

HB

100



Alaska State Legislature
 House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

DATE: FEBRUARY 8, 1993

PLACE: Capitol Room 106

SUBJECT OF MEETING:
 •HB 114: DRUG DISPENSING: ADV. NURSE PRACT
 •HB 2: DRUG TESTING FOR SCHOOL BUS DRIVE
 •HB 78: TESTIMONY OF MINORS IN CRIMINAL T
 •HB 97: PARENTAL CARE FOR CHILD IN STATE
 •HB 100: PROSECUTION OF JUVENILE FELONS

BILLS HELD OVER FROM PREVIOUS CALENDERS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Eomayne Karsen	Dept. of Education	801 W. 10th St Juneau	99801		465-8652	Y N	Available HB 2
Peter Nakamura	Dept. of Health	A.D.B.			4653090	(Y) N	HB 114
VINCENT USERA	AGO				465-2399	Y N	if needed HB 79
KARL LUCB	DCED	Director Occupational Licensing			5-2558	Y (N)	only if needed HB 114
WELTZIN John W. Wetz	self	STUDENT ASSISTANCE CENTER PUNYA DISTRICT MIDDLE SCHOOL JUNEAU 99801 10014 W. 10th St Juneau			463-1854	Y N	HB 100
Deborah	DFYS				465-3191	(Y) N	HB 97
						Y N	
RENA BURKOVICH LEG. AFF. TO GUYEN MALDEN					-6872	Y N	
JERRY LUCKHART LEG. COUNSEL LEG. AFFAIRS		6200TH AVE JUNEAU, AK 9			-2450	Y N	
						Y N	
						Y N	



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NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
SHERIFF, GOLL	RUSIA WOMEN'S LEAGUE	P.O. Box 22152, Juneau	99802		463-6744	(Y) N	HB 100
Chris EADDY	DIVERSIFIED SVCS DIV	P.O. Box 20845, JUNEAU	99802		586-5365	Y (N)	HB 700
GARY BADER	DOF	801 W. 10th JUNEAU	99802		465-9650	(Y) N	HB 2
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

**** ORDER SUMMARY ****

SPONSOR: HHES HOUSE HEALTH, EDUCATION AND SOCIAL SERVI CHAIRS: TOOHEY
PURPOSE: PUB PUBLIC HEARING BUNDE
CONTACT: LYNN SMITH TEL#: (907)465-6825
CHAIRING SITE: JUNEAU CAPITOL CAP106
TOLL FREE: DIAL-UP: LID: (800)478-9968

SPONSOR REMARKS(PUB): TESTIMONY:Y ALLOWED 5 MINUTE LIMIT

SPONSOR REMARKS(LID): BACKUP MATERIAL:N MEETING IN PROGRESS:N MAX. SITES: 5
FOR HB 97, DIANE OLSEN, DEPT. OF LAW WILL BE IN ANCHORAGE TO TESTIFY BY INVITE
TCN REQUESTED ON 02/08/93 AND HAS 4 UPDATES

**** AGENDA ****

- 1 HB 114 DRUG DISPENSING:ADV. NURSE PRACTITIONERS
- 2 HB 97 PARENTAL CARE FOR CHILD IN STATE CUSTODY
- 3 (BY INVITATION ONLY)

**** PARTICIPATING LIOS ****

ANC ANCHORAGE	3111 C STREET	LOCATION STAFF
BAR BARROW	COURTHOUSE #305	LOCATION STAFF
* JNU JUNEAU	CAPITOL CAP106	LOCATION STAFF
MAT MATSU	165 E PARKS HWY.	LOCATION STAFF

PARTICIPANTS IN: ANCHORAGE

ANC

- | | | | |
|---|-----------------------|------------------|------------------------|
| 1 | PATRICIA HONG | AK NURSE ASSOC | TSFY. HB 114 |
| | 237 E THIRD, NO 3 | ANCHORAGE | AK 99501 (907)274-0827 |
| 2 | DARYL YOUNG | UAA | TSFY. HB 114 |
| | 3211 PROVIDENCE DRIVE | ANCHORAGE | AK 99508 (907)786-4040 |
| 3 | SUE ANNE JENKENSEN | AK NURSE PRACTIT | TSFY. HB 114 |
| | 237 E THIRD | ANCHORAGE | AK 99501 (907)274-0827 |
| 4 | GAIL MCGUILL | | TSFY. HB 114 |
| | 3601 C STREET | ANCHORAGE | AK 99503 (907)561-2878 |
| 5 | DIANNE OLSEN | | TSFY. HB 97 |
| | 1031 W 4TH AVE | ANCHORAGE | AK 99501 (907)269-5139 |
| 6 | STAN THOMPSON | | OSV. HB 114 |
| | 1018 W 73RD | ANCHORAGE | AK 99518 (907)344-5149 |
| 7 | KAY LAHDENPERA | MOA/DHHS | TSFY. HB 114 |
| | P.O. BOX 196650 | ANCHORAGE | AK 99519 (907)343-4624 |

PARTICIPANTS IN: JUNEAU

JNU

- | | | | |
|---|--------------|----|---------------|
| 1 | REP TOOHEY | | TSFY. HB 114 |
| | | AK | (907)000-0000 |
| 2 | REP BUNDE | | TSFY. HB 114 |
| | | AK | (907)000-0000 |
| 3 | REP G. DAVIS | | TSFY. HB 114 |
| | | AK | (907)000-0000 |
| 4 | REP VEZEY | | TSFY. HB 114 |
| | | AK | (907)000-0000 |
| 5 | REP KOTT | | TSFY. HB 114 |
| | | AK | (907)000-0000 |
| 6 | REP OLBERG | | TSFY. HB 114 |
| | | AK | (907)000-0000 |
| 7 | REP B._DAVIS | | TSFY. HB 114 |

TCN: 30153

DATE & TIME: 02/08/93 15:00 TO 17:00

STATUS: 7 STATS. IN

PARTICIPANTS IN: JUNEAU		JNU	
24	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
35	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
36	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
37	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
38	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
39	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
40	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
41	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
42	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
43	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
44	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
45	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
46	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
47	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
48	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
49	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
50	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
51	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000
52	2	OBSERVE	OBSV. HB 114
			AK (907)000-0000

PARTICIPANTS IN: MATSU
1 MS DIXIE
 POB 382

LIGHT MAT
 HOUSTON

IS FOR THE BILL TSFY. HB 114
AK 99694 (907)892-8804

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB 100

Revision Date: _____ Dept. Affected: Public Safety
 Title: " An act relating to criminal charges
brought against minors." BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Bunde
 Requestor: Representative Bunde COMPONENT SERIAL NO. 799

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY 93) impact: \$ _____

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: 02/05/93

Approved by Commissioner:  Date: 2/5/93

Agency: Richard I. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 100

Revision Date: _____
 Title: "An Act relating to criminal charges brought against minors."
 Sponsor: Representative Bunde
 Requestor: House HESS

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	4.0	4.1	4.2	4.3	4.4	4.5
CONTRACTUAL	48.2	49.6	51.1	52.6	54.2	55.8
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	52.2	53.7	55.3	56.9	58.6	60.3

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	52.2	53.7	55.3	56.9	58.6	60.3
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	52.2	53.7	55.3	56.9	58.6	60.3

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 (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)
 See Attached Analysis

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Nancy Bear Usara
 Agency: Administration

Date: 2/8/93

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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 100

Passage of HB100 will cause fundamental changes in the way that many juvenile cases are now processed through the justice system. In several important classes of cases the bill would create a presumption that the juvenile is not amenable to treatment and should therefore be waived into adult court. This section of the law will generate many more waiver hearings at which it will be necessary for both the state and the defense to call experts in psychology and psychiatry to provide evidence to the court regarding amenability to treatment.

During calendar 1992 OPA provided representation to approximately 20 juveniles who were subject to current waiver proceedings. It is anticipated that passage of HB100 would generate at least 10 more cases statewide that would involve both waiver proceedings and subsequent proceedings in adult court. Average contractor costs for these cases during calendar 1992 in Anchorage was \$3,820.00. Expert costs are estimated at \$1.0 per case. The contractual costs reflected on the attached fiscal note are therefore \$48.2 for FY94.

The automatic waiver provisions of HB100 are also triggered whenever a juvenile charged with a Class A or Unclassified felony has been previously adjudicated on a felony. This provision is likely to generate many more contested adjudications in juvenile court because any admission to a felony would create the necessary predicate for an automatic waiver if the juvenile was later charged with a serious felony. There is little doubt that HB100 will generate more contested adjudications, but because we are unable to provide any estimate of the cost of such a trend it is not included in the fiscal note.

It should also be noted that one recent waiver case, not yet completed, has already cost this agency \$8,755.00.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 100

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: "An act relating to criminal charges
brought against minors." BRU: Youth Facilities Services
 Component: MYC,FYF,NYF,JYC & BYF
 Sponsor: Representative C. Bunde
 Requestor: _____ COMPONENT SERIAL NO. 0264,0265,0266,0267 & 0268

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
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						
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REVENUE FUND SOURCE						
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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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

See attached for Fiscal Note Analysis

Prepared by: Deborah R. Wing, Director
 Division: Department of Health & Social Services
 Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/05/93
 Date: 2/8/93

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Fiscal Note
HB 100

ANALYSIS:

This bill would require the charging, prosecuting, and sentencing in adult court juveniles age 15 and older who are alleged to have committed the following crimes:

- murder, attempted murder, or solicited murder;
- an unclassified or A felony and the youth has been previously adjudicated as a delinquent for a felony offense;
- or for a felony of any degree if the minor has been previously convicted as an adult for a felony offense.

Although the bill states that such minors will be charged, prosecuted and sentenced in adult court for the crimes mentioned above, it is unclear where such a minor will be "housed" during each stage of the process. The Department of Health & Social Services assumes that youth convicted and sentenced under the adult system would be incarcerated in adult facilities.

Based on this assumption, there would be no additional costs to the Department resulting from this bill.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 100

Revision Date: _____

Title: "An Act relating to criminal charges brought against minors."

Sponsor: Representative Bunde

Requestor: _____

Department Affected: Administration

BRU: Public Defender Agency

Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	62.3	64.2	66.1	68.1	70.1	72.2
TRAVEL	6.0	6.2	6.4	6.4	6.8	7.0
CONTRACTUAL	15.0	15.5	16.0	16.5	17.0	17.5
SUPPLIES	2.0	0	0	0	0	0
EQUIPMENT	4.0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	89.3	85.9	88.5	91.2	93.7	96.7

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	89.3	85.9	88.5	91.2	93.7	96.7
1005 GF/Proq.	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	89.3	85.9	88.5	91.2	93.7	96.7

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: _____

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

Prepared by: John Salemi, Public Defender
Division: Public Defender Agency

Phone: 279-7541
Date: _____

Approved by Commissioner: Nancy Bear Usera
Agency: Administration

Date: 2/8/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 100

ANALYSIS: (continued)

Fiscal Impact

It is the Public Defender's position that there will be a distinct fiscal impact on this agency if HB 100 passes into law. In prior years when similar legislative proposals were being promoted the Department of Law had suggested that ten (10) or less children would be affected statewide by this type of legislation. The Public Defender Agency is very skeptical of those estimates. The changes proposed provide for automatic waiver of juveniles 15 years of age and older accused of murder, attempted murder and/or solicited murder. This bill also provides for waiver for any 15-year old or above charged with an unclassified or class A felony under certain circumstances. Those circumstances involve the prior criminal/juvenile history of the child in that where a minor has previously been adjudicated as a delinquent in this or another jurisdiction for felony level conduct the case will go to adult court. The Public Defender Agency estimates suggest that there will be at least ten cases in Anchorage which will trigger waiver into adult court under this new proposal. Other areas of the state will generate additional cases.

Other juvenile cases will also be affected by this law in that it will be very important for lawyers representing minors accused of delinquent acts to advise them of the effect of admitting felony level conduct. The minor will be advised that a serious subsequent charge following admission to felony level conduct in a petition of delinquency will result in likely waiver into adult court concomitant with the serious penalties which are available and regularly imposed. The result will be that many more original petitions against minors will be contested in juvenile court. Under the current system most kids "fess up" and little court wrangling occurs as a guilt or innocence. The court and the parties can then focus on therapy and rehabilitation. The new system will undermine this focus and will create a labor intensive adjudicative stage for both prosecution and defense.

In FY 92 the Public Defender Agency processed 17,094 cases with only 54 staff attorneys spread out over 12 office locations. Of these 17,000+ cases, 500 were juvenile delinquency matters. Because juvenile proceedings in the past have been less adversarial than adult court case proceedings, resources were not focused in that arena. If this bill becomes law more resources will be required. Currently in the Anchorage office, for example, one lawyer handles all juvenile matters. In FY 92 she processed 226 cases. (It should be noted that national caseload standards indicate that an attorney handling juvenile delinquency matters should not handle more than 200 cases per year.) This proposal will intensify the litigation in all juvenile cases wherein felony conduct is alleged, will increase the number of waiver cases and will generally change the character of the juvenile justice system, not necessarily for the good.

Given the above the Public Defender Agency will require an additional one-half time attorney with felony level experience as well as a half-time paralegal. This team will work both in Anchorage and Fairbanks to handle waiver petitions and to give support to the general juvenile caseloads at those locations. Some Bush travel may also be required in that juvenile cases are filed all over the state. One final note with respect to fiscal impact--resources for special kinds of cases cannot be evaluated in a vacuum. In the last five years the Alaska Public Defender Agency has experienced a 45 percent increase in its overall caseload. Much of the increase is due to beefed up criminal prosecution efforts on the part of the state. Additionally, Child in Need of Aid cases are skyrocketing, which directly affects the ability of family law lawyers, especially in Anchorage, to devote time to juvenile cases. Given these circumstances, the fiscal note herein is seen as a very modest reaction to the effects of HB 100.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 100

ANALYSIS: (continued)

Budget Analysis

100	Personal Services	
	1/2 Attorney III (Anchorage)	36.5
	1/2 Paralegal Assistant II (Anchorage)	6.0
200	Travel:	
	Professional and Experts	15.0
300	Contractual:	
	Expert Witnesses, office space	15.0
400	Supplies:	2.0
500	Equipment (one-time):	<u>4.0</u>
	TOTAL	89.3

Position Title Attorney III		No. of Positions 1	Range / Step 22/A	Barg. Unit PX	
Time Status PPT	Staff Months 6.0	Location Anchorage		Election District 7	
TYPE OF EXPENDITURE		AMOUNT			
Salary	26,652.0	Justification Considering the fiscal impact on the Public Defender Agency, it appears that 1/2 attorney with felony level experience will be required as well as the commitment of a half-time paralegal. This attorney and half-time paralegal will likely be sited in the Anchorage office but will be called on to handle waiver petitions in Anchorage, Fairbanks, and certain bush areas.			
Benefits	9,897.0				
Premium Pay					
Other					
Total Personal Services	36,549.0				36,549.0
Travel					3,000.0
Contractual					15,000.0
Commodities					1,000.0
Equipment					2,000.0
Other					
Total Cost		57,549.0			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	57,549.0			
I-A Receipts	1007				
CIP Receipts	1061				
Other					

9/LEG93/03626.kp

Request For New Position

AGENCY ADMINISTRATION

BRU Public Defender Agency

COMPONENT Public Defender Agency

FY 94

Page 4 of 5
Revised Date: _____

Position Title Attorney III		No. of Positions 1	Range / Step 22/A	Barg. Unit PX
Time Status PPT	Staff Months 6.0	Location Anchorage		Election District 7
TYPE OF EXPENDITURE		AMOUNT		
Salary		26,652.0		
Benefits		9,897.0		
Premium Pay				
Other				
Total Personal Services		36,549.0	36,549.0	
Travel			3,000.0	
Contractual			15,000.0	
Commodities			1,000.0	
Equipment			2,000.0	
Other				
Total Cost			57,549.0	
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004		57,549.0	
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification Considering the fiscal impact on the Public Defender Agency, it appears that 1/2 attorney with felony level experience will be required as well as the commitment of a half-time paralegal. This attorney and half-time paralegal will likely be sited in the Anchorage office but will be called on to handle waiver petitions in Anchorage, Fairbanks, and certain bush areas.				

9/LEG93/03626.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU Public Defender Agency
 COMPONENT Public Defender Agency

FY 94

Page 4 of 5
 Revised Date: _____

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16/A	Barg. Unit GGU
Time Status PPT	Staff Months 6.0	Location Anchorage		Election District 7
TYPE OF EXPENDITURE		AMOUNT		
Salary	18,222.0	Justification Considering the fiscal impact on the Public Defender, it appears that 1/2 attorney with felony level experience will be required as well as the commitment of a half-time paralegal. This attorney and half-time paralegal will likely be sited in the Anchorage office but will be called on to handle waiver petitions in Anchorage, Fairbanks, and certain bush areas.		
Benefits	7,534.0			
Premium Pay				
Other				
Total Personal Services	25,756.0			
Travel	3,000.0			
Contractual	0.0			
Commodities	1,000.0			
Equipment	2,000.0			
Other				
Total Cost	31,756.0			
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004	31,756.0			
i-A Receipts 1007				
CIP Receipts 1061				
Other				

9/LEG93/03626.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU Public Defender Agency
 COMPONENT Public Defender Agency

FY 94

Page 5 of 5
 Revised Date: _____



House of Representatives

Sponsor Statement

House Bill 100

Relating to Criminal Charges Brought Against Minors

The current juvenile justice system does not deal effectively with violent or chronic juvenile offenders. House Bill 100 reforms the juvenile justice system allowing for the very small number of serious or habitual juvenile offenders to be treated as adults. In doing so, the legislation balances the needs of society to be protected from dangerous offenders against the importance of treating the vast majority of minors within the juvenile justice system.

Under current law, people under 18 are treated as juveniles. With only one exception, **no matter what crime is committed or how many felony convictions the person has, a person under 18 who is convicted of a crime is released from all state supervision at age 20.** The person must be released even if it is clear that the person continues to present a serious threat to the public safety. The only exception is where the state can prove that the minor is not amenable to treatment as a juvenile.

Until late 1989, in deciding whether a minor was amenable to treatment, the courts relied heavily on the testimony of expert psychiatrists and psychologists. However, in *R.H. V. State*, 777 P. 2d 204 (Alaska App. 1989), the court ruled that requiring minors to be examined by psychiatrists and psychologists to determine amenability to treatment is unconstitutional. Today courts are increasingly being asked to decide whether a minor is or is not amenable to treatment without the benefit of expert testimony.

The level of potential dangerousness presented by teenagers who commit murders, or who commit other serious felonies and have a record of committing felony offenses, is extremely high. In these cases, the courts must have access to the greatest possible amount of information about the minor before making a decision to treat the minor as a juvenile or as an adult. **The only way it is constitutionally possible for the courts to gain access to this type of information is to switch the burden of proving amenability to treatment from the state to the minor.**

House Bill 100 requires a very limited number of minors to prove that they are amenable to treatment as a juvenile before they can be kept within the juvenile justice system. Under HB 100, the burden of proof is shifted **only** when the minor is 15 years of age or older and (1) is charged with murder or attempted or solicited murder; (2) is charged with an unclassified (e.g. forcible rape) or class A felony (e.g. first degree assault) and has previously been adjudicated as a delinquent for a prior felony offense; or (3) has previously been prosecuted as an adult.

Sponsor Statement

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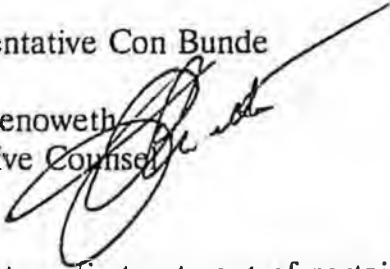
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MEMORANDUM

February 1, 1993

SUBJECT: House Bill 100, criminal charges against minor--sectional analysis

TO: Representative Con Bunde

FROM: Jack Chenoweth
Legislative Counsel 

The measure provides for automatic treatment of certain juveniles 15 years of age and older as adults for purposes of disposition of certain criminal offenses.

Section 1 of the bill provides that a minor under 18, but at least 15, must be tried as an adult if the minor is charged with 1) murder or attempted or solicited murder; 2) an unclassified or class A felony, and the minor has been previously adjudicated delinquent for felonious conduct; or 3) any felony, if the minor has been previously adjudicated delinquent twice for felonious conduct, or has been previously tried and convicted as an adult on a felony charge. The minor must also be tried as an adult on all related charges (e.g., a charge of burglary for breaking into a house to commit a rape).

Under the other changes made by section 1, the minor may petition the court to be tried under juvenile procedures, notwithstanding the charges against him or her. The minor bears the burden of persuading the court that juvenile proceedings would be appropriate, unless the minor contends that he or she cannot be properly tried as an adult (for instance, that he or she has not previously been adjudicated delinquent for felonious conduct). In that case the state bears the burden of proving that the minor has been previously adjudicated delinquent as the state alleges.

Finally, section 1 provides that current law, allowing the state to seek prosecution as an adult of any minor for any offense, remains in effect. (Under current law, the state must show that the minor is not likely to be amenable to treatment before reaching age 20.)

Section 2, adding a new subsection to AS 47.10.060, introduces the opportunity for a minor to present the evidence of a professional that the minor is amenable to

Sectional Analysis

treatment before reaching the age of 20, the threshold requirement to consideration of whether the minor shall be treated as a juvenile or tried as an adult.

Section 3 provides that a minor who is charged as an adult under section 1, but who is convicted only of a lesser offense that would not have given rise to an adult charge under that section, shall have his or her case disposed of under juvenile proceedings. However, the state may petition the court to sentence the minor as an adult, in which case the state must show that the minor would not be amenable to treatment before age 20.

Section 4 provides that the bill, if enacted, would apply only to offenses committed after the effective date of the enactment.

JBG:pl
93-053.plm

February 5, 1993

Rep. Con Bunde
State Capital Building
Juneau, AK

Dear Rep. Bunde:

Thank you for introducing HB100 into the House this session. It will be instrumental in helping to expedite the prosecution of violent juvenile criminals in our justice system. Presently, because of unrealistic burdens put on both the police and prosecution, waiving violent juvenile offenders from juvenile status to adult court can take years. In the mean time, the violent offenders are housed in youth facilities, such as McGlaughlin Youth Center, along side youths whose crimes are non-violent and are excellent chances at rehabilitation. The management at the youth centers then has to deal with "inmates" whose violence has elevated them to hero status among the other juveniles. Obviously, this has a detrimental affect on the youth center as a whole.

The reason that I am both familiar and concerned about the juvenile justice system is that my family was victimized by a violent juvenile. In October of 1989, several members of my family, including myself and my father, found my murdered brothers body shoved in a closet in his suburban Anchorage home. He had been shot three times at close range, the last shot coming at point blank range to the head. The only thing missing from the home was a sports car. The next day, a sixteen year old man was arrested driving Duane's car. He was taken to the police station, and the police, under the advisement of the District Attorney, asked if he wanted his parents called. He declined to have his parents notified, was read his rights in accordance with Miranda, and proceeding to tell in horrifying detail how he had gone to Duane's home for the explicit reason of stealing the car. He had brought with him a stolen .357 magnum. Before the young man left Duane's home he had fired three rounds into Duane, grabbed a 7-up out of the refrigerator and taken the car. He returned to the house twice after the shooting, once to show off the body to a friend, and once to take some beer. The juvenile confessed to all of this on videotape, and then took the police to Service High School, where he had hidden the murder weapon in the woods.

It seemed to everyone involved that this case would come to a relatively speedy conclusion. The DA went as far as to assign the case to an assistant DA that had never tried a murder case before, because this one seemed so easy. In the first actual series of hearings held on the case, Judge Peter Michaleki ruled that the juvenile could not be rehabilitated by his twentieth birthday, and should therefore stand trial in an adult court. Because of the fact that the State had

Letters of Support

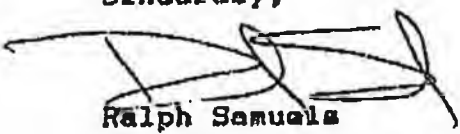
the burden of proof in the waiver proceeding, the juvenile did not have to offer any information whatsoever. It did not come out that the defense had examined the juvenile with their own psychiatrist and had chosen not to make their findings known to the court. It did not come out that the offenders own counselors advised that he not be released. It did not come out that three months prior to the murder, the juvenile had gone through a psychological treatment program at Charter North Hospital. The reason that none of these things came out is because the juvenile did not have to show that he could be rehabilitated, he merely had to hope that the Judge would think he was a nice young man. Even without all of the truth being told at the hearing, Michalaki ruled that the youth be waived to adult court, mostly on the evidence of the videotaped confession.

In the summer of 1991, the appellate court overturned the decision of Michalaki, because, they say, the parents should have been called before the police questioned the suspect. This ruling was made despite the fact that the police CALLED THE DA'S OFFICE PRIOR TO THE QUESTIONING TO BE SURE OF PROCEDURES. The appellate court ruled that the case should go back to Superior Court for another waiver hearing, this time without the confession or any of its "fruits" (i.e. the murder weapon as well as other evidence). By now, two years had passed since the confession.

In late 1991, the Supreme Court agreed to hear the case of the parental notification issue, and in February 1992, held oral arguments on the case. As of February 1993, they have still not made a ruling on the case. The juvenile is approaching the age of twenty, at which time he is supposed to either be released, if he is a juvenile, or tried, if he is an adult.

My family has been forced to listen to the court while they worry about dotted i's and crossed t's for almost four years now, and do not have much hope that this issue will be resolved before its fifth year. All of this for a murderer that was caught and confessed within one day after we found the body. If there had been legislation forcing the sixteen year old to be responsible for his actions, or at least have to prove that he is worthy of another chance, in place at the time of my brothers murder, my family would not have to sit back, month after month, year after year, and wait for justice to take place. It is time that we made violent people of any age responsible to their victims and to society. It only seems fair to give the victims of crimes at least as many rights as the criminals themselves.

Sincerely,



Ralph Samuels
8220 Frank St.
Anchorage, AK 99518-

Paula Lindstam
4431 Riverton Avenue
Anchorage, AK 99515-3657

Representative Con Bunde
State Capitol
Juneau, AK 99801-1182

January 25, 1993

Dear Representative Bunde,

You may remember me. Early in the campaign you stopped at my house to chat. I'm probably one of the few women with a baby on their hip who had a prepared list of questions for you. The questions included abortion, juvenile crime, Native alcoholism, and subsistence.

A particular issue which concerns me is the way crimes committed by juveniles are handled by the State of Alaska. Juveniles who commit violent crimes should not be treated any differently than adults. Juveniles who repeatedly commit misdemeanor crimes should be treated the same as adult offenders.

Someone has sold us a bill of goods which says that juveniles can be "treated" for their social deviancy. There is little evidence that it works. McLaughlin Youth Center keeps no records on which of their charges, when released, go on to commit crimes as adults. Since the records of juvenile offenders are sealed it is impossible to know. It is lamentable that we assume our system is working, but we do not know for sure. Indications are that it does not.

Why does Paula Lindstam care so much about this issue? My brother, Duane Samuels, was murdered October 4, 1989. He woke up one morning and answered his doorbell to find sixteen-year-old Jonathan Norton standing on his doorstep with a .357 in hand. End of story (maybe I should say beginning of story). The case has been in court over three years! Three years! The issue? Whether Norton can be prosecuted. How ridiculous!

Last month in unrelated incidences our church's van and two cars belonging to members of our congregation were stolen. I belong to a very small church. The police suspect juveniles of the thefts. Not much effort is going into apprehension. Cost is the major factor, but there is another

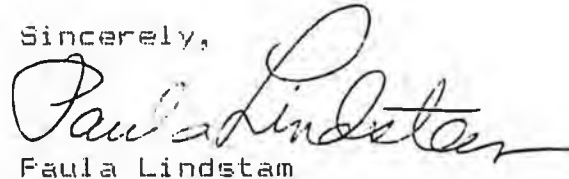
consideration. Why should the police go to any trouble apprehending a juvenile? So they can be "treated" at McLaughlin?

I was approached a few days ago by a friend whose husband is serving a 10+ year sentence for assault. My friend had read a letter to the editor which I wrote on this subject. She feels quite strongly that had her husband not gotten the kid glove treatment as a juvenile he would not have gone on to commit more serious crimes.

My letter to the editor was published January 18 in the Anchorage Daily News. Several people have approached me about supporting a bill on this issue. My brother, Ralph Samuels, was recently interviewed on television regarding our case. Paul Jenkins has written two editorials in The Voice of the Times within the past two months about juvenile crime. We need a bill. Last year's juvenile crime bill died in the House Finance Committee. Please sponsor a juvenile crime package addressing the aforementioned issues. There is a lot of momentum building now, but your help and support is needed.

Thank you for your time.

Sincerely,

A handwritten signature in cursive script that reads "Paula Lindstam". The signature is written in dark ink and is positioned above the printed name.

Paula Lindstam

Johnny needs discipline

I've always been perplexed by the media, lawmakers and bureaucrats harping about escalating youth crime and violence. It makes for good headlines. But why sensationalize a problem that we are little prepared to correct?

Many elected officials consider themselves to be motivated, committed and forward thinking. These dynamos need to tell us why our 16-year-old murderers have their records wiped clean at 18, leaving an unsuspecting public at risk. I would like to know why lawmakers ignored HB101 last year that would have made it more expeditious to get a teen murderer into adult court where he belongs.

Juvenile law is embodied in Title 47. Its premise is that teen delinquents aren't cognizant of their actions. They don't commit crime, but "crime-like" acts. They can't be punished, only "rehabilitated." Often-times, youth violence results from dysfunctional upbringing. Yet 48 percent don't respond to "rehabilitation," re-offend and are returned to McLaughlin. Could it be that you can't "psycho-instruct" a kid to develop self-esteem?

Maybe Johnny needs to know that regardless of his background, he is to pay consequences for his "crime-like" behavior. We would be doing him a favor. But our legislators failed to consider passage of SB366, for a juvenile boot camp that would expose these kids to discipline, compassion and a sense of accomplishment. This bill was favored by 87 percent polled in the bill sponsor's district.

So what will the Juneau gang do this time around? Health care and budget cuts will be priorities. But if all we get again is lip service to juvenile waivers, boot camp,

parental responsibility, and other Title 47 revisions, then other legislation will be inconsequential to a society interested most in one's personal "rights" to do whatever they please at anyone's expense but their own.

— Jay D. Page, chair
Anchorage Chamber
Crime Prevention Committee

Anch. Daily News 2/4/93

Newspaper - Letters

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.

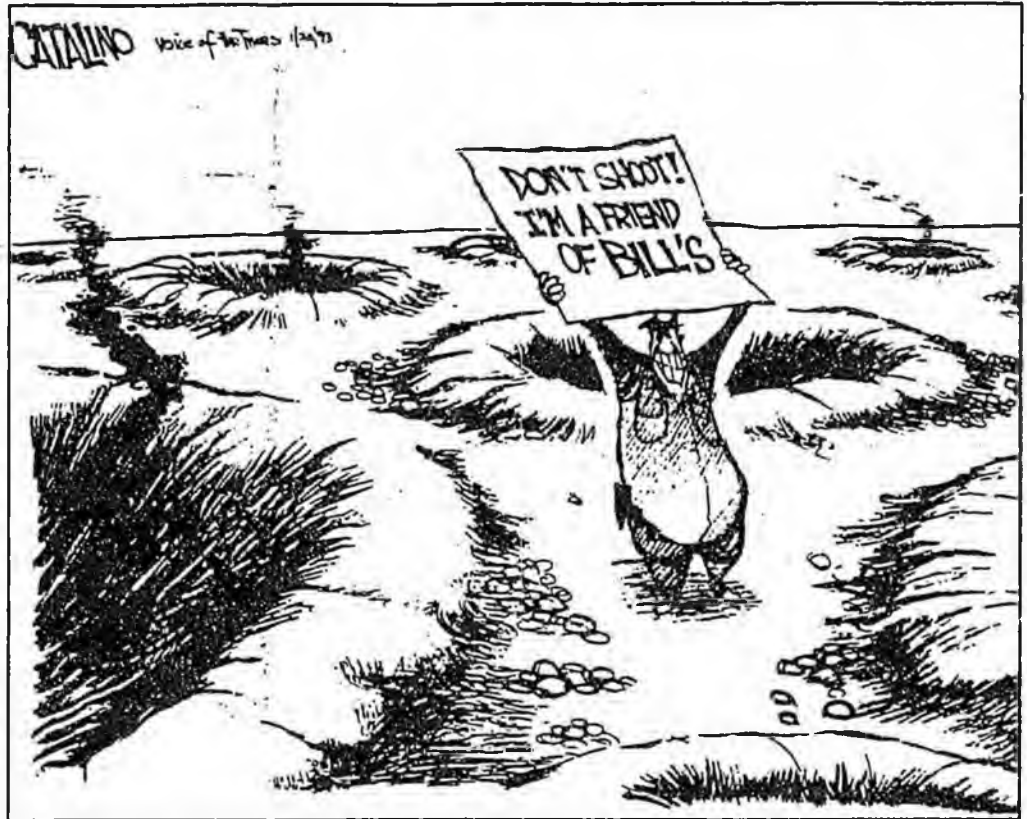
If the three clowns involved in beating Mr. Felker — and who were involved in the crime spree a few days later — had been charged as adults to begin with, they likely would not have been on the street to be involved in the second round of fun. And the knowledge that the law was coming down hard on them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