

SB55

SENATE FINANCE COMMITTEE REPORT

DATE: 2/10/92

FURTHER:

DATE TURNED INTO OFFICE: 2-20-92

The Finance Committee considered

SENATE BILL NO. 55

"An Act relating to the detention and incarceration of minors."

and recommends:

replace with _____ CS _____ (FINANCE)
or adopt previous _____ CS SB 55 (Jud)
 attaches amendment(s)

same title
 new title
 technical title change
(HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

Dolan 2-18-92

DPS 2-5-92

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes DHSS 2-12-92

Corrections 2-7-92

fiscal notes _____

DO PASS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

OTHER RECOMMENDATIONS:

[Signature] - No Rec

[Signature] No Rec

Co-Chair: Signature/Recommendation

Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 55 (JUD)

Revision Date: February 18, 1992 Department Affected: Department of Law
 Title: "An Act relating to detention and incarceration of minors." BRU: Prosecution, Legal Services
 Component: All, Legal Services - Ops.
 Sponsor: Senator Duncan
 Requestor: Senator Pourchot COMPONENT SERIAL NO.

--	--	--	--

85 through 91, 93

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

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 Date: February 18, 1992
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 18, 1992

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 55 (JUD)

The Judiciary Committee substitute for SB 55 adopts additional provisions that recognize weather caused transportation delays that can arise ^{include} moving minors during temporary detention, and that allow detention in a correctional facility for protective custody and allow detention in a correctional facility of a minor held pending prosecution as an adult, provided in all cases that there is sight and sound separation from adult prisoners. These changes should eliminate most of the impact for the Department of Corrections and the Department of Public Safety that would have been caused by the original version of the bill.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 55(JUD)

Revision Date: 02/05/92 Department Affected: Public Safety

Title: An act relating to the detention and BRU: Alaska State Troopers

incarceration of minors. Component: Detachments

Sponsor: Senator Duncan

Requestor: Senate Judiciary COMPONENT SERIAL NO.

7	9	9
---	---	---

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

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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-
---------	-----	-----	-----	-----	-----	-----

REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
-------------------------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
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

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: Gayle A. Horetski Phone: 465-4322

Division: Commissioner's Office Date: 2/5/92

Approved by Commissioner: Gayle A. Horetski Richard L. Burton

Agency: Department of Public Safety Date: 2/5/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

**Department of Public Safety
Fiscal Note Analysis - CSSB 55(JUD)
Page 2**

The Department of Public Safety shares with the Division of Family and Youth Services the responsibility to transport juvenile prisoners prior to their acceptance into an appropriate juvenile facility. Approximately 100 juvenile transports are conducted by the Alaska State Troopers annually, funded through the prisoner transport budget. This bill is not expected to result in any increase in the number of juvenile transports, so there should be no additional fiscal impact to the Department.

FISCAL NOTE

Bill Version: SB 55
 (S) Publish Date: 2-21-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected Health and Social Services
 Title: "An act relating to the detention and incarceration of minors" BRU: Purchased Services
 Component: Preventive Services
 Sponsor: Senator Duncan
 Requestor: Senator Duncan COMPONENT SERIAL NO. 0248

Expenditures/Revenues

(Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING:

(Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Changes in SSB 55 (JWD)
 have no fiscal impact. This
 fiscal note is appropriate.
2-19-92 Richard M R
 date Comte AR (initial)

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

CSSB55 prohibits the confinement of youth in an adult correctional facility, jail, or lockup, except under special circumstances.

This is an attempt to comply with the jail removal mandate of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, which limits or prohibits the confinement of youth in adult correctional facilities.

Prepared by: Brian Saylor, Deputy Commissioner, DHSS BS Phone: 465-3030
 Division: Family and Youth Services Date: February 4, 1993

Approved by Commissioner: Theodore A. Mala TAM Date: 12 Feb 92
 Agency: Department of Health and Social Services

Distribution (by preparer):
 Legislative Finance OMB
 Legislative Sponsor Impacted Agency(ies)
 Requestor

ANALYSIS (cont.):

Enactment of this legislation would demonstrate Alaska's intent to meet the requirements of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, which requires total and enforceable separation of youth from adults when confined in the same facility and limits the placement of youth in adult confinement facilities.

Alaska annually receives a federal formula grant of \$325,000 to make improvements in the juvenile justice system, including better practices for the detention of youth. Placing youth in adult correctional facilities, jails or lockups is not a good child care practice. Further, such practice jeopardizes this funding. Without this grant revenue of \$325,000, it would be necessary to use state general funds to continue funding to support fourteen (14) shelters that provide alternatives to placing youth in facilities designed for the incarceration of adults.

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: CSSB 55(JW)

(S) Publish Date: 2-10-92

Revision Date: 02/06/92 Department Affected: Department of Corrections
 Title: "An Act relating to the... incarceration of minors." BRU: Statewide Operations
 Component: Various
 Sponsor: Senator Duncan
 Requestor: Senate Judiciary COMPONENT SERIAL NO.

--	--	--	--

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

The Committee Substitute has no fiscal impact on the Department, since separation of minors waived to adult status would not be required.

Prepared By: Carl Nickel, Director *Carl Nickel* Phone: 465-3376
 Division: Administrative Services Date: 02/07/92
 Approved by Commissioner: Lloyd Hames, Commissioner *Lloyd Hames*
 Agency: Department of Corrections Date: 02/07/92

NEW BILL IN
COMMITTEE 02/10/92

*changes
highlighted*

CS FOR SENATE BILL NO. 55 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 2/10/92
Referred: Finance

Sponsor(s): SENATOR DUNCAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the detention and incarceration of minors."

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

3 * Section 1. PURPOSE. The purpose of this Act is to improve the state's juvenile justice system
4 by

5 (1) ending, with minor exceptions, the practice of allowing the confinement of children
6 in adult correctional facilities, jails, prisons, and rural lock-ups, however operated, based on evidence
7 that the practice often leads to aggravated emotional problems and depression in, and suicide attempts
8 by, the children who are confined;

9 (2) conforming state law and policy relating to the confinement of children to the
10 requirements of 42 U.S.C. 5633(a)(13) and (14) (Juvenile Justice and Delinquency Prevention Act of
11 1974, as amended), taking into consideration the dislocations that may arise from distance, weather, and
12 lack of means to transport minor children to suitable places for the care and custody of minors.

13 * Sec. 2. AS 47.10.130 is repealed and reenacted to read:

14 Sec. 47.10.130. DETENTION. (a) A minor may not be incarcerated in a correctional

1 facility that houses adult prisoners.

2 (b) When a minor is detained under this chapter, the person having responsibility for the
3 facility in which the minor is detained shall immediately notify the minor's parent, guardian, or
4 custodian of the minor's detention.

5 (c) Notwithstanding (a) of this section, a minor may be incarcerated in a correctional
6 facility

7 (1) if the minor is the subject of a petition filed with the court under this chapter
8 seeking adjudication of the minor as a delinquent minor or if the minor is in official detention
9 pending the filing of that petition; however, detention in a correctional facility under this
10 paragraph may not exceed the lesser of

11 (A) six hours; or

12 (B) the time necessary to arrange the minor's transportation to a juvenile
13 detention home or comparable facility for the detention of minors;

14 (2) if, in response to a petition of delinquency filed under this chapter, the court
15 has entered an order closing the case under AS 47.10.060(a), allowing the minor to be prosecuted
16 as an adult; or

17 (3) if the incarceration constitutes a protective custody detention of the minor that
18 is authorized by AS 47.37.170(b).

19 (d) When a minor is detained under (c)(1) or (c)(3) of this section and incarcerated in
20 a correctional facility, the minor shall be

21 (1) assigned to quarters in the correctional facility that are separate from quarters
22 used to house adult prisoners so that the minor cannot communicate with or view adults who are
23 in official detention;

24 (2) provided admission, health care, hygiene, and food services and recreation and
25 visitation opportunities separate from services and opportunities provided to adults who are in
26 official detention.

27 (e) Notwithstanding the limitation on detention set out in (c)(1) of this section, a minor
28 whose detention is authorized by (c)(1) of this section may be detained in a correctional facility
29 for more than six hours if transportation to a juvenile detention home or comparable facility for
30 the detention of minors is not available. The minor's detention for more than six hours is
31 authorized by this subsection only if the person having responsibility for the facility in which the

Section 2(e) through (g) is all new. Sec. 2(e) in SB 55 is now (h) in
CS SB 55 (JUD) SB0055b

1 minor is detained

2 (1) documents the reason that transportation of the minor to a juvenile detention
3 home or comparable facility is not available; and

4 (2) during the minor's detention, after learning that transportation is not available,
5 promptly notifies the appropriate officials or employees of the department and the Alaska court
6 system of the lack of available transportation.

7 (f) A detention authorized by (e) of this section may not exceed the time necessary to
8 satisfy the requirement of (c)(1)(B) of this section.

9 (g) The provisions of AS 47.37.170(i) apply to a minor incarcerated in a correctional
10 facility when authorized by (c)(3) of this section.

11 (h) In this section

12 (1) "correctional facility" has the meaning given in AS 33.30.901 whether the
13 facility is operated by the state, a municipality, a village, or another entity;

14 (2) "official detention" has the meaning given in AS 11.81.900.

15 * Sec. 3. AS 47.10.190 is amended to read:

16 Sec. 47.10.190. CONDITIONS GOVERNING DETENTION. When the court commits
17 a minor to the custody of the department, except when detention in a correctional facility is
18 authorized by AS 47.10.130(c), the department shall arrange to place the juvenile in a detention
19 home [, FACILITY] or another suitable place that the department designates for that purpose. [A
20 JUVENILE DETAINED IN A JAIL OR SIMILAR INSTITUTION AT THE REQUEST OF THE
21 DEPARTMENT SHALL BE HELD IN CUSTODY IN A ROOM OR OTHER PLACE APART
22 AND SEPARATE FROM ADULTS.]

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

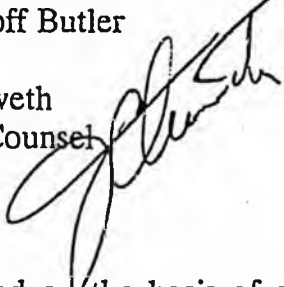
MEMORANDUM

February 14, 1992

SUBJECT: CS Senate Bill 55 (Judiciary) sectional analysis
(Work Order No. 7-LS0216M)

TO: Senator Pat Pourchot, Co-Chair
Senate Finance Committee
ATTN: Geoff Butler

FROM: Jack Chenoweth
Legislative Counsel



CSSB 55 (Judiciary) was prepared on the basis of a model intended to conform Alaska law generally to limitations imposed by key provisions of the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Those paragraphs of the federal Act, 42 U.S.C. 5633(a)(13) and (14), provide as follows:

(a) [To qualify the state for a formula grant under the Juvenile Justice and Delinquency Prevention Act, a state plan submitted to the federal government shall]

...

(13) provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) [of this subsection] shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(14) provide that, [after December 8, 1985,] no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1993, promulgate regulations which make exceptions with regard to the detention of juveniles accused of nonstatus offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within 24 hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which

(A) are outside a Standard Metropolitan Statistical Area,

(B) have no existing acceptable alternative placement available, and

(C) are in compliance with the provisions of paragraph (13);

....

Bill section 1, an uncodified provision, summarizes the general purposes of the measure, citing both the requirements of the pertinent federal Act and conditions specific to the state.

Bill section 2 substantially revises and extends the key juvenile detention/incarceration provision of current statutory law, AS 47.10.130 ^{1/}:

Proposed AS 47.10.130(a) establishes an explicit prohibition against incarceration of a minor in a correctional facility. ^{2/}

Proposed AS 47.10.130(b) carries forward without change language of the current statute assigning responsibility for notification of the minor's parent(s), guardian(s), or custodian(s) of the minor's detention.

^{1/} Current AS 47.10.130 dates from the last session of the Territorial Legislature (1957) and, in its entirety, reads as follows:

Sec. 47.10.130. DETENTION. A minor under 18 years of age who is detained pending hearing may not be incarcerated in a jail unless assigned to separate quarters so that the minor cannot communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime. When a minor is detained pending hearing, the minor's parent, guardian, or custodian shall be notified immediately.

^{2/} Please appreciate that this measure depends on the cross-referenced definition of "correctional facility" as defined by AS 33.30.901, a definition of the statutes that are applicable to prison facility management. The term "correctional facility" is defined, in pertinent part, as follows:

"correctional facility" or "facility" means a prison, jail, camp, farm, half-way house, group home, or other placement designated by the commissioner for the custody, care, and discipline of prisoners:

The reference to "prisoners" in the definition set out in that paragraph, generally applicable to AS 33.30, is to adult persons held in custody, for AS 33.30.901(11) defines "prisoner" as follows:

"prisoner" means a person, other than a juvenile, held under authority of state law in official detention

(Emphasis added.)

like 19
in CS 5B, 5C (500)

Proposed AS 47.10.130(c) sets out three exceptions to the general prohibition against a minor's incarceration in a correctional facility:

- (1) minors adjudicated delinquent or held in official detention ^{3/} pending filing of a delinquency adjudication petition, the incarceration not to exceed six hours or the time necessary to arrange other transportation, whichever is shorter;
- (2) minors held pending prosecution as an adult; and
- (3) minors held in protective custody, that is, held because they are intoxicated or incapacitated by alcohol.

Proposed AS 47.10.130(d) places conditions and limitations on the holding of minors who are placed in correctional facilities under the exceptions of sec. 130(c)(1) (temporary detention pending transportation) or 130(c)(3) (protective custody detention). Those conditions and limitations include assignment to quarters separate from adults and provision of necessary services separate from the services that are provided to adults held in the correctional facility.

Proposed AS 47.10.130(e) recognizes weather related and similar delays beyond the control of the custodian by allowing an extension of the holding of a minor in temporary detention pending transportation beyond the six hour maximum in limited circumstances. At the same time, the subsection imposes specific duties on the person having responsibility for the minor's detention to document the reason for the extension and to advise the pertinent parties of the delay in transportation.

Proposed AS 47.10.130(f) authorizes extension of the holding of the minor in temporary detention pending transportation only so long as necessary to complete the necessary transportation arrangements for the minor.

For minors held in protective custody, ^{4/} proposed AS 47.10.130(g) directs that the parameters of treatment and detention that are set out in AS 47.37.170(i) are made applicable to minors so held.

^{3/} Under another cross-referenced definition, "official detention" includes custody, arrest, surrender in lieu of arrest, or actual or constructive restraint under an order of a court in a criminal or juvenile proceeding, other than an order of conditional bail release. See AS 11.81.900(35).

^{4/} By law, protective custody does not constitute an arrest and no entry or other record may be made to indicate that the minor detained has been arrested or charged with a crime. However, a confidential record may be made for the administrative purposes of the facility to which the minor has been taken or which is necessary for statistical purposes. In the latter instance, the minor's name may not be disclosed. See AS 47.37.170(i).

Senator Pat Pourchot
February 14, 1992
Page 4

Bill section 3 makes correlative changes to a related juvenile detention statute,
AS 47.10.190.

*

Because no effective date clause is included, the measure would take effect in accordance with the first sentence of article II, section 18 of the state constitution, that is, 90 days after the measure's signature into law or after its becoming law without signature.

JBC:pl
92-108.plm



Alaska State Legislature

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:

VICE CHAIR –

FINANCE

VICE CHAIR –

STATE AFFAIRS

RULES

BUDGET & AUDIT

ETHICS REFORM

MEMORANDUM

DATE: February 6, 1992

TO: Senator Pat Pourchot, Co-Chair

FROM: Senator Jim Duncan

RE: CS SB 55 (Jud), relating to detention and incarceration of minors.

Please schedule CS SB 55 (Jud), relating to detention and incarceration of minors for a hearing by the Finance Committee at your earliest convenience. **Preferably, since there is no fiscal impact to this bill, your consideration of a waiver through the Finance Committee would be appropriate.**

SB 55 amends state law to comply with U.S. Department of Justice requirements which prohibit incarceration of juvenile offenders in adult jails or lockup facilities. Currently attempts are made to separate juvenile prisoners from adults, however, in village jails they are not always successful. The potential for mental and physical harm to juveniles is great in such situations. This bill will show our good faith effort to, given the problems we experience in this state with isolation and associated transportation problems, provide other options besides adult facilities for holding minors charged with a crime.

One option which has proven particularly successful in small communities has been the use of "attendant care shelters" where juveniles can be detained temporarily until transported to one of the five regional youth correctional facilities such as McLaughlin in Anchorage and the Johnson Youth Facility in Juneau. The funding for Attendant Care Shelters is provided through a \$325,000 Federal Juvenile Justice Formula Grant. **If we do not show a good faith effort to comply with the federal law in removing juveniles from adult jails and lockups, we will become ineligible for this continuing grant.** Therefore, if we wish to keep our attendant care shelters open and utilize federal funds to do so, it is important to pass this bill!

I urge you to seriously consider waiving this bill, or alternatively, to schedule it for a hearing by the Senate Finance Committee as soon as possible.

My staff contact on the bill is Roxanne Stewart at 465-4766.

Attachments

DISTRICT C

BILL NO: Proposed CSSB 55 (JUD)

DATE: 4/5/91

TITLE: An Act relating to the detention and incarceration of minors.

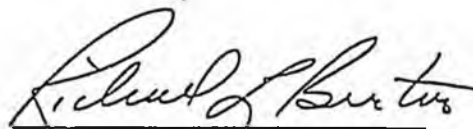
CONTACT: Capt. Thomas T. Stearns
465-4322

DEPARTMENT OF PUBLIC SAFETY / POSITION PAPER

Senate Bill 55 is intended to reduce the incidence of confinement of children in adult correctional facilities, jails, and rural lock-ups, and to conform state law and policy relating to the confinement of children with the language of the Federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Section 2 of the bill provides that a minor may not be incarcerated in a correctional facility for longer than six hours, or the time it takes to transport the minor to a juvenile detention facility, unless the minor has been "waived" to adult court for criminal prosecution.

Proposed CSSB 55 (JUD) includes language that allows a minor to be held in a correctional facility past the maximum six hours if: (1) the incarceration constitutes a protective custody detention of the minor authorized by AS 47.37.170(b), or (2) transportation is not available. Even under these circumstances the minor must be kept apart (sight and sound separation) from adult prisoners. The reason for exceeding the time limitations must be documented, and notice of the unavailability of transportation must be made to the court and the Department of Health and Social Services, Division of Family and Youth Services.

The Department of Public Safety supports the proposed CS for SB 55, recognizing that the bill provides an approach to meet federal standards. The bill does not address the underlying problem, however, which is the lack of appropriate juvenile facilities to provide the necessary care and treatment for juvenile offenders in local communities where family support would be available.



Richard L. Burton
Commissioner

Requirements of an Attendant Care Shelter Program:

1. An Attendant Care Shelter site may be located in a non-secure area of a public building, licensed child care facility, licensed foster home, a nonprofit administrative office or other space in a suitable location which does not have a physical barrier to egress. A licensed site is not required to operate the program. The site must be in close proximity of a 24-hour staffed agency for back-up assistance in the event of an emergency. (?)
2. Programs must have a written statement of philosophy that addresses the program's humane treatment of juveniles and assures that their welfare and legal rights are protected in the least restrictive environment.
3. Programs must have recruitment, screening and training plans for shelter care employees.
4. Attendant training must address first aid, CPR, emergency alcohol assessment, suicide prevention, non-violent crisis management, effective communication skills, crisis counseling, listening skills and the management of angry youth.
5. Attendants may be volunteers or paid staff. They must be of the same sex as the youth they are supervising, read and speak English, and meet all requirements of 7 AAC 50. and in particular must comply with 7 AAC 50.033, 7 AAC 50.035, 7 AAC 50.037, 7 AAC 50.039 and 7 AAC 50.041. Attendants must be awake for the attendant period.
6. Programs must provide for effective coordination with law enforcement, Division personnel, youth, families and community representatives.
7. Programs must develop and implement procedures for on-call programming. For example: a Division probation officer must be able to call the program manager or designee and inform them that Attendant Care Shelter Services are necessary. The coordinator then calls an attendant who is able to accept the youth into care at the site within 45 minutes. If an attendant fails to show up in the allotted 45 minute period, it's the ultimate responsibility of the program manager to provide services to youth.
8. A pat search must be conducted by the arresting officer. The purpose of this search is to detect and remove any contraband or weapons which might be detrimental to the safety of the attendant and youth. This is not a search for evidence. If evidence is incidentally found during the search it must be turned over to law enforcement officers immediately. Contraband, weapons and the youth's personal effects must be secured and documented in a property log signed by the youth.

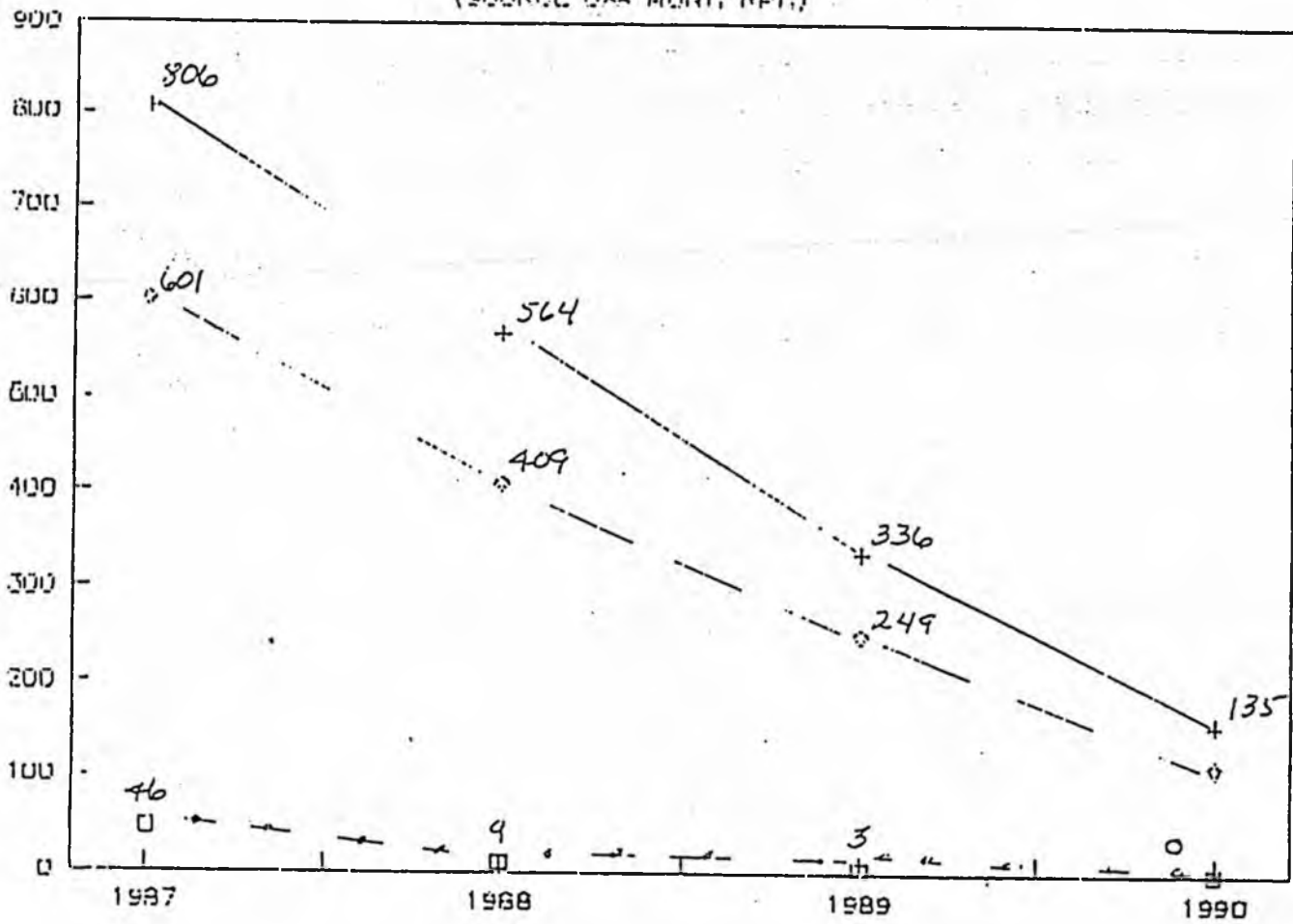
The Physical Attendant Shelter Care site must:

1. Provide a safe physical setting in an already existing building to conform to all applicable state and local building, health, fire and life safety codes. The site space must be of reasonable size to deliver the program and not less than 120 square feet, excluding the restroom.
2. Provide adequate lighting, one toilet which is available 24-hours a day, a wash basin, hot and cold running water, drinking water, a telephone, heating, ventilation and acoustical system to ensure healthful and comfortable living and working conditions for juveniles and attendant.
3. Provide non-locked temporary sleeping accommodations with a bed at above floor level, a clean, odor free, non-toxic, fire-resistant mattress with a sanitary cover and a supply of bed linens.
4. Be located in an area where the youth and attendant may spend time together talking or engaging in passive recreation such as reading, board or card games and watching television.
5. Provide for refrigeration and food containment and preparation. Regular meals may be prepared off site and delivered to the Attendant Care Shelter.
6. Ensure that appropriate safeguards for fire/life safety and sanitation are in place, including an emergency evacuation plan and the provision of a 2A:10BC dry chemical fire extinguisher, AC primary power or monitored battery powered smoke detection device and first aid kit in strategic locations.

Federal Juvenile Justice and Delinquency Prevention Act.

JJDPA VIOLATIONS

(SOURCE UAA MONT. RPT.)



□ DSO VIOLATIONS

+ S&S VIOLATIONS

◇ JR VIOLATIONS

□ DSO - Deinstitutionalization of Status Offenders

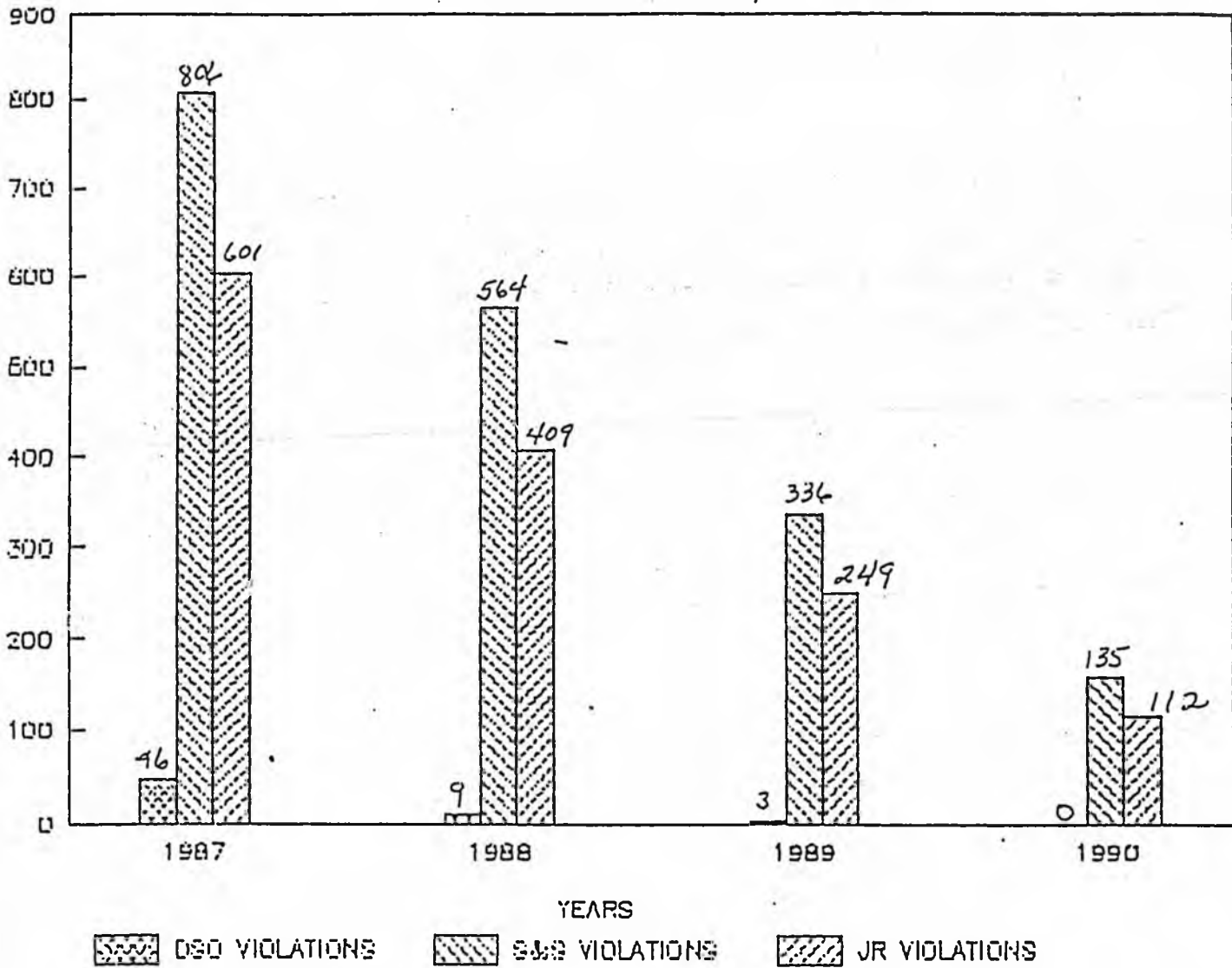
+ S&S - Sight and Sound

◇ JR - Jail Removal

*See attached glossary.

JJDPA VIOLATIONS

(SOURCE UAA MONT. RPT.)



GLOSSARY

Adult Jail--A locked facility, administered by state, county or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

Adult Lockup--Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

Criminal-type Offender or Delinquent Offender--A juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

Status Offender--A juvenile offender who has been charged with or adjudicated for conduct which would not be a crime if committed by an adult.

Nonoffender--A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency or neglect statutes or reasons other than legally prohibited conduct of the juvenile.

Lawful Custody--The exercise of care, supervision and control over a juvenile offender or nonoffender pursuant to the provisions of the law or of a judicial order or decree.

MANDATES OF THE 1974 JUVENILE JUSTICE & DELINQUENCY PREVENTION ACT

1) DEINSTITUTIONALIZATION, a termination of the practice of securely detaining non-offenders or status offenders,

2) SEPARATION, complete separation by sight and sound of children from adult prisoners when housed in the same secure facility,

3) JAIL REMOVAL, a termination of the practice of holding any child in an adult jail or lockup facility, and

4) ANNUAL MONITORING, regular inspection of facilities which detain children along with collection, analysis and reporting of admission or booking data to assess compliance.

NEWS FROM STATE TO STATE

ALASKA

Struggling to Meet Waiver State Criteria

Alaska is scrambling to reduce violations of the Act enough so they can apply for 1991 Waiver State Status.

"We have been a waiver state for two years, so we only have one year of eligibility left. If we don't get our third year of waiver state funds, our alternative programs to jail removal could lose funding, and we will no longer be participating in the Grant Program." Says Donna Schultz, Alaska's JJ Specialist.

Alaska's problem is its latest monitoring report which shows 249 violations, of which 106 are states offenders. Why are so many status offenders being held? Schultz explains, "We have a lot of alcohol related status offenses in extremely remote areas. Lack of road systems and the necessity to transport kids great distances by air in adverse conditions to regional detention facilities are major obstacles. We have a genuinely difficult time keeping "minor consuming" offenders out of the town jail or lockup due to lack of other resources."

Using two years of waiver state funds, Alaska has set up thirteen (13) non-secure attendant care facilities. "We have come a long way," says Schultz, "but we could lose it all because of these extremely distances and remote areas." For more information contact JJ Specialist Donna Schultz at (907) 465-2112.

Paid Your Coalition Dues Yet?

As of press time (January 11, 1991) the following states have paid their 1991 dues: Arizona, Connecticut, Illinois, Maine, Maryland, and Wisconsin.

Bills were sent to state JJ Specialists with courtesy copies to State Chairs on December 10, 1990.

National Coalition of State Juvenile Justice Advisory Groups
1211 Connecticut Avenue, NW, Suite 414
Washington, DC 20036

Dated Material Enclosed

Donna

State of Alaska

Department of Health & Social Services
Division of Family & Youth Services

NON-SECURE ATTENDANT CARE SHELTERS



contact

Division of Family & Youth Services
P.O. Box H-05
Juneau, Alaska 99811
(907) 465-2112

DIVISION OF FAMILY AND YOUTH SERVICES
NON-SECURE ATTENDANT CARE SHELTERS
7/26/91

<u>FY'92</u> <u>Grant Award</u>	<u>GRANTEES</u>	<u>PROBATION OFFICER</u>
\$10,000	1. City of Dillingham/Police Dept. P.O. Box 869 Dillingham, Ak. 99675 Contact: Chief Ralph Taylor 907-842-5354	Kent Kaltenbacher P.O. Box 1290 Dillingham, Ak. 99576 907-842-5924
\$17,000	2. Maniilaq Native Association P.O. Box 256 Kotzebue, Ak. 99752 Contact: Bea Mills 907-442-3311	Bonnie Thompson P.O. Box 1109 Kotzebue, Ak. 99752 907-442-3148
\$5,000	3. City of Wrangell/Police Dept. P.O. Box 531 Wrangell, Ak. 99929-0531 Contact: Bruce Pratz 907-874-3304	Ron Barnes 415 Main Street Room 202 Ketchikan, Ak. 99901 907-225-9639
\$15,000	4. City of Valdez/Mental Health Center P.O. Box 307 Valdez, Ak. 99686 Contact: Robert Donald 907-835-2838	Margaret Krause 258 East Fireweed Suite 5 Palmer, Ak. 99645 907-694-0522
\$25,000	5. North Slope Borough/Dept. of Health and Social Services P.O. Box 69 Barrow, Ak. 99723 Contact: Rod Atos 907-852-0263	Thomas Clarke Jr. P.O. Box 729 Barrow, Ak. 99723 907-352-5437
\$5,000	6. City of Petersburg/Police Dept. P.O. Box 329 Petersburg, Ak. 99833 Contact: Chief Marvin Ronimus 907-772-3830	Cynthia Holeman 3252 Hospital Drive Juneau, Ak. 99801 907-586-9433

\$9987.

7. Kodiak Island Mental Health Center
316 Mission Road Suite 119
Kodiak, Ak. 99615
Contact: Linda Diebels
907-486-6587

Valorie Watson
202 Marine Way
Room 13 Court House
Kodiak, Ak. 99615
907-426-4788

\$10,000

8. Fairbanks Native Association
311 1/2 First Ave.
Fairbanks, Ak. 99701
Contact: Florence Loucks
907-452-1581

Gary Neubauer
1502 Wilbur Street
Fairbanks, Ak. 99701
907-452-6925

\$20,000

9. Juneau Youth Services, Inc.
P.O. Box 32839
Juneau, Ak. 99803
Contact: Jody Engelman
907-789-1610

Chuck Bennett
3252 Hospital Drive
Juneau, Ak. 99901
907-586-9433

\$48,150

10. *Kenai Peninsula Comm. Care Center
Drawer 3573
Kenai, Ak. 99611
Contact: Trudy Scott
907-283-7535
*Serves communities of Kenai,
 Homer, and Seward

Karen Rogers
145 Main Street Loop
Suite 204
Kenai, Ak. 99611
907-281-3127

\$24,200

11. Ketchikan Youth Services
P.O. Box 7200
Ketchikan, Ak. 99901
Contact: Kathy Moore
907-225-2540

Rick Roberts
415 Main Street
Room 202
Ketchikan, Ak. 99901
907-225-0539

\$11,972

12. Youth Advocates of Sitka
P.O. Box 564
Sitka, Ak. 99835
Contact: Kate Bartsley
907-747-2632

Sue White
116 "A" Miller St.
Sitka, Ak. 99835
907-747-8403

TOTAL - \$201,309

3-14-91
S(Jed)
FIR

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB55

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: "An act relating to the detention and incarceration of minors." BRU: Purchased Services
 Component: Preventive Services
 Sponsor: Senator Duncan
 Requestor: Senator Duncan COMPONENT SERIAL NO. 0248

Expenditures/Revenues (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Enactment of the statutory changes proposed in SB55 would demonstrate Alaska's intent to meet the requirements of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974. The JJDP Act of 1974 requires total and enforceable separation of children from adults when confined in the same facility and limits the placement of children in adult confinement facilities.

Prepared by: Russ Webb
 Division: Family and Youth Services
 Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health and Social Services

Phone: 465-3170
 Date: 2/10/91
 Date: 2/25/91

Distribution (by preparer):
 Legislative Finance OMB
 Legislative Sponsor Impacted Agency(ies)
 Requestor

5855

ANALYSIS (cont.):

Annually, Alaska receives a federal formula grant of \$325,000 to make improvements in the juvenile justice system including better practices for the detention of children. Eligibility for that grant requires state law or regulation which limits or prohibits the confinement of children in adult correctional facilities.

Passage of this bill would enable Alaska to continue to be eligible to receive the federal formula grant. Without this grant revenue of \$325,000 it would be necessary to use state general funds to continue funding to support thirteen (13) shelters that provide alternatives to placing youth in facilities designated for the incarceration of adults.

STATE OF ALASKA
1992 LEGISLATIVE SESSION

NO. 5

Bill Version: SB 55

(S) Publish Date: 2-10-92

Revision Date: _____ Department Affected: _____
 Title: An Act relating to the detention and incarceration of minors BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Senator Duncan
 Requestor: Senate Judiciary COMPONENT SERIAL NO.

7	9	9
---	---	---

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

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.) See attached analysis.	Changes in <u>CS SB 55</u> (JUD) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
	<u>2/5/92</u> <u>RC</u> date Comte Aide (Initial)

Prepared By: Gayle A. Horetski Phone: 465-4322
 Division: Office of the Commissioner Date: 1/30/92
 Approved by Commissioner: Gayle A. Horetski for Richard L. Burton
 Agency: Department of Public Safety Date: 1/30/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Leg. Ofc., & Impacted Agency(ies).

The Department of Public Safety shares with the Division of Family and Youth Services the responsibility to transport juvenile prisoners prior to their acceptance into an appropriate juvenile facility. Approximately 100 juvenile transports are conducted by the Alaska State Troopers annually, funded through the prisoner transport budget. This bill is not expected to result in any increase in the number of juvenile transports, so there should be no additional fiscal impact to the Department.

STATE OF ALASKA
1992 LEGISLATIVE SES:

Bill Version: SB 55

Revision Date: 01/29/92 Department Affecter: (S) Publish Date: 2-10-92
 Title: "An Act relating to the detention and incarceration of minors." BRU: Statewide Operations
 Component: Various
 Sponsor: Senator Duncan
 Requestor: Senate Judiciary COMPONENT SERIAL NO.

--	--	--	--

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0
TRAVEL						
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,010.0	1,010.0	1,010.0	1,010.0	1,010.0	1,010.0
CAPITAL	5,000.0	-0-	-0-	-0-	-0-	-0-

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	6,010.0	1,010.0	1,010.0	1,010.0	1,010.0	1,010.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	6,010.0	1,010.0	1,010.0	1,010.0	1,010.0	1,010.0

POSITIONS:

FULL-TIME	16	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached fiscal analysis.

Prepared By: Carl Nickel, Director Phone: 465-3376
 Division: Administrative Services Date: 01/29/92
 Approved by Commissioner: Lloyd Hames, Commissioner
 Agency: Department of Corrections Date: 01/29/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

CONTINUATION OF FISCAL ANALYSIS

BILL: SB 55 "An Act relating to the detention and incarceration of minors."

The bill prohibits incarcerating juveniles in adult correctional facilities unless the minor is the subject of a petition for delinquency, in which case the time in a correctional center is limited to a maximum of six hours. This provision will not have fiscal impact on the Department of Corrections, since the current practice in adult correctional facilities is not to admit minors. In the rare instance in which a minor is held in a correctional facility pending transportation to a youth facility, the provisions of the proposed bill are followed.

The bill also provides that minors can be incarcerated in correctional facilities after a court has ordered the juvenile to be prosecuted as an adult. However, the bill requires that the minor be assigned to separate quarters from adults to preclude the minor from viewing or communicating with adult inmates. The minor must be provided separate admission, health care, hygiene, food service, recreation, and visiting opportunities.

The Department of Corrections does not have adequate facilities, nor staffing, to provide such separation. There are no minors incarcerated in the Department's adult facilities at present. However, the Department has housed minors adjudicated as adults in the past. There have only been two or three such cases per year. Because of the low numbers of such cases, it has been cost prohibitive to operate entirely separate housing and programs for the minors.

In order to completely separate minors from adults while providing the minors with services and programs required under the Cleary v. Smith Final Settlement, a separate housing and program facility would have to be constructed. If such a facility could be constructed adjoining a present facility, the juvenile facility would be able to share administrative and other support staff. Although the numbers of incarcerated minors is expected to be very small, based on past experience, the custody and security levels would probably be high since most minors adjudicated as adults have committed murder. Staffing a facility with three posts, 24 hours per day, requires about 16 correctional officers. Some part-time involvement from probation/parole officers, health care workers, and other support staff would be necessary. Contractual program providers, such as education specialists, would also be necessary.

Operation of such a facility would be far from cost-efficient. If the Department could contract for housing outside Alaska, for each individual, the fiscal impact would be greatly reduced. However, minors who have been housed out-of-state in the past were placed at facilities which house young adults as well as minors.

FISCAL NOTE

Bill Version: SB 55
(S) Publish Date: 2-10-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Department of Law
Title: "An Act relating to detention and incarceration of minors." BRU: Prosecution, Legal Services
Component: All, Legal Services - Ops.
Sponsor: Senator Duncan
Requestor: Senate Judiciary Committee COMPONENT SERIAL NO.

--	--	--	--

85 through 91, 93

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

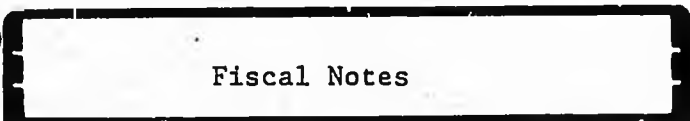
Changes in CS SB 55 (JWD) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

2-5-92 RC
date Comte Aide (initial)

Prepared By: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: January 29, 1992
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law Date: January 29, 1992



CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 55

This bill amends AS 47.10.130 and AS 47.10.190 to provide that minors can be detained in adult correctional facilities only for a very short duration. In such circumstances, minors must be detained in quarters separate from the quarters used to house adult prisoners so that a minor cannot communicate with or view adults who are in detention. Minors who have been waived to adult court would be exempted from these restrictions. The bill would include facilities operated by the state, a municipality, a village or another entity.

The bill should not have a direct fiscal impact on the Department of Law. However, it may have a significant impact on the Department of Corrections and the Department of Public Safety, particularly in rural areas where juvenile detention facilities are scarce. The Department of Law could incur an indirect cost, at some point in the future, defending the state against personal injury claims if the state violates the provisions of the bill. At this juncture, it is impossible to say that these claims will occur and what their cost might be.

THE FOLLOWING DOCUMENT HAS NOT
BEEN FILMED BUT IS AVAILABLE IN THE
ORIGINAL FILE.

PLEASE MICROFILM TOP PAGE ONLY

Department of Health and Social Services
Division of Family and Youth Services

JAILING OF CHILDREN IN ALASKA - AN UNSOLVED PROBLEM
ISSUES FOR THE CRIMINAL JUSTICE WORKING GROUP
NOVEMBER 3, 1989

In Alaska, there is a historical and pervasive practice of confining children under conditions which violate both state and federal law, increasing the risk of harm and potentially violating the civil rights of children.

BACKGROUND:

Since 1976, Alaska has received formula grants from the U.S. Department of Justice under the Juvenile Justice and Delinquency Prevention (JJDP) Act. The former state Criminal Justice Planning Agency and the Division of Corrections administered these funds until 1982 when responsibility was transferred to the Division of Family and Youth Services of the Department of Health and Social Services. Acceptance of these funds has obligated the state to improve its juvenile justice system and comply with the requirements of the Act which calls for:

Deinstitutionalization - a termination of the practice of securely detaining non-offenders or status offenders;

Separation - complete separation of juvenile offenders from adult prisoners when housed in the same secure facility;

Jail Removal - termination of the practice of holding any juvenile in an adult jail or lockup facility; and

Annual Monitoring - regular inspection of facilities which detain children along with collection, analysis and reporting of admission or booking data to assess compliance.

These requirements were to be achieved incrementally with deinstitutionalization to be achieved within three years of submission of the state's first grant application.

Separation and jail removal were to be achieved by December 1985, but subsequent extensions allowed exceptions to full compliance until December 1988.