization, or a combination of these;

(6) "sexual assault" means a crime specified in AS 11.41.410 — 11.41.450 or AS 11.51.130(a)(4);

(7) "sexual assault program" means a program that provides services to the victims of sexual assault, their families, or perpetrators of sexual assault. (§ 1 ch 101 SLA 1981)

Chapter 67. Violent Crimes Compensation Board.

Section	Section
10. Purpose	110. Nature of the compensation
20. Violent Crimes Compensation Board	120. Emergency compensation
30. Application for compensation	130. Limitations on awarding compensation
40. Action on application; hearings	140. Recovery from offender
50. Attorney fees	150. False claim
60. Regulations	160. Survival and abatement
70. Standards for compensation	165. Distribution of money received as a result of the commission of crime
80. Awarding compensation	170. Reports
90. Recovery from collateral source	175. Duty to display information
100. [Repealed]	180. Definitions
101. Incidents and offenses to which AS 18.67.010 — 18.67.180 apply	

Revisor's notes. — In ch. 203, SLA 1972, AS 18.67.090 — 18.67.180 were designated 18.67.085 — 18.67.140 and were renumbered by the revisor of statutes.

Collateral references. — 21 Am. Jur. 2d, Criminal Law, §§ 565, 577, 578.
24B C.J.S., Criminal Law, §§ 2004-2007.

Sec. 18.67.010. Purpose. It is the purpose of this chapter 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. (§ 1 ch 203 SLA 1972; am § 1 ch 132 SLA 1975)

Sec. 18.67.020. Violent Crimes Compensation Board. (a) There is the Violent Crimes Compensation Board in the Department of Public Safety composed of three members to be appointed by the governor. One of the members shall be designated as chairman by the governor. At least one member shall be a medical or osteopathic physician licensed to practice in this state and one member shall be an attorney licensed to practice in this state.

(b) The term of office of each member of the board is three years, except that of the members first appointed one shall be appointed for a term of three years, one for a term of two years, and one for a term of one year. All vacancies, except through the expiration of term, shall be filled for the unexpired term only.

(c) Each member of the board is eligible for reappointment and serves at the pleasure of the governor.

(d) Each member of the board is eligible for reappointment and any member of the board may be removed by the governor for inefficiency, neglect of duty or malfeasance in office after due notice and hearing.

(e) Members of the board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards.

(f) The board may appoint one or more hearing officers, who must be licensed to practice law in the state, to conduct hearings and take testimony in proceedings under this chapter, but final determinations of any matter shall be only by the board. A hearing officer acting under this section shall report his findings of fact and conclusions of law to the board, together with the reasons for the findings and conclusions. The board shall act only after consideration of the report and other evidence that it considers appropriate.

(g) The board may appoint and fix the duties of personnel necessary for carrying out its functions under this chapter. (§ 1 ch 203 SLA 1972; am § 2 ch 132 SLA 1975; am § 1 ch 87 SLA 1978)

Effect of amendments. — The 1978 amendment substituted "Department of Public Safety" for "Department of Health and Social Services" in the first sentence of subsection (a).

Sec. 18.67.030. Application for compensation. (a) A person who may be eligible for compensation under this chapter may make application to the board. In a case in which the person entitled to make

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application is a minor, the application may be made on his behalf by his parent or guardian. In a case in which the person entitled to make application is mentally incompetent, the application may be made on his behalf by his parent, guardian or other individual authorized to administer his estate.

(b) In order to be eligible for compensation under this chapter, the applicant shall, before a hearing on an application under this chapter, submit reports, if reasonably available, from all physicians or surgeons who have treated or examined the victim in relation to the injury for which compensation is claimed at the time of or subsequent to the victim's injury or death. If, in the opinion of the board, reports on the previous medical history of the victim, a report on the examination of the injured victim, or a report on the cause of death of the victim by an impartial medical expert would be of material aid to its determination, the board shall order the reports and examination. (§ 1 ch 203 SLA 1972)

Sec. 18.67.040. Action on application; hearings. (a) Upon application made under the provisions of this chapter, the board shall consider the application and rule on it. The board may, upon its own motion, order a hearing, specifying the time and place it is to be held; if a hearing is ordered, the board shall give notice to the applicant. If, after consideration without a hearing, the decision is unfavorable to the applicant, in whole or in part, the board shall furnish him a written statement of the reason for the ruling. If, within 30 days after receipt of this statement, the applicant requests a hearing on his application, the board shall specify a time and place for a hearing and shall give notice to the applicant. If no request for a hearing is made within the specified time, the decision of the board is final.

(b) For the purpose of carrying out the provisions of this chapter, the board or its hearing officer may hold the hearings, sit and act at the times and places, and take the testimony that it or he considers advisable. The board or its hearing officer may administer oaths or affirmations to witnesses. The board has full powers of subpoena and compulsion of attendance of witnesses and production of documents, but no subpoena shall be issued except under the signature of a member of the board. Application to a court for aid in enforcing the subpoena may be made in the name of the board only by a board member. Subpoenas are served by any person designated by the board.

(c) The applicant and any other person having a substantial interest in a proceeding may appear and be heard, produce evidence and cross-examine witnesses in person or by his attorney. The board or its hearing officer also may hear other persons who in its or his judgment may have relevant evidence to submit.

(d) Admissibility of evidence is governed by the Administrative Procedure Act (AS 44.62).

Sec. 18.67.100. Incidents and offenses to which AS 18.67.010 — 18.67.180 apply.

Repealed by § 6 ch 35 SLA 1979.

Cross references. — For present provisions covering the subject matter of the repealed section, see AS 18.67.101.

Editor's notes. — The repealed section derived from § 1, ch. 203, SLA 1972; § 1, ch. 35, SLA 1979.

Sec. 18.67.101. Incidents and offenses to which AS 18.67.010 — 18.67.180 apply. The board may order the payment of compensation in accordance with the provisions of this chapter for personal injury or death which 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 11.51.130(a)(4), or threats to do bodily harm. (§ 2 ch 35 SLA 1979)

Sec. 18.67.110. Nature of the compensation. The board may order the payment of compensation under this chapter for

(1) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(2) loss of earning power as a result of total or partial incapacity of the victim, and reasonable expenses of job retraining of or similar employment-oriented rehabilitative services for the victim;

(3) pecuniary loss to the dependents of the deceased victim; and

(4) any other loss resulting from the personal injury or death of the victim which the board determines to be reasonable. (§ 1 ch 203 SLA 1972; am § 7 ch 132 SLA 1975)

Sec. 18.67.120. Emergency compensation. If it appears to the board that, prior to taking action on an application, the claim is one for which compensation is probable, and undue hardship will result to the applicant if immediate payment is not made, the board may make an emergency award of compensation to the applicant pending a final decision in the case. However,

(1) the amount of the emergency compensation may not exceed \$1,500;

(2) the amount of the emergency compensation shall be deducted from the final compensation made to the applicant;

(3) the excess of the amount of the emergency compensation over the final amount shall be repaid by the applicant to the board. (§ 1 ch 203 SLA 1972; am § 8 ch 132 SLA 1975)

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STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CR 26 Date on Bill: 1-27-83
 Title: An Act Relating To Compensation for Victims of Violent Crimes
 Sponsor: Senators Vertulla 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 TPIH* 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

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 2 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.

FISCAL NOTE DETAIL
BILL NO. SB 86

EXPENDITURES		FY 83	FY 84	FY 85	FY 86
100	Personal Services		26.6	22.2	29.9
200	Travel		7.9	8.4	8.9
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 \$800 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)

(2) the person has insufficient assets, other than funds in the escrow account and assets which could be claimed as exempt from execution under state law, to provide for payment of expenses of legal representation.

(e) Any action taken by a person convicted of a crime to defeat the purpose of this section is void as against the public policy of this state. (§ 2 ch 87 SLA 1978)

Sec. 18.67.170. Reports. The board shall prepare and transmit to the governor and legislature annually a report of its activities under this chapter including a brief description of the facts in each case and the amount of compensation awarded. (§ 1 ch 203 SLA 1972; am § 1 ch 1 SLA 1977)

Effect of amendments. — The 1977 amendment deleted "the name of each applicant" following "under this chapter" including" and deleted a comma following "facts in each case."

Sec. 18.67.175. Duty to display information. (a) Every hospital licensed by this state shall display prominently in its emergency room, main entrance, and business office posters notifying the public of the existence and general provisions of this chapter. The board may set standards for the location of this display and shall provide posters and general information regarding the provisions of this chapter to each hospital and to each physician licensed to practice medicine in the state.

(b) Every law enforcement agency in the state shall inform victims of violent crimes, or their surviving dependents, of the provisions of this chapter and shall provide application forms to the victims, or their dependents, who desire to seek compensation under this chapter. The board shall provide application forms, all other documents and general information which law enforcement agencies may require to comply with this subsection. (§ 11 ch 132 SLA 1975)

Sec. 18.67.180. Definitions. In this chapter

- (1) "board" means the Violent Crimes Compensation Board;
- (2) "dependent" means a relative of a deceased victim, who was dependent upon the victim's income at the time of his death; children of a victim born after a victim's death are included;
- (3) "personal injury" means actual bodily harm;
- (4) "relative" means spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parents;
- (5) "victim" means a person who is injured or killed by an incident or offense specified in AS 18.67.101. (§ 1 ch 203 SLA 1972; am § 5 ch 35 SLA 1979)

Sec. 18.67.130. Limitations on awarding compensation. (a) No order for the payment of compensation may be made under AS 18.67.080 unless the application has been made within two years after the date of the personal injury or death, and the personal injury or death was the result of an incident or offense listed in AS 18.67.101 which had been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within five days of the time when a report could reasonably have been made.

(b) 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.

(c) No compensation may be awarded under this chapter in an amount in excess of \$25,000 per victim per incident. However, in the case of the death of a victim who has more than one dependent eligible for compensation, the total compensation which may be awarded as a result of that death may not exceed \$40,000. The board may prorate the total awarded among those dependents according to relative need. All payments shall be made in a lump sum.

(d) Orders for payment of compensation under this chapter may be made only as to injuries or death resulting from incidents or offenses occurring on and after July 1, 1971. (§ 1 ch 203 SLA 1972; am §§ 9, 10 ch 132 SLA 1975; am § 4 ch 35 SLA 1979)

Effect of amendments. — The 1979 amendment substituted "AS 18.67.101" for "AS 18.67.100" in subsection (a).

Sec. 18.67.140. Recovery from offender. When an order for the payment of compensation for personal injury or death is made under this chapter, the board, upon payment of the amount of the order, is subrogated to the cause of action of the applicant against the person responsible for the injury or death and is entitled to bring an action against the person for the amount of the damages sustained by the applicant. If an amount greater than that paid under the order is recovered and collected in the action, the board shall pay the balance to the applicant. (§ 1 ch 203 SLA 1972)

(e) If a person has been convicted of an offense with respect to an act on which a claim under this chapter is based, proof of that conviction shall be taken as conclusive evidence that the offense has been committed, unless an appeal or a proceeding with regard to it is pending.

(f) Orders and decisions of the board shall be final. (§ 1 ch 203 SLA 1972; am § 3 ch 132 SLA 1975)

Sec. 18.67.050. Attorney fees. The board may, as part of an order entered under this chapter, determine and allow reasonable attorney fees, which may not exceed 25 per cent of the first \$1,000 amount awarded as compensation, 15 per cent of the next \$9,000 amount awarded as compensation, and 7.5 per cent of the amount awarded as compensation over \$10,000 under AS 18.67.070, to be paid in addition to the amount of the compensation, to the attorney representing the applicant. It is unlawful for the attorney to ask for, contract for, charge, demand, collect or receive a larger sum than the amount allowed by the board in the award of attorney fees. An attorney who violates this section shall forfeit any fee awarded and shall repay the state the fee awarded under this section. (§ 1 ch 203 SLA 1972; am § 4 ch 132 SLA 1975)

Sec. 18.67.060. Regulations. In the performance of its functions, the board is authorized to make, rescind and amend regulations prescribing the procedures to be followed in the filing of applications and in proceedings under this chapter, and relating to other matters the board considers appropriate. (§ 1 ch 203 SLA 1972)

Sec. 18.67.070. Standards for compensation. For the purpose of determining the amount of compensation payable under this chapter, the board shall, insofar as practicable, formulate standards for uniform application of this chapter and take into consideration rates and amounts of compensation payable for injuries and death under other laws of the state and of the United States and the availability of funds appropriated for the purposes of this chapter. (§ 1 ch 203 SLA 1972)

Sec. 18.67.080. Awarding compensation. (a) In a case in which a person is injured or killed by an incident specified in AS 18.67.101(1), or by the act of any other person which is within the description of offenses listed in AS 18.67.101(2), the board may order the payment of compensation in accordance with the provisions of this chapter:

- (1) to or for the benefit of the injured person;
- (2) in the case of personal injury or death of the victim, to a person responsible or who had been responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury or death; or

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Revisor
AS 18.67.

(3) in the case of death of the victim, to or for the benefit of one or more of the dependents of the victim.

(b) For the purposes of this chapter, a person is considered to have intended an act notwithstanding that by reason of age, insanity, drunkenness, or otherwise, he was legally incapable of forming a criminal intent.

(c) In determining whether to make an order under this section, the board shall consider all circumstances determined to be relevant, including provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, his need for financial aid, and any other relevant matters.

(d) An order may be made under this section whether or not a person is prosecuted or convicted of an offense arising out of the act which caused the injury or death involved in the application. Upon application made by an appropriate prosecuting authority, the board may suspend proceedings under this chapter for a period it considers appropriate on the ground that a prosecution for an offense arising out of the act which caused the injury or death involved in the application has been commenced or is imminent. (§ 1 ch 203 SLA 1972; am § 5 ch 132 SLA 1975; am § 3 ch 35 SLA 1979)

Effect of amendments. — The 1979 amendment substituted "AS 18.67.101(1)" for "AS 18.67.100(1)" and "AS 18.67.101(2)" for "AS 18.67.100(2)" in the introductory paragraph of subsection (a).

Sec. 18.67.090. Recovery from collateral source. (a) Up to the maximum set in AS 18.67.130(c), the board may award compensation for losses and expenses allowable under AS 18.67.110 for which the applicant is not compensated by the offender or a person on behalf of the offender, or by the United States, a state, or any of its subdivisions or agencies, or a private source or emergency awards under AS 18.67.120, for injury or death compensable under this chapter.

(b) If compensation is awarded under this chapter and the person receiving it also receives a collateral sum under (a) of this section which has not been deducted from it, the board may require that he refund either the amount of the collateral sum or the amount of compensation paid to him under this chapter, whichever is less.

(c) Notwithstanding the provisions of (a) and (b) of this section, in the case of the death of a victim, the value of a life insurance policy may not be considered a collateral sum that may be deducted under this section. (§ 1 ch 203 SLA 1972; am § 6 ch 132 SLA 1975)

Revisor's note. — In ch. 203, SLA 1972, AS 18.67.090 — 18.67.180 were designated 18.67.085 — 18.67.140 and were renumbered by the revisor of statutes.

1.	POSITION TITLE Clerk-Typist III				RANGE/STEP 8B	BARC. UNIT G	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PIP	STAFF MONTHS 12	RP NUMBER	IPCR NUMBER	BRU PRIORITY	LOCATION Juncos	ELECTION DISTRICT 4	CCG.		

3.	CONTINUATION LEVEL	ADDITION	
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

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		C.F. Match 1003	
18.		General Funds 1004	29,082
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

JUSTIFICATION

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.

FOR BSM USE ONLY
4A KEY NUMBER _____

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

SENATE JUDICIARY COMMITTEE LETTER OF INTENT RE SENATE BILL 86

February 23, 1983

Mr. President:

The Judiciary Committee has had Senate Bill 86 under consideration. The Committee recommends that SB 86 do pass.

Under existing law, the Violent Crimes Compensation Board, established in 1972, may not award compensation if the victim of a violent crime is, or was at the time of the crime, a relative of the offender, a member of the offender's family or household, or maintaining a sexual relationship with the offender.

SB 86 would eliminate these restrictions or disabilities, and permit the Board to award compensations in all cases which the Board, operating under standards set forth in AS 18.67.080, finds fitting (within the limitations of the legislature's annual appropriation for this purpose).

The need for SB 86 was demonstrated by testimony before the Committee. Under existing law, a minor living in the household of the offender, whose parent is murdered by the offender, may not be compensated even though the minor was economically dependent upon the parent. In that case -- an actual one -- the Violent Crimes Compensation Board was barred by existing law from awarding compensation; a case-by-case analysis by the Board would be preferable.

Concern was expressed lest SB 86 be a basis for awards to a person involved in a sexual relationship with the offender, where the victim explicitly or implicitly consented, as a matter of lifestyle and repeated behavior patterns, to the offender's violent conduct. Since the Violent Crimes Compensation Board has limited resources, and a demand under existing law which is greater than the funds available to the Board, members of the Judiciary Committee felt that the Board should exercise care, if SB 86 becomes law, to avoid having to deny compensation to victims who are strangers to their offenders because of the Board's compensation of newly eligible victims who have consented to violent conduct by offenders with whom the victims have lived.

On this point, the Committee received reassurance from a representative of the Board, who pointed out that SB 86 would require all victims receiving compensation 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 personal injury." Moreover, existing law (AS 18.67.080(c)), requires the Board to consider "all circumstances determined to be relevant, including provocation, consent or any other behavior of the victim which directly or

indirectly contributed to the injury or death", and to consider such factors as the prior case history, or social history, of the victim.

In summary, SB 86 would broaden the discretion of the Violent Crimes Compensation Board to make awards, within the limit of available funds, without the limitations and restrictions of existing law where the victim has been a relative of the offender or a member of the offender's household, or involved in a sexual relationship with the offender. At the same time, the Board could weigh such factors as the victim's conduct, history, or express or implied consent, in determining whether an award should be made.

The Committee would expect the Board to consider these factors with care. SB 86 would also require the victim's cooperation with law enforcement agencies' efforts to apprehend and convict the offender.

Senator Bill Ray
Chairman

Alaska State Legislature

Advisory Council Members

Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp



Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907)465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Kerttula
FROM: Elizabeth J. Hickerson
RE: Violent Crimes Compensation Board Revisions
DATE: January 25, 1983

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, which established a Violent Crimes Compensation Board, was adopted 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 11.51.130(a)(4), or threats to do bodily harm. AS 18.67.101.

Victim compensation covers reasonable expenses incurred; loss of earning power due to incapacity; 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 dependents of a deceased victim. AS 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 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.

SB86 would revise the statute 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, Administrator to the Board, has encountered cases where payment never reached the provider. With the addition of this new paragraph the administrative procedures will be more efficient.

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 Alaskans are often denied compensation due to the fact that the population is sparse, housing is often limited and many people are distantly related. SB86 would correct these problems.

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 the 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. There is 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

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

FOUCH N
JUNEAU, ALASKA 99811

VIOLENT CRIMES COMPENSATION BOARD

(907)465-3040

February 1, 1983

The Honorable Robert H. Ziegler
Alaska State Senate
Juneau, Alaska

Re: SB 86
An act relating to compensation
for victims of violent crimes

Dear Senator Ziegler:

The Violent Crimes Compensation Board supports SB 86 and believes it will improve our statute and make it possible to assist innocent victims who have been denied due to the current statute.

This bill would add a new paragraph which would enable the Board to pay the provider directly for services provided as a result of the personal injury or death of the victim. Many times in the past, the provider has not been paid because the service was paid in a joint warrant and this warrant did not always get sent to the provider. One example is a hospital that did not get their money as the claimant received the check and left the state without forwarding it to the provider and we were unable to contact the claimant.

The bill also provides a new paragraph which would enable the Board to deny a claim if the claimant refuses to give reasonable cooperation to 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. The Board always considers the claimant's attitude and cooperation but there are a few cases where the claimant was justified in fearing retribution from the offender and his family and would not prosecute.

The bill repeals the section of the Act which now excludes relatives and victims living with offenders. The Board supports repealing these two sections as they feel many people in the bush and outlying areas are truly innocent victims, but are not included in the present act because

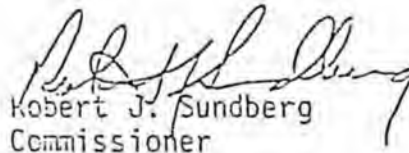
they are living in the same residence as the offender. One example was of a murderer who killed several people including his step-daughter. Because they were related, funeral expenses could not be paid. Another example of a truly innocent victim, is the little eleven-year-old boy who watched as his father killed his mother. The father was convicted and the little boy went to live with his grandparents, who were much older and living on a very limited income. The boy was deprived of both parents, had to move to a new area and needed counselling, none of which could be compensated under the present statute.

These amendments to the statute would be beneficial to many innocent victims in Alaska.

Sincerely,



(Mrs.) Nola K. Capp
Administrator



Robert J. Sundberg
Commissioner

NKC:sj



STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA COMMISSION ON THE STATUS OF WOMEN
338 DENALI STREET, SUITE 850
ANCHORAGE, ALASKA 99501

February 21, 1983

POSITION PAPER

SB86: An Act relating to compensation for victims of violent crimes

The Alaska Commission on the Status of Women, representing the views of thousands of thousands of women across the state, supports the passage of SB86.

The "Preliminary Study on the Status of Women in Alaska" was presented to the Legislature in 1977. In the section of the study dealing with the justice system, subsection entitled "Battered Wives", the following recommendation was made:

"The Legislature should amend the violent crimes compensation statute to provide coverage for battered wives."

Although legislation speaking to this issue has been previously introduced, passage has been difficult to secure due primarily to concerns that the perpetrator would unjustly benefit from monetary compensation awarded to the victim. Amending the statute to require that payment be made directly to the service provider would serve to both eliminate that possibility and afford the victim of family violence the same protection available to victims of other violent crimes.

The Commission would urge passage of SB86.

Prepared by: Carla Timpone, Chair
Political Action Committee

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 809

JUNEAU, ALASKA 99802
586-3650

POSITION PAPER

SB86: An Act relating to compensation for victims of violent crimes

The Alaska Network on Domestic Violence and Sexual Assault supports SB86.

Violent crimes compensation programs represent a new commitment to helping people recover from the effects of crime. Some see the programs as an obligation of the state for the failure to provide adequate protection. Others view victims' compensation as a humanitarian duty. Whatever the rationale for such programs, the exclusion of victims who had a relationship with the offender is unfair and inconsistent with the goals of compensating victims of violent crimes.

Other states have recognized the injustice of a provision which excludes victims who knew the offender. California, Delaware, Florida, Indiana, and Michigan permit awards to victims who live with or are related to the offender. The widespread support for not excluding similarly situated victims is evidenced by recommendations made by the President's Task Force on Victims of Crime (December 1982), from which the following is excerpted:

"Another issue is whether victims who are related to, or are living with, the offender should be excluded from payment eligibility. The states' desire to minimize fraud is laudable; however, many innocent victims of violence in the home are being unfairly ignored. Some states have successfully experimented with allowing flexibility in this area as long as the award will not unjustly benefit the offender. A blanket exclusion can be particularly devastating to child victims of intra-family abuse who, as a result, are denied adequate treatment."

Without the amendments included in SB63, the State of Alaska will continue to deny awards to those who may need help the most: under the current statute, a child may receive nothing even if one parent kills another.

The Network feels strongly that victims of crime should not be further victimized by the system that exists to protect and serve them. Further, we feel that victims of the crimes of domestic violence and sexual assault should be afforded the same compensation as victims of any other violent crime.

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of twenty-one programs statewide that provide domestic violence, sexual assault, and adult crisis intervention services to members of their respective communities. Network programs are funded in part through grants and contracts awarded by the Council on Domestic Violence and Sexual Assault.

The Network was established in 1978, and has as one of its primary focuses the elimination of domestic violence and sexual assault.

*****CORRECTION NOTICE*****

PLEASE INSERT THIS NEW SENATE BILL FOR THE PREVIOUS BILL.

Introduced: 1/27/83
Referred: Judiciary and Finance

1 IN THE SENATE

BY KERTTULA AND V. FISCHER

2

SENATE BILL NO. 86

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to compensation for victims of
7 violent crimes."

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

9 * Section 1. AS 18.67.080(a) is amended by adding a new paragraph to
10 read:

11 (4) directly to the provider of a service provided as a
12 result of the personal injury or death of the victim.

13 * Sec. 2. AS 18.67.130(b) is amended by adding a new paragraph to read:

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

18 * Sec. 3. AS 18.67.130(b)(1) - (2) are repealed.

COMMITTEE REPORT
SENATE

1/27/83

FURTHER: FINANCE

Date: 2/21/83

Mr. President:

The Committee on JUDICIARY has had SB NO. 86

relating to compensation for victims of violent crimes

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

Bill Ray

3

Joe Anderson

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bill Ray
CHAIRMAN

SENATE JUDICIARY COMMITTEE LETTER OF INTENT
SENATE BILL NO. 86

The Judiciary Committee has had Senate Bill 86 under consideration. The Committee recommends that SB 86 do pass.

Under existing law, the Violent Crimes Compensation Board, established in 1972, may not award compensation if the victim of a violent crime is, or was at the time of the crime, a relative of the offender, a member of the offender's family or household, or maintaining a sexual relationship with the offender.

SB 86 would eliminate these restrictions or disabilities, and permit the Board to award compensations in all cases which the Board, operating under standards set forth in AS 18.67.080, finds fitting (within the limitations of the legislature's annual appropriation for this purpose).

The need for SB 86 was demonstrated by testimony before the Committee. Under existing law, a minor living in the household of the offender, whose parent is murdered by the offender, may not be compensated even though the minor was economically dependent upon the parent. In that case -- an actual one -- the Violent Crimes Compensation Board was barred by existing law from awarding compensation; a case-by-case analysis by the Board would be preferable.

Concern was expressed lest SB 86 be a basis for awards to a person involved in a sexual relationship with the offender, where the victim explicitly or implicitly consented, as a matter of lifestyle and repeated behavior patterns, to the offender's violent conduct. Since the Violent Crimes Compensation Board has limited resources, and a demand under existing law which is greater than the funds available to the Board, members of the Judiciary Committee felt that the Board should exercise care, if SB 86 becomes law, to avoid having to deny compensation to victims who are strangers to their offenders because of the Board's compensation of newly eligible victims who have consented to violent conduct by offenders with whom the victims have lived.

On this point, the Committee received reassurance from a representative of the Board, who pointed out that SB 86 would require all victims receiving compensation 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 personal injury." Moreover, existing law (AS 18.67.080 (c)), required the Board to consider "all circumstances determined to be relevant, including provocation, consent or any other behavior of the victim which directly or indirectly contributed to the injury or death", and to consider such factors as the prior case history, or social history, of the victim.

In summary, SB 86 would broaden the discretion of the Violent Crimes Compensation Board to make awards, within the limit of available funds, without the limitations and restrictions of existing law where the victim has been a relative of the offender or a member of the offender's household, or involved in a sexual relationship with the offender. At the same time, the Board could weigh such factors as the victim's conduct, history, or express or implied consent, in determining whether an award should be made.

The committee would expect the Board to consider these factors with care. SB 86 would also require the victim's cooperation with law enforcement agencies' efforts to apprehend and convict the offender.

2/23/83
Date

Bill Ray
Senator Bill Ray
Chairman