

H

B

4

6

0

**MIKE NAVARRE**  
REPRESENTATIVE

DISTRICT 9

ALASKA STATE LEGISLATURE  
**HOUSE OF REPRESENTATIVES**

DURING SESSION  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
(907) 465-3779

HOME ADDRESS  
BOX 169 — KENAI, AK 99611  
(907) 262-7842

**MEMORANDUM**

**TO:** Representative Brian Porter, Chairman, House Judiciary Committee

**FROM:** Representative Mike Navarre *Mike*

**SUBJECT:** Request for hearing on House Bill 460

**DATE:** February 18, 1994

Received

FEB 24 1994

REP BRIAN PORTER

.....

I would like to request a hearing for House Bill 460, "An Act relating to bail for various felonies if the defendant has certain previous felony convictions." When this legislation becomes law it prevents persons from being released on bail prior to sentencing or when pending appeal when a person has been convicted of sexual assault in the second and third degrees, sexual abuse of a minor in the second and third degrees and stalking in the first degree.

Thank you for your consideration.

**MIKE NAVARRE**

REPRESENTATIVE

DISTRICT 9

ALASKA STATE LEGISLATURE  
**HOUSE OF REPRESENTATIVES**

*DURING SESSION*  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
(907) 465-3779

*HOME ADDRESS*  
Box 169 — KENAI, AK 99611  
(907) 262-7042

**SPONSOR STATEMENT**

February 22, 1994

**TO:** Representative Brian Porter, Chairman, House Judiciary Committee

**FROM:** Representative Mike Navarre

**SUBJECT:** House Bill 460

.....

In October 1993 a man allegedly raped and assaulted two women in Anchorage. The perpetrator had been convicted and sentenced for a felony drug offense and yet he was still free. He had a long criminal record that included convictions for three rapes and two vehicle thefts in California. In Alaska, he had been convicted for gambling, carrying a concealed weapon, fourth degree assault, trespassing and possession of cocaine. His criminal record indicates a violent past and a threat of being a danger to the community. In spite these facts, the defendant was released on \$5,000.00 bail pending appeal. The lives of two women and their families are forever changed because of these circumstances.

House Bill 460 simply adds to the list of crimes and circumstances for which bail is not allowed under AS 12.30.40(b). It will prevent a persons release on bail either before sentencing or pending appeal where the person has been previously convicted of sexual abuse of a minor in the second and third degrees and stalking in the first degree.

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 460

Revision Date: February 18, 1994  
Title: "...bail after conviction...if defendent has certain previous felony convictions."  
Sponsor: Representative Navarre  
Requestor: Representative Navarre

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

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

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

POSITIONS:

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

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

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

Prepared by: Richard I. Pecues, Director Phone: 465-3672  
Division: Administrative Services Division Date: February 18, 1994  
Approved by Commissioner: Bruce M. Botelho, Attorney General  
Agency: Department of Law Date: February 18, 1994

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further information contact the Department of Law, Legislative Office

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 460

ANALYSIS CONTINUATION:

This bill would prohibit bail after conviction and before sentencing or pending appeal if the person has been convicted of an offense that is an unclassified or a class A felony; or a class B or class C felony if the person has been previously convicted of an offense that is an unclassified felony, a class A felony, or stalking in the first degree, sexual assault in the second or third degrees, and sexual abuse of a minor in the second or third degrees. In most cases, courts usually deny bail under these circumstances. However, the bill removes the courts' existing authority to grant bail in these circumstances. In any event, these are sentencing provisions that occur after conviction and, consequently, there will not be a fiscal impact for the Department of Law.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 460

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to bail after conviction ...." BRU: Public Defender Agency  
 Component: Public Defender Agency  
 Sponsor: Rep. Navarro  
 Requestor: (H) Jud 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
TRAVEL	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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-----------------------------	------------	------------	------------	------------	------------	------------

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**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
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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, Director Phone: 264-4400  
 Division: Public Defender Agency Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usura Date: 2/18/94  
 Agency: Administration

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 460**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to bail after conviction ...." BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 Sponsor: Rep. Navane  
 Requestor: (H) Jud COMPONENT SERIAL NO. 43

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**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
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: none

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usura Date: 2/18/94  
 Agency: Administration

**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. SB 228

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: No bail for felons with previous BRU: Statewide Operations  
convictions Component: Institutions  
 Sponsor: Sen. Salo  
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 694-1884

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
-----------------------------	----------	----------	----------	----------	----------	----------

<b>CHANGE IN REVENUES ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
-------------------------------	----------	----------	----------	----------	----------	----------

**FUND SOURCE**

(Thousands of Dollars)

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

Estimate of any current year (FY94) cost: 0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

Please see the attached fiscal analysis.

Prepared by: Diane Schenker, Special Assistant Phone: 465-4643/786-2147  
 Division: Office of the Commissioner Date: 3/1/94  
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 3/1/94  
 Agency: Department of Corrections

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

Fiscal Note/DOC

SB 228

March 1, 1994

Page 2 of 2

The bill would preclude an offender who has been convicted of a class B or C felony from being released on bail before sentencing or pending appeal if the offender had previously been convicted of an unclassified or class A felony, or certain sex offenses or stalking.

Assumptions

1. It is assumed that offenders convicted of class B or C felonies with the types of prior records applicable in the bill would be sentenced to some period of incarceration. Most will fall under presumptive sentencing statutes. The department reviewed 100 such cases, and found that 100% of the cases resulted in sentences of incarceration.
2. Since time served in custody prior to sentencing counts as time served on the sentence, the total time served will remain the same whether it is interrupted or delayed by posting bail or not.
3. The only impact on the department would be in cases in which the felon would receive bail under current law, then win an appeal which would result in no period of incarceration; under the bill the felon would have spent the appeal period incarcerated. According to the Clerk of the Court of Appeals, approximately 451 cases were appealed in 1992 (366 felonies and 85 misdemeanors.) Approximately 15% of the appeals resulted in reversals. This would be about 55 reversals per year for felony cases. Most reversals result in reduction in sentence length rather than overturning a conviction. Because the number of cases in which an appeal would result in no period of incarceration is assumed to be extremely small, and because there is no assurance that those cases would be released on bail pending appeal under current law, no measurable fiscal impact is expected.
4. If the department is able to gather more detailed data on the outcome of appeals referenced above, and the data indicates a significant number of appeals resulting in no period of incarceration, the fiscal note will be revised.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO: HB 460

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An act relating to bail after conviction,  
certain felony convictions" BRU: Alaska State Troopers  
 Component: Detachments

Sponsor: Representative Navarre  
 Requestor: Representative Navarre COMPONENT SERIAL NO. 799

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

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

**FUNDING: (Thousands of Dollars)**

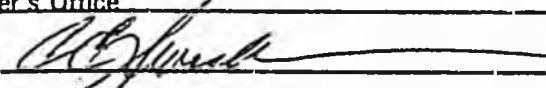
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

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

**POSITIONS:**

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

ANALYSIS: (Attach a separate page if necessary.)  
 No fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322  
 Division: Commissioner's Office Date: 2/21/94  
 Approved by Commissioner:  Date: 2/24/94  
 Agency: Richard L. Burton, Dept. of Public Safety

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

For further information, contact the \_\_\_\_\_ Office

# Man sought in assaults on 2 women

## Police launching a search for knife-wielding suspect

S.J. KOMARNITSKY  
Daily News reporter

Anchorage police are searching for a 36-year-old man they say assaulted one woman and raped another at knifepoint early Wednesday morning.

Police have charged Leonard John Hoffman with one count of third-degree assault and four counts of first-degree sexual assault and have issued a warrant for his arrest.

According to court documents, Hoffman allegedly assaulted the first woman shortly after midnight at her Anchorage home. The woman told police she knew Hoffman and let him in. But, she told police, he grabbed her face, pushed her onto a couch and then threatened her with a knife.

He then broke off the attack and drove her vehicle to a second woman's residence in a mobile home park off Boniface Parkway, Capt. Shirley Warner said.

According to court documents, the second woman told police Hoffman is her sister's boyfriend. She let him in after he told her he had been beaten up. The woman said Hoffman had scratches on his arm and she tried to bandage it. She told police he then smoked what appeared to be marijuana.

Meanwhile, he made several trips between the resi-



Special to the News

Police describe Leonard John Hoffman as 6-foot, 230 pounds, with brown hair and brown eyes.

dence and the vehicle. As he went to leave one time, he suddenly grabbed her, pulled out a knife and dragged her into the bedroom, she said. He then raped her, she said.

The woman told officers she ran out of the mobile home about 1:30 a.m. when Hoffman went to get some food in a microwave. She called police from a neighbor's residence. Police staked out the mobile home for about four hours, at-

Please see Page E-5,  
**WARRANT**

## **WARRANT:** Man sought in attacks

Continued from Page E-1

tempting to make contact. But Hoffman had apparently snuck out after the woman left, Warner said.

Hoffman is considered extremely dangerous and possibly armed, Warner said.

Hoffman has a long criminal record including convictions in California for three rapes and two vehicle thefts.

In Alaska, Hoffman has been convicted for gambling, carrying a concealed weapon, fourth-degree assault, trespassing and possession of cocaine, according to court records.

Last December, he was also charged with four counts of sexual assault for allegedly tying up and raping a woman to whom he offered a ride. Those charges were later dropped for lack of evidence.

In June, he was sentenced to three years in jail for drug possession. He was released on bail after he appealed the conviction.

Sgt. Walt Monegan said police are familiar with Hoffman. And although they didn't step up patrols Wednesday night, all officers had been briefed on him and a picture was being circulated.

"Right now, we are keeping our eyes out ... and following up on any possible sightings," Monegan said.

He said officers also were watching Hoffman's usual haunts. That included his last reported residence on West 26th Street.

Police describe Hoffman as 6 foot, 230 pounds, with brown hair and brown eyes. He often uses the aliases Leonard J. Samano and Leo Hoffman or combinations of the two. He is considered dangerous and anyone spotting him should call the Anchorage Police Department 786-8900.

THE  
FOLLOWING  
DOCUMENTS  
ARE  
POOR  
ORIGINAL  
COPIES

DATE: SUNDAY October 17, 1993

PAGE: 91

EDITION: FINAL

SECTION: Metro

LENGTH: Short

SOURCE: By S.J. KOMARNITSKY Daily News reporter

SUSPECT IN RAPES ARRESTED

Acting on a tip, police arrested Leonard Hoffman and another man early Saturday morning at a Wasilla apartment where they were staying.

Police had been looking for Hoffman since Wednesday, when he allegedly assaulted one Anchorage woman and raped another at knife-point. Police had asked for the public's help in finding the 36-year-old Hoffman, who they said was dangerous and possibly armed.

Trooper spokesman Steve Wilhelm said a Crime Stoppers tip led police to the apartment building on the Seward-Meridian Parkway where Hoffman was staying.

When confronted, Hoffman initially gave troopers a fake name, Wilhelm said. But then he admitted who he was and gave up without a struggle.

Another man staying at the apartment also was arrested on an unrelated charge, Wilhelm said. The man, whom Wilhelm would not identify, also had a

RANK 2 OF 2, PAGE 2 OF 2, DB AD3, DOCUMENT 291639  
warrant for

his arrest, he said. Wilhelm did not know the relationship between the men or how Hoffman traveled from Anchorage to Wasilla.

Hoffman is charged with four counts of first-degree sexual assault and one count of third-degree assault. He has a long criminal record, including convictions in California for three rapes and two vehicle thefts. In Alaska, he has been convicted of gambling, fourth-degree assault, carrying a concealed weapon, trespassing and possession of cocaine, according to court records.

In June, he was sentenced to three years in jail for drug possession. He was out on bail appealing that conviction when the latest attacks occurred.

In a court appearance Saturday, his bail was set at \$75,000 with a court-approved third-party custodian.

Leonard Hoffman, birthdata unknown, was found guilty by a jury of fourth-degree misconduct involving a controlled substance, and the following charges were dismissed: two counts of third-degree assault, and one count each of second-degree sexual assault, first-degree sexual assault and kidnapping. Sentenced to three years in prison, with recommendation for substance abuse treatment and counseling. Judge Souter.

Exempt From VRA Certif.

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT ANCHORAGE

*deft*

(x) STATE OF ALASKA )  
 ( ) MUNICIPALITY OF ANCHORAGE )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Leonard J. Hoffman )  
 aob:4/29/57 )  
 SS#574-30-4503 )  
 Defendant. )

CASE NO. 3AN-93-7782 CR  
 ARREST WARRANT

To Any Peace Officer Or Other Authorized Person:

You are commanded to arrest the defendant and bring the defendant before the nearest available judicial officer without unnecessary delay to answer to a complaint/information/indictment charging the defendant with violation of \_\_\_\_\_  
 A.S. 11.41.220(a)(1) and four counts 11.41.410(a)(1)  
 (statute or ordinance)  
 Assault 3° and four counts Sexual assault 1°  
 (offense)

Bail is set at \$ 75,000 .  The defendant may not be released until the court approves a third party custodian and/or conditions of release.



*[Signature]*  
 Judge/Deputy Clerk, as ordered, on the record  
 by Judge W. L. ...

Date 10/13/93

Sex: M Race: W Ht: 6' Wt: 230# Hair: BRN Eyes: BRN  
 DOB: 4-29-57 OL/ID AK 6058879 SSN 574-30-4503  
 Last Known Address: 1414 West 26th phone: \_\_\_\_\_  
 Place of Employment: \_\_\_\_\_ phone: \_\_\_\_\_

RETURN

I received the above warrant on \_\_\_\_\_ 19\_\_\_\_, and executed it by arresting the defendant and serving the defendant with a copy of this warrant in \_\_\_\_\_, Alaska, on \_\_\_\_\_, 19\_\_\_\_.

Return Date \_\_\_\_\_ Signature of Peace Officer \_\_\_\_\_ Type or Print Name \_\_\_\_\_

*10*

IN THE DISTRICT COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 Leonard J. Hoffman )  
 )  
 DOB: 4/29/57 )  
 AK ID/OL: 6058879 )  
 SSN:574-30-4503 )  
 ATN: )  
 Defendant. )

Filed in the Trial Courts  
STATE OF ALASKA THIRD DISTRICT  
IN ANCHORAGE

OCT 13 1993

BY \_\_\_\_\_ Deputy

Court No. 3AN-S93-7782 Cr.

COMPLAINT

COUNT ONE  
ASSAULT IN THE THIRD DEGREE  
AS 11.41.220(A)(1)

COUNT TWO  
SEXUAL ASSAULT IN THE FIRST DEGREE  
AS 11.41.410(A)(1)

COUNT THREE  
SEXUAL ASSAULT IN THE FIRST DEGREE  
AS 11.41.410(A)(1)

COUNT FOUR  
SEXUAL ASSAULT IN THE FIRST DEGREE  
AS 11.41.410(A)(1)

COUNT FIVE  
SEXUAL ASSAULT IN THE FIRST DEGREE  
AS 11.41.410(A)(1)

THE COMPLAINANT CHARGES IN COUNT ONE:

that on or about October 13, 1993, at or near Anchorage, in the Third Judicial District, State of Alaska, Leonard J. Hoffman did recklessly place another, M.B., in fear of imminent serious physical injury by means of a dangerous instrument.

All of which is a class C felony offense, being contrary to and in violation of AS 11.41.220(a)(1), and against the peace and dignity of the State of Alaska.

THE COMPLAINANT CHARGES IN COUNT TWO:

that on or about October 13, 1993, at or near Anchorage, in the Third Judicial District, State of Alaska, Leonard J. Hoffman did knowingly and unlawfully engage in sexual penetration with another person, K.V., without K.V.'s consent, by penetrating her anus with his finger.

All of which is an unclassified felony offense, being contrary to and in violation of AS 11.41.410(a)(1), and against the peace and dignity of the State of Alaska.

THE COMPLAINANT CHARGES IN COUNT THREE:

that on or about October 13, 1993, at or near Anchorage, in the Third Judicial District, State of Alaska, Leonard J. Hoffman did knowingly and unlawfully engage in sexual penetration with another person, K.V., without K.V.'s consent, by penetrating her vagina with his finger.

All of which is an unclassified felony offense, being contrary to and in violation of AS 11.41.410(a)(1), and against the peace and dignity of the State of Alaska.

THE COMPLAINANT CHARGES IN COUNT FOUR:

that on or about October 13, 1993, at or near Anchorage, in the Third Judicial District, State of Alaska, Leonard J. Hoffman did knowingly and unlawfully engage in sexual penetration with another person, K.V., without K.V.'s consent, by penetrating her vagina with his penis.

All of which is an unclassified felony offense, being contrary to and in violation of AS 11.41.410(a)(1), and against the peace and dignity of the State of Alaska.

THE COMPLAINANT CHARGES IN COUNT FIVE:

that on or about October 13, 1993, at or near Anchorage, in the Third Judicial District, State of Alaska, Leonard J. Hoffman did knowingly and unlawfully engage in sexual penetration with another person, K.V., without K.V.'s consent, by penetrating her mouth with his penis.

All of which is an unclassified felony offense, being contrary to and in violation of AS 11.41.410(a)(1), and against the peace and dignity of the State of Alaska.

I, Robert M. Gray, state under oath that this complaint is based

on information and belief derived from my investigation in this matter.

M.B. reports that just after midnight, in the early morning hours of October 13, 1993, she was at her home in Anchorage, when the defendant, who she knows as an acquaintance, came to see her. While at her home, the defendant suddenly grabbed her face with his hand, splitting her lip, and pushed her face into the couch. He then ripped her panties off, stuffed them in her mouth, and held up a knife as if he were going to stab her. He told her he had killed two back men already tonight with a baseball bat. M.B. said he suddenly stopped and began to frantically try to make telephone calls. She suggested to him that he could take her car, and he left. M.B. said she struggled with him during the above encounter, and scratched his face and bit his finger.

K.V. reports that around 12:30 a.m. on October 13, 1993, she was at her home in Anchorage, when the defendant, whom she knows as a boyfriend of her sister, came to her home. She said he wanted in, that some black guys had beaten him up. She observed injuries on him and invited him in and tried to bandage up his arm, using an Ace bandage.

K.V. said he smoked what appeared to be marijuana, after he offered her some, and she declined. She said he went back and forth to his car several times. She said one time as he was leaving, he grabbed her, pulling her shirt off, and pulled out a knife, which he used to cut off her bra. He then dragged her into the bedroom. He tied her hands above her head, using the Ace bandage she had given him earlier. He told her, "I have nothing to lose. I'm going to kill you." He told her he had an Uzi in the car. He then forced his finger into her anus. He continued to assault her by forcing his finger into her vagina. He forced his penis into her vagina. He grabbed her hair and forced her mouth onto his penis. During these assaults, he was rubbing the knife around her breasts.

Afterward, K.V. tried to pretend everything was okay, because she was still afraid that the defendant would carry through on his threat to kill her. She offered to make him some food, and managed to escape to call the police when he went to the microwave to get his food. She said he followed her, cursing, but she managed to get away.

#### BAIL INFORMATION

The defendant is known to me as a convicted sexual assault felon in California. I am also aware that he is currently out on bail pending appeal on a drug conviction.

DATED this 13 day of October, 1993, at Anchorage,  
Alaska.

Det Robert M. Kelly #0512  
Inv.  
Anchorage Police Department

SUBSCRIBED AND SWORN to before me this 13<sup>th</sup> day of  
October, 1993, at Anchorage, Alaska.

[Signature]  
Judge, Magistrate

ate statutes establish-  
of accused on personal  
assumptive form of re-  
30.

involving domes-  
release under AS  
e court shall con-  
more conditions it  
ged victim of the  
nt  
c violence;

h counsel;

the use of drugs.  
ans a crime speci-  
mer spouse of the  
of those living to-  
erson who is not a  
eviously lived in a  
02 SLA 1980; am

ase. (a) A person  
in AS 12.30.020(f)  
ver the offense to  
d promptly.  
s section or condi-  
ing original juris-  
the court having  
otion or imposing  
urt of Alaska, and  
order of the lower  
ower court abused  
use its discretion,  
verse, remand the  
directing entry of  
t the person to be  
ll be determined  
LA 1966; am § 12

NOTES TO DECISIONS

Alaska's Bail Reform Act provides for expeditious review of bail determinations. *Carman v. State*, 564 P.2d 361 (Alaska 1977).

The need for rapid review of bail orders is reflected in this section. *Martin v. State*, 517 P.2d 1389 (Alaska 1974).

The supreme court has implemented this section by the adoption of Appellate

Rule 206(b) and Appellate Rule 207. *Griffith v. State*, 641 P.2d 228 (Alaska Ct. App. 1982).

Applied in *Gilbert v. State*, 540 P.2d 485 (Alaska 1975); *A.M. v. State*, 653 P.2d 346 (Alaska Ct. App. 1982).

Quoted in *Stiegele v. State*, 685 P.2d 1255 (Alaska Ct. App. 1984).

**Sec. 12.30.040. Release after conviction.** (a) A person who has been convicted of an offense and is awaiting sentence, or who has filed an appeal shall be treated in accordance with the provisions of AS 12.30.020 unless the court has reason to believe that no one or more conditions of release will reasonably assure the appearance of the person as required or prevent the person from posing a danger to other persons and the community. If that determination is made, the person may be remanded to custody. This section does not affect the right of a person appealing from a judgment of conviction from a district court to the superior court to be released on bail pending appeal under Rule 603(b) of the Rules of Appellate Procedure.

(b) Notwithstanding the provisions of (a) of this section, if a person has been convicted of an offense which is an unclassified felony or a class A felony, the person may not be released on bail either before sentencing or pending appeal. (Sec. 3.02 ch 34 SLA 1962; am § 1 ch 20 SLA 1966; am § 3 ch 24 SLA 1966; am § 3 ch 39 SLA 1974; am § 36 ch 102 SLA 1980; am § 15 ch 45 SLA 1982; am § 42 ch 6 SLA 1984)

NOTES TO DECISIONS

**Application of section is limited.** — This section, which provides for release after trial, is limited in application to convicted persons awaiting sentence or whose appeal is pending. *Martin v. State*, 517 P.2d 1389 (Alaska 1974).

**Application of Alaska Constitution bail clause.** — The bail clause of the Alaska Constitution does not apply after the conviction of a person accused of a crime. *State v. Wassillie*, 606 P.2d 1279 (Alaska 1980).

**Factors in deciding whether to remand to custody.** — In making the determination "that no one or more conditions of release will reasonably assure the appearance of the person as required or prevent the person from posing a danger to other persons and the community," the trial court can consider the facts of the crime of which the defendant was convicted and the likely sentence which he

will receive in determining the risk of flight and violence which he presents. *Muzzana v. State*, 653 P.2d 658 (Alaska Ct. App. 1982).

Where the trial court did not make the findings required by subsection (a) of this section as a prerequisite to denying bail after conviction, the court of appeals reversed the decision and remanded for further findings. *Muzzana v. State*, 653 P.2d 658 (Alaska Ct. App. 1982).

**Power of trial court to grant bail in derogation of subsection (b).** — Although there is an inherent power in the trial courts to grant bail where no statute or constitutional provision expressly authorizes or prohibits it, since the legislature has here specifically forbidden bail to those convicted of unclassified felonies and class A felonies and the supreme court has enacted a rule which the court of appeals has construed to be consistent

with that legislative action, the trial court has no inherent authority to grant bail in derogation of subsection (b). *Stiegele v. State*, 685 P.2d 1255 (Alaska Ct. App. 1984).

**Applicability of 1982 amendment.** — Provision of current subsection (b) that "if a person has been convicted of an offense which is an unclassified felony or a class A felony, the person may not be released on bail either before sentencing or pending appeal," does not apply to defendants whose convictions occurred before its effective date of January 1, 1983, and it was error to revoke defendant's bail on the basis of this provision where defendant had been convicted prior to January 1, 1983. *Kwallek v. State*, 658 P.2d 794 (Alaska Ct. App. 1983).

The 1982 amendment of subsection (b), effective January 1, 1983, did not apply to defendant arrested prior to January 1, 1983 but convicted after that date. *Parker v. State*, 667 P.2d 1272 (Alaska Ct. App. 1983).

No conflict exists between subsection (b) and *Crim. R. 4a(a)*, which provides that a defendant in a criminal proceeding is entitled to bail pursuant to AS 12.30.010-.080, since *Crim. R. 41(a)* adopted by reference subsequent amendments, including the 1982 amendments to subsection (b). *Stiegele v. State*, 685 P.2d 1255 (Alaska Ct. App. 1984).

**Constitutionality of subsection (b).** — For constitutionality of subsection (b) prior to 1982 amendment, see *Griffith v. State*, 641 P.2d 228 (Alaska Ct. App. 1982). See also *Walker v. State*, 652 P.2d

88 (Alaska 1982); *Muzzana v. State*, 653 P.2d 658 (Alaska 1982).

Subsection (b), which denies release or bail before sentencing or pending appeal to persons convicted of an unclassified or class A felony, is not an unconstitutional invasion of the supreme court's rule-making power since it does not conflict with any supreme court rule. *Stiegele v. State*, 685 P.2d 1255 (Alaska Ct. App. 1984).

This section does not deny substantive due process or equal protection rights since the average member of the class comprised of those convicted of unclassified felonies and class A felonies will serve a longer sentence and therefore present a greater risk of flight than the average offender convicted of a class B felony or a lesser offense and, in addition, it would not have been unreasonable for the legislature to conclude that the average unclassified or class A offender is more dangerous than the average class B or C offender, and therefore, a legitimate basis exists for the legislative classification distinguishing unclassified and class A felonies from class B felonies. *Stiegele v. State*, 685 P.2d 1255 (Alaska Ct. App. 1984).

Applied in *Nighswonger v. State*, 680 P.2d 105 (Alaska Ct. App. 1984).

Quoted in *Dobrova v. State*, 674 P.2d 834 (Alaska Ct. App. 1984).

Stated in *Walker v. Huston*, 689 F.2d 901 (9th Cir. 1982).

Cited in *Kelly v. State*, 663 P.2d 967 (Alaska Ct. App. 1983); *Dyer v. State*, 666 P.2d 438 (Alaska Ct. App. 1983).

**Collateral references.** — Constitutional right to bail pending appeal from conviction. 19 ALR 807; 77 ALR 1235.

**Sec. 12.30.050. Release of material witnesses.** If it appears by affidavit that the testimony of a person is material in a criminal proceeding, and it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer shall impose conditions of release under AS 12.30.020. No material witness shall be detained because of inability to comply with any condition of release if the testimony of the witness can adequately be secured by deposition. Release may be delayed for a reasonable period of time for the deposition of the witness to be taken. (§ 1 ch 20 SLA 1966)

**Sec. 12**  
the provi  
court or  
security v  
person w

(1) in c  
tence or  
felony an  
\$5,000 or

(2) in c  
demeanor  
than the  
ment for

(3) for  
and upon  
or by imp  
SLA 196

Superior  
der remiss  
exercising i  
consider all  
Cost, incon  
government  
lay resultin  
willfulness  
(4) public ir  
ance. Adke  
(Alaska 19

Sentenc  
tence for fa  
mistaken, v  
victed of th  
the sentenc  
into accour

Collater  
appear, an  
ture or cor  
affecting ri  
in same r  
ALR2d 945

Bail jum  
surrender o  
the like as