

HB

372

ANCHORAGE TASK FORCE ON SEXUAL ASSAULT  
LEGISLATIVE COMMITTEE

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c/o S.T.A.R., 3925 Reka Dr., Anchorage, AK 99508 (907) 276-7279

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March 23, 1988

Senate Judiciary Committee  
P.O. Box V  
Juneau, AK 99811

RE: HB 372; Letter of Support  
Request for Committee Hearing

Dear Senator Jay Kerttula, Chairman;  
Senator Arliss Sturgulewski, Vice-chairman;  
Senator Joe Josephson;  
Senator Rick Halford;  
Senator Pat Rodey;

The Anchorage Task Force on Sexual Assault (ATFSA) is comprised of thirty individuals from the State Departments' of Law, Health and Social Services, and Corrections, the Anchorage Police Department, Association of Stranded Rural Alaskans in Anchorage, Standing Together Against Rape (STAR), local hospitals, private mental health institutions, and concerned professionals. The purpose of the ATFSA is to heighten community awareness, enhance inter-agency communication and cooperation, identify resources for victims, and advocate for policies affecting sexual assault victims and their families.

The ATFSA legislative committee strongly supports HB 372 and urges the Judiciary Committee to schedule a hearing on the bill. The bill provides for the prohibition of suspended imposition of sentencing (SIS) for sexual assault offenses, which do not carry a presumptive term. This would include sexual offenses in the second, third and fourth degree.

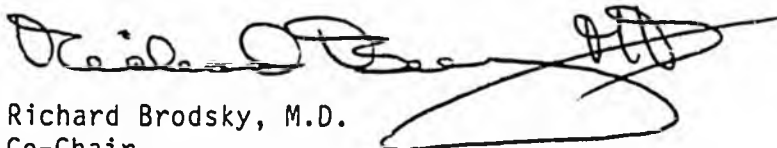
As many of you already know, sexual assault continues to be a serious problem in Alaska. Alaska has led the nation in sexual assault per capita the last ten years, with the exception of 1980. The figures for child sexual abuse are equally high. Child sexual abuse cases investigated by the Department of Health and Social Services in 1986, was 5 times greater than the reported national incident rate.

Passage of HB372 is valuable in combatting the problem of adult and child sexual assault in two ways. Firstly, the law would reflect the state's strong sanctions against sexual assault offenses. SIS's are already prohibited for drunk driving offenses. And clearly the incidence of sexual assault offenses are as serious and numerous. Secondly, a recorded history

would be maintained for those convicted of sexual assault offenses to assist employers who conduct employee criminal background checks. It is to the advantage of employers, and benefit of society, to access a criminal history background which is factual. Since an SIS allows record clearance of a conviction, nothing is left in the archives to reflect the wrongdoing. Efforts by employers to carefully screen prospective employees, (such as the Anchorage, Fairbanks and Juneau School Districts' which conduct criminal background checks for sex offenses) can be seriously undermined by providing an inaccurate criminal history.

Committee consideration on the merits of HB 372 would be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Brodsky", with a large, sweeping flourish underneath.

Richard Brodsky, M.D.  
Co-Chair  
Legislative Committee

Enclosures



ANCHORAGE SCHOOL  
DISTRICT POLICY ON  
CRIMINAL BACKGROUND  
CHECKS.

ANCHORAGE  
SCHOOL DISTRICT

4600 DeBarr Avenue  
P.O. Box 196614  
Anchorage, Alaska 99519-6614  
AREA CODE [907] 333-9561

SCHOOL BOARD

Martha Roderick  
President

William Frick  
Vice President

Jim Robinson  
Clerk  
Past President  
1981-82, 1984-85

Bettye Davis  
Treasurer  
Past President  
1985-86

Darryl Jordan  
Clerk Pro Tem

Jean Buchanan  
Assistant Treasurer  
Past President  
1983-84, 1986-87

Carol Stolpe  
Parliamentarian

SUPERINTENDENT

William Coats, Ph.D.

March 14,

Ms. Carrie Longoria  
P.O. Box 10-3356  
Anchorage, AK 99510

BACKGROUND CHECK

In response to your inquiry, this letter addresses the issue of the employee background checks. In the past, it has been difficult to ascertain whether an employee had a history of crimes against children. The fingerprint process enables us to acquire this information. The Anchorage School District requires that all new employees, including substitutes, be fingerprinted. The purpose of this check is to assure that the employee has no history of convictions for sex crimes or crimes against children.

The cost of the fingerprint process is fourteen dollars (\$14.00) per person, funded by the new employee in the form of a cashier's check or money order. The fingerprints are forwarded to the Federal Bureau of Investigation through the Alaska State Troopers and an investigation is conducted.

It is the District's policy to carefully select qualified, moral and safe employees to educate the children of Anchorage. The background check is a tool for the District to verify that the employee has no past criminal offenses regarding minors. If you have further concerns, please contact the Staffing Department at 269-2154.

*M. Goodwin*

MERRIANNE GOODWIN, PERSONNEL OFFICE MANAGER

MPM/cl  
SR300.18

ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, AK

BACKGROUND CHECK

PURPOSE PAPER

The hiring purpose of the District provides for the employment of a staff competently trained, physically and mentally healthy, unified in purpose and organization, and devoted to the cause of public education. The District's policy is specifically directed toward the creation of the best possible educational climate in each of the schools.

In an effort to discourage inclusion of individuals who have demonstrated behaviors which are dangerous to the health and welfare of youngsters, the District initiated a more extensive background investigation procedure beyond the scope of traditional reference checks. Due to a strong position against child abuse and exploitation, as well as past occurrences of unlawful and immoral acts against children, the fingerprint procedure proposal was approved by the School Board effective July 1, 1984.

The background check, which incorporates a fingerprinting procedure, is utilized by several other districts within the United States. The information obtained is used only to make lawful employment decisions. Once the prospective employee is "cleared" by the Federal Bureau of Investigation, background check information is destroyed.

The fingerprint procedure is required as a contingency of employment for new employees only (those hired on or after July 1, 1984), including substitutes and temporaries. Background checks are not required of those employed before July 1, 1984 for several reasons.

- 1.) It is inappropriate to mandate that these employees obtain a background check "after the fact" of employment.
- 2.) The need for a check is minimized after the employee has been working under supervision and has been evaluated.
- 3.) After meeting District requirements to obtain a position, it would not be fair practice to require employees to pay fourteen dollars (\$14.00) for a background check that was not a contingency of employment at the time of hire.

In summary, the District strives for a high quality educational environment which includes hiring those individuals who not only contribute to the pursuit of excellence, but who meet the highest moral/ethical standards. Moreover, we are committed to attaining this goal.

GR/cl

SR300.29

# Child Advocacy Network



APR 3 1988

c/o MOA, Abuse Prevention Unit, P.O. Box 196650, Anchorage, AK 99519-6650

343-6533

April 5, 1988

Senate Judiciary Committee  
P.O. Box V  
Juneau, Alaska 99811

RE: LETTER OF SUPPORT FOR HB 372

Dear Senator Jay Kerttula, Chairman;  
Senator Arliss Sturgelewski, Vice-Chairwoman;  
Senator Joe Josephson;  
Senator Rick Halford;  
Senator Pat Ródey:

The Child Advocacy Network is an organization whose primary interest is the care and welfare of children in our state. We believe it is our duty, as professionals who work with children, to respond to proposed legislation which would impact children. The enclosed pamphlet outlines our position and recommendations on legislation significant in affecting the lives of children.

Although our position of support for HB 372 is included in the pamphlet, its pending status in your Committee warrants this cover letter. The bill proposes prohibiting suspended imposition of sentencing (SIS) for sexual assault offenses which do not carry a presumptive sentence. This would include sexual assault offenses against minors. CAN believes HB 372 is of paramount importance in protecting children against sexual assault.

Because an SIS allows the criminal record to be cleared, this could seriously undermine efforts by employers attempting to reduce the risk of sexual offenses against children. Under present law, AS 12.62.035, employers can conduct criminal history background checks of employees. The Anchorage, Fairbanks, and Juneau school districts' conduct employee background checks in efforts to provide a safer environment for children. However, if an SIS has been provided for a sexual assault offense (excluding those with a presumptive sentence), no criminal history is recorded in the archives. Furthermore, employees can assert in all honesty, they have no record of conviction for sexual assault offenses.

It is also important to recognize that individuals who sexually assault adults may also commit sexual offenses against children. In a study conducted by Dr. Gene Abel of non-familial female child molesters, 20% of their sexual crimes included adult rapes. In the same study, 19% of sexual crimes committed by incest male child molesters were for adult rape. Therefore, it is extremely

CHILD ADVOCACY NETWORK

Letter of Support for HB 372

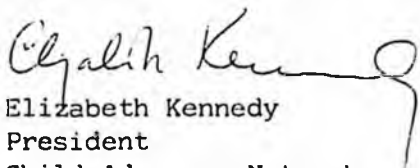
April 5, 1988

Page Two

imperative to prohibit an SIS for adult sexual assault offenses (excluding first degree) as well as child sexual offenses, since an overlap in the propensity to commit either crime may exist.

Passage of HB 372 would further efforts in preventing child sexual abuse in Alaska. CAN realizes many of the Committee members have an outstanding record of assisting child sexual assault victims. We trust these valiant efforts will continue through your consideration of HB 372. We urge its quick passage.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Kennedy". The signature is written in dark ink and is positioned above the typed name and title.

Elizabeth Kennedy  
President  
Child Advocacy Network

EK/sjj

CHILD ADVOCACY NETWORK  
HB 372

POSITION

The Child Advocacy Network strongly supports HB 372. HB 372 should be passed as expeditiously as possible.

BACKGROUND

Sponsored by Representative Fran Ulmer, the bill prohibits suspended imposition of sentencing (SIS) for sexual assault offenses.

Presently, suspended imposition of sentencing for first time sexual assault offenses which do not carry a presumptive term can be expunged from the record upon a motion from the offender. This allows individuals found guilty of sexual assault offenses against minors, excluding first degree sexual abuse of a minor, to move to have their record cleared.

CAN is concerned with the provisions which allow SIS's for sexual offenses against minors. Sexual assault offenses against minors are serious. Allowing an SIS for this type of offense disregards the gravity of the crime and mitigates the seriousness of the offense. Current statutory language and commentary reflect a state philosophy which holds sexual offenses against minors in serious light. This is particularly important since Alaska boasts some of the highest figures nationwide for sexual abuse of minors. A consistent philosophical regard, which views child sexual offenses as a serious crime, should be perpetuated throughout the state's statutory fabric. To provide for less undermines current laws which work to protect minors and subverts the state's grave regard for sexual assault offenses against minors.

Because present law allows SIS's for sexual offenses against minors, a motion to have the record expunged clears the record. Therefore, a history of the offense is not maintained and useful for criminal background checks. Clearance of the criminal record is of particular concern since any child sex abusers purposely gain employment in positions with authority, care or entrustment over a child. This could mean, present efforts by the Anchorage School District in providing criminal background checks for prospective employees to guarantee the safety and welfare of children is defeated. And current law under AS 12.62.035, which allows for criminal history background checks is thwarted since expungement of the record does not allow for a true presentation of a criminal history.

In addition, a "reoffense" of the same crime could only result in sentencing as a first time offense instead of as a second time offense although in reality the same individual has committed a second offense and has harmed another child or assaulted the same child twice. This is a particularly heinous injustice in child sexual abuse cases since part of the dynamics used by the offender against the child involves "minimizing" or "denying" the realities of the harm. The perpetuation of this dynamic should not be carried in the law.

Passage of HB 372 would prohibit suspended imposition of sentencing for sexual assault offenses, including sexual assault felonies against minors. The bill is important in maintaining the state's serious regard for child sexual offenses and in furthering the protection of children from those who seek access through employment, by maintaining records of offenders who sexually assault children.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act prohibiting suspended  
imposition of sentence."  
Sponsor: Representative Ulmer  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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	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)

This legislation will have minimal impact on the Department of Corrections. We estimate that it will affect approximately 45 sex offenders per year, and they will receive jail sentences no greater than 6 months. This is

*Susan E. Knighton*  
Susan E. Knighton, Director

465-3376

Prepared by: \_\_\_\_\_  
Division: Administrative Services

Phone: \_\_\_\_\_  
Date: 1-28-88

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

Date: 1-28-88

Distribution (by preparer):  
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Requestor  
Office of Management and Budget  
Impacted Agency(ies)

STATE OF ALASKA 1988 LEGISLATIVE SESSION  
FISCAL NOTE

108

REQUEST: \_\_\_\_\_

Bill Version: HB 372  
Publish Date: HOUSE 2/10/88

Revision Date: 1-26-88  
Title: An act prohibiting suspended  
imposition of sentence...sexual offense  
Sponsor: Ulmer  
Requestor: House HESS

Agency Affected: Alaska Court System  
BRU: Trial Courts  
Components:

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

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

POSITIONS:						
Full-time	••••	••••	••••	••••	••••	••••
Part-time	••••	••••	••••	••••	••••	••••
Temporary	••••	••••	••••	••••	••••	••••

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8215  
 Division: Alaska Court System Date: 1-26-88  
 Approved by: *Stephanie Cole, for* Arthur H. Snowden, II, Administrative Director Date: 1-26-88  
 Agency: Alaska Court System

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