

H B

3 4 9

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 349

Revision Date: February 4, 1994
Title: "An Act providing for the civil commitment of sexually violent predators."
Sponsor: Representative Parnell
Requestor: Representative Parnell

Department Affected: Department of Law
BRU: Prosecution
Component: Criminal Justice Litigation
COMPONENT SERIAL NO. 0089

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL					81.7	81.7
TRAVEL					5.0	5.0
CONTRACTUAL	10.0	20.0	30.0	40.0	54.2	64.2
SUPPLIES					3.3	3.3
EQUIPMENT					6.5	
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	20.0	30.0	40.0	150.7	154.2

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

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

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF	10.0	20.0	30.0	40.0	150.7	154.2
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	10.0	20.0	30.0	40.0	150.7	154.2

POSITIONS:

FULL-TIME					1.0	1.0
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
Approved by Commissioner: Bruce M. BotelHo, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: February 4, 1994
Date: February 4, 1994

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
Fo .egislative Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 349

ANALYSIS CONTINUATION:

This bill amends AS 47.30 to provide for the indefinite, long-term civil commitment of sexually violent predators to the custody of the Department of Health and Social Services. The bill is intended to protect the public from what the bill finds is a small but extremely dangerous group of sexually violent predators who do not have a mental disease or defect that renders them appropriate for the existing involuntary treatment procedure, under AS 47.30.700 - 47.30.815, which is intended to be a short-term treatment to individuals with serious mental disorders and then return them to the community.

The bill further finds that in contrast to persons appropriate for commitment under the existing law, sexually violent predators generally have antisocial personality features that are not amendable to existing mental illness treatment methods, and those features render them likely to engage in sexually violent behavior. The bill also finds that sex offenders' likelihood of engaging in repeat acts of predatory sexual violence is high, and the bill further finds that the prognosis for curing sexually violent offenders is poor, the treatment needs of this population are very long term, and the treatment methods for this population are very different than the traditional treatment methods for people appropriate for commitment under the existing involuntary treatment procedures.

The bill requires that when it appears that a person may meet the criteria for a sexually violent predator, the agency with jurisdiction shall give written notice to the attorney general three months before:

- (1) the anticipated release from total confinement of a person who has been convicted of a sexually violent offense.
- (2) the anticipated release from total confinement of a person found to have committed a sexually violent offense as juvenile;
- (3) the release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial under AS 12.47.100; or
- (4) the release of a person who has been found not guilty by reason of insanity of a sexually violent offense under AS 12.47.040.

The bill defines sexually violent offenses to include sexual assault in the first and second degrees, sexual abuse of a minor in the first, second and third degrees, incest, murder in the first and second degrees, assault in the first and second degrees, kidnapping, and burglary in the first degree.

Upon notification from the appropriate agency, the attorney general would be empowered to file a petition with the court alleging that a person is a sexually violent predator and stating sufficient facts to support the allegation when it appears that the person may be a sexually violent predator and it appears that the person will be or has been released from the jurisdiction of an agency. Upon the filing of a petition, the judge would determine whether probable cause exists to believe that the person is a sexually violent predator. If probable cause is found, the judge would direct that the person be taken into custody and the person be transferred to an appropriate facility for an evaluation as to whether a person is a sexually violent predator.

Within 45 days after the petition is filed, the court would be required to conduct a trial to determine whether the person is a sexually violent predator. A person would be entitled to assistance of counsel and the person would be entitled to retain experts or professionals to perform an examination on the person's behalf. Upon motion of the person or the attorney general, or the court's own motion, the trial would be held before a jury. If no motion is made, the trial would be before the court.

The court or jury would then determine, beyond a reasonable doubt, whether the person is a sexually violent predator. If the state alleged in the petition a prior sexual offense for which a finding of sexual motivation is necessary

ANALYSIS CONTINUATION:

to classify the offense as a sexually violent offense, the state would have to prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated. Upon a determination that the person was a sexually violent predator, the person would be committed to the custody of the commissioner of health and social services for control, care, and treatment until the person's mental abnormality or personality disorder had so changed that the person would be safe to be at-large. If the court or jury was not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court would direct the person's release from custody.

In the event of commitment, the person would be confined in a secure mental health facility operated by the Department of Health and Social Services. Thereafter, the department would be required to provide an examination of a person committed under the bill's provisions at least once each year. A person would be permitted to retain a qualified expert or professional to examine the person. If the department determines that the person's mental abnormality or personality disorder had so changed that the person is safe to be at-large and is not likely to commit a sexually violent predatory offense, the department would be required to authorize the person to petition the court for release. The court would then be required to order a hearing within 45 days. The state would have the right to have the petitioner examined by an expert or professional person of its choice. The hearing would be before a jury if demanded by either the petitioner or the state. The burden of proof would be on the state to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at-large and that, if discharged, the person is likely to commit a sexually violent predatory offense.

A person would not be prohibited from petitioning the court for discharge without the commissioner of health and social services approval, and the commissioner would be required to provide the committed person with an annual written notice of the person's right to petition the court for release over the commissioner's objection. If a person does not affirmatively waive the right to petition, the court would hold a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed the person is safe to be at-large and is not likely to commit a sexually violent predatory offense if discharged. The person would have the right to have an attorney represent the person at the show cause hearing. The committed person would not be entitled to be present at the show cause hearing. If the court at the show cause hearing determines that probable cause exists to believe that the person is safe to be at-large and is not likely to commit a sexually violent predatory offense if discharged, the court would set a hearing on the issue. This subsequent hearing would be conducted under the same terms as described above for hearing a petition authorized by the commissioner of health and social services.

As we understand it, this bill is modeled on an existing Washington State law. Experience in Washington state, where their law has been in effect since July 1, 1990, shows that an average of five persons are committed in that state each year. Washington's population is about eight times larger than Alaska's population. However, in view of Alaska's high incidence of abusive behavior, we believe that as many as two or three persons might be committed annually if the bill is approved.

Because of the low number of commitments, the bill would not be an immediate fiscal impact for the Department of Law, except for expert witnesses at commitment hearings and expert witnesses for hearings on committed persons petitions for release. The state's average cost for these witnesses is about \$7,000 each. Witnesses may not be required for every hearing so we are showing an annual cost of \$10,000 for the first year, and an annual increase of \$10,000 as the number of persons committed increases and the number of annual petitions for release increases. By the fifth year of implementation, it will be necessary to add a full-time attorney to handle commitments and annual release petitions when the number of annual hearings reaches 10 to 15. It is important to point out that there will be a fiscal impact for the Department of Health and Social Services, and there will be fiscal impact for the Office of Public Advocacy, which will provide representation for indigent persons committed under the bill.

Finally, we also note that the bill may have due process problems when reviewed by Alaska courts. Moreover Washington's Supreme Court has added a requirement to that state's law providing the "least restrictive alternatives" shor of total confinement be used or requiring a showing that confinement is the least restrict alternative under the

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 349

ANALYSIS CONTINUATION:

circumstances. Department of Law staff is available to assist the sponsor address these problems.

02/03/94

13:46:11.8

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT
DEPARTMENT OF LAW
SCENARIO: 2
BRU NAME: PROSECUTION

PAGE: 4

COMPONENT #: 6501020500 NAME: CRIMINAL JUSTICE LITIGATION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R C	B U	S	R&S	MOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03/011		ATTORNEY IV	F	JUNEAU	A	XE	AA	24A	12	61008	0	20660	81668.60	

**** JUSTIFICATION:
Attorney IV-CDCO

TRAVEL COSTS	0.00
CONTRACTUAL COSTS	0.00
SUPPLIES COSTS	0.00
EQUIPMENT COSTS	0.00
OTIHER COSTS	0.00

TOTAL COSTS 81668.60 81668.60

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 81668.60

TOTAL FUNDING 81668.60

03/017		ATTORNEY IV	F	JUNEAU	A	XE	AA	24A	12	61008	0	20660	81668.60	
--------	--	-------------	---	--------	---	----	----	-----	----	-------	---	-------	----------	--

**** JUSTIFICATION:

This position will be needed when the number of sexually violent predators committed reaches 12 or 60, due to the numbers of annual show cause hearings to determine whether a person should be discharged or remain in the custody of the Department of Health & Social Services. These hearings could involve jury trials and voluminous expert testimony. Full-time Attorney legal services would therefore be required.

TRAVEL COSTS	5000.00
CONTRACTUAL COSTS	14200.00
SUPPLIES COSTS	3300.00
EQUIPMENT COSTS	6500.00
OTIHER COSTS	0.00

TOTAL COSTS 110668.60 81668.60

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 81668.60

TOTAL FUNDING 81668.60

**** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	2
PART TIME/SEASONAL NEW POSITIONS	0
NON PERMANENT NEW POSITIONS	0
OTIHER.....	0
====	

TOTAL PERSONAL SERVICES 163337.20

TOTAL COSTS INC. ASSOC COSTS 192337.20

NUMBER OF NEW POSITIONS IN COMPONENT: 2

FUNDING DATA: G.F. & G.F. MATCH: 163337.20
OTIHER FUNDS: 0.00

TOTAL FUNDING: 163337.20

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB349

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act providing for the commitment of BRU: Community Mental Health Grants
sexually violent predators Component: General Mental Health Grants
 Sponsor: Parnell, Toohey
 Requestor: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	1,200.0	2,460.0	2,580.0	2,709.0	2,844.0	2,986.0
MISCELLANEOUS						
TOTAL OPERATING	1,200.0	2,460.0	2,580.0	2,709.0	2,844.0	2,986.0

CAPITAL EXPENDITURES	25.0	30.0	10.0	10.0	10.0	10.0
----------------------	------	------	------	------	------	------

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

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY95	FY96	FY97	FY98	FY99	FY00
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA	1,225.0	2,490.0	2,590.0	2,719.0	2,854.0	2,996.0
Other						
TOTAL	1,225.0	2,490.0	2,590.0	2,719.0	2,854.0	2,996.0

POSITIONS:

POSITIONS	FY95	FY96	FY97	FY98	FY99	FY00
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) cost \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

If the effective date of HB349 were July 1, 1994, there would be no FY94 fiscal impact.

In FY95, there would be an increased operating cost of \$1,200.0, providing grant funds for the rental and operation of the first 10-bed facility. There would also be some capital costs, in the amount of \$25.0, to provide for needed building renovation.

In FY96, the operating cost would increase to \$2,460.0, to provide for 5% inflation at the first facility and the opening of the second facility. Capital costs would rise to \$30.0, to provide for repairs or other capital expenditures at the first facility, and to do the initial renovations on the second facility.

Prepared by: Leonard Abel, Ph.D.
 Division: Mental Health and Developmental Disabilities

Phone: 465-3370
 Date: 02/04/94

Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S.
 Agency: Department of Health & Social Services

Date: 2-4-94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further information, contact the Governor's Legislative Office

ANALYSIS (cont.):

For FY97 through FY00, the increase in operating costs reflect inflation. The capital costs would be \$10.0 per year for repairs and maintenance.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 349

Revision Date: _____
Title: "An Act providing for the civil commitment of sexually violent predators."
Sponsor: Pamell, Toohey
Requestor: House HESS

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	96.0	111.0	126.0	141.0	156.0	171.0
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	96.0	111.0	126.0	141.0	156.0	171.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	96.0	111.0	126.0	141.0	156.0	171.0
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	96.0	111.0	126.0	141.0	156.0	171.0

Estimate of any current year (FY 94) cost: \$ 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

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

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

Phone: 274-1684
Date: _____

Approved by Commissioner: Nancy Bear Usery
Agency: Administration

Date: 2/7/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 349

ANALYSIS: (continued)

This bill mandates the appointment of Office of Public Advocacy to represent sexually violent predators in civil commitment proceedings. The Department of Law estimates that it will present at least two to three such cases each year. Each year annual reviews will be conducted to determine whether the individual should be discharged.

These cases would be both factually and legally complex. The State would present all evidence relating to the person's sexually violent history, which could include numerous cases over a long period of time. Defendants would undoubtedly contest both the facts of these cases and the diagnosis which lead to their classification by the state. Each case would involve extensive expert testing, evaluation and testimony. Finally, each case would involve constitutional challenges not only to the entirety of the statute but to specific sections of the proposed law.

Because the Office of Public Advocacy currently represent, as guardian ad litem, many, if not most child victims of sexual offenders, it is likely that most of these cases would have to be conducted by conflict counsel. Major cases typically cost \$25,000 in attorney fees. The estimate of \$7,000 for expert analysis and testimony tracks that of the Department of Law.

Annual litigation in each case is inevitable. It is anticipated that such costs will average \$5,000 inclusive of both attorney and expert witness fees.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 349

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act providing for civil BRU: Statewide Operations
commitment of sexual predators Component: All
 Sponsor: Rep. Parnell
 Requestor: House HESS COMPONENT SERIAL NO. 700-1884

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	7.2	7.4	7.6	7.9	8.1	8.4
TRAVEL						
CONTRACTUAL	9.0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	16.2	7.4	7.6	7.9	8.1	8.4

CAPITAL EXPENDITURES	0	0	0	0	0	0
-----------------------------	----------	----------	----------	----------	----------	----------

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	16.2	7.4	7.6	7.9	8.1	8.4
1006 GF/MHTIA						
Other						
TOTAL	16.2	7.4	7.6	7.9	8.1	8.4

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 Asst. (S) - ASK Phone: 465-4643/786-2147
 Division: Office of the Commissioner Date: 2/5/94
 Approved by Commissioner: J. Frank Prewitt, Jr. (JP) Date: 2/7/94
 Agency: Department of Corrections

PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
Office

The bill provides for civil commitment of certain sexually violent predators. The Department of Corrections would be required to notify the Attorney General three months prior to the anticipated release from confinement of a prisoner convicted of a sexually violent offense. This notification would have to be in writing, and would have to include the prisoner's name, identifying factors, anticipated future residence, offense history, and documentation of institutional adjustment and treatment received. Sexual predators subject to the civil commitment process authorized under the bill would not be housed in correctional facilities during the civil commitment.

Assumptions

1. According to data in the department's OBSCIS system which was analyzed in 1992, it is anticipated that approximately 50 sex offenders will be released from confinement each year due to expiration of sentence.
2. The department does not have sufficient staff resources to prepare individual reports on each such offender as required under the bill to inform the Attorney General of the impending release. Institutional probation officers will be required to prepare these reports. It is assumed that each report will require approximately four hours of work, including compiling information as well as writing summaries and distributing the report.
3. Standard format, instructions, and forms would have to be developed since every correctional institution will potentially release sex offenders. Training will be required to insure that the format and procedures for reporting impending release are done correctly. Development of the format and training will be accomplished through contract. Travel costs are not assumed to be necessary for this training, which may be accomplished by videotape or teleconference. It is assumed the implementation process will require approximately three months of full-time work. It is assumed that contract services would be available for approximately \$3,000 per month.
4. The rate of overtime pay for an institutional Probation Officer II is approximately \$36 per hour.
5. The bill provides that the Department of Health and Social Services adopt regulations concerning the evaluation process to determine whether a person is a sexually violent predator, and that this shall be done in consultation with the Department of Corrections. It is assumed that the Department of Health and Social Services will be responsible for this expense. If the Department of Corrections is required to provide consultation at its own expense, this fiscal note will be revised to reflect the additional expense.

6. Depending upon the number of sex offenders who are civilly committed upon release from a correctional center, there will be some lessening of sex offender cases assigned to Community Corrections for mandatory parole and/or probation supervision following incarceration. Since sex offender cases require maximum supervision there may be a significant savings in Community Corrections if significant numbers are civilly committed in lieu of probation/parole. Without knowing how many cases will result in civil commitment, it is not possible to calculate any savings for Community Corrections at this time.

Operating Expenses

Personal Services:

50 reports per year, requiring 4 hours each will require 200 hours of staff overtime by institutional probation officers.

200 hours X \$36 per hour = \$7,200 per year overtime pay in FY95

A 3% inflation factor is used to estimate personal services costs in succeeding years.

Contractual:

A one-time contract to develop reporting format, revise department policies and procedures, and coordinate training and implementation is estimated as follows:

3 months X \$3,000 per month = \$ 9,000 in FY95.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 349

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act providing for civil commitment of BRU: Public Defender
sexually violent predators." Component: Public Defender
 Sponsor: Rep. Pamell
 Requestor: (H) Hes COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

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

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

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: John Salemi, Public Defender
 Division: Public Defender Agency
 Approved by Commissioner: Nancy Bear Usara
 Agency: Administration

Phone: 264-4400
 Date: _____
 Date: 2/7/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

Date Referred: February 9, 1994

FURTHER REFERENCE

Date of Committee Action: 3-14-94

The JUDICIARY Committee considered:

HB 34

HOUSE BILL NO. 349

CIVIL COMMITMENT OF SEXUAL PREDATORS

"An Act providing for the civil commitment of sexually violent predators."

RECOMMENDATIONS:

be replaced with CS HB 349 (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: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS:

fiscal impact _____

(3) fiscal note(s), Admin, Law, HCSS

zero fiscal note _____

zero fiscal note(s) Admin. 2/9/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Janette James James	<input checked="" type="checkbox"/>	Green		<input checked="" type="checkbox"/>	
Brian D. Porter Porter	<input checked="" type="checkbox"/>	Nordlund		<input checked="" type="checkbox"/>	
Gail Phillips Phillips	<input checked="" type="checkbox"/>	Davidson		<input checked="" type="checkbox"/>	
		Kott		<input checked="" type="checkbox"/>	
	(3)			(4)	

Brian D. Porter Porter
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CS HB 349

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act providing for civil commitment BRU: Trial Courts
of sexually violent predators Components: _____
 Sponsor: Rep. Parnell, Toohy, Olberg, Sanders
 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	7.0	11.1	13.8	16.5	19.3	22.0
TRAVEL						
CONTRACTUAL	9.8	14.6	17.9	21.1	24.4	27.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	16.8	25.7	31.7	37.7	43.6	49.6

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)


1002 Federal Receipts						
1003 GF Match						
1004 GF	16.8	25.7	31.7	37.7	43.6	49.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	16.8	25.7	31.7	37.7	43.6	49.6

POSITIONS

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
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: 02/15/94

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 02/15/94
 Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

ALASKA COURT SYSTEM
FISCAL ANALYSIS
CSHB 349

This bill provides for the indefinite, long-term civil commitment of sexually violent predators. It empowers the Department of Law to file a petition with the superior court alleging that a person is a sexually violent predator. Upon a finding of probable cause, the court could direct that the person be taken into custody and evaluated. Within 45 days, the court would be required to conduct a trial to determine whether the person is a sexually violent predator. The trial would be held before a jury upon motion of the person, the attorney general, or the court. If committed, the person would be entitled to petition the court annually for release. The release hearing could also be held before a jury.

The Department of Law has estimated that two or three persons will be committed annually under HB 349. The number of release hearings will increase every year, since most sexually violent predators will presumably be held longer than one year. Law has estimated that there will be 10 to 15 annual release hearings by the fifth year following passage of HB 349.

This fiscal note assumes that there will be three commitment trials each year before a jury, with an average length of 10 days; given the factual and legal complexity of these trials, this estimate may be low. The state would present all evidence relating to the person's sexually violent history, and the person would presumably contest both the facts of the cases and the diagnosis which leads to their classification as sexually violent acts.

The note assumes that during the second year following passage of the bill, three release hearings will be held before a jury, with an average length of 5 days. The number of release hearings is assumed to increase by two each year (reflecting the release of some persons), giving a total of 11 release hearings by the fifth year following passage of the legislation.

There will also be a number of probable cause and show cause hearings conducted without a jury.

Alaska Court System
Fiscal Analysis
CS HB 349

Personal Services

Pro Tem Judge, fully vested, Anchorage, permanent part-time

Estimated number of trial, hearing and in-chambers days by fiscal year. Each trial averages 10 days and requires 2 in-chambers days. Each hearing averages 5 days and requires 2 in-chambers days.

<u>Fiscal Year</u>	<u>Judicial Days</u>	<u>Daily Cost</u>	<u>Total Cost</u>
1995	36	\$194.58	\$7,005
1996	57	\$194.58	11,091
1997	71	\$194.58	13,815
1998	85	\$194.58	16,539
1999	99	\$194.58	19,264
2000	113	\$194.58	21,986

Contractual Services

Estimated number of jury trials and costs

<u>Fiscal Year</u>	<u>New trials @ 10 days each</u>	<u>Release hearings from year</u>							<u>Total</u>	<u>Total Cost</u>
		<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>			
		<i>Each release hearing lasts 5 days, with 13 jurors paid \$25 a day</i>								
1995	3							0	\$9,750	
1996	3	3						3	14,625	
1997	3	2	3					5	17,875	
1998	3	2	2	3				7	21,125	
1999	3	2	2	2	3			9	24,375	
2000	3	2	2	2	2	3		11	27,625	

Proposed Amendments to CSHB 394(Jud Work Draft/R)

Offered by Representative Parnell

Am. #1

Page 4, lines 15-18, replace entire sentence with the following:

If the state alleges in the petition that the term of total confinement has expired for a person who has been convicted of a sexually violent offense or who has been found to have committed a sexually violent offense as a juvenile, the state shall prove beyond a reasonable doubt that the person has engaged in a recent act demonstrating dangerousness.

Am #2

Page 8, lines 2-3, replace entire subsection with the following:

(b) The state, its agencies, employees of the agency, and officials are immune from liability for conduct under AS 47.30.816-47.30.824 except that this section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct.

Amendment #3

Page 8, lines 17-18, delete entirely and renumber remaining subsections.

#4

Page 8, lines 27-29, replace all language following "AS 11.46.300," with:

if the state proves beyond a reasonable doubt in civil commitment proceedings under AS 47.30.816 - 47.30.824 that during the course of the offense the person engaged in or intended to engage in sexual penetration, sexual contact or sexually gratifying conduct; or

AMENDMENT #1

Offered in House Judiciary

by Representative Parnell

To: CS HB 349(JUD)

Page 1, line 14, after "further finds":

Delete "sex offenders" and insert "the"

Page 2, line 1, after "sexual violence is high":

Insert "among this group"

Page 2, line 7, after "for curing":

Insert "this group of"

Page 3, line 29, after "AS 47.30.818":

Insert "and following a judicial determination of probable cause," *< requested by DOL/ Margo*

Page 4, line 5, after: "choice, the"

Delete "examiner" and replace with "expert or professional"

Page 5, line 25, after "correctional facility."

Insert "Following confinement of the committed person, the department shall inform the person of their rights under AS 47.30.821." *< Please note this new placement. Sean ? I felt it worked better here*

Page 7, line 31, after "liability":

< requested by DOL/ Margo

Delete "any good faith"

#5 Page 4, line 9, replace "court" with:
office of public advocacy

#6 Page 6, line 4, replace "court" with:
office of public advocacy

Page 7, line 11, replace "court" with:
office of public advocacy

8-LS1449O
Luckhaupt
2/8/94

CS FOR HOUSE BILL NO. 349()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES PARNELL, Toohey, Olberg, Sanders

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for the civil commitment of sexually violent predators."

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

3 * Section 1. AS 47.30 is amended by adding new sections to read:

4 ARTICLE 8A. COMMITMENT OF SEXUALLY VIOLENT PREDATORS.

5 Sec. 47.30.816. FINDINGS. The legislature finds that a small but extremely
6 dangerous group of sexually violent predators exist who do not have a mental disease
7 or defect that renders them appropriate for the existing involuntary treatment
8 procedure, AS 47.30.700 - 47.30.815, which is intended to be a short-term civil
9 commitment system primarily designed to provide short-term treatment to individuals
10 with serious mental disorders and then return them to the community. In contrast to
11 persons appropriate for civil commitment under AS 47.30.700 - 47.30.815, sexually
12 violent predators generally have antisocial personality features that are not amenable
13 to existing mental illness treatment methods, and those features render them likely to
14 engage in sexually violent behavior. The legislature further finds that sex offenders'

1 likelihood of engaging in repeat acts of predatory sexual violence is high. The existing
2 involuntary treatment procedure, AS 47.30.700 - 47.30.815, is inadequate to address
3 the risk to reoffend because during confinement these offenders do not have access to
4 potential victims and, therefore, will not engage in specific overt acts evidencing their
5 risk of harm to others during confinement as required by the involuntary treatment
6 procedure for continued confinement. The legislature further finds that the prognosis
7 for curing sexually violent offenders is poor, the treatment needs of this population are
8 very long term, and the treatment methods for this population are very different than
9 the traditional treatment methods for people appropriate for commitment under the
10 involuntary treatment procedures.

11 Sec. 47.30.817. NOTICE TO ATTORNEY GENERAL PRIOR TO RELEASE.

12 (a) When it appears that a person may meet the criteria for a sexually violent predator,
13 the agency with jurisdiction shall give written notice to the attorney general, three
14 months before the

15 (1) anticipated release from total confinement of a person who has been
16 convicted of a sexually violent offense;

17 (2) anticipated release from total confinement of a person found to have
18 committed a sexually violent offense as a juvenile;

19 (3) release of a person who has been charged with a sexually violent
20 offense and who has been determined to be incompetent to stand trial under
21 AS 12.47.100; or

22 (4) release of a person who has been found not guilty by reason of
23 insanity of a sexually violent offense under AS 12.47.040.

24 (b) The written notice must contain the following:

25 (1) the person's name, identifying factors, anticipated future residence,
26 and offense history; and

27 (2) documentation of institutional adjustment and treatment received.

28 (c) In this section, "agency with jurisdiction" means the department with the
29 authority to direct the release of a person serving a sentence or term or period of
30 confinement.

31 Sec. 47.30.818. SEXUALLY VIOLENT PREDATOR PETITION; FILING;

1 JUDICIAL DETERMINATION; EVALUATION. (a) The attorney general may file
2 a petition in the superior court alleging that a person is a sexually violent predator and
3 stating sufficient facts to support the allegation when it appears that the person may
4 be a sexually violent predator and it appears that

5 (1) the term of total confinement of a person who has been convicted
6 of a sexually violent offense is about to expire or has expired;

7 (2) the term of total confinement of a person found to have committed
8 a sexually violent offense as a juvenile is about to expire or has expired;

9 (3) a person who has been charged with a sexually violent offense and
10 who has been determined to be incompetent to stand trial is about to be released or has
11 been released; or

12 (4) a person who has been found not guilty by reason of insanity of a
13 sexually violent offense is about to be released or has been released.

14 (b) Upon the filing of a petition, notice shall be provided to the person and the
15 court shall schedule a hearing within 72 hours, at which the person has a right to
16 appear. At the hearing, the judge shall determine whether probable cause exists to
17 believe that the person named in the petition is a sexually violent predator. If probable
18 cause is found, the judge shall direct that the person be taken into custody and the
19 person shall be transferred to an appropriate facility for an evaluation as to whether
20 the person is a sexually violent predator. The evaluation shall be conducted by a
21 person professionally qualified to conduct the examination under regulations adopted
22 by the department. In adopting the regulations under this subsection, the department
23 shall consult with the Department of Corrections and the Council on Domestic
24 Violence and Sexual Assault. The results of the examination conducted under this
25 section are admissible in all further proceedings conducted under AS 47.30.816 -
26 47.30.824.

27 Sec. 47.30.819. TRIAL; RIGHTS OF PARTIES; DETERMINATION;
28 COMMITMENT PROCEDURES. (a) Within 45 days after the filing of a petition
29 under AS 47.30.818, the court shall conduct a trial to determine whether the person
30 is a sexually violent predator. At all stages of the proceedings under AS 47.30.816 -
31 47.30.824, a person who is the subject of a petition filed under AS 47.30.818 is

1 entitled to the assistance of counsel and, if the person is indigent, the court shall
2 appoint the office of public advocacy to assist the person. When a person is subjected
3 to an examination under AS 47.30.818, the person may retain experts or professionals
4 to perform an examination on the person's behalf. When the person wishes to be
5 examined by a qualified expert or professional of the person's choice, the examiner
6 shall be permitted reasonable access to the person for the purpose of an examination,
7 as well as to all relevant medical and psychological records and reports. If the person
8 is indigent, the court shall, upon the person's request, assist the person in obtaining an
9 expert or professional to perform an examination or participate in the trial on the
10 person's behalf. Upon motion of the person or the attorney general, or on the court's
11 own motion, the trial shall be before a jury. If no motion is made, the trial shall be
12 before the court.

13 (b) The court or jury shall determine, beyond a reasonable doubt, whether the
14 person is a sexually violent predator. If the state alleges in the petition a prior
15 sexually violent offense for which a finding of sexual motivation is necessary to
16 classify the offense as a sexually violent offense, the state shall prove beyond a
17 reasonable doubt that the alleged sexually violent act was sexually motivated. If trial
18 is to a jury, the jury must make the determinations required by this subsection
19 unanimously. Upon a determination that the person is a sexually violent predator, the
20 court shall consider less restrictive alternatives to confinement and whether these
21 alternatives, if any, will adequately protect the public so it is safe for the person not
22 to be confined and will prevent the person from committing a sexually violent
23 predatory offense. If the court determines that the less restrictive alternatives will not
24 (1) adequately protect the public so it would be safe for the person to be at large, or
25 (2) prevent the person from committing a sexually violent predatory offense, the court
26 shall order the person committed to the custody of the department for control, care,
27 and treatment until the person's mental abnormality or personality disorder has so
28 changed that the person is safe to be at large. If the court or jury is not satisfied
29 beyond a reasonable doubt that the person is a sexually violent predator, the court shall
30 direct the person's release from the custody of the department.

31 (c) If the person charged with a sexually violent offense has been found

1 incompetent to stand trial, is about to or has been released, and the person's
2 commitment is sought under this section, the court shall first hear evidence and
3 determine whether the person committed the act or acts charged. The hearing on this
4 issue must comply with the procedures specified in this section. In addition, the rules
5 of evidence applicable in criminal trials and all constitutional rights available to
6 defendants at criminal trials, other than the right to a jury trial and right not to be tried
7 while incompetent, shall apply. After hearing evidence under this subsection, the court
8 shall make specific findings on whether the person committed the act or acts charged,
9 the extent to which the person's incompetence affected the outcome of the hearing,
10 including its effect on the person's ability to consult with and assist counsel and to
11 testify on the person's own behalf, the extent to which the evidence could be
12 reconstructed without the assistance of the person, and the strength of the state's case.
13 If, after the conclusion of the hearing on this issue, the court finds beyond a reasonable
14 doubt, that the person committed the act or acts charged, it shall enter an order,
15 appealable by the person, on that issue and may proceed to consider whether the
16 person should be committed under this section. A finding under this subsection that
17 the person committed the act or acts charged is not a conviction or a finding of guilt
18 for any purpose other than for consideration of commitment.

19 (d) The department shall confine a person committed under AS 47.30.816 -
20 47.30.824 in a secure mental health facility operated by the department. The
21 department may not confine a person committed under AS 47.30.816 - 47.30.824 in
22 a correctional facility or institution operated by the Department of Corrections. This
23 subsection does not prohibit the department from confining a person committed under
24 AS 47.30.816 - 47.30.824 in a mental health facility operated by the department and
25 located within or on the grounds of a correctional facility. The involuntary detention
26 or commitment of a person under AS 47.30.816 - 47.30.824 shall conform to the
27 constitutional requirements for care and treatment.

28 Sec. 47.30.820. ANNUAL EXAMINATIONS. The department shall provide
29 an examination of the current mental condition of a person committed under
30 AS 47.30.816 - 47.30.824 at least once each year. In addition to the annual
31 examination provided by the department, the person may retain or, if the person is

1 indigent and so requests, the court may appoint a qualified expert or a professional to
2 examine the person, and the expert or professional shall have access to all records
3 concerning the person. The results of the examinations shall be provided to the court
4 that committed the person.

5 Sec. 47.30.821. PETITION FOR RELEASE. (a) If the commissioner
6 determines that the person's mental abnormality or personality disorder has so changed
7 that the person is safe to be at large and is not likely to commit a sexually violent
8 predatory offense if released, the commissioner shall authorize the person to petition
9 the court for release. The petition shall be served upon the attorney general as the
10 attorney for the state. The court, upon receipt of the petition for release, shall order
11 a hearing within 45 days. The state has the right to have the petitioner examined by
12 an expert or professional person of their choice. The hearing shall be before a jury if
13 demanded by either the petitioner or the state. The burden of proof is upon the state
14 to show beyond a reasonable doubt that the petitioner's mental abnormality or
15 personality disorder remains such that the petitioner is not safe to be at large and that,
16 if discharged, is likely to commit a sexually violent predatory offense. If the hearing
17 is before a jury, the jury must make this determination unanimously.

18 (b) This section does not prohibit the person from otherwise petitioning the
19 court for discharge without the commissioner's approval. The commissioner shall
20 provide the committed person with an annual written notice of the person's right to
21 petition the court for release over the commissioner's objection. The notice must
22 contain a waiver of rights. The commissioner shall forward the notice and waiver form
23 to the court with the annual examination. If the person does not affirmatively waive
24 the right to petition, the court shall hold a show cause hearing to determine whether
25 facts exist that warrant a hearing on whether the person's condition has so changed
26 that the person is safe to be at large and is not likely to commit a sexually violent
27 predatory offense if discharged. The committed person has the right to have an
28 attorney represent the person at the show cause hearing and if the person is indigent,
29 the court shall appoint the office of public advocacy to represent the person. The
30 committed person is not entitled to be present at the show cause hearing. If the court
31 at the show cause hearing determines that probable cause exists to believe that the

1 person's mental abnormality or personality disorder has so changed that the person is
2 safe to be at large and is not likely to commit a sexually violent predatory offense if
3 discharged, the court shall set a hearing on the issue. At the hearing, the committed
4 person is entitled to be present and to the benefit of all constitutional protections that
5 were afforded to the person at the initial commitment proceeding. The attorney
6 general shall represent the state and has the right to a jury trial and to have the
7 committed person evaluated by experts chosen by the state. The committed person
8 may also have experts evaluate the person on the person's behalf, and the court shall
9 appoint an expert if the person is indigent and requests an appointment. The burden
10 of proof at the hearing is upon the state to prove beyond a reasonable doubt that the
11 committed person's mental abnormality or personality disorder remains such that the
12 person is not safe to be at large and, if released, is likely to commit a sexually violent
13 predatory offense.

14 (c) If a person has previously filed a petition for discharge without the
15 commissioner's approval and the court determined, either upon review of the petition
16 or following a hearing, that the petitioner's petition was frivolous or that the
17 petitioner's condition had not so changed that the person was safe to be at large and
18 was not likely to commit a sexually violent predatory offense if discharged, the court
19 shall deny the subsequent petition unless the petition contains facts upon which a court
20 could find that the condition of the petitioner has so changed that a hearing is
21 warranted. Upon receipt of a second or subsequent petition from a committed person
22 without the commissioner's approval, the court shall review the petition and determine
23 if the petition is based upon frivolous grounds and if so shall deny the petition without
24 a hearing.

25 Sec. 47.30.822. DUTIES OF DEPARTMENT; IMMUNITY. (a) The
26 department is responsible for costs relating to the evaluation and treatment of persons
27 committed to its custody under the provisions of AS 47.30.816 - 47.30.824.
28 Reimbursement may be obtained by the department for the cost of care and treatment
29 of persons committed to its custody under AS 47.30.819.

30 (b) The state, agency, employees of the agency, and officials are immune from
31 liability for any good faith conduct under AS 47.30.816 - 47.30.824.

1 Sec. 47.30.823. RELEASE OF INFORMATION AUTHORIZED.

2 Notwithstanding any other provision of law and in addition to any other information
3 required to be released under AS 47.30.816 - 47.30.824, the department may release
4 relevant information that is necessary to protect the public concerning a specific
5 sexually violent predator committed under AS 47.30.816 - 47.30.824.

6 Sec. 47.30.824. DEFINITIONS. In AS 47.30.816 - 47.30.824,

7 (1) "mental abnormality" means a congenital or acquired condition
8 affecting the emotional or volitional capacity that predisposes the person to the
9 commission of criminal sexual acts in a degree that makes the person a menace to the
10 health and safety of others;

11 (2) "predatory" means that acts are directed towards strangers or
12 towards individuals with whom a relationship has been established or promoted for the
13 primary purpose of victimization;

14 (3) "sexually motivated" means that one of the purposes for which the
15 person committed the crime was for the purpose of the person's sexual gratification;

16 (4) "sexually violent offense" means an act that is:

17 (A) a violation of AS 11.41.410 - 11.41.420(a)(1), 11.41.434 -
18 11.41.438, or 11.41.450 or a felony offense in this or another jurisdiction
19 formerly, or currently, having elements similar to AS 11.41.410 -
20 11.41.420(a)(1), 11.41.434 - 11.41.438, or 11.41.450;

21 (B) a violation of AS 11.41.100 - 11.41.110, 11.41.200 -
22 11.41.210, 11.41.300, or AS 11.46.300 or a felony offense in this or another
23 jurisdiction formerly, or currently, having elements similar to AS 11.41.100 -
24 11.41.110, 11.41.200 - 11.41.210, 11.41.300, or AS 11.46.300, that has been
25 determined beyond a reasonable doubt, during civil commitment proceedings
26 under AS 47.30.816 - 47.30.824, to have been sexually motivated; or

27 (C) a violation of AS 11.31.100 - 11.31.110, or a felony offense
28 in this or another jurisdiction formerly, or currently, having elements similar
29 to AS 11.31.100 - 11.31.110, that is an attempt or criminal solicitation to
30 commit one of the felonies designated in (A) or (B) of this paragraph;

31 (5) "sexually violent predator" means a person who has been convicted

1 of or charged with a sexually violent offense, or has otherwise been found to have
2 committed a sexually violent offense as a juvenile, and who suffers from a mental
3 abnormality or personality disorder that makes the person likely to commit a sexually
4 violent predatory offense.

5 * Sec. 2. APPLICABILITY. This Act applies to all acts committed before, on, or after the
6 effective date of this Act.



Official Business

Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT House Bill 349 Civil Commitment of Sexual Predators

This bill provides the State with a mechanism to deal with dangerous sexual predators who are about to be released from the correctional system. It is aimed at only those offenders whose disposition, history and low amenability to conventional treatment warrant pursuing civil commitment.

House Bill 349 authorizes the Attorney General to petition the Courts for a civil commitment hearing when someone who has been convicted of a sexually violent offense is about to be released from Corrections. The alleged predator is entitled to right to counsel, right to psychiatric exam, right to trial by jury and numerous other procedural safeguards.

If a prosecutor can prove beyond a reasonable doubt that a person is a sexually violent predator, as defined by the bill, the predator would be civilly committed by Health and Social Services until they are treated and cured.

SPONSOR STATEMENT

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

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

MEMORANDUM

January 11, 1994

SUBJECT: Sectional Summary of HB 349 (Work Order No. 1-8LS1449\E)

TO: Representative Sean Parnell
Attn: Michael

FROM: Jerry Luckhaupt *JL*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill! - the bill itself is the best statement of its contents.

Section 1 of the bill adds a new article 8A to AS 47.30 and adds these new sections:

AS 47.30.816 provides findings;

AS 47.30.817 provides for notice to the attorney general whenever a person who has been convicted of, found to have committed as a juvenile, charged with and found incompetent to stand trial for, or found not guilty by reason of insanity of, a sexually violent offense is about to be released;

AS 47.30.818 provides the attorney general with the authority to file a petition alleging that a person is a sexually violent predator; if probable cause is shown by the attorney general that a person is a sexually violent predator, permits a court to order the person to be taken into custody and to be examined;

AS 47.30.819 provides for a trial to determine if beyond a reasonable doubt a person is sexually violent predator; the burden of proof shall be on the state; the trial shall be a jury trial if requested by the person, the attorney general, or the court, otherwise the trial shall be before the court; the person has the right to the assistance of counsel and to the retention of experts at state expense; if the person is found to be a sexually violent predator then the person shall be committed to the department of health and social services until the person's mental abnormality or personality disorder has so changed that the person is safe to be at large; if the person was not convicted of a sexually violent offense due to having been found incompetent to stand

SECTIONAL SUMMARY

trial the court shall first hold a hearing to determine beyond a reasonable doubt if the person did commit the crime;

AS 47.30.820 provides for annual examinations for anyone committed as a sexually violent predator;

AS 47.30.821 provides that the commissioner of corrections shall seek the release of a person committed as a sexually violent predator if the person's mental abnormality or personality disorder has so changed that the person is no longer likely to commit a sexually violent offense and is safe to be at large; allows the person to seek release even if the commissioner declines and provides procedures;

AS 47.30.822 provides that the department of health and social services is responsible for all costs relating to the evaluation and treatment of persons committed to its custody under this bill; allows the department to seek reimbursement of costs; provides for immunity to the state and its employees for good faith actions undertaken under this bill;

AS 47.30.823 allows the release of information that is necessary to protect the public concerning any sexually violent predator committed under this bill;

AS 47.30.824 provides definitions.

Section 2 of the bill provides an applicability section.

GPL:gc
94-019.glc

SEXUAL PREDATOR PROGRAM
SPECIAL COMMITMENT CENTER
Monroe, Washington

March 29, 1993 .

NEW ADMISSION:

DSHS# 490018
WHITE/MALE

AGE: 62
PIERCE COUNTY

Admission date: Monday, March 29, 1993.
Petition filed in Pierce County (Petition filed by Dennis Ashman, DPA)

Commitment to Department of Corrections ended March 29, 1993. (Transportation from Washington State Reformatory to SCC by DOC).

BRIEF CRIMINAL HISTORY

08/87	Rape, Second Degree	Pierce County
??/87	Rape, Second Degree	Pierce County
03/75	Public Indecency and Indecent Liberties	Lincoln County
01/66	Child Molestation	Buenos Aires, CA
07/62	Child Molestation	Santa Ana, CA
11/58	Indecent Exposure	Bangor, Maine

has displayed a long history of sexual offenses in several states. On one occasion, after being charged in Pierce County, he fled the state but was extradited back from the State of Nevada. Apparently, Mr. has received treatment in Maine, California, and Washington. In Washington, he received treatment at the Twin Rivers Corrections Center but quit the program before he completed the program. The target of his sexual offenses is children.

PRIOR EVALUATIONS

According to an evaluation conducted at the Washington State Reformatory on December 11, 1991, Mr. has deeply ingrained sexual deviancies and his risk for re-offending remains high despite his age.

SEXUAL PREDATOR PROGRAM,
SPECIAL COMMITMENT CENTER
Monroe, Washington

February 19, 1993

NEW ADMISSION:

DSHS# 490017
NATIVE AMERICAN/MALE

DOB: 8/2/51
AGE: 41
FRANKLIN COUNTY

Admission date, Friday, February 19, 1993.
Petition filed in Franklin County. (Petition filed by Jeanne Tweten, AAG)

Commitment to DOC terminates February 21, 1993. (Transportation from Washington State Reformatory to SCC by DOC staff, under Franklin County court order.)

BRIEF CRIMINAL HISTORY

08/67	Forcible Rape	U.S. District Court, New Mexico
12/69	Rape	Alameda County, California
07/72	Attempted Rape	Alameda County, California
10/77	Forcible Rape	Alameda County, California
09/85	Rape; Second Degree (1 count)	Franklin County
10/86	Rape; Third Degree (1 count)	King County
06/87	Rape; Second Degree (1 count)	Franklin County

has a 25 year history of sexual assaults on women. His assaults have been against women who are strangers to him and to female acquaintances. He has used verbal manipulation, verbal threats, and physical force, including threatening with a knife, to subdue the women so that he can orally and vaginally rape them. In addition to the above convictions, was arrested but not convicted on four rapes and several harassment charges in the early and mid-1980's. He was not convicted mainly because the victims did not want to file charges. also has a known history of alcohol dependency.

PRIOR EVALUATIONS

In 2/93, Dr. Allen Traywick, a clinical psychologist, conducted a psychological evaluation on Based on a records review and evaluation, Dr. Traywick diagnosed Mr. as suffering from a paraphilia and a Personality Disorder Not Otherwise Specified and he concluded that is likely to engage in predatory acts of sexual violence if released from prison.

**SEXUAL PREDATOR PROGRAM
SPECIAL COMMITMENT CENTER
Monroe, Washington**

April 26, 1993

NEW ADMISSION:

White/Male
KING COUNTY

DOB: 11/6/59

AGE: 33

Admission date, Monday, April 26, 1993.
Petition filed and order signed in King County, 4/23/93.
(Petition filed by Regina Cahan, DPA, King County.)
Transported to SCC by Department of Corrections.
Commitment to Dept. of Corrections expired April 26, 1993.

BRIEF CRIMINAL HISTORY [Convictions]

07/79	Attempted Lewd and Lascivious Conduct with a Minor	Idaho
11/81	Disturbing the peace	Idaho
07/82	Disturbing the peace	Idaho
10/85	Sexual Abuse of a Child Under 16	Idaho
10/86	Parole revoked [Two incidents of sexual assault]	Idaho
10/88	Attempted Indecent Liberties	King County
10/88	Assault in the Second Degree with a deadly weapon * * * * *	King County

Both Disturbing the peace convictions resulted from being found in women's restrooms, peeping on women and masturbating. He had at least six other arrests for similar behavior. The 1985 conviction, his first-hand on conviction, was for fondling a high school girl in the high school restroom. The 10/86 incidents were also hands-on behavior and they occurred within weeks of his release from incarceration. The most recent convictions (King County) were two separate incidents committed in public restrooms and using a knife.

PRIOR EVALUATIONS

Mr. _____ was admitted to the Sex Offender Treatment Program (DOC, Washington) but was terminated when he exposed to a female officer. Dr. Jacks (DOC) in 1991 described Mr. _____ as "A dangerous individual who appears to be totally unable to control his sexual urges." Allen Traywick, PhD, evaluated Mr. _____ 9/92, including six hours of interviews, and suggested that he met the criteria of a sexually violent predator.

SEXUAL PREDATOR PROGRAM
SPECIAL COMMITMENT CENTER
Monroe, Washington

October 14, 1993

NEW ADMISSION:

DOB: 10/7/51

DSHS# 490022
WHITE/MALE

AGE: 42
BENTON COUNTY

Admission date; Thursday, October 14, 1993.

Petition filed in Benton County.(Petition filed by Sarah Sappington, AAG)

Commitment to DOC terminated October 1, 1993. (Transportation from Clallam Bay Corrections Center to Benton County Jail for probable cause hearing then to SCC by DOC).

A less restrictive alternative treatment has been considered.

BRIEF CRIMINAL HISTORY

2/71	Carnal Knowledge	Benton County
2/86	Rape, Third Degree	Benton County
10/92	Attempted Kidnapping, Second Degree Unlawful imprisonment	Benton County

Mr. has a juvenile history marked with many offenses, such as indecent exposure, shoplifting, truancy, etc. Since age 18, Mr. has displayed numerous sexual assaults against children. In 1974, he was acquitted of two assault charges toward two high school girls. Mr. had many parole violations which landed him back in prison five times between 1974-1981. On one occasion, he sexually molested his two stepchildren. After being paroled in 1985, Mr. brutally raped a 13 year old boy and spent time in prison. Within three months after his release, Mr. attempted to kidnap a 12 year old boy from a bowling alley.

PRIOR EVALUATIONS

On September 29, 1993, Dr. Leslie Rawlings, Ph.D. concluded that Mr. suffers from pedophilia, a personality disorder not otherwise specified with antisocial, passive-aggressive, and borderline features, and he is likely to engage in acts of sexual violence against strangers. Dr. Rawlings also concluded that Mr. was not appropriate for treatment in the community.

SEXUAL PREDATOR PROGRAM
SPECIAL COMMITMENT CENTER
Monroe, Washington

November 23, 1993

NEW ADMISSION:

DSHS# 490023
WHITE/MALE

DOB: 8/25/40
AGE: 53
WALLA WALLA COUNTY

Admission date; Thursday, November 23, 1993.
Petition filed in Walla Walla County.(Petition filed by Sarah Sappington, AAG).

Commitment to DOC terminated October 14, 1993. (Transportation from Washington State Reformatory to Walla Walla County for probable cause hearing then to SCC by Walla Walla County Sheriff).

A less restrictive alternative treatment has been considered. A 72 hour probable cause hearing was held.

BRIEF CRIMINAL HISTORY

12/61	Contribution to the Delinquency of Minor	Alaska
08/66	Lewd and Lascivious Acts Toward a Minor (3 counts)	Alaska
11/72	Indecent Liberties (2 counts)	Pierce County
10/84	Indecent Liberties	Walla Walla County

Mr. victims have been young girls, ages 6-13 years. On one occasion the victim was a neighbor but other incidents have been against total strangers. He has displayed a range of sexually inappropriate behaviors with his victims including taking nude pictures of the victim, exposing himself, fondling their genitals, and rubbing his penis on them. Mr. has difficulty in controlling his deviant sexual arousal toward children.

PRIOR EVALUATIONS

In 1972 Mr. was sent to Western State Hospital for evaluation and treatment but was found to be unamenable to treatment. In April 1993, Dr. Sally Sloat, Ph.D. at McNeil Island Correction Center, concluded Mr. had been convicted of a sexually violent offense, that he suffered from pedophilia, and that repeated incarcerations had not proved a deterrent to Mr. . On October 13, 1993, Dr. Helmut Riedel of the Washington State Reformatory conducted an evaluation and concluded Mr. was a sexually violent offender and likely to commit predatory acts of sexual violence.

SEXUAL PREDATOR PROGRAM
SPECIAL COMMITMENT CENTER
Monroe, Washington

June 23, 1993

NEW ADMISSION:

DOB: 04/26/66

DSHS# 490020
WHITE/MALE

AGE: 23
KING COUNTY

Admission date: Wednesday, June 23, 1993.
Petition filed in King County (Petition filed by Regina Cahan, DPA)

Commitment to Department of Corrections ends June 24, 1993. (Transportation from Twin River Correctional Center to SCC by DOC.)

BRIEF CRIMINAL HISTORY

8/81	Lewd Lascivious	Washington County, Idaho
5/85	Indecent Liberties	Yakima County
10/87	Assault, First degree	King County

Mr. _____ was released from a juvenile facility (1985) and a prison (1987) and on each occasions he reoffended, within 17 days and 6 days, respectively. He has a pattern of attacking females who have ranged in age from 4 - 53 years of age. His offenses seem to be escalating in the use of force. In the 1981 offense he did not use a knife, in the 1985 offense he use a knife in a threatening manner, and finally in the 1987 offense he caused injury to the victim with his knife.

After Mr. _____ 1985 incarceration, he refused to participate in an evaluation for the Sex Offender Treatment Program.

During his two terms of incarceration in a prison, Mr. _____ has had 14 and 21 infractions, respectively, which included exposing himself and masturbating in front of female guards.

PRIOR EVALUATIONS

An evaluation was done by Dr. Ronald Page on November 12, 1991 in which he suggested that Mr. _____ be considered for civil commitment as a sexual predator. Recently, Mr. Roger Wolfe evaluated Mr. _____ and concluded that Mr. _____ meets the criteria as a sexually violent predator.

SEXUAL PREDATOR PROGRAM
SPECIAL COMMITMENT CENTER
Monroe, Washington

June 23, 1993

NEW ADMISSION:

DOB: 04/26/66

DSHS# 490020
WHITE/MALE

AGE: 23
KING COUNTY

Admission date: Wednesday, June 23, 1993.
Petition filed in King County (Petition filed by Regina Cahan, DPA)

Commitment to Department of Corrections ends June 24, 1993. (Transportation from Twin River Correctional Center to SCC by DOC.)

BRIEF CRIMINAL HISTORY

8/81	Lewd Lascivious	Washington County, Idaho
5/85	Indecent Liberties	Yakima County
10/87	Assault, First degree	King County

Mr. [redacted] was released from a juvenile facility (1985) and a prison (1987) and on each occasion he reoffended, within 17 days and 6 days, respectively. He has a pattern of attacking females who have ranged in age from 4 - 53 years of age. His offenses seem to be escalating in the use of force. In the 1981 offense he did not use a knife, in the 1985 offense he use a knife in a threatening manner, and finally in the 1987 offense he caused injury to the victim with his knife.

After Mr. [redacted] 1985 incarceration, he refused to participate in an evaluation for the Sex Offender Treatment Program.

During his two terms of incarceration in a prison, Mr. [redacted] has had 14 and 21 infractions, respectively, which included exposing himself and masturbating in front of female guards.

PRIOR EVALUATIONS

An evaluation was done by Dr. Ronald Page on November 12, 1991 in which he suggested that Mr. [redacted] be considered for civil commitment as a sexual predator. Recently, Mr. Roger Wolfe evaluated Mr. [redacted] and concluded that Mr. [redacted] meets the criteria as a sexually violent predator.

SEXUAL PREDATOR PROGRAM
SPECIAL COMMITMENT CENTER
Monroe, Washington

September 10, 1993

NEW ADMISSION:

DSHS# 490021
WHITE/MALE

DOB: 11/10/50
AGE: 42
KING COUNTY

Admission date; Friday, September 10, 1993.
Petition filed in King County.(Petition filed by Michael Lang, DPA)

Commitment to DOC terminated September 9, 1993. (Transportation from Twin Rivers Corrections Center to King County Jail for probable cause hearing then to SCC by King County Sheriff).

A less restrictive alternative treatment has been considered.

BRIEF CRIMINAL HISTORY

1/74	Rape	Yakima County
8/76	Assault, Second Degree	Pierce County
2/88	Rape, First Degree	King County

Mr. admits to many more sex offenses other than his convictions. While he was convicted of rape in 1974, three other counts were dismissed. His primary pattern of sex offenses is attacking women and threatening them with a gun or a knife. On occasion, Mr. used a ski mask and unlawfully entered houses in the commission of his sex offenses.

PRIOR EVALUATIONS

In August 1974, Mr. was determined to meet the definition of sexual psychopath. He reportedly did well in treatment at Western State Hospital, Sex Offender Program and gained work release privileges in December of 1975. He would later admit to several sex offenses during that time period. An evaluation was completed by Dr. Al Bundt, Washington State Reformatory, April 1983, who diagnosed Mr. as suffering from sexual sadism, antisocial personality disorder, and schizoid personality. He concluded that Mr. had received all the therapy that he needs to function adequately on the outside. In February 1986, Michael Comte, MSW, evaluated Mr. and he concluded Mr. was a moderate risk to reoffend.

After another sex offense and prison term, two more evaluations were done. In October 1991, Dr. Ronald Page, a clinical psychologist at the Washington State Penitentiary, concluded there was no defensible reason to assume that Mr. negative potentials have changed over the course of his current confinement. On July 20, 1993, Dr. Savio Chan, a psychologist at Twin Rivers Corrections Center, concluded that Mr. has a very high likelihood to commit another predatory sexual offense in the future.

Child molester charged again with rape

By SHEILA TOOMEY
Daily News reporter

A convicted Alaska child molester, whose sentence was reduced as too harsh, has been charged in Montana with raping a 5-year-old girl after kidnapping her as she biked along a rural road.

Kenneth Whitlow, 41, is being held on \$100,000 bond in Hamilton, Mont., charged with aggravated kidnapping and sexual intercourse without consent, said Ravalli

County Sheriff Jay Printz.

The child was on her way home on July 8 from a candy trip to the local grocery store in Pinesdale, Mont., when she disappeared, Printz said. Pinesdale is a community of about 650 people. The store is about a quarter-mile from the girl's home. Searchers found her bicycle and candy bars by the side of the road.

About two hours later, Whitlow delivered the child, bleeding, to a local hospital and

said he found her wandering in the woods several miles from where her bike was found. Whitlow said he had been fishing and had fishing gear with him, according to Printz.

Investigators believe the girl was raped by digital penetration, the sheriff said.

Whitlow lives in Darby, Mont., about 25 miles south of Pinesdale, and was not

Please see Page B-3, MOLESTER

MOLESTER: Arrested again

Continued from Page B-1

known to the victim's family, Printz said. The small towns of Ravalli County are located in a wooded valley of the Bitterroot Mountains, hard up against the border between Montana and Idaho.

In 1985, Whitlow was convicted in Alaska of molesting his 12-year-old daughter, then hiding her so she couldn't testify at his trial. At the time, he was charged with attempted sexual assault and two counts of sexual abuse.

Whitlow's maneuver succeeded in delaying the trial, but he eventually pleaded no contest to a single count of second-degree sexual abuse and one count of witness tampering.

His girlfriend, Helen Oehler, who still lives with him, was convicted of helping him hide the girl.

Among his defenses, Whitlow claimed his daughter was lying about the abuse, that she looked 19 despite being only 12, that she was psychologically damaged by previous abuse in her mother's home in Georgia and had repeatedly attempted suicide.

Superior Court Judge Victor Carlson sentenced Whitlow to 12 years. "There's no question about the fact that she was badly damaged when she arrived here and then you continued to damage her," Carlson said

as he handed down what proved to be an illegally harsh term.

"I also, when I listen to you, think that you're about 90 degrees off base from what reality is with regard to understanding things like the rest of us understand things. Therefore, I hold out little hope that you're going to become rehabilitated ever, and certainly not soon."

The Alaska Court of Appeals cut the 12 years to six and Whitlow was released April 29, 1989, having served the mandatory four years, according to Department of Corrections records. While in prison, he failed to complete the Hilland Mountain sex offender treatment program. His probation ended in 1990 and he returned to his home state of Montana.

Last year, Montana child welfare officials removed Oehler's two teen-age daughters from the Whitlow home after investigating allegations that he had sexually molested them, Printz said. No criminal charges were filed.

Whitlow is being held in lieu of \$100,000 bond and is not due in court again until Aug. 4. Oehler did not respond to a message left on her answering machine.

If convicted, Whitlow's sentence could range anywhere from two to 100 years, Printz said.

**In Our Opinion . . .****Lessons learned
from sex offender**

Several lessons can be learned from Langley's recent experience with convicted sex offender William Lange. Lange, of course, is the man who was given refuge by a Langley family after he served his time in prison for first degree rape. He registered as a sex offender, and police warned neighbors and the community that they still considered him dangerous. Meanwhile, Lange was telling his new family and everyone else who would listen that he was a changed man, "born again" in fact, who was no threat to anyone. As events unfolded, Lange fled town when a woman became concerned that he might be stalking her. A few days later, police in Alaska reported that he had been arrested there on suspicion of another heinous sex crime.

One important reminder from all this is that the police can tell the good guys from the bad guys. The Langley Police Department and Island County Sheriff's Office did the right thing in warning the community about Lange's presence. A community should know when a predator is in its midst, and it's largely thanks to local police that Lange did not strike here.

Another lesson is that sex offenders are consummate liars, able to look someone in the eye and tell them time after time, in all apparent sincerity, that they've changed their ways. You don't have to be particularly gullible to believe that line if you are not familiar with sex offenders.

A final lesson is that Washington's sex offender registration law is working and well worth keeping. Without it, Lange would have been like a wolf among ignorant sheep. The fact that he went to Alaska to apparently strike again shows that our law is working, and that Alaska and other states without a registration law should adopt one as quickly as possible for the protection of their own citizens.

Southeast towns on alert for fugitive

By DIANE RAAB

THE JUNEAU EMPIRE

A fugitive wanted in connection with a brutal rape in Massachusetts may be at large in Southeast Alaska, according to Alaska State Troopers and the Federal Bureau of Investigation.

Scott A. Burgess, 30, is wanted for a 1992 rape and kidnapping in Watertown, Mass., said Jeff Glover, FBI special agent in Juneau.

Burgess had worked at a cannery in Petersburg last summer, and state troopers and the FBI believe he may be somewhere in Alaska.

Authorities say Burgess is 5-foot-11, 170 pounds, with blue eyes and brown or blonde hair, usually worn in a ponytail.

Joe Deignan, a detective for the Watertown Police Department, said Burgess has tattoos all over his upper torso and a Tweety Bird tattoo on one of his forearms. His left thumb and wrist is tattooed with a distinctive KKK.

Glover said a person matching that description had been seen in mid-January in Craig, a community of 1,535 residents on Prince of Wales Island. In February, another Craig resident reported seeing a man matching Burgess' description.

"We can't say it's confirmed, but pretty strongly believe it is him because of the uniqueness of



SCOTT A. BURGESS

the tattoo," Glover said.

The FBI does not know if Burgess is still in the area. Glover said he has not been seen since February.

Juneau police have been notified. State ferry terminals and Southeast airports also have been notified, Glover said.

Burgess, who also uses the name Scott Lee, is known to have

lived in Montana, Alaska, New Mexico, Washington, Florida, Arizona and Massachusetts, Deignan said.

Burgess is wanted by Massachusetts authorities for allegedly kidnapping, beating and raping a woman Dec. 12, 1992. Burgess abandoned her in a Boston suburb, Glover said.

On Nov. 27, 1991, Burgess was arrested for assault, threats and intimidation toward a woman in Lake Havasu City, Ariz., Glover said.

In late June 1992, Burgess was held in protective custody in Petersburg for an incident involving alcohol. Burgess allegedly tried to get into a woman's dormitory, and was subsequently fired from his cannery job, Glover said.

Petersburg Police Chief Marvin Ronimus said residents are concerned that Burgess might return to Petersburg.

After the most recent sighting in Craig, the community's police chief said he has received at least

100 calls. "People are thinking children shouldn't walk to and from school, (but) this is not a serial rapist or serial murderer ... it's more of a common criminal," Police Chief Jim See said.

"We have no proof that he is here. I have arrested several people on this island with KKK tattoos in various places," he said.

"It's not like the general population is at risk. Yes, he committed a crime, but it's not like everybody's children are at risk. This guy picked a woman up in a bar, that type of thing. The general population is not at risk."

Suspect in 2 rapes arrested

Truck driver cruised bar area, police say

By LIZ RUSKIN
Daily News reporter

A tow-truck driver who police believe cruises a Fourth Avenue bar for women to rape was arrested Tuesday on charges he kidnapped and sexually assaulted two women on separate occasions this summer.

Police say Henry G. Buchholz also is suspected in the rapes of two other women. One, Mary Sophie Wilson, was found dead in a ditch near Far North Bicentennial Park in April. Wilson's death was attributed to a combination of alcohol and hypothermia. Troopers suspected foul play because some of her clothes were missing, and it appeared she had been raped.

Buchholz, 32, told a District Court judge Wednesday that he is self-employed, but police say they believe he worked for Spenard Wreckers.

Anchorage Police Sgt.
Please see Back Page, RAPE

RAPE: Anchorage tow-truck driver a suspect in several sexual assaults

Continued from Page A-1

B.J. Blomstrom said Wednesday that all four rapes have several things in common: The victims were Alaska Natives who had been drinking at the Hub Bar, they were tied or handcuffed, and they were sexually raped.

The charges against Buchholz allege he picked up a 25-year-old victim from the Hub Bar on July 13. The woman said she'd seen him in the bar several times and figured he would be a safe ride. But instead of taking her to the Grother Franco Shalier as she requested, he drove his red low truck to a mobile home. He handcuffed her hands and ankles, bound her elbows behind her and blindfolded her.

She described him and the low truck to police. The next day, a police officer stopped a red low truck near Russian Jack Park. The driver, Buchholz, was interviewed briefly and allowed to go on his way. The woman could not pick his 1981 photo from a

lineup.

A Hub worker, however, called police Aug. 10 and said a man he knew as "Buck" drives a red low truck and frequents the Hub at closing time. He gave them Buchholz's license plate number. The next day, police again stopped Buchholz's low truck. This time, they photographed Buchholz so they could show the woman a more recent picture. But again she failed to pick him out of a lineup, and Buchholz was not arrested.

Ten days after he was stopped by police the second time, Buchholz raped again, according to the charges against him. The 26-year-old woman told police she left the Hub shortly after midnight Aug. 21 and was walking near Ninth Avenue and Fifth Street when a white man grabbed and shoved her into a maroon sedan. He drove south on the Seward Highway and dragged her into a building next to a junkyard. He handcuffed her to a



Henry G. Buchholz

book on the ceiling and raped her. "The suspect told her to stop fighting because he had already killed someone before," police detective Linda Brantelover wrote in a charging document. The woman said the rapist took her identification

card during the attack.

She described her assailant and took Brantelover to the neighborhood of the attack, a Seward Highway frontage road between 66th and 68th avenues. With that, and information about the other three rapes, police got a search warrant for Buchholz's trailer, which is on the frontage road. There they found two sets of handcuffs, ropes, magazines depicting bondage and a low book they believe may have been used in the Aug. 21 attack. They also found the woman's identification card.

Troopers say they are still investigating two earlier rapes in which Buchholz is a suspect and plan to send information to the District Attorney's office for possible charges.

The earliest occurred Nov. 12. That victim told troopers she was walking in front of the Hub Bar when a white man driving a red pickup stopped and offered her a ride. Instead of taking her

where she was going, he drove her to Stuckasgin Heights and bound her ankles and arms with duct tape. He also raped her mouth and eyes.

After the assault, she walked to a house nearby and called the troopers. She led officers to the scene of the rape, where they found ropes and tape. They also found a trailer-bitch ball that was apparently used in the assault. Bar napkins were found inside her room during a medical examination of the truck and helped troopers draw a sketch of the man. The drawing, according to Brantelover, "bears a remarkable resemblance to Henry Buchholz."

Authorities also believe Buchholz raped Mary Sophie Wilson, 37. Her body was found near Abbott Road and Main Tree Drive, not far from Stuckasgin Heights. During the autopsy, paper wadding was found in her vagina. Latent marks on

Blomstrom said police suspect Buchholz may have committed other rapes and are asking other victims to call the Anchorage Police Department or the troopers. His job, Blomstrom said, gave him access to a variety of vehicles.

her left wrist indicated she had been bound.

District Attorney Ed McElally was careful not to call Wilson's death a murder. Its legal status hasn't been determined, he said.

Buchholz has a lengthy criminal record, but his convictions are for nonviolent offenses. Court records show he has been convicted four times each of shoplifting and driving-while-violating in the past decade. He also has a 1981 burglary conviction from New Mexico.

He was charged in March with stealing a 2500 watch from a friend's house. He contested to taking the watch and was sentenced to 30 days in jail.

Rapist gets 15 more years

Paroled man assaulted relative

By LIZ RUSKIN
Daily News reporter

A few hours after he was released from a two-year prison term for sexual assault, Timothy Seton went downtown and raped the first woman who showed him an ounce of kindness.

The woman, a relative of Seton's, told police she ran into Seton at a Fourth Avenue bar one afternoon last summer. She was glad to see him and they drank together. Later, they took a cab to a Fairview liquor store, bought more alcohol and began walking through the neighborhood. Without warning, he struck her in the face and dragged her into a wooded area. He wrapped his belt around her neck to keep her from screaming during the assault.

His denim jacket was found near the scene, his parole papers and a bottle of Canadian Club whiskey still in the pockets.

"It's bad enough to commit this crime against a total stranger," Superior Court



JIM LAVRAKAS / Anchorage Daily News

Timothy Seton apologizes to the victim during his sentencing hearing Tuesday.

Please see Page B-3, **RAPIST**