

HB

57

HOUSE JUDICIARY COMMITTEE
BILL CHECKLIST

- 1.) HB 57
- 2.) Letter to Speaker from Governor 1/9/89
with 1/9/89 fiscal note from VCCB, 1/9/89 fiscal note from PD
Agency, and 1/9/89 fiscal note from Office of Public Advocacy
- 3.) Written testimony from Cindy Smith, of Alaska Network on
Domestic Violence and Sexual Assault
- 4.) 1/18/89 position paper from Commissioner English, DPS
by Barbara Miklos, Council on Domestic Violence and Sexual
Assault
- 5.) 1/13/89 position paper from Commissioner English, DPS
By Nola C-pp, VCCB
- 6) Alaska Statutes regarding degrees of assault
- 7.) CSHB 57 (Jud)
- 8.) SB 113
- 9.) Times news article 12/12/88

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 9, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 1/18/89

The JUDICIARY Committee recommends that:

HOUSE BILL NO. 57 [COMPENSATION FOR VIOLENT CRIME VICTIMS]
"An Act expanding eligibility for violent crimes compensation."

- be replaced with CS HB 57 (Jud) the ~~same~~ title
 a new title
- have attached amendment(s)
- do pass
 do not pass
 no recommendation
 individual recommendations
 additional referral to the [Signature] Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- ~~XXXX~~ fiscal impact
 zero fiscal note
 zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published:
1/9/89 - Public Safety
 zero fiscal notes(s) published:

SIGNING DO PASS:

Mike Miller
Larry Martin
Greg Davidson
Peter Jones
Bob Munter
Mike [Signature]
J. Ellis

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Peter Jones / Bob Munter
 co-Chairman's signature



Official Business

COMMITTEE:

HOUSE JUDICIARY

DATE: January 18, 1989

SIGN-IN

Subject of meeting:

HB 36 - An Act relating to victims of crime, Claims by Victims of crime arising from criminal conduct, and service of process on prisoners; and amending Rule 32 (d) (1) and 35 of the Alaska Rules of Criminal Procedure. HB 57 An Act expanding eligibility for violent crimes compensation.

NAME

ADDRESS FULL ADDRESS PLEASE

PHONE.

REPRESENTING

DO YOU WANT TO TESTIFY? WHICH BILL?

Table with 5 columns: NAME, ADDRESS, PHONE, REPRESENTING, DO YOU WANT TO TESTIFY? WHICH BILL? containing handwritten entries for Laurie Otto, Nina Kenney, J. Ma. Cappo, Gloria Gray, Cindy Smith, Paul Todd, and Constance...



Official Business

COMMITTEE:

HOUSE JUDICIARY

DATE:

SIGN-IN

Subject of meeting:

HB 36
HB 57

NAME

ADDRESS

FULL ADDRESS PLEASE !

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY? WHICH BILL?

Michael White	Rep Donley's			
BILL PARKER	CORRECTIONS			
San Smith	Corrections			
Jay Lewis	DHS			
Doug Rickard	Rep. v. June 99811		Grossard	
Larry Bunn			Larson	
STIM HARBIN				
Dean Pasquetti			Rep. Harbin	
Debra Bonita	clerk		Rep. Harbin	
STANIS CIPRIANO	working with Harbin		JUSTICE	

WILLIAMS

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 57 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the Violent Crime Compensation
7 Board to pay compensation for personal injury or
8 death to the victim of an assault in any degree."

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

10 * Section 1. AS 18.67.101 is amended to read:

11 Sec. 18.67.101. INCIDENTS AND OFFENSES TO WHICH AS 18.67.010 -
12 18.67.180 APPLY. The board may order the payment of compensation in
13 accordance with the provisions of this chapter for personal injury or
14 death that resulted from

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

19 (2) the commission or attempt on the part of one other than
20 the applicant to commit any of the following offenses:

21 (A) murder in any degree; [,]

22 (B) manslaughter; [,]

23 (C) criminally negligent homicide; [,]

24 (D) assault in any [THE FIRST OR SECOND] degree; [,]

25 (E) kidnapping; [,]

26 (F) sexual assault in any degree; [,]

27 (G) sexual abuse of a minor; [,]

28 (H) robbery in any degree; [,]

29 (I) threats to do bodily harm; [,] or

1 (J) driving while intoxicated or another crime result-
2 ing from the operation of a motor vehicle, boat, or airplane when
3 the offender is intoxicated.

4 * Sec. 2. APPLICABILITY. The provisions of this Act apply to offenses
5 that qualify for payment of compensation under AS 18.67.010 - 18.67.180 and
6 that are committed or attempted on or after the effective date of this Act.

Anch-Times Dec 12 1988

Blotter

Pregnant woman raped

A man beat and raped a pregnant woman as she walked toward the Chester Creek bike path this morning, Anchorage police reported.

The 22-year-old woman, who was eight months pregnant, was crossing a bridge behind the Sullivan Arena at 7:45 a.m. when a man jumped out of the bushes and kicked her several times in the stomach and punched her a few times in the mouth, police reported.

The man pulled out a knife, held it to her throat and raped her.

He fled on foot north toward the arena.

The woman described the assailant as a black man in his early 40s, 5-feet, 10-inches tall, with a bald head. He was missing four top front teeth, and was wearing a red baseball cap, brown ski jacket, maroon pants and work boots.

The woman was taken to Providence Hospital, where she was listed in stable condition at 10 a.m.

Dog sniffs out pot

Alaska State Troopers in Fairbanks seized five pounds of marijuana at the Fairbanks International Airport Friday after a specially-trained dog sniffed out two packages addressed to a Barrow resident.

The shipper had attempted to cover up the pungent odor of the leafy drug by mixing the narcotic with other strong-smelling items.

Arrests of the person who mailed the package and the would-be recipient are pending, troopers reported.

ALASKA NETWORK

ON

DOMESTIC VIOLENCE

AND

SEXUAL ASSAULT

130 Seward, No. 301 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC);
Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRC);
Maniilaq Regional Women's Crisis Program; MEN, Inc.;
Safe & Fear-Free Environment (SAFE); Sitkas Against Family Violence (SAFV);
Southwestern Alaska Council for the
Prevention of Child Sexual Assault (SWAC(CSA));
South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR); Tundra Women's Coalition (TWC);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WICCA);
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

HB57 VIOLENT CRIMES COMPENSATION

MEMBERS OF THE COMMITTEE, FOR THE RECORD MY NAME IS CINDY SMITH. I AM THE COORDINATOR OF THE ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT. THE NETWORK IS A MEMBERSHIP ORGANIZATION COMPOSED OF 21 PROGRAMS WHICH PROVIDE SERVICES TO VICTIMS AND THEIR FAMILIES.

THE NETWORK SUPPORTS HOUSE BILL 57. THIRD AND FOURTH DEGREE ASSAULT ARE THE MOST COMMON CHARGES MADE IN DOMESTIC VIOLENCE CASES. THIRD DEGREE ASSAULT IS A CLASS C FELONY, AND WHILE FOURTH DEGREE ASSAULT IS CHARGED AS A MISDEMEANOR, IT OFTEN INVOLVES PHYSICAL INJURY TO THE VICTIM. IN A STUDY RECENTLY PREPARED BY THE ABUSE PREVENTION PROGRAM IN ANCHORAGE, 82% OF CHARGES WERE COUNTS OF FOURTH DEGREE ASSAULT -- 30% OF THE VICTIMS WERE TRANSPORTED BY THE POLICE DIRECTLY TO MEDICAL FACILITIES. ANOTHER 18% WERE TRANSPORTED TO SHELTER. (THE STUDY INVOLVED OVER 5000 POLICE REPORTS, FROM 1986-1988).

VICTIMS OF THESE ASSAULTS INCUR MEDICAL COSTS TO ATTEND TO INJURIES, OFTEN LOSE TIME FROM WORK AND INCUR OTHER EXPENSES RELATED TO THE ASSAULT. THESE COSTS ARE CURRENTLY NOT COVERED BY VIOLENT CRIMES COMPENSATION. THE NETWORK IS STRONGLY SUPPORTIVE OF THIS EFFORT TO ENSURE THAT THEY BECOME ELIGIBLE TO RECEIVE THE SAME COMPENSATION AS OTHER VICTIMS OF VIOLENT CRIME.

BILL NO: HB 57

DATE: January 18, 1989

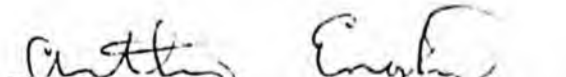
TITLE: An Act expanding
eligibility for
violent crimes
compensation

CONTACT: Barbara Miklos
Executive Director
Council on Domestic
Violence and Sexual
Assault

DEPARTMENT OF
PUBLIC SAFETY

HB57 amends the eligibility for compensation for violent crimes to include assault in any degree rather than only assault in the first or second degree. Currently victims of third- and fourth-degree assault are not eligible to be compensated. Many domestic violence assaults are charged as third- or fourth-degree assaults, even though the injuries to the victims can be quite severe. This is because the degree of assault is determined not only by the extent of injury to the victim, but also by the offender's state of mind or state of intoxication. Thus the victims may have suffered serious injuries, causing loss of earnings and medical and other expenses which they may not be compensated for under the current statute.

The Council on Domestic Violence and Sexual Assault supports the passage of HB 57.


Arthur English
Commissioner

PHOTOGRAPHY

11.41 art. 3

11.41.200

...ability of expert or opinion testi-
... battered wife or battered woman
... 18 ALR4th 1151

11.41.200. Assault in the first degree. (a) A person commits
... crime of assault in the first degree if
... (1) that person recklessly causes serious physical injury to another
... of a dangerous instrument;
... with intent to cause serious physical injury to another, the per-
... causes serious physical injury to any person; or
... the person intentionally performs an act that results in serious
... injury to another under circumstances manifesting extreme
... to the value of human life.
... Assault in the first degree is a class A felony. (5 3 ch 166 SLA
... am 5 2 ch 143 SLA 1982)

... of amendments. — The 1982
... in paragraph (1) of subsection
... substituted "that person recklessly

causes" for "with intent to cause" and
deleted "he causes physical injury to any
person" following "another person."

NOTES TO DECISIONS

... General Consideration
... Subsection (a)(1)
... Former law

GENERAL CONSIDERATION.

... in Smith v. State, Sup. Ct. Op.
... (File No. 4228), 614 P.2d 300
... Blackburn v. State, Ct. App. Op.
... (File No. 7224), 661 P.2d 1100
... in State v. Silas, Sup. Ct. Op. No.
... (File No. 4237), 595 P.2d 651 (1979);
... v. State, Sup. Ct. Op. No. 2190
... (No. 4416), 621 P.2d 869 (1980).
... in Handley v. State, Sup. Ct. Op.
... (File Nos. 3946, 4935), 615 P.2d
... (1980); Folger v. State, Ct. App. Op.
... (File No. 5585), 648 P.2d 111

II. SUBSECTION (a)(1).

... mens rea and result. — Subsection
... of this section requires intent to
... serious physical injury as the mens
... and physical injury as the result.
... v. State, Ct. App. Op. No. 200
... (No. 6352), 656 P.2d 1213 (1983).
... dangerous instrument. — The
... of a "dangerous instrument"
... subsection (a)(1) of this section serves to

define the surrounding circumstances
from which intent is normally inferred.
Wettanen v. State, Ct. App. Op. No. 200
(File No. 6352), 656 P.2d 1213 (1983).

The requirement of a dangerous
instrument in subsection (a)(1) of this sec-
tion serves to shift the focus of the trier of
facts' attention from the result (physical
injuries), which in any given case may
have been unforceable to the defendant at
the time the assault was committed, to the
manner in which the assault was
committed. Thus, the defendant is pro-
tected against a finding of first-degree
assault in which the jury determines guilt
solely by finding serious physical injury
and then inferring an intent to cause that
serious physical injury from the injuries
alone. Wettanen v. State, Ct. App. Op. No.
200 (File No. 6352), 656 P.2d 1213 (1983).

While feet are not dangerous instru-
ments per se, they may become so, how-
ever they are shod, if used in such a way as
to be capable of causing death or serious
physical injury. Wettanen v. State, Ct.
App. Op. No. 200 (File No. 6352), 656 P.2d
1213 (1983).

Code of Criminal
Procedure

Table 11
Criminal Law

III. FORMER LAW.

Severance of multiple counts involving various victims. See *Nix v. State*, Ct. App. Op. No. 157 (File No. 5481), 653 P.2d 1093 (1982).

For case construing former statute relating to mayhem, see *Burleson v. State*, Sup. Ct. Op. No. 1222 (File No. 2466), 541 P.2d 1195 (1975); *Adams v. State*, Sup. Ct. Op. No. 1864 (File No. 3067), 598 P.2d 503 (1979); *Shrakley v. State*, Ct. App. Op. No. 87 (File No. 4916), 641 P.2d 864 (1982).

For cases construing former statute relating to shooting, stabbing, etc., with intent to kill, wound or maim, see *Hallback v. State*, Sup. Ct. Op. No. 28 (File No. 28), 361 P.2d 336 (1961); *McCracken v. State*, Sup. Ct. Op. No. 1028 (File No. 1498), 521 P.2d 489 (1974); *Fox v. State*, Sup. Ct. Op. No. 1510 (File No. 3257), 569 P.2d 1335 (1978); *Creed v. State*, Sup. Ct. Op. No. 1553 (File No. 3636), 573 P.2d 1379 (1978); *Menard v. State*, Sup. Ct. Op. No. 1623 (File No. 2865), 578 P.2d 966 (1978); *Christie v. State*, Sup. Ct. Op. No. 1644 (File No. 2841), 580 P.2d 310 (1978); *Menard v. State*, Sup. Ct. Op. No. 1623 (File No. 2865), 578 P.2d 966 (1978); *Abraham v. State*, Sup. Ct. Op. No. 1836 (File No. 4013), 593 P.2d 621 (1979); *Johnson v. State*, Sup. Ct. Op. No. 1856 (File No. 4104), 595 P.2d 985 (1979); *Smith v. State*, Sup. Ct. Op. No. 2121 (File No. 4228), 614 P.2d 300 (1980); *Larson v. State*, Sup. Ct. Op. No. 2128 (File No. 4131), 614 P.2d 776 (1980); *Nielson v. State*, Sup. Ct. Op. No. 2279 (File No. 4857), 623 P.2d 304 (1981); *Kagaky v. State*, Sup. Ct. Op. No. 2311 (File No. 5228), 624 P.2d 818 (1981).

For cases construing former statute relating to assault with intent to kill or commit rape or robbery, see *Burke v. United States*, 282 F.2d 763 (9th Cir. 1960); *Morrell v. State*, Sup. Ct. Op. No. 1577 (File No. 2790), 575 P.2d 1200 (1978); *State v. Wassile*, Sup. Ct. Op. No. 1630 (File No. 3691), 578 P.2d 971 (1978); *Post v. State*, Sup. Ct. Op. No. 1642 (File No. 2851), 580 P.2d 304 (1978); *Abraham v. State*, Sup. Ct. Op. No. 1836 (File No. 4013), 593 P.2d 621 (1979); *Calantas v. State*, Sup. Ct. Op. No. 1914 (File No. 3663), 599 P.2d 147 (1979); *affd on rehearing*, 608 P.2d 34 (1980); *Brookins v. State*, Sup. Ct. Op. No. 1936 (File No. 3972), 600 P.2d 12 (1979); *Holden v. State*, Sup. Ct. Op. No. 1959 (File No. 3753), 602 P.2d 452 (1979); *Helmer v. State*, Sup. Ct.

Op. No. 2181 (File No. 4383), 616 P.2d 800 (1980).

For case construing former statute relating to assault while armed, see *Royett v. State*, Sup. Ct. Op. No. 1611 (File No. 3097), 578 P.2d 946 (1978); *State v. State*, Sup. Ct. Op. No. 2134 (File No. 4632), 614 P.2d 791 (1980).

For cases construing former statute relating to careless use of firearms, see *Green v. State*, Sup. Ct. Op. No. 1620 (File No. 2866), 579 P.2d 14 (1978); *Christie v. State*, Sup. Ct. Op. No. 1644 (File No. 2841), 580 P.2d 310 (1978); *Elmer v. State*, Sup. Ct. Op. No. 1816 (File No. 3440, 3467), 592 P.2d 1221 (1979); *Lambert v. State*, Sup. Ct. Op. No. 2202 (File No. 4443), 620 P.2d 646 (1980).

For cases construing former statute relating to assault with a dangerous weapon, see *Hall v. United States*, 147 F.2d 98 (9th Cir. 1946); *Johnston v. United States*, 154 F.2d 443 (9th Cir. 1947); *Engleston v. United States*, 12 Alaska 211, 172 F.2d 194 (9th Cir. 1949); *Randall v. United States*, 15 Alaska 135, 218 F.2d 587 (9th Cir. 1954); *Soper v. United States*, 15 Alaska 475, 220 F.2d 158 (9th Cir. 1955); *cert. denied*, 350 U.S. 828, 766 Ct. Cl. 200 (1955); *Burke v. United States*, 282 F.2d 763 (9th Cir. 1960); *Hahn v. State*, Sup. Ct. Op. No. 46 (File No. 62), 361 P.2d 357 (1961); *Tracy v. State*, Sup. Ct. Op. No. 212 (File No. 373), 351 P.2d 700 (1964); *Thompson v. State*, Sup. Ct. Op. No. 494 (File No. 907), 444 P.2d 170 (1968); *Herrin v. State*, Sup. Ct. Op. No. 519 (File No. 941), 449 P.2d 674 (1969); *Wilson v. State*, Sup. Ct. Op. No. 625 (File No. 1140), 473 P.2d 633 (1970); *State v. Armantrout*, Sup. Ct. Op. No. 686 (File No. 1303), 483 P.2d 596 (1971); *Nielson v. State*, Sup. Ct. Op. No. 760 (File No. 1488), 492 P.2d 122 (1971); *Thomas v. State*, Sup. Ct. Op. No. 1064 (File No. 1869), 614 P.2d 684 (1974); *Joe v. State*, Sup. Ct. Op. No. 1202 (File No. 2401), 542 P.2d 180 (1976); *Barley v. State*, Sup. Ct. Op. No. 1284 (File No. 2647), 548 P.2d 373 (1976); *Elmer v. State*, Sup. Ct. Op. No. 1332 (File No. 3066), 555 P.2d 1210 (1976); *Devon v. State*, Sup. Ct. Op. No. 1348 (File No. 2818), 557 P.2d 142 (1976); *Mutcher v. State*, Sup. Ct. Op. No. 1378 (File No. 2764), 560 P.2d 377 (1977); *State v. Ochipinti*, Sup. Ct. Op. No. 1405 (File No. 3084), 562 P.2d 348 (1977); *Nakagami v. State*, Sup. Ct. Op. No. 1410 (File No. 2915), 562 P.2d 697 (1977); *affd on rehearing*, 576 P.2d 982 (1978); *State v. Taylor*, Sup. Ct. Op. No. 1457 (File No. 3119), 566 P.2d 1016 (1977); *Wahne v. State*, Sup. Ct. Op. No. 1488 (File No.

THE 10
CORPORATION AND
ASSOCIATION

File No. 4383, 616 P.2d 111 (1980); construing former statute, assault while armed, see State Sup. Ct. Op. No. 1611 (File No. 578 P.2d 946 (1978); Sevier v. State, Sup. Ct. Op. No. 2134 (File No. P.2d 791 (1980); on construing former statute, careless use of firearms, see State Sup. Ct. Op. No. 1625 (File No. 579 P.2d 14 (1978); Christie v. State, Sup. Ct. Op. No. 1644 (File No. P.2d 310 (1978); Elisovsky v. State, Sup. Ct. Op. No. 1816 (File No. P.2d 592 P.2d 1221 (1979); Lenz v. State, Sup. Ct. Op. No. 2202 (File No. P.2d 646 (1980); on construing former statute, to assault with a dangerous weapon, see Ball v. United States, 147 Cir. 1906; Johnson v. United States, 154 F. 445 (9th Cir. 1907); n.v. United States, 12 Alaska 212 (191 (9th Cir. 1949); Randall v. State, 15 Alaska 135, 215 P.2d 475, 220 F.2d 158 (9th Cir. 1954); Soper v. United States, 350 U.S. 828, 765 Ct. 34 (1955); Burke v. United States, 763 (9th Cir. 1960); Hutto v. State, Sup. Ct. Op. No. 46 (File No. 63 (1961); Tracey v. State, Sup. Ct. Op. No. 212 (File No. 373), 391 P.2d 770 (Thompson v. State, Sup. Ct. Op. No. 1 (File No. 907), 444 P.2d 171 (Herrin v. State, Sup. Ct. Op. No. 941), 449 P.2d 674 (1969); v. State, Sup. Ct. Op. No. 629 (File No. 473 P.2d 633 (1970); State v. trout, Sup. Ct. Op. No. 566 (File No. 483 P.2d 696 (1971); Nielsen v. State, Sup. Ct. Op. No. 760 (File No. 1500 (1971); Thomas v. State, Sup. Ct. Op. No. 1064 (File No. 1889), 524 P.2d 974 (Joe v. State, Sup. Ct. Op. No. File No. 2401), 542 P.2d 159 (1976); v. State, Sup. Ct. Op. No. 1256 (File No. 647), 548 P.2d 373 (1976); Elze v. State, Sup. Ct. Op. No. 1332 (File No. 555 P.2d 1210 (1976); Dawson v. State, Sup. Ct. Op. No. 1346 (File No. 557 P.2d 142 (1976); Mutschler v. State, Sup. Ct. Op. No. 1376 (File No. 560 P.2d 377 (1977); State v. Spinti, Sup. Ct. Op. No. 1405 (File No. 562 P.2d 348 (1977); Nukapigak v. State, Sup. Ct. Op. No. 1410 (File No. 562 P.2d 697 (1977); aff'd on appeal, 576 P.2d 982 (1978); State v. Ler, Sup. Ct. Op. No. 1457 (File No. 566 P.2d 1018 (1977); Welch v. State, Sup. Ct. Op. No. 1488 (File No.

648 P.2d 981 (1977); Larson v. State, Sup. Ct. Op. No. 1502 (File No. 568 P.2d 783 (1977); White v. State, Sup. Ct. Op. No. 1605 (File No. 2952), 577 P.2d 1044 (1978); Rivett v. State, Sup. Ct. Op. No. 1611 (File No. 3097), 578 P.2d 946 (1978); Menard v. State, Sup. Ct. Op. No. 2865, 578 P.2d 966 (1978); (File No. 2865); Sup. Ct. Op. No. 1630 (Wassilko v. State, Sup. Ct. Op. No. 1691), 578 P.2d 971 (1978); State, Sup. Ct. Op. No. 1644 (1978); 580 P.2d 310 (1978); State, Sup. Ct. Op. No. 1656 (1978); 580 P.2d 700 (1978); State, Sup. Ct. Op. No. 1667 (File No. 581 P.2d 226 (1978); Mill v. State, Sup. Ct. Op. No. 1751 (File No. 585 P.2d 546 (1978); cert. denied, 485 U.S. 827, 100 S. Ct. 51, 62 L. Ed. 2d 34 (1979); Marsden v. State, Sup. Ct. Op. No. 1791 (File No. 3957), 589 P.2d 863 (1979); v. State, Sup. Ct. Op. No. 1791 (File No. 3990), 590 P.2d 43 (1979); Price v. State, Sup. Ct. Op. No. 1794 (File No. 590 P.2d 419 (1979); Ellis v. State, Sup. Ct. Op. No. 1816 (File No. 592 P.2d 1221 (1979); State v. 3467; Sup. Ct. Op. No. 1851 (File No. 595 P.2d 851 (1979); Cooper v. State, Sup. Ct. Op. No. 1852 (File No. 595 P.2d 648 (1979); Gilbert v. State, Sup. Ct. Op. No. 1889 (File No. 598 P.2d 87 (1979); Creer v. State, Sup. Ct. Op. No. 1941 (File No. 4180), 600 P.2d 1086 (1979); Kraus v. State, Sup. Ct. Op. No. 1949 (File No. 4669), 604 P.2d 12 (1979); Holmes v. State, Sup. Ct. Op. No. 4532), 604 P.2d 248 (1979); v. State, Sup. Ct. Op. No. 2039 (File

No. 3741), 608 P.2d 19 (1980); Cochrane v. State, Sup. Ct. Op. No. 2086 (File No. 4531), 611 P.2d 61 (1980); Sevier v. State, Sup. Ct. Op. No. 2134 (File No. 4632), 614 P.2d 791 (1980); Loesche v. State, Sup. Ct. Op. No. 2202 (File No. 4443), 620 P.2d 646 (1980); Calder v. State, Sup. Ct. Op. No. 2224 (File No. 4293), 619 P.2d 1026 (1980); Grant v. State, Sup. Ct. Op. No. 2261 (File No. 3750), 621 P.2d 1338 (1981); Kugak v. State, Sup. Ct. Op. No. 2311 (File No. 5228), 624 P.2d 318 (1981); Neal v. State, Sup. Ct. Op. No. 2341 (File No. 4787), 628 P.2d 19 (1981); Wire v. State, Ct. App. Op. No. 2 (File No. 5189), 621 P.2d 18 (1980); Schroff v. State, Ct. App. Op. No. 016 (File No. 4835), 627 P.2d 653 (1981); State v. Ahwinona, Ct. App. Op. No. 037 (File No. 5373), 635 P.2d 488 (1981); Davidson v. State, Ct. App. Op. No. 78 (File No. 4351), 642 P.2d 1383 (1982); Shenkley v. State, Ct. App. Op. No. 87 (File No. 4936), 644 P.2d 864 (1982); Dyer v. State, Ct. App. Op. No. 268 (File No. 6133), 622 P.2d 1983); For cases construing former statute relating to assault and battery, see Nichis v. United States, 72 F.2d 1000 (9th Cir. 1934); State v. Spencer, Sup. Ct. Op. No. 935 (File No. 1742), 514 P.2d 14 (1973); Peter v. State, Sup. Ct. Op. No. 1543 (File No. 3617), 572 P.2d 1179 (1978); Rivett v. State, Sup. Ct. Op. No. 1611 (File No. 3097), 578 P.2d 946 (1978); Penn v. State, Sup. Ct. Op. No. 1774 (File No. 3873), 588 P.2d 288 (1978); Nix v. State, Ct. App. Op. No. 007 (File No. 5060), 624 P.2d 823 (1981).

Sec. 11.41.210. Assault in the second degree. (a) A person commits the crime of assault in the second degree if
 (1) with intent to cause physical injury to another person, that person causes physical injury to another person by means of a dangerous instrument; or
 (2) that person recklessly causes serious physical injury to another person.
 (b) Assault in the second degree is a class B felony. (§ 3 ch 166 SLA 1978; am § 4 ch 102 SLA 1980; am § 3 ch 143 SLA 1982)

Effect of amendments. — The 1980 amendment, in subsection (a), designated former paragraph (1) as paragraph (2), added "or" to the end of that paragraph, added present paragraph (1), and deleted the previous paragraph (2). The 1982 amendment, in subsection (a), read "he intentionally places another person in fear of imminent serious physical injury by means of a dangerous instrument; or". The 1982 amendment, in subsection (a), substituted "that person" for "he" preceding "causes" and "another person" for "any person" preceding "by means of" in paragraph (1), added "or" to the end of paragraph (1), repealed former paragraph

Title 11
Criminal Law

(2), which read: "with intent to cause physical injury to another person, he causes serious physical injury to any person; or," redesignated former paragraph (3) as paragraph (2), and substituted "that person" for "he" and deleted "by means of a dangerous instrument" from the end.

both in present paragraph (2).
Legislative history reports. — For a report on Chapter 102, SLA 1980 HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 28, 1980.

NOTES TO DECISIONS

Former law. — See notes to AS 11.41.200 under analysis line III.

Sentence upheld. — See Williams v. State, Ct. App. Op. No. 139 (File No. 5676), 652 P.2d 478 (1982).

A 10-year total sentence with five years suspended for assault in the second degree was not excessive even though defendant was a first felony offender and the sentence exceeded the presumptive term for a second offender. Neakok v. State, Ct. App. Op. No. 163 (File No. 6418), 653 P.2d 658 (1982).

Applied in State v. Silas, Sup. Ct. Op. No. 1851 (File No. 4237), 595 P.2d 644 (1979); Kimbrell v. State, Ct. App. Op. No. 101 (File No. 5944), 647 P.2d 518 (1982).

Stated in Coleman v. State, Sup. Ct. Op. No. 2190 (File No. 4416), 621 P.2d 666 (1980).

Cited in State v. Ahwinona, Ct. App. Op. No. 037 (File No. 5373), 635 P.2d 648 (1981); Larson v. State, Ct. App. Op. No. 177 (File No. 6179), 656 P.2d 571 (1982).

Sec. 11.41.220. Assault in the third degree. (a) A person commits the crime of assault in the third degree if that person recklessly

(1) places another person in fear of imminent serious physical injury by means of a dangerous instrument; or

(2) causes physical injury to another person by means of a dangerous instrument.

(b) Assault in the third degree is a class C felony. (§ 5 ch 102 SLA 1980; am § 4 ch 143 SLA 1982)

Effect of amendments. — The 1982 amendment, in subsection (a), added the paragraph (1) designation, substituted "that person" for "he" in the introductory language, added "or" to the end of paragraph (1), and added paragraph (2).

Legislative history reports. — For a report on Chapter 102, SLA 1980 HCS CSSB 511) see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 28, 1980.

NOTES TO DECISIONS

"Dangerous instrument" defined. — Since "dangerous instrument" includes "deadly weapon," and "deadly weapon" includes "any firearm," which in turn is defined to include unloaded rifles, simple substitution yields an unambiguous statute that prohibits the use of an unloaded rifle to place another in fear of imminent serious physical injury. Siggelkow v. State, Ct. App. Op. No. 110 (File No. 5532), 648 P.2d 611 (1982).

of fair warning that placing another in fear by means of an unloaded firearm, from any distance, was prohibited. Siggelkow v. State, Ct. App. Op. No. 110 (File No. 5532), 648 P.2d 611 (1982).

Former AS 11.41.210(a)=2 (prior to 1980 amendment) and 11.81.900(b)=11) were not so ambiguous as to deprive defendant

Applied in Wolf v. State, Ct. App. Op. No. 99 (File No. 5882), 647 P.2d 600 (1982); McManners v. State, Ct. App. Op. No. 123 (File No. 6065), 650 P.2d 416 (1982); Bidwell v. State, Ct. App. Op. No. 199 (File No. 6290), 656 P.2d 592 (1982); Wright v. State, Ct. App. Op. No. 204 (File No. 6569), 656 P.2d 1226 (1983).

Title 10
Criminal Law

paragraph (2).
history reports. -- For a
apter 102, SLA 1980 (HCS
see 1980 Senate Journal
No. 44, May 29, 1980, or 1980
al Supplement, No. 79, May

State v. Silas, Sup. Ct.
ile No. 4237, 595 P.2d
rell v. State, Ct. App. Op.
5944, 647 P.2d 618 (1982).
Coleman v. State, Sup. Ct.
ile No. 4116, 621 P.2d

State v. Ahwinona, Ct. App.
File No. 5373, 635 P.2d
son v. State, Ct. App. Op. No.
6179, 656 P.2d 571 (1982).

ree. (a) A person commits
at person recklessly
nt serious physical injury
n by means of a dangerous
C felony. (§ 5 ch 102 SLA

ative history reports. -- For a
y Chapter 102, SLA 1980 (HCS
11) see 1980 Senate Journal
ent, No. 44, May 29, 1980, or 1980
ournal Supplement, No. 79, May

NS
warning that placing another
means of an unloaded firearm
any distance, was prohibited.
w v. State, Ct. App. Op. No. 11
5532, 648 P.2d 611 (1982).

lied in Wolf v. State, Ct. App. Op.
File No. 5882, 647 P.2d
McManners v. State, Ct. App. Op.
3 (File No. 6065), 650 P.2d
Bidwell v. State, Ct. App. Op. No.
ile No. 6290, 656 P.2d 592 (1983).
v. State, Ct. App. Op. No. 204
69, 656 P.2d 1226 (1983).

quoted in Mynard v. State, Ct. App.
No. 136 (File No. 5501), 652 P.2d 489

Sec. 11.41.230. Assault in the fourth degree. (a) A person
commits the crime of assault in the fourth degree if
(1) that person recklessly causes physical injury to another person;
(2) with criminal negligence that person causes physical injury to
another person by means of a dangerous instrument; or
(3) by words or other conduct that person recklessly places another
person in fear of imminent physical injury.
(b) Assault in the fourth degree is a class A misdemeanor. (§ 3 ch
SLA 1978; am § 6 ch 102 SLA 1980; am § 5 ch 143 SLA 1982)

Subject of amendments. -- The 1980
amendment substituted "fourth" for
"third" preceding "degree" in the
introductory paragraph in subsection (a),
and in subsection (b), and deleted "inten-
tionally or" near the beginning of para-
graph (1) in subsection (a).
The 1982 amendment, in subsection (a),

substituted "that person recklessly" for
"he intentionally" in paragraph (3).
Legislative history reports. -- For a
report on Chapter 102, SLA 1980 (HCS
CSSB 511), see 1980 Senate Journal
Supplement, No. 44, May 29, 1980, or 1980
House Journal Supplement, No. 79, May
28, 1980.

NOTES TO DECISIONS

Applied in Bidwell v. State, Ct. App.
Op. No. 199 (File No. 6290), 656 P.2d 592
(1982); Jackson v. State, Ct. App. Op. No.
105 (File No. 6664), 657 P.2d 405 (1983).
Quoted in Maynard v. State, Ct. App.
Op. No. 136 (File No. 5501), 652 P.2d 489
(1982).

Cited in Folger v. State, Ct. App. Op.
No. 105 (File No. 5585), 648 P.2d 111
(1982); Kelly v. State, Ct. App. Op. No. 143
(File No. 6521), 652 P.2d 112 (1982); Moxie
v. State, Ct. App. Op. No. 246 (File No.
7192), 662 P.2d 990 (1983).

Collateral references. -- Standard for
reckless conduct of minor motorist charged
with gross negligence, recklessness, wilful

or wanton misconduct, or the like, under
guest statute or similar common-law rule,
97 ALR2d 861.

Sec. 11.41.250. Reckless endangerment. (a) A person commits
the crime of reckless endangerment if the person recklessly engages in
conduct which creates a substantial risk of serious physical injury to
another person.
(b) Reckless endangerment is a class A misdemeanor. (§ 3 ch 166
SLA 1978)

Article 3. Kidnapping and Custodial Interference.

Section	Section
Kidnapping	330. Custodial interference in the second degree
Custodial interference in the first degree	370. Definitions

Title 12
Code of Criminal
Procedure

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

CC
9HB.57

January 9, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

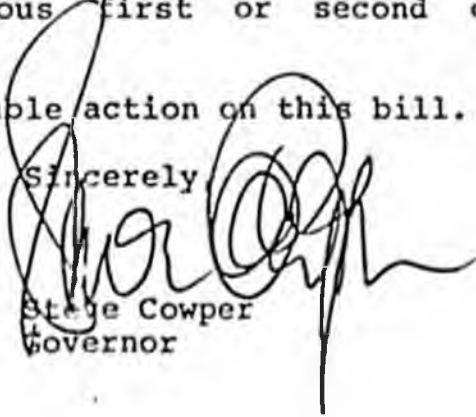
Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill expanding eligibility for violent crimes compensation.

The current law governing eligibility for violent crimes compensation is based in large part on the specific type of crime committed. By specifically referring to "assault in the first or second degree," AS 18.67.101 permits compensation in physical assault cases for only the most serious felonies. Because the degree of assault is often dependent on a complex legal analysis, the characterization of an assault as any particular degree often has more to do with the offender's state of mind (or state of intoxication) than with the overall harm suffered by the victim, much of which might not be manifested by physical injury. This bill seeks to remedy this injustice by permitting the Violent Crimes Compensation Board to award compensation in any assault case, regardless of whether it is third degree (class C felony assaults involving dangerous instruments), fourth degree (misdemeanor assaults, including most domestic violence cases), or the most serious first or second degree, assaults.

I urge your prompt and favorable action on this bill.

Sincerely,



Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: EXPANDING ELIGIBILITY FOR
VIOLENT CRIMES COMPENSATION
 Sponsor: Rules Committee
 Requestor: GOVERNOR

Agency Affected: PUBLIC SAFETY
 BRU: VIOLENT CRIMES COMPENSATION BOARD
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	20.0	20.0	20.0	20.0	20.0
MISCELLANEOUS						
TOTAL OPERATING	-0-	20.0	20.0	20.0	20.0	20.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	20.0	20.0	20.0	20.0	20.0
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	20.0	20.0	20.0	20.0	20.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This bill amends AS 18.67.121 to allow victims of third and fourth-degree assaults to apply for violent crimes compensation. This change is expected to increase the number of eligible compensation claims by about 20 per year, at an average estimated cost of \$1,000.00 per claim.

Prepared by: Nola K. Camp, Administrator Phone: 465-3000
 Division: Violent Crimes Compensation Board Date: 10/24/88

Approved by Commissioner: Gayle A. Huretski, Deputy Comm. Date: 10/27/88
 Agency: DEPARTMENT OF PUBLIC SAFETY

Distribution (by preparer):

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

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 57
PUBLISH DATE: HOUSE 1/9/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act expanding eligibility
for violent crimes compensation"
Sponsor: Rules Committee
Requestor: Governor Cowper

Agency Affected: Dept. of Administration
BRU: Public Defender Agency
Components: Third Judicial District

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-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS (Attach a separate page if necessary)

Prepared by: John B. Salemi, Acting Public Defender Phone: 279-7541
Division: Public Defender Agency Date: 10/25/88

Approved by Commissioner: John Andrews Date: _____
Agency: Department of Administration

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: "An Act expanding eligibility for violent crimes compensation..." BRU: Office of Public Advocacy
 Sponsor: Rules Committee Components: _____
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
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	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: Grant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: 10/24/88

Approved by Commissioner: John Andrews Date: 11/10/88
 Agency: Department of Administration

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

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 57
PUBLISH DATE: _____

REQUEST: _____ FISCAL NOTE _____
Revision Date: _____ Agency Affected: Public Safety
Title: EXPANDING ELIGIBILITY FOR BRU: VIOLENT CRIMES COMPENSATION
VIOLENT CRIMES COMPENSATION BOARD
Sponsor: HOUSE RULES
Requestor: HOUSE JUDICIARY

EXPENDITURES/REVENUES: (Thousands of Dollars)(Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	20.0	20.0	20.0	20.0	20.0
MISCELLANEOUS						
TOTAL OPERATING	-0-	20.0	20.0	20.0	20.0	20.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	20.0	20.0	20.0	20.0	20.0
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	20.0	20.0	20.0	20.0	20.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 18.67.101 to allow victims of third and fourth-degree assaults to apply for violent crimes compensation. This change is expected to increase the number of eligible compensation claims by about 20 per year, at an average estimated cost of \$1,000.00 per claim.

Prepared by: Nola K. Capp, Administrator
Division: Violent Crimes Compensation Brd.
Approved by Commissioner: SA # Arthur English
Agency: Department of Public Safety

Phone: 465-3040
Date: 1/13/89
Date: 1-13-89

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CS HB 57 (JUD)
PUBLISH DATE: _____

REQUEST:

FISCAL NOTE

Revision Date: 1-25-89

Agency Affected: Public Safety

Title: EXPANDING ELIGIBILITY FOR
VIOLENT CRIMES COMPENSATION

BRU: VIOLENT CRIMES COMPENSATION
BOARD

Sponsor: HOUSE RULES

Requestor: HOUSE FINANCE

EXPENDITURES/REVENUES: (Thousands of Dollars)(Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	20.0	20.0	20.0	20.0	20.0
MISCELLANEOUS						
TOTAL OPERATING	-0-	20.0	20.0	20.0	20.0	20.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	20.0	20.0	20.0	20.0	20.0
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	20.0	20.0	20.0	20.0	20.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 18.67.101 to allow victims of third and fourth-degree assaults to apply for violent crimes compensation. This change is expected to increase the number of eligible compensation claims by about 20 per year, at an average estimated cost of \$1,000.00 per claim.

Prepared by: Nola K. Capp, Administrator
Division: Violent Crimes Compensation Brd.

Phone: 465-3040
Date: 1/25/89

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Date: 1-25-89