

HB

525

HFIN

FILE

FISCAL NOTE

No. 1
 Bill Version: HB 525
 (H) Publish Date: 3/9/94

**STATE OF ALASKA
 1994 LEGISLATIVE SESSION**

BILL

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Relating to Evidence in Sexual BRU: Public Defender Agency
Assault Cases..." Component: Public Defender Agency
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 2/17/94
 Agency: Administration

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FISCAL NOTE

No. 2

Bill Version: HB 525

(H) Publish Date: 3/9/94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL N

Revision Date: _____ Dept. Affected: Administration
 Title: *An Act Relating to Evidence in Sexual BRJ: Office of Public Advocacy
Assault Cases... Component: Office of Public Advocacy
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy
 Approved by Commissioner: Nancy Bear Usery
 Agency: Administration

Phone: 274-1684
 Date: _____
 Date: 2/17/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. 3
 Bill Version: HB 525
 (H) Publish Date: 3/9/94

Revision Date: _____ Dept. Affected: Public Safety
 Title: Evidence in Sexual Assault Cases BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Rules by Request
 Requestor: Governor COMPONENT SERIAL NO. 799

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Office of the Commissioner Date: 2/16/94
 Approved by Commissioner: *[Signature]* Date: _____
 Agency: Richard L. Britton, Dept. of Public Safety

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FISCAL NOTE

No. 4
 Bill Version: HB 525
 (H) Publish Date: 3/9/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: February 15, 1994
 Title: "...amending Alaska Rule of Evidence 404...
 admissibility of certain character evidence..."
 Sponsor: Rules/Request of Governor
 Requestor: Governor's Office

Department Affected: Department of Law
 BRU: Prosecution
 Component: All
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
 Please see the attached analysis.

Prepared by: Richard I. Pegues, Director
 Division: Administrative Services Division

Phone: 465-3672
 Date: February 15, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Date: February 15, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION:

This bill amends Alaska Rule of Evidence 404 in several important respects. First, the bill would help reduce the number of times a rape victim is "put on trial" by authorizing the admission into evidence of other sexual assaults by the defendant against the same or another person when the defendant relies on the defense of consent. A defendant who argues that the victim consented should not be able to hide behind Rule of Evidence 404(b) to keep the jury from learning that the defendant has assaulted other victims.

Second, with respect to sexual abuses or assaults against a minor, this bill removes from Rule of Evidence 404(b) confusing language -- "to show a common scheme or plan" -- that has been misinterpreted by several courts to exclude evidence meant to be allowed under the rule. The bill also specifies a 10-year time period as being not too remote for the admissibility of evidence of prior similar assaults or sexual abuse offenses committed by the defendant against minors.

Finally, this bill amends Rule of Evidence 404(a) to allow evidence of a defendant's reputation for aggression or violence when the defendant places the victim's character for violence in issue by claiming self-defense. A defendant who claims that the victim was the aggressor should not be able to hide behind Rule 404 to keep a jury from learning that the defendant has an even greater reputation for violence in the community.

Because the bill modifies the rules of evidence in a manner that will help level the playing field for state prosecutors, and does not add to or otherwise increase our workload, there will not be a fiscal impact.

HB 525

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-01001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends Alaska Rule of Evidence 404 in several respects to help protect the victims of crimes in this state.

In far too many cases of sexual assault, domestic violence, and child sexual abuse, Alaska's victims are often themselves "put on trial" in the course of criminal proceedings. The emotional trauma that such crime victims routinely suffer in the criminal justice system can in some cases be nearly as traumatic as the crime itself.

Therefore, in order to address these problems and to better protect Alaska's citizenry, especially women and children who are frequently the victims of these crimes, we have proposed three changes to Rule of Evidence 404 which are intended to accomplish the following three goals.

The first goal is to reduce the number of times a sexual assault victim is "put on trial" by authorizing the admission into evidence of other sexual assaults or attempted sexual assaults by the defendant if the defendant claims that the victim voluntarily "consented" to the sexual activity. When a defendant argues that the victim consented, the prosecution should be permitted to stand up for the victim and rebut this claim by introducing evidence to the jury that the defendant has sexually assaulted or attempted to sexually assault other victims in the past.

The second goal is to similarly protect Alaska's sexually abused children. Rule of Evidence 404(b) was intended to prevent sexual predators and other child abusers from manipulating juries by hiding their past crimes of this type. Unfortunately, a confusing and unnecessary phrase -- "to show a common scheme or plan" -- has

The Honorable Ramona Barnes
March 9, 1994
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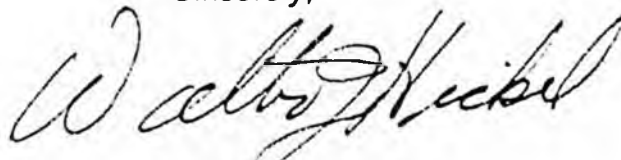
been misinterpreted by several Alaska courts to exclude evidence meant to be allowed under the rule. This bill would fix that problem by simply eliminating this confusing phrase. Evidence of other sexual assaults or sexual abuse by the defendant toward the same or another child should be admissible if those acts are similar to the offense charged, whether or not the evidence demonstrates a "common scheme or plan." This bill also specifies a 10-year time period as being not too remote for the admissibility of evidence of prior similar sexual assaults or sexual abuse offenses committed by the defendant against children.

The third goal relates to evidence of past violence on the part of the defendant. In cases of domestic violence and other violent crimes, the defendant often claims that the victim was the initial aggressor. The defendant claims, in essence, that "the victim hit me first" and that therefore the victim "had it coming." Under the existing rule of evidence, the defendant is then permitted to introduce all sorts of evidence about the victim's past reputation for violence -- and hide the fact that the defendant's own past contains an even more violent record. This bill would fix the rule by permitting the prosecution to stand up for the victim, and to rebut these claims by introducing evidence of the defendant's own past violence.

A defendant who claims that the victim was the aggressor should not be able to hide behind Rule 404 to keep a jury from learning that the defendant has an even greater reputation for violence in the community. The most common "relevant character trait of the accused" contemplated in this proposed amendment to Rule of Evidence 404(a) is the accused's reputation for violence or aggression.

The changes proposed in this bill will help level the playing field for the state in its efforts to combat crime. I urge your favorable action on this bill.

Sincerely,



Walter J. Hickel
Governor