

SB

54

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 20, 1993

FURTHER REFERRALS:

Date of Committee Action: 2/22/94

The FINANCE Committee considered:

CSSB 54(FIN)

CS FOR SENATE BILL NO. 54(FIN)

OFFENSES BY JUVENILE OFFENDERS

"An Act relating to violations of laws by juveniles, to the remedies for offenses and activities committed by juveniles and to records of those offenses, and to incarceration of juveniles who have been charged, prosecuted, or convicted as adults; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS CSSB 54 (Fin) | | the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact (1) DOC, (1) COURT

fiscal note(s) _____

(1) HSS
 5 zero fiscal note (2) DOA, (1) PS, (1) LAW

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>EP Machean</u> ^{Machean}	✓	<u>Tom Affron</u> ^{Holtzman}			✓
<u>Ronald J. Larson</u> ^{Larson}	X	<u>Jay Brown</u> ^{Brown}			✓
<u>Mark Hanley</u> ^{Hanley}	X				
<u>Jean Parrott</u> ^{Parrott}	X				
<u>Barbara Grossenbeck</u> ^{Grossenbeck}	X				
<u>Mike Navarre</u> ^{Navarre}	✓				
<u>Tom Therriault</u> ^{Therriault}	✓				


 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CS SB 54 (FIN)

Revision Date: 02/14/94 Dept. Affected: Alaska Court System
 Title: An Act relating to violations of laws by juveniles... BRU: Trial Courts
 Components: _____
 Sponsor: Sen. Halford / Rep. Porter
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	7.5	7.5	7.5	7.5	7.5	7.5
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	7.5	7.5	7.5	7.5	7.5	7.5

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

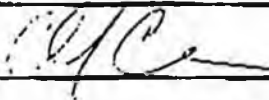
1002 Federal Receipts						
1003 GF Match						
1004 GF	7.5	7.5	7.5	7.5	7.5	7.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	7.5	7.5	7.5	7.5	7.5	7.5

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
 See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 02/14/94

Approved by: Arthur H. Snowden, II, Administrative Director 
 Agency: Alaska Court System Date: 02/14/94

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Alaska Court System
Fiscal Analysis
HCS CS SB 54 (FIN)

Personal Services

The court system is requesting funding for overtime for clerks offices statewide. During FY 93, 1,878 childrens' proceedings were filed with the court system. Filings for FY 94 and subsequent fiscal years are expected to increase from the the FY 93 level. A substantial number of these cases will require additional file work. The current personal services authorization is not sufficient for the additional cost of overtime.

\$7,500

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CSSB 54(FIN)

Revision Date: 2/15/94 Dept. Affected: Corrections
 Title: An Act relating to violations of BRU: AT1
laws by juveniles Component: AT1
 Sponsor: Sen. HALFORD
 Requestor: House Finance COMPONENT SERIAL NO. 694-1884

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	564.7	825.3	1,057.4	1,304.9	1,522.3	1,799.8
TOTAL OPERATING	564.7	825.3	1,057.4	1,304.9	1,522.3	1,799.8

CAPITAL EXPENDITURES	4,500.0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004-GF	5,064.7	825.3	1,057.4	1,304.9	1,522.3	1,799.8
1005 Prog. m Receipts						
1006 GF/MHTIA						
Other						
TOTAL	5,064.7	825.3	1,057.4	1,304.9	1,522.3	1,799.8

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: Diane Schenker, Special Assistant Phone: 465-4643/786-2147
 Division: Office of the Commissioner Date: 2/15/94
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 2/15/94
 Agency: Department of Corrections

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Issues Expected to Impact the Department

The bill would require that juveniles aged 16 or older be automatically waived to adult status if charged with Murder I, Murder II, or Attempted Murder I. Under current law, such waivers are discretionary and the state carries the burden of proving the offender cannot be rehabilitated within the juvenile system.

When a petition for delinquency has been filed concerning a juvenile aged 16 or older who is alleged to have committed an unclassified or class A crime against a person, other than murder, the burden of proof is shifted from the state to the juvenile, to prove amenability to treatment in the juvenile system. If the juvenile fails to meet that burden, the juvenile is waived to adult status.

The court would be authorized to require a juvenile convicted as an adult to participate in remedial education programs if the programs are made available by the department.

The bill would prohibit the department from housing a juvenile who has been convicted as an adult from being placed in a cell with an adult prisoner convicted of a sexual offense in which the victim of the crime was a juvenile.

Assumptions

1. It is assumed that the automatic waiver for juvenile murderers aged 16 or older would result in little increase in minors incarcerated in adult institutions. Information from prosecutors and DFYS workers suggests that almost all juvenile murderers aged 16 or over are waived to adults status under current law. The average number of murder cases resulting in waiver to adult status, between 1983 and 1993, was seven per year, according to DFYS. Current waiver proceedings take up to a year or more, during which the juvenile remains housed in the juvenile system. Because the waiver will be automatic under the new law, it is assumed that during the first year there will be an immediate increase of one year's worth of such cases, a one-time increase of **7 additional offenders in FY95.**

2. By shifting the burden of proof to the minor regarding amenability to treatment, it is assumed that more minors will be waived to adult status for unclassified and class A crimes against persons, other than murder. The department has used three methods to predict the impact of this provision:

Method 1: According to DFYS, there were 36 unclassified and class A felony (against a person) cases in 1991, 51 in 1992, and 55 in 1993, for an average of 47 per year. According to the Anchorage prosecutor in charge of juvenile felony cases, it would be

expected that roughly half of these cases will not result in waiver to adult status, due to the prosecutors' decision to drop or reduce charges. This would leave 24 offenders per year. This estimate was based upon an assumption that these cases might be automatically waived to adult status. Since the bill calls for shifting the burden of proof rather than automatic waiver, it is estimated that the offender will have a 50/50 chance of meeting the burden, thus reducing the estimated number to **12 offenders per year.**

Method 2: An alternative method of estimating the number of cases which will be waived under the bill is to assume that the number of cases requested for waiver, but denied, under current law would be successfully waived under the new law. Between 1984 and 1993, DFYS reports that 99 cases were requested for waiver and 74 cases were actually waived. The 25 denied cases, if successful, would have resulted in an average of 2.5 offenders per year, rounded up to **3 offenders per year.**

Method 3: Out of the 47 applicable cases referenced in Method 1, the department assumes that those with prior adjudications for felonies would be likeliest to fail to meet the burden of proof of amenability to treatment in the juvenile system. DFYS estimates that using this method, the department would expect to receive an additional **4 offenders per year.**

Averaging the estimates used in all three methods, the department assumes an additional 6 offender per year would be successfully waived under the provision shifting the burden of proof.

3. Because the provision of the bill authorizing the court to order a waived juvenile to participate in educational programming is based upon program availability, it is assumed that no additional resources will be required in order to comply with this requirement. The department assumes that if sufficient numbers of juveniles ordered to participate in educational programs are unable to do so due to lack of resources, that additional funding will be requested through the regular budget process. The department uses inmate tutors to supplement its resources in offering remedial education programs.

4. The department is already required to separate misdemeanants from felons, pretrial from sentenced felons, and men and women. Additionally, the department separates certain inmates from others based upon professional judgment concerning predatory/prey characteristics. The provision of the bill requiring separation of juveniles from adults convicted of sex offenses against juveniles will require revision of department policies and procedures as well as additional staff time and probably a higher use of single cells. Determining the age of a victim of a sex offense will require an individual file review, since this data is not obvious from a criminal history unless the sex offense is Sexual Abuse of a

Minor. Due to the inaccuracy of criminal justice records, it will not be possible to know for certain whether an adult has had such a conviction, especially if the conviction occurred long ago or in another jurisdiction. In small facilities with limited housing options and other separation factors to be considered, it is likely that juveniles will have to be housed in single cells on some occasions due to this requirement. In larger, busier facilities with numerous transfers, room changes, and other inmate movement, extra staff time to research criminal histories of potential roommates will involve extra staff hours. The department assumes a 5% higher daily cost of care for juveniles due to the need for these extra resources, and a 5% increase in the number of beds needed to accommodate higher single-cell use.

5. It is assumed that because these cases would involve serious felonies, the sentenced incarceration time would usually be longer than the six year period reflected on the fiscal note. The average sentenced incarceration time for unclassified felonies such as Murder and Kidnapping is 35 years. The average sentenced incarceration time for other unclassified felonies is 9 years, and the average sentenced incarceration time for a Class A felony is 8 years. These averages are based on OBSCIS records of the current incarcerated population, and include reduction for statutory good time.

6. The statewide average cost of incarceration in a state correctional center is \$113 per day. This figure does not include contract beds for lower custody offenders in CRCs. It is used due to the serious nature of crimes assumed relevant to this population, and is adjusted by 5% for juvenile beds due to special housing/management needs.

7. The cost for construction of an average prison bed in Alaska is \$100,000 per bed. (A maximum security bed costs \$160,000.) Because of the serious nature of crimes assumed relevant to this population, and the higher probability for special or segregated housing, the average bed cost which is used in these calculations should be considered to be conservative if new prison construction is needed to absorb the population increase.

8. The correctional system cannot absorb any additional prisoners without additional resources. The system has operated over emergency capacity throughout the past year despite the addition of contract CRC beds. Even when all aspects of the current population management plan are accomplished, only the current overpopulation will be addressed, not including any additional numbers of inmates caused by new legislation. In addition to posing safety hazards, operation over emergency capacity may result in fines of up to \$1,000 per day upon a finding of contempt of court for violating population capacity limits.

9. Because a number of crime bills are being considered during this session, it is difficult to predict the total number of beds by which the prison system may need to be increased, and therefore to predict how and where such beds would be added: through new facility

construction, facility modification, or contracting. Therefore, the operating expenses are reflected under "miscellaneous" and no estimate is available as to the number of state positions which would need to be added.

10. The figures reflected on the fiscal note are not adjusted for inflation in future years. The estimated number of additional offenders is based upon past and current offense rates. It is hoped that any deterrent effect resulting from the legislation will help offset the increasing rate of juvenile crime (estimated to be 7%), which is not reflected in the estimates. The department's OBSCIS system has the capability of "flagging" cases involving waived juveniles. The department will attempt to track the numbers of juvenile waiver cases received in its institutions during future years to compare with the predictions in this fiscal note. If the predictions prove to be inaccurate, it is assumed that funding can be adjusted through the regular budget process in future years.

Operating Expenses

Murder Cases: During FY95, the department will receive a one-time increase of seven murder cases which are automatically waived instead of taking up to a year or more due to the waiver process, in addition to the seven cases it would receive under current law. The department will also receive 6 additional cases due to the shift in burden of proof for waiver, or 13 total new cases:

13 X \$119* per day X 365 days = \$ 564,655 in FY95

* 5% increase in costs for special housing

During each subsequent year, the department will continue incarcerating these 13 prisoners and will incarcerate 6 additional prisoners. The table reflects the number of juveniles who will be under 18 each year, assuming they come in at age 16, and estimates their housing costs at the higher rate.

YEAR	OLD + NEW CASES	<18	COST/ DAY	18+	COST/ DAY	DAYS/ YEAR	TOTAL PER YEAR
FY96	13 + 6 = 19	19	X \$119	0	x \$113	x 365	\$ 825,265
FY97	19 + 6 = 25	12		13			\$ 1,057,405
FY98	25 + 6 = 31	12		19			\$ 1,304,875
FY99	31 + 6 = 37	12		25			\$ 1,552,345
FY00	37 + 6 = 43	12		31			\$ 1,799,815

Capital Expenses

In order to accommodate the 43 additional prisoners expected by FY00, 43 additional beds would have to be added to the system. Estimating a 5% increase due to the higher need for single-cell housing with this population, the department estimates a 45 bed increase:

$$45 \times \$ 100,000 = \$ 4,500,000$$

This expense could be reduced if the new beds were added through modification of existing facilities or contracting. However, there are currently no contract beds available in Alaska for inmates with higher than minimum custody, which is unlikely to apply to this population.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CSSB54(FIN)

Revision Date: 02/14/94 Dept. Affected: Health and Social Services
 Title: "An Act relating to violations of laws by juveniles and providing for an effective date" BRU: Youth Facility Services
 Sponsor: Senator(s) HALFORD, Phillips et al Component: MYC,FYF,NYF,JYC & BYF
 Requestor: H (FIN) COMPONENT SERIAL # 0264,0265,0266,0267,0268

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
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 EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

See attached for Fiscal Note Analysis

Prepared by: Deborah R. Wing, Director *Deborah R. Wing* Phone: 465-3191
 Division: Division of Family & Youth Services Date: 02/14/94
 Approved by Commissioner: Margaret R. Lowe *Margaret R. Lowe* Date: 2/14/94
 Agency: Department of Health & Social Services

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ANALYSIS (cont.):

The Department estimates in the charts below the number of offenders per year which could be prosecuted in adult court under variations of this bill based on an analysis of juvenile crime statistics for FY91, FY92, FY93 and the first five months of FY94.

DHSS ACTUAL YOUTH OFFENDER STATISTICS			
	FY91	FY92	FY93
Total petitioned	11	13	7
Total waived	7	11	7

AUTOMATIC WAIVER UNDER HCSCSSB54(JUD)

The department also reviewed related trends in juvenile crime dating back ten years. These trends show that an average of 4.4 cases per year were referred on the charges of murder/manslaughter. However, as of 12/10/93, McLaughlin Youth Center already has five juveniles to waive for homicide, one being petitioned for another crime and one being considered for waiver for armed robbery. It is too early for hard statistics, but violent juvenile crime appears to be on the increase.

HCS CSSB54 (JUD) would not significantly reduce the number of offenders referred to DHSS juvenile intake officers and subsequently confined in DHSS youth facilities. During the past three fiscal years the department has been averaging 6,704 youth corrections referrals per year statewide and of these referrals an average of 1,325 are admitted to a DHSS detention facility. Early estimates for McLaughlin Youth Center show an increase in detention admissions to that facility for FY94.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: HCS CSSB 54(FIN)

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An act relating to violations of laws
by juveniles." BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Senator Halford
 Requestor: House Finance 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	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

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	0.0	0.0	0.0

Estimate of current year (FY 94) impact: \$ 0.00 _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 2/14/94
 Approved by Commissioner: *Richard L. Burton* Date: 2/14/94
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCSCSSB 54 (FIN)

Revision Date: February 14, 1994
Title: "An Act relating to violations of laws by juveniles..."
Sponsor: Senator Halford
Requestor: House Finance

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						
---------	--	--	--	--	--	--

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 14, 1994

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

Date: February 14, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCSCSSB 54 (FIN)

ANALYSIS CONTINUATION:

The revisions in the House Finance Committee Substitute for SB 54 would automatically waive minors who are 16 years old or older to "adult" court who are charged with first or second degree murder, or who are charged with attempted murder in the first degree. Previous versions of the bill would have automatically waived 14 and 15 year olds charged with the same offense, and would have automatically waived minors charged with a felony if they had previously been convicted of a felony or if they had previously been adjudicated as a delinquent for a felony against a person.

This version of the bill restores the existing amount that may be recovered in a civil action to \$2,000.

The bill also requires that in a petition by a minor to have the charges removed from "adult" court, and adjudicated in a juvenile proceeding under AS 47.10.020 - 47.10.090, the minor bears the burden of proving by a preponderance of the evidence that he or she is amenable to treatment as a juvenile before reaching 20 years of age, if the minor was 16 or 17 years of age at the time of the alleged commission of the offense and the offense is an unclassified felony or class A felony that is a crime against a person.

As we have commented previously, adoption of this bill could increase our felony caseload slightly. However, the amount of the increase, which may vary widely from year to year, does not warrant fiscal note costs. Moreover, there should be an offsetting savings since prosecutors will no longer have to conduct a waiver proceedings for minor defendants who have been waived automatically. Consequently, this zero fiscal note has been submitted.

The other changes in the bill mainly deal with Department of Corrections handling of juveniles incarcerated in the correctional system and will not impact the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CSSB 54 (Fin)

Revision Date: _____	Dept. Affected: <u>Administration</u>
Title: <u>"An Act relating to violations of laws by juveniles...."</u>	BRU: <u>Office of Public Advocacy</u>
Sponsor: <u>Halford</u>	Component: <u>Office of Public Advocacy</u>
Requestor: <u>(H) Fin</u>	COMPONENT SERIAL NO. <u>43</u>

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
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

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: <u>Brant McGee, Public Advocate</u>	Phone: <u>274-1684</u>
Division: <u>Office of Public Advocacy</u>	Date: _____
Approved by Commissioner: <u>Nancy Bear Usura</u>	Date: <u>2/14/94</u>
Agency: <u>Administration</u>	

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FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. HCS CSSB 54 (Fin)

Revision Date: _____	Dept. Affected: <u>Administration</u>
Title: <u>"An Act relating to violations of laws by juveniles...."</u>	BRU: <u>Public Defender Agency</u>
Sponsor: <u>Halford</u>	Component: <u>Public Defender Agency</u>
Requestor: <u>(H) Fin</u>	COMPONENT SERIAL NO. <u>1631</u>

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
-----------------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

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: <u>John Salemi, Public Defender</u>	Phone: <u>264-4400</u>
Division: <u>Public Defender Agency</u>	Date: _____
Approved by Commissioner: <u>Nancy Bear Usara</u>	Date: <u>2/14/94</u>
Agency: <u>Administration</u>	

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Alaska State Legislature



House of Representatives House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

LETTER OF INTENT

It is the intent of the House Judiciary Committee, in its adoption of HCS for CS for SB 54 (JUD), to alter the jurisdiction of the criminal courts over juvenile offenders charged with murder and to require the juvenile offender for whom waiver to criminal court has been sought for other offenses to prove that he or she is amenable to treatment in the juvenile justice system.

The House Judiciary Committee, in its adoption of HCS CSSB 54 (JUD), intends to alter the substantive legal rights of juvenile offenders. In the judgement of the committee, the scope of a court's jurisdiction and the allocation of burdens of proof in legal actions are matters of substantive law, not matters of procedure.

It is the judgement of the committee that, once the screening authorities have decided that a juvenile offender is not amenable to treatment in the juvenile court system and have filed a petition seeking waiver of the juvenile into the adult criminal court system, it is the offender himself who is in the best position to show that he would be treatable in the juvenile court system. The juvenile offender and his attorney are the ones who know the most about the offender's family and educational experiences, and are in the best position to present information relating to the issue of treatability to the court.

For example, under the Alaska Court of Appeals' decision in R.H. v. State, 777 P. 2d 204 (Alaska App. 1989), the state may not compel a juvenile offender to submit to a psychiatric evaluation for the purpose of determining his amenability to treatment in the juvenile court system. In its decision, the court acknowledged that "in some situations, the lack of information concerning the psychiatric condition of the accused child will undoubtedly make the state's burden more difficult to meet." 777 P. 2d at 211. In the view of the committee, to place the burden of proof upon the party who has the greatest access to the facts relevant to the issue of treatability is a sound public policy choice.

Brian D. Porter

Brian Porter, Chairman

By: Sen. Taylor

SENATE
LETTER OF INTENT

CSSB 54(FIN)

It is the intent of the Senate that Sections 1, 5, and 8 of this Act are not intended to modify court rules regarding access to presentence reports, discovery in criminal cases, or any other court rules designed to limit the dissemination of information to protect individual privacy, a person's right to a fair trial or other constitutional rights.

Adopted: 3/2/93

failed

8-LS0384G.1 ✓
Chenoweth
2/17/94

A M E N D M E N T 1

OFFERED IN THE HOUSE

BY REPRESENTATIVE HANLEY

TC: HCS CSSB 54(FIN)

Page 10, line 14:

Delete "treatment facility,"

Page 15, line 12:

Delete "new paragraphs"

Insert "a new paragraph"

Page 15, lines 13 - 16, after "(11)":

Delete "'treatment facility' means a hospital, clinic, institution, center, or other health care facility that has been designated by the department for the treatment of juveniles;

(12)"

Ado 21

AMENDMENT 1

Hanley

TO HCS for CS for SB 54, Workdraft "N"

Page 5, Line 14, after the words, "When a minor who"

insert, "was"

delete, "is"

after the words "of age", insert the words

"at the time of the offense"

By MacLean

AMENDMENT #2

OFFERED IN THE HOUSE

TO: HCS CSSB 54() ^{"N"} ~~1~~ Version

Page 2, following line 24:

Insert a new bill section to read:

"* Sec. 2. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.301. LIMITATION ON INCARCERATION OF JUVENILES. A juvenile committed to the custody of the commissioner when the juvenile has been convicted as an adult may not be placed in a cell with a ^{adult} prisoner convicted of an ~~sexual~~ offense ^{SECRET} [that is a crime against a person] in which the victim of the crime was a juvenile, or in which the offense that was committed by the prisoner for which the prisoner was convicted involved a juvenile as an accomplice."

Renumber the following bill sections accordingly.

w/D

8-LS0384N.6 ✓
Chenoweth
2/11/94

AMENDMENT

3

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 54() "N" Version

Page 5, lines 13 - 26:

Delete all material and insert:

"* Sec. 5. AS 47.10.010 is amended by adding a new subsection to read:

(e) When a minor who is at least 16 years of age is arraigned on a charge of murder in the first degree, attempted murder in the first degree, or murder in the second degree, AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules do not apply to the offense for which the minor is arraigned or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, prosecuted, and sentenced in the superior court in the same manner as an adult, unless the minor is convicted of some offense other than murder in the first degree, attempted murder in the first degree, or murder in the second degree, in which event the minor shall be treated as though the charges had been heard under this chapter, and the court shall order disposition of the charges of which the minor is convicted under AS 47.10.080(b)."

Page 7, lines 10 - 17:

Delete all material.

Renumber the following bill sections accordingly.

AMENDMEN

4

OFFERED IN THE HOUSE

TO: HCS CSSB 54(JUD)

Page 3, line 25 through page 4, line 1:

Delete all material and insert:

"^m Sec. 4. AS 47.10.010 is amended by adding a new subsection to read:

(e) The procedures prescribed in AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules do not apply to an offense specified in this subsection for which the minor is arraigned or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, prosecuted, and sentenced in the superior court in the same manner as an adult. The provisions of this subsection apply when a minor

(1) who is at least 16 years of age is arraigned on a charge of murder in the first degree, attempted murder in the first degree, or murder in the second degree; and

(2) who is at least 14 years of age at the time of the alleged offense is charged with an offense, the minor is alleged to have used a firearm in the commission of the offense, and the minor has been previously adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as a result of an offense that, in this or another jurisdiction, involved use of a firearm in the commission of the offense; in this paragraph, "firearm" has the meaning given in AS 11.81.900."

Page 6, line 12:

Delete "or"

After "second degree"

Insert ", or an offense in which the minor is alleged to have used a firearm in its commission and the minor has been previously adjudicated as a delinquent or convicted

as an adult, in this or another jurisdiction, as a result of an offense that, in this or another jurisdiction, involved use of a firearm in the commission of the offense"

A M E N D M E N T 3

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 54(JUD)

Page 2, following line 24:

Insert a new bill section to read:

"* Sec. 2. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.301. LIMITATION ON INCARCERATION OF JUVENILES. (a)

A juvenile who is committed to the custody of the commissioner when the juvenile has been charged, prosecuted, and convicted as an adult after entry of a court order under AS 47.10.060(a) finding that the minor is not amenable to treatment as a juvenile under AS 47.10.010 - 47.10.142 may not be placed in a cell with an adult prisoner.

(b) A juvenile who is committed to the custody of the commissioner when the juvenile has been charged, prosecuted, and convicted as an adult under AS 47.10.010(e) may not be placed in a cell with a prisoner convicted of an offense in which the victim of the crime was a juvenile."

Renumber following bill sections accordingly.

Page 3, lines 1 - 24:

Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 26 - page 4, line 1:

Delete all material and insert:

"(e) Except as provided in this subsection, when a minor who is 16 years of age or older is arraigned on a charge of murder in the first degree, attempted murder

in the first degree, or murder in the second degree, AS 47.10.020 - 47.10.090 do not apply to the offense and any additional offenses joinable under the applicable rules of court governing criminal procedure. Instead, the minor shall be charged, prosecuted, and sentenced in the superior court in the same manner as an adult."

Page 4, line 2 - page 8, line 11:

Delete all material.

Renumber following bill sections accordingly.

Page 8, lines 15 - 26:

Delete all material and insert:

"(b) The following records pertaining to minors are public records:

(1) all records pertaining to a minor who has been charged as an adult under AS 47.10.010(e);

(2) the records listed in this paragraph pertaining to a minor who was 16 years of age or older at the time of the alleged offense, who was convicted or adjudicated as a delinquent for the commission of that offense, and who has been previously adjudicated as a delinquent or convicted as an adult in this or another jurisdiction:

(A) the petition filed under AS 47.10.020 seeking to have the court declare the minor a delinquent;

(B) a petition filed under AS 47.10.080 seeking to have the court revoke the minor's probation;

(C) a petition filed under AS 47.10.010 - 47.10.142 that, under AS 47.10.060, requests the court to find that a minor is not amenable to treatment under this chapter and that results in closure of a case under AS 47.10.060(a); and

(D) a court judgment or order entered under AS 47.10.010 - 47.10.142 that disposes of a petition identified in (A) - (C) of this paragraph."

Page 11, lines 7 - 10:

Delete all material and insert:

"* Sec. 8. APPLICABILITY. The changes made by this Act apply only to offenses committed on or after July 1, 1993. An offense committed before July 1, 1993 shall be adjudicated or prosecuted under the provisions of law existing at the time that the offense was committed.

* Sec. 9. This Act takes effect July 1, 1993."

Adopted

8-LS0384Y.2 ✓
Chenoweth
4/26/93

AMENDMENT 2

OFFERED IN THE HOUSE

TO: HCS CSSB 54(JUD)

Page 3, line 26, after "age":

Insert "at the time of the alleged offense"

Page 6, line 6, after "for the court.", through line 12:

Delete all material.

Insert "The court may not, under this subsection, seal records of a criminal proceeding initiated against a person if the court finds that the person has not complied with a court order made under AS 47.10.080(b)."

Attachment 3
5/06/93

Adopt

AMENDMENT \

BY: COURT SYSTEM

TO: HCS CSSB 54 (JUD)

Page 5, line ~~16~~ 15

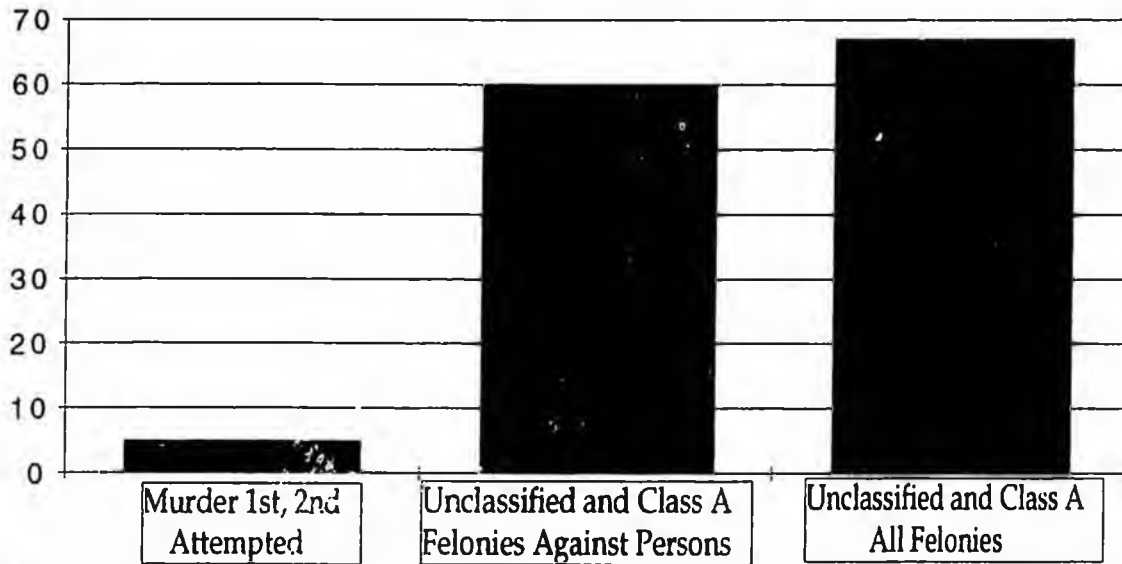
Delete "has been filed under AS 47.10.020"

Insert "requesting the court to waive juvenile jurisdiction
has been filed"

Attachment 2

5106193

**SB 54, Automatic Waiver of 16 and 17 year olds.
Projected waivers per year based on juveniles charged
in 1993.**



FY 95=\$4.3 million, Capital.

\$38.4 million, Capital.

By FY 97, \$1 million/yr. Operating.

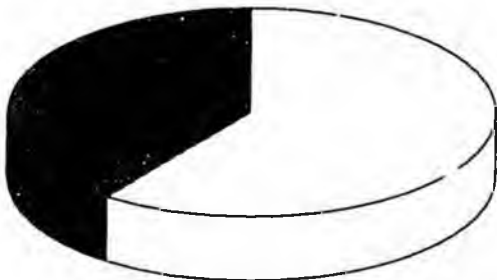
\$2.6 million/yr. Operating.

\$9.5 million over 6 years

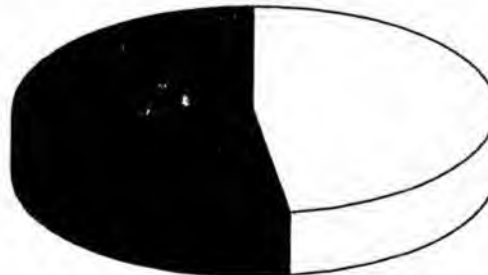
\$52.4 million over 6 years

Minority Juveniles in the current system:

**Alleged Youth Offenders,
40% Minorities**



**Minority Youth, 52.5% of
Juveniles Confined in
Detention**



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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 23, 1994

SUBJECT: HCS CSSB 54 (Finance) (Work Order No. 8-LS0384\G)

TO: Representative Ron Larson, Co-Chair
Representative Eileen MacLean, Co-Chair
House Finance Committee
ATTN: Carol Collins

FROM: Jack Chenoweth
Legislative Council



For the reason set out in the enclosed January 20 memo of Revisor of Statutes David R. Dierdorff to Senate President Rick Halford, the title change made by the House Finance Committee in HCS CSSB 54 (Finance) does not require the House to adopt a concurrent resolution waiving provisions of the Uniform Rules relating to bill title changes by the second house.

Senator Halford's office authorized release a copy of the January 20 memo.

JBC:mi
94-036.mai

Enclosure

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STATE OF ALASKA**

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MEMORANDUM

January 20, 1994

SUBJECT: Title of HCS CSSB 54() (Work Order No. 8-LS0384\P)

TO: Senator Rick Halford
Attn: Kelly Goode

FROM: David R. Dierdorff
Revisor of Statutes

The latest draft version of HCS CSSB 54() (the "P" version) contains a change to the title. The title of the bill as it was passed by the Senate (CSSB 54 (FIN)) was defective in that the reference to "records of those [juvenile] offenses" did not accurately describe the amendment to AS 09.25.120 made in bill section 1. That amendment concerns all records pertaining to juveniles, not just records relating to juvenile offenses. The title of the draft HCS covers the material in bill section 1 as it currently reads and also would cover the material as it passed the Senate.

Although the bill is in the second house, it is my opinion that the title change does not require a concurrent resolution waiving the Uniform Rules. While Uniform Rule 24(c) prohibits a committee from reporting out a committee substitute or amendment that requires a title change, other than a technical one, the title change here is not "required" by an amendment or change in the second house, but rather by the defective title in the first house. Accordingly, our office has in the past considered such changes to be "technical." Unfortunately, because the title change does constitute a change to the bill, the Senate will have to concur in the title change, even if the House passed a version that was otherwise identical to the bill passed by the Senate.

Please accept our apologies for discovering this problem at this late date. It is, however, best to correct the problem now, thereby avoiding a challenge to the bill on the grounds that the title did not reflect the contents of the bill. See sec. 13, art. II, Constitution of the State of Alaska.

I should point out that because all parts of the bill relate to juveniles, there is no single subject problem arising out of the juvenile records that pertain to matters other than offenses.

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Mail Stop 3101

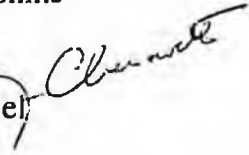
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 15, 1994

SUBJECT: Section 13 of HCS CSSB 54 (Finance) (Work Order No. 8-LS0384H)

TO: Representative Ron Larson, Co-Chair
Representative Eileen MacLean, Co-Chair
ATTN: Carol Collins

FROM: Jack Chenoweth 
Legislative Counsel

On review of the committee substitute prepared and delivered on February 13, I found that section 13 is improperly drafted.

Please return the original so that I may correct it.

I propose to substitute the language set out in the attached amendment. The amendment is intended to respond to the problem that arises out of the language used to assign the burden of proof that a minor is not amenable to treatment (and for which the court should waive juvenile jurisdiction over the minor and allow the minor to be tried as an adult). In point of fact, the burden that should be placed on the state (with the exception of minors 16 or 17 who commit certain felonies that are crimes against a person) should be that of showing that the minor is not amenable to treatment as a minor. That is not how AS 47.10.060(f) in section 13 of the February 13 bill is phrased. The language of the amendment properly makes the distinction.

JBC:pl
94-130.plm

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HCS CSSB 54(FIN)

Page 9, line 21, through page 10, line 2:

Delete all material and insert:

"* Sec. 13. AS 47.10.060 is amended by adding a new subsection to read:

(f) For purposes of making a determination under (a) and (d) of this section,

(1) the standard of proof is by a preponderance of the evidence; and

(2) the burden of proof that a minor is not amenable to treatment under AS 47.10.010 - 47.10.142 is on the state; however, if a minor was 16 or 17 years of age at the time of the alleged commission of the offense and the petition filed under AS 47.10.020 seeking to have the court declare the minor a delinquent is based on the minor's alleged commission of an offense that is an unclassified felony or class A felony and that is a crime against a person as defined in AS 33.30.901, the minor is

(A) rebuttably presumed not to be amenable to treatment under AS 47.10.010 - 47.10.142; and

(B) has the burden of proof of showing that the minor is amenable to treatment under AS 47.10.010 - 47.10.142."

DIVISION OF LEGAL SERVICES

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Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 13, 1994

SUBJECT: HCS CSSB 54 (Finance) (Work Order No. 8-LS0384\H)

TO: Representative Ron Larson, Co-Chair
Representative Eileen MacLean, Co-Chair
House Finance Committee

FROM: Jack Chenoweth
Legislative Counsel 

Per your instruction I have incorporated the amendments adopted by the committee and prepared a draft.

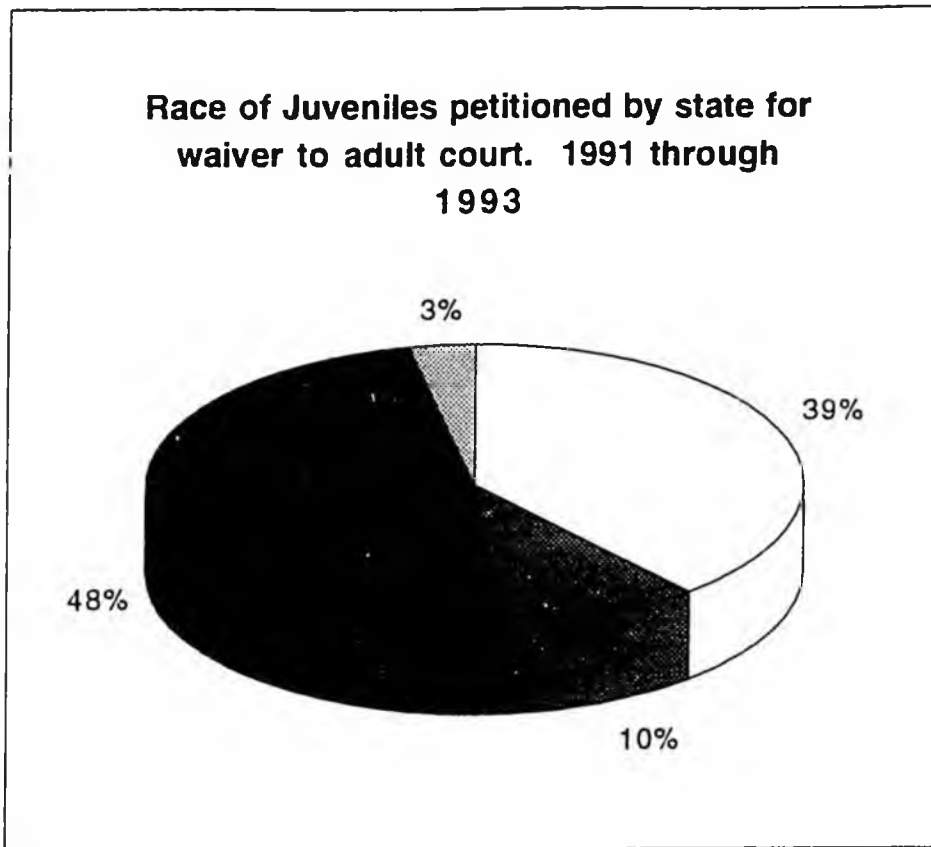
Please note that in the material added in the bill's sections 2 and 3, we have added the words "if the defendant is a minor convicted as an adult." We did so because it was necessary to provide some restriction or limitation on the operation of the language as approved by the Finance Committee in order to maintain the conformity of the bill's subject to the parameters of the existing title--juvenile justice concerns--and to meet the requirements of the single subject rule of article II, section 13 of the state constitution. The addition of these words of limitation, not specifically addressed or authorized by the committee, seemed to be consistent with the spirit of the amendment to the bill.

Note, too, I've inserted additional words into the amendment material in what is the bill's section 5. Had the language been inserted exactly as the committee indicated, it might have called into question whether reference in the existing law to "treatment plan of a rehabilitation program" would continue to be limited by the reference to "AS 12.55.015(a)(10)." Believing that the committee-adopted amendment intended no change, we modified the amendment to assure that there is none.

JBC:lmb
94-051.lmb

Enclosure

Race of Juveniles petitioned by state for waiver to adult court. 1991 through 1993



48.4% White

38.7% Native

9.7% Black

3.2% Hispanic

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CSSB54 (Fin)

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to violations of laws by juveniles. BRU: Medicaid
 Sponsor: Sen. Halford, Phillips, Leman, Taylor, Miller; Rep. Porter, Bunde, Toohey, Martin Component: Claims Processing
 Requestor: House Fin COMPONENT SERIAL NO. 243

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	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	0.2	0.2	0.3	0.3	0.4	0.4
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	0.2	0.2	0.3	0.3	0.4	0.4

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.1	0.1	0.1	0.2	0.2	0.2
1003 GF Match	0.1	0.1	0.1	0.2	0.2	0.2
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	0.2	0.2	0.3	0.3	0.4	0.4

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 (FY94) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

Processing of claims is \$6.23 per claim. The assumptions associated with claims processing are on the attached page.

Prepared by: Dave W. Williams
 Division: Medical Assistance
 Approved by Commissioner: Margaret R. Lowe
 Agency: Department of Health & Social Services

Phone: 465-3355
 Date: 02/14/94
 Date: 2/14/94

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2/14/94

HCS CSSB54

ASSUMPTIONS

On the average there has been 3 to 5 juveniles in Alaskan detention facilities who would benefit from placement in a "treatment facility." Such facilities are available in the Anchorage area and juveniles may also be placed out-of-state.

In state facilities cost about \$22,500 per month and out-of-state placements are about \$15,000 per month.

There are four juveniles currently would be placed in treatment facilities under the provisions of the bill. Placements will be one-half in-state and one-half out-of-state, average cost of \$18,750 per month.

The number of juveniles placed in treatment facilities will increase by 1 per year. This increase includes consideration of the length of placement average of 18 months.

The cost of such placements will be reimbursable as a Medicaid expense; 50% GF and 50% federal receipts.

Inflation is assumed to increase at 5% per year.

Claims will be billed at two per juvenile per month with a processing cost of \$6.23 per claim. In state claims will be included in existing claims groups and not cost additional.

GROWTH RATE							
FY94	FY95	FY96	FY97	FY98	FY99	FY00	
	4.0	5.0	6.0	7.0	8.0	9.0	10.0

Claims						
cost	\$1,125.0	\$1,417.5	\$1,653.8	\$1,890.0	\$2,126.3	\$2,362.5
processing	0.2	0.2	0.3	0.3	0.4	0.4

- \$18,750.0 average cost per month
- \$6.23 cost per claim
- 12 months per year
- 0.001 factor to get to thousands
- 0.5 factor to get to one-half
- 1.05 factor for 5% inflation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CSSB54 (Fin)

Revision Date:	Dept. Affected: <u>Health and Social Services</u>
Title: <u>An Act relating to violations of laws by juveniles.</u>	BRU: <u>Medicaid</u>
Sponsor: <u>Sen. Halford, Phillips, Leman, Taylor, Miller;</u>	Component: <u>Medicaid Non-Facility;</u>
Requestor: <u>House Fin</u>	Rep. Porter, Bunde, Toohey, Martin
	COMPONENT SERIAL NO. 229

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	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	1,125.0	1,417.5	1,653.6	1,890.0	2,126.3	2,362.5
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	1,125.0	1,417.5	1,653.8	1,890.0	2,126.3	2,362.5

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	-----	-----	-----	-----	-----	-----

CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	562.5	708.8	826.9	945.0	1,063.1	1,181.3
1003 GF Match	562.5	708.8	826.9	945.0	1,063.1	1,181.3
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	1,125.0	1,417.5	1,653.8	1,890.0	2,126.3	2,362.5

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 (FY94) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

There are presently four juveniles in detention in Johnson Center awaiting placement in youth corrections treatment programs for whom there are no beds available. The "treatment facilities" included in the bill would become another option for placement under a medical model. Medical models are expensive averaging an estimated \$18,750 per month per juvenile. Even though the proposed addition of treatment facilities in AS 47.10.080(b)(1) is an option left to the discretion of the department, it is anticipated that judicial orders will force placement of juveniles who are awaiting an available opening. Placement in such treatment facilities are not now occurring, so the cost would be new to the state. If the facilities meet certification requirements, the cost would be reimbursable under Medicaid at 50% state and 50% federal. Other assumptions are on the next page.

Prepared by: Dave W. Williams *DW*
 Division: Medical Assistance
 Approved by Commissioner: Margaret R. Lowe
 Agency: Department of Health & Social Services

Phone: 465-3355
 Date: 02/14/94
 Date: 2/14/94

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HCS CSSB54

ASSUMPTIONS

On the average there has been 3 to 5 juveniles in Alaskan detention facilities who would benefit from placement in a "treatment facility." Such facilities are available in the Anchorage area and juveniles may also be placed out-of-state.

In state facilities cost about \$22,500 per month and out-of-state placements are about \$15,000 per month.

There are four juveniles currently would be placed in treatment facilities under the provisions of the bill. Placements will be one-half instate and one-half out-of-state, average cost of \$ 18,750 per month.

The number of juveniles placed in treatment facilities will increase by 1 per year. This increase includes consideration of the length of placement average of 18 months.

The cost of such placements will be reimbursable as a Medicaid expense; 50% GF and 50% federal receipts.

Inflation is assumed to increase at 5% per year.

Claims will be billed at two per juvenile per month with a processing cost of \$6.23 per claim. In state claims will be included in existing claims groups and not cost additional.

GROWTH RATE							
FY94	FY95	FY96	FY97	FY98	FY99	FY00	
4.0	5.0	6.0	7.0	8.0	9.0	10.0	

Claims							
cost	\$1,125.0	\$1,417.5	\$1,653.8	\$1,890.0	\$2,126.3	\$2,362.5	
processing	0.2	0.2	0.3	0.3	0.4	0.4	

- \$18,750.0 average cost per month
- \$6.23 cost per claim
- 12 months per year
- 0.001 factor to get to thousands
- 0.5 factor to get to one-half
- 1.05 factor for 5% inflation

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

January 14, 1994 9:45 AM

Projected Waiver Cases Based on Actual Referrals for Calendar 1991, 1992 and 1993

Projected automatic waiver under HCSCSSB54 (JUD):

Calendar Year Est.	1991	1992	1993
Projected Waived	4	4	5

Applicable Offense List: Murder 1st
 Murder 2nd (Attempted Murder)

Projected automatic waiver for all unclassified and class A felonies:

Calendar Year Est.	1991	1992	1993
Projected Waived	55	62	67

Applicable Offense List: Murder 1st
 Murder 2nd
 Kidnapping
 Sexual Assault 1st
 Sexual Abuse of a Minor 1st
 Misconduct Contr. Substance 1st
 Misc. Contr Subst. 2nd (opium, morphine)
 Manslaughter
~~Assault 1st~~
~~Robbery 1st~~
 Escape 1st
 Dist. of Child Porn
 Misconduct Involving Weapon
~~Crim. Poss. Explosives (Intent to Murder)~~
 Promo. Prostitution 1st (2nd Charge)

Projected automatic waiver for unclassified and class A felonies against persons only:

Calendar Year Est.	1991	1992	1993
Projected Waived	41	55	60

Applicable Offense List: Murder 1st
 Murder 2nd
 Kidnapping
 Sexual Assault 1st
 Sexual Abuse of a Minor 1st
 Manslaughter
 Assault 1st
 Robbery 1st

Data Source: PROBER^a

Comparison of "Juvenile Waiver" Bills

	House CS CS9B 54 (JUD) (now in House Finance)	CS9B 54(FIN) (as read Senate)	SB 140/HD 189 (Governor's bills)
	Ages 16-17: Automatically treated as an adult	Ages 16-17: Automatically treated as an adult	Ages 16-17: Automatically treated as an adult
Other unclassified felonies:	All ages: The burden shifts to the minor to prove amenability to treatment	Ages 16-17: Automatically treated as an adult	Retains current law. Current law imposes a burden on the state to prove the juvenile is not amenable to rehabilitation within the juvenile system before 20th birthday.
Class A felonies:			
Handwritten: A			
Handwritten: S			
Handwritten: A			
Handwritten: S			
Handwritten: AUTOMATIC WAIVER			
All other felonies against a person:	Same as above: Minor has burden of proving amenability to treatment	Ages 16-17 automatically treated as an adult if previously delinquent for a felony against a person Ages 14-15 automatically treated as an adult if previously convicted as an adult for a felony against a person <i>unless</i> the juvenile can prove amenability to treatment	Retain current law.
Transfer back to the juvenile system if the defendant is convicted of a lesser offense	Burden shifts to minor to show amenable to treatment	Automatic "bounce-back" to juvenile system	No



17-year-old accused of firing fatal shot

■ **JUNEAU:** The arrest of a teen in the death of a cab driver was Exhibit A at a hearing on legislation making it easier to try teenagers as adults if they are charged with violent crimes. **D-1**

By **S.J. KOMARNITSKY**
Daily News reporter

A 17-year-old boy has been arrested and charged with robbery and first-degree murder in connection with last week's shooting death of Alaska Cab driver Raymond Maser, Anchorage police said Friday.

Police officials refused to identify the 17-year-old, citing laws prohibiting them from discussing cases involving juveniles.

Police also arrested three adults in connection with the shooting. Demieceo Benson, 25, was charged with second-degree murder and robbery. Michelle Earp, 20, was charged with drug violations and hindering prosecution. Leif P. Erickson 22, was arrested on drug, weapons and evidence-tampering charges.

According to court documents, the 17-year-old — identified only by the initials W.E.S. — told police, he

shot Maser after he tried to rob the driver and Maser resisted. Benson was in the cab at the time. W.E.S. said the two had discussed robbing Maser after they saw him parked outside the Black Angus restaurant at the intersection of 15th Avenue and Gambell Street about 6 p.m. Jan. 5.

He said Benson told him to "pop" or kill the driver if he

contract in doubt

Forest Service threatens action over mill's closure

By **DAVID WHITNEY**
Daily News reporter

WASHINGTON — The Forest Service says it will cancel Alaska Pulp Corp.'s long-term timber contract in the Tongass National Forest unless the Japanese-owned company restarts its Sitka pulp mill within 30 days.

Citing declining markets, Alaska Pulp closed the mill at the end of September, costing nearly 400 jobs.

Alaska Pulp said in a press release Friday that in family violence termination of its contract could jeopardize the jobs of another 900

loggers and workers supporting the company's only other operating plant, a sawmill in Wrangell.

Alaska Pulp has shown no interest in restarting the Sitka pulp mill. Instead, it is exploring conversion of the plant to manufacture fiberboard. But no decision has been made to proceed with the conversion, which could take at least two years to complete.

In a prepared statement Friday, Alaska Pulp executive vice president Frank Roppel said he remains confident the Forest Service will regard eventual construction of a fiberboard plant as fulfillment of the company's contractual obligations.

"The objective has been to find an alternative to the manufacture of dissolving pulp which under current Forest Service administration of our contract is not financially viable," Roppel said.

But in a letter dated Thursday, regional forester Mike Barton showed little willingness to allow the Sitka pulp mill to sit idle while Alaska Pulp decides about a replacement plant.

And according to Barton's letter, conversion of the pulp mill into a fiberboard operation depends on modification to the long-term contract, which would require

Please see Back Page, TAXI

Corp., a division of the
iana-Pacific Corp. is
than the forest can
n. The contracts were
ated in the 1950s.
ber company officials
said supply problems
aggravated by changes
ederal logging policies
by Congress when it
ferred land to Alaska
e corporations to settle
claims and designated
prime timber as wil-
ss. But the timber offi-
say there is still enough
to sustain the con-
; and they blame the
t Service for not mak-

populations.

"These contracts have not only been an environmental disaster but also a barrier to economic diversification and the stability of our region," said Kate Crockett of the Juneau-based Southeast Alaska Conservation Council.

Cancellation of the long-term contracts was central to the fight over the 1990 Tongass Timber Reform Act, which set new standards for logging operations and removed about 700,000 acres of prime wildlife habi-

dent Bush. Barton's letter is an indication the Clinton administration may be willing to cancel the contracts by administrative action.

The pressure on the administration to do so is building.

A Dec. 10 letter signed by six House members — including one of the chamber's most conservative Democrats, Tim Penny of Minnesota — urged immediate cancellation of both contracts. They warned that the Tongass was headed for an ecological "train wreck."

Rep. George Miller, D-

"Alaska Pulp Corp. broke its contract with the U.S. when they shut the pulp mill and threw hundreds of Alaskans out of work," Miller wrote in a statement. "The U.S. no longer has any obligation to continue this taxpayer subsidized and environmentally destructive timber monopoly."

Cancellation of Alaska Pulp's contract would not put it out of business. The company still could compete to buy timber to keep its Wrangell mill operating.

TAXI: Teen accused in shooting

Continued from Page A-1

resisted. W.E.S. was to use a stolen Ruger 9mm semiautomatic pistol he was carrying.

W.E.S. told police the two got in the cab and asked Maser to take them to the 100 block of Heintzleman Drive, just off of C street in Midtown.

When they reached Heintzleman, W.E.S. said, he pointed the Ruger at the back of Maser's head and demanded money. But Maser reached over his shoulder with his right hand and grabbed the barrel of the gun. Then, he stepped on the gas and started swerving.

W.E.S. said he was trying to jump out of the car, when the gun "accidentally" went off.

The shot hit Maser just above his left ear. He lost control of the car and crashed into a house. By the time police found him 10 minutes later slumped over in his seat, he was dead. Later, they also found a 9mm shell casing in the back seat.

It was unclear from court documents when Benson and W.E.S. jumped out of the car, but police said the two fled on the Chester Creek trail to a nearby apartment where Erickson and Earp live.

W.E.S. knew Erickson and Earp because they dealt cocaine and W.E.S. wanted to be a runner for them, according to court documents.

Once at the apartment, the four tried to destroy the gun, drilling into it with a power tool and hitting it with a blunt object, according to court documents.

The group then called Shelby Hopkins, 17, who is friends with Erickson and W.E.S.

Hopkins was in an Anchorage hospital Friday, recovering from appendicitis. In a telephone interview, he said Erickson and W.E.S. called him because he knows

guns. But, Hopkins said, even he couldn't destroy the weapon, which had become jammed.

Hopkins said he took the gun home in a plastic bag and threw it in the garbage, then decided to stash it in his backpack in his room. That's where police found it early Friday, along with a .25-caliber automatic pistol, when they raided his apartment with a search warrant. Three more guns were confiscated by police at other locations in the city.

Hopkins said he knew the pistol had been used in the shooting, but he never figured the cops would trace it to him. But police did find the gun after two informants led them to the apartment where Hopkins lives with his brother, his uncle and three other men. Hopkins was not arrested and he said police have not interviewed him.

Hopkins said he was upset when he learned the gun was used to shoot Maser. Hopkins knows Maser because his uncle grew up with him.

"I was mad when he shot him," he said "He (Maser) used to stop by sometimes and visit my uncle."

But Hopkins said he didn't turn in W.E.S., whom he knew only as "Pumpkin," because both of them were members of a gang run by Erickson known as the Larza 60s Cartel.

"I thought I would just hold out a little while, and if the cops caught him fine," he said. "I was more worried about myself going to jail."

Police Sgt. Mike Grimes said he thinks the "cartel" was less of a gang than a group of impressionable young people being manipulated by Erickson.

Grimes said the big break in the investigation came Jan. 7, two days after the shooting. A couple who lived with Erickson and Earp witnessed them trying to take

apart the gun and were told it was used to shoot a cab driver.

The two, who were not identified in court documents, then contacted police and agreed to secretly record conversations with Erickson and Earp.

By Thursday night police were ready to make the arrests. Members of the Homicide Response Team, including District Attorney Stephen Branchflower, a crisis response team, and agents from the Bureau of Alcohol, Tobacco and Firearms were all called out to help.

At 10:30 p.m. Thursday, Earp, Erickson and W.E.S. were stopped and taken into custody as they drove near the intersection of Minnesota Drive and International Airport Road. Benson was later arrested at an apartment police would not identify.

Friday afternoon, the three adult suspects appeared in District Court, shackled to other defendants. They conferred with each other as they read the charges against them.

Only Benson, who used to work as a musician at an Anchorage church, has a substantial criminal record, with two convictions for theft. He had just been released from jail Dec. 23, after serving time for stealing a \$300 compact disc player from Sears and merchandise worth nearly \$100 from Pay 'N Save.

Alaska Cab owner Guy Hibbert, for whom Maser drove, said he was pleased by the arrests. Despite his anger and disgust at the details of the crime, he attended the Friday afternoon hearing.

"I just had to come and see, to make sure it was true," he said.

□ Daily News reporter Liz Ruskin contributed to this report.



BILL ROTH / Daily News file photo

last year's Iditarod race.

participate in sled dog racing.

Hooley said the \$12,000 payment is "still an open issue," adding that the ITC is in favor of a Native foundation.

Masek is entered in the 94 Iditarod and Hooley said she will be permitted to run the race. Masek, however, said she has lost her sponsors and doesn't know she'll ever race the Iditarod again.

The Associated Press and Daily News reporter Natalie Phillips contributed to this story.



FRAN DURMER / Anchorage Daily News

G. Kent Edwards, representing Senate leadership, argues before the Alaska Supreme Court on Wednesday.

oil-tax settlements it diverted from special reserve fund.

In arguments before the high court Wednesday, Attorney General Bruce Botelho reiterated the state's position. Money stemming from informal tax settlements between the state and companies does not have to go into the Constitutional Budget Reserve Fund.

At the heart of this billion-dollar question is the meaning of two litigious words: "administrative proceedings."

Voters in 1990 amended the state constitution to establish the hard-tap budget reserve as a place to set away oil-tax settlement windfalls. The ballot approved by voters said monies resulting from lawsuits and "admin-

Fistfight sparks jail brawl

By S.J. KOMARNITSKY
Daily News reporter

An Anchorage teenager accused of shooting to death two men at Far North Bicentennial Park last year was arrested and charged with assault Sunday after attacking a fellow inmate at McLaughlin Youth Center.

According to court documents, Brian F. Hall, 18, and a 17-year-old boy were playing pool together Sunday afternoon when Hall hit the 17-year-old with a cue and stuck a thumb in the boy's eye. The 17-year-old was treated for bruised ribs at Alaska Regional Hospital and released the same day.

Hall also attacked the boy later in the day, said Donis Morris, an associate superintendent at the juvenile detention center. Morris said that after the first attack, Hall was placed in solitary confinement. But about 8 p.m., he was let out in keeping with rules that require confined juveniles to be released for at least three hours a day.

It was during that time that Hall ran across a room and started hitting the boy, she said.

About six others joined in the fight, and one staff member was slightly injured trying to restrain the teens, she said. No one suffered more than minor injuries.

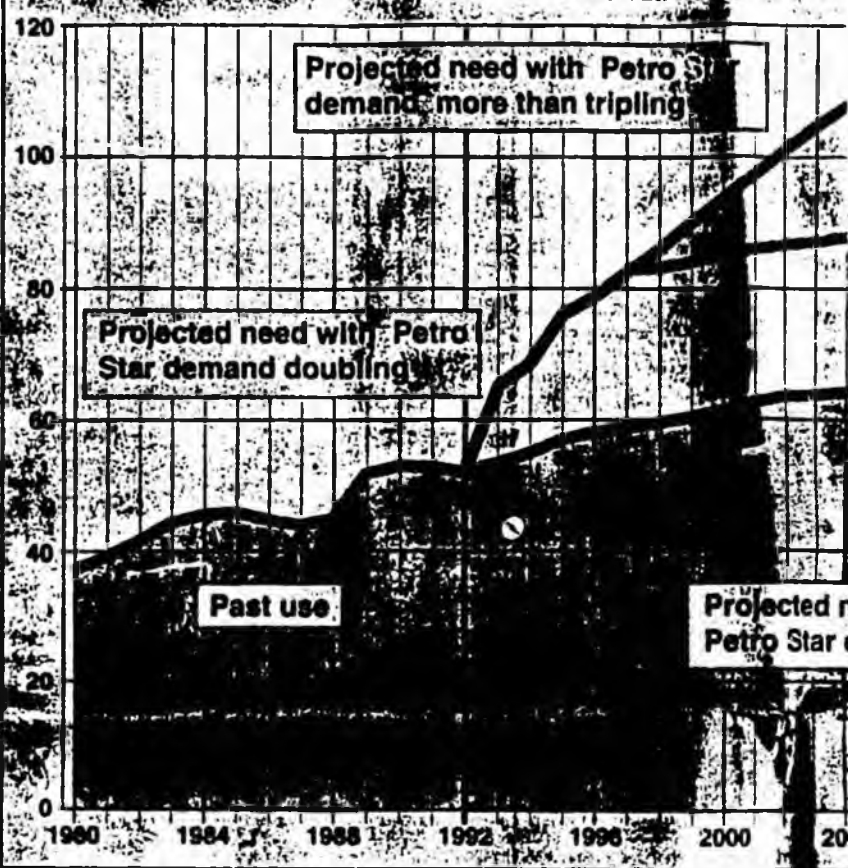
Morris said she wanted Hall moved out of McLaughlin last year when he was waived into adult court. Hall is charged with two counts of first-degree murder in the shooting deaths of Mickey Dinsmore, 24, and Stanley Honeycutt, 20, in April 1993.

"We felt it was dangerous to have him here," Morris said. "If you're locked up on a double homicide and may

Please see Page C-2, ATTACK

Copper Valley electrical load

In millions of kilowatt hours



Source: Copper Valley Interim Feasibility Study—mid range scenario

House hears debate

By IAN MADER
The Associated Press

JUNEAU — The legislature should not rush to reinstate the death penalty simply because of a law-and-order mood among voters, an Anchorage lawmaker told a House committee Wednesday.

Rep. Bettye Davis, a Democrat and the legislature's only black, said the death penalty has no proven deterrent value, is expensive and tends to be imposed disproportionately on minorities.

"Let's not be hasty to pass something like this to make you feel good, and just because people say let's get tough on crime," Davis said.

But the prime sponsor of a bill to allow capital punishment for some murderers told the House Judiciary Committee that death some-

times is the only suitable punishment.

"There are a few people in this country — most of them men, but some of them women — who are not like the rest of us," said Rep. Jerry Sanders, R-Anchorage. "The death penalty is the only sure way to protect ourselves from these cold-blooded murderers."

The committee's second of at least three hearings on the bill brought out many of the familiar arguments of the emotionally charged topic.

Alaska's territorial legislature repealed the death penalty in 1957, and several attempts to reinstate it have failed largely because of opposition from Democrats. But Republicans control both chambers for the first time in about a decade, and



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Struggles with it

Barrow
 Barrow Mayor Don Long says fiscal communities will dominate the day North and Northwest Mayors' began here Wednesday. "The (Hickel) proposed cuts in revenue sharing and we would almost decimate the small village said. More than 20 mayors from villages are expected to participate in v. Wally Hickel will address the soon. Other sessions include a presentation by local elder Eddie state commissioner of Community Affairs Edgar Blatchford on "Fuel Efficiency/Funding," and a discussion by Ruzinowski, director of the state Mental Coordination. This morning, we have a break in their conference to of the traditional Kivgig, or Barrow High School. Kivgig is a gathering of the Inupiat Alaska.

Play a scam
 The Attorney General's Office and the Alaska Better Business Bureau are warning people to beware of solicitations for donations supposedly to support organizations. According to the Attorney General's Office, an advertisement itself "The Alaska Police Department" has been calling state businesses to appear in their magazine. An advertisement for the Attorney General's Office foundation to the Alaska Peace Corps appears to be engaging in a profit. Officials say the Idaho Peace Corps and tell them that the program will help train Alaska who receives a call from this advertisement is asked to contact the Attorney General at 562-0704.

Utility sale
 The Fairbanks city council here has voted 5-1 to sell the city-owned electric utility system. The council met after hearing supporting testimony from people and after an hour of testimony from all Wallace cast the vote. The resolution that calls for a task force to study the Utilities Board members to study the portion of the Fairbanks utility. The resolution calls for a final decision about selling any utility system during the next 180 days. Sixteen people supporting the sale, and the Fairbanks city council also on Monday passed a resolution to sell the utility. During its board meeting, the council members voted for a resolution to investigate selling the utility.

Violated codes
 The Chulitna Borough is suing a group of people for violating-of-interest codes by not paying her money, she said. In response to their attorneys voided Eleanor Strawn's approval of the borough's code for a new Park Service. The code is to build a \$21 million visitor center just south of Cook Inlet Region. The region in which Oakley Strawn, however, has said it is in Talkeetna, but not past the Chulitna national ties to CIRI, the state. She have abstained from the decision, as she had on the code service and presented an appeal. "I said Al Strawn, "However, her case is very small, and we don't want conflict there, we felt it was voided by personal."

Alidated
 The Chulitna area remain closed last week that

By HUGH CURRAN
 Daily News reporter

One year ago, Denis and Dee Ann Mueller of Kenai were in as good a financial shape as could be expected for a family of three in which both parents worked.

But in February, Dee Mueller's headaches and vision problems were traced to a life-threatening bundle of blood vessels in her brain. This year following two strokes that have left Dee Ann hospitalized and comatose in serious condition — the family is facing medical bills in excess of \$120,000 with no medical insurance and no help from Medicaid or Social Security.

To be at his wife's side at Providence Hospital, Denis Mueller has had to forgo his real estate job in Kenai. To help, family friends, church members and local businesses have scrambled to raise more than \$10,000 to pay for the added cost of a critical operation Dee Ann Mueller needs to return to a normal life.

"We've applied for a program in which the hospital relieves a portion of the bill and just about anything else the hospital has come up with," Mueller said. "We were denied general relief Medicaid on grounds that I have too many assets. If you have over \$500 in assets or more than one vehicle, you're not eligible."

Mueller said he will continue to seek eligibility for different forms of Medicaid and Social Security. The family reached an agreement with a Peninsula hospital over the \$20,000 bill from Dee

I haven't even started to consider how I'm going to pay for the rest of these bills.

— Denis Mueller

Ann's initial hospitalization in February. The hospital agreed to reduce the amount to about \$11,000 and has arranged monthly payments.

"I haven't even started to consider how I'm going to pay for the rest of these bills," Mueller said.

As of Monday, Dee Ann Mueller's hospital bills since Dec. 24 when she was admitted to Providence for her second stroke were \$115,200.

"That doesn't include the cost for the doctors," Denis Mueller said. "They said they hadn't started to tabulate it yet."

Sandra Bilderback, who met Dee Ann 10 years ago as a fellow Jehovah's Witness, said the astronomical bills have prompted friends, church members, Kenai businesses and the local Eagle's Club to come together in recent weeks to raise money for her operation.

The operation could eliminate Mueller's condition by further separating the blood vessels in her brain and reducing or eliminating the internal hemorrhaging that has left her hospitalized.

"The community has really come out to help," Bilderback said. "One man

ATTACK: 18-year-old charged in center brawl

Continued from Page C-1

be tried as an adult and spend the rest of your life in prison. He's like a time bomb — you don't know when he'll go off."

Hall was kept at McLaughlin because his lawyer, Cynthia Strout, is appealing the decision to waive him into adult court. In making those appeals, Strout said Hall had a good record at McLaughlin and did not pose any danger to the community.

She added that Hall could suffer "irreparable harm" if he was transferred to an adult prison and then later not waived into adult court. Sunday's attack made



He's like a time bomb — you don't know when he'll go off.

— Donki Morris

that a moot argument. Hall, who turned 18 last November, was charged as an adult and sent to Cook Inlet Pre-Trial Facility.

RADIO: Opera

Continued from Page C-1

he had a minute, Lahaie hopped out and called Jennings to double-check the description. Then he got back in his car to follow the two men and called police on his radio.

Lahaie said he followed the two men from Longs Drugs on Dimond to the Fred Meyer and was almost at the Carrs on Huffman Road when police pulled the two over.

At first, Lahaie said, he thought he had made a mistake.

"They were like 'Well, what we'd do,' and I thought 'Oh, what if I made a mistake,'" he said. "I told the officer all

FUND: Court to decide if money

Continued from Page C-1

represents the Senate majority, called Botelho's argument "inventive." Voters, he said, interpreted the term administrative proceedings more broadly and didn't go through the sort of "mental gymnastics" Botelho exhibited.

Basically, the state is asking

the justices to add the word "formal" to the constitution's mention of administrative proceedings, he said.

Cowper's lawyer, Doug Pope, called circumventing the constitutional amendment to raid the budget reserve "one of the most cynical acts since statehood."

Pope disputes the state's

figures about how much money is at stake and has asked the court to order the state to give the public an accounting of all the money it has received from informal settlement conferences since the constitutional amendment went into effect. When all is said and done, the true figure might be closer to \$1.2 billion, he said.

INTERTIE: Draft study finds line may not be

Continued from Page C-1

dez, would cost

year 2013 as it does now. Such detail

disruptor



Official Business

Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

MEMORANDUM

To: Members of the House Finance Committee

From: Senator Dave Donley 

Re: SB 54 - Juvenile Waiver

Date: January 14, 1994

I respectfully request that the House Finance Committee add provisions of SB209, violations of laws by minors who use firearms to commit crimes, to SB54.

The issue of the inability of our law enforcement officials to enforce our new state "no guns in schools" law surfaced after SB54 passed the Senate. Educators and police are frustrated because juveniles can violate the new law with virtual impunity due to their juvenile status.

The provisions of SB209 would allow juveniles over 14 to commit only one crime involving use of a firearm and still be treated as a juvenile. If the juvenile committed a second criminal misuse of a firearm, the juvenile would be treated in the same manner as an adult.

The issue was first brought to my attention by an assistant principal at West Anchorage High School and he is available to give supporting testimony. His name is Mr. Todd Arndt and his work phone is 274-2502, extension 230.

I have enclosed a copy of the proposed amendment to HCS CSSB 54.

DD/mf

A M E N D M E N T 4

OFFERED IN THE HOUSE

TO: HCS CSSB 54(JUD)

Page 3, line 25 through page 4, line 1:

Delete all material and insert:

"* Sec. 4. AS 47.10.010 is amended by adding a new subsection to read:

(e) The procedures prescribed in AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules do not apply to an offense specified in this subsection for which the minor is arraigned or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, prosecuted, and sentenced in the superior court in the same manner as an adult. The provisions of this subsection apply when a minor

(1) who is at least 16 years of age is arraigned on a charge of murder in the first degree, attempted murder in the first degree, or murder in the second degree; and

(2) who is at least 14 years of age at the time of the alleged offense is charged with an offense, the minor is alleged to have used a firearm in the commission of the offense, and the minor has been previously adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as a result of an offense that, in this or another jurisdiction, involved use of a firearm in the commission of the offense; in this paragraph, "firearm" has the meaning given in AS 11.81.900."

Page 6, line 12:

Delete "or"

After "second degree"

Insert ", or an offense in which the minor is alleged to have used a firearm in its commission and the minor has been previously adjudicated as a delinquent or convicted

SB54

December 5, 1993

Paula Froster, District Attorney
310 K Street Suite 520
Anchorage, Alaska 99501

Dear Paula,

I am writing concerning a meeting that took place on Friday 12-3-93 at 1:00 pm in Audrey Renschen (Assistant District Attorney) Office. The meeting took place with the victim of a rapist and now the victim of the system, Rani Pagel and Richard Pagel, also Officer Bill Herrick was there. This was I believe the first time Audrey had seen and maybe even the first time ever even spoken to my daughter.

We were there to talk about a rape case #92-19A975 and now my daughter feels like she has been let down by the system. I've told her to up hold. I've told my daughter all along to stand up for the truth and that the truth will always undo the wrongs. But so far the rights of this victim have done nothing but be ignored by all parties concerned with this matter.

It seemed that Audrey and Bill were more concerned with alligations that Tim Apted and his friends made up to get the attention away from the fact that Tim did rape Rani. And all the studies said that rapist try to get attention away from themself. So what better way to hide what one has

2/

done, by making up a story. The alligations were all make believe and have no bearing on the fact that Tim raped Rami. The Police and the D.A. should be more concerned with the fact that a girl was raped.

It was not until Friday at that meeting that we knew what all of the alligations even were. So it was not until then that we knew what we were up against. The boys who made statements were all boys who at one time or another liked my daughter, and who my daughter turned away. What better way for them all to get even with her, and who were all friends of Tim Apted. It's strange that in all the time my wife has lived in Anchorage, that in 32 years never one alligation of way wrong or nothing sense. I can bring hundreds of people to testify that in her 34 years no one has ever seen her smoke pot or do drugs or sold dirty pictures before.

So what happens when people find out that Rami was right, and Tim lied. What happens when he gets the chance to get his hands on her again, does the Police and D.A. just say, I'm sorry. Because sorry will not cut it if she has to live it again, and how does one who was raped just put it behind them. Also how can she put it behind her when a child is involved, and she may have to ~~deal~~ ^{deal} with him.

Rami was been seeing someone over at S.T.A.R. (Rape Crisis Center) for her problem and has come a long way from where she

3/

was just two years ago. The people at Star have been very understanding to her, and would not have worked this long if nothing was wrong. For Audrey to say that what Star as got to say would mean nothing in court is wrong. Also just knowing that the D. A. can bring charges against Tim Apted for Sattutory Rape, but we were told that it was not worth the D. A.'s time, effort, or money. Then what good is the law if it does not have to be up held. My daughter got a book from a Police Officer about 2 years ago, the book was from the Anchorage Task Force on Sexual Assault. In the book on page 3, it said sexual assault can be committed by: and Rami marked 4 out of 7, using threats to frighten you or a loved one; taking advantage of your trust; taking advantage of your mental or physical limitations; and taking advantage of a position of power over you. But yet Audrey acts as if Rami made the whole thing up, and I guess my son was not beaten up by Tim either, and he was only 7 years old at the time. And to this day my son has not changed his story and still has nightmares about the beater's, and the Police still never talked to him.

I would like another meeting with you to discuss this case, and why the matter of Tim Apted raping Rami Pagel is o.k. to the D. A. and why it does not matter that she is a victim in this whole thing. Call me so we can set up a meeting between

4/

the two of us. Also I'm going to be making copies of this letter to send to the Governor's Office, Chief of Police etc. asking them all to please look into this matter.

Sincerely,

Richard C. Pagel

Richard C. Pagel

1013 E. Dimond #483

Anchorage, Ak. 99515

(907) 344-6452

cc: Governor Walter Hickel

Senator Frank Murkowski

Senator Ted Stevens

Congressman Don Young

Chief of Police, Kevin O'Leary

Victims for Justice, Janice Lienhart

S.T.A.R., Peggy

Richard contacted our office to offer this letter re: SB54.

Judy - Rep Larson's office

SB 288/11B 455 Supplemental/Reappropriations - Sections 1 - 51

SEC. #	AGENCY	BRU/COMPONENT	PROGRAM/PURPOSE	GENERAL FUNDS	GF/PR FUNDS	GF MHTI FUNDS	OTHER FUNDS	TOTAL FUNDS
1	Governor's Office	Office of Management and Budget	Salary adjustments required to comply with Fair Labor Standards Act	950.0			550.0	1,500.0
2	Administration	Longevity Bonus Grants	Increased recipients	2,191.3				2,191.3
3	Administration	Public Defender	Extraordinary felony cases and underfunded personal services	466.0				466.0
4	Administration	Office of Public Advocacy	Increased caseload	554.7				554.7
5	Administration	Personnel/OEEO	Arbitration case costs	100.0				100.0
6	Administration	Personnel/OEEO	Grievance award	18.0				18.0
7	Administration	Personnel/OEEO	Court-ordered salary and geographic differential survey	50.0				50.0
8	Administration	Leases	Additional lease costs	1,870.2				1,870.2
9	Law	(a) Legal Svs/Operations	(a) To pay judgments and claims against the state	325.4				325.4
		(b) Legal Svs/Operations	(b) Legal fees related to pupil transportation issues (Ten Eyck v. State)	50.0				50.0
10	Law	Legal Svs/Operations	Reapportionment case (Southeast Conference v. Hicket)	462.4				462.4
11	Revenue	Permanent Fund Dividend	Cover additional costs of printing and delivery of 1994 PFD applications				149.1	149.1
12	Revenue	Permanent Fund Corporation	Cover additional equity management fees				2,379.0	2,379.0
13	Education	Foundation Program	Increased student enrollments	1,500.0				1,500.0
14	Education	Vocational Education - federal grants	Ratification of expenditures					0.0
15	Health and Social Services	PFD Hold Harmless	Increased number of eligible recipients				244.4	244.4
16	Health and Social Services	Medicaid Facilities	Judgments and settlements against state by ASHNSA and others	6,737.2			937.3	7,674.5
17	Health and Social Services	Medicaid Facilities	FY93 bills paid in FY94 and increased participants in FY94	2,522.5			2,522.5	5,045.0
18	Health and Social Services	Medicaid Facilities	Charter North and North Star hospital for disproportionate share claims			1,300.0	1,300.0	2,600.0
19	Health and Social Services	Indian Health Service	Increased Indian Health Service billings				3,567.4	3,567.4
20	Health and Social Services	General Relief Medical	246.6 FY93 carryforward; 640.9 increased program growth	887.5				887.5
21	Health and Social Services	Medicaid State Programs	Disproportionate share payments for API operations				7,000.0	7,000.0
22	Health and Social Services	Waivers Services	Transfer of funds from Waivers Authorization to Community DD grants					0.0
23	Health and Social Services	McLaughlin Youth Center	Increased costs due to increase in gang-related violent admissions	215.0				215.0
24	Health and Social Services	Johnson Youth Center	Increased costs due to population increase of violent youth	41.0				41.0
25	Health and Social Services	Laboratory Services	Delay in implementation of program resulted in loss of program receipts	358.7	(358.7)			0.0
26	Health and Social Services	Post Mortem Examinations	Cover costs related to delayed implementation of medical examiner program	201.8				201.8
27	Health and Social Services	Designated Eval & Treatment	Increase in client caseload and inpatient days			271.0		271.0
28	Health and Social Services	Alaska Psychiatric Institute	18% increase in admissions; fund change due to disproportionate share prog		339.0	(6,728.4)	7,014.0	624.6
29	Health and Social Services	Harborview Development Center	Costs related to certification deficiencies and heating			598.2		598.2
30	Military and Veterans' Affairs	Veteran's Death Gratuity	For death gratuity claims received in FY93	37.5				37.5
31	Natural Resources	Fire Suppression	Additional fire suppression costs	4,643.8				4,643.8
32	Natural Resources	Various	Ratification of expenditures					0.0

SB 288/HR 455 Supplemental/Reappropriations -Sections 1 - 51

SEC. #	AGENCY	BRU/COMPONENT	PROGRAM/PURPOSE	GENERAL FUNDS	GF/PR FUNDS	GF MHTI FUNDS	OTHER FUNDS	TOTAL FUNDS
33	Fish and Game	Administrative Services	Additional compensation to vendors for king salmon tags				20.0	20.0
34	Fish and Game	Subsistence	Fund source change from federal to general fund program receipts		60.5		(60.5)	0.0
35	Fish and Game	Various	Ratification of expenditures					0.0
36	Fish and Game	Fisheries Management	Wood River project - reappropriation and reduction in funding	-10.0				-10.0
37	Public Safety	Motor Vehicle Administration	Data processing chargeback		331.9			331.9
38	Public Safety	Contract Jails	Fully fund prisoner transportation costs negotiated in FY94	70.4				70.4
39	Transportation\Public Facilities	Highways and Aviation	Fund source change to reflect uncollectible rural airport landing fees	1,550.0	(1,550.0)			0.0
40	Transportation\Public Facilities	Fairbanks International Airport	Court ordered reinstatement of PERS for discharged employee				34.7	34.7
41	Corrections	Inmate Health Care	Expected funding requirements for rest of FY94	1,631.3				1,631.3
42	Corrections	Administrative Services	Arbitration settlement	85.1				85.1
43	Corrections	Institutions	Negotiated agreement for cost of court ordered monitor	39.5				39.5
44	Corrections	Spring Creek Correctional Center	50 additional beds	200.0				200.0
45	Corrections	Commissioner's Office	Legal costs- Department of Law attorney	73.0				73.0
46	Corrections	Community Corrections Dir. Off.	Extend lapse date on appropriation for CRC beds					0.0
47	Environmental Conservation	Air Quality/Solid Waste Mgmt	Reimburse EPA for disallowed costs determined in federal CERCLA audit	36.7				36.7
48	University of Alaska	Statewide Services	ACCFT settlement	144.1		0.0	109.0	253.5
49	University of Alaska	Fairbanks Campus Physical Plant	Installation of emergency water well	220.0				220.0
50	Miscellaneous claims			236.9				236.9
51	Effective date clause							0.0
	TOTAL			28,460.0	-1,177.3	-4,558.8	25,766.9	48,490.8
	Total General Funds (all types)	22,723.9						

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P. O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 55-3428
FAX: (907) 65-4043

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501-2064
PHONE: (907) 269-6250
FAX: (907) 272-1249

DEPARTMENT OF LAW

CRIMINAL DIVISION

January 13, 1994

The Honorable Rick Halford
Senate President
Alaska State Legislature
Juneau, Alaska 99811

Re: HCS CSSB 54(Jud) ("An Act relating to violations of laws by juveniles")

Dear Senator Halford:

Attached, please find several amendments to HCS CSSB 54(Jud), "An Act relating to violations of laws by juveniles," that the Department of Law has drafted for consideration by the legislature. These amendments reflect a consensus achieved by the Departments of Law, Health & Social Services, Public Safety, and Corrections, following a series of meetings held after the Eighteenth Legislative Session recessed in 1993. We believe that we share your goals and that these amendments will enable those goals to be realized to the extent permitted by the Alaska Constitution and federal law. The following explains each of the proposed amendments.

On page 3, line 28, we believe that the word "and" should be replaced with a comma. This appears to have been a technical error.

On page 4, line 1, we propose an amendment that will create a limited "bounce-back" provision for juveniles who are charged with "automatic waiver" offenses but who are ultimately convicted only of a lesser-included offense. We are concerned that this type of proposal may be constitutionally required and believe that this is the best resolution of the issue. This proposal places the burden on the minor to prove that he or she is amenable to treatment as a juvenile under AS 47.10.

Also on page 4, at line 7, we propose that the reference to AS 47.10.010(a) be changed to AS 47.10.010(a)(1) because that is the subsection that refers to delinquency proceedings.

Again on page 4, at lines 13 and 28, we suggest that the phrase "as a condition of the adjustment or disposition" be added to make it clear that minors who have already been detained or taken into custody can still be informally adjusted or disposed of; the restriction against detention and custody is only a restriction against what can be done as part of the informal adjustment or disposition.

On page 5, at line 15, section 7 of the bill begins: "When a petition has been filed under AS 47.10.020" We think it important to clarify that the burden of proof shifted to the minor in this section occurs *only* for purposes of the petition for waiver. This clarification can be accomplished by changing the introductory language in this section to read: "When a petition for waiver has been filed under this section" Alternatively, the section could begin "For purposes of a petition for waiver filed under this section"

On page 7, line 28, we suggest simply as a matter of drafting style, that the line be rewritten to read: "to make an order of restitution under this paragraph to benefit the victim"

Starting on page 8, line 12, we suggest that AS 47.10.090 be divided into two statutes; one dealing with court records and another dealing with all other government records. The current statute's attempt to address both the court's records and the Department of Health and Social Services' records in a single section has proven confusing, at best. We suggest that AS 47.10.090 be used to address court records and that a new statute, AS 47.10.093, be created to address other government records.

The Department of Health and Social Services has just been advised by the federal government that all of Alaska's Title 4 funds will be withdrawn if the state enacts at this time a provision such as SB 54's AS 47.10.090(b); i.e., a law that makes public all petitions filed for a certain category of minors, such as 16-year-olds who have been convicted or adjudicated for an offense. These funds will exceed \$4 million for FY 95. Authorizing the disclosure of information relating to minors on a case-by-case, "need to know" basis will not jeopardize these funds. Authorizing any form of categorical release, however, will result in a loss of the funds under current federal law. Accordingly, we have drafted a proposed AS 47.10.090 that does not include anything comparable to subsections (b) or (g) (publicizing name of second-time juvenile "felony" offender) from HCS CSSB 54(Jud).

You expect the federal government to reconsider its position on this issue within the next few years, allowing the public disclosure of this information, and would like an amendment that would become effective in that event. This can be accomplished through the use of a special effective date clause. Accordingly, we have drafted an additional amendment to AS 47.10.090, tracking HCS CSSB 54(Jud)'s AS 47.10.090(b), which should be inserted as section 11 of the bill. We have also drafted a special effective date for that section, which will be section 17 of the bill.

As for the remaining provisions of AS 47.10.090, we propose reordering them in a manner that is intended to make the statute easier to read. SB 54's (c) and (i) have been consolidated into new (e). SB 54's (d) is now part of AS 47.10.093. Old subsections (e), (f), and (g) are now (b), (c), and (d). Old (h) has been made a part of new AS 47.10.093.

Proposed AS 47.10.093 reflects a considerable amount of thought and work invested by all of the relevant departments of the executive branch. It attempts to strike that proper balance between providing confidentiality for minors and recognizing our need to protect the public and promote efficient criminal investigations. It begins by making confidential in section (a) all governmental records relating to minors who are subject to formal CINA or delinquency proceedings or who in any other fashion fall under AS 47.10 or AS 47.17. This newly includes materials relating to investigations and informal dispositions that precede the filing of a petition.

The statute then enumerates the exceptions to this general rule of nondisclosure. It first addresses, in section (b), disclosures to be made by the Department of Health and Social Services, the first two of which track existing department regulations. Specific exceptions are then created for disclosures to school officials, to law enforcement agencies, and to victims.

Section (c) governs disclosures made by law enforcement agencies. It specifically addresses limited disclosures to the public, to school officials, and to victims as necessary for civil litigation or insurance claims.

Section (d) creates a procedure for victims to be notified when a juvenile is released from custody. This tracks a provision recently created for the victims of adult offenders. Section (e) allows a minor to authorize the department to release limited information about an adjudication to a prospective employer, including the military.

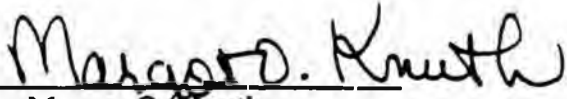
Section (f) authorizes the department to adopt regulations governing the release on a "need-to-know" basis of information relating to minors who are *not* subject to the court's jurisdiction under AS 47.10.010. An example would be authorizing the department to provide information about a minor to a service provider before a formal petition has been filed. Finally, section (g) makes violations of the statute a misdemeanor offense. This is a carry-over from AS 47.10.090.

We will be glad to address any questions that these proposals may raise for you or committee members. Please feel free to contact me at any time.

Very truly yours,

BRUCE BOTELHO
ATTORNEY GENERAL

By:


Margot O. Knuth
Assistant Attorney General



ALASKA STATE LEGISLATURE
Senator Rick Halford
President of the Senate

While in Session:
State Capitol
Juneau, A. 99801-1182
907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

MEMORANDUM

TO: Representative Ron Larson, Co-Chairman
Representative Eileen MacLean, Co-Chairman
Representative Mark Hanley, Vice Chairman
House Finance Committee

FROM: Senator Rick Halford

DATE: April 23, 1993

SUBJECT: HCS CSSB 54 (JUD), "An Act relating to violations of laws by juveniles, to the remedies for offenses and activities committed by juveniles and to records of those offenses, and to incarceration of juveniles who have been charged, prosecuted, or convicted as adults; and providing for an effective date."

Recent years have witnessed an alarming increase in the frequency and violence of juvenile crime. Although this problem is strongly influenced by numerous factors beyond direct government control, public confidence in the justice system's treatment of juvenile crime has substantially eroded in the face of two general perceptions. First, the system is overly concerned with the rights of juvenile offenders and not concerned enough with protecting the rights of actual and potential victims of juvenile crime. Second, given the escalation of juvenile crime, the current system seems to fail to provide the convincing threat of punishment necessary to deter juvenile delinquents from evolving into hardened criminals.

Senate Bill 54 will require that juveniles sixteen years of age and older be prosecuted and sentenced as adults when charged with murder or attempted murder in the first degree or murder in the second degree. When a petition is filed to waive a minor into adult court for a lesser crime, the minor will bear the burden of proof regarding his amenability to treatment within the juvenile system.

Furthermore, Senate Bill 54 defines in statute the terms of detention and incarceration for juveniles who are charged and tried as adults by providing that they be delivered directly into the custody of the Department of Corrections. The criminal records of juveniles will not be sealed for crimes

for which they are adjudicated delinquent or convicted as an adult and that were committed when the juvenile was sixteen years of age or older.

Senate Bill 54 also provides for new restitution measures designed to deter juvenile crime and arrest the normal pattern of juvenile criminal development at a less serious stage. At present, courts are not required to order juveniles to pay restitution for either violent crimes or property crimes. Because the names of juvenile delinquents are kept confidential, it is also virtually impossible to sue them for damages resulting from criminal activity. SB 54 will require courts to order juveniles to pay suitable damages for their crimes, permit victims access to the criminal records of juveniles who have injured them or damaged their property in order to pursue civil suits, and allow the permanent fund dividends of delinquents and their parent(s) or legal guardian(s) to be attached for payment of restitution or civil damages.

Thank you for your consideration of this legislation.

SB 54 seeks to reduce the jurisdiction of the juvenile court and to alter the substantive legal rights of juvenile offenders by automatically waiving juveniles charged with serious crimes into adult court subjecting them to presumptive sentences and incarcerating them in adult facilities.

Legislation of this type has been considered by the Legislature almost every year for the past eight years and has been rejected almost every time. The one time a juvenile waiver bill did pass the Legislature it was vetoed by the Governor.

The problem this legislation seeks to cure is one of public perception more than actual fact. The fact is that juveniles are not "getting away with murder".

Juveniles who commit serious crimes are currently being waived into adult court through a formal court process. The judge determines this on a case by case basis. The court considers the seriousness of the offense, the history of the youth's delinquency, the cause of the delinquent behavior and the facilities available for treatment.

Under present law juvenile waiver proceedings are given priority under the court rules and are processed as expeditiously as possible.

Under the present standard the state has the burden, although it is not a high burden, of proving two elements for waiver. First the state must prove, only by probable cause, that a crime has been committed and that the juvenile was the perpetrator. Secondly the state has to show by a preponderance of the evidence (a standard which is much less than proof beyond a reasonable doubt) that the juvenile is not amenable to treatment and rehabilitation.

Given the very low, preponderance of evidence, standard the state has rarely had difficulty having a juvenile charged with a serious crime waived into adult court for prosecution. Most cases in which a waiver petition has been filed eventually result in a waiver.

In the rare instances where a petition to waive has not been granted it has been because the judge has found good reason for the juvenile to not be treated as an adult as was the case here in Juneau where a juvenile was found to have murdered her parents. The judge found that this minor had been subjected to abuse amounting to torture by her parents for years. The child was not waived and is currently being kept in maximum security at McLaughlin. The legislation before you removes the ability for judicial discretion in considering the special circumstances of each case. Sometimes the offender

is also a victim. Two-thirds of all boys who kill their fathers do so in response to their father repeatedly beating their mother.

The bill before you switches the burden of proof from the state to the juvenile. The supporters of this legislation would have you believe this is necessary because of an Appeals Court decision in the case of R.H. vs. State that the state may not compel a juvenile offender to submit to a psychiatric evaluation for the purpose of determining his amenability to treatment.

In its decision the court stated that the Supreme Court has not "held that expert testimony is a necessary condition of waiver. To the contrary the Alaska Supreme Court has expressly recognized that the state need not present any psychiatric evidence to meet its burden of proving that a child is unamenable to treatment." The court also found that "the state's intent in lightening its burden can hardly be viewed as justification for subverting the established burden of proof.

The Court also stated in that case that "This court has consistently upheld Superior Court orders waiving juvenile jurisdiction in cases of murder involving extreme and unprovoked violence. In such cases even when a child's amenability to treatment has been supported by strong psychiatric evidence, we have been reluctant to reverse a trial court's determination that waiver is appropriate.

The United States already has a shameful record in juvenile incarceration rates ranking with South Africa and the former U.S.S.R.. Severe depression and suicide attempts are often the results of incarcerating minors in adult facilities. Prisons are places of violence where survival rather than rehabilitation becomes the inmates paramount concern. The young inmate is released having learned skills that prepare one neither for a trade nor a profession, but for crime, often more vicious than those committed before.

Unlike adult prisons juvenile detention facilities provide a program of treatment and rehabilitation for young offenders. Juveniles may continue their basic education. There is more chance of involving the family in the treatment plan. Recidivism rates for juveniles committing serious crimes who are not waived are much better than recidivism rates of adult offenders.

According to the National Council of Juvenile and Family Court Judges the decision to transfer juveniles to adult courts "should be made by the judge of the juvenile court under guidelines developed to protect the constitutional rights of the juvenile and the safety of the public

Statistics show that most petitions to waive are successful. The public is being protected by the current system. The current system balances the rights of the individual and society.

It remains the opinion of the Alaska Women's Lobby that before serious changes such as those proposed in this bill are adopted there must first be strong evidence that the present juvenile justice system is not working.

HCS CSSB 54 (JUD)

For An Act Entitled: "An Act relating to violations of laws by juveniles; and providing for an effective date."

Background

In Alaska, as in most other states the age of criminal responsibility coincides with the age of majority (18 years of age). This recognizes the fundamental differences between children and adults and is expressed in numerous other laws limiting the rights, privileges, and responsibilities of children. Because the designated age of criminal responsibility is an arbitrary standard, legal mechanisms are necessary to identify and properly address the inevitable exceptions. Waiver of juvenile jurisdiction is the generally established mechanism for differentiating between the vast majority of youthful offenders and those few offenders whose behavior identifies them more closely with adult criminals.

Waiver of juvenile Court jurisdiction occurs in Alaska through a formal Court process as a judicial determination. Alaska's law (AS 47.10.060) does not establish a minimum age for which a youth can be transferred to adult criminal jurisdiction. AS 47.10.060 allows the "waiver" of a youth of any age for any delinquent act. The Court must determine the youth to be "not amenable" to treatment as a juvenile. The state has the burden of proof. A youth is considered unamenable to treatment if the youth likely cannot be rehabilitated under juvenile jurisdiction, before reaching 19 years of age. In determining amenability to treatment the Court may give consideration to four factors: (1) the seriousness of the alleged offense; (2) the youth's delinquent history; (3) the causation of the delinquent offense; and (4) the availability of treatment facilities for the youth.

Analysis/Program Impact

Under present Alaska law the method of applying the waiver standard is a judicial proceeding. All evidence bearing on the waiver decision is considered by the Court. Waiver decisions made by judges require a threshold finding of probable cause that the accused juvenile offender committed the alleged offense. The probable cause standard is guided

by statutorily established criteria and is subject to judicial review.

The standards for making waiver decisions under a judicial process are legislatively determined and applied by the judiciary. Factors to be considered in determining which cases meet the standard for waiver are also legislatively established. A balance of society's interest in public protection and rehabilitation is sought.

This balance becomes more difficult as the age of the offender approaches the age of majority (18 years of age). The department recognizes that the rehabilitative probability lessens as the offender increases in age due in part to the fact that older offenders cannot be held in the juvenile system past their 19th birthday. Exceptions to this rule would include an extension to the 20th birthday, which can occur only with the consent of the minor.

HCS CSSB 54 (JUD) proposes adult prosecution for minors 16 years of age and older, who are arraigned on a charge of murder in the first degree, attempted murder in the first degree or murder in the second degree.

The department recognizes that these type of offenders could present a significant risk to the public if waiver under existing law fails or the offender cannot be rehabilitated before juvenile jurisdiction expires. HCS CSSB 54 (JUD) endeavors to prevent these offenders from continuing to endanger the community by seeking conviction and sanction in adult court.

The Department estimates a high of 5 offenders per year could be prosecuted in adult court under this bill based on an analysis of FY 1992 youth offender statistics. The following youth offender statistics for crimes specified in the bill is provided.

DHSS Youth Offender Statistics			
	FY 1991	FY 1992	FY 1993
Total Referrals	2	6	1
Total Adjudicated	1	5	0

HCS CSSB 54 (JUD) would not significantly reduce the number of offenders referred to DHSS juvenile intake officers and subsequently confined in DHSS youth facilities. During the past three fiscal years the department has been averaging 6,704 youth corrections referrals per year statewide and of these referrals an average of 1,325 are admitted to a DHSS detention facility.

Juveniles charged under this bill would be incarcerated in facilities operated by the adult Department of Corrections. This is consistent with the current practice for juvenile offenders who are waived under AS 47.10.060. This practice does not violate sight and sound separation requirements for housing of juvenile and adult offenders under state and federal law. The department supports the continuation of this practice.

The provisions of this bill that would allow the release of certain adjudication information for juvenile offenders is similar to the release of criminal records information for adults. The records would be provided to the public in a manner to be determined by the court system. The department estimates that 466 records per year could be released, based on the adjudication records for FY 1992.

DEPARTMENTS POSITION

The department supports the automatic waiver for juvenile offenders 16 years and older who are charged with the crimes specified under this bill. HCS CSSB 54 (JUD) bridges a gap that can occur in cases where the offender cannot be successfully rehabilitated in the juvenile system and waiver has not been successful under AS 47.10.060.

The department believes that the capacity for reasoning at the age of 16 is often sufficient to warrant prosecution in the adult court. This capacity carries with it the same responsibility for criminal conduct required of adult offenders.

The department strongly supports the requirement for restitution to crime victims under this bill. Such requirements strengthen efforts for rehabilitation of the offender and most importantly assures support for victims.

The department is neutral on the provisions that allow the public release of adjudication records for juvenile offenders 16 and older. The public release of such

information could possible cause the humiliation of other siblings and family members in a manner that serves no public interest. The balance between protecting innocent family members and satisfying a public protection concern is not easily found.

Recommended: Deborah R. Wing Date: 4/23/93

Deborah R. Wing, Director
Division of Family and Youth Services

Approved: Theodore A. Mala Date: 4/23/93

Theodore A. Mala, MD, MPH
Commissioner
Department of Health and Social Services

Alaska State Legislature



House of Representatives House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

LETTER OF INTENT

It is the intent of the House Judiciary Committee, in its adoption of HCS for CS for SB 54 (JUD), to alter the jurisdiction of the criminal courts over juvenile offenders charged with murder and to require the juvenile offender for whom waiver to criminal court has been sought for other offenses to prove that he or she is amenable to treatment in the juvenile justice system.

The House Judiciary Committee, in its adoption of HCS CSSB 54 (JUD), intends to alter the substantive legal rights of juvenile offenders. In the judgement of the committee, the scope of a court's jurisdiction and the allocation of burdens of proof in legal actions are matters of substantive law, not matters of procedure.

It is the judgement of the committee that, once the screening authorities have decided that a juvenile offender is not amenable to treatment in the juvenile court system and have filed a petition seeking waiver of the juvenile into the adult criminal court system, it is the offender himself who is in the best position to show that he would be treatable in the juvenile court system. The juvenile offender and his attorney are the ones who know the most about the offender's family and educational experiences, and are in the best position to present information relating to the issue of treatability to the court.

For example, under the Alaska Court of Appeals' decision in R.H. v. State, 777 P. 2d 204 (Alaska App. 1989), the state may not compel a juvenile offender to submit to a psychiatric evaluation for the purpose of determining his amenability to treatment in the juvenile court system. In its decision, the court acknowledged that "in some situations, the lack of information concerning the psychiatric condition of the accused child will undoubtedly make the state's burden more difficult to meet." 777 P. 2d at 211. In the view of the committee, to place the burden of proof upon the party who has the greatest access to the facts relevant to the issue of treatability is a sound public policy choice.

A handwritten signature in cursive script that reads "Brian Porter".

Brian Porter, Chairman

By: Sen. Taylor

SENATE
LETTER OF INTENT

CSSB 54(FIN)

It is the intent of the Senate that Sections 1, 5, and 8 of this Act are not intended to modify court rules regarding access to presentence reports, discovery in criminal cases, or any other court rules designed to limit the dissemination of information to protect individual privacy, a person's right to a fair trial or other constitutional rights.

Adopted: 3/2/93

POSITION PAPER - Department of Public Safety

BILL NO: HCS CSSB 54(JUD)

DATE: April 23, 1993

TITLE: "An Act relating to violations of laws by juveniles..."

CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322

HCS CSSB 54(JUD) provides for automatic treatment of a minor as an adult if the minor is 16 years of age or older and the minor is charged with: 1) murder in the first degree; 2) attempted murder in the first degree; or 3) murder in the second degree (Sec 4).

This legislation, by waiving a minor to adult status for certain very serious crimes, will dispense with the necessity of the juvenile court to determine delinquency; the minor will have all of the same constitutional rights and protection given to an adult accused of the same offense.

This legislation also provides for the seizure of a minor's Permanent Fund Dividend for the purpose of restitution (Sec 3); it prohibits the sealing of court records if a minor aged 16 or 17 has been convicted of murder in the first degree, attempted murder in the first degree or murder in the second degree (Sec 8); it requires the court to make order of restitution to the benefit of the victim of the minor (Sec 9); it provides that minors aged 16 or 17 and convicted as adults for murder in the first degree, attempted murder in the first degree or murder in the second degree be treated as adults when incarcerated (Sec 11).

The Department of Public Safety supports juvenile waiver legislation that amends existing law to waive to adult status those 16 and 17 year old juveniles accused of murder in the first degree, attempted murder in the first degree and murder in the second degree.



Richard L. Burton
Commissioner

17-year-old charged in shootings

By HUGH CURRAN
The Associated Press

The Alaska State Troopers on Saturday arrested a 17-year-old male whom they believe shot and killed two men at the Far North Bicentennial Park last month.

The Anchorage teen, whose identity was withheld due to his age, was arrested at 11 p.m. Saturday and charged with two counts of first-degree murder after being questioned at trooper headquarters on Tudor Road. Troopers said he was taken to the McLaughlin Youth Center.

Assistant District Attorney Steve Branchflower said the district attorney's office will seek to have the teen tried as an adult.

Troopers said at about 1:30 a.m. on April 17, the unidentified teen approached a 1976 Chrysler Cordoba parked at Mile 2.2 of the Campbell Airstrip Road and fired three shots into the car from a large-caliber handgun. Passenger Mickey Dinsmore, 24, was killed instantly. Driver Stanley Honeycutt, 20, was able to drive the car half a mile north toward Tudor Road before dying of his injuries.

Troopers refused to release the location and number of times each victim was shot, and the gun's caliber.

Both victims were from Anchorage.

Both the district attorney's office and troopers said events leading up to the shooting, and any possible motive, would not be released due to the teen's age. Shortly before the shooting, a fight broke out between a gathering of teens at a nearby bonfire, but troopers have not indicated whether the two events are linked. The park is a popular hang-out for area teens.

Troopers said information on the shooting provided by members of the public, including help in locating vehicles seen at the time, was crucial to their investigation.

Branchflower said in many such cases in which a juvenile offender has been accused of a serious crime and is close to the age of 18, prosecutors push to have the juvenile tried as an adult.

"We will try to waive him into Superior Court to be tried as adult," he said.

District Attorney Ed McNally said getting a judge to approve such a move can take up to a year or more due to the appeals process.

"It's almost a full-blown trial in itself," he said.

To speed the process, agreements are often

Please see Page B-2, TEEN

TEEN: Arrested Saturday

Continued from Page B-1

reached in which a juvenile agrees to be tried as an adult if charges are reduced.

McNally said he hopes legislation making it easier to try older juveniles as adults, currently under debate in the state House, passes.

"Today's 17-year-old is not the same 17-year-old

child who was around when Alaska became a state," McNally said. "Today, he's a well-armed and often violent person. Some of the most horrifying crimes in recent years have been committed by people just under 18."

McNally said the teen could face up to 99 years in prison for each murder count if tried as an adult.

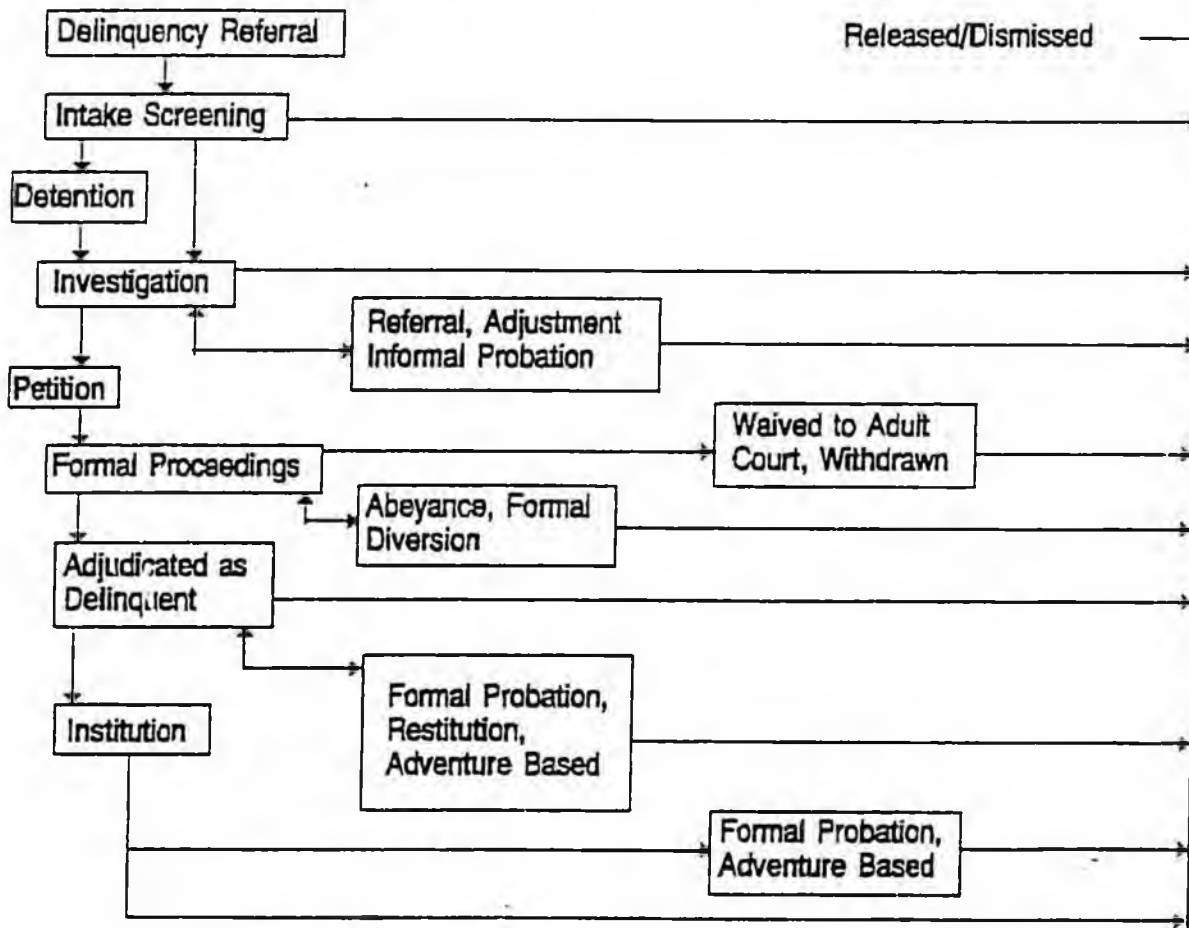
JUVENILE PROBATION AND YOUTH FACILITIES PROGRAM

Overview of Juvenile Probation

Juvenile Probation provides services to delinquent youth and their families in an effort to reduce or prevent delinquency by meeting the needs of youthful offenders in a manner consistent with the protection of the public. Services are provided in the least restrictive and most effective setting for the youthful offender.

The following flow chart summarizes the process by which Juvenile Probation services are provided. That process will be discussed in greater detail in the following pages.

JUVENILE PROBATION DELIVERY SYSTEM



Intake

Juvenile probation intake officers are responsible for reviewing all referrals on youth from law enforcement agencies to determine if legal sufficiency exists to file petitions with the court and to determine if filing a petition or taking other actions is in the best interest of the juvenile.

During FY 92, there were a total of 7,168 referrals for intake. Figure 15 shows those referrals by offense category and classification.

FIGURE 15:

FY 92 YOUTH PROBATION REFERRALS BY CATEGORY & CLASSIFICATION

Juvenile Probation

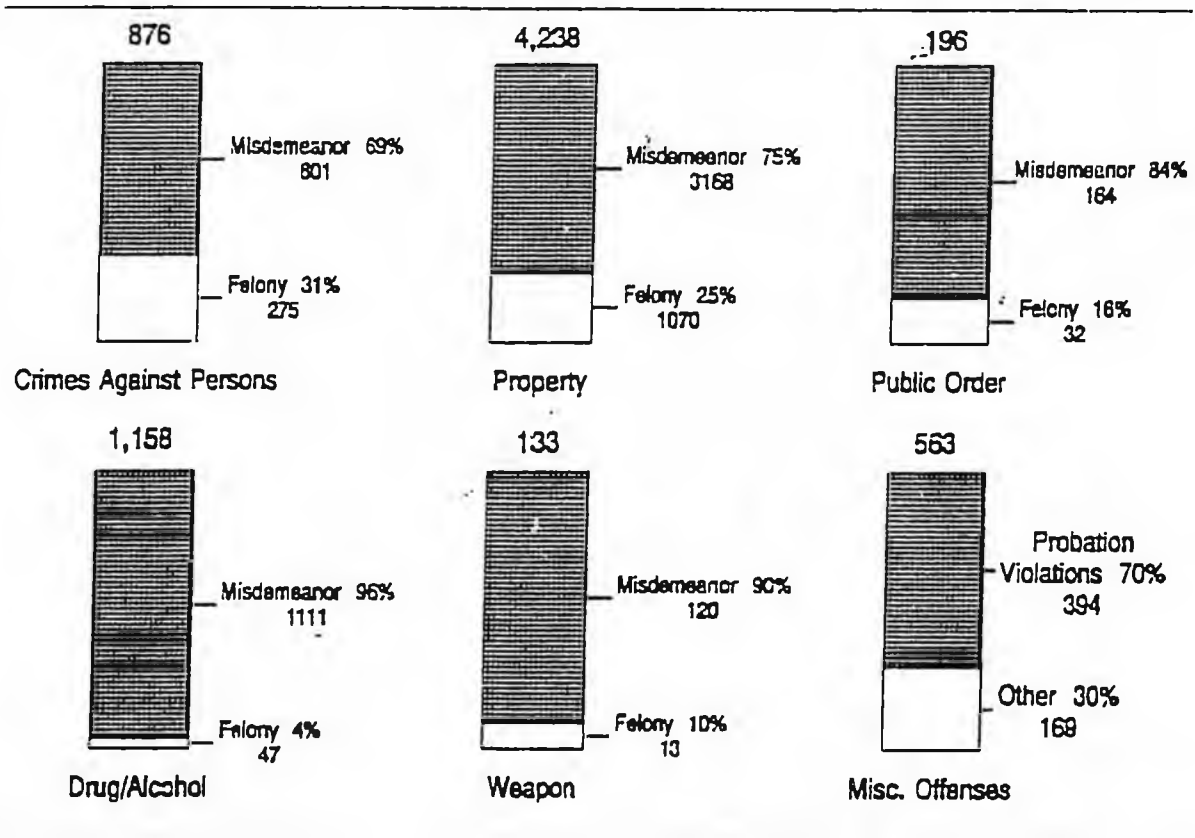
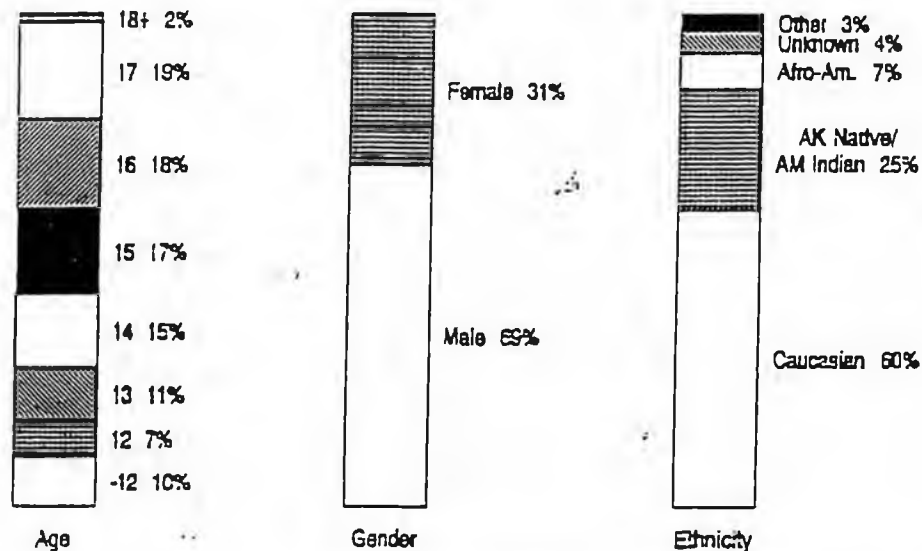


Figure 16 on the opposite page shows the characteristics of the alleged offenders by age, sex, and ethnicity.

FIGURE 16:
FY 92 ALLEGED YOUTH OFFENDER CHARACTERISTICS
 Juvenile Probation



When an alleged juvenile offender is referred for intake, the intake officer must determine whether the offense referral by the law enforcement agency is legally sufficient, and, if so, determine the type of action which would best serve the youth and the public.

When a peace officer has requested detention of an alleged offender, the intake officer also must determine if detention is necessary or if the juvenile can be released pending further intake proceedings. That decision is based on a number of factors, including the nature of the alleged offense, the safety of the juvenile, the safety of the community, and the flight risk of the alleged offender. Of the 7,168 referrals during the fiscal year, 888 juveniles were detained at the initial intake level.

Once an investigation is completed, the intake officer may take a number of actions. These actions include dismissal, adjustment, referral for services, informal probation, petition to the court for adjudication of delinquency, petition to the court with a recommendation of formal diversion, or petition to court with a recommendation for waiver to the adult court.

- (1) If the intake officer determines that probable cause does not exist to believe that a crime has been committed or that the juvenile committed the alleged offense, or that there is not sufficient admissible evidence to support a formal adjudication, the matter is dismissed, and no further action is taken.

- (2) If the intake officer determines that it is in the best interest of the juvenile and the community not to pursue the matter further, the case may be "adjusted." This informal adjustment generally consists of a meeting with and warning to the youth, a meeting with the youth and the family, or a letter to the youth and the family. The case then is closed. Payment of restitution, completion of community work service, or attendance and completion of a diversion program may be required before adjustment.
- (3) If the intake officer determines that neither formal court action nor nonjudicial supervision would be necessary if the youth and/or the family would voluntarily participate in counseling or other available services, the intake officer may refer the juvenile and/or the family to a community agency as part of a dismissal or an adjustment. When the intake officer determines that the juvenile's participation in a diversion program is warranted, the intake officer may verify that the juvenile and his or her parents have initiated services before dismissal or adjustment.
- (4) At the discretion of the intake officer, and with the consent of the juvenile and his or her parents, the intake officer may place the juvenile under informal probation. As a condition of informal probation, the juvenile and/or the family may be referred to other agencies for services.

Informal probation may not exceed six months. It must include an agreement that if the juvenile becomes involved in further delinquent activities or violates the terms of the informal probation, the charges which led to the informal probation may be brought to court. The informal probation may include restitution to the victim of the offense, community work service, or other "consequences." It may not include state sponsored, out-of-home placement or detention.

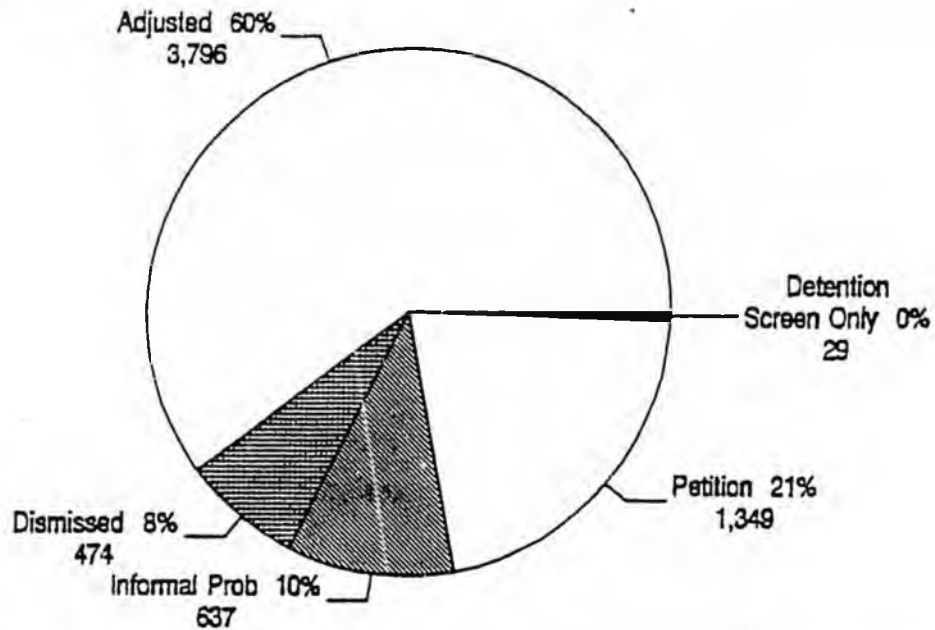
- (5) The intake officer may determine that, based on available information, the facts alleged are sufficient to establish jurisdiction, there is sufficient admissible evidence available to support an adjudication of delinquency, and the matter requires formal court intervention in order to assure an adequate plan of supervision. The intake officer may then file a delinquency petition with the court. Intake officers are required to petition serious felony cases and those resulting in large victim losses requiring a substantial time to collect restitution.
- (6) As part of a delinquency petition, the intake officer may recommend formal diversion when it appears the juvenile would be amenable to a period of court-imposed participation in a diversion program. Diversion agreements have a maximum duration of 12 months. The program may include restitution, community service, short-term counseling, and other programs.

- (7) Based on the seriousness of the alleged offense, the age of the child, and the likelihood of rehabilitation in the juvenile justice system, the intake officer may petition the court to waive the juvenile into adult court as part of the delinquency petition.

Figure 17 shows how FY 92 referrals to Youth Probation were processed by the intake officer. A large majority of youth whose cases are adjusted do not return with subsequent referrals. It should be noted that 31 percent of the referrals led to continued intervention by DFYS.

FIGURE 17:
**INTAKE DISPOSITION OF FY 92
REFERRALS TO YOUTH PROBATION**
Juvenile Probation

Total = 8,285



Court Disposition

Once an intake officer has petitioned the court regarding a juvenile, six outcomes can occur.

- (1) The court may dismiss the case, usually because of insufficient legal evidence.
- (2) The court may grant a state's request to withdraw the case. This can occur for a number of reasons, but generally occurs because a more appropriate course of action has been agreed upon outside the court.
- (3) The court may issue a judgment that the adjudication be held in abeyance for a stated period of time not to exceed one year. The order allows the court to dismiss the case at the expiration of the time period if the juvenile has met the conditions of the abeyance and if dismissal will be in the best interest of the juvenile and the public. If the juvenile does not abide by the conditions of the abeyance, the court may proceed with the case and make a formal finding of adjudication on the original charge.
- (4) The court may accept the state's request for formal diversion. Formal diversion must be voluntary on the part of the juvenile, the juvenile's parents, and the juvenile's attorney, if an attorney has been retained.
- (5) The court may waive the case to adult court. This occurs when there is probable cause to believe the juvenile committed the alleged offense, but that rehabilitation likely would not occur during the time the juvenile would remain in the juvenile justice system.
- (6) Finally, based on the evidence presented, the court may adjudicate the youth delinquent.

If the court adjudicates the juvenile delinquent, it may issue one or a combination of six orders.

- (1) The court may enter a finding of adjudication with no other action. However, the court rarely issues this type of an order. When it does, it generally involves a juvenile who has reached, or soon will reach, the age of 19, the limit of the Division's authority. In such an instance, the court's finding assures that the delinquency adjudication becomes a part of the youth's record and can therefore be used as an aggravating factor in adult court/sentencing).
- (2) The court may order probation without custody. Such an order places a youth on supervised probation by DFYS, with release to his or her parent, guardian, or other suitable person selected by the court. With such an order, a probation

officer is responsible for monitoring compliance with conditions of probation. The probation officer, with the youth and his or her family, will develop a case plan, provide guidance and counseling as necessary, report violations of probation to the court, and periodically visit the placement to determine if it is in the best interest of the youth.

- (3) The court may order probation with custody, placing the youth in DFYS custody. A youth under such an order may be placed in the home of a parent, guardian, suitable relative, foster home, group home, or residential care facility other than a correctional institution or detention facility. The probation officer is responsible for developing a case plan, providing guidance and counseling as necessary, reporting violations to the court, and periodically visiting the child.
- (4) When a victim of a juvenile offense requires compensation for the loss or damage of property or personal injury, the court may order restitution payment. Such an order may stand alone, or it may be combined with another dispositional order (i.e., probation). With this type of order the probation officer is responsible for informing the youth of restitution payment procedures, setting a restitution payment schedule, monitoring payments, and periodically advising the court of the youth's progress in meeting the order.
- (5) The court may order the juvenile to take part in an Adventure Based Education program, administered by the Department of Community and Regional Affairs. The program, currently only available in Anchorage, is a short-term, intensive training program designed to remedy failure patterns and to encourage the development of personal responsibility, self-esteem, self-confidence, and social awareness.
- (6) The court may order the juvenile committed to the Department of Health and Social Services for placement in a correctional facility. The Department then will place the juvenile in a juvenile facility considered appropriate, which may include a juvenile correctional school, a detention home, or a Youth Facility.

Case Planning

If a juvenile is adjudicated as delinquent and ordered under DFYS supervision, he or she is placed on the work load of a juvenile probation officer. The case will be classified into one of seven types: residential care, correctional institution, interstate out, informal probation, or one of three formal probation classifications.

Residential care includes juveniles who are placed in an in-state residential care facility or a psychiatric hospital. Correctional institution case type includes all youth committed to DFYS custody under institutional commitment by the court. Interstate out cases include all

youth who, with the probation officer's request for out-of-state placement, the court's approval, and the approval of the respective states' Interstate Compact on Juveniles' offices, are permitted to leave Alaska. An informal probation case type includes all youth who are being supervised subject to a written informal probation agreement as well as youth who are being supervised subject to the terms of a formal diversion agreement ordered by the court.

Finally, formal probation includes three classification categories. Using a Risk/Need Assessment Tool, probation officers evaluate each juvenile to determine the likelihood of reoffense and the need for supervision services. Based on the results of that assessment, the juvenile is classified for minimum, medium, or maximum supervision, and services are provided accordingly. The higher the level of classification, the more intense the services and the more frequent the monitoring contacts with the youth.

Formal case plans are developed with the youth and with the family whenever possible and appropriate. Those plans are reviewed and updated periodically, with the provision of services modified accordingly. Services may include counseling, substance abuse treatment, educational services, community support. Those services are aimed at remediating the delinquent behavior and maintaining the youth in the least restrictive environment. All reasonable efforts are made to keep the youth in the home and to involve the family in the treatment process. If placement must be made out of the home, the placement is the least restrictive, most family-like possible, and it is made in the closest possible proximity to the youth's parental home.

Regardless of the type of court disposition or classification level, completion of restitution or community work services is a common element of the case plan. A juvenile's achievement of case plan goals and conformance to conditions of probation are the primary factors in determining the duration of the probation. Court ordered supervision generally is for a period of two years. However, a juvenile who demonstrates lawful behavior and goal achievement before the end of that time period may be discharged early. On the other hand, a juvenile who does not demonstrate progress may have his or her probation continued beyond the two years by order of the court.

Accreditation of Juvenile Probation Services

In the next section, accreditation of the Alaska's five Youth Facilities institutions will be discussed in detail. The Division plans to extend its accreditation efforts to the states thirteen juvenile probation offices. Audits of those offices are being scheduled for calendar years 1993 and 1994 to coincide with the re-accreditation of Youth Facilities institutions.

Overview of Youth Facilities

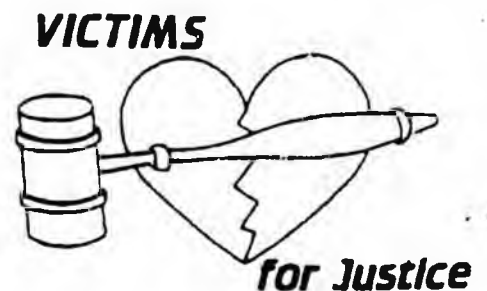
During FY 92, Youth Facilities provided secure detention of 1,311 accused juvenile offenders pending court appearance as well as supervision and rehabilitation of 96 juvenile offenders whom the court had determined to be in need of secure, long-term treatment. Services are

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Ans'd.....



**POSITION STATEMENT
FROM THE COALITION OF
THE ALASKA PEACE OFFICER'S ASSOCIATION
and MOTHERS AGAINST DRUNK DRIVERS**

before the
19th Alaska Legislature
March 1993



ISSUES RELATING TO THE JUVENILE JUSTICE SYSTEM

The following are suggested changes to the current statute/rules relating to Juvenile Criminal laws/procedures.

1. **JUVENILE WAIVER (SB 54)** - People ages 16 and 17 charged with an Unclassified or Class A Felony (these are violent crimes against people) should be treated as adults and prosecuted in adult court.
2. **CONFIDENTIALITY** - There is an assumption that confidentiality in criminal matters relating to juveniles will prevent recidivism. The basis for this assumption is questionable. As a result of confidentiality, there is no public awareness of the crime or the criminal. Reaffirmation of societal norms is minimized. The victim as well as the entire community needs to have an ability to voice their outrage and condemnation. There should be non-confidential sentencings to allow public scrutiny into the juvenile criminal justice system. We propose a change to allow a juvenile's first criminal charge be handled in a confidential manner. After the first conviction, all other criminal proceedings should be handled publicly.
3. **TWELVE PERSON JURIES** - In adult court, those charged with misdemeanors are entitled to a six person jury; felony defendants get twelve person juries. The Delinquency Rules of Court allow all juveniles charged with any crime, misdemeanor, or felony, to be tried by a twelve person jury. With the constraints on the court system and the attorneys for both the prosecution and defense, this puts an undue burden on the system. Juveniles charged with misdemeanors should get six person juries like adults.
4. **JUVENILE SENTENCING** - Under Title 12 of the Alaska Statutes, Courts may only use an adult's juvenile criminal history as an aggravator. The court should be required to review any juvenile criminal records. We recommend in cases where an adult with one prior juvenile adjudication on a felony charge is being sentenced on a felony in adult court, the judge should consider the juvenile record as an aggravator for a subsequent adult felony conviction. If the

adult has more than one juvenile felony adjudication, the court should be required to use presumptive sentencing. If presumptive sentencing does not apply to the particular offense, the court should consider the juvenile record as an aggravator to the possible sentence.

Further, there should be statutory guidelines for the sentencing of the juvenile offender similar to the Chaney Criteria for adult sentencing. The juvenile's probability of rehabilitation should be evaluated, but it should not be the overriding consideration. The judge should also be required to base his sentence upon the need to isolate the offender, to fashion a sentence based upon community condemnation of the offender and deterrence of other juveniles who are likely to know or learn about the case.

5. **RESTITUTION** - The principle crimes committed by juveniles are property offenses, in particular, burglaries, thefts, and auto theft. The punishments for these crimes should be more severe. Presently, there is no reason for the offender to stop offending. As a matter of policy, courts do not order juveniles to pay more than \$2000 in restitution. The principle of restitution is to make a victim whole within the possible means of the offender.

Further, restitution orders by the court are presently not enforceable after the juvenile reaches 19 years of age. If a juvenile makes only token payments until his or her 19th birthday, the court loses jurisdiction and the balance of the restitution owed can not be compelled. The juvenile's debt to the victim should survive his 19th birthday and the court should retain the authority to force restitution.

6. **INSTITUTIONALIZATION** - The Court of Appeals in R.P. v State (718 P2nd 168) held that institutionalization of juveniles should be used only as a last resort, that juveniles should be placed in the least restrictive placement. Rehabilitation is an important goal, however it should not be at the expense of the protection of the community. These goals are not mutually exclusive. With more rehabilitative efforts within the institutional environment, these goals can compliment one another. The court should also be mindful of protection of the community and the other sentencing criteria mentioned above.

ALASKA PEACE OFFICERS ASSOCIATION

Anchorage Chapter
P. O. Box 103824
Anchorage, AK 99510
Phone: _____

February 17, 1993

Senator Rick Halford
State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Halford,

Alaska's current juvenile justice system has repeatedly demonstrated an inability to effectively deal with the violent and recidivist youthful offender. The time and energy of police-prosecutor resources designed under the current law to waive a juvenile into adult court has resulted in waiver of only a handful of these hardened juveniles even though violent crimes by Alaska's youth is on the increase. All too often when a particularly dangerous juvenile is waived into adult court the defendant then embarks upon a time consuming appeal as the state's case grows stale, witnesses memories fade, victims and their families grow cynical and police become involved in new cases.

Because SB 54 is tailored to address these shortcomings in the existing statutory fabric it is strongly supported by the Alaska Peace Officers Association.

Unlike House Bill 100, which would permit a juvenile who has been waived into adult court to appeal that finding--a flaw in the current law--SB 54 mandates *automatic* waiver for all 16 and 17 year old who commit Class A and unclassified felonies without the requirement that the state prove that the defendant is not amenable to treatment. This means there will be no court ruling to appeal, so precious resources can be focused on taking the defendant to trial on the merits of the offense shortly after the crime occurs.

Another major shortfall of HB 100 is that it is simply so complex a piece of legislation that it is unworkable by the officer on the street upon whose shoulders it will fall to enforce it. Will the officer who finds himself in the middle of a fast breaking investigation be able to ascertain the suspect's prior juvenile criminal history (which records are sealed)? Will he correctly elect to transport the suspect to the McLaughlin Youth Center or similar facility or to the police station for questioning? Will he be correct in his decision not to notify the suspect's parents? Do the Alaska Children's Rules apply?

SB 54 will eliminate all of these concerns for Alaska law enforcement officers who will need to know only one piece of information: What is the suspect's age?

In short, SB 54 will permit police to more effectively focus their limited resources on Alaska's most dangerous offender: the hardened chronic juvenile who commits a serious crime of violence.

Respectfully yours,



Linda Branchflower
Chairman-Legislative Committee
Alaska Peace Officers Association

ALASKA

CIVIL LIBERTIES UNION

P. O. Box 201844 Anchorage, AK 99520-1844

Phone: 907-258-0044 Fax: 907-258-0288

Messages Only: 907-276-2258

March 26, 1993

The Honorable Brian Porter
Chairman, Judiciary Committee
The House of Representatives
State Capitol, Juneau, AK 99801-1182

Dear Representative Porter:

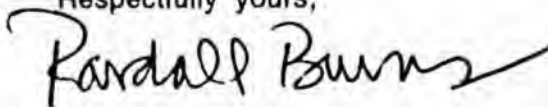
I am writing on behalf of the Alaska Civil Liberties Union (AkCLU), an affiliate of the American Civil Liberties Union (ACLU), to express our opposition to **SB 54**. This bill provides for an *automatic* "waiver" of juveniles 16 years and over from the juvenile system into the adult criminal justice system when they are charged with unclassified or Class A felony offenses.

Over the years the AkCLU and other youth advocacy organizations have argued against bills that assert an automatic waiver. As you know, the State of Alaska already has a system in place for the waiver of juveniles from Children's to Superior Court. The present system functions effectively and, despite criticisms, we have heard no persuasive arguments to the contrary.

Given that we presently have an effective system, we can see no **fiscal justification** for enacting legislation that will cost the state more money to administer while further reducing the already tentative civil liberties of our juvenile population.

Bottom line: automatic waiver to adult court will necessitate strong constitutional protections for those juveniles being waived to adult court, protections necessitating much more expensive -- primarily state funded -- defense and prosecutorial costs. Given that present agency budgets already account for the funding of juvenile waivers under the current system, why attempt to fix something that clearly is not broke by replacing it with much more expensive procedures that trample on the rights of Alaska's children?

Respectfully yours,



Randall P. Burns
Executive Director

Alaska Association Chiefs of Police



February 25, 1993

Senator Rick Halford
Alaska State Capitol
Room 111
Juneau, Alaska 99801-1182

Dear Senator Halford:

On behalf of the Alaska Association of Chiefs of Police I would like to offer our support for Senate Bill 54. While there are other bills that deal with the issue of Juvenile waivers, SB 54 is cleaner in its language, is easier to understand, may result in less litigation, and has added amendments that deal with juvenile property crime.

The manner in which the criminal justice deals with juvenile offenders may have been appropriate 20 years ago, but not today. Juveniles are involved in more than the "petty offenses" that drove the thinking behind our current approach to the juvenile offender. Juveniles today commit a significant percentage of the violent crimes in Alaska and are responsible for an increasing number of the full spectrum of felony crime.

We believe that Senate Bill 54 is an effective way to combat the growing area of juvenile crime. If we can be of any assistance in the passage of this bill please let me know.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Ronald L. Otte", is written over the typed name.

Ronald L. Otte
President

RLO/lp

Senate's juvenile crime bill would balance scales

3.12.93

By PAUL JENKINS

The state Senate has sent to the House of Representatives a good piece of legislation we should strongly support, lest it get lost in a high shuffle.

The measure, SB54, would go a long way toward balancing the scales in dealing with juvenile criminals and actually shows the little dears that crime is not supposed to pay. It would make four basic changes to the law.

First, under current law, a prosecutor must petition a judge for permission to haul a youngster charged with a serious crime into Superior Court for trial as an adult.

This bill, initially put together by Sen. Rick Halford, R-



Jenkins

Chugiak, would change that by mandating that 14- to 18-year-olds be tried as adults under certain conditions: Those would include charges of unclassified or Class A felonies such as murder, kidnapping, rape and first-degree arson.

And Junior also automatically would go to court as an adult if he previously had been charged with a crime against a person, already had been determined to be delinquent or had been convicted as an adult of a felony crime against a per-

son here, or anywhere else.

Second, the measure would resolve the problem of what to do with Junior when he screws up and is convicted as an adult.

Now, a judge can remand him to the custody of Department of Health and Social Services — where he can be a wonderful role model for other juveniles being held for lesser offenses — or order him into prison, where he would be held in custody separate from adults.

The Senate bill would end that. If convicted as an adult, Junior would get to serve his time in jail as an adult, without being segregated because of his age.

Third, SB54 would end the charade of automatically sealing Junior's records. Under this measure, all records of criminal convictions — felonies and misdemeanors — from the age of 16 on would be there for all the world to see. So when Junior and his buddies get together to assault somebody, tear down Christmas decorations or engage in any other "mischievous" they will get to carry their convictions with them.

And it would allow victims of property or personal crimes committed by a minor of any age to get a peek at the official record and use the information to sue the pants off Junior, his parents or legal guardians.

And, fourth, Junior would get to pay

for his sins.

Judges now are not required to order restitution for property crimes or crimes against people. And it's tough to sue young criminals for damages because the juvenile justice system keeps their records confidential so they will not be barred from medical school later.

The Senate bill requires that judges order restitution if Junior is adjudicated a delinquent, and allows victims to go after his Permanent Fund dividend and forbids sealing of his records if court-ordered restitution is not paid.

As it is now, when Junior turns 19, juvenile court judges have no jurisdiction to insist he pay what he owes to his victims.

The bill now is in the House Judiciary Committee.

You might want to give your legislators a nudge in the direction of passing this measure. The Legislative Information Office's nifty, free 50-word messages to lawmakers are a good way to start.

The good part about supporting legislation like this is that it will not make a bit of difference for the 99 percent of the kids out there who are good citizens.

The best part is that it will get the attention of that other 1 percent the very first time they stray over the line.

Paul Jenkins is an editor of The Anchorage Times.

THE VOICE OF THE TIMES

Some kids need more punishment than slap on hand

By PAUL JENKINS

Remember Alex Felker? He was the guy clubbed and beaten by five punks as he walked along Spenard Road just before Christmas. Guess what? Three of those same little darlings went on an even more violent spree just days later. This time, the bunch had a gun. This time they hurt someone else.

In the most recent episode, it's alleged they — and a few new buddies — rolled a drunk, tried to carjack a pizza delivery guy, stole a woman's car at gunpoint, shot at a cab driver and attacked and seriously injured a 15-year-old boy waiting in a car for his parents to come out of the Fred Meyer store on Northern Lights.

What else they were up to that night is anybody's guess. But what they did during those two nights could have happened to any of us unfortunate to be in the wrong place at the wrong time.

All these thugs are between 15 and 17 years old. At least two of them are known to juvenile authorities for past property crimes. They have fallen into the category of being the usual suspects when things like this happen. And you wonder why cops get a little cranky.

If there is a recent case that graphically shows why kids involved in violent crimes should automatically be charged and treated as adults, here it is.

If the three clown involved in beating Mr. Felker — and who were involved in the crime spree a few days later — had been charged as adults to begin with, they likely would not have been on the street to be involved in the second round of fun. And the knowledge that the law was coming down hard on them may have kept their buddies off the street as well.



Jenkins

As it is now, they have the protection of the juvenile justice system. We don't know who they are. For all we know, they're living next door. We likely won't know what happens to them. But in comparison to what they would have gotten in adult court, they'll just get their little hands slapped. All of this, of course, is designed to let the little dears grow up and become responsible adults without the onus of a criminal record.

That's great. Those same protections saved my butt when I was a punk kid and



went over the line. But then, my friends and I didn't try to shoot anybody or club them or hit them in the head with hockey sticks. We were stupid and insensitive, but we weren't violent.

And teen-agers have not changed. Kids, good kids who will grow up to be good citizens, do crazy, non-violent things. Get them together and the lowest-common-denominator thing goes to work. They become hormones with ears. But, hopefully, it passes. They should be allowed to grow up, get into college, get jobs and proceed with their lives when their brains actually begin to function.

But violent kids can grow up to be violent adults. If they have a career track leading to more and more violence, we should be trying to derail them now, before some poor soul has to deal with them in the middle of the night.

I think when you're 15, 16, 17 years old you should have a vague notion that hurting someone else is wrong, and when you step over the line, you should pay. About 99.5 percent of the kids know that. It's time to deal with those who haven't gotten the word.

This bunch has been lucky twice. They didn't kill anybody, despite their being armed and shooting a gun. Nobody killed them, despite this being a city where any

number of people could, and would love to, shoot back. That kind of luck is not going to hold forever.

It's well past time for a slap on the hand for these kids and others like them who haven't gotten the word that such behavior is wrong.

The Alaska Peace Officers Association is drafting legislation that would be a big step in the right direction.

Among other things, it would:

- Prosecute 16- and 17-year-olds as adults when they are charged with committing a felonious violent crime against a person.

- Retain confidentiality for juveniles charged with misdemeanors for the first crime only. One freebie for dummies like me. After that, it's tell-all and show-all.

- Change the law to make judges consider juvenile records as aggravating circumstances when sentencing a person as an adult.

- Ensure that juvenile court-ordered restitution continues after an offender's 19th birthday. Now, when junior hits 19, such orders cannot be enforced.

It's a start. It's a darned good start.

One thing is certain. Something needs to be done — soon. The system as it stands now is just not working.

Paul Jenkins is an editor of The Anchorage Times.

Revamp juvenile system or give up our streets

by PAUL JENKINS

Alex Felker thinks kids may be changing, getting more malevolent, more violent. He bases that on recent experience with pack of punks in Spenard who gave him 6 stitches around his right eye, a busted lip, a painful lump on the back of his head, cut on his forehead and too many bruises and scratches to count.

His offense? He says he had left his job in the North Slope, stopped in Anchorage to buy Christmas gifts for his family in the lush and went for a walk to a nearby convenience store. He says he was minding his own business. That somehow offended the five juveniles hanging around a convenience store. They cursed him, screamed at him, chased him down in their Suburu brat.

They did that even after he crossed the road to avoid a confrontation; even after he made it clear he wanted no problems.

They punched and kicked and clubbed the 37-year-old, unemployed emergency medical technician bloody. They beat him to the ground right beside Spenard Road, with traffic whizzing by a few feet away. At least one of them wielded a large flashlight or club in the attack.

If a cab driver had not stopped, Alex Felker might well have gone home in a coffin to his wife and four children at Crooked Creek — a small village in Southwest Alaska on the Kuskokwim River.



Jenkins

"They were really whaling on him," says the cab driver, who asked not to be identified. "He was out on the ground. They really did it to him. He was just covered with blood."

The cab driver says when he saw what was happening and stopped, he inadvertently blocked the assailants' vehicle. Felker and the driver got the Suburu's license tag number, and Felker says he reached into the vehicle and grabbed its keys before his assailants could speed away — getting bashed again on the head and knocked senseless in the process.

Then the punks did what punks do. They ran away.

"They said, 'We'll get you, too,' as they fled, the cab driver says. 'I just can't understand it. Why in the middle of Spenard Road? It was very public.'"

Felker says he doesn't know why either. "It looked like they were a rowdy bunch,



and they were just looking for someone," he says. "I happened to be that person."

Felker now faces what he estimates will be a \$600 hospital and ambulance bill. He has no medical insurance. He has no job.

But Felker, who says he wouldn't raise his kids in Anchorage on a bet, is lucky. The cab driver is lucky. And most of all, the kids — stupid, invulnerable and sadly mean — are lucky.

They are lucky Mr. Felker was not killed. They are lucky they were not hurt or killed.

And they are lucky we have a juvenile justice system that will protect their identities and never acknowledge that violent kids are as dangerous as violent adults. They are lucky it's a system built on the premise that kids can be rehabilitated, and that it is a system geared to the notion that juveniles cannot commit real crimes.

Make no mistake: what happened to Felker was a crime. His attackers were coldly cruel and violent and malicious, and while they may end up paying some restitution, they never will have to pay the full price for what they did.

As of early this week, only one had been charged with assault. But it's likely, authorities say, the rest also will be charged. That may be all we'll ever know about the case, the system being the way it is.

You have to wonder what makes some kids do things like this, why they go well beyond the bounds of normal teen-age yahooism. You have to wonder why they think almost beating someone to death is acceptable.

We can blame it on television and Hollywood. We can blame it on broken homes or rotten parents or poor nutrition or poor poty training. We can blame it on drugs, alco-

hol, abuse — almost anything. All these things most certainly could play a role. We can find any number of reasons why junior, in his pointed little noggin, finds it necessary to nearly kill someone for fun.

But all that doesn't explain the millions of teen-agers who are good citizens despite those adversities, and more.

Nope, it's time to lay the blame where it belongs. Squarely in junior's lap. He does it because he thinks he'll get away with it, and it's that simple.

* Junior needs to know, and learn to believe, that violence is unacceptable, that it will not be tolerated, that it will be met with swift, sure justice. Those few need to know early on there is no room in school or on our streets for violent punks. We must make that known without losing sight of the fact that most teen-agers who screw up only need a firm nudge and time to get them back on the right track.

* With the Legislature about to convene in Juneau, we should start letting our lawmakers know we are dissatisfied, that it's time to change the juvenile system to identify and punish those with violent tendencies.

This time, when five punks thought it would be OK to nearly kill someone, their prey was a guy lucky enough to survive, but it could have been any one of us, or our loved ones. A flat tire, an overheated engine or any other car problem — or just going for a walk — could have put any of us on that street, at that time, in those circumstances. We might not have been so lucky.

We can either start working to fix the system, or give up our streets and neighborhoods to punks.

Paul Jenkins is an editor of The Anchorage Times.

THE VOICE OF THE TIMES

'Just being kids' no excuse for criminal activity

By PAUL JENKINS

A harmless prank?

Destroying Nativity scenes, stealing street signs and construction barricades is a prank? Ripping up the hard work of people who just wanted to have Christmas decorations on their property is a lousy, harmless prank?

No, it's not.

At the very least it's malicious mischief and theft. It's stupid, wrong and disgraceful.

Day after gut-wrenching day, on the front pages of newspapers across this nation, there are the children — starving, dying children in faraway places, children who have to stand in line to fight for food, children in rags, children with little or no hope.

And we silently thank God they are not our children.

Then, we pick up the newspaper here and there's a picture of a man standing in the rubble of what was a Christmas light display in his yard wrecked by a bunch of self-indulgent high school jerks with apparently nothing better to do.

And we wonder. Why? Why do our children do these things? They aren't starving, they aren't in rags, they don't have to fight for food. Why do they do these things?

The answer is simple.

We let them. We refuse to fall on them like a wall when they get out of line.

We coddle them, buy them cars, have no idea where they are in the middle of a school night and fail to ask questions. We don't convince them stealing is wrong, that destroying someone else's property is unacceptable.

We walk by snot-nosed kids puffing on cigarettes without telling them to put them out. We don't challenge them when they screw up. Why? Because most of us are afraid. The last thing most adults want is to get into an altercation with some young punk. After all, the law always is on their side.

We have a justice system set up to protect them, we have newspapers that will not print their names, we do everything we can to tell them that as long as they're kids, they can do what they damned well want. The punishment will be light. Nobody will know. Mom and dad won't be inconvenienced. And when it's all over, we'll just



erase that nasty old record.

And we dismiss property damage and stealing as a prank. We say, "Oh, kids will be kids," and forget about it. We say this despite the fact that a child already has been killed during one of these "pranks" and a man likely will go to prison for protecting his property. We say this despite the grim possibility another child could be killed.

But what happened early Wednesday should be the last straw. These yahoos dishonored themselves, their families, their school and their classmates. They should now be taught that in the real world, where'll they'll be in a few years if they live long enough, there is a price to pay for this kind of nonsense.

It's time to make an example. Let's start with this bunch. We should be telling them — and their parents — the party's over, that we're really getting sick of kids running wild in this town.

Each child involved in the festivities early Wednesday should be charged to the full extent of the law. Those convicted should be required to return the items they stole, repair any damage done and work off any that cannot be fixed, no matter how long it takes. And they should have to do it this winter to get a taste of the hard, cold work that went into what they destroyed. They should not be allowed to pay cash for any of this, and mom and dad should not be allowed to help.

And then the children — and their parents — should be required to work at a community service job, side by side, for a period of time to get a feeling for how others live and how hard it can be.

They should be required to apologize to their victims — in person and in writing — and apologize to the kids in their school with the sense not to have taken part, the kids they embarrassed with their stupidity.

Then, we need to look at a new set of laws that actually make children — and their parents — understand there actually is a price.

Maybe a law that actually makes parents responsible would go a long way toward getting that done. If a kid gets into trouble, parents ought to get into trouble, too. If a kid is charged with a crime, mom and dad ought to feel the heat. A "failure to supervise a child" statute could do the trick. Something tells me that if mom and dad thought they might have to pay the criminal court freight for their child's actions, junior likely would be home, or somebody would know where he was going, and with whom.

Maybe we ought to think about revoking or suspending the drivers' licenses of youngsters who break the law. It is, after all, supposed to be a privilege. It would be hard for these bozos to take part in many "pranks" afoot.

We also could drop some of the protection many of them think goes with being a kid. The names of children involved in serious crimes should not be a secret. We have a right to know who they are, and their parents, too. And kids probably should be charged automatically as adults for any felony.

We should not let this episode pass as just another "prank." We should use it to straighten out an ever-growing mess, or as a line in the sand.

And maybe someday we won't have to wonder about our kids.

Paul Jenkins is an editor of The Anchorage Times.



Jenkins

New Telephone numbers at The Anchorage Times

As of Monday, telephone numbers at The Anchorage Times will be as follows:

Dennis Fradley	274-3952
Paul Jenkins	274-3954
William J. Tobin	274-3955
FAX	274-3958
Messages	274-3947

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 5, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-16-93

The JUDICIARY Committee considered:

CS SB 54(FIN)

CS FOR SENATE BILL NO. 54(FIN)

OFFENSES BY JUVENILE OFFENDERS

"An Act relating to violations of laws by juveniles, to the remedies for offenses and activities committed by juveniles and to records of those offenses, and to incarceration of juveniles who have been charged, prosecuted, or convicted as adults; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS CSSB 54 (JUD) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: House Judiciary letter of Intent 4-16-93
AND SENATE " " 4-17-93

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) CRT. SYSTEM (2-26-93)

zero fiscal note CORRECTIONS, ADMINIS. (2) zero fiscal note(s) DPS (2-19-93)
LAW + DHS (2-24-93)

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE