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REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN • SPENARD

P.O. BOX V, JUNEAU 99811
(907) 465-3892



TO: ALL MEMBERS, HOUSE JUDICIARY COMMITTEE
FROM: REPRESENTATIVE DAVE DONLEY *DD*
RE: HB 28: MUNICIPAL PENALTIES FOR PROSTITUTION
DATE: FEBRUARY 16, 1987

HB 28 EMPOWERS LOCAL GOVERNMENTS TO ADOPT MANDATORY MINIMUM SENTENCES FOR CRIMES OF PROSTITUTION. IT IS A LOCAL OPTION LAW AND DOES NOT MANDATE ANY INCREASE IN EXISTING STATE OR LOCAL PENALTIES.

THE INCREASE OF PROSTITUTION ACTIVITY IN ANCHORAGE AND OTHER URBAN AREA OF ALASKA HAS RESULTED IN INCREASED PUBLIC DISTURBANCES AND STREET CRIME. THE APPEARANCE OF HOUSES OF PROSTITUTION AND STREETWALKERS CLOSE TO RESIDENTIAL AREAS HAS ADVERSELY IMPACTED NEIGHBORHOODS.

RECENT CRACKDOWNS ON PROSTITUTION BY SEVERAL MAJOR WEST COAST COMMUNITIES HAS RESULTED IN THE RELOCATION OF MANY PROSTITUTES TO ALASKA, WHERE STATE LAWS ARE FAR LESS STRIDENT FOR THIS ACTIVITY.

UNDER CURRENT ALASKA LAW, LOCAL GOVERNMENTS MANY NOT ADOPT PRESUMPTIVE CRIMINAL PENALTIES UNLESS ALREADY CONTAINED IN STATE LAW OR AUTHORIZED BY STATE STATUATE.

BY ALLOWING LOCAL GOVERNMENTS TO ADOPT MANDATORY MINIMUM SENTENCES FOR PROSTITUTION, ALASKA COMMUNITIES CAN FOLLOW THE LEAD OF MANY CITIES IN THE LOWER 48 STATES WHERE SUCH PENALTIES HAVE SUCCESSFULLY REDUCED PROSTITUTION PROBLEMS.

HB 28 HAS BEEN ENDORSED BY THE FOLLOWING:

ALASKA ASSOCIATION OF POLICE CHIEFS, ANCHORAGE POLICE CHIEF RON OTTE, FAIRBANKS POLICE CHIEF RICHARD CUMMINGS, VALDEZ POLICE CHIEF PAT SHELLY, THE ANCHORAGE ASSEMBLY, THE SPENARD COMMUNITY COUNCIL AND THE SPENARD ACTION COMMITTEE.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

December 17, 1986

SUBJECT: Mandatory sentences for prostitution
(Work Order No. 15-0301)

TO: Representative Max Gruenberg

FROM: Keith B. Levy ^{KBL}
Legislative Counsel

You have asked whether legislation would be required to enable municipalities to adopt ordinances providing for a mandatory minimum sentence for prostitution, and if so, whether such legislation would present any constitutional difficulties. I have concluded that while municipalities do not have the authority under existing law to enact such an ordinance, the legislature may grant that authority without running afoul of the constitution.

The Alaska Supreme Court has made it clear that a municipality may make prostitution a crime even though prostitution is already a crime under state law: "It is settled that an act may be made a penal offense under state statute, and also made punishable under an ordinance of a municipal corporation." Wester v. State, 528 P.2d 1179, 1185 (Alaska 1974).

In a later case, however, the court considered whether the City of Kodiak had the authority to enact an ordinance prescribing a mandatory minimum sentence for an offense. Article X, sec. 11, of the Alaska Constitution provides that "a home rule borough or city may exercise all legislative powers not prohibited by law or by charter." Thus, an ordinance is only invalid if it is somehow prohibited by statute or by the municipality's charter. Citing earlier cases, the court applied the following test for determining whether a municipal ordinance is invalid under state law:

A municipal ordinance is not necessarily invalid in Alaska because it is inconsistent or in conflict with a state statute. The question rests on whether the exer-

Representative Gruenberg
Page 2
December 17, 1986

cise of authority has been prohibited to municipalities. The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive effect if the other is to be accorded the weight of law. City of Kodiak v. Jackson. 584 P.2d 1130, 1132 (Alaska 1978).

The court concluded that the mandatory minimum sentencing provisions were irreconcilable with certain criminal procedure statutes and were therefore invalid. However, the decision was based on the fact that the ordinance could not be reconciled with existing state law. There is nothing in the decision to indicate that the legislature could not amend existing law to expressly permit a municipality to enact an ordinance providing for mandatory minimum sentences. The enclosed bill draft does that with respect to prostitution and cures the problems raised in the City of Kodiak case.

If I may be of further assistance, please advise.

KBL:mkr
m7/073

Enclosure

- (b) Criminal possession of explosives is a
- (1) class A felony if the crime intended is murder in any degree or kidnapping;
 - (2) class B felony if the crime intended is a class A felony;
 - (3) class C felony if the crime intended is a class B felony;
 - (4) class A misdemeanor if the crime intended is a class C felony;
 - (5) class B misdemeanor if the crime intended is a class A or class B misdemeanor. (§ 7 ch 166 SLA 1975)

Collateral references -- 31 Am. Jur. Possession of bomb, molotov cocktail or
 2d Explosion- and Explosives, similar device as criminal offense. 42
 §§ 121-130. ALR3d 1230
 35 C.J.S. Explosives- § 12

Sec. 11.61.250. Unlawful furnishing of explosives. (a) A person commits the crime of unlawful furnishing of explosives if the person furnishes an explosive substance or device to another knowing that the other intends to use the substance or device to commit a crime.

(b) Unlawful furnishing of explosives is a class C felony. (§ 7 ch 166 SLA 1975)

Chapter 65. Offenses Against Public Convenience.

Secs. 11.65.010 — 11.65.020. [Renumbered as AS 30.50.020 and 30.50.010.]

Sec. 11.65.030. Tampering with posted notices. [Repealed, § 21, ch 166, SLA 1975.]

Chapter 66. Offenses Against Public Health and Decency.

Article

1. Prostitution and Related Offenses (§§ 11.66.100 — 11.66.150)
2. Gambling Offenses (§§ 11.66.200 — 11.66.250)

Article 1. Prostitution and Related Offenses.

Section	Section
100. Prostitution.	130. Promoting prostitution in the third degree.
110. Promoting prostitution in the first degree.	140. Corroboration of certain testimony not required.
120. Promoting prostitution in the second degree.	150. Definitions.

NOTES TO DECISIONS

Municipal ordinances not prohibited. — The enactment of this article does not prohibit municipal ordinances penalizing the solicitation of prostitutes by putative customers. Municipality of Anchorage v. Afualo, Ct. App. Op. No. 213 (File Nos. 7094, 7095, 657 P.2d 407 (1983).

There is nothing in this article which

would support an inference that the legislature sought to encourage men to patronize prostitutes nor is there any indication in this article that the legislature sought statewide uniformity in regulating commercial sexual relations. Municipality of Anchorage v. Afualo, Ct. App. Op. No. 213 (File Nos. 7094, 7095, 657 P.2d 407 (1983).

Collateral references. — 69 Am. Jur. 2d Prostitution § 1 et seq.; 27 C.J.S. Disorderly Houses § 1 et seq.; 78 C.J.S. Prostitution § 1 et seq.; Constitutionality and construction of pandering acts, 74 ALR 311.

Validity and construction of statute or ordinance prohibiting solicitation for purposes of prostitution, lewdness, or assignment — modern cases, 77 ALR2d 515.

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if the person engages in or agrees or offers to engage in sexual conduct in return for a fee.

(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law, whereas fornication and prostitution were not. Eleazar v. United States, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956) decided under former AS 11.40.220.

This section is not irreconcilable with a municipal ordinance prohibiting the solicitation of prostitutes by putative customers. Municipality of Anchorage v. Afualo, Ct. App. Op. No. 213 (File Nos. 7094, 7095, 657 P.2d 407 (1983).

Actual payment of a fee is not required; an act of prostitution is com-

plete when an offer is extended or an agreement made to engage in sexual conduct in return for a fee. Garibay v. State, Ct. App. Op. No. 221 (File No. 6245, 655 P.2d 1350 (1983).

Proof. — Customer's testimony that he agreed to purchase sexual favors for sum of \$200; his testimony that he charged the purchase price using his VISA card; and the VISA charge slip itself, were all highly probative of whether an agreement or offer to engage in sexual conduct in return for a fee was in fact made. Garibay v. State, Ct. App. Op. No. 221 (File No. 6245, 655 P.2d 1350 (1983).

Collateral references. — Prostitution as vagrancy, 14 ALR 1503; Entrapment to procure women for

immoral purposes, 18 ALR 166, 69 ALR 478, 68 ALR 265.

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if the person

(1) induces or causes a person to engage in prostitution through the use of force.

(2) as other than a patron of a prostitute induces or causes a person under 16 years of age to engage in prostitution; or

(3) induces or causes a person in that person's legal custody to engage in prostitution.

(b) In a prosecution under (a) 2 of this section, it is not a defense that the defendant reasonably believed that the person induced or caused to engage in prostitution was 16 years of age or older.

(c) Except as provided in (d) of this section, promoting prostitution in the first degree is a class B felony.

(d) A person convicted under (a) 2 of this section is guilty of a class A felony. (§ 8 ch 166 SLA 1978, am. §§ 1, 2 ch 50 SLA 1988)

Effect of amendments. — The 1988 amendment added "Except as provided in section (c) and added subsection (d)" to the beginning of subsection (c) of this section.

NOTES TO DECISIONS

For case construing former statute prohibiting importing or exporting females for immoral purposes, see State v. Adkerson, Sup. Ct. Op. No. 294 (File No. 520), 408 P.2d 673 (1965).

For case construing former procurement statute, see Johnson v. State, Sup. Ct. Op. No. 832 (File No. 1336), 501 P.2d 762 (1972).

Sentence for procurement upheld. — See Price v. State, Sup. Ct. Op. No. 1450 (File No. 2794), 565 P.2d 858 (1977).

For case construing former statute concerning necessary evidence for prostitution or seduction, see Johnson v. State, Sup. Ct. Op. No. 832 (File No. 1336), 501 P.2d 762 (1972).

Collateral references. — Transporting female for purpose of prostitution, 74 ALR 330.

Woman conniving or consenting to own transportation, 84 ALR 370.

Sec. 11.66.120. Promoting prostitution in the second degree.

(a) A person commits the crime of promoting prostitution in the second degree if the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a prostitution enterprise other than a place of prostitution; or

(2) procures or solicits a patron for a prostitute.

(b) Promoting prostitution in the second degree is a class C felony. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former statute prohibiting soliciting or procuring for purpose of prostitution, see *Pias v. State*, Sup. Ct. Op. No. 1934 (File No. 3529, 3530, 598 P.2d 966 (1975).

Instruction — Trial court did not err in

refusing to give instruction requiring state to prove that prostitution enterprise involved in case was of an ongoing nature. *Garibay v. State*, Ct. App. Op. No. 21 (File No. 6240, 658 P.2d 1357 (1983).

Collateral references — Separate acts of taking earnings of or support from pro-

stitute as separate or continuing offenses of pimping. 3 ALR4th 1197.

Sec. 11.66.130. Promoting prostitution in the third degree. (a) A person commits the crime of promoting prostitution in the third degree if, with intent to promote prostitution, the person:

(1) manages, supervises, controls, or owns, either alone or in association with others, a place of prostitution;

(2) as other than a patron of a prostitute, induces or causes a person 16 years of age or older to engage in prostitution;

(3) as other than a prostitute receiving compensation for personally rendered prostitution services, receives or agrees to receive money or other property pursuant to an agreement or understanding that the money or other property is derived from prostitution; or

(4) engages in conduct that institutes, aids, or facilitates a prostitution enterprise.

(b) Promoting prostitution in the third degree is a class A misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Editor's notes — The cases cited in the notes below were decided under former AS 11 40.280, 11 40.330, 11 40.330, 11 40.410, and 11 40.420.

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law. *Elezar v. United States*, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956).

Lessor may be guilty as keeper. — If a man leases his house to a woman to be kept as a bawdyhouse for purposes of prostitution, and it is kept for such purposes with his knowledge, he is guilty as keeper. *Rosenkranz v. United States*, 155 F. 38 (9th Cir. 1907).

As well as agent of lessor. — The agent of an owner, who rents a house knowing that it is to be used as a house of prostitution, and that it is so used, may be found guilty as a keeper. *Rosenkranz v.*

United States, 155 F. 38 (9th Cir. 1907).

For case construing former statute prohibiting employment in a house of prostitution or living on the earnings of a prostitute, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338, 501 P.2d 762 (1972).

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520, 403 P.2d 673 (1965).

For case construing former statute prohibiting pimping, see *Johnson v. United States*, 260 F. 755 (9th Cir. 1915).

For case construing former statute prohibiting a male's living with or on the earnings of a prostitute, see *Dunn v. State*, Sup. Ct. Op. No. 409 (File No. 735, 426 P.2d 993 (1967)).

Collateral references. — 27 C.J.S. Disorderly Houses; §§ 1 to 18; 73 C.J.S. Prostitution; § 6.7.

Constitutionality of statute conferring on chancery courts power to abate bawdyhouse as nuisance. 5 ALR 147; 22 ALR 542; 75 ALR 129.

Number of females who reside in house or resort thereto for immoral purposes as

affecting disorderly character thereof. 12 ALR 529.

Entrapment to commit offense as to house of prostitution or as to pandering. 51 ALR2d 1194.

Construction of provision of pandering statute as to placing a female in charge of custody of another. 54 ALR2d 117.

Sec. 11.66.140. Corroboration of certain testimony not required. In a prosecution under AS 11.66.110 — 11.66.130, it is not necessary that the testimony of the person whose prostitution is alleged to have been compelled or promoted be corroborated by the testimony of any other witness or by documentary or other types of evidence. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former rule as to corroboration of prostitute's testimony, see *Johnson v State*, Sup. Ct. Op. No. 832 (File No. 1338, 501 P.2d 762 (1972)).

providing that common fame was competent evidence in a prosecution for keeping a bawdyhouse, see *Bottle v United States*, 155 F. 50 (9th Cir. 1907); *Hall v United States*, 155 F. 52 (9th Cir. 1907).

For cases construing former statute

Sec. 11.66.150. Definitions. In AS 11.66.100 — 11.66.150, unless the context requires otherwise,

- (1) "place of prostitution" means any place where a person engages in sexual conduct in return for a fee.
- (2) "prostitution enterprise" means an arrangement in which two or more persons are organized to render sexual conduct in return for a fee.
- (3) "sexual conduct" means genital or anal intercourse, cunnilingus, fellatio, or masturbation of one person by another person. (§ 8 ch 166 SLA 1978)

Cross references. — For definition of terms used in this title, see AS 11.81.900.

Article 2. Gambling Offenses.

- Section 200 Gambling
- 210 Promoting gambling in the first degree
- 220 Promoting gambling in the second degree
- 230 Possession of gambling records in the first degree

- Section 240 Possession of gambling records in the second degree
- 250 Affirmative defenses
- 260 Possession of a gambling device
- 270 Forfeiture
- 280 Definitions

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ducts and differing societal interests are 258 (File No 5821), 665 P.2d 829 (1953)

Sec. 11.66.120. Promoting prostitution in the second degree.

NOTES TO DECISIONS

Promoting prostitution and manag- did not violate double jeopardy since the
ing prostitution enterprise. — Punish- offenses proscribed by the two statutes in-
ment for inducing or causing a person un- volve different intents and different con-
der the age of 16 to engage in prostitution ducts and differing societal interests are
(AS 11.66.110 a-2) and for managing furthered Bell v. State Ct App Op No
supervising, controlling or owning a pro- 258 (File No 5821), 665 P.2d 829 (1953)
stitution enterprise (AS 11.66.120 a-1)

Sec. 11.66.130. Promoting prostitution in the third degree.

NOTES TO DECISIONS

Quoted in Bell v. State Ct App Op
No. 258 (File No 5821), 665 P.2d 829
(1953)

Sec. 11.66.140. Corroboration of certain testimony not re-
quired.

NOTES TO DECISIONS

Cited in Bell v. State Ct App Op No.
258 (File No 5821), 665 P.2d 829 (1953)

Sec. 11.66.150. Definitions.

NOTES TO DECISIONS

Quoted in Bell v. State Ct App Op
No. 258 (File No 5821), 665 P.2d 829
(1953)

Chapter 70. Miscellaneous Provisions.

Secs. 11.70.010 — 11.70.030. Intent to defraud; use of evidence by
person on charge of perjury; intoxication as defense. [Repealed, § 21,
ch 166, SLA 1975. For current law, see AS 11.46.990-10, 11.81.630.]

Editor's notes. — The repeal line
above is set out to correct an error in the
main pamphlet

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applies to the offense of felon in possession of a concealable firearm. *State v. LaPorte*, Ct. App. Op. No. 396 (File No. 722), 7255, 672 P.2d 462 (1983).

Conviction upheld — A person may be convicted of being a felon in possession of a concealable firearm when the predicate conviction is on appeal and the sentence stayed. *Berg v. State*, Ct. App. Op. No. 564 (File No. A-665), 711 P.2d 553 (1985).

Conviction and sentence upheld — *See Afari v. State*, Ct. App. Op. No. 572 (File No. A-703), 711 P.2d 1198 (1985).

Conviction and sentence for kidnapping assault in the first degree misconduct involving weapons in the first degree

and robbery in the first degree were affirmed. *See Wortham v. State*, Sup. Ct. Op. No. 414 (File No. 7353), 659 P.2d 1133 (1984).

Sentence upheld — *See Gilbreath v. State*, Ct. App. Op. No. 275 (File No. 7097), 607 P.2d 1354 (1983).

Applied in *Shaw v. State*, Ct. App. Op. No. 313 (File No. 7551), 673 P.2d 781 (1983).

Cited in *State v. Frazier*, Ct. App. Op. No. 45 (File No. A-415), 697 P.2d 1212 (1985); *Ackermann v. State*, Ct. App. Op. No. 605 (File No. A-931), 716 P.2d 5 (1985); *State v. Frazier*, Sup. Ct. Op. No. 067 (File No. S-972), 719 P.2d 261 (1985).

Sec. 11.61.210. Misconduct involving weapons in the second degree.

NOTES TO DECISIONS

Sentence affirmed. — *See Afari v. State*, Ct. App. Op. No. 572 (File No. A-703), 711 P.2d 1198 (1985).

Chapter 66. Offenses Against Public Health and Decency.

Article 1. Prostitution and Related Offenses.

Sec. 11.66.110. Promoting prostitution in the first degree.

NOTES TO DECISIONS

Precluding mistake of age as defense. — Subsection (b) of this section, which expressly dispenses with mistake of age as a defense to promoting prostitution in the first degree, does not violate due process of law. *Bell v. State*, Ct. App. Op. No. 285 (File No. 5521), 665 P.2d 829 (1983).

Under the Revised Alaska Criminal Code, it is defendant's intentional procurement of a person under the age of 16 years for prostitution that renders him liable for first-degree promoting, regardless of his actual awareness of that person's age. *Bell v. State*, Ct. App. Op. No. 285 (File No. 5521), 665 P.2d 829 (1983).

The act of procuring another for pur-

poses of prostitution is mature in se, without regard to the age of the person procured, and thus, in a prosecution for procuring a person under the age of 16 years, the intent to procure satisfies the minimal constitutional requirement of criminal intent. *Bell v. State*, Ct. App. Op. No. 285 (File No. 5521), 665 P.2d 829 (1983).

Promoting prostitution and managing prostitution enterprise. — Punishment for inducing or causing a person under the age of 16 to engage in prostitution (AS 11.66.110(a)(2)) and for managing, supervising, controlling or owning a prostitution enterprise (AS 11.66.120(a)(1)) did not violate double jeopardy since the offenses proscribed by the two statutes in-

NOTES TO DECISIONS

Municipal ordinances not prohibited. — The enactment of this article does not prohibit municipal ordinances penalizing the solicitation of prostitutes by putative customers. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

There is nothing in this article which

would support an inference that the legislature sought to encourage men to patronize prostitutes nor is there any indication in this article that the legislature sought statewide uniformity in regulating commercial sexual relations. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

Collateral references. — 63 Am. Jur. 2d, Prostitution, § 1 et seq.

27 C.J.S., Disorderly Houses, § 1 et seq.; 73 C.J.S., Prostitution, § 1 et seq.

Constitutionality and construction of pandering acts, 74 ALR 311.

Validity and construction of statute or ordinance proscribing solicitation for purposes of prostitution, lewdness, or assignation — modern cases, 77 ALR3d 519.

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if the person engages in or agrees or offers to engage in sexual conduct in return for a fee.

(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

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This section is not irreconcilable with a municipal ordinance prohibiting the solicitation of prostitutes by putative customers. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

Actual payment of a fee is not required; an act of prostitution is com-

plete when an offer is extended or an agreement made to engage in sexual conduct in return for a fee. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Proof. — Customer's testimony that he agreed to purchase sexual favors for sum of \$200, his testimony that he charged the purchase price using his VISA card, and the VISA charge slip itself, were all highly probative of whether an agreement or offer to engage in sexual conduct in return for a fee was in fact made. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Collateral references. — Prostitution as vagrancy, 14 ALR 1501.

Entrapment to procure women for

immoral purposes, 18 ALR 186; 66 ALR 476; 86 ALR 263.

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if the person

(c) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Chapter 23. Municipal Officers and Employees.

[Repealed, § 16 ch 118 SLA 1972; § 24 ch 83 SLA 1979; § 88 ch 74 SLA 1985.]

Chapter 25. Municipal Enactments.

<p>Section 10. Acts required to be by ordinance 20. Ordinance procedure 30. Emergency ordinances 40 Codes of regulation</p>	<p>Section 60. Codification 60. Resolutions 70. Penalties</p>
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Sec. 29.25.010. Acts required to be by ordinance. (a) In addition to other actions that this title requires to be by ordinance the governing body of a municipality shall use ordinances to

- (1) establish, alter, or abolish municipal departments;
- (2) provide for a fine or other penalty, or establish rules regulations for violation of which a fine or other penalty is imposed;
- (3) provide for the levying of taxes;
- (4) make appropriations, including supplemental appropriations or transfer of appropriations.
- (5) grant, renew, or extend a franchise;
- (6) adopt, modify, or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map;
- (7) approve the transfer of a power to a first or second class borough from a city;
- (8) designate the borough seat;
- (9) provide for the retention or sale of tax-foreclosed property;
- (10) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations set out in AS 36.25.025; this paragraph applies to home rule and general law municipalities.

(b) This section grants no authority but requires the governing body to use ordinances in exercising certain of its powers. (§ 8 ch 74 SLA 1985)

Opinions of attorney general. — The borough assembly could levy taxes only by means of an ordinance enacted under the terms of a former, similar provision. 1963 Op. Att'y Gen. No. 25.

Under a former, similar provision, where a proposed incorporation petition provided that public health services should be administered not by the bor-

ough assembly but by a board of health which was to be appointed by the borough assembly, but otherwise to operate autonomously in making rules and regulations with the force of law, such rules and regulations would have been illegal ordinances since they would have been promulgated by the board of health rather than by the borough assembly. The board of health would have constituted a borough department illegally established by the incorporation petition, and not by ordinance. 1962 Op. Att'y Gen. No. 9.

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 343-422. 62 C.J.S., Municipal Corporations, § 411 et seq.

Prohibiting or regulating removal or exploitation of oil and gas, minerals, soil, or other natural products within municipal limits. 10 ALR3d 1226.

Civil liability of private person as affected by invalidity of statute or ordinance for violation of which arrest was made. 16 ALR3d 535.

Validity of statute, ordinance, or charter provision requiring that workmen on public works be paid the prevailing or current rate of wages. 18 ALR3d 944.

Validity of loitering statutes and ordinances. 25 ALR3d 836.

Validity of municipal regulation of aircraft flight paths or altitudes. 36 ALR3d 1314.

Validity and construction of municipal ordinances regulating community antenna television service (CATV). 41 ALR3d 384.

Validity of statute, ordinance, or regulation requiring fingerprint of those engaging in specified occupations. 41 ALR3d 732.

Validity and construction of zoning ordinance regulating architectural style or design of structure. 41 ALR3d 1397.

Validity and construction of state and municipal enactments regulating lobbying. 42 ALR3d 1046.

Validity of statute or ordinance forbidding pharmacist to advertise prices of drugs or medicines. 44 ALR3d 1301.

Validity and construction of statute or ordinance respecting employment of women in places where intoxicating liquors are sold. 46 ALR3d 369.

Validity and construction of statute or ordinance regulating or prohibiting self-service gasoline filling stations. 46 ALR3d 1393.

Validity, construction, and application

of enactments restricting land development by dredging or filling. 46 ALR3d 1422.

Validity of municipal ordinance imposing income tax or license upon nonresidents employed in taxing jurisdiction (commuter tax). 48 ALR3d 343.

Buffer provision in zoning ordinance as applicable to abutting land in adjoining municipality. 48 ALR3d 1303.

Operation of nude-model photographic studio as offense. 48 ALR3d 1313.

Validity and construction of statute or ordinance forbidding treatment in health clubs or massage salons by persons of the opposite sex. 51 ALR3d 936.

Validity of municipal regulation more restrictive than state regulation as to time for selling or serving intoxicating liquor. 51 ALR3d 1061.

Validity and construction of regulations dealing with misrepresentation in the sale of Kosher food. 52 ALR3d 959.

Validity of municipal ordinances regulating time during which restaurant business may be conducted. 53 ALR3d 942.

Modern status of the law as to validity of statutes or ordinances requiring notice of tort claim against local governmental entity. 59 ALR3d 93.

Validity and construction of curfew statute, ordinance, or proclamation. 59 ALR3d 321.

Validity and construction of statute or ordinance prohibiting commercial exhibition of malformed or disfigured persons. 62 ALR3d 1237.

Application of city ordinance requiring license for laundry, to supplier of coin-operated laundry machines intended for use in apartment building. 65 ALR3d 1296.

Validity and construction of statutes or ordinances providing for arbitration of labor disputes involving public employees. 68 ALR3d 885.

Application of statute or regulation dealing with registration or carrying of weapons to transient nonresident. 68 ALR3d 1253.

Larceny as within disorderly conduct statute or ordinance. 71 ALR3d 1156.

Validity and construction of ordinance prohibiting roof signs. 76 ALR3d 1162.

Validity and construction of statute or ordinance proscribing solicitation for purposes of prostitution, lewdness, or assignation — modern cases. 77 ALR3d 519.

Validity of statutes, ordinances, and regulation requiring the installation or maintenance of various bathroom facilities in dwelling units. 79 ALR3d 716.

**Municipality
of
Anchorage**



P.O. BOX 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4311

FEB 3 1987

Larry Baker, Assemblyman
3947 Locarno Drive
Anchorage, Alaska 99504
Telephone (907) 565-2906

January 30, 1987

Representative Dave Donley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Dave:

Thank you for your letter of January 21, 1987. I certainly was pleased to learn that you and Max Gruenberg have introduced legislation to strengthen our statutes on prostitution.

I have felt for many years that our community was in need of stronger legislation by the State of Alaska in order to assist local communities in solving their prostitution problems.

I fully support your efforts and will work with Assemblymen Faulkner and Kubitz to develop solutions on a local level.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry W. Baker".

Larry W. Baker
Chairman

cc: Bill Faulkner
Jim Kubitz

Municipality
of
Anchorage



P.O. BOX 6650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4311

FEB 4 1987

ANCHORAGE ASSEMBLY

Assemblyman Jim Kubitz
3008 Brookside Drive
Anchorage, AK 99517
January 30, 1987

Representatives Donley & Gruenberg
P.O. Box V
State Capitol
Juneau, Alaska 99811

Dear Representatives Donley and Gruenberg:

I would like to offer my support for House Bill 28 giving municipalities the authority to prescribe minimum penalties for the violation of an ordinance that prohibits prostitution.

Our community and I thank you for taking the lead on this issue.

Sincerely,

A handwritten signature in cursive script that reads "Jim Kubitz". The signature is written in dark ink and is positioned above the typed name of the sender.

Assemblyman Jim Kubitz
Anchorage, Seat 3E



Telegram

09018

1987 JAN 29 11 47

POM ANCHORAGE ALASKA 15 01-29 1145A AST

PMS

REF DAVE DONLEY

JUNEAU AK

I AM VERY SUPPORTIVE OF HB28. PLEASE HELP US CLEAN UP OUR
NEIGHBORHOODS. THANK YOU.

DR BILL FAULKNER, ANCHORAGE MUNICIPAL ASSEMBLYMAN

400 L ST SUITE 104

ANCHORAGE AK 99501

Continuous Interfolded in Moore Business Forms, Inc. MCF

L-0167-0-1601876

Municipality of Anchorage

MEMORANDUM

RECEIVED

DATE: January 28, 1986
TO: Commissioner of Public Safety
FROM: Deputy Chief Otte
SUBJECT: Prostitution in the Spenard Area

JAN 28 1986

MUNICIPALITY OF ANCHORAGE
OFFICE OF PUBLIC SAFETY

The following information concerning prostitution in the Spenard area is submitted for your review.

During the past 5 1/2 months, approximately 50 prostitution related arrests have been made in the Anchorage area. For the most part these arrests are evenly divided between the downtown area and the Spenard area. The majority of arrests are for street prostitution offenses, but there are also several involving the various escort services located in the Spenard area. During the past few weeks we have continued to make cases as time and resources allow, however numerous felony cases requiring the assistance of the officers normally assigned to prostitution cases have limited our response.

Currently the three officers assigned to the night shift detective general investigation unit focus most of their time on prostitution related problems. They are supplemented as time permits by the area patrol cars and on occasion by members of the Crisis Intervention Response Team. It is our intent as warmer weather approaches to apply additional resources from Investigations, Patrol and special units in an attempt to preclude the problems experienced last summer both downtown and in the Spenard area. I believe that we can create an environment from an enforcement perspective, in which prostitutes find other locations outside of Anchorage much more pleasant and desirable.

It must be remembered that a long term solution to the prostitution problem in Anchorage requires more than just a commitment on the part of the police department. Our enforcement efforts are only a small portion of the total equation. The rest of the criminal justice system must be committed to dealing with the problem before any long term results will be visible. Although we have repeatedly stressed this point, it has always been overlooked and ignored in years past. When we make arrests, the prosecutor's office must be willing and able to provide the prosecutorial resources necessary. Additionally, and probably most important, the courts must begin to sentence convicted prostitutes in a manner that reflects the feelings within the community. Suspension of jail time and moderate fines will not deter prostitutes from practicing their trade openly on the Anchorage streets.

Commissioner of Public Safety
January 28, 1986
Page Two

Interviews with prostitutes arrested by APD officers during this past summer reveal that most prostitutes come to Anchorage for two reasons. First, they have heard rumors about the money to be made in Alaska. Secondly, crackdown on prostitution in other jurisdictions in the Lower 48 have made Anchorage a more desirable location. In tracking 20 prostitution arrests through the justice system recently, it was learned that only one case resulted in the convicted prostitute receiving any jail time. I do not feel that prostitutes interested in working in Anchorage would feel particularly concerned by these kinds of sentences from the courts.

The other issue that has surfaced periodically concerning prostitution in the Spenard area has to do with the large concentration of massage parlors. While the issues previously discussed apply to individual prostitutes working out of the massage parlors, this in itself would not remove the parlor from existence. It has been our experience that the only way to remedy the large numbers of massage parlors is to initiate and follow through with a civil abatement process against the individual residences. This again requires a long term commitment on the part of the prosecutor and Municipal Attorney's office as well as a long term commitment on the part of the police department to provide the necessary resources to gather the needed information.

I will continue to apply enforcement pressure with the resources available but would request that we attempt a coordinated approach to the problem so as to insure a more long term solution.

Respectfully,



R. Otte
Deputy Chief, Operations

RO:d1



Spenard Action Committee

2308 West 4th Street • Anchorage, Alaska 99517
Phone (907) 243-7768

January 23, 1987

TO: The members of the House of Representatives;

My name is David Erlich, I am Chairman of the Spenard Action Committee, a non-profit corporation made up of citizens of the Anchorage area.

Our concern for our community and city are real and sincere. Crime in Anchorage has come a long way the past 20 years and in some respects has surpassed many major cities outside. Our rape rate is the highest in the nation, 5 times the national average, pornography sells at 6 times the national average, organized crime has infiltrated our city as well and now enjoys freedom of operation in prostitution, gambling, pornography, drugs and other activities.

Our laws in the State of Alaska are probably the weakest in the nation to deal with this ongoing threat. We are currently the only state which does not have a conspiracy bill dealing with these activities. Dave Donley bill, HB30 would pertain only to certain crimes but would aid law enforcement authorities here in Anchorage to deal with these certain situations.

Another bill, HB28, deals with the prostitution problems here in our city and would not impact other areas of the state. By allowing the municipality to institute mandatory minimum sentences on a first offense, second offense and third offense basis this will mirror what other cities have done outside to curb their prostitution problems. We currently have 30-40 houses of prostitution operating in Anchorage with a summer influx of hundreds of streetwalkers, who find Anchorage easy prey and weak laws inviting. Your concern and understanding of our particular situation will be greatly appreciated.

In closing, the passage of these bills will help crime prevention in our city, protect the communities retail trade, maintain property values and generally protect and preserve the quality of our neighborhoods, commercial districts and the quality of urban life.

Sincerely

David Erlich
Spenard Action Committee Chairman

JAN 21 1987



CITY OF UNALASKA

P.O. BOX 29K 112
UNALASKA, ALASKA 99685
(907) 581-1251

"Capital of the Aleutians"

January 21, 1987

TO: Nancy Gross, City Manager
FROM: Peter Davis, Public Safety Director
RE: Review of House Bill No. 28

I have several objections to this bill. They are as follows:

- A. It assumes that prostitution is considered to be the more serious violation or problem present in all municipalities; more so than already encoded. This, of course is, and may not be the case.
- B. It would be contrary to the stated position of the Courts. Violations with fines exceeding \$300 and with extended jail terms, are required to be handled as misdemeanors.
- C. If such an ordinance were to be accepted and enforced, the defendant would be entitled to a jury trial and a defense attorney. The municipality would then have to prosecute the case with its own attorney and provide the defendant with a public defender, if required.

In all, at least for Unalaska, we have other areas of greater concern. Prostitution is not a major, nor an obvious problem, and we have just amended our ordinances to assure better enforcement by making them all violations. It is a nothing bill!

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. JUD.	5-7-87	1:30 p.m.
H. JUD.	5-4-87	1:30 p.m.
H. JUD.	2-27-87	1:30 p.m.
H. JUD.	2-20-87	1:30 p.m.

HOUSE COMMITTEE REPORT

7)

Date referred: 2/6/87

FURTHER REFERRALS:

DATE: 5-7-87

The Judiciary Committee has considered HB 28

An Act relating to municipal penalties for prostitution."

RECOMMENDS:

- replace with CS HB 28 (Jud) [] 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 3/11/87
- zero with analysis

SIGNING DO PASS:

W. J. [Signature]

John I. Taylor

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

Mike [Signature] - no rec

[Signature]

[Signature]

Chairman's signature

5-0185L ✓
Levy
5/4/87

Original sponsors: Denley and Gruenberg

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 28 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal penalties for prosti-
7 tution and promoting prostitution."

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

9 * Section 1. AS 29.25.070(a) is amended to read:

10 (a) For the violation of an ordinance, a municipality may by
11 ordinance prescribe a penalty not to exceed a fine of \$1,000 and
12 imprisonment for 90 days. A municipality may prescribe a penalty
13 requiring a court to impose a minimum sentence of imprisonment of up
14 to three days for a first conviction, 10 days for a second conviction,
15 and 30 days for a third or subsequent conviction, and a fine not to
16 exceed \$1,000, as provided in an ordinance, for violation of an ordi-
17 nance that prohibits prostitution. In this subsection, prostitution
18 includes all conduct prohibited under AS 11.66.100 - 11.66.150 and
19 also includes paying or agreeing to pay a fee in exchange for sexual
20 conduct.

21 * Sec. 2. AS 29.25 is amended by adding a new section to read:

22 Sec. 29.25.080. STATE'S COSTS. A municipality that adopts an
23 ordinance providing for a minimum sentence of imprisonment for prosti-
24 tution under AS 29.25.070(a) shall reimburse the state for actual
25 costs incurred by the court system and the Department of Corrections
26 as a result of the ordinance.

5-0185L
Levy
5/1/87

Original sponsors: Donley and Gruenberg

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 28 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal penalties for prosti-
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11 ordinance prescribe a penalty not to exceed a fine of \$1,000 and
12 imprisonment for 90 days. A home rule or general law municipality may
13 prescribe a penalty requiring a court to impose a minimum sentence of
14 imprisonment of up to three days for a first conviction, 10 days for a
15 second conviction, and 30 days for a third or subsequent conviction,
16 and a fine not to exceed \$1,000, as provided in an ordinance, for
17 violation of an ordinance that prohibits prostitution. In this sub-
18 section, prostitution includes all conduct prohibited under AS 11.-
19 66.100 - 11.66.150 and also includes paying or agreeing to pay a fee
20 in exchange for sexual conduct.

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26 as a result of the ordinance.

5-0185L
Levy
3/11/87

Original sponsors: Donley and Gruenberg

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IN THE HOUSE BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 28 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to municipal penalties for prostitution and promoting prostitution."

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

* Section 1. AS 29.25.070(a) is amended to read:

(a) For the violation of an ordinance, a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days. A home rule or general law municipality may prescribe a penalty requiring a court to impose a minimum sentence of imprisonment of up to five days for a first conviction, 10 days for a second conviction, and 30 days for a third or subsequent conviction, and a fine not to exceed \$1,000, as provided in an ordinance, for violation of an ordinance that prohibits prostitution. In this subsection, prostitution includes all conduct prohibited under AS 11.66.100 - 11.66.150 and also includes paying or agreeing to pay a fee in exchange for sexual conduct.

5-0185L ✓
Levy
2/17/87

Original sponsors: Donley and Gruenberg

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 28 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal penalties for prosti-
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12 imprisonment for 90 days. A home rule or general law municipality may
13 prescribe a penalty requiring a court to impose a minimum sentence of
14 imprisonment of up to 10 days and a fine not to exceed \$1,000, as
15 provided in an ordinance, for violation of an ordinance that prohibits
16 prostitution. In this subsection, prostitution includes all conduct
17 prohibited under AS 11.66.100 - 11.66.150 and also includes paying or
18 agreeing to pay a fee in exchange for sexual conduct.
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DRAFT

March 30, 1987

M E M O R A N D U M

To: Members, House Judiciary Committee

From: Representative Dave Donley

Re: Proposed Amendments for HB 28

HB 28, an act relating to municipal penalties for prostitution, is currently before the House Judiciary Committee.

In response to requests from constituents, the Municipality of Anchorage and other legislators, I am proposing four amendments to HB 28 for your consideration. The amendments are listed below with a short explanation of what they accomplish:

Amendment #1 - changes the mandatory minimums a municipality may impose for prostitution from a maximum of 90 days imprisonment to: 3 days for first offense, 10 days for second offense and 30 days for third or subsequent convictions.

Amendment #2 - changes the language of the bill to allow a municipality to impose similar penalties on pimps as it imposes on prostitutes and customers (johns).

Amendment #3 - changes the title of the bill to read "An act relating to municipal penalties for prostitution and promoting prostitution." (Necessary due to Amendment #2).

Amendment #4 - mandates that if a municipality chooses to adopt such an ordinance, they shall reimburse the state for additional costs incurred by the Department of Corrections and the court system.

Amendment #5 - defines the term "municipality" to include all forms of municipalities including home rule and general law. It is the opinion of the Legislative Counsel, Keith B. Levy, that this is not necessary, but since there has been some

Representative Dave Donley
HB 28 Amendments
Page 2

discussion about this, we have included the amendment so as to avoid any possibility of confusion.

Enclosed please find a copy of each of these amendments and some background relevant to the proposed changes.

HB 28 is an important piece of legislation for my constituents, as prostitution is a very real problem in their neighborhoods. It is based on an example set by the city of Phoenix, where such penalties successfully reduced and all but eliminated prostitution problems.

If you would like to discuss this bill or I can answer any questions, please call me at 3892.

A M E N D M E N T

1

By Donley

Offered in the HOUSE

TO: CSHB 28(C&RA)

Page 1, line 14:

Delete "90 days"

Insert "three days for a first conviction, 10 days for a second conviction, and 30 days for a third or subsequent conviction,"

A M E N D M E N T

2

Offered in the HOUSE

By Donley

TO: CSHB 28(C&RA)

Page 1, lines 16 - 17:

Delete "engaging in or agreeing to engage in sexual conduct for a fee,
and"

Insert "all conduct prohibited under AS 11.66.100 - 11.66.150 and also
includes"

A M E N D M E N T

3

Offered in the HOUSE

By Donley

TO: CSHB 28(C&RA)

Page 1, line 7, following "prostitution":

Insert "and promoting prostitution"

A M E N D M E N T

4

Offered in the HOUSE

By Donley

TO: CSHB 28(C&P)

Page 1, following line 18:

Insert a new bill section to read

"* Sec. 2. AS 29.25 is amended by adding a new section to read:

Sec. 29.25.080. STATE'S COSTS. A municipality that adopts an ordinance providing for a minimum sentence of imprisonment for prostitution under AS 29.25.070(a) shall reimburse the state for actual costs incurred by the court system and the Department of Corrections as a result of the ordinance."

A M E N D M E N T

5

Offered in the HOUSE

By Donley

TO: CSHB 28 (C&RA)

⑤ Page 1, line 12, following "A", insert:
"home rule or general law"

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

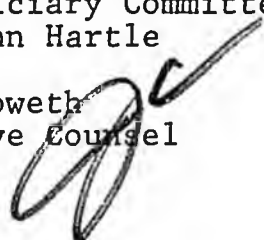
M E M O R A N D U M

March 8, 1988

SUBJECT: Draft amendment to CSHB 28 (Judiciary)

TO: Representative John Sund, Chairman
House Judiciary Committee
ATTN: John Hartle

FROM: Jack Chenoweth
Legislative Counsel



The draft amendment is enclosed.

While preparing the amendment, I reviewed the structure of HB 28. Because the new provisions of section 1 of CSHB 28 (Judiciary) are specific to the crime of prostitution, in my view they should not be incorporated into existing AS 29.25.070(a), the subsection generally applicable to prescribe penalties for the violation of municipal ordinances. This subject being specific to one crime--or one general criminal topic--should be broken out and made a separate subsection.

I have done that in this amendment, at the same time correcting the cross-reference that appears in bill section 2.

If this amendment is adopted, existing AS 29.25.070(a) would be unchanged from the way it reads in current law. This has a second desirable effect insofar as there has been an intervening amendment to AS 29.25.070(a) since the report of CSHB 28 (Judiciary) in the first session. Consequently, the statement of current law appearing in AS 29.25.070(a) that now appears in CSHB 28 (Judiciary), and to which amendment is made, is no longer correct. By moving the new material, as you have asked that it be amended, into a new subsection (e), there is no need to be concerned about the intervening amendment to (a).

Enclosure

JBC:gc
WKG2:39

A M E N D M E N T

Offered in the HOUSE

TO: CSHB 28 (Judiciary)

Page 1, lines 9 - 20:

Delete all material and insert:

"* Section 1. AS 29.25.070 is amended by adding a new subsection to read:

(e) A municipality that prohibits prostitution by ordinance may prescribe a penalty requiring a court to impose a minimum sentence of imprisonment of up to three days for a first conviction, 10 days for a second conviction, and 30 days for a third or subsequent conviction, and a fine not to exceed \$1,000. The provisions of this subsection apply if the municipality's ordinance prohibiting prostitution

(1) includes all conduct prohibited by AS 11.66.100 - 11.-66.150; and

(2) defines prostitution as including the payment or agreement to pay a fee in exchange for sexual conduct."

Page 1, line 24, after "under":

Delete "AS 29.25.070(a)"

Insert "AS 29.25.070(e)"

A M E N D M E N T

Offered in the HOUSE

TO: CSHB 28 (Judiciary)

Page 1, line 12, following "municipality":

Insert "that adopts an ordinance prohibiting both paying and agreeing to pay a fee in exchange for sexual conduct"

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: CSHB 28(C&RA)

Page 1, line 6:

Delete "municipal penalties for"

Page 1, following line 8, insert a new bill section to read:

"* Section 1. AS 11.66 is amended by adding a new section to read:

Se - 11.66.105. TESTING FOR CERTAIN DISEASES. A person ^{convicted}~~arrested~~ ^A for prostitution under AS 11.66.100 or a municipal ordinance prohibiting prostitution, including paying or agreeing to pay a fee for sexual conduct, shall be tested by the arresting law enforcement agency for venereal disease or acquired immune deficiency syndrome."

Remember remaining bill section accordingly.

[Faint handwritten notes]

[Handwritten notes on the right side of the page, including "keep a piece" and "sub us"]

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: CSHB 28(C&RA)

Page 1, line 7, following "prostitution":

Insert "and promoting prostitution"

Page 1, line 14:

Delete "90 days"

Insert "three days for a first conviction, 10 days for a second conviction, and 30 days for a third conviction,"

Page 1, lines 16 - 17:

Delete "engaging in or agreeing to engage in sexual conduct for a fee, and"

Insert "all conduct prohibited under AS 11.66.100 - 11.66.150 and also includes"

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 28(C&RA)

Page 1, following line 18:

Insert a new bill section to read

"* Sec. 2. AS 29.25 is amended by adding a new section to read:

Sec. 29.25.080. COSTS OF ENFORCEMENT. A municipality that adopts an ordinance providing for a minimum sentence of imprisonment for prostitution under AS 29.25.070(a) shall reimburse the state for actual costs incurred in the enforcement of the ordinance by the court system and the Department of Corrections."

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1987

SUBJECT: Amendment to CSHB 28(C&RA)
TO: Representative Dave Donley
Chairman, Labor and Commerce Committee
FROM: Keith B. Levy ^{KBL}
Legislative Counsel

Enclosed is an amendment to CSHB 28(C&RA), making the provision allowing a municipality to impose mandatory sentences for prostitution expressly apply to home rule and general law municipalities. You have asked whether this amendment is necessary to make the provision apply to all municipalities. In my opinion it is not.

AS 29.71.800(13) defines the term municipality to include all forms of municipalities including home rule and general law municipalities. Therefore it is superfluous to amend the bill to refer to both kinds of municipalities.

It is true that AS 29.10.200 provides that only the sections of title 29 listed in that section apply as a limitation of power on home rule municipalities. The significance of this provision is that any section of title 29 not listed in AS 29.10.200 that limits the powers of a municipality does not apply to home rule municipalities. Since AS 29.25.070, the section amended in CSHB 28(C&RA), is not listed in AS 29.10.200, to the extent AS 29.25.070 limits the powers of a municipality it does not apply to a home rule municipality. However, since language added to AS 29.25.070 by your bill grants powers to a municipality rather than limiting those powers, it does apply to a home rule municipality.

This conclusion is born out by numerous other provisions of law which do not specifically refer to home rule municipalities, but clearly apply to them as grants of power even though not specifically mentioned as applicable to home rule municipalities in AS 29.10.200. For example, see AS 29.20.300

Representative Donley
February 16, 1987
Page 2

(school boards), AS 29.20.310 (utility boards), AS 29.20.360 (appointment of officials), and AS 29.20.370 (municipal attorneys). Accordingly, even without the enclosed amendment, CSHB 28(C&RA) would apply to home rule municipalities.

If I may be of further assistance, please advise.

KBL:mkr
m9/010

Enclosure

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 28 (C&RA)

Page 1, line 12, following "A", insert:

"home rule or general law"

Amendment #1 to CS for House Bill No. 28 (C&RA)

by Gruenberg and
Donley

page 1, line 16 following "includes,"

Delete: [engaging in or agreeing to engage in sexual conduct
for a fee, and]

Insert: all conduct prohibited under AS 11.66.100-.150 and
also includes

Comment:

This will allow a municipality to impose similar penalties on
pimps as it imposes on prostitutes.

Original sponsors: Donley and Gruenberg

IN THE HOUSE

CS FOR CS FOR HOUSE BILL NO. 28 (C&RA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act relating to municipal penalties for prostitution."

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

*Section 1. AS 29.25.070(a) is amended to read:

(a) For the violation of an ordinance, a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days. A municipality may prescribe a penalty requiring a court to impose a minimum sentence of imprisonment of up to 90 days and a fine not to exceed \$1,000, as provided in an ordinance, for violation of an ordinance that prohibits prostitution. In this subsection, prostitution includes all conduct prohibited under AS 11.66.100 -.150 and also includes paying or agreeing to pay a fee in exchange for sexual conduct.

NOTES TO DECISIONS

Municipal ordinances not prohibited. — The enactment of this article does not prohibit municipal ordinances penalizing the solicitation of prostitutes by putative customers. Municipality of Anchorage v. Afualo, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

There is nothing in this article which

would support an inference that the legislature sought to encourage men to patronize prostitutes nor is there any indication in this article that the legislature sought statewide uniformity in regulating commercial sexual relations. Municipality of Anchorage v. Afualo, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

Collateral references. — 63 Am. Jur. 2d, Prostitution, § 1 et seq.; 27 C.J.S., Disorderly Houses, § 1 et seq.; 73 C.J.S., Prostitution, § 1 et seq. Constitutionality and construction of pandering acts, 74 ALR 311.

Validity and construction of statute or ordinance prescribing solicitation for purposes of prostitution, lewdness, or assignation — modern cases, 77 ALR3d 519.

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if the person engages in or agrees or offers to engage in sexual conduct in return for a fee.

(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law, whereas fornication and prostitution were not. Eleazar v. United States, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956), decided under former AS 11.40.220.

This section is not irreconcilable with a municipal ordinance prohibiting the solicitation of prostitutes by putative customers. Municipality of Anchorage v. Afualo, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

Actual payment of a fee is not required; an act of prostitution is com-

plete when an offer is extended or an agreement made to engage in sexual conduct in return for a fee. Garibay v. State, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Proof. — Customer's testimony that he agreed to purchase sexual favors for sum of \$200, his testimony that he charged the purchase price using his VISA card, and the VISA charge slip itself, were all highly probative of whether an agreement or offer to engage in sexual conduct in return for a fee was in fact made. Garibay v. State, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Collateral references. — Prostitution as vagrancy, 14 ALR 1501. Entrapment to procure women for

immoral purposes, 18 ALR 186; 66 ALR 478; 86 ALR 263.

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if the person

(1) induces or causes a person to engage in prostitution through the use of force;

(2) as other than a patron of a prostitute, induces or causes a person under 16 years of age to engage in prostitution; or

(3) induces or causes a person in that person's legal custody to engage in prostitution.

(b) In a prosecution under (a)(2) of this section, it is not a defense that the defendant reasonably believed that the person induced or caused to engage in prostitution was 16 years of age or older.

(c) Except as provided in (d) of this section, promoting prostitution in the first degree is a class B felony.

(d) A person convicted under (a)(2) of this section is guilty of a class A felony. (§ 8 ch 166 SLA 1978; am §§ 1, 2 ch 50 SLA 1983)

Effect of amendments. — The 1983 amendment added "Except as provided in (d) of this section" to the beginning of subsection (c) and added subsection (d).

NOTES TO DECISIONS

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520), 403 P.2d 673 (1965).

For case construing former procurement statute, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

Sentence for procurement upheld. — See *Price v. State*, Sup. Ct. Op. No. 1450 (File No. 2794), 565 P.2d 858 (1977).

For case construing former statute concerning necessary evidence for prostitution or seduction, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

Collateral references. — Transporting female for purpose of prostitution, 74 ALR 330.

Woman conniving or consenting to own transportation, 84 ALR 376.

Sec. 11.66.120. Promoting prostitution in the second degree.
(a) A person commits the crime of promoting prostitution in the second degree if the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a prostitution enterprise other than a place of prostitution; or

(2) procures or solicits a patron for a prostitute.

(b) Promoting prostitution in the second degree is a class C felony. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former statute prohibiting soliciting or procuring for purpose of prostitution, see *Plas v. State*, Sup. Ct. Op. No. 1904 (File Nos. 3529, 3530), 598 P.2d 966 (1979).

Instruction. — Trial court did not err in

refusing to give instruction requiring state to prove that prostitution enterprise involved in case was of an ongoing nature. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Collateral references. — Separate acts of taking earnings of or support from pros-

titute as separate or continuing offenses of pimping, 3 ALR4th 1195.

Sec. 11.66.130. Promoting prostitution in the third degree. (a) A person commits the crime of promoting prostitution in the third degree if, with intent to promote prostitution, the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a place of prostitution;

(2) as other than a patron of a prostitute, induces or causes a person 16 years of age or older to engage in prostitution;

(3) as other than a prostitute receiving compensation for personally rendered prostitution services, receives or agrees to receive money or other property pursuant to an agreement or understanding that the money or other property is derived from prostitution; or

(4) engages in conduct that institutes, aids, or facilitates a prostitution enterprise.

(b) Promoting prostitution in the third degree is a class A misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Editor's notes. — The cases cited in the notes below were decided under former AS 11.40.260, 11.40.300, 11.40.330, 11.40.410, and 11.40.420.

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law. *Eleazar v. United States*, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956).

Lessor may be guilty as keeper. — If a man leases his house to a woman to be kept as a bawdyhouse for purposes of prostitution, and it is kept for such purposes, with his knowledge, he is guilty as keeper. *Rosencranz v. United States*, 155 F. 38 (9th Cir. 1907).

As well as agent of lessor. — The agent of an owner, who rents a house knowing that it is to be used as a house of prostitution, and that it is so used, may be found guilty as a keeper. *Rosencranz v.*

United States, 155 F. 38 (9th Cir. 1907).

For case construing former statute prohibiting employment in a house of prostitution or living on the earnings of a prostitute, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520), 403 P.2d 673 (1965).

For case construing former statute prohibiting pimping, see *Johnson v. United States*, 260 F. 783 (9th Cir. 1919).

For case construing former statute prohibiting a male's living with or on the earnings of a prostitute, see *Dunn v. State*, Sup. Ct. Op. No. 409 (File No. 735), 426 P.2d 993 (1967).

Collateral references. — 27 C.J.S., Disorderly Houses, §§ 1 to 18; 73 C.J.S., Prostitution, §§ 6, 7.

Constitutionality of statute conferring on chancery courts power to abate bawdyhouses as nuisances. 5 ALR 1474; 22 ALR 542; 75 ALR 1298.

Number of females who reside in house or resort thereto for immoral purposes as

affecting disorderly character thereof. 12 ALR 529.

Entrapment to commit offense as to house of prostitution or as to pandering. 52 ALR2d 1194.

Construction of provision of pandering statute as to placing a female in charge or custody of another. 54 ALR2d 1178.

Sec. 11.66.140. Corroboration of certain testimony not required. In a prosecution under AS 11.66.110 — 11.66.130, it is not necessary that the testimony of the person whose prostitution is alleged to have been compelled or promoted be corroborated by the testimony of any other witness or by documentary or other types of evidence. (§ 8 ch 166 SLA 1978).

NOTES TO DECISIONS

For case construing former rule as to corroboration of prostitute's testimony, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

For cases construing former statute

providing that common fame was competent evidence in a prosecution for keeping a bawdyhouse, see *Botts v. United States*, 155 F. 50 (9th Cir. 1907); *Hall v. United States*, 155 F. 52 (9th Cir. 1907).

Sec. 11.66.150. Definitions. In AS 11.66.100 — 11.66.150, unless the context requires otherwise,

(1) "place of prostitution" means any place where a person engages in sexual conduct in return for a fee;

(2) "prostitution enterprise" means an arrangement in which two or more persons are organized to render sexual conduct in return for a fee;

(3) "sexual conduct" means genital or anal intercourse, cunnilingus, fellatio, or masturbation of one person by another person. (§ 8 ch 166 SLA 1978)

Cross references. — For definition of terms used in this title, see AS 11.81.900.

Article 2. Gambling Offenses.

- Section 200. Gambling
- 210. Promoting gambling in the first degree
- 220. Promoting gambling in the second degree
- 230. Possession of gambling records in the first degree

- Section 240. Possession of gambling records in the second degree
- 250. Affirmative defenses
- 260. Possession of a gambling device
- 270. Forfeiture
- 280. Definitions

STATE OF ALASKA
THE LEGISLATURE

FOURTH STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1987

SUBJECT: Constitutionality of testing for venereal
 disease and A.I.D.S.
 (CSHB 28 (C&RA) am)

TO: Representative Max Gruenberg

FROM: Keith B. Levy *KBL*
 Legislative Counsel

Enclosed is an amendment to CSHB 28(C&RA) requiring people arrested for prostitution to be tested for venereal disease and A.I.D.S. This amendment may be unconstitutional under the Fourth Amendment to the United States Constitution and Article I, sec. 14, of the Constitution of the State of Alaska. Both of those sections provide:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

It has been held that taking blood from an individual is a search within the meaning of the Fourth Amendment and may not be done, constitutionally, without probable cause to believe a crime has been committed. There are, of course, limited exceptions to the probable cause requirement, and in certain instances such testing may not be unconstitutional. In light of time constraints and the fact that your amendment does not indicate what the purpose of the testing is and what the test results are to be used for, I am unable to say conclusively whether the amendment is unconstitutional. You should be aware, however, that if enacted, this provision will almost certainly be challenged.

If you would like further research into this issue, please advise.

KBL:1 b
2/11

testify - minors

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

STEVE COWPER, GOVERNOR

REPLY TO:

POUCH T
JUNEAU, ALASKA 99811
PHONE: (907) 465-3376

March 19, 1987

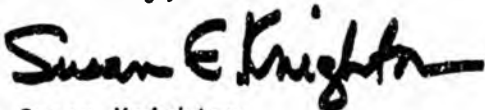
The Honorable Dave Donley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Donley:

The Department of Corrections supports the proposed amendment to CSHB 28, which requires municipalities adopting ordinances providing for a minimum sentence of imprisonment for prostitution under AS 29.25.070(a) to pay for the actual costs incurred by the Department to incarcerate the offenders.

If the amendment is adopted, please accept the attached fiscal note as a revision to those previously submitted by the Department.

Sincerely,



Susan Knighton
Legislative Liaison

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB28

Publish Date: _____

Revision Date: 3/19/87

Agency Affected: Department of Corrections

Title: "An act relating to municipal penalties for prostitution."

BRU: _____

Sponsor: Representative Donley

Components: _____

Requestor: House Committee and Regional Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The bill as amended will allow the Department to charge municipalities for actual costs incurred.

Slaughter

Prepared by: Susan Knighton, Research Analyst IV

Phone: 465-3376

Division: Administrative Services

Date: 3/19/87

Approved by Commissioner: Susan Humphrey-Barnett

Date: 3/1/87

Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : HB28
Publish Date : _____

Revision Date: _____
Title: "An Act relating to municipal penalties for prostitution."
Sponsor: Repr. Donley
Requestor: House Community and Reg. Affrs.

Agency Affected: Department of Law
BRU: Prosecution
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard E. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: 1/21/87
 Approved by Commissioner: Ronald W. Lorenson, Acting Attorney General Date: 1/21/87
 Agency: Department of Law

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB28

This bill amends AS 29.25.070(a) by providing that municipalities may, under local ordinance, prescribe penalties for prostitution that require a court to impose a minimum sentence equal to the maximum penalty allowed by existing statute, or a \$1,000 fine and imprisonment for 90 days. In this respect, the bill appears to encourage municipalities to seek the maximum allowable penalty in all instances.

Prosecution of municipal ordinance violations is a local responsibility, and such prosecution is not handled by the Department of Law. Consequently, enactment of this bill will not have a fiscal impact on the Department of Law.

The cost of imprisoning violators of municipal ordinances, in state corrections institutions, is reimbursed to the state by the respective municipalities. This reimbursement includes normal, day-to-day operating costs and a pro rata share of lease costs, where the state is using a leased facility. The reimbursement does not, however, include any charge for the state's capital expenses in building and furnishing new corrections facilities. To the extent that encouraging maximum periods of imprisonment may contribute to prison overcrowding, the unreimbursed expense to the state may be very great. This issue should be addressed by the Department of Corrections in a separate fiscal note.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

FEB 16 1987

Bill Version: HB 28
Publish Date:

REQUEST: _____

Revision Date:
Title: An act relating to municipal penalties for prostitution
Sponsor: Donley & Gruenberg
Requestor: House Judiciary Committee

Agency Affected: Alaska Court System
BRU: Trial Courts

Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
Personal Services	••••	••••	••••	••••	••••	••••
Travel	••••	••••	••••	••••	••••	••••
Contractual	••••	15.0	15.0	15.0	15.0	15.0
Supplies	••••	••••	••••	••••	••••	••••
Equipment	••••	••••	••••	••••	••••	••••
Land & Structures	••••	••••	••••	••••	••••	••••
Grants & Claims	••••	••••	••••	••••	••••	••••
TOTAL OPERATING	0.0	15.0	15.0	15.0	15.0	15.0
CAPITAL	••••	••••	••••	••••	••••	••••
REVENUE	••••	••••	••••	••••	••••	••••

FUNDING:		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
General Funds	0.0	15.0	15.0	15.0	15.0	15.0
Federal Funds	••••	••••	••••	••••	••••	••••
Other	••••	••••	••••	••••	••••	••••
TOTAL	0.0	15.0	15.0	15.0	15.0	15.0

POSITIONS:						
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
Full-time	••••	••••	••••	••••	••••	••••
Part-time	••••	••••	••••	••••	••••	••••
Temporary	••••	••••	••••	••••	••••	••••

ANALYSIS: (Attach a separate page if necessary)

If ordinances prescribing the increased penalties were enacted in Anchorage and Fairbanks, it is assumed that at least 60 additional jury trials would be conducted. Although the impact on judicial and clerical resources could be absorbed, costs would be incurred for the additional juror fees (\$10,000) and also to pay bailiffs (\$5,000).

Prepared by: Karla Forsythe, General Counsel
Division: Alaska Court System
Approved by: *Stephanie J. Cole* Stephanie J. Cole, Deputy Director
Agency: Alaska Court System
Phone: 264-8230
Date: 2-11-87
Date: 2-11-87

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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : CSHB-28
Publish Date : 2/6/87

Revision Date: _____
Title: "An Act relating to municipal
penalties for prostitution."
Sponsor: Reps. Donley & Gruenberg
Requestor: Judiciary

Agency Affected: Dept. of Corrections
BRU: _____
Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Susie H. Riley

Prepared by: Susie H. Riley, Program Budget Analysis Phone: 465-3376
Division: Administrative Services Date: 2/13/87
Acting

Approved by Commissioner: William W. Ladwig Date: 2/16/87
Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

REQUEST: _____

Bill Version: HB28

Publish Date: _____

Revision Date: _____

Title: "An act relating to municipal penalties for prostitution."

Agency Affected: Department of Corrections

BRU: _____

Sponsor: Representative Donley

Requestor: House Committee & Reg. Affairs

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	186.7	186.7	186.7	186.7	186.7	186.7
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	186.7	186.7	186.7	186.7	186.7	186.7

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	186.7	186.7	186.7	186.7	186.7	186.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Susan Knighton, Research Analyst IV

Phone: 465-3376

Division: Administrative Services

Date: March 2, 1987

Approved by Commissioner: Susan Humphrey-Barnett

Date: 3/2/87

Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB28

This bill amends AS 29.25.070(a) by providing that municipalities may prescribe a penalty requiring the court to impose a minimum sentence of imprisonment of up to 90 days.

The Department of Corrections is currently housing approximately 12 sentenced inmates per year for the offense of prostitution. The average sentence received is 90 days and 60 actual jail days with all good time received. This results in a cost to the State of \$32,011. (12 inmates x 60 days x \$44.46/day)

During 1986, approximately 110 persons were arrested and booked for the offense of prostitution. These cases are not routinely prosecuted because of the short sentences being imposed by the courts. During 1986, only 12 of the 110 arrested were given jail sentences and the average sentence length was 90 days.

This bill proposes that more active prosecution of these cases will take place if the courts must impose a mandatory sentence of 90 days. To evaluate the effects of these stiffer sentences, we have calculated the fiscal impact of a 50 percent conviction rate, 75% conviction rate and 100% conviction rate.

50% Conviction Rate:

55 inmates sentenced to 90 days	=	3,300
Total Cost = 3300 days x \$44.46	=	146,718
Increased Cost	=	114,707

75% Conviction Rate:

82 inmates sentenced to 90 days	=	4,920
Total Cost = 4920 days x \$44.46	=	218,743
Increased Cost	=	186,732

100% Conviction Rate:

112 inmates sentenced to 90 days	=	6,720
Total Cost = 6720 days x \$44.46	=	298,771
Increased Cost	=	266,760

The 75% Conviction Rate scenerio has been used on the attached fiscal note. These persons will most likely be housed in Community Residential Centers or Restitution Centers.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB28
Publish Date: _____

Revision Date: 3/19/87
Title: "An act relating to municipal penalties for prostitution."
Sponsor: Representative Donley
Requestor: House Committee and Regional Affairs

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The bill as amended will allow the Department to charge municipalities for actual costs incurred.

Slaughter

Prepared by: Susan Knighton, Research Analyst IV
Division: Administrative Services

Phone: 465-3376
Date: 3/19/87

Approved by Commissioner: *Susan Humphrey Barnett*
Agency: Department of Corrections

Date: 3/19/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

STEVE COWPER, GOVERNOR

REPLY TO:

POUCH T
JUNEAU, ALASKA 99811
PHONE: (907) 465-3376

March 19, 1987

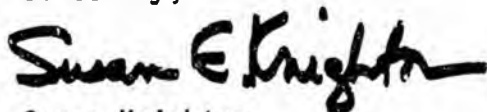
The Honorable Dave Donley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representatiave Donley:

The Department of Corrections supports the proposed amendment to CSHB 28, which requires municipalities adopting ordinances providing for a minimum sentence of imprisonment for prostitution under AS 29.25.070(a) to pay for the actual costs incurred by the Department to incarcerate the offenders.

If the amendment is adpoted, please accept the attached fiscal note as a revision to those previcusly submitted by the Department.

Sincerely,



Susan Knighton
Legislative Liaison

ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

February 16, 1987

Honorable John Sund, Chairman
House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Chairman Sund and members of the Committee:

The Alaska Women's Lobby would like to express its opposition to the bill before you today, HB 28, which would allow municipalities the option of imposing mandatory minimum sentences for prostitution.

At a time when the state is moving away from the concept of mandatory and presumptive sentencing and towards the need for judicial discretion in sentencing, we believe it would be a mistake to allow municipalities to begin setting mandatory minimum sentences on violations of municipal ordinances. It was only in the past legislative session that municipalities were granted the ability to impose more than a thirty day sentence for ordinance violation. That change was much deliberated. This change will open the door to municipalities imposing minimum sentences on ordinances. This option is not currently available under the municipal code.

Mandatory minimum sentences are currently imposed by statute only for DWI, driving with a suspended license and first and second degree murder. Judges must impose the mandatory minimum, there are no exceptions. Even presumptive sentences include aggravating and mitigating factors.

This bill would result in the mandatory incarceration of women who sell their sexual services but does not focus on those who exploit these women. If anything passage of this bill will increase the power of the pimp over the prostitute.

The committee substitute has included those who pay for the services of a prostitute. The Alaska Women's Lobby has in the past supported changes in state statutes to include this as a crime in the interest of equal protection, but the inclusion of patrons of prostitutes in this bill does not make it more desirable.

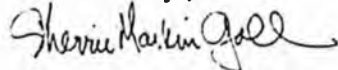
If increased penalties are to be imposed then the focus of those increased penalties should be on those who promote prostitution and exploit prostitutes. Focus needs to be directed at the problem of under-age prostitutes both male and female and those adults who encourage and exploit these youth. Attention needs to be directed at those who knowingly

solicit the services of underage prostitutes.

Municipalities might want to instead consider the option of decriminalization and regulation as a means to deal with the problems associated with prostitution such as the public health risks of sexually transmitted disease and the nuisance factors such as the garish neon signs associated with this "industry" and let the courts deal with the serious criminal aspects of child prostitution.

Thank you for considering these views.

Sincerely,



Sherrie Markin Goll
for the Alaska Women's Lobby

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN • SPENARD

P.O. BOX V, JUNEAU 99811
(907) 465-3892



CHAIRMAN
LABOR AND COMMERCE
COMMITTEE

MEMBER
STATE AFFAIRS COMMITTEE
HEALTH, EDUCATIONAL
AND SOCIAL SERVICES COMMITTEE
INTERNATIONAL TRADE
SUB-COMMITTEE

May 1, 1987

M E M O R A N D U M

To: Members, House Judiciary Committee *Chairman Sund*

From: Representative Dave Donley *DB*

Re: Proposed Amendments for HB 28

HB 28, an act relating to municipal penalties for prostitution, is currently before the House Judiciary Committee.

In response to requests from constituents, the Municipality of Anchorage and other legislators, I am proposing four amendments to HB 28 for your consideration. The amendments are listed below with a short explanation of what they accomplish:

Amendment #1 - changes the mandatory minimums a municipality may impose for prostitution from a maximum of 90 days imprisonment to: 3 days for first offense, 10 days for second offense and 30 days for third or subsequent convictions.

Amendment #2 - changes the language of the bill to allow a municipality to impose similar penalties on pimps as it imposes on prostitutes and customers (johns).

Amendment #3 - changes the title of the bill to read "An act relating to municipal penalties for prostitution and promoting prostitution." (Necessary due to Amendment #2).

Amendment #4 - mandates that if a municipality chooses to adopt such an ordinance, they shall reimburse the state for additional costs incurred by the Department of Corrections and the court system.

Amendment #5 - defines the term "municipality" to include all forms of municipalities including home rule and general law. It is the opinion of the Legislative Counsel, Keith B. Levy, that this is not necessary, but since there has been some

discussion about this, we have included the amendment so as to avoid any possibility of confusion.

Enclosed please find a copy of each of these amendments and some background relevant to the proposed changes.

HB 28 is an important piece of legislation for my constituents, as prostitution is a very real problem in their neighborhoods. It is based on an example set by the city of Phoenix, where such penalties successfully reduced and all but eliminated prostitution problems.

If you would like to discuss this bill or I can answer any questions, please call me at 3892.

CITY OF UNALASKA

P.O. BOX 89 112
UNALASKA, ALASKA 99685
(907) 581-1251

"Capital of the Aleutians"

DEPARTMENT OF PUBLIC SAFETY

FEB 23 1987



February 9, 1987

Representative Adelheid Herrman
P.O. Box 63
Naknek, Alaska 99633

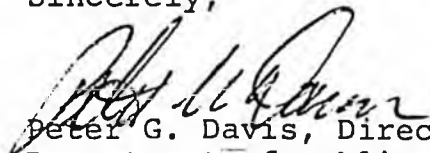
Dear Representative Herrman:

I recently had opportunity to review a Bill proposed by Representative Donley: House Bill #28, "An Act Relating to Municipal Penalties for Prostitution."

The response I prepared for my City Manager presented my perception of the rationale behind the bill and was somewhat negative. In a more recent phone conversation with Representative Donley, the intent of his legislative action was clarified. It is, as I now understand, intended to impact relatively serious problems experienced in the Anchorage/Fairbanks municipalities.

Inasmuch as these municipalities have their own prosecutorial staff and, as House Bill #28 proposes that the suggested ordinance change be optional for municipalities, I now view the bill more favorably. I would recommend support of House Bill #28.

Sincerely,


Peter G. Davis, Director
Department of Public Safety

PGD:plb

Alaska State Legislature

P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-2828

DISTRICT 10
2600 Denali; Suite 501
ANCHORAGE, ALASKA 99503
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FEB 20 1987

MEMBER
Community and Regional
Affairs
Special Committee
on Telecommunications
Finance Sub-Committee
for Labor

Anchorage Caucus,
House Chair

Representative Virginia M. Collins

To: All Representatives

From: Representative Virginia Collins *VM*

Date: February 24, 1987

Re: Co-sponsorship of legislation relating to the
patronizing of a prostitute

Enclosed please find a copy of proposed legislation relating to patronizing a prostitute and a copy of AS 11.66.100-150 (Prostitution and Related Offenses). Alaska has laws on engaging in and promoting of prostitution, but none addressing the problem of those who patronize a prostitute.

Section 11.66.105 would make patronizing a prostitute under the age of sixteen (16) a class A felony--the same class of crime as that for those promoting prostitution of anyone under 16 years of age.

Section 11.66.107 would make patronizing a prostitute 16 years of age or older a class B misdemeanor. "Patronizing" also applies to those entering or remaining in a place of prostitution with the intent to engage in sexual conduct other than as a prostitute.

I plan on introducing this legislation Wednesday, March 11, 1987. If you are interested in co-sponsorship, please contact my staff at 465-2828.

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to patronizing a prostitute."

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

8 * Section 1. AS 11.66 is amended by adding new sections to read:

9 Sec. 11.66.105. PATRONIZING A PROSTITUTE IN THE FIRST DEGREE.

10 (a) A person commits the crime of patronizing a prostitute in the
11 first degree if the person offers or agrees to pay another person
12 under 16 years of age a fee to engage in sexual conduct.

13 (b) Patronizing a prostitute in the first degree is a class A
14 felony.

15 Sec. 11.66.107. PATRONIZING A PROSTITUTE IN THE SECOND DEGREE.

16 (a) A person commits the crime of patronizing a prostitute in the
17 second degree if the person

18 (1) offers or agrees to pay another person 16 years of age
19 or older a fee to engage in sexual conduct; or

20 (2) enters or remains in a place of prostitution with the
21 intent to engage in sexual conduct other than as a prostitute.

22 (b) Patronizing a prostitute in the second degree is a class B
23 misdemeanor.

- (b) Criminal possession of explosives is a
- (1) class A felony if the crime intended is murder in any degree or kidnapping;
 - (2) class B felony if the crime intended is a class A felony;
 - (3) class C felony if the crime intended is a class B felony;
 - (4) class A misdemeanor if the crime intended is a class C felony;
 - (5) class B misdemeanor if the crime intended is a class A or class B misdemeanor. (§ 7 ch 166 SLA 1978)

Collateral references. — 31 Am. Jur. Explosions and Explosives, §§ 121-130. Possession of bomb, molotov cocktail, or similar device as criminal offense. 42 ALR3d 1230.
 35 C.J.S., Explosives, § 12.

Sec. 11.61.250. Unlawful furnishing of explosives. (a) A person commits the crime of unlawful furnishing of explosives if the person furnishes an explosive substance or device to another knowing that the other intends to use the substance or device to commit a crime.
 (b) Unlawful furnishing of explosives is a class C felony. (§ 7 ch 166 SLA 1978)

Chapter 65. Offenses Against Public Convenience.

Secs. 11.65.010 — 11.65.020. [Renumbered as AS 30.50.020 and 30.50.010.]
Sec. 11.65.030. Tampering with posted notices. [Repealed, § 21, ch. 166, SLA 1978.]

Chapter 66. Offenses Against Public Health and Decency.

- Article**
- 1. Prostitution and Related Offenses (§§ 11.66.100 — 11.66.150)
 - 2. Gambling Offenses (§§ 11.66.200 — 11.66.280)

Article 1. Prostitution and Related Offenses.

Section	Section
100. Prostitution	130. Promoting prostitution in the third degree
110. Promoting prostitution in the first degree	140. Corroboration of certain testimony not required
120. Promoting prostitution in the second degree	150. Definitions

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NOTES TO DECISIONS

Municipal ordinances not prohibited. — The enactment of this article does not prohibit municipal ordinances penalizing the solicitation of prostitutes by putative customers. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).
There is nothing in this article which

would support an inference that the legislature sought to encourage men to patronize prostitutes nor is there any indication in this article that the legislature sought statewide uniformity in regulating commercial sexual relations. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

Collateral references. — 63 Am. Jur. 2d, Prostitution, § 1 et seq.; 27 C.J.S., Disorderly Houses, § 1 et seq.; 73 C.J.S., Prostitution, § 1 et seq.
Constitutionality and construction of pandering acts. 74 ALR 311.

Validity and construction of statute or ordinance proscribing solicitation for purposes of prostitution, lewdness, or assignation — modern cases. 77 ALR3d 519.

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if the person engages in or agrees or offers to engage in sexual conduct in return for a fee.
(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law, whereas fornication and prostitution were not. *Eleazar v. United States*, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956), decided under former AS 11.40.220.
This section is not irreconcilable with a municipal ordinance prohibiting the solicitation of prostitutes by putative customers. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).
Actual payment of a fee is not required; an act of prostitution is com-

plete when an offer is extended or an agreement made to engage in sexual conduct in return for a fee. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).
Proof. — Customer's testimony that he agreed to purchase sexual favors for sum of \$200, his testimony that he charged the purchase price using his VISA card, and the VISA charge slip itself, were all highly probative of whether an agreement or offer to engage in sexual conduct in return for a fee was in fact made. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Collateral references. — Prostitution as vagrancy, 14 ALR 1501.
Entrapment to procure women for

immoral purposes. 18 ALR 186; 66 ALR 478; 86 ALR 263.

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if the person

(1) induces or causes a person to engage in prostitution through the use of force;

(2) as other than a patron of a prostitute, induces or causes a person under 16 years of age to engage in prostitution; or

(3) induces or causes a person in that person's legal custody to engage in prostitution.

(b) In a prosecution under (a)(2) of this section, it is not a defense that the defendant reasonably believed that the person induced or caused to engage in prostitution was 16 years of age or older.

(c) Except as provided in (d) of this section, promoting prostitution in the first degree is a class B felony.

(d) A person convicted under (a)(2) of this section is guilty of a class A felony. (§ 8 ch 166 SLA 1978; am §§ 1, 2 ch 50 SLA 1983)

Effect of amendments. — The 1983 amendment added "Except as provided in (d) of this section" to the beginning of subsection (c) and added subsection (d).

NOTES TO DECISIONS

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520), 403 P.2d 673 (1965).

For case construing former procurement statute, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

Sentence for procurement upheld. — See *Price v. State*, Sup. Ct. Op. No. 1450 (File No. 2794), 565 P.2d 858 (1977).

For case construing former statute concerning necessary evidence for prostitution or seduction, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

Collateral references. — Transporting female for purpose of prostitution, 74 ALR 330.

Woman conniving or consenting to own transportation, 84 ALR 376.

Sec. 11.66.120. Promoting prostitution in the second degree.
(a) A person commits the crime of promoting prostitution in the second degree if the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a prostitution enterprise other than a place of prostitution; or

(2) procures or solicits a patron for a prostitute.

(b) Promoting prostitution in the second degree is a class C felony. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former statute prohibiting soliciting or procuring for purpose of prostitution, see *Plas v. State*, Sup. Ct. Op. No. 1904 (File Nos. 3529, 3530), 598 P.2d 966 (1979).

Instruction. — Trial court did not err in

refusing to give instruction requiring state to prove that prostitution enterprise involved in case was of an ongoing nature. *Garibzy v. State*, Ct. App. Op. No. 22 (File No. 6246), 658 P.2d 1350 (1983).

Collateral references. — Separate acts of taking earnings of or support from pros-

titute as separate or continuing offenses of pimping. 3 ALR4th 1195.

Sec. 11.66.130. Promoting prostitution in the third degree. (a) A person commits the crime of promoting prostitution in the third degree if, with intent to promote prostitution, the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a place of prostitution;

(2) as other than a patron of a prostitute, induces or causes a person 16 years of age or older to engage in prostitution;

(3) as other than a prostitute receiving compensation for personally rendered prostitution services, receives or agrees to receive money or other property pursuant to an agreement or understanding that the money or other property is derived from prostitution; or

(4) engages in conduct that institutes, aids, or facilitates a prostitution enterprise.

(b) Promoting prostitution in the third degree is a class A misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Editor's notes. — The cases cited in the notes below were decided under former AS 11.40.260, 11.40.300, 11.40.330, 11.40.410, and 11.40.420.

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law. *Eleazar v. United States*, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956).

Lessor may be guilty as keeper. — If a man leases his house to a woman to be kept as a bawdyhouse for purposes of prostitution, and it is kept for such purposes, with his knowledge, he is guilty as keeper. *Rosencranz v. United States*, 155 F. 38 (9th Cir. 1907).

As well as agent of lessor. — The agent of an owner, who rents a house knowing that it is to be used as a house of prostitution, and that it is so used, may be found guilty as a keeper. *Rosencranz v.*

United States, 155 F. 38 (9th Cir. 1907).

For case construing former statute prohibiting employment in a house of prostitution or living on the earnings of a prostitute, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520), 403 P.2d 673 (1965).

For case construing former statute prohibiting pimping, see *Johnson v. United States*, 260 F. 763 (9th Cir. 1919).

For case construing former statute prohibiting a male's living with or on the earnings of a prostitute, see *Dunn v. State*, Sup. Ct. Op. No. 409 (File No. 735), 426 P.2d 993 (1967).

Collateral references. — 27 C.J.S., Disorderly Houses, §§ 1 to 18; 73 C.J.S., Prostitution, §§ 6, 7.

Constitutionality of statute conferring on chancery courts power to abate bawdyhouses as nuisances, 5 ALR 1474; 22 ALR 542; 75 ALR 1298.

Number of females who reside in house or resort thereto for immoral purposes as

affecting disorderly character thereof, 12 ALR 529.

Entrapment to commit offense as to house of prostitution or as to pandering, 52 ALR2d 1194.

Construction of provision of pandering statute as to placing a female in charge or custody of another, 54 ALR2d 1178.

Sec. 11.66.140. Corroboration of certain testimony not required. In a prosecution under AS 11.66.110 — 11.66.130, it is not necessary that the testimony of the person whose prostitution is alleged to have been compelled or promoted be corroborated by the testimony of any other witness or by documentary or other types of evidence. (§ 8 ch 166 SLA 1978).

NOTES TO DECISIONS

For case construing former rule as to corroboration of prostitute's testimony, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

For cases construing former statute

providing that common fame was competent evidence in a prosecution for keeping a bawdyhouse, see *Botts v. United States*, 155 F. 50 (9th Cir. 1907); *Hall v. United States*, 155 F. 52 (9th Cir. 1907).

Sec. 11.66.150. Definitions. In AS 11.66.100 — 11.66.150, unless the context requires otherwise,

(1) "place of prostitution" means any place where a person engages in sexual conduct in return for a fee;

(2) "prostitution enterprise" means an arrangement in which two or more persons are organized to render sexual conduct in return for a fee;

(3) "sexual conduct" means genital or anal intercourse, cunnilingus, fellatio, or masturbation of one person by another person. (§ 8 ch 166 SLA 1978)

Cross references. — For definition of terms used in this title, see AS 11.81.900.

Article 2. Gambling Offenses.

<p>Section 200. Gambling 210. Promoting gambling in the first degree 220. Promoting gambling in the second degree 230. Possession of gambling records in the first degree</p>	<p>Section 240. Possession of gambling records in the second degree 250. Affirmative defenses 260. Possession of a gambling device 270. Forfeiture 280. Definitions</p>
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applies to the offense of felon in possession of a concealable firearm. *State v. LaPorte*, Ct. App. Op. No. 306 (File Nos. 7220, 7285), 672 P.2d 466 (1983).

Conviction upheld. — A person may be convicted of being a felon in possession of a concealable firearm while the predicate conviction is on appeal and the sentence stayed. *Berg v. State*, Ct. App. Op. No. 564 (File No. A-666), 711 P.2d 553 (1985).

Conviction and sentence upheld. — See *Afcan v. State*, Ct. App. Op. No. 572 (File No. A-703), 711 P.2d 1198 (1986).

Conviction and sentence for kidnapping, assault in the first degree, misconduct involving weapons in the first degree

and robbery in the first degree were affirmed. See *Wortham v. State*, Sup. Ct. Op. No. 414 (File No. 7353), 689 P.2d 1133 (1984).

Sentence upheld. — See *Gilbreath v. State*, Ct. App. Op. No. 278 (File No. 7097), 668 P.2d 1354 (1983).

Applied in *Shaw v. State*, Ct. App. Op. No. 313 (File No. 7561), 673 P.2d 781 (1983).

Cited in *State v. Frazier*, Ct. App. Op. No. 460 (File No. A-415), 696 P.2d 1212 (1985); *Ackermann v. State*, Ct. App. Op. No. 600 (File No. A-931), 716 P.2d 5 (1986); *State v. Frazier*, Sup. Ct. Op. No. 061 (File No. S-972), 719 P.2d 261 (1986).

Sec. 11.61.210. Misconduct involving weapons in the second degree.

NOTES TO DECISIONS

Sentence affirmed. — See *Afcan v. State*, Ct. App. Op. No. 572 (File No. A-703), 711 P.2d 1198 (1986).

Chapter 66. Offenses Against Public Health and Decency.

Article 1. Prostitution and Related Offenses.

Sec. 11.66.110. Promoting prostitution in the first degree.

NOTES TO DECISIONS

Precluding mistake of age as defense. — Subsection (b) of this section, which expressly dispenses with mistake of age as a defense to promoting prostitution in the first degree, does not violate due process of law. *Bell v. State*, Ct. App. Op. No. 288 (File No. 5821), 668 P.2d 829 (1983).

Under the Revised Alaska Criminal Code, it is defendant's intentional procurement of a person under the age of 16 years for prostitution that renders him liable for first-degree promoting, regardless of his actual awareness of that person's age. *Bell v. State*, Ct. App. Op. No. 288 (File No. 5821), 668 P.2d 829 (1983).

The act of procuring another for pur-

poses of prostitution is *malum in se*, without regard to the age of the person procured, and thus, in a prosecution for procuring a person under the age of 16 years, the intent to procure satisfies the minimal constitutional requirement of criminal intent. *Bell v. State*, Ct. App. Op. No. 288 (File No. 5821), 668 P.2d 829 (1983).

Promoting prostitution and managing prostitution enterprise. — Punishment for inducing or causing a person under the age of 16 to engage in prostitution (AS 11.66.110(a)(2)) and for managing, supervising, controlling or owning a prostitution enterprise (AS 11.66.120(a)(1)) did not violate double jeopardy since the offenses proscribed by the two statutes in-

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ducts and differing societal interests are 288 (File No. 5821), 668 P.2d 829 (1983).

Sec. 11.66.120. Promoting prostitution in the second degree.

NOTES TO DECISIONS

Promoting prostitution and manag- did not violate double jeopardy since the
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(AS 11.66.110(a)(2)) and for managing, furthered. Bell v. State. Ct. App. Op. No.
supervising, controlling or owning a pros- 288 (File No. 5821), 668 P.2d 829 (1983).
titution enterprise (AS 11.66.120(a)(1))

Sec. 11.66.130. Promoting prostitution in the third degree.

NOTES TO DECISIONS

Quoted in Bell v. State. Ct. App. Op.
No. 288 (File No. 5821), 668 P.2d 829
(1983).

**Sec. 11.66.140. Corroboration of certain testimony not re-
quired.**

NOTES TO DECISIONS

Cited in Bell v. State. Ct. App. Op. No.
288 (File No. 5821), 668 P.2d 829 (1983).

Sec. 11.66.150. Definitions.

NOTES TO DECISIONS

Quoted in Bell v. State. Ct. App. Op.
No. 288 (File No. 5821), 668 P.2d 829
(1983).

Chapter 70. Miscellaneous Provisions.

*Secs. 11.70.010 — 11.70.030. Intent to defraud; use of evidence by
person on charge of perjury; intoxication as defense. [Repealed, § 21.
ch 166, SLA 1978. For current law, see AS 11.46.990(10), 11.81.630.]*

Editor's notes. — The repeal line
above is set out to correct an error in the
main pamphlet.

MAR 5 1987



Spenard Action Committee

2308 West 47th Street • Anchorage, Alaska 99517

Phone (907) 243-7768

February 25th. 1987

To State Representatives:

John Sund
Dave Donley
Max Gruenberg
(and all concerned)

HB28 is, in our opinion, a very important piece of legislation to effect only cities in Alaska that feel they need the form of leeway offered by this bill. I would seriously ask you to contact Lt. Mike Frazier or Lt. Wayne Brown of the Phoenix Police Department, (602) 262-6747. They can give you the kind of the information I'm sure you would appreciate. As they stressed to me, their enactment of mandatory minimum sentences for prostitution, (I have enclosed a copy of that ordinance for your convenience), is considered the one step, by far, the most important tool for their reduction of prostitution in their city. Before they implemented this ordinance prostitution arrests numbered 35-40 a night, now the figures are more like 0-1 as a norm. They have no more houses of prostitution either and do feel somewhat this may have helped lower their overall crime statistics, but cannot, of course, prove positive this is the case.

They also stressed the fact other cities like Tucson and Mesa now have quite a problem with prostitution and this probably in part, is due because Phoenix does have this ordinance in the books and they don't.

We are also asking for mandatory testing for AIDS on these convicted prostitutes and the 5 day minimum sentences will keep them off the streets until tests are completed. With this newest of threats facing us all we surely cannot afford to be nonchalant about how we handle crimes of this nature any longer. The growing industry of adult facilities here in Anchorage will stress to the limit the amount of patience this community will endure much longer.

We ask you to adjudicate this piece of legislation as expeditiously as possible.

Thank you for your consideration.

Sincerely,

Dave Erlich, Chairman S.A.C.

subsection (a) of this section. No sale or transfer of possession of any vapor releasing substances that contain a toxic substance as defined in subsection (a) of this section shall be made except by a person who is at the time of sale actively employed by or engaged in operating a bona fide commercial establishment at a fixed location.

(c) Nothing contained in this section shall be applicable to the transfer of any vapor releasing substances containing toxic substances as defined in subsection (a) of this section from a parent to a child, from a guardian to his ward, from an employer to employee, from a teacher to a student or in any other similar relationship when such transfer is for a lawful and bona fide purpose.

(d) Every bona fide commercial establishment selling vapor releasing substances as defined in subsection (b) of this section shall conspicuously display a sign of not less than 11 x 14 inches in size which states: "Warning: Deliberate Inhalation of Spray Paint Vapors Can Be Dangerous". Such printed warning shall be easily legible.

(e) This section is limited to such coating substances as are dispensed by the use of aerosol spray devices.

(f) Anyone who willfully violates any of the provisions of this section shall be guilty of a misdemeanor. (Ord. No. G-1291 § 1.)

ARTICLE IV. Offenses Involving Morals.

DIVISION I. Prostitution and Fornication.¹⁸

Sec. 23-52. Prostitution and related offenses.

(a) A person is guilty of a misdemeanor who:

- (1) Offers to, agrees to, or commits an act of prostitution;
- (2) Solicits or hires another person to commit an act of prostitution;
- (3) Is in a public place or place open to public view and manifests an intent to commit an act of prostitution;
- (4) Aids or abets the commission of any of the acts prohibited by this section.

(b) Definitions:

- (1) Prostitution is the act of performing sexual activity for hire by a male or female person.
- (2) Sexual activity means vaginal or anal intercourse, fellatio, cunnilingus, analingus, masturbation, sodomy or bestiality.

¹⁸ Charter reference - As to City's authority to regulate prostitutes, and fornication, see Ch. IV, § 2(34).

(c) Penalty:

1. A person convicted of a violation of subsection (a) of this section is guilty of a Class 1 misdemeanor punishable by imprisonment for a term of not less than five (5) days nor more than six months and, in the discretion of the court, a fine not to exceed one thousand dollars (\$1000).

2. Upon a second conviction, a person convicted of a violation of subsection (a) of this section is guilty of a Class 1 misdemeanor punishable by imprisonment for a term of not less than thirty (30) days nor more than six months and, in the discretion of the court, a fine not to exceed One Thousand Dollars (\$1000).

3. Upon a third conviction, a person convicted of a violation of subsection (a) of this section is guilty of a Class 1 misdemeanor punishable by imprisonment for a term of not less than sixty (60) days nor more than six (6) months and, in the discretion of the Court, a fine not to exceed One Thousand Dollars (\$1000).

4. Upon a fourth or subsequent conviction, a person convicted of a violation of subsection (a) of this section is guilty of a Class 1 misdemeanor punishable by imprisonment for a term of not less than one hundred eighty (180) days and, in the discretion of the Court, a fine not to exceed One Thousand Dollars (\$1000).

5. In no case shall a person convicted of a violation of subsection (a) of this section be eligible for suspension or commutation of sentence unless such person is placed on probation with the condition that the minimum mandatory term of imprisonment be served. (Ord. No. G-1521, § 1; Ord. No. G-1813, § 1; Ord. No. G-1868, § 6; Ord. No. G-2287, § 1.2.)

Sec. 23-53. Prostitutes—Solicitation.

Any prostitute, or other person soliciting for a prostitute or for a place of prostitution, or any male person who is an habitue of a place of prostitution, or who shall solicit persons to visit or patronize a prostitute or place of prostitution or make such solicitation upon the streets or in any public place in the City shall be guilty of a misdemeanor. (Code 1962, § 27-56.)

Sec. 23-54 through 23-56. Repealed. (Ord. No. G-1521, § 1.)

1 HB 28 Prostitution Bill allowing manditory sentences:

I am in favor_____

I am not in favor_____

Reasons? _____

HB 30 Conspiracy dealing with prostitution and narcotics:

I am in favor_____

I am not in favor_____

Reasons? _____



Spenard Action Committee

2308 West 47th Street • Anchorage, Alaska 99517
Phone (907) 243-7768

March 11, 1987

Representitives of the House:

My name is Dave Erlich, I am chairman of the Spenard Action Committee representing thousands of concerned citizens in the Anchorage area.

Over the past 10 years Anchorage has seen a rapid rise in all areas of crime, especially narcotics and prostitution to name a couple. We are currently trying to deal with our problems on a local level through various methods.

Our only concerns in Juneau are HB28 dealing with prostitution which allows each local community the authority to impose manditory minimum sentences up to 90 days and fines up to \$1,000.00 at their descretion. It will not impact communities that do not need this legislation only those that wish to inact a local ordinance dealing with the problems. It is a bill which works outside Alaska and we feel, as do the local police, it will help our situation.

HB30 is a bill dealing with conspiracy for prostitution and narcotics. We need to deal with the individual who most profits from these crimes and are usually not directly involved with the crimes themselves.

If you support these two bills or do not would you please send back the questioneer with your answers to us.

Thank you for your cooperation in this matter.

Sincerly,

Dave Erlich
Chairman, Spenard Action Committee

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

STEVE COWPER, GOVERNOR

REPLY TO:

POUCH 1
JUNEAU, ALASKA 99811
PHONE: (907) 465-3376

February 20, 1987

FEB 23 1987

The Honorable John Sund
Chair
House Judiciary Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Sund:

This letter is in response to a request for information from John Hartle of your staff regarding a comparison of reimbursements by municipalities versus actual cost of prisoner care. The current rate of reimbursement to the State by municipalities is either negotiated as part of our lease agreement (as with the Municipality of Anchorage) or is determined by a letter of agreement, as with the Cities of Ketchikan, Fairbanks, and Juneau. The following information shows the actual costs and the amounts billed and reimbursed, by institution and jurisdiction, for prisoner care in fiscal 1986:

COST OF CARE

City of Anchorage

	No. Inmate Days	Daily Cost of Care	Total Cost of Care FY86	Amount Billed
Anch. Annex	20,984	\$96.11	\$2,016,772	\$ 929,591
Meadow Creek	1,408	71.53	100,714	62,374
Hiland Mt.	1,130	71.53	80,829	50,081
Goose Bay	9,799	77.45	758,933	434,074
Palmer	1,237	72.82	90,078	54,799
Wildwood	527	69.44	36,595	23,324
3rd Avenue	309	83.72	25,869	13,667
	<u>35,394</u>		<u>\$3,109,790</u>	<u>\$1,567,910</u>

Major Medical and Statewide

Services: 35,394 mandays x \$11.36 402,076
Total Cost to DOC 3,511,866

Amount Deducted by Municipality
for Rent

279,569

Amount Paid by Municipality

1,288,341

Cost of Services less Reimbursement
by City of Anchorage

\$2,223,525

City of Fairbanks

Fairbanks C.C. 2,352 mandays x \$75.37/day	\$ 177,270
Plus Medical/Statewide Services 2,352 mandays x \$11.36/day	<u>26,719</u>
Total Cost to DOC	203,989
Less Amount Reimbursed by City of Fairbanks	<u>- 151,382</u>
Cost of Services less Reimbursement	\$ 52,607

City of Juneau

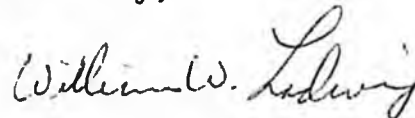
Lemon Creek C.C. 1,532 mandays x \$91.59/day	\$ 140,316
Plus Medical/Statewide Services 1,532 mandays x \$11.36/day	<u>17,404</u>
Total Cost to DOC	157,720
Less Amount Reimbursed by City of Juneau	<u>- 131,155</u>
Cost of Services less Reimbursement	\$ 26,564

City of Ketchikan

Ketchikan C.C. 438 mandays x \$128.40/day	\$ 56,239
Plus Medical/Statewide Services 438 mandays x \$11.36/day	<u>4,976</u>
Total Cost to DOC	61,215
Less Amount Reimbursed by City of Ketchikan	<u>- 11,816</u>
Cost of Services less Reimbursement	\$ 49,399

If you have any further questions, please do not hesitate to call.

Sincerely,



William W. Ladwig
Acting Commissioner

WWL:SR:lc
cc: John Hartle

Clean up Spew

Introduced: 1/19/87
Referred: Community & Regional
Affairs and Judiciary

1 IN THE HOUSE

BY DONLEY AND GRUENBERG

2

HOUSE BILL NO. 28

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to municipal penalties for prosti-
7 tution."

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

9 * Section 1. AS 29.25.070(a) is amended to read:

10 (a) For the violation of an ordinance, a municipality may by
11 ordinance prescribe a penalty not to exceed a fine of \$1,000 and
12 imprisonment for 90 days. A municipality may prescribe a penalty
13 requiring a court to impose a minimum sentence of imprisonment of up
14 to 90 days and a fine not to exceed \$1,000, as provided in an ordi-
15 nance, for violation of an ordinance that prohibits prostitution and
16 is substantially similar to AS 11.66.100.

mandatory minimum

6th ec

Women's lobby - gross bill - Laurie Bell

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 28
Publish Date:

REQUEST:

Revision Date:
Title: An act relating to municipal penalties for prostitution
Sponsor: Donley & Gruenberg
Requestor: House Judiciary Committee

Agency Affected: Alaska Court System
BRU: Trial Courts

Components:

<u>EXPENDITURES/REVENUES:</u>		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
Personal Services	••••	••••	••••	••••	••••	••••
Travel	••••	••••	••••	••••	••••	••••
Contractual	••••	15.0	15.0	15.0	15.0	15.0
Supplies	••••	••••	••••	••••	••••	••••
Equipment	••••	••••	••••	••••	••••	••••
Land & Structures	••••	••••	••••	••••	••••	••••
Grants & Claims	••••	••••	••••	••••	••••	••••
TOTAL OPERATING	0.0	15.0	15.0	15.0	15.0	15.0
CAPITAL	••••	••••	••••	••••	••••	••••
REVENUE	••••	••••	••••	••••	••••	••••

<u>FUNDING:</u>		(Thousands of Dollars)				
General Funds	0.0	15.0	15.0	15.0	15.0	15.0
Federal Funds	••••	••••	••••	••••	••••	••••
Other	••••	••••	••••	••••	••••	••••
TOTAL	0.0	15.0	15.0	15.0	15.0	15.0

<u>POSITIONS:</u>						
Full-time	••••	••••	••••	••••	••••	••••
Part-time	••••	••••	••••	••••	••••	••••
Temporary	••••	••••	••••	••••	••••	••••

ANALYSIS: (Attach a separate page if necessary)

If ordinances prescribing the increased penalties were enacted in Anchorage and Fairbanks, it is assumed that at least 60 additional jury trials would be conducted. Although the impact on judicial and clerical resources could be absorbed, costs would be incurred for the additional juror fees (\$10,000) and also to pay bailiffs (\$5,000).

Prepared by: Karla Forsythe, General Counsel
Division: Alaska Court System

Phone: 264-8230
Date: 2-11-87

Approved by: *Stephanie J. Cole*
Stephanie J. Cole, Deputy Director
Agency: Alaska Court System

Date: 2-11-87

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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB28
Publish Date: _____

Revision Date: _____
Title: "An Act relating to municipal penalties for prostitution."
Sponsor: Repr. Donlev
Requestor: House Community and Reg. Affs.

Agency Affected: Department of Law
BRU: Prosecution
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard F. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: 1/21/87
Ronald W. Lorenson
 Approved by Commissioner: Acting Attorney General Date: 1/21/87
 Agency: Department of Law

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB28

This bill amends AS 29.25.070(a) by providing that municipalities may, under local ordinance, prescribe penalties for prostitution that require a court to impose a minimum sentence equal to the maximum penalty allowed by existing statute, or a \$1,000 fine and imprisonment for 90 days. In this respect, the bill appears to encourage municipalities to seek the maximum allowable penalty in all instances.

Prosecution of municipal ordinance violations is a local responsibility, and such prosecution is not handled by the Department of Law. Consequently, enactment of this bill will not have a fiscal impact on the Department of Law.

The cost of imprisoning violators of municipal ordinances, in state corrections institutions, is reimbursed to the state by the respective municipalities. This reimbursement includes normal, day-to-day operating costs and a pro rata share of lease costs, where the state is using a leased facility. The reimbursement does not, however, include any charge for the state's capital expenses in building and furnishing new corrections facilities. To the extent that encouraging maximum periods of imprisonment may contribute to prison overcrowding, the unreimbursed expense to the state may be very great. This issue should be addressed by the Department of Corrections in a separate fiscal note.

Original sponsors: Donley and Gruenberg

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 28 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to municipal penalties for prostitution."

7

8

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

9

* Section 1. AS 29.25.070(a) is amended to read:

10

(a) For the violation of an ordinance, a municipality may by

11

ordinance prescribe a penalty not to exceed a fine of \$1,000 and

12

imprisonment for 90 days. A municipality may prescribe a penalty

13

requiring a court to impose a minimum sentence of imprisonment of up

14

to 90 days and a fine not to exceed \$1,000, as provided in an ordi-

15

nance, for violation of an ordinance that prohibits prostitution. In

16

this subsection, prostitution includes engaging in or agreeing to

17

engage in sexual conduct for a fee, and paying or agreeing to pay a

18

fee in exchange for sexual conduct.

Corrections paid note

Call, Sherie - Women's lobby oppose bill

mitigating/opportunity considerations

leave discretion w/ judges

*Ed McBeath → oppose bill → deal w/ prostitutes in
a more civilized way - Use Amsterdam issue*

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : CSHB-28
Publish Date : 2/6/87

Revision Date: _____
Title: "An Act relating to municipal penalties for prostitution."
Sponsor: Reps. Donley & Gruenberg
Requestor: Judiciary

Agency Affected: Dept. of Corrections
BRU: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
----------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susie H. Riley Program Budget Analysis Phone: 465-3376
Division: Administrative Services Date: 2/13/87
Acting
Approved by Commissioner: William W. Ladwig Date: 2/16/87
Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: CSHB 28 (C&RA)
Publish Date: _____

Revision Date: Feb. 12, 1987
Title: "An Act relating to municipal penalties for prostitution."
Sponsor: House C&RA Committee
Requestor: House Judiciary Committee

Agency Affected: Department of Law
BRU: Prosecution
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: Feb. 12, 1987

Approved by Commissioner: Richard I. Pegues (FOR)
Grace Berg Schaible, Atty. Gen.

Date: Feb. 12, 1987

Agency: Department of Law

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 28 (C&RA)

This bill amends AS 29.25.070(a) by providing that municipalities may, under local ordinance, prescribe penalties for prostitution that require a court to impose a minimum sentence equal to the maximum penalty allowed by existing statute, or a \$1,000 fine and imprisonment for 90 days. In this respect, the bill appears to encourage municipalities to seek the maximum allowable penalty in all instances.

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HOUSE COMMITTEE REPORT

(5)

Date referred: 1/19/87

FURTHER REFERRALS: Judiciary

DATE: 02/04/87

The Community and Regional Affairs Committee has considered HB 28

"An Act relating to municipal penalties for prostitution."

RECOMMENDS:

- replace with CSHB28 (C&RA) 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:

Heinrich Spruijs

Bette Cook

Walter Malley

James Swadlow

Alfred Herrmann

SIGNING OTHER RECOMMENDATIONS:

Heinrich Spruijs
Chairman's signature