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SENATE COMMITTEE REPORT

FURTHER

5/4/89

DATE TURNED INTO OFFICE 5/17/89

Mr. President:

Finance

Committee considered

CSHB-36 (FIN) am

crimes, the rights, entitlements, and services that are due to victims of crime, and to service of process on prisoners; redefining the term 'crime' against a person; and amending Rules 32 and 35, Alaska Rules of Criminal Procedure and recommended

- replace with \_\_\_\_\_ CS )  same title
- or adopt CS CSHB 36 (JUD) )  new title
- attached amendment(s) and  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE(S)  zero  fiscal impact  appropriation no FN  
 new  updated  previous  
 same as previous fiscal note(s) published 5/5/89

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*[Handwritten signatures]*  
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*[Handwritten signature]*  
 \_\_\_\_\_  
 Chair signature and recommendation

Committee Backup attached

FISCAL NOTE

SCS

(a)

REQUEST:

Bill Version:  
Publish Date: 5/5/89

Revision Date: 2/15/89  
Title: ...victims of crime, claims by  
victims..., and service of process  
Sponsor: Donley, Granberg, Baucher...  
Requestor:

Agency Affected: Alaska Court Sys  
BRU: Trial Courts

Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY
OPERATING:						
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	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
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

*The department has been contacted on this bill.  
No fiscal impact.*

*The changes in the SCS HB 36 (HESS) version have no fiscal impact.*

*This fiscal note is appropriate. - David C. Moore, Senate HESS 4/20/89*

Prepared by: Jan Strandberg, General Counsel Phone: 261-922  
Division: Alaska Court System Date: 02/15/89

Approved by: Arthur S. Snowden, II, Administrative Director Date: 02/15/89  
Agency: Alaska Court System

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

THE JUDICIARY SCS HAS NO IMPACT ON  
THIS FISCAL NOTE

CSC 5-5-89

Adopted

### FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to victims of crime....  
Sponsor: Donley, Gruenberg, et al.  
Requestor: \_\_\_\_\_

Agency Affected: Health & Social Servi  
BRU: Youth Services

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						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>REVENUE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

This bill has no fiscal impact on the agency.

Prepared by: Yvonne M. Chase, Director Phone: 465-3170  
Division: Family & Youth Services Date: 2/11/89

Approved by Commissioner: Mira A. Johnson Date: 2/16/89  
Agency: Department of Health & Social Services

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
*The department has been contacted on this bill. The changes in the SCSCSHB 36 (HESS) version have no fiscal impact. This fiscal note is appropriate.*

David C. How page 1 of 1  
Senate Health Committee 4/20/89

THE JUDICIARY HAS NO IMPACT ON THIS FISCAL NOTE.  
CSU 5-5-89

**Adopted**

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: \_\_\_\_\_  
PUBLISH DATE: 5/5/89

FISCAL NOTE

REQUEST:

Revision Date: 1/18/89  
 Title: "An Act relating to victims of crime, claims by victims of crime..."  
 Sponsor: Rep. Donley, et al.  
 Requestor: House Judiciary  
 Agency Affected: Public Safety  
 BRU: Council on Domestic Violence and Sexual Assault  
 Component: \_\_\_\_\_

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						
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	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The Judiciary committee substitute establishes a "victim and survivor assistance program" in the Department of Law rather than in the Department of Public Safety. The revised bill is not expected to have a fiscal impact on the Department of Public Safety.  
*The department has been contacted on this bill. The changes in the SCSCSHB 36 (HESS) version have no fiscal impact. This fiscal note is appropriate.*  
*David C. Moser Senate HESS Committee*  
 4/20/89

Prepared by: Gayle A. Horetski Phone: 465-4322  
 Division: Office of the Commissioner Date: 1/18/89  
 Approved by Commissioner: J.A.H. English Date: 1/28/89  
 Agency: Department of Public Safety

Adopted

THE JUDICIARY SCS HAS NO IMPACT ON THIS FISCAL NOTE. CSC 5-5-89

### FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: "An Act relating to victims of crime..."  
Sponsor: Reps. Donlev & Gruenberg  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: Administration & Support  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		26.3	27.1	27.9	28.7	29.6
TRAVEL		3.4	3.4	3.4	3.4	3.4
CONTRACTUAL		6.4	6.4	6.4	6.4	6.4
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>36.1</b>	<b>36.9</b>	<b>37.7</b>	<b>38.5</b>	<b>39.4</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUNDING:** (Thousands of Dollars)

GENERAL FUND		36.1	36.9	37.7	38.5	39.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>36.1</b>	<b>36.9</b>	<b>37.7</b>	<b>38.5</b>	<b>39.4</b>

**POSITIONS:**

FULL-TIME	0	1	1	1	1	1
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

See Attached Analyst.

*Susan E. Knighton*

Prepared by: Susan E. Knighton, Director Phone: 465-3376  
Division: Administrative Services Date: 4-20-89

Approved by Commissioner: H. Phoebe-Barnett Date: 4-20-89  
Agency: Department of Corrections

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

THE JUDICIARY SEC HAS NO COMMENT ON THIS FISCAL NOTE.

CSC 5-5-89

Adopted

FISCAL NOTE  
CS for CS for  
House Bill 36 (HESS)  
Page 2

ANALYSIS

The Department of Corrections would experience fiscal impact due to the longer parole hearings that would be necessary. The increases are in the per diem and daily fees paid to board members and overtime for correctional officers providing security.

Additional cost will be required to accomplish notifying victims by hiring a full-time Clerk III.

Cost Analysis:

Five Board Members @ \$80.00/day Per Diem x 8.5 additional meeting days/year	\$ 3,400.00
Five Board Members @ \$150.00/day Compensation x 8.5 additional meeting days/year	\$ 6,400.00
64 hours of Correctional Officer over-time for prisoner transport and security @ \$25.00/hr.	\$ 1,600.00
One Clerk III @ \$24,700.00/year	\$24,700.00
Total	\$36,100.00

FISCAL NOTE

REQUEST:

Revision Date: April 20, 1989  
Title: "An Act relating to victims of crimes..."  
Sponsor: Senate HESS  
Requestor: Senate HESS

Agency Affected: Department of Law  
BRU: Prosecution  
Components: Third Judicial District  
Fourth Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		67.3	69.3	71.4	73.5	75.5
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		8.2	8.4	8.7	9.0	9.3
SUPPLIES		3.6	3.7	3.8	3.9	4.0
EQUIPMENT		16.0	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		95.1	81.4	83.9	86.4	89.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		95.1	81.4	83.9	86.4	89.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues Director Phone: 465-3672  
Division: Administrative Services Date: April 20, 1989  
Approved by Commissioner: Douglas B. Bailly, Attorney General Date: April 20, 1989  
Agency: Department of Law

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

THE JUDICIARY SCS HAS NO  
IMPACT ON THIS FISCAL NOTE.

CCL 5-5-89

Adopted

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 36 (HESS)

The Senate HESS committee substitute adds the parent, guardian, or custodian of a prenatal child who was, or of a minor who as a prenatal child was, harmed as the result of perpetration of an offense against the prenatal child's mother, unless that person was the perpetrator of the offense, to the definition of "victim" in Section 7. This addition does not change the department's fiscal analysis of March 6, 1989, which is repeated herewith.

The bill adds a new subsection to AS 12.61 that requires that upon request of the victim of a felony, or a domestic violence assault, the prosecuting attorney shall: (1) confer with the victim about the victim's testimony before the trial of the defendant; (2) give prompt actual notice to the victim of the defendant's conviction and the crimes of which the defendant was convicted, including advising the victim of his or her right to make a written or oral statement for use in preparation of the defendant's presentence report, and including advising the victim of his or her right to appear personally at the defendant's sentencing hearing to present a written or oral statement, and advising of the address and telephone number of the office that will prepare the presentence report, advising of the time and place of the sentencing proceeding, and advising of the types of information that a victim may include in a statement a victim provides for a presentence report or a sentencing hearing.

This section would also require that the prosecuting attorney notify the victim in writing of the final disposition of the case within 30 days after final disposition of the case. It appears that notification of final disposition would be required at both the trial and appellate levels. Similarly, a preceding section grants the right to victims to be informed by the prosecuting attorney at any time after the defendant's conviction of the record of all the defendant's convictions.

Currently, about 18,000 new criminal matters are referred to the department's criminal division each year. It is estimated that of this number, about 2,000 are felony cases covered by this bill. Furthermore, many felony cases have multiple victims. Although the department does not keep separate statistics for misdemeanor domestic violence assaults, it is believed that there are about 300 of these offenses, each year. Consequently, this bill has the potential for generating a substantial body of new work at all of the department's prosecution offices. Most of this required work would be handled by paralegals and legal secretaries. The requirement for prosecutors to confer with victims before the trial of the defendant in felony and domestic violence assault cases, is generally already being met.

The majority of the new work, however, will occur at Anchorage and Fairbanks because of the higher number of covered crimes at those locations. It will therefore be necessary to add a legal secretary at both Anchorage and Fairbanks to handle the additional workload that will be caused by this section of the bill, at a start up cost of \$95,300, and recurring annual costs of \$81,400, thereafter.

Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range/Step <b>10B</b>	Org. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>8/9/10/11/12/13</b>
<b>Type of Expenditure</b>		<b>Amount</b>		
<b>1</b>	<b>2</b>	<b>3</b>		
Salary	22,716			
Benefits	10,412			
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>33,128</b>		
Travel		<b>-0-</b>		
Contractual		<b>4,100</b>		
Commodities		<b>1,800</b>		
Equipment		<b>8,000</b>		
Other				
<b>Total Cost</b>		<b>47,028</b>		
<b>Funding Source for Total Cost</b>				
Federal Receipts	1002			
O. F. Match	1003			
General Fund	1004	<b>47,028</b>		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Justification**

This full-time position is needed to provide for the victim notification and liaison requirements of CSHB 36. The granting of rights to victims to be informed of the dates of all criminal proceedings involving the defendant relating to the case in which the victim is involved, to provide oral and written statements in respect to presentence reports, and notice of final disposition in several thousand criminal trials, will cause a substantial additional workload for the state's prosecution support staff.

Allocation to the Legal Secretary I class is recommended because of the large amount of written notice to be handled, and the need to provide accurate, timely case scheduling information to victims.

**Request For  
New Position**

Agency Department of Law  
 DRU Prosecution  
 Component Third Judicial District

Page 1 of 2  
 Revised Date \_\_\_\_\_

**FY 90**

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 36 (HESS)

Fiscal Summary - CSHB 36 (HESS)

	<u>Pers. Svcs.</u>	<u>Contractual</u>	<u>Supplies</u>	<u>Equip.</u>	<u>Total</u>
Anchorage					
Legal Secretary I	33.1	4.1	1.8	8.0	47.7
PFT					
Fairbanks					
Legal Secretary I	34.2	4.1	1.8	8.0	48.1
PFT					
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total	67.3	8.2	3.6	16.0	95.1

Costs beyond FY 90 include a 3 percent annual inflation factor, less one-time costs.

Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range/Step <b>10B</b>	Org. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Fairbanks</b>		Election District <b>19/20A/21</b>
Type of Expenditure		Amount		
<b>1</b>	<b>2</b>	<b>3</b>		
Salary	23,628			
Benefits	10,615			
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>34,243</b>		
Travel		<b>-0-</b>		
Contractual		<b>4,100</b>		
Commodities		<b>1,800</b>		
Equipment		<b>8,000</b>		
Other				
<b>Total Cost</b>		<b>48,143</b>		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	<b>48,143</b>		
I-A Receipts	1006			
CIP Receipts	1061			
Other				
<b>Justification</b> This full-time position is needed to provide for the victim notification and liaison requirements of CSHB 36. The granting of rights to victims to be informed of the dates of all criminal proceedings involving the defendant relating to the case in which the victim is involved, to provide oral and written statements in respect to presentence reports, and notice of final disposition in several thousand criminal trials, will cause a substantial additional workload for the state's prosecution support staff.  Allocation to the Legal Secretary I class is recommended because of the large amount of written notice to be handled, and the need to provide accurate, timely case scheduling information to victims.				

**Request For  
New Position**

Agency Department of Law  
DRU Prosecution  
Component Fourth Judicial District

**FY 90**

Page 2 of 2  
Revised Date

Original sponsors: Donley, Gruenberg,  
Boucher, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 36 (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 relating to crimes, the rights, entitlements,  
7 and services that are due to victims of crime, and to  
8 service of process on prisoners; redefining the term  
9 'crime against a person'; and amending Rules 32 and  
10 35 of the Alaska Rules of Criminal Procedure."

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

12 \* Section 1. SHORT TITLE. This Act may be referred to as the "Alaska  
13 Crime Victim's Rights Act."

14 \* Sec. 2. AS 09.05 is amended by adding a new section to read:

15 Sec. 09.05.050. SERVICE OF PROCESS ON STATE PRISONERS. (a) In  
16 a civil action to which a person committed to the custody of the  
17 commissioner of corrections is a party or witness, service of process  
18 shall be made by delivering a copy of the summons and the complaint or  
19 pleadings, together with a form for affidavit of proof of service, to  
20 the shift supervisor of the correctional facility in which the person  
21 is housed. The shift supervisor shall

22 (1) immediately hand deliver the summons and complaint or  
23 pleadings to the person whose name appears on the summons; and

24 (2) promptly complete the affidavit of proof of service on  
25 the form provided and return it to the party requesting service of  
26 process.

27 (b) A party requesting service of process under this section may  
28 locate a person committed to the custody of the commissioner of cor-  
29 rections by contacting the chief classification officer of the

1 Department of Corrections during that officer's regular hours of work.

2 \* Sec. 3. AS 12.47 is amended by adding a new section to read:

3 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been  
4 committed to the custody of the commissioner of health and social  
5 services under AS 12.47.090, the victim of that crime is entitled to  
6 notice of a pending change in the status of the offender. The commis-  
7 sioner of health and social services shall give notice as required by  
8 this section if

9 (1) the offender has been continued in commitment following  
10 expiration of the maximum term of imprisonment under AS 12.47.090(f)  
11 and the commissioner gives notice of release of the offender;

12 (2) the court is to consider modification of an order of  
13 conditional release for the offender under AS 12.47.092(e);

14 (3) a court is to consider conditional release of the  
15 offender under AS 12.47.090(k) and 12.47.092(a); or

16 (4) the offender petitions for discharge under AS 12.47.-  
17 092(f).

18 (b) If a victim desires notice under this section, the victim  
19 shall maintain a current, valid mailing address on file with the  
20 commissioner of health and social services. The commissioner shall  
21 send the notice required by this section to the victim's last known  
22 address. The victim's address may not be disclosed to the offender or  
23 offender's attorney.

24 (c) The commissioner of health and social services is required  
25 to give notice of a change in the status of an offender under this  
26 section to any victim who has requested notice.

27 (d) If more than one person who qualifies as a victim under  
28 AS 12.55.185 desires notice, the commissioner of health and social  
29 services shall designate one person for purposes of receiving any

1 notice required and exercising the rights granted by this section.

2 (e) In this section

3 (1) "offender" has the meaning given in AS 12.61.020;

4 (2) "victim" has the meaning given in AS 12.55.185.

5 \* Sec. 4. AS 12.55 is amended by adding a new section to read:

6 Sec. 12.55.023. PARTICIPATION BY VICTIM IN SENTENCING. (a) If  
7 a victim requests, the prosecuting attorney shall provide the victim,  
8 before the sentencing hearing, with a copy of the following portions  
9 of the presentence report:

10 (1) the summary of the offense prepared by the Department  
11 of Corrections;

12 (2) the defendant's version of the offense;

13 (3) all statements and summaries of statements of the  
14 victim; and

15 (4) the sentence recommendation of the Department of Cor-  
16 rections.

17 (b) A victim may submit to the sentencing court a written state-  
18 ment that the victim believes is relevant to the sentencing decision.

19 \* Sec. 5. AS 12.55.088 is amended by adding new subsections to read:

20 (d) A victim has the right to comment in writing to the court on  
21 a motion to modify or reduce a sentence filed by the person who perpe-  
22 trated the offense against the victim.

23 (e) If a motion is filed to modify or reduce a sentence by a  
24 defendant who perpetrated a crime against a person or arson in the  
25 first degree, the court shall, if feasible, send a copy of the motion  
26 to the Department of Corrections sufficiently in advance of any  
27 scheduled hearing or briefing deadline to enable the department to  
28 notify the victim of that crime. If that victim has earlier requested  
29 to be notified, the Department of Corrections shall send the victim a

1 copy of the motion and inform the person of that person's rights under  
2 this section, the deadline for receipt of written comments, the hear-  
3 ing date, and the court's address.

4 (f) The court shall provide copies of the victim's comments to  
5 the prosecuting attorney, the person filing the motion to reduce or  
6 modify a sentence, and that person's attorney.

7 (g) In deciding whether to modify or reduce a sentence, the  
8 court shall consider the victim's comments, when relevant, and any  
9 response by the prosecuting attorney and the person filing the motion.

10 (h) If a victim desires notice under this section, the victim  
11 shall maintain a current, valid mailing address on file with the  
12 commissioner of corrections. The commissioner shall send the notice  
13 to the victim's last known address. The victim's address may not be  
14 disclosed to the offender or to the offender's attorney.

15 \* Sec. 6. AS 12.55 is amended by adding a new section to read:

16 Sec. 12.55.172. DESIGNATION OF REPRESENTATIVE. If more than one  
17 person who qualifies as a victim under AS 12.55.185 desires notice  
18 under AS 12.55.088, the prosecuting attorney shall designate one  
19 person to represent all victims for purposes of receiving the notice  
20 required and exercising the rights granted under this chapter.

21 \* Sec. 7. AS 12.55.185 is repealed and reenacted to read:

22 Sec. 12.55.185. DEFINITIONS. In this chapter, unless the con-  
23 text requires otherwise,

24 (1) "crime against a person" has the meaning given in  
25 AS 33.30.901;

26 (2) "dangerous instrument" has the meaning given in AS 11.-  
27 81.900;

28 (3) "firearm" has the meaning given in AS 11.81.900;

29 (4) "first felony conviction" means that the defendant has

1 not been previously convicted of a felony;

2 (5) "judicial officer" has the meaning given in AS 11.56.-  
3 900;

4 (6) "pecuniary gain" means the amount of money or value of  
5 property at the time of commission of the offense derived by the  
6 defendant from the commission of the offense, less the amount of money  
7 or value of property returned to the victim of the offense or seized  
8 by or surrendered to lawful authority before sentence is imposed;

9 (7) "second felony conviction" means that the defendant  
10 previously has been convicted of a felony;

11 (8) "serious physical injury" has the meaning given in  
12 AS 11.81.900;

13 (9) "third felony conviction" means that the defendant has  
14 been at least twice previously convicted of a felony;

15 (10) "unconditional discharge" means that a defendant is  
16 released from all disability arising under a sentence, including  
17 probation and parole;

18 (11) "victim" means  
19 (A) a person against whom an offense has been perpe-  
20 trated;

21 (B) one of the following, not the perpetrator, if the  
22 person specified in (A) of this paragraph is a minor, incompe-  
23 tent, or incapacitated:

24 (i) an individual living in a spousal relation-  
25 ship with the person specified in (A) of this paragraph; or  
26 (ii) a parent, adult child, guardian, or custodian  
27 of the person;

28 (C) one of the following, not the perpetrator, if the  
29 person specified in (A) of this paragraph is dead:

1 (i) a person living in a spousal relationship  
2 with the deceased before the deceased died;

3 (ii) an adult child, parent, brother, sister,  
4 grandparent or grandchild of the deceased; or

5 (iii) any other interested person, as may be des-  
6 igned by a person having authority in law to do so.

7 \* Sec. 8. AS 12.61.010 is amended to read:

8 Sec. 12.61.010. RIGHTS OF CRIME VICTIMS. (a) Victims of crimes  
9 have the following rights:

10 (1) the right to be informed by the appropriate law en-  
11 forcement agency or the prosecuting attorney of the date of trial and  
12 the date of sentencing of the case in which the victim is involved;

13 (2) the right to be notified that a sentencing hearing or a  
14 court proceeding to which the victim has been subpoenaed will not  
15 occur as scheduled;

16 (3) the right to receive protection from harm and threats  
17 of harm arising out of cooperation with law enforcement and prosecu-  
18 tion efforts, and to be provided with information as to the protection  
19 available;

20 (4) the right to be informed of the procedure to be fol-  
21 lowed to apply for and receive any [VICTIM] compensation under AS 18.-  
22 67;

23 (5) at the request of the prosecution or a law enforcement  
24 agency, the right to cooperate with the criminal justice process  
25 without loss of pay and other employee benefits except as authorized  
26 by AS 12.61.017 and without interference in any form by the employer  
27 of the victim of crime; [AND]

28 (6) the right to obtain access to immediate medical assis-  
29 tance and not to be detained for an unreasonable length of time by a

1 law enforcement agency before having medical assistance administered;  
2 however, an employee of the law enforcement agency may, if necessary,  
3 accompany the person to a medical facility to question the person  
4 about the criminal incident if the questioning does not hinder the  
5 administration of medical assistance;

6 (7) the right to make a written or oral statement for use  
7 in preparation of the presentence report of a felony defendant;

8 (8) if the crime for which the defendant was convicted was  
9 a felony or a domestic violence assault, the right to appear person-  
10 ally at the defendant's sentencing hearing to present a written or  
11 oral statement; and

12 (9) the right to be informed by the prosecuting attorney,  
13 at any time after the defendant's conviction, about the complete  
14 record of the defendant's convictions.

15 (b) Law [VICTIMS' EMPLOYERS, LAW] enforcement agencies, prosecu-  
16 tors, and the courts shall make every reasonable effort to ensure that  
17 victims of crimes have the rights set out in (a) of this section.  
18 However, a failure to ensure these rights does not give rise to a  
19 separate cause of action against [VICTIMS' EMPLOYERS,] law enforcement  
20 agencies, other agencies of the state, or a political subdivision of  
21 the state.

22 \* Sec. 9. AS 12.61 is amended by adding new sections to read:

23 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) If a  
24 victim of a felony or a domestic violence assault requests, the pros-  
25 ecuting attorney shall make a reasonable effort to

26 (1) confer with the person against whom the offense has  
27 been perpetrated about that person's testimony before the defendant's  
28 trial;

29 (2) in a manner reasonably calculated to give prompt actual

1 notice, notify the victim

2 (A) of the defendant's conviction and the crimes of  
3 which the defendant was convicted;

4 (B) of the victim's right in a case that is a felony  
5 to make a written or oral statement for use in preparation of the  
6 defendant's presentence report, and to appear personally at the  
7 defendant's sentencing hearing to present a written or oral  
8 statement;

9 (C) of the address and telephone number of the office  
10 that will prepare the presentence report; and

11 (D) of the time and place of the sentencing proceed-  
12 ing;

13 (3) notify the victim in writing of the final disposition  
14 of the case within 30 days after final disposition of the case.

15 (b) The notice given under (a)(2) of this section must inform  
16 the victim that the statement of the victim may contain any relevant  
17 information including

18 (1) an explanation of the nature and extent of physical,  
19 psychological, or emotional harm or trauma suffered by the victim;

20 (2) an explanation of the extent of economic loss or prop-  
21 erty damage suffered by the victim;

22 (3) an opinion of the need for and extent of restitution  
23 and whether the victim has applied for or received compensation for  
24 loss or damage; and

25 (4) the recommendation of the victim for an appropriate  
26 sentence.

27 (c) The state and the prosecuting attorney may not be held  
28 liable in damages for any failure to comply with the requirements of  
29 this section.

1           Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER.   (a)   An  
2   employer may not penalize or threaten to penalize a victim because the  
3   victim is subpoenaed or requested by the prosecuting attorney to  
4   attend a court proceeding for the purpose of giving testimony. In  
5   this section, "penalize" means to take action affecting the employment  
6   status, wages, and benefits payable to the victim, including:

7           (1) demotion or suspension;

8           (2) dismissal from employment; and

9           (3) loss of pay or benefits, except pay and benefits that  
10   are directly attributable to the victim's absence from employment to  
11   attend the court proceeding.

12           (b) A person who violates (a) of this section is guilty of a  
13   violation.

14           (c) A victim who suffers a pecuniary loss as a result of an  
15   employer's act prohibited by this section may bring a civil action to  
16   recover actual damages and punitive damages of three times the actual  
17   damages sustained.

18   \* Sec. 10. AS 12.61 is amended by adding a new section to read:

19           Sec. 12.61.030. DESIGNATION OF REPRESENTATIVE. If more than one  
20   person who qualifies as a victim under AS 12.55.185 makes a request  
21   under this chapter, the prosecuting attorney shall designate one  
22   person for purposes of receiving the notice required and exercising  
23   the rights granted under this chapter.

24   \* Sec. 11. AS 12.61 is amended by adding a new section to read:

25           Sec. 12.61.900. DEFINITIONS. In this chapter

26           (1) "domestic violence assault" means an assault under  
27   AS 11.41.200 - 11.41.230 or 11.41.410 - 11.41.425 constituting a  
28   domestic violence offense under AS 25.35.060;

29           (2) "victim" has the meaning given in AS 12.55.185.

1 \* Sec. 12. AS 33.16.120(a) is repealed and reenacted to read:

2 (a) If the victim of a crime against a person or arson in the  
3 first degree requests notice of a scheduled hearing to review or con-  
4 sider discretionary parole for a prisoner convicted of that crime, the  
5 board shall send notice of the hearing to the victim at least 30 days  
6 before the hearing. The notice must be accompanied by a copy of the  
7 prisoner's application for parole submitted under AS 33.16.130(a).  
8 However, the copy of the application sent to the victim may not in-  
9 clude the prisoner's proposed residence and employment addresses.

10 \* Sec. 13. AS 33.16.120(b) is repealed and reenacted to read:

11 (b) A victim who requests notice under this section shall main-  
12 tain a current, valid mailing address on file with the board. The  
13 board shall send the notice required by this section to the last known  
14 address of the victim. The victim's address may not be disclosed to  
15 the prisoner or the prisoner's attorney.

16 \* Sec. 14. AS 33.16.120(c) is amended to read:

17 (c) The victim has a right to attend meetings of the parole  
18 board in which the status of the prisoner convicted of the crime  
19 against that victim is officially considered and to comment, in writ-  
20 ing or in person, on the proposed action of the board. Copies of any  
21 written [THE] comments shall be provided to the prisoner and the  
22 prisoner's attorney before action by the board.

23 \* Sec. 15. AS 33.16.120(e) is repealed and reenacted to read:

24 (e) If the victim requests, the board shall make every reason-  
25 able effort to notify the victim as soon as practicable in writing of  
26 its decision to grant or deny discretionary parole or to release the  
27 prisoner under AS 33.16.010(c). The notice under this subsection must  
28 include the expected date of the prisoner's release, the geographic  
29 area in which the prisoner is required to reside, and other pertinent

1 information concerning the prisoner's conditions of parole that may  
2 affect the victim.

3 \* Sec. 16. AS 33.16.150(b) is amended to read:

4 (b) The board may require as a condition of discretionary or  
5 mandatory parole that a prisoner released on parole

6 (1) meet family obligations;

7 (2) pursue employment, education, counseling, or training;

8 (3) remain within stated geographic limits unless written  
9 permission to depart from the stated limits is granted the parolee;

10 (4) report upon release to the parole officer assigned to  
11 the parolee;

12 (5) report as required to the parole officer assigned to  
13 the parolee;

14 (6) reside at a stated place and notify the board of any  
15 change in place of residence;

16 (7) not possess or control firearms or other dangerous  
17 weapons;

18 (8) refrain from possessing or consuming alcoholic bever-  
19 ages;

20 (9) submit to reasonable searches and seizures by a parole  
21 officer, or a peace officer acting under the direction of a parole  
22 officer;

23 (10) submit to appropriate medical, mental health, or con-  
24 trolled substance or alcohol examination, treatment, or counseling;

25 (11) submit to periodic examinations designed to detect the  
26 use of alcohol or controlled substances;

27 (12) make restitution ordered by the court [TO A VICTIM OF  
28 THE PRISONER'S CRIME,] according to a schedule established by the  
29 board;

1           (13) refrain from opening, maintaining, or using a checking  
2 account or charge account;

3           (14) refrain from entering into a contract other than a  
4 prenuptial contract or a marriage contract;

5           (15) refrain from operating a motor vehicle;

6           (16) refrain from entering an establishment where alcoholic  
7 beverages are served, sold, or otherwise dispensed;

8           (17) refrain from participating in any other activity or  
9 associating with any other person that the board determines is rea-  
10 sonably likely to diminish the rehabilitative goals of parole, or that  
11 may endanger the public.

12 \* Sec. 17. AS 33.16 is amended by adding a new section to read:

13           Sec. 33.16.260. DESIGNATION OF REPRESENTATIVE. If more than one  
14 person who qualifies as a victim under AS 12.55.185 requests notice  
15 under this chapter, the commissioner shall designate one person for  
16 purposes of receiving the notice required and exercising the rights  
17 granted by this chapter.

18 \* Sec. 18. AS 33.20.080 is amended to read:

19           Sec. 33.20.080. BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR  
20 EXECUTIVE CLEMENCY. The governor may refer applications for executive  
21 clemency to the board of parole. The board shall investigate each  
22 case and submit to the governor a report of the investigation, to-  
23 gether with all other information the board has regarding the appli-  
24 cant. When the report or investigation is submitted, the board shall  
25 also transmit to the governor the comments it has received under (b)  
26 of this section.

27 \* Sec. 19. AS 33.20.080 is amended by adding new subsections to read:

28           (b) If requested by the victim of a crime against a person or  
29 arson in the first degree, the board shall send notice of an

1 application for executive clemency submitted by the state prisoner who  
2 was convicted of that crime. The victim may comment in writing to the  
3 board on the application for executive clemency.

4 (c) If the victim desires notice under (b) of this section, the  
5 victim shall maintain a current, valid mailing address on file with  
6 the board. The board shall send the notice required under this sec-  
7 tion to the victim's last known address. The victim's address may not  
8 be disclosed to the applicant for executive clemency or the appli-  
9 cant's attorney.

10 (d) In this section,

11 (1) "crime against a person" has the meaning given in  
12 AS 33.30.901;

13 (2) "victim" has the meaning given in AS 12.55.185.

14 \* Sec. 20. AS 33.30 is amended by adding a new section to read:

15 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-  
16 missioner shall notify the victim if the offender

17 (1) escapes from custody;

18 (2) is released to the community on a furlough; or

19 (3) is released on an early release program.

20 (b) The commissioner is required to give notice of a change in  
21 the status of an offender under this section only if the victim has  
22 requested notice of the change.

23 (c) A victim who has requested notice under (b) of this section  
24 shall maintain a current, valid mailing address on file with the  
25 commissioner. The commissioner shall send the notice from the depart-  
26 ment required by this section to the victim's last known address. The  
27 victim's address may not be disclosed to the offender or the offend-  
28 er's attorney.

29 (d) The state may not be held liable in damages for the failure

1 of the commissioner to comply with the requirements of this section.

2 \* Sec. 21. AS 33.30.111(f) is repealed and reenacted to read:

3 (f) If the commissioner considers a prisoner convicted of a  
4 crime against a person or arson in the first degree for a prerelease  
5 furlough and the victim has requested notice under AS 33.30.013, the  
6 commissioner shall send notice of intent to consider the prisoner for  
7 a prerelease furlough to the victim. The victim may comment in writ-  
8 ing on the commissioner's intent to release the prisoner on prerelease  
9 furlough status. The commissioner shall consider the victim's com-  
10 ments before making a final decision to release a prisoner on a pre-  
11 release furlough. The commissioner shall make a reasonable effort to  
12 notify the victim of an intent to release the prisoner on a prerelease  
13 furlough. The notice must contain the expected date of the prisoner's  
14 release, the geographic area in which the prisoner will reside, and  
15 other pertinent information concerning the prisoner's release that may  
16 affect the victim.

17 \* Sec. 22. AS 33.30 is amended by adding a new section to read:

18 Sec. 33.30.292. DESIGNATION OF REPRESENTATIVE. If more than one  
19 person who qualifies as a victim under AS 12.55.185 requests notice  
20 under this chapter, the commissioner shall designate one person for  
21 purposes of receiving the notice required and of exercising the rights  
22 granted by this chapter.

23 \* Sec. 23. AS 33.30.901(6) is amended to read:

24 (6) "crime against a person" means a crime as set out in  
25 AS 11.41, [EXCEPT CUSTODIAL INTERFERENCE UNDER AS 11.41.320 AND 11.-  
26 41.330;] or a crime against a person in this or another jurisdiction  
27 having elements substantially identical to those of a crime as set out  
28 in AS 11.41 [, EXCEPT CUSTODIAL INTERFERENCE UNDER AS 11.41.320 AND  
29 11.41.330];

1 \* Sec. 24. AS 47.10 is amended by adding a new section to read:

2 Sec. 47.10.072. ACCESS TO HEARING BY VICTIM. (a) If a crime  
3 was committed by a minor who is scheduled for a hearing under AS 47.-  
4 10.070, the victim may request from the court permission to attend the  
5 hearing. If the victim requests, the department shall provide techni-  
6 cal assistance to the victim in preparing a written submission to the  
7 court requesting access to the hearing. The department shall make  
8 reasonable efforts to inform victims of the availability of this  
9 assistance.

10 (b) If more than one person who qualifies as a victim under  
11 AS 12.55.185 makes a request, the commissioner of health and social  
12 services shall designate one person for purposes of receiving the  
13 notice and exercising the rights granted by this section.

14 (c) In this section, "victim" has the meaning given in AS 12.-  
15 55.185.

16 \* Sec. 25. AS 12.61.020(e)(2) is repealed.

17 \* Sec. 26. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-  
18 ed to read:

19 (1) WHEN MADE. The probation service shall make a presen-  
20 tence investigation and report before the court imposes sentence or  
21 grants probation. The presentence investigation and report shall be  
22 completed and made available to the court. The report shall not be  
23 disclosed to any one except counsel unless the defendant has tendered  
24 a plea of guilty or nolo contendere or has been found guilty. If the  
25 crime for which the person is to be sentenced is a felony, the con-  
26 tents shall be disclosed to counsel for the parties before the time of  
27 the hearing on the aggravator and mitigator factors and sentencing.  
28 The court may utilize the report in determining if a bargained sen-  
29 tence recommendation will be followed pursuant to Rule 11. In the

1 event the attorneys for the parties request the preparation of a  
2 presentence report to aid them in plea bargaining the court may order  
3 such report to be made prior to the time stated in this rule.

4 \* Sec. 27. Rule 32, Alaska Rules of Criminal Procedure, is amended by  
5 adding new paragraphs to read:

6 (g) WRITTEN STATEMENT SUBMITTED BY VICTIM OR VICTIM'S REPRESENTATIVE.  
7 If a written statement is prepared and submitted by the  
8 victim of a felony offense or a domestic violence assault under  
9 AS 12.55.023, the trial court

10 (1) shall take the content of the written statement into  
11 consideration

12 (A) when preparing those elements of the sentencing  
13 report required by AS 12.55.025 that relate to the effect of the  
14 offense on the victim;

15 (B) when considering the need for restitution under  
16 AS 12.55.045; and

17 (2) may take the content of the written statement into  
18 consideration in any other circumstance that the court believes neces-  
19 sary.

20 (h) In (g) of this rule,

21 (1) "domestic violence assault" has the meaning given in  
22 AS 12.61.900;

23 (2) "victim" has the meaning given in AS 12.55.185.

24 \* Sec. 28. Rule 35, Alaska Rules of Criminal Procedure, is amended by  
25 adding new paragraphs to read:

26 (c) The victim may comment on motions made under this rule as  
27 follows:

28 (1) When an individual convicted of a crime against a  
29 person or arson in the first degree files a motion to modify or reduce

1 a sentence, the court shall, if feasible, send a copy of the motion to  
2 the Department of Corrections sufficiently in advance of any scheduled  
3 hearing or briefing deadline to enable the department to notify the  
4 victim, as directed by AS 12.55.088(e).

5 (2) The court shall provide copies of the victim's comments  
6 to the prosecuting attorney and to the person filing the motion to  
7 reduce or modify a sentence, or the person's attorney.

8 (3) The court shall consider the comments of the victim  
9 when relevant, and any response offered by the prosecuting attorney or  
10 the person filing the motion, in deciding whether to reduce or modify  
11 a sentence.

12 (4) If more than one person who qualifies as a victim under  
13 paragraph (d)(2) of this rule requests the opportunity to exercise  
14 rights under this paragraph, the court shall allow the person des-  
15 ignated under AS 12.55.172 to exercise those rights, or if a person  
16 has not been designated under AS 12.55.172, the court shall designate  
17 one person for purposes of exercising rights under this paragraph.

18 (d) In this rule,

19 (1) "crime against a person" has the meaning given in  
20 AS 33.30.901;

21 (2) "victim" has the meaning given in AS 12.55.185.

22 \* Sec. 29. APPLICABILITY. The provisions of this Act prescribing the  
23 rights of a crime victim and of a crime victim's relative or survivor  
24 during the course of criminal, civil, and administrative proceedings apply  
25 to proceedings against defendants initiated on or after the effective date  
26 of this Act.



Official Business

# Alaska State Legislature

~~By [Signature]~~

Pouch V  
State Capitol  
Juneau, Alaska 99811

Added  
3-5-5  
CC

CS HB 36 (Fin)

## LETTER OF INTENT FOR HB 36

It is the intent of the legislature that if a woman is made to miscarry as a result of a crime, that woman, if she survives, is the victim, and if she does not survive, the person designated under AS 12.55.185(11)(C) is the victim entitled to all protections under the Alaska Victims Rights Act.

Further it is the legislature's intent that if a child is born injured as a result of a crime committed against the child's mother while the child was in utero, that child is entitled to the same protections as any other victim under the Act.

Cheri Davis  
~~John [Signature]~~  
 Fritz Pelly  
 Robin L. Taylor  
 Mike Hill  
 Terry Mathis  
 Bill [Signature]  
 Bert Sharp

Steven A. Leman  
 Roll E. Pelly  
 Alyce [Signature]  
 Pamela [Signature]  
 [Signature]  
 W. G. [Signature]  
 Ronald L. [Signature]  
 Lynn Huff

*From Representative Donley*

# STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

STEVE COWPER, GOVERNOR

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

March 20, 1989

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

Dear Representative Donley:

You have asked whether "the parent, guardian or custodian of a prenatal child" would be granted statutory rights as a victim under the language of section 7, paragraph 11 of CSHB 36 (Finance), "if that prenatal child is harmed as a result of perpetration of an offense against the child's mother." The short answer to your question is yes, the parent, guardian or custodian of a "prenatal child" would fall within the existing statutory definition.

As you know, CSHB 36 (Finance) is a bill that deals with the procedural rights of victims of crime, and provides a mechanism for victims to participate in the criminal justice process. The primary definition of victim is set out in the proposed AS 12.55.185(11)(A): "victim means a person against whom an offense has been perpetrated." Proposed AS 12.55.185(11)(B) and (C) define who has the statutory rights granted to victims if the actual victim is either a minor or has died. Of course, for anyone to qualify as a victim, a criminal offense under Title 11 or other statutory provisions must first have been committed.

Two situations may arise in which a "prenatal child" is involved. The first is where an assault on a woman terminates a pregnancy. In this case, the woman would be the actual victim and so would directly receive the procedural rights granted under the proposed legislation. If the woman also died, the procedural rights would go to her survivors. The person with whom the woman lived in a spousal relationship, and presumably the father of the child, would be granted primary rights as a victim under the statute.

The second situation presented is where an assault on a mother does not terminate a pregnancy, but causes an injury to the child that is discovered after birth. To the extent that such an assault constitutes a crime against the child under Title 11, the

The Honorable Dave Donley

March 20, 1989

Page 2

child's parent, guardian, or custodian would be granted full procedural rights set out in CSHB36 (Finance) under the proposed AS 12.55.185(11)(B)(ii).

As currently drafted, the Martin amendment to CSHB 36 (Finance) offered on the floor of the House on March 17, 1989, appears to apply only to the second situation addressed above. We reach this conclusion based on the reference to "parent, guardian or custodian," (since it is unlikely that a "prenatal child" would have a guardian or custodian) as well as on the use of the word "harmed" (which implies a live birth). As such, the Martin amendment appears to be an unnecessary duplication of the language of AS 12.55.185(11)(B)(ii) which applies when the victim is a minor and which grants rights to the minor's "parent, ... guardian, or custodian." Even if the Martin amendment were interpreted to apply in the situation where an assault on the mother terminates a pregnancy, the effect of the Martin amendment is simply to duplicate the language of the proposed AS 12.55.185(11)(A).

We hope that your legal questions about this issue have been answered. If not, feel free to contact us at any time for additional information.

Very truly yours,

DOUGLAS B. BAILY  
ATTORNEY GENERAL

By: 

Laurie H. Otto  
Assistant Attorney General

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to victims of  
crime."  
Sponsor: Reprs. Donley, Gruenberg  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: Administration & Support  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	109.6	109.6	109.6	109.6	109.6	109.6
TRAVEL	3.4	3.4	3.4	3.4	3.4	3.4
CONTRACTUAL	6.3	6.3	6.3	6.3	6.3	6.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	119.3	119.3	119.3	119.3	119.3	119.3

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	119.3	119.3	119.3	119.3	119.3	119.3
FEDERAL FUNDS						
OTHER						
TOTAL	119.3	119.3	119.3	119.3	119.3	119.3

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached.

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

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

Phone: 465-3376  
Date: 1-18-89

Approved by Commissioner: \_\_\_\_\_  
Agency: Corrections

Date: 1-18-89

Distribution (by preparer):

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

## FISCAL NOTE

Page 2

The Department of Corrections would experience fiscal impact due to longer parole hearings that would be necessary. The increases are in per diem and daily fees paid to board members and overtime for correctional officers providing security. (Sec. 13)

Additional costs will be required to accomplish the service of process on prisoners (Sec. 2) and to accomplish notifying victims of motions to reduce sentences (Sec. 3). This fiscal note proposes to set up a centralized victims' right unit consisting of two experienced probation officers. (\$54.0 X 2 = \$108.0)

Sec. 13. Per Diem	+ 3.4
Board Member Compensation	- 6.3
Correctional Officer OT	+ <u>1.6</u>
	\$ 11.3
Sec. 2 & Sec. 8. 2 Probation Officers	\$108.0

FISCAL NOTE

REQUEST:

Revision Date: February 16, 1989 Agency Affected: Department of Law  
 Title: "An Act relating to the rights, entitlements...due to the victims of crimes..." BRU: Prosecution  
 Sponsor: House Judiciary Components: Third Judicial District  
 Requestor: House Judiciary Fourth Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		144.4	144.4	144.4	144.4	144.4
TRAVEL		5.6	7.0	9.1	12.6	9.8
CONTRACTUAL		46.6	47.5	55.9	69.3	59.3
SUPPLIES		10.0	7.6	8.2	8.8	8.8
EQUIPMENT		31.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	238.1	206.5	217.6	235.1	222.3

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	238.1	206.5	217.6	235.1	222.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	4.0	4.0	4.0	4.0	4.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: February 16, 1989  
 Approved by Commissioner: Richard I. Pegues / FOR  
Douglas B. Bailly, Atty. Gen. Date: February 16, 1989  
 Agency: Department of Law

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- Legislative Finance
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- Impacted Agency(ies)

## CONTINUATION of FISCAL NOTE ANALYSIS

No. 1

For Bill/Resolution No. CSHB 36(Jud)CSHB 36 (JUD)  
HOUSE 2/17/89

The committee substitute for HB 36 makes changes to the bill, requiring revision of the Department of Law's fiscal note, which was originally submitted on November 10, 1988.

Section 9 of the bill adds a new subsection to AS 12.61 that requires that upon request of the victim of a felony, or a domestic violence assault, the prosecuting attorney shall: (1) confer with the victim about the victim's testimony before the trial of the defendant; (2) give prompt actual notice to the victim of the defendant's conviction and the crimes of which the defendant was convicted, including advising the victim of his or her right to make a written or oral statement for use in preparation of the defendant's presentence report, and including advising the victim of his or her right to appear personally at the defendant's sentencing hearing to present a written or oral statement, and advising of the address and telephone number of the office that will prepare the presentence report, advising of the time and place of the sentencing proceeding, and advising of the types of information that a victim may include in a statement a victim provides for a presentence report or a sentencing hearing.

This section would also require that the prosecuting attorney notify the victim in writing of the final disposition of the case within 30 days after final disposition of the case. It appears that notification of final disposition would be required at both the trial and appellate levels. Similarly, a preceding section grants the right to victims to be informed by the prosecuting attorney at any time after the defendant's conviction of the record of all the defendant's convictions.

Currently, about 18,000 new criminal matters are referred to the department's criminal division each year. It is estimated that of this number, about 2,000 are felony cases covered by this bill. Furthermore, many felony cases have multiple victims. Although the department does not keep separate statistics for misdemeanor domestic violence assaults, it is believed that there are about 300 of these offenses, each year. Consequently, this bill has the potential for generating a substantial body of new work at all of the department's prosecution offices. Most of this required work would be handled by paralegals and legal secretaries. The requirement for prosecutors to confer with victims before the trial of the defendant in felony and domestic violence assault cases, is generally already being met.

The majority of the new work, however, will occur at Anchorage and Fairbanks because of the higher number of covered crimes at those locations. It will therefore be necessary to add a legal secretary at both Anchorage and Fairbanks to handle the additional workload that will be caused by this section of the bill, at a start up cost of \$95,300, and recurring annual costs of \$80,600, thereafter.

Section 24 of the bill would amend AS 44.23.020(b) to establish and maintain an assistance program, within the Department of

## CONTINUATION of FISCAL NOTE ANALYSIS

No. 1

For Bill/Resolution No. CSHB 36(Jud)CSHB.36 (JUD)  
HOUSE 2/17/89

Law, to ensure that crime victims receive information about the rights, entitlements, and services that are provided by law. It is anticipated that the department would employ a full-time senior paraprofessional, together with a full-time clerk typist, to develop and operate a citizen volunteer victim assistance program. The paraprofessional would be responsible for recruiting, organizing, and guiding volunteers throughout the state to provide information and assistance to victims of crimes.

During the first year, staff work will be devoted to developing and establishing the program at five locations having superior courts. Initially, volunteers will be recruited and trained at Anchorage, Bethel, Fairbanks, Juneau and Nome. Each year thereafter, three or more new sites will be added, until volunteer groups are established in all 15 locations where felony trials are regularly held. Fiscal note costs for the volunteer program include 5.0 for start up training at each location, except for Anchorage where 10.0 will be required. Annual recurrent training will cost 2.5 for each site. Travel costs include two onsite visitations by the victim assistance coordinator during the first year's operation at each site, dropping to one onsite visitation per location, after the first year. Other costs include printing, mailing, communications, and word processing. This is an important element because of the necessity to keep volunteers fully updated and informed. Costs will be about 0.5 per location. In addition to the efforts the department makes, the success or failure of the volunteer program will be determined, in large part, by the efforts of individual volunteers. Although the department cannot assure the success of a volunteer program, it will certainly attempt to accomplish this goal. It should also be pointed out that the state will be financially liable for any claims that result from the operation of a state sponsored volunteer assistance program. Lastly, the estimated annual operating cost for the volunteer assistance program will be \$142,800.

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1

For Bill/Resolution No. \_\_\_\_\_

CSHB 36 (JUD)  
HOUSE 2/17/89

Fiscal Summary - CSHB 36

	<u>Prosecutor Responsibilities</u>		<u>Volunteer Programs</u>		<u>TOTAL</u>
	<u>Leg Sec I(Anc)</u>	<u>Leg Sec I(Fai)</u>	<u>Assoc Atty. I(Anc)</u>	<u>Clerk Typist(Anc)</u>	
Per Svcs	32.3	34.2	48.0	29.9	144.4
Travel	-0-	-0-	5.6	-0-	5.6
Contractual	4.1	4.1	35.1	3.3	46.6
Supplies	1.8	1.8	3.7	2.7	10.0
Equipment	8.5	8.5	6.0	8.5	31.5
TOTAL	46.7	48.6	98.4	44.4	238.1

Position Title <b>Legal Secretary I</b>		No. of Positions 1	Range/Step 10B	Org. Unit GGU	
Time Status PFT	Staff Months 12	Location Anchorage		Election District 8/9/10/11/12/13	
Type of Expenditure		Justification			
		<p>This full-time position is needed to provide for the victim notification and liaison requirements of the proposed victims' rights bill. The granting of rights to victims to be informed of the dates of all criminal proceedings involving the defendant relating to the case in which the victim is involved, to provide oral and written statements in respect to presentence reports, and notice of final disposition in several thousand criminal trials, will cause a substantial additional workload for the state's prosecution support staff.</p> <p>Allocation to the Legal Secretary I class is recommended because of the large amount of written notice to be handled, and the need to provide accurate, timely case scheduling and victim's rights information to victims.</p>			
Amount					
1	2				3
Salary	22,020				
Benefits	10,256				
Premium Pay					
Other					
Total Personal Services					32,276
Travel					-0-
Contractual					4,100
Commodities		1,800			
Equipment		8,500			
Other					
Total Cost		46,676			
Funding Source for Total Cost					
Federal Receipts	1002				
G. P. Match	1003				
General Fund	1004	46,676			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For  
New Position**

Agency Department of Law  
 DRU Prosecution  
 Component Third Judicial District

**FY 90**

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Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range/Step <b>10B</b>	Org. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Fairbanks</b>		Election District <b>19/20A/21</b>
Justification				
Type of Expenditure			Amount	
<b>1</b>	<b>2</b>	<b>3</b>		
Salary	23,628			
Benefits	10,615			
Premium Pay				
Other				
Total Personal Services		34,243		
Travel		-0-		
Contractual		4,100		
Commodities		1,800		
Equipment		8,500		
Other				
Total Cost		48,643		
Funding Source for Total Cost				
Federal Receipts	1002			
G. P. Match	1003			
General Fund	1004	48,643		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

This full-time position is needed to provide for the victim notification and liaison requirements of the proposed victims' rights bill. The granting of rights to victims to be informed of the dates of all criminal proceedings involving the defendant relating to the case in which the victim is involved, to provide oral and written statements in respect to presentence reports, and notice of final disposition in several thousand criminal trials, will cause a substantial additional workload for the state's prosecution support staff.

Allocation to the Legal Secretary I class is recommended because of the large amount of written notice to be handled, and the need to provide accurate, timely case scheduling and victim's rights information to victims.

**Request For  
New Position**

Agency Department of Law  
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No. 1  
 CSHB36(JUD):  
 HOUSE2/17/8

Position Title <b>Associate Attorney I</b>		No. of Position <b>1</b>	Range/Step <b>17A</b>	Barg. Unit <b>PY</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>8/9/10/11/12/13</b>
Type of Expenditure		Amount		
1	2	3		
Salary	34,920			
Benefits	13,045			
Premium Pay				
Other				
Total Personal Services		47,965		
Travel		5,600		
Contractual		35,100		
Commodities		3,700		
Equipment		6,000		
Other				
Total Cost		98,365		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	98,365		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Justification**  
This senior paraprofessional position is needed to coordinate and guide victim assistance volunteers throughout the state. Starting with five locations in FY 1990, the position will be responsible for recruiting volunteers who will provide information and assistance to victims of crime. The position will be responsible for establishing and developing the program on a statewide basis. Volunteer groups will eventually be located in 15 communities. The position will develop and maintain operating manuals and victims' rights information brochures and pamphlets.

**Request For  
New Position**

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Position Title <b>Clerk Typist III</b>		No. of Positions 1	Range/Step 8B	Org. Unit GGU	
Time Status PFT	Staff Months 12	Location Anchorage		Election District 8/9/10/11/12/13	
Type of Expenditure		Justification			
Amount		<p>This position is needed to handle typing, filing and communications for the volunteer victim assistance coordinator and the volunteers at various volunteer sites throughout the state. Timely updating and transmittal of operating, policy, and training guides is an ongoing process, which will be very important to the operation of a volunteer program. This position will be responsible for all of the clerical tasks associated with the program.</p>			
1	2				3
Salary	20,136				
Benefits	9,768				
Premium Pay					
Other					
Total Personal Services	29,904				
Travel	-0-				
Contractual	3,300				
Commodities	2,700				
Equipment	8,500				
Other					
Total Cost	44,404				
Funding Source for Total Cost					
Federal Receipts	1002				
G. P. Match	1003				
General Fund	1004	44,404			
I. A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For  
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