

**HB**

**57**

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER HB 57

SPONSOR Broaden definition of assault - Violent Crimes Comp. Bd.  
BILL TITLE Governor

DATE REFERRED 3-2-89

HEARING SCHEDULED 3-22-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED ~~Barbara Miklos~~ Nola Capp 3040  
*yes - will call victims who attended House meetings*

INTERESTED PARTIES CONTACTED

*yes* Nina Kinney Barbara Miklos, 4356

*yes* Cindy Smith Network Dom Violence  
586-3650

Hayden 4925

OTHER

# Floor Statement - HB 57

provided by Violent Crimes  
Compensation Board

AS 18.67, ESTABLISHING THE VIOLENT CRIMES COMPENSATION BOARD (VCCB), WAS ADOPTED BY THE STATE LEGISLATURE IN 1972. ITS PURPOSE WAS TO ALLEVIATE THE FINANCIAL HARDSHIPS CAUSED BY CRIME-RELATED MEDICAL EXPENSES OR LOSS OF INCOME SUSTAINED BY INNOCENT VICTIMS OF VIOLENT CRIMES IN ALASKA. SINCE ITS CREATION, THE VCCB HAS AWARDED COMPENSATION TO OVER 1,500 INNOCENT VICTIMS OF VIOLENT CRIMES (OR THEIR SURVIVORS).

PRESENT AS 18.67.101 LISTS THE TYPES OF CRIMES FOR WHICH THE VICTIM 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.

CSHB 57 (RULES) 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 ASSAULT, INCLUDING MOST DOMESTIC VIOLENCE CASES), OR THE MOST SERIOUS FIRST AND SECOND-DEGREE ASSAULTS.

# 246K

IN ADDITION TO BASIC FAIRNESS, THERE IS A FISCAL REASON TO ADOPT THIS BILL. 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 VCCB ESTIMATES THAT ABOUT 20 ADDITIONAL CLAIMS PER YEAR WILL BE APPROVED UNDER THE TERMS OF THIS BILL. AT AN ESTIMATED AMOUNT OF APPROXIMATELY \$1,000 PER CLAIM, THE FISCAL IMPACT OF THIS BILL IS LIKELY TO BE AROUND \$20,000 A YEAR.

HB 57 AUTHORIZING THE VIOLENT CRIMES COMPENSATION BOARD TO  
PAY COMPENSATION TO VICTIMS OF ASSAULT IN ANY DEGREE

TO TESTIFY

NOLA CAPP, ADMINISTRATOR, VIOLENT CRIMES COMPENSATION BOARD

NINA KINNEY, COUNCIL ON DOMESTIC VIOLENCE/SEXUAL ASSAULT

CINDY SMITH, NETWORK ON DOMESTIC VIOLENCE

OTHERS (SEE WITNESS LIST)

F.Y.I.

46 STATES HAVE SIMILAR PROGRAMS. PRIMARY DIFFERENCE IS THAT  
THEY'RE FUNDED BY PAYMENT OF FINES. ALASKA IS ONE OF ONLY THREE  
STATES THAT USES GENERAL FUNDS -- THIS IS BECAUSE OF OUR  
CONSTITUTIONAL PROHIBITION AGAINST DEDICATED FUNDS. THE BOARD IS  
AUTHORIZED IN STATUTE TO SEEK RESTITUTION FROM OFFENDERS -- DO  
THEY? MONEY WOULD HAVE TO BE DEPOSITED IN GENERAL FUND, BUT IT  
COULD STILL BE AN OFFSET.

LAST YEAR REP. BARNES AMENDED AS 43.23.005 - P.F.D. ELIBIGILITY.  
FELONS NOT ELIGIBLE -- I UNDERSTAND THIS IS BEING CHALLENGED IN  
COURT. HOWEVER, COWPER'S FY 90 BUDGET SHOWS P.F.D.s AS THE  
FUNDING SOURCE FOR THE \$201.5 INCREMENT.

FISCAL NOTE REQUESTS ADDITIONAL \$20.0 FOR BROADENING ELIGIBILITY.  
IF FUNDING INADEQUATE TO SATISFY ALL CLAIMS, BOARD CAN PRORATE  
AWARDS OR HOLD IN ABEYANCE. BOARD MEETS 4 TIMES A YEAR AND  
DECIDES AWARDS ON A CASE BY CASE BASIS.

1988 REAUTHORIZATION OF THE FEDERAL ACT ADDED 3 REQUIREMENTS:

- 1 COMPENSATION FOR VICTIMS OF DRUNK DRIVERS (WE ALREADY DO)
- 2 FOR VICTIMS OF DOMESTIC VIOLENCE (HB 57)
- 3 COMPENSATE ALASKANS HURT IN ANOTHER STATE IF THAT STATE  
DOESN'T HAVE A COMPENSATION PROGRAM (ONLY 4 SUCH STATES;  
SHOULDN'T BE A BIG DEAL)

PACKET CONTAINS STATUTORY DEFINITION OF DEGREES OF ASSAULT,  
GOVERNOR'S FY 90 BUDGET REQUEST AND FY 89 SUPPLEMENTAL REQUEST.  
(HOUSE FINANCE DELETED THE SUPPLEMENTAL)

MAXIMUM AWARD ALLOWABLE (PER STATUTE) \$25,000 PER VICTIM, EXCEPT  
\$40,000 IN CASE OF DEATH OF VICTIM WITH MANY ELIGIBLE DEPENDENTS.

FEDERAL LAW (THAT MATCHES 35% OF OUR PAYMENTS) IN EFFECT SINCE  
1984.

THE COUNCIL IS IN THE DEPT. OF PUBLIC SAFETY.

*Same as Kerthula's SB 113 (still in our committee; never heard).*

# Alaska State Legislature



Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman  
Sen. Al Adams  
Sen. Tim Kelly  
Sen. Rick Uehling

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot, Chairman  
RE: March 22 Committee Hearing  
DATE: March 21, 1989

On Wednesday, March 22 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 28. An Act prohibiting salaries for certain employees from exceeding the governor's salary

SB 28 would prohibit state employees' salaries, including cost-of-living adjustments, geographical differentials, longevity increments, and bonuses from exceeding the governor's salary. The prohibition would apply to the executive, legislative, and judicial branches and to the University, school districts and political subdivisions.

The prohibition would also apply to the Alaska Railroad Corporation, boards, commissions, authorities, and recipients of state grants if they receive at least 50% of their annual budget from the state.

The governor's salary is statute at \$81,648.

SB 111, An Act relating to boating safety, boating accidents, and boat numbering

SB 111 would require the Department of Public Safety to establish a boat registration system and to offer public education programs designed to reduce boating accidents. By doing so, the state would be eligible for \$250,000 to \$300,000 annually in federal boating safety funds, to be matched dollar for dollar with state funds. To be eligible for the federal funds, the department must provide an adequate level of enforcement of boating safety laws.

SB 111 was heard by the committee on March 6. The department was asked to review the projected cost of the program and the ability

of boat registration fees to cover program costs. A revised fiscal note will be presented at the hearing.

The attached committee substitute makes the following changes:

- Changes the penalty for a violation of the boating safety requirements from a misdemeanor (maximum \$500 fine, 6 month imprisonment) to an infraction (maximum \$300 fine). The fine could be paid without a court appearance.
- Increases from \$200 to \$500 the amount of property damage that would need to occur before an accident must be reported. This change conforms SB 111 to federal law.
- Clarifies, at the U.S. Coast Guard's request, the numbering system that would be used in registering boats.
- Deletes, at the department's request, a provision for prorating registration fees. The fee structure would be established by regulation.

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

HB 57 would broaden the eligibility for compensation for violent crimes to include assault in any degree, rather than only first and second degree as under current statute. This would bring Alaska into compliance with the 1988 reauthorization of the Federal Victims of Crime Act, which requires that states provide compensation to victims of domestic violence (4th degree assault). The federal act provides funds in an amount equal to 35% of what the state pays in compensation to victims.

The Violent Crimes Compensation Board was established in 1972 to alleviate the financial hardships of medical expenses or loss of income sustained by innocent victims of violent crimes. The board consists of three members appointed by the Governor.

HB 57 has a \$20,000 fiscal note. In FY 89 the board received \$399,900 in state funds; the Governor has requested \$198,500 in supplemental funding. The Governor's FY 90 budget requests \$604,600 in state funds, including \$201,500 of Permanent Fund dividends not paid to convicted felons (per AS 43.23.005). In FY 88 the board awarded \$504,489 to victims; \$392,500 was state funds.

# Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Falks, Vice Chairman  
Sen. Al Adams  
Sen. Tim Kelly  
Sen. Rick Uehling



P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot, Chairman  
RE: Permanent Fund Dividends for Felons  
DATE: April 8, 1989

During consideration of HB 57, relating to the Violent Crimes Compensation Board, reference was made to litigation over the provision in current statute (AS 43.23.005(d)) which prohibits convicted felons from receiving Permanent Fund Dividends. At the request of the committee, staff spoke with Marilyn May of the Attorney General's Office in Anchorage and received the following report.

Two lawsuits were filed in 1987. They are being tried in the Palmer court under Judge Cutler.

Smith v. State argues that the prohibition violates the ex post facto provision of the state and federal constitutions, which, simply put, protects against an act becoming a crime after it was committed. Smith argues that at the time he committed his crime, he didn't know that his action would result in not receiving the dividend.

Anthony v. State argues that the prohibition violates the constitutional provisions of equal protection (by treating felons differently than others similarly situated), due process (by enactment without input from felons), ex post facto, and Section 1983, which deals with civil rights.

Since these suits were filed, 15 other felons have joined Anthony v. State. A motion to establish a class action suit is pending before the court.

The plaintiffs were to have filed summary judgment with the court by April 1, 1989 with the state responding by May 1. However, an extension of the April filing deadline is currently before the court so it is hard to predict when a final decision might occur. Ms. May assumes early fall as the judge has indicated her desire to rule prior to the distribution of Permanent Fund Dividends in October. Ms. May thinks that the decision will be appealed regardless of who wins.

Felons' PFDs  
April 8, 1989  
Page 2

Smith has requested an injunction against state expenditure of the felons' PFDs prior to a ruling in the lawsuit. Ms. May thinks it unlikely that the court will grant an injunction. Should the state spend the PFDs and lose the lawsuit, the state will likely have to repay the felons.

The Governor's FY 90 budget proposes appropriation of an anticipated \$1.5 million in felons' PFDs. Each of the following proposals represents an increase to the FY 89 funding level:

201.0	Violent Crimes Compensation Board
1073.5	Dept. Corrections rehabilitation programs
200.0	vocational/postsecondary education
200.0	substance abuse treatment
123.5	sex offender treatment
150.0	anger management
400.0	forensic halfway house
225.0	Dept. Corrections gate money

Based on the number of incarcerated felons, the Department of Revenue estimated that their PFDs would total \$2 million. OMB chose to program only \$1.5 million, anticipating that not all felons would apply for the PFD and that not all who applied would be eligible. The Governor's budget reduction plan, presented to the Budget Summit on April 4, deleted the increments in the rehabilitation programs and used the PFD money to fund existing sex offender and alcohol treatment programs.

A copy of the law prohibiting felons from receiving Permanent Fund Dividends is attached. Section 5 contains legislative intent providing for an amount equal to the felons' PFDs to be annually appropriated from the dividend fund to the Violent Crimes Compensation Board.

cc: Senator Uehling  
    Senator Binkley  
    Senator Frank

## Chapter 53

for the interest deposited in  
The annual estimated balance  
the legislature to the public

ly under AS 01.10.070(c).

## Chapter 54

## AN ACT

Relating to permanent fund dividends for individuals  
incarcerated after conviction for a felony; and pro-  
viding for an effective date.

\* Section 1. AS 43.23.005 is amended by adding a new subsection to  
read:

(d) Notwithstanding the provisions of (a) - (c) of this section,  
an individual who has been convicted of a felony is not eligible for a  
permanent fund dividend for a year when, during all or part of the  
fiscal year ending June 30 of the current year, as a result of the  
conviction the individual is incarcerated. This subsection applies  
whether or not the individual has applied for the dividend.

43.23.005(d)

\* Sec. 2. AS 43.23.025 is amended by adding a new subsection to read:

(b) For the purpose of calculating the amount of a permanent  
fund dividend under (a) of this section, an individual who is ineli-  
gible to receive a dividend under AS 43.23.005(d) is counted as an  
eligible individual whether or not the individual has applied for the  
dividend.

43.23.025(b)

\* Sec. 3. AS 43.23.055 is amended to read:

Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

43.23.055

(1) annually pay permanent fund dividends from the dividend  
fund;

(2) adopt regulations under the Administrative Procedure  
Act (AS 44.62) that establish procedures and time limits for claiming

Chapter 54

a permanent fund dividend; the department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is determined by October 1 of the year for which the dividend is declared and permanent fund dividends for a year are paid before April 30 of the year following that year;

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual; [AND]

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends;

(5) annually determine, in cooperation with the Department of Corrections, the number and identity of individuals ineligible for a permanent fund dividend under AS 43.23.005(d); and

(6) adopt regulations that are necessary to implement AS 43.23.005(d).

\* Sec. 4. This Act applies only to eligibility for permanent fund dividends for years after 1988.

\* Sec. 5. It is the intent of the legislature that an amount approximately equal to the money that would otherwise be paid as permanent fund dividends to individuals determined to be ineligible under AS 43.23.005(d), as enacted by sec. 1 of this Act, be appropriated annually from the dividend fund to the crime victim compensation fund (AS 18.67.162) to carry out the purposes of AS 18.67.

\* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).  
CSHR 245(Jud)

Eff. 5/26/88

Relating to  
providing

\* Section 1. AS

(a) In p  
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participating e  
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be treated as an  
costs of establis  
established unde  
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SHALL BE PAID INT  
DEPARTMENT OF AI



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 Cowder

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						
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REVENUE						
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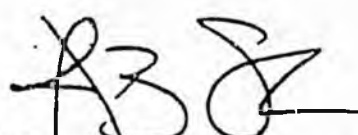
FUNDING: (Thousands of Dollars)

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  
Division: Public Defender Agency  
Phone: 279-7541  
Date: 10/25/88

Approved by Commissioner: John Andrews  
Agency: Department of Administration  
Date: \_\_\_\_\_

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						
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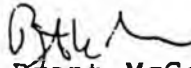
**FUNDING:** (Thousands of Dollars)

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:  Brent 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)

BILL NO: HB 57

DATE: January 18, 1989

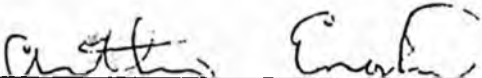
TITLE: An Act expanding  
eligibility for  
violent crimes  
compensation

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

RECEIVED  
FEB 1 1989  
DEPARTMENT OF  
PUBLIC SAFETY

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CS HB 57 (RULES)  
PUBLISH DATE: \_\_\_\_\_

REQUEST:

FISCAL NOTE

Revision Date: 03/23/89  
Title: EXPANDING ELIGIBILITY FOR  
VIOLENT CRIMES COMPENSATION  
Sponsor: HOUSE RULES  
Requestor: SENATE STATE AFFAIRS

Agency Affected: Public Safety  
BRU: VIOLENT CRIMES COMPENSATION  
BOARD

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						
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REVENUE						
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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.

To be eligible for federal funding, victims of fourth-degree assaults must be eligible for Violent Crimes Compensation by October of 1990. The Board received federal funds of \$246.0 in FY '88, is receiving \$149.0 in FY '89, and will receive \$144.0 in FY '90.

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

Phone: 465-3040  
Date: 03/23/89  
Date: 3-23-89

BILL NO: SB 113

DATE: 02/07/89

TITLE: An Act expanding eligibility for violent crimes compensation  
CONTACT: Nola K. Capp  
465-3040

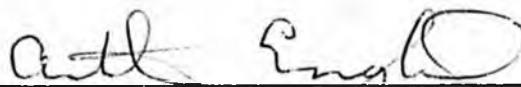
DEPARTMENT OF  
PUBLIC SAFETY

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 victim 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.



Arthur English  
Commissioner

RECEIVED  
FEB 10 1989  
DEPARTMENT OF  
PUBLIC SAFETY

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: SB 113  
PUBLISH DATE: \_\_\_\_\_

REQUEST: \_\_\_\_\_ FISCAL NOTE

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: EXPANDING ELIGIBILITY FOR BRU: VIOLENT CRIMES COMPENSATION  
VIOLENT CRIMES COMPENSATION BOARD  
Sponsor: KERTTULA  
Requestor: SENATE STATE AFFAIRS

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						
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REVENUE						
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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)

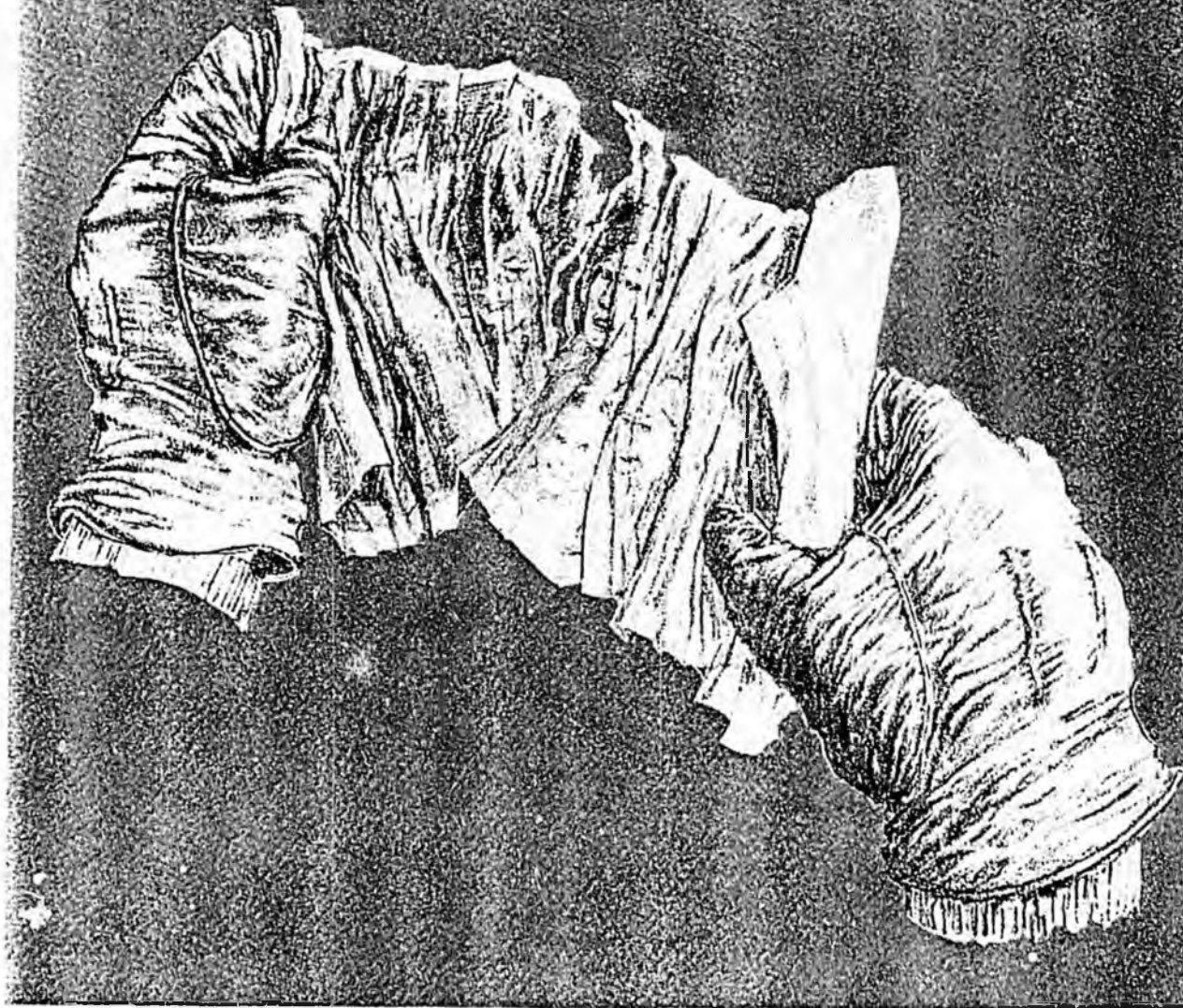
This bill amends AS 18.67.101 to allow victims of third and fourth-degree assaults to apply for violent crimes compensation. This change is expected to increase the number of eligible compensation claims by about 20 per year, at an average estimated cost of \$1,000.00 per claim.

Prepared by: Nola K. Capp, Administrator Phone: 465-3040  
Division: Violent Crimes Compensation Brd. Date: 02/07/89  
Approved by Commissioner: Arthur English Date: \_\_\_\_\_  
Agency: Department of Public Safety

JMK  
2/7/89

# VIOLENT CRIME

*Can Tear You Apart.*



## 15th Annual Report

State of Alaska

VIOLENT CRIMES COMPENSATION BOARD • 1988

STATE OF ALASKA  
VIOLENT CRIMES COMPENSATION BOARD  
FIFTEENTH ANNUAL REPORT

1988



MILLARD F. INGRAHAM  
CHAIRMAN

MRS. CAROL EASTAUGH  
MEMBER

JOHN H. SCHWARTZ, M.D.  
MEMBER

MRS. NOLA K. CAPP  
ADMINISTRATOR

# The Fifteenth Annual Report of the Violent Crimes Compensation Board

## AS 18.67.010 PURPOSE

*It is the purpose of this chapter to facilitate and permit the payment of compensation to innocent persons injured, to dependents of persons killed, and to certain other persons who by virtue of their relationship to the victim incur actual and reasonable expenses as a result of certain serious crimes or in attempts to prevent the commission of a crime or to apprehend suspected criminals.*

## General Information

Alaska Statute 18.67, establishing a Violent Crimes Compensation Board, was adopted by the State Legislature in 1972. Its purpose was to alleviate the financial hardships caused by crime-related medical expenses or loss of income sustained by innocent victims of violent crimes in Alaska. Additionally, it provides for the payment of pecuniary loss to dependents of deceased victims to mitigate the loss of a loved one.

The need for this legislation is reflected in the fact that almost daily there is a report of some act of violence against a person in this state. If the offender is apprehended, the concern for his dignity and rights as an accused are not forgotten and, after his imprisonment the concern continues as to rehabilitation and training programs. The efforts are praiseworthy, however, the problems and needs of the victim are overlooked. To address this need, the Violent Crimes Compensation Board was established.

The Board is appointed by the Governor and consists of three members who are compensated on a per diem basis for meetings only. It is mandatory to have a licensed medical doctor and an attorney on the Board, thus providing the expertise in these fields necessary to determine claims.

The original statute provided a maximum payment of \$10,000 and other collateral source receipts were required to be deducted from any award the Board determined. Other collateral receipts were defined as life insurance payments, medical and hospital insurance, VA benefits, Social Security, and Workmen's Compensation, to mention just a few. Due to this restriction, many needy victims received only a partial award, or in some cases, no award because they had already received benefits in excess of the \$10,000. The Ninth Legislature recognized the inadequacy in this area of the statute and remedied it through an amendment permitting the payment of expenses or losses over and above the amount received from other sources to the maximum allowable under the amendment, and exempted consideration of life insurance proceeds.

The first amendment further provides for the increase in the maximum award allowable per victim per incident to \$25,000; however, in the case of death of a victim who has numerous eligible dependents, the maximum allowable is \$40,000. The Board feels the increase in the maximums is compatible with today's increased medical expenses, increased earnings and the general increase in the cost of daily living.

The additional compensation for multiple dependents of deceased victims is most commendable. In the majority of claims involving minor dependents, the Board suggests that, if necessary, the award be used for support and maintenance or any medical emergencies that might arise, but the primary purpose of the award is for future education and, if not so used, that it be given to each child upon reaching the age of majority.

Modifications included in the first amendment:

- (a) Attorney fees to be paid in addition to an award rather than deducted from the award;
- (b) An increase in the Emergency Award from \$500 to \$1,500;
- (c) Exemption of life insurance proceeds received by the survivors of deceased victims;

- (d) Compulsory display of information by hospitals and law enforcement agencies;
- (e) Law enforcement agencies required to advise victims of the availability of compensation;
- (f) Reimbursement of expenses incurred because of the death of the victim, to persons who were responsible for the victim's support;
- (g) The Board was given the discretion of making or denying an award without a hearing on the claim, but allowing the claimants the right to request a hearing if they disagree with the determination.

Modifications included in the second amendment, which was enacted in Fiscal Year 1979:

- (a) The Violent Crimes Compensation Board was transferred from the Department of Health and Social Services to the Department of Public Safety. This has allowed the Board to have access to the original police reports, and law enforcement agencies have become more familiar with the program;
- (b) A new section was added which prevents convicted criminals from profiting from the sale of books, magazine articles, movie, radio or television presentations, live entertainment of any kind, or any expression of that person's thoughts, feelings, opinions or emotions regarding the crime. The profits from such sales go to the victim through an escrow account set up by the Board. This is commonly referred to as the "Son of Sam" law.

Modifications included in the third amendment, which was also enacted in Fiscal Year 1979:

- (a) Adds Aggravated Assault as a compensable crime under Section AS 18.67.100.

The Thirteenth Legislature recognized there were several classes of victims not included in the statute or who had previously been excluded which should be compensated and enacted legislation to correct these inadequacies. This bill was signed by the Governor and became effective October 23, 1983.

The class of victims has been expanded to include victims of drunk drivers. This has expanded the program and dramatically increased the number of claims.

The other two classes now recognized, that were previously excluded, are victims who are related to the offender and victims living with the offender at the time of the incident.

The Legislature, to prevent abuse of the program, inserted a paragraph stating in the discretion of the Board, the applicant must cooperate with law enforcement and prosecution officials to further prosecution of the offender if appropriate and to avoid further injury by the offender to the applicant and injury to persons in the care of the applicant who are exposed to possible injury by the offender.

This law allows the Board to make direct payments to the providers. Prior to this, the Board had to make any payments to the providers in a joint warrant which was cumbersome to the claimant and the provider.

Another major change in the statute was the deletion of the sentence that all payments shall be made in a lump sum. Because that was deleted, it is now possible for the Board to pro-rate the payments in the few cases where they feel it is advisable.

A paragraph was added creating a compensation fund which shall be administered by the Board, consisting of money appropriated to it by the legislature. It is unknown at this time, how this fund will function.

## **Processing of Claims**

Upon receipt of a claim, it is necessary to initially determine minimal eligibility. Therefore, compliance with the following statutory requirements must be in evidence within the claim application:

- (a) A crime, as defined in Section AS 18.67.100, must have been committed.
- (b) The crime must have been reported to proper authorities within the time period designated in Section AS 18.67.130.
- (c) The claim must have been filed within the two-year limit set by the law in Section AS 18.67.130.

If the claim does not meet the above standards, it is determined to be ineligible and the claimant is so notified.

When the claim meets these initial tests, it is then necessary to:

- (a) acknowledge receipt of the claim and request any additional documentation which the claimant did not attach, such as doctor's reports, hospital reports, and employment information, and advise the claimant that such material must be received prior to any action on the claim;
- (b) check with the respective District Attorney's office to determine if proceedings against the offender are imminent and, if so, to determine the advisability of a request to suspend the Violent Crimes Compensation Board investigation until the case is adjudicated; request copies of the judgment;
- (c) obtain a detailed description of the incident from police records to determine if any provocation by the victim is indicated and, if so, to contact any witnesses to the incident for their statements. (If the offender has been prosecuted, a review of the transcript of the trial might be advisable);
- (d) verify the victim's relationship, if any, to the alleged offender;
- (e) verify the dependence of the claimant in the case of death of the victim, to determine eligibility; and finally, to
- (f) consider other collateral sources reported as received by the claimant as a result of the incident; for example, Workers' Compensation, Social Security, private insurance, etc.

Upon receipt of the requested information, further investigation is necessary to verify:

- (a) the employment of the victim and/or the claimant;
- (b) the income reported and documentation, if the victim is/was self-employed;
- (c) hospital and doctor bills which were paid by insurance and their relevance to the claim;
- (d) that a crime as defined in Section AS 18.67.100 is the basis for the claim and the application is an innocent victim thereof.

When the Administrator certifies the claim complete, the file is copied and submitted to the Board for their review and recommendations. They in turn may:

- (a) find the claim cannot be determined due to lack of documentation or information which the Board feels necessary to make a decision;
- (b) find the claim eligible under the statute for the award requested and advise a warrant be issued;
- (c) find the claim eligible under the statute for a lesser amount than requested and advise the claimant be so notified indicating he or she may request a hearing;
- (d) find the claim cannot be determined due to conflicting data therein and advise that a hearing is required prior to a final decision;
- (e) find the claim ineligible under the statute and advise the claimant be so notified, indicating he or she may request a hearing.

Upon being informed of the Board's actions, the Administrator carries out their request through:

- (a) making the additional contacts in order to obtain further documentation;
- (b) requesting a warrant, if an award is determined, in the amount specified, or upon the Board's recommendation, if outstanding balances are due to a hospital, doctor or other service agency as a result of the incident;
- (c) writing a letter to the claimant enclosing the warrant and explaining the Board's decision, noting the claimant's right to request a hearing in the event the award granted is less than acceptable to the claimant;
- (d) scheduling a hearing if the Board finds conflicting data in a claim or is in doubt about any part of the claim;
- (e) notifying the claimant by letter if the claim is found ineligible, stating the reason for ineligibility and advising the claimant of the opportunity to request a hearing. The request for a hearing is to be received in the Board office with thirty (30) days.

In order to schedule a hearing, the volunteer hearing officer is contacted to establish a date at his or her convenience. Arrangements are made and all parties are notified of the date and location of the hearing twenty (20) days prior to the date set. Subpoenas are issued if witness testimony is necessary to establish eligibility, or to clear up any contradictions.

Within seven (7) days after the hearing, the Administrator furnishes the hearing officer with a transcript of the hearing and he or she has a reasonable time (within thirty (30) days) to submit his or her findings and conclusions to the Board. The Board reviews the hearing officer's report and makes a final decision on the claim.

The Board is subrogated to the cause of action of the applicant against the person responsible for the injury or death of the victim and can also bring an action against the offender for the amount of the damages sustained to the applicant. The Board encourages claimants to institute civil proceedings where, if after an investigation, it appears there may be a chance of recovery; however very few recoveries are made due to the financial position of most offenders.

Few claims are received that can be immediately determined as eligible. Many perplexing situations have to be considered by the Board in arriving at their decision, for example: Should a person who has sustained permanent disability through a criminal incident in which he bears some of the responsibility of provocation be considered for an award? Did the actual provocation warrant the final result of permanent disability? This is just one of the problems encountered by the Board.

It is not difficult to reach an immediate decision as to eligibility on a claim where a widow and her children have lost their main support through an entirely innocent set of circumstances, but the amount of the award to be given poses a problem. All factors must be considered to be certain the award will be helpful in maintaining an adequate living standard as a supplement to receipts from other sources. The Board must always bear in mind the appropriation available and the cost to the State, but if the program is to fulfill its objectives, compensation must be more than nominal.

The Board soon realized it would be unfair, as well as very costly, to reimburse for actual wages lost, therefore a set of Standards of Compensation was developed. The standards are based on a percentage of the rates established under Worker's Compensation, applicable to permanent partial, temporary partial, or total disability. Reimbursement for loss of wages is based on a percentage of the average weekly wage in Alaska as established periodically by the Department of Labor.

<b>TYPES OF CRIMES</b>													
Number of Claims Filed													
Fiscal Year	76	77	78	79	80	81	82	83	84	85	86	87	88
Homicide	14	31	23	13	25	28	25	44	58	44	53	53	29
ADW Stabbing	7	14	5	6	5	7	15	13	10	14	15	15	5
ADW Shooting	5	5	16	7	14	20	13	16	12	23	20	17	10
Armed Robbery	0	1	2	3	5	0	0	1	1	1	2	0	0
Other Assaults	34	30	38	29	29	31	49	43	44	68	57	53	37
Sexual Assault*	5	9	9	12	18	22	21	33	51	91	98	90	63
No Evidence of a Crime	3	3	7	0	3	0	2	1	2	11	3	4	1
Hit & Run	0	0	0	0	0	3	4	0	3	1	14	0	3
D.W.I.									38	30	30	19	14

\*66 of the 90 claims were sexual abuse of minors in FY87.

42 of the 63 claims were sexual abuse of minors in FY88.

Note: The foregoing chart merely indicates the trend in crime by the applications filed. It is difficult to compare and relate claims against crimes as claimants have two years to file claims and our statistics are on a fiscal year basis, while crime figures are on a calendar year basis.

## Claims and Awards

FY	Claims Received	Claims Heard	Total Amount Awards Granted	Pending Claims At End of FY
73	15	0	\$ 0	13
74	50	37	36,025.60	38
75	71	51	125,266.20	44
76	68	82	272,948.29	8
77	93	81	120,968.07	28
78	100	99	285,672.63	33
79	70	95	225,638.82	18
80	98	93	249,968.06	17
81	111	93	237,100.00	31
82	129	132	415,685.30	29
83	159	165	464,932.71	36
84	219	168	552,704.71	67
85	283	270	751,250.85	57
86	292	272	683,521.96	103
87	252	259	633,481.89	126
88	162	234	504,488.93	78

The Legislature approved a supplemental appropriation of \$75,000 for awards in FY78. The original FY78 appropriation was \$250,000. The Legislature approved a supplemental appropriation of \$248,600 for awards in FY82. The original FY82 appropriation was \$243,300. An additional \$200,000 was approved by the Legislature in FY83. In FY84, \$287,000 was allocated due to the enactment of the amended statute. In FY85, the Legislature approved a supplemental appropriation of \$300,000. In FY86, \$55,500 of the federal appropriation was expended plus \$64,310.41 of FY85 incumbered funds.

### Public Awareness

The Board has stressed publicity of the program through the continued distribution of brochures and posters throughout the state. With the additional requirement placed on law enforcement agencies to alert victims of crimes to the program and the requirement that hospitals display information, it is anticipated victims of violent crimes will become aware of this program. Printed cards, the size of business cards, giving information and basic eligibility requirements were distributed to all law enforcement agencies (both State Troopers and municipal police) and magistrates to be given to victims of violent crimes.

The Board will continue to inform the public, setting as their goal statewide awareness of the program. New posters and brochures were printed and distributed to reflect the expanded classes of victims.

### Acknowledgements

In the past year, the Board has enjoyed the help and support of many individuals and agencies.

To make a final determination on any claim, the direct help of the law enforcement agency is vital and the Board has had excellent cooperation from the many municipal police departments throughout the state, and

Special recognition is given to State Troopers in Anchorage and Fairbanks, and  
units of these two cities, as the majority of claims originate in these areas.

Special thanks to the Social Service Directors of Providence Hospital, Humana Hospital,  
Hospital who have referred victims to the program and have, in many instances,  
facilitated the application. They have been most accommodating in responding to  
and following those requests through the various departments to insure they

are available to the Attorney General's and District Attorney's offices throughout the state,  
informing innocent victims of the program and in responding to the Board's  
request for information and basic information necessary to make final determinations on

the services of the attorneys who have served as hearing officers on a

part-time basis. The Board would be required to hold the hearings as, thus  
cannot support the engagement of attorneys on their regular fee basis.

Special thanks to the State and Federal, as well as individuals who have given their time  
in helping victims of crime and helping to publicize the program. The Board,  
expresses their appreciation to them.

The Board passed the Victims of Crime Act of 1984 in October of 1984. This federal  
act was signed on November 12, 1984, and establishes a Crime Victims Fund which will provide  
for federal victim assistance programs.

Each year, the amount of federal grant monies available will be determined by a  
percentage of the amount of monies paid out for awards the prior fiscal year.

The compensation program has qualified for grants in the amounts of \$283,000,  
of which a portion has been used to satisfy claims for compensation submitted by victims

the Alaska State Troopers. Special recognition is given to State Troopers in Anchorage and Fairbanks, and the municipal police departments of these two cities, as the majority of claims originate in these areas.

Special recognition is also given to the Social Service Directors of Providence Hospital, Humana Hospital, and the Fairbanks Memorial Hospital who have referred victims to the program and have, in many instances, aided the victim in completing the application. They have been most accommodating in responding to requests for medical records, and following those requests through the various departments to insure they are sent to the Board office.

The Department of Law, through the Attorney General's and District Attorney's offices throughout the state, has been most cooperative in informing innocent victims of the program and in responding to the Board's many requests for legal interpretation and basic information necessary to make final determinations on claims.

Further, the Board recognizes the services of the attorneys who have served as hearing officers on a voluntary basis.

Without their help the program would be hindered. The Board would be required to hold the hearings as, thus far, the appropriation level does not support the engagement of attorneys on their regular fee basis.

There are numerous other agencies, both State and Federal, as well as individuals who have given their time and support to the Board, informing victims of crime and helping to publicize the program. The Board, through this report, expresses their appreciation to them.

## **Federal Legislation**

The United States Congress passed the Victims of Crime Act of 1984 in October of 1984. This federal legislation became effective November 12, 1984, and establishes a Crime Victims Fund which will provide for crime victim compensation and victim assistance programs.

For victim compensation programs, the amount of federal grant monies available will be determined by a formula based on 35 percent of the amount of monies paid out for awards the prior fiscal year.

As a result of this Act, the Alaska compensation program has qualified for grants in the amounts of \$283,000, \$246,000 and \$143,000. This amount has been used to satisfy claims for compensation submitted by victims of crime.

# Gov's Supplemental FY 89

1 fund to the Department of Labor, workers' compensation program, to pay for  
2 unmet costs associated with lump-sum settlements for the fiscal year ending  
3 June 30, 1989.

4 \* Sec. 27. The sum of \$53,700 is appropriated from the general fund to  
5 the Department of Military and Veterans' Affairs for additional costs of  
6 the veterans' burial allowance program for the fiscal year ending June 30,  
7 1989.

8 \* Sec. 28. The sum of \$3,557 is appropriated from the general fund to  
9 the Department of Military and Veterans' Affairs for additional utility  
10 costs for the fiscal year ending June 30, 1988.

11 \* Sec. 29. The sum of \$50,000 is appropriated from the general fund to  
12 the Department of Natural Resources, division of land and water management,  
13 to conduct land and timber appraisals needed to complete the Kachemak Bay  
14 land exchange for the fiscal year ending June 30, 1989.

15 \* Sec. 30. The sum of \$20,000 is appropriated from the general fund to  
16 the Department of Natural Resources, division of parks and outdoor recre-  
17 ation, for legal services in the Blanas Investments, Inc., claim for the  
18 fiscal year ending June 30, 1989.

19 \* Sec. 31. The sum of \$16,624 is appropriated from the general fund to  
20 the Department of Natural Resources for miscellaneous fiscal year 1988  
21 overexpenditures.

22 \* Sec. 32. The sum of \$300,000 is appropriated from the general fund to  
23 the Department of Fish and Game, division of administration, for the cost  
24 of administering the fish and game licensing program for the fiscal year  
25 ending June 30, 1989.

26 \* Sec. 33. The sum of \$198,500 is appropriated from the general fund to  
27 the Department of Public Safety, violent crimes compensation board, for  
28 payment of claims for the fiscal year ending June 30, 1989.

29 \* Sec. 34. The sum of \$85,000 is appropriated from the general fund to

*deleted by  
H Finance*

AGENCY: DEPARTMENT OF PUBLIC SAFETY  
 CATEGORY: ADMINISTRATION OF JUSTICE

PROGRAM: VIOLENT CRIMES COMP BOARD  
 SUB-PROGRAM:

LEG. FIN.

FISCAL YEAR 1990

EXPENDITURES & FUNDING	(01) FY88 ACT	(02) FY89 CC	(03) COL 03	(24) FY89 ATH	(25) FY90BASE	(26) FY90ADJB	(27) FY90 AGY	(28) FY90 GOV	(09) HOUSE	(10) SENATE	(11) C. C.	(12) BILLS	(13) LEG.REC.
01 PERS. SERV.	105.0	104.9		104.9	108.1	108.1	112.1	112.1					
02 TRAVEL	10.8	15.7		15.7	15.7	15.7	15.7	15.7					
03 CONTRACTUAL	17.4	20.1		20.1	20.1	20.1	20.1	20.1					
04 COMMODITIES	.8	.7		.7	.7	.7	.7	.7					
05 EQUIPMENT													
06 LANDS/BLDGS													
07 GRANTS, CLMS	504.5	407.5		407.5	407.5	407.5	600.0	600.0					
08 MISC.													
** TOTAL EXPEND	638.5	548.9		548.9	552.1	552.1	748.6	748.6					
09 I-A TRANSFER													
1002 FED RCPTS	246.0	149.0		149.0	149.0	149.0	144.0	144.0					
1004 GEN FUND	392.5	399.9		399.9	403.1	403.1	604.6	403.1					
1050 PFD FUND								201.5					
15 FULL TIME	2.0	2.0		2.0	2.0	2.0	2.0	2.0					
16 PART TIME													
17 TEMPORARY													
18 STAFF MONTHS	24.0	24.0		24.0	24.0	24.0	24.0	24.0					

Gen's FY90  
 Operating Budget  
 Request

Per AS 42.23.005 which prohibits convicted felons from receiving Permanent Fund Dividends. Currently being challenged in court.

AS 11.41

**Sec. 11.41.200. Assault in the first degree.** (a) A person commits the crime of assault in the first degree if

(1) that person recklessly causes serious physical injury to another by means of a dangerous instrument;

(2) with intent to cause serious physical injury to another, the person causes serious physical injury to any person; or

(3) the person knowingly engages in conduct that results in serious physical injury to another under circumstances manifesting extreme indifference to the value of human life.

(b) Assault in the first degree is a class A felony. (§ 3 ch 166 SLA 1978; am § 2 ch 143 SLA 1982; am § 2 ch 66 SLA 1988)

**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)

**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)

**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 166 SLA 1978; am § 6 ch 102 SLA 1980; am § 5 ch 143 SLA 1982)



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 9, 1989

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

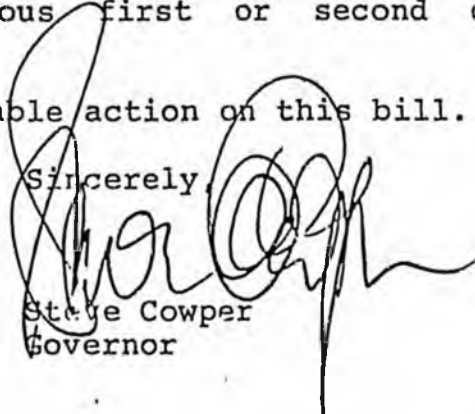
Dear Representative Cotten:

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

How define 1st degree?  
2nd ?  
OTHER?

- doesn't know.  
Will get  
back to  
me.  
(Beth)  
Paula 3771

BY KERTTULA

1 IN THE SENATE

2

SENATE BILL NO. 113

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

30

AS 11.41.200

Also  
3rd + 4th  
↓  
felony

22  
23  
24  
25  
↓  
misdemeanor

27  
28  
29  
30  
↓  
Frequently  
charged w/ 3rd  
or 4th rather than  
1st/2nd.  
45 other states do  
all assaults

Same House bill  
introduced by  
Governor - Jay  
wants to go  
ahead.

HB 57  
passed today

CS same  
as SB 113

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.

# Alaska State Legislature



Sen. Pat Pourchot, Chairman  
Sen. Jan Faiks, Vice Chairman  
Sen. Al Adams  
Sen. Tim Kelly  
Sen. Rick Uehling

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senator Tim Kelly, President  
Alaska State Senate

FROM: Senator Pat Pourchot, Chairman  
Senate State Affairs Committee

RE: Committee Referrals on HB 57

DATE: February 15, 1989

A handwritten signature in cursive script, appearing to read "Pat", written over the "FROM:" line of the memorandum.

I would like to call to your attention the committee referrals on HB 57, 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.

HB 57 has been referred to the Senate Health, Education and Social Services Committee and the Senate Finance Committee. However, the Violent Crimes Compensation Board is in the Department of Public Safety, which is under the purview of the State Affairs Committee.

In addition, SB 113, which is identical to HB 57, is in the Senate State Affairs Committee. In fact, we had it scheduled for a hearing on February 13 but removed it from our schedule when we learned that HB 57 was on its way over from the House. We are prepared, therefore, to take prompt action on the House bill.

I would appreciate your review of the referrals on HB 57, and would be happy to discuss this with you at your convenience.

# Judge rules felons in prison qualify for dividend checks

MB 57

6-12-89 Inu Empire

THE ASSOCIATED PRESS

**ANCHORAGE** — An Anchorage judge says incarcerated felons are entitled to Permanent Fund dividend checks, contrary to a law the Alaska legislature passed last year.

About 1,700 inmates stand to benefit from the decision Palmer Superior Court Judge Beverly Cutler issued Friday. Prior to Cutler's ruling, it had been anticipated \$1.5 million in dividend money transferred from inmates would go to prison programs and crime victims' compensation.

Attorneys in the case said Cutler found the language of the law left open the possibility of unequal, thus unfair, treatment of prisoners. Situations favoring some felons over others in the distribution of checks can occur when offenders receive sentences that allow credit for time spent in jail before their convictions.

Cutler "misread the law entirely," said Rep. Ramona Barnes, R-Anchorage, who sponsored the legislation to withhold checks from imprisoned felons.

"All felons were treated the same," Barnes said. "And it's the legislature that grants rights to ownership of the fund. The law that created the fund gave that power to the legislature."

But an attorney for inmates who filed a class-action suit attacking the

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law last year described Cutler as "one intellectually courageous judge."

Attorney Pete Ehrhardt said that "there will be some people who will feel that felons are getting more rights again. But, the truth is, you cannot take things away from people without providing adequate constitutional protections."

None of the inmates now eligible for dividends under Cutler's ruling was denied a check last year.

The attorney general's office has 30 days to decide whether to appeal Cutler's decision to the Alaska Supreme Court.

Although the judge determined prisoners should receive checks, her ruling may deny money to the victims of crime. Of the \$1.5 million expected as a result of the law, \$736,600 was to go to the Violent Crimes Compensation Board.

"The whole purpose was that I think we all believe criminals should pay for their crimes," said Nola Capp, administrator of the board. "It

appalls me that the criminals have all the rights."

The compensation program received \$399,000 from the state and \$149,000 from the federal government last year. Capp said that without the dividend transfers, she is not sure how the state portion will be paid this year.

Another \$763,400 was to go the Alaska Department of Corrections.

Corrections Commissioner Susan Humphrey-Barnett said \$628,400 was earmarked for sex-offender treatment programs. The rest was to serve as walking-around cash for inmates once they're released.

"Unless we can get a supplemental (appropriation), I'm not sure what we'll do" about the funding gap Cutler's decision leaves, Humphrey-Barnett said.

Opponents of the law said when it was debated more than a year ago that dividend payments to prisoners often provided support for their families or children. The money also is a source of cash for the Child Support Enforcement Division, the state student loan program and others wanting money from criminals.

It has been estimated each qualified Alaskan will receive \$840 this year from the dividend program. Distribution of the first checks is expected in October.