

S B

320

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/24/88

FURTHER REFERRALS:

Judiciary

4/26
○

DATE: 4-26-88

The Health, Education and Social Services Committee has considered CSSB 320(Jud)

"An Act relating to damages for death of a minor and the distribution of a minor's estate."

RECOMMENDS:

- replace with HCS CSSB 320 (HESS) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

W. F. Kopona
Bill G. Hurd
W. H. Humberg
J. Ellis
Clayton H. Hurd
Ross E. Hurd

SIGNING OTHER RECOMMENDATIONS:

J. Ellis
 C. Chairman's signature
W. F. Kopona

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

rth 4 1988

REQUEST: _____

Bill Version: CSSB320(JUDICIARY)

Publish Date:

SENATE (2/12/88)

Revision Date:
Title: An act relating to damages for
death of a minor...

Agency Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Duncan
Requestor: Senate Judiciary

Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93	
Personal Services	
Travel	
Contractual	
Supplies	
Equipment	
Land & Structures	
Grants & Claims	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	
<hr/>							
CAPITAL	
<hr/>							
REVENUE	

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS:							
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*
Jan Strandberg, General Counsel
Division: Alaska Court System

Phone: 264-8228
Date: 2-1-88

Approved by: *Stephanie Cole, for*
Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Date: 2-1-88

- (Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management & Budget
- Impacted Agency(ies)
- Senate Secretary

4/21/88

SENATOR JIM DUNCAN

T E S T I M O N Y

CS SENATE BILL 320 (JUD)
DAMAGES FOR DEATH OF A MINOR AND DISTRIBUTION OF A
MINOR'S ESTATE

CS SENATE BILL 320 WILL PROHIBIT A PARENT OR OTHER HEIR OF A CHILD WHO CAUSED THEIR CHILD'S DEATH THROUGH A CRIMINAL ACT FROM RECOVERING DAMAGES FOR THAT DEATH THROUGH THE ESTATE OF THE CHILD. THE EXISTING LAWS OF INHERITANCE SOMETIMES PROVIDE A BIZARRE RESULT BECAUSE PARENTS ARE REWARDED FOR THEIR CRIMINAL ACTS WHICH RESULT IN THE DEATH OF THEIR CHILD.

AT PRESENT, EVEN IF A PARENT CAUSES THE DEATH OF THEIR CHILD THROUGH MANSLAUGHTER OR CRIMINAL NEGLIGENCE, THE LAWS OF INHERITANCE ALLOW THEM TO RECEIVE THE PROCEEDS OF THAT CHILD'S ESTATE. THIS RESULTS IN ESPECIALLY DISTRESSING OUTCOMES WHEN THIRD PARTY LAWSUITS, SUCH AS THOSE AGAINST THE STATE, ARE INVOLVED. THIS BILL WOULD REMOVE SUCH A PARENT OR PARENTS FROM THE LINE OF INHERITANCE AS IF THEY HAD PREDECEASED THE CHILD. THE PROCEEDS OF THE ESTATE WOULD THEN GO TO OTHER CHILDREN OR RELATIVES OF THE DECEASED. SECTION 2 MAKES THIS CHANGE TO THE CODE OF CIVIL PROCEDURES AND SECTION 3 CHANGES THE PORTION OF THE STATUTE DEALING WITH DECEDENT'S ESTATES.

THIS BILL DOES NOT ADDRESS AN IMAGINARY SITUATION, THERE
HAVE BEEN A NUMBER OF CASES IN ALASKA AND A RECENT CASE IN JUNEAU
WHICH WOULD BE AFFECTED BY THIS CHANGE TO THE STATUTES. THE BILL
IS SUPPORTED BY THE ATTORNEY GENERAL AND THE LOCAL DISTRICT
ATTORNEY.

I URGE YOU TO APPROVE THIS LEGISLATION AND CLOSE THIS
LOOPHOLE IN THE LAW.

*Rick Soborny, local DistAtt.
Bill Mellow, Asst. Att. Gen'l.*

Original sponsor: Duncan

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 320 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to damages for the death of a person
7 and the distribution of that person's estate."

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

9 * Section 1. AS 09.55.580(a) is amended to read:

10 (a) Except as provided under (f) of this section, when [WHEN]
11 the death of a person is caused by the wrongful act or omission of
12 another, the personal representatives of the former may maintain an
13 action therefor against the latter, if the former might have main-
14 tained an action, had the person lived, against the latter for an
15 injury done by the same act or omission. The action shall be com-
16 menced within two years after the death, and the damages therein shall
17 be the damages the court or jury may consider fair and just. The
18 amount recovered, if any, shall be exclusively for the benefit of the
19 decedent's spouse and children when the decedent is survived by a
20 spouse or children, or other dependents. When the decedent is surviv-
21 ed by no spouse or children or other dependents, the amount recovered
22 shall be administered as other personal property of the decedent but
23 shall be limited to pecuniary loss. When the plaintiff prevails, the
24 trial court shall determine the allowable costs and expenses of the
25 action and may, in its discretion, require notice and hearing thereon.
26 The amount recovered shall be distributed only after payment of all
27 costs and expenses of suit and debts and expenses of administration.

28 * Sec. 2. AS 09.55.580 is amended by adding a new subsection to read:

29 (f) A person whose act or omission constitutes the felonious

1 killing of another person may not recover damages for the death of
2 that person either directly or as a personal representative of that
3 person's estate. In this subsection, a "felonious killing" means a
4 crime defined by AS 11.41.100 - 11.41.140.

5 * Sec. 3. AS 13.11.305(a) is amended to read:

6 Sec. 13.11.305. EFFECT OF FELONIOUS KILLING [HOMICIDE] ON INTES-
7 TATE SUCCESSION, WILLS, JOINT ASSETS, LIFE INSURANCE, AND BENEFICIARY
8 DESIGNATIONS. (a) A surviving spouse, heir, or devisee who felon-
9 iously [AND INTENTIONALLY] kills the decedent is not entitled to any
10 benefits under the will or under this chapter, and the estate of the
11 decedent passes as if the killer had predeceased the decedent. Prop-
12 erty appointed by the will of the decedent to or for the benefit of
13 the killer passes as if the killer had predeceased the decedent.

14 * Sec. 4. AS 13.11.305(b) is amended to read:

15 (b) A joint tenant who feloniously [AND INTENTIONALLY] kills
16 another joint tenant thereby effects a severance of the interest of
17 the decedent so that the share of the decedent passes as the dece-
18 dent's property and the killer has no rights by survivorship. This
19 provision applies to joint tenancies and tenancies by the entirety in
20 real and personal property, joint and multiple-party accounts in
21 banks, savings and loan associations, credit unions and other insti-
22 tutions, and any other form of co-ownership with survivorship inci-
23 dents.

24 * Sec. 5. AS 13.11.305(c) is amended to read:

25 (c) A named beneficiary of a bond, life insurance policy, or
26 other contractual arrangement who feloniously [AND INTENTIONALLY]
27 kills the principal obligee or the person upon whose life the policy
28 is issued is not entitled to any benefit under the bond, policy, or
29 other contractual arrangement, and it becomes payable as though the

1 killer had predeceased the decedent.

2 * Sec. 6. AS 13.11.305(e) is amended to read:

3 (e) A final judgment of conviction of felonious [AND INTEN-
4 TIONAL] killing is conclusive for purposes of this section. In the
5 absence of a conviction of felonious [AND INTENTIONAL] killing the
6 court may determine by a preponderance of evidence whether the killing
7 was felonious [AND INTENTIONAL] for purposes of this section.

8 * Sec. 7. AS 13.11.305(f) is amended to read:

9 (f) This section does not affect the rights of a [ANY] person
10 who, before rights under this section have been adjudicated, purchases
11 from the killer for value and without notice property that [WHICH] the
12 killer would have acquired except for this section, but the killer is
13 liable for the amount of the proceeds or the value of the property.
14 An [ANY] insurance company, bank, or other obligor making payment
15 according to the terms of its policy or obligation is not liable by
16 reason of this section unless before payment it has received at its
17 home office or principal address written notice of a claim under this
18 section.

19 * Sec. 8. AS 13.11.305 is amended by adding a new subsection to read:

20 (g) In this section, a "felonious killing" means a crime defined
21 under AS 11.41.100 - 11.41.140.
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1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE CONCURRENT RESOLUTION NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Suspending Uniform Rules 41(b), 24(c),
6 and 35 of the Alaska State Legislature
7 concerning Senate Bill 320.

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

9 That under Rule 54 of the Uniform Rules of the Alaska State Legisla-
10 ture the provisions of Rule 41(b), rule 24(c), and Rule 35 of the Uniform
11 Rules, regarding changes to the title of a bill, are suspended in consid-
12 eration of Senate Bill 320, relating to damages for the death of a minor
13 and the distribution of a minor's estate.
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS	4-21-88	8:30 a.m.
H HESS	4-26-88	8:30 a.m.