

2/8/89

HB 57

**(Violent
Crimes
Compensation)**



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

HOUSE RULES COMMITTEE MEETING

WEDNESDAY, FEBRUARY 8, 1989

8:30 A.M.

AGENDA: HB 57 - "An Act authorizing the Violent Crime Compensation Board to pay compensation for personal injury or death to the victim of an assault in any degree."

(Rules Cmte. by Request of the Governor)

I N D E X

- I. MEMO DATED FEBRUARY 7, 1989 - RE: HB 57 (RULES)
- II. PROPOSED VERSION - CSHB 57 (RULES)
- III. CSHB 57 (JUDICIARY)
- IV. HB 57
- V. FISCAL NOTE - HB 57
- VI. BILL HISTORY INFORMATION PACKET - HB 57 - INCLUDES HOUSE JOURNAL ACTION - COMMITTEE MINUTES - POSITION PAPER.



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MEMORANDUM

To: Rep. Ben Grussendorf
Chairman
House Rules Committee

From: Doug Rickey ✓
Special Assistant

Date: February 7, 1989

Subject: House Bill 57 (Rules)
"An Act authorizing the Violent Crimes Compensation Board to pay compensation for personal injury or death to the victim of an assault in any degree."

This bill expands the class of offenses for which victims of violent crime may be compensated under AS 18.67.010 - 18.67.180, to include assault in any degree. Under present law, only first and second degree assault victims may be compensated.

The House Judiciary Committee considered the bill and replaced it with a committee substitute, the language of which was taken from a similar bill offered in the other body. It was not the committee's intent to make any substantive changes in the bill; the members merely preferred the style used in the Senate bill to list compensable offenses. However, by adopting the language of the Senate bill, the committee inadvertently added a second section to HB 57, the effect of which is to limit the class of otherwise compensable third and fourth degree assault victims to those who are injured after the effective date of the bill. This limitation was not discussed by the Judiciary Committee.

The House Finance Committee considered the Judiciary Committee substitute and decided that compensation should not be limited those who are injured after the effective date of the act. The committee then reported out the original version of the bill and a zero fiscal note. (The committee concluded that any fiscal impact caused by additional applicants for compensation should be addressed in the operating budget).

The Rules Committee substitute for House Bill 57 simply adopts section one of the Judiciary substitute and omits section two. There is no substantive difference between the Rules Committee substitute and the original bill.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 57 (Rules)

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.
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STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 57
PUBLISH DATE: HOUSE 2/3/89

No. 4 **V.**

FISCAL NOTE

REQUEST:

Revision Date: 2/1/89
Title: Expanding eligibility for
Violent Crimes Compensation
Sponsor:
Requestor:
Agency Affected: Public Safety
BRU: Violent Crimes Compensation
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						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

[Empty box for analysis]

Prepared by: House Finance Committee
Division: Co-Chairman Ron Larson
Phone: 465-3727
Date: 2/1/89

Approved by Commissioner: _____ Date: _____
Agency: _____

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

HOUSE CALENDAR:BILL HISTORY - HOUSEACTION:HB 57January 9, 1989

HOUSE BILL NO. 57 by the Rules Committee by request of the Governor, entitled:

"An Act expanding eligibility for violent crimes compensation."

was read the first time and referred to the Judiciary and Finance Committees.

A fiscal note and two zero fiscal notes were published January 9, 1989.

The Governor's transmittal letter, dated January 9, 1989, appears below:

"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,

/s/

Steve Cowper
Governor"

January 20, 1989

The Judiciary Committee has considered:

HOUSE BILL NO. 57

"An Act expanding eligibility for violent crimes compensation."

and recommends it be replaced with the following committee substitute:

CS FOR HOUSE BILL NO. 57 (Judiciary)

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

Recommending do pass (7): Goll and Gruenberg (Co-chairmen), Miller, Martin, Davidson, M. Davis, Ellis
A previous fiscal note by the Department of Public Safety published January 9, 1989, applies to CSHB 57(Jud).
HB 57 was referred to the Finance Committee.

February 1, 1989

The House Finance Committee has considered HB 57, and recommends:
ORIGINAL VERSION, DO PASS: (10) - Larson, Swackhammer, Brown, Koponen, Ulmer, Barnes, Shultz, Phillips, Rieger, Wallis.

FINANCE ATTACHED NEW ZERO FISCAL NOTE, DATES 2/3/89, PREPARED BY
HOUSE FINANCE COMMITTEE, REP. RON LARSON.

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 (AAARE);
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 (KWRCO);
Manilaq Regional Women's Crisis Program; MEN, Inc.;
Safe & Fear-Free Environment (SAFE); Sitkans Against Family Violence (SAFV);
Southwestern Alaska Council for the
Prevention of Child Sexual Assault (SWACPCSA);
South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR); Tundra Women's Coalition (TWOC);
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 WHICH 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 (JUD)

DATE: 01/13/89

TITLE: An Act expanding eligibility
for violent crimes compensation

CONTACT: Nola K. Capp
465-3040

DEPARTMENT OF PUBLIC SAFETY

The Violent Crimes Compensation Board (VCCB) awards compensation for medical expenses and other documented financial losses suffered by innocent victims of certain crimes. Present AS 18.67.101 lists the types of crimes for which victims may be eligible for compensation, and specifically refers to "Assault in the First or Second Degree".

The "degree" of assault charged in a specific incident is often dependent on a complex legal analysis, and is not determined solely by the extent of the injuries to the victim. This bill would allow 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 and second degree assaults.

In reauthorizing the Federal Victims of Crime Act (VOCA) in 1988, Congress added new eligibility conditions. One of the new requirements is that compensation programs must include victims of domestic violence (fourth degree assault). Programs have until October 1, 1990 to comply with this requirement to continue to be eligible for the Federal funds. Last year the VCCB received \$246.0 in Federal funds, which it was able to award as compensation to victims.

The Department of Public Safety strongly supports passage of this legislation.

Wayle A. Arntsen
for Arthur English
Commissioner

January 18, 1989, House Judiciary

Ms. Nola Capp, representing the Violent Crimes Compensation Board, Department of Safety, testified that compensation eligibility needed to be expanded to include third and fourth degree assaults in HB 57. The state of Alaska currently receives federal monies from the Victims of Crime Act of 1984. In order to continue to receive these funds, Alaska must amend its victim compensation law to include third and fourth degree assaults by October 1, 1990.

Rep. Gruenberg passed out SB 113, a bill drafted by Senator Kerttula, that is similar to HB 57. Rep. Gruenberg explained that SB 113 more clearly defines the crimes that would be compensated than HB 57.

Ms. Nina Kinney, Council on Domestic Violence and Sexual Assault, Department of Public Safety, testified that the Council supports the addition of third and fourth degree assaults to HB 57. Many domestic violence assaults are third and fourth degree assaults that require medical assistance.

Rep. Goll asked Ms. Kinney if people were not being charged for the severity of the crimes they commit due to plea bargaining. Ms. Kinney agreed.

Rep. Martin asked Ms. Capp if she knew the number of compensation requests that were turned down because the assault was third or fourth degree?

Ms. Capp responded that there was no current count on the the number of third and fourth degree assaults that need compensation because these assaults were not covered. Rep. Martin noted that both men and women need to be compensated when their assault causes loss of working ability.

Rep. Davidson asked how victims of bar fights are compensated.

Ms. Capp responded that the board considers all factors in a case and if someone contributes to their own injury they are not compensated.

Rep. Davidson inquired how the perpetrator of a crime makes restitution.

Ms. Capp replied that the board contacts the courts and judges and orders restitution.

Ms. Gloria Grey, a crime victim, testified in favor of HB 57.

Ms. Cindy Smith, Alaska Network on Domestic Violence/Sexual Assault, presented written testimony to the committee in favor of both HB 36 and HB 57. She commented that a study by the _____ Prevention Project in Anchorage found that 82% of domestic violence assaults were fourth degree assaults and 30% of these assaults needed medical attention.

Rep. Goll asked Ms. Smith to what she attributed this undercharging.

Ms. Smith noted that there was a reluctance to make arrests in domestic violence cases.

Rep. Gruenberg asked the committee for a motion to pass HB 57 out of committee as a CS and adopt the title and text of SB 113.

Discussion followed.

Rep. Gruenberg called for any objections to passing HB 57 out of committee as a CS. No objections were noted and the bill was moved out of committee.

Rep. Gruenberg passed out copies of a proposed technical amendment that would include a review for the effects of court decisions on state common law provisions by the Legislative Council when they annually review judicial and administrative decisions. He asked committee members to review the amendment and comment at the next meeting.

Rep. Martin recommended that the financial committee look at the fiscal notes with HB 57. Rep. Gruenberg suggested that Rep. Martin draft a letter of transmittal to go with the bill.

Legislative Reporting Service - HB 57

HOUSE BILL NO. 57, by the Rules Committee by Request of the Governor. Expands eligibility for violent crimes compensation (see accompanying letter).

Introduced January 9, 1989 and referred to Judiciary; Finance.

In his message transmitting the bill, Governor Cowper stated:

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

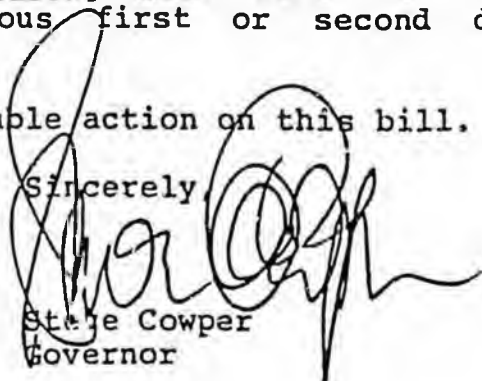
Dear Representative Cotten:

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

HOUSE BILL NO. 57, (see page 113). Reported back to the House January 20, 1989 by Judiciary recommending it be replaced with a Judiciary substitute, and that it do pass. Concurring: Goll and Gruenberg (Co-Chairs), Miller, Martin, Davidson, M. Davis, Ellis. To Finance.

The Judiciary substitute adds an applicability section stating the provisions of the bill apply to offenses that qualify for payment of compensation and that are committed or attempted on or after this bill takes effect.