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54

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

Revision Date: 2-5-93 Dept. Affected: Department of Corrections
 Title: "An Act relating to violations of laws by Juveniles..." BRU: Institutions
 Component: Institutions
 Sponsor: Senator Halford
 Requestor: Senator Halford COMPONENT SERIAL NO. 1860

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

The fiscal impact of this legislation is minimal since the department already receives a number of adjudicated delinquents.

Prepared by: Dana LaTour, Special Assistant
 Division: Commissioner's Office
 Approved by Commissioner: Lloyd G. Rupp
 Agency: Department of Corrections

Phone: 465-3376
 Date: 2-5-93
 Date: 2-5-93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

Revision Date: January 27, 1993

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

Department Affected: Department of Law

BRU: Prosecution

Component: All

Sponsor: Senator Halford

Requestor: Senator Halford

COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

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

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

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

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director

Division: Administrative Services Division

Approved by Commissioner: Richard I. Peques (FURT)

Agency: Department of Law

Phone: 465-3672

Date: January 27, 1993

Date: January 27, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

ANALYSIS (Continued):

This bill provides the framework for a major departure from the way that the state adjudicates minors charged with serious criminal offenses.

Historically, the state has used the Children's Proceedings process provided in AS 47.10 to handle delinquent behavior unless the court found that the minor was not amendable to treatment as a juvenile. In such cases, the state has been required to petition the court for a waiver of jurisdiction so that the minor may be prosecuted as an adult in the superior court. In determining whether or not a minor is amendable to treatment, the court considers the seriousness of the offense the minor is alleged to have committed, the minor's history of delinquency, the probable cause of the minor's delinquent behavior, and the facilities available for treating the minor.

While still retaining the AS 47.10.060 waiver of jurisdiction provision for many offenses, SB 54 also provides that Children's Proceedings under AS 47.10.020 - 47.10.090 may not be followed when a minor is sixteen years of age or older and is charged with an unclassified or class A felony. Consequently, a minor accused of an unclassified or class A felony would be charged, prosecuted, and sentenced in the superior court in the same manner as an adult.

The bill also provides that if a minor is charged and prosecuted under these new provisions, but is ultimately convicted of a lesser offense(s), the minor will thereafter be sentenced and treated in accordance with juvenile rules, under AS 47.10.

Each year the department seeks to waive minors to adult court, using AS 47.10 proceedings, in just a handful of cases. Current data indicates that there are about 25 to 30 unclassified and class A felonies committed by minors 16 years of age or older each year. Prosecution of these minors as adults would cause about a 10 percent increase in the number of unclassified and class A felonies that the Department of Law prosecutes annually. And this increase represents about a one and one-half percent increase in the number of felonies that the department prosecutes overall. We therefore cannot say that the bill will cause a quantifiable fiscal impact for the Department of Law by location. There will, however, be a measurable increase in serious felony workload handled by state's District Attorney offices. This increased felony workload will result in an even larger number of less serious offenses being declined for prosecution. It should also be noted that the bill could have a fiscal impact on the Department of Corrections.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

Revision Date: _____
 Title: "An Act relating to violations of laws by juveniles; and providing . . ."
 Sponsor: Senators Halford, Phillips, et al.
 Requestor: Senate Judiciary

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

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	112.5	115.9	119.4	123.0	126.7	130.5
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	112.5	115.9	119.4	123.0	126.7	130.5

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

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	112.5	115.9	119.4	123.0	126.7	130.5
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	112.5	115.9	119.4	123.9	126.7	130.5

POSITIONS:

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

Estimate of current year (FY93) impact: None

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 Usera
 Agency: Administration

Date: 2/2/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

ANALYSIS: (continued)

This bill will automatically waive all juveniles charged with unclassified and Class A felonies into adult court. Currently, the most serious cases are waived into the adult system. Office of Public Advocacy (OPA) is now able to provide representation to nonwaiver 16 and 17 year olds charged with unclassified and Class A felonies through staff civil lawyers. Automatic waiver of such individuals will cause a significant increase in costs to the criminal justice system. For example, cases involving robbery in the first degree, a Class A felony, are now commonly disposed of within the juvenile system.

Automatic waiver of all 16 and 17 year olds charged with unclassified and Class A felonies will necessitate the immediate assignment of criminal defense counsel to each of these defendants. It is not possible to anticipate how changes in charging decisions by prosecuting authorities might affect the numbers of such cases. For example, merely changing a charge from robbery in the first degree to robbery in the second degree will mean that a particular juvenile remains in the juvenile justice system. OPA's estimate is that it will receive approximately 15 additional major felony cases as a result of passage of this bill at an average estimated cost of \$7,500.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

Revision Date: _____
 Title: "An Act relating to violations of laws
by juveniles . . ."
 Sponsor: Sen. Halford, Phillips, Leman, Taylor, Miller
 Requestor: _____

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	130.5	134.4	138.4	142.6	146.9	151.3
TRAVEL	5.0	5.2	5.4	5.6	5.8	6.0
CONTRACTUAL	7.5	7.7	7.9	8.1	8.3	8.5
SUPPLIES	4.0	4.1	4.2	4.3	4.4	4.5
EQUIPMENT	8.0	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	155.6	151.4	155.9	160.6	165.4	170.3

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING:

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	155.0	151.4	155.9	160.6	165.4	170.3
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	155.0	151.4	155.9	160.6	165.4	170.3

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	4.0	4.0	4.0	4.0	4.0	4.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY93) impact: _____

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

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

Phone: 279-7541
 Date: _____

Approved by Commissioner: Nancy Bear Usera
 Agency: Administration

Date: 2/12/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

ANALYSIS: (continued)

Introduction

This bill provides that all minors 16 years of age or older who are charged with unclassified or Class A felony offenses and any charges joined with those offenses will no longer be handled by the juvenile delinquency system but rather will be prosecuted in superior court in the same manner as an adult.

Fiscal Impact

This law will result in an increase in serious felony cases for the Alaska Public Defender Agency. In the current system, most juvenile offenders admit (the equivalent of pleading guilty or no contest) once formally charged in a delinquency petition. Under this proposed bill, both juveniles and defense lawyers will take a very different approach. Lawyers will advise juveniles 16 to 18 years old that they have absolutely no opportunity to prove that they can be rehabilitated even if they have never been in trouble before and in addition, if convicted under the adult sentencing statutes will be facing mandatory sentences of at least 5 years in an adult jail setting under current Alaska presumptive sentencing law. With these kinds of stakes there will be no reason not to contest every aspect of the charge. Currently, very few trials are held in juvenile court. These offenders will be forced to litigate pre-trial and trial issues before judges and juries as deemed appropriate.

In fiscal year 1992 the Alaska Public Defender Agency handled 500 juvenile delinquency cases. It is unknown how many of those cases included 16 to 18 year olds with A or unclassified felonies. The Fairbanks Office of the Public Defender Agency predicts 15 to 20 such cases a year out of its juvenile cases. The Anchorage office will see at least that many. Outer offices and bush locations will add more "automatic waiver" cases to the Public Defender caseload. The following is the Public Defender's best estimate as to the additional resources needed to litigate these matters.

Budget Analysis

100	Personal Services:	
	1/2 Attorney III (Anchorage)	36.5
	1/2 Attorney III (Fairbanks)	41.5
	1/2 Paralegal Assistant II (Anchorage)	25.8
	1/2 Paralegal Assistant II (Fairbanks)	<u>26.7</u>
	TOTAL	130.5
200	Travel:	
	Professional and Experts	5.0
300	Contractual:	
	Expert Witnesses, office space	7.5
400	Supplies:	4.0
500	Equipment (one time)	<u>8.0</u>
	TOTAL	155.0

Position Title Paralegal Assistant II		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PPT	Staff Months 12.0	Location Anchorage/Fairbanks		Election District 7 20
TYPE OF EXPENDITURE		AMOUNT		Justification In fiscal year 1992, the Alaska Public Defender Agency handled 500 juvenile delinquency cases. It is unknown how many of those cases included 16 to 18 year olds with A or unclassified felonies. The Fairbanks Office of the Public Defender Agency predicts 15 to 20 such cases a year out of its juvenile cases. The Anchorage office will see at least that many. Outer offices and bush locations will add more "automatic waiver" cases to the Public Defender caseload. The following is the Public Defender's best estimate as to the additional resources needed to litigate these matters: ½ Attorney III (Anchorage) ½ Attorney III (Fairbanks) ½ Paralegal Assistant II (Anchorage) ½ Paralegal Assistant II (Fairbanks)
Salary	37,170.0			
Benefits	15,274.0			
Premium Pay				
Other				
Total Personal Services	67,925.0	67,925.0		
Travel		0.0		
Contractual		0.0		
Commodities		2.0		
Equipment		4.0		
Other				
Total Cost		73,925.0		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003	73,925.0		
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other				

9/fy94/17/04121b.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU Public Defender Agency
 COMPONENT Public Defender Agency

FY 94

Page 3 of 4
 Revised Date: _____

Position Title Attorney III		No. of Positions 2	Range / Step 22/A	Barg. Unit PX
Time Status PPT	Staff Months 12.0	Location Anchorage/Fairbanks		Election District 7 20
TYPE OF EXPENDITURE		AMOUNT		Justification In fiscal year 1992, the Alaska Public Defender Agency handled 500 juvenile delinquency cases. It is unknown how many of those cases included 16 to 18 year olds with A or unclassified felonies. The Fairbanks Office of the Public Defender Agency predicts 15 to 20 such cases a year out of its juvenile cases. The Anchorage office will see at least that many. Outer offices and bush locations will add more "automatic waiver" cases to the Public Defender caseload. The following is the Public Defender's best estimate as to the additional resources needed to litigate these matters: ½ Attorney III (Anchorage) ½ Attorney III (Fairbanks) ½ Paralegal Assistant II (Anchorage) ½ Paralegal Assistant II (Fairbanks)
Salary	57,156.0			
Benefits	20,888.0			
Premium Pay				
Other				
Total Personal Services	78,044.0	78,044.0		
Travel		5,000.0		
Contractual		7,500.0		
Commodities		2,000.0		
Equipment		4,000.0		
Other				
Total Cost		96,544.0		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	96,544		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

9/FY94/17/04121b.kp

Request For New Position

AGENCY ADMINISTRATION

BRU Public Defender Agency

COMPONENT Public Defender Agency

FY 94

Page 4 of 4
Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CSSB 54

Revision 2/15/93 Dept. Affected: Public Safety
 Title: "An Act relating to violations of laws by juveniles." BRU: Alaska State Troopers
 Sponsor: Senator Halford Component: Detachments
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 799

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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


POSITIONS:

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

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

ANALYSIS: (Attach a separate page if necessary.)

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

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 2/15/93
 Approved by Commissioner:  Date: 2/17/93
 Agency: Richard L. Burton, Dept. of Public Safety

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BILL NO: CSSB 54

DATE: February 17, 1993

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

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

Section 1 amends AS 12.55.045 Restitution, paragraph (a), by adding a defendant who is a minor to those individuals the court may order to make restitution to a victim.

Section 2 amends AS 33.30.901 Definitions, paragraph (11), to include a juvenile committed to the custody of the commissioner when the juvenile has been convicted as an adult.

Section 3 amends AS 34.50.020 Liability for the Destruction of Property by Minors, paragraph (a), to increase the civil damages from \$2,000.00 to \$5,000.00 against an unemancipated minor or who maliciously injures property belonging to a person, municipal corporation, association, village, school district, or religious or charitable organization.

Section 4 amends AS 43.23.065 Exemptions to Permanent Fund Dividends, paragraph (b), which permits the seizure of minor's permanent fund dividend check up to the value of \$5,000.00 if the minor is convicted of an act against a person which caused injury or minor's malicious or willful injury of real or personal property and also allows seizure of permanent fund dividend check of the parent, legal guardian, or person having legal custody of an unemancipated minor.

Section 5 adds a new subsection AS 47.10-010 which allow a minor 16 years of age or older to be tried as an adult if the minor committed an unclassified or class A felony or a crime against a person that is classified as a felony and the minor has previously adjudicated as delinquent or convicted as an adult as a result of an offense against a person classified as a felony and paragraph (G) of this section provides for the minor to be sentenced as an adult if convicted of the above listed crimes.

Section 6 amends AS 47.10.060 Waiver of Jurisdiction, which provides that the court may not seal the records of a criminal proceeding under AS 47.10.010(e)-(g)

Section 7 amends AD 47.10.080 Judgements and Orders, paragraph (b), by stating that the court may not refuse to make an order of restitution if the findings of delinquency is based on the offense which knowingly or intentionally injures real or personal property.

Section 8 adds a new section AS 47.10.080 provides if a minor was first prosecuted as an adult but convicted of an offense which was not included in the AS 47.10-010(e) if the minor should be treated as a minor.

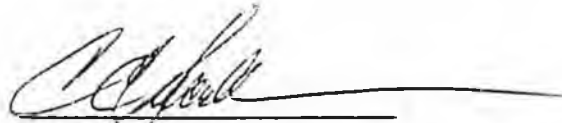
Section 9 amends AS 47.10-090 Records, by adding a new subsection which provides for records access to a victim of a crime against the persons real or personal property by a minor adjudicated delinquent.

Section 10 amends AS 47.10.190 Conditions Covering Detention, by adding that a minor does not need to be jailed apart from adults when the juvenile was convicted as an adult.

Section 11 amends AS 47.10.990 Definitions, by adding a definition of crime "Crime against a person" as having the meaning given by AS 33.30.901 (section 2, above).

Section 12 amends rule 21(b) Alaska Delinquency Rules, to provide for a jury of 12 persons if the juvenile request trial if the act the juvenile is accused of is punishable as a felony and for a trial jury of 6 if none of the acts the juvenile accused of is a felony under AS 11.

This legislation will increase the amount of investigative time only to the extent of requiring grand jury appearance by the investigating officer(s). It will not impact the thoroughness of the criminal investigation of a serious crime.



Richard L. Burton
Commissioner

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SB 54

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An act relating to violations of laws by juveniles." BRU: Alaska State Troopers
 Sponsor: Senator Halford Component: Detachments
 Requestor: Senator Halford COMPONENT SERIAL NO. 799

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

ANALYSIS: (Attach a separate page if necessary.)

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

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 1/26/93
 Approved by Commissioner: *Richard L. Burton* Date: 1/27/93
 Agency: Richard L. Burton Dept. of Public Safety

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ALASKA STATE LEGISLATURE
Senator Rick Halford
President of the Senate

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

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

MEMORANDUM

TO: Senator Robin Taylor, Chairman
Senate Judiciary Committee

FROM: Senator Rick Halford

DATE: February 2, 1993

SUBJECT: Sponsor Statement -- CSSB 54, "An Act relating to violations of laws by juveniles and to the remedies for property-related and other offenses and activities committed by juveniles, and to records of those offenses; and providing for an effective date."

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

I have introduced Senate Bill 54 to require that juveniles charged with the most serious kinds of crimes - class A and unclassified felonies - be prosecuted and sentenced as adults if they are sixteen years of age or older. The criminal records of juveniles convicted of these crimes and all properly joined offenses will not be sealed upon release. Furthermore, CSSB 54 defines in statute the terms of incarceration for juveniles who are convicted as adults by providing that they remain in the custody of the Department of Health and Social Services until their eighteenth birthday, after which they are transferred to the custody of the Department of Corrections for the balance of their sentence.

SPONSOR STATEMENT

CSSB 54 also provides new measures designed to deter juvenile property crime and thus also arrest the normal pattern of juvenile criminal development at a less serious stage. At present, courts are not required to order juveniles to pay restitution for property crimes. Since the names of juvenile delinquents are kept confidential, it is also virtually impossible to sue them for damages. CSSB 54 will require courts to order juveniles to pay suitable damages for property crimes, permit victims to know the names of delinquents and pursue civil actions against them, raise the limit of civil liability from \$2000 to \$5000, and allow the permanent fund dividends of delinquents and their parents to be attached for this purpose.

I strongly urge your expedient passage of Senate Bill 54 from your committee. It is time to reestablish the fear of real and inevitable punishment among juvenile offenders. At best, early intervention will deter delinquent children from becoming adult criminals. At worst, it will keep determined offenders off the streets and provide some relief to their victims. Thank you for your consideration of this legislation.



ALASKA STATE LEGISLATURE
Senator Rick Halford
President of the Senate

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

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

MEMORANDUM

TO: Ken Leaf, Committee Aide
Senate Judiciary Committee

FROM: John Shepherd
Senator Halford's Office

DATE: February 3, 1993

SUBJ: Materials related to SB 54

Please find enclosed the following four items:

- 1) Another copy of the request for hearing for SB 54 dated 1/29/93.
- 2) Zero fiscal note from the Department of Law.
- 3) Zero fiscal note from the Department of Public Safety.
- 4) A draft amendment to SB 54.

Would you please request a draft committee substitute using the amendment provided on behalf of the Senate Judiciary Committee, as we discussed yesterday? If this poses a problem, or if you have any questions, please do not hesitate to call. I would appreciate it if you could notify me when the draft is finalized.

Additional materials, including a sponsor statement and Department of Corrections fiscal note, will be forthcoming in the immediate future.

Thank you.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

February 8, 1993

SUBJECT: Draft CSSB 54 (), relating to violations of laws by juveniles, to the remedies for property-related and other offenses, and to records of those offenses; and providing for an effective date -- sectional analysis (Work Order No. 8-LS0384\U)

TO: Senator Rick Halford
ATTN: John Shepherd

FROM: Jack Chenoweth
Legislative Counsel

In the draft transmitted to you this morning:

Bill section 1: Under current law, in a criminal prosecution, a court may order a defendant to pay restitution to the victim of the offense. The change proposed to AS 12.55.045(a) would require the court to order a defendant to pay suitable restitution if (1) the defendant is a minor, (2) the conviction involved an offense for which the minor was prosecuted as an adult, and (3) the offense for which the minor was successfully prosecuted included elements involving the knowing or intentional destruction of the victim's real or personal property.

Bill section 2: The change, an addition of a paragraph to the enumeration of a crime victim's rights in AS 12.61.010(a), adds the additional right of the victim to review certain records of the court relating to juveniles when authorized by AS 47.10.090(d).

Bill section 3: Substantively, the changes made in this bill section:

-- increase, from \$2000 to \$5000, the maximum amount recoverable from the parents or guardians of an unemancipated minor in a civil action authorized by AS 34.50.020 based on the minor's malicious or wilful damage of a person's real or personal property; and

-- clarify that the recovery under the authorizing civil recovery statute is limited to \$5000 per claim based on each instance of property destruction.

SECTIONAL ANALYSIS

Bill section 4: Current law permits a partial exemption of the annual permanent fund dividend from execution. Under AS 43.23.065(b), however, the partial exemption is lifted and full recovery of an execution against the dividend is permitted in a limited number of instances: The full dividend may be claimed by a person for whose benefit court ordered restitution has been awarded against a minor adjudicated delinquent and by a person whose property was destroyed by a minor if the person holds a writ of execution obtained on a judgment in a civil action brought against the minor under AS 09.35 or against the minor's parents under AS 34.50.020; in the latter example, the recovery may not exceed the \$5000 limit set by the change made in bill section 3.

Bill section 5: Under current state law, a minor--defined as a person under 18 years of age--who commits a criminal offense is presumptively to be treated under the state's delinquency laws, AS 47.10.010 - 47.10.090, unless the court's jurisdiction of the minor under those provisions is waived. If, after a waiver hearing, the court finds that the minor is unamenable to treatment and waives jurisdiction of the minor under AS 47.10 and the court's Delinquency Rules,^{1/} the minor is thereafter subject to being charged and prosecuted on the offense as an adult. The changes made by this bill section revise the operation of the presumption of the minor's treatment:

-- Under proposed AS 47.10.010(e), the presumption of treatment as a delinquent juvenile would end and the waiver of jurisdiction process would not be available to a minor who is age 16 years or older and who commits an unclassified felony^{2/} or a class A felony^{3/}. Instead, a minor who fits those two conditions

^{1/} The waiver provision is set out in AS 47.10.060. Subsections (a) and (d) are particularly applicable:

(a) If the court finds at a hearing on a petition that there is probable cause for believing that a minor is delinquent and finds that the minor is not amenable to treatment under this chapter, it shall order the case closed. After a case is closed under this subsection, the minor may be prosecuted as an adult.

(d) A minor is unamenable to treatment under this chapter if the minor probably cannot be rehabilitated by treatment under this chapter before reaching 20 years of age. In determining whether a minor is unamenable to treatment, the court may consider the seriousness of the offense the minor is alleged to have committed, the minor's history of delinquency, the probable cause of the minor's delinquent behavior, and the facilities available to the division of youth and adult authority for treating the minor.

^{2/} Unclassified felonies include: murder in the first degree (AS 11.41.100(b)), murder in the second degree (AS 11.41.110(b)), attempted murder in the first degree (continued...)

would be presumptively treated as an adult--charged with violation of the state's criminal code, required to stand trial under the provisions of state law setting out criminal procedures, and sentenced as if the minor were an adult.

-- Under proposed AS 47.10.080(f), if a minor is charged and treated as an adult under (e), the minor would be charged and treated as an adult for all charges--even those that were not of themselves unclassified or class A felonies--that were properly joined to the offense or offenses which bring the minor within the jurisdiction of that subsection. In other words, the minor may be charged with murder, an unclassified felony, and any related offenses, and all would be disposed of in a regular criminal trial.

^{2/}(...continued)

(AS 11.31.100(d)(1)), sexual assault in the first degree (AS 11.41.410(b)), sexual abuse of a minor in the first degree (AS 11.41.434(b)), misconduct involving a controlled substance in the first degree (AS 11.71.010(c)), and kidnapping (AS 11.41.300(c)).

^{3/} Class A felonies are those "which characteristically involve conduct resulting in serious physical injury or a substantial risk of serious physical injury to a person" (AS 11.31.250(a)(1)). Within the state's Criminal Code, these have been defined to include:

-- attempted commission of an unclassified felony other than first degree murder (AS 11.31.100(d)(2));

-- attempted performance of a crime defined outside AS 11 that carries an indefinite or life term (AS 11.31.100(e));

-- solicitation to perform an unclassified felony (AS 11.31.110(c)(1));

-- solicitation to perform a crime defined outside AS 11 that carries an indefinite or life term (AS 11.31.110(d));

-- manslaughter (AS 11.41.120(b));

-- first degree assault (AS 11.41.200(b));

-- kidnapping, if the defendant proves the elements of the affirmative defense (AS 11.41.300(d));

-- first degree robbery (AS 11.41.500(b));

-- first degree arson (AS 11.46.400(b));

-- first degree escape (AS 11.56.300(b));

-- misconduct involving weapons in the first degree (AS 11.61.190(b));

-- criminal possession of explosives to commit murder or kidnapping (AS 11.61.240(b)(1));

-- promoting prostitution in the first degree involving a person under 16 years of age (AS 11.66.110(d)); and

-- misconduct involving a controlled substance in the second degree (AS 11.71.020(b)).

Outside the Criminal Code, a violation of the Credit Union Act wherein certain officers receive deposits while the credit union is insolvent is also defined as a class A felony (AS 06.45.330).

-- Proposed AS 47.10.080(g) makes clear that a minor charged under subsections (e) or (f) would be charged, prosecuted, and sentenced as an adult.

-- Proposed AS 47.10.080(h) is included to assure that nothing in these provisions is intended to restrict the right of a party--state or defendant--to seek a waiver of jurisdiction in a matter.

Bill section 6: Under current law, a minor who has been successfully prosecuted as an adult may, under certain circumstances, ask the court to review and seal the records of the conviction. The change made by this section would remove the opportunity to seal records of a conviction of minor who was 16 years of age or older and who was prosecuted under AS 47.10.010(e) - (g) for commission of an unclassified felony or a class A felony.

Bill section 7: This change parallels the amendment made by bill section 1 as applied to minors adjudicated delinquent. The change proposed to AS 47.10.080(b)(4) would require the court to order a minor to pay suitable restitution if the adjudication was based on an offense for which the minor adjudicated included elements involving the minor's knowing or intentional destruction of real or personal property.

Bill section 8 is intended to address the manner of handling and disposition of the minor's conviction of a lesser included offense. If a minor, charged and prosecuted as an adult when authorized under AS 47.10.010(e) - (g), is eventually convicted only of an offense that would not have initially brought the minor within the reach of these provisions, proposed AS 47.10.080(o) directs that the minor may not be sentenced as an adult.^{4/} Instead, the matter is to be disposed of as if initially filed under the delinquency provisions.

The law provides fairly stringent rules relating to confidential handling of records of juvenile proceedings under AS 47.10. Even under current law, a person with a

^{4/} A Criminal Rule is applicable. Under Criminal Rule 8(a), rewritten by the legislature in sec. 8, ch. 66, SLA 1988,

JOINDER OF OFFENSES. Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies, misdemeanors, or both,

(1) are of the same or similar character and it can be determined before trial that it is likely that evidence of one charged offense would be admissible to prove another charged offense;

(2) are based on the same act or transaction; or

(3) are based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

legitimate interest in the records may inspect them. The addition proposed by **bill section 9** declares that a person who has been the victim of a minor's knowing or intentional destruction of the victim's property and who is prosecuting a civil recovery against the minor's parents as authorized by AS 34.50.020 has a legitimate interest in inspection of those records.

Bill section 10 is an attempt to clarify the circumstances under which a minor, convicted as an adult, is to be institutionalized. Under the change proposed, the minor--this section uses the term "juvenile"--is remanded to the custody of the commissioner of health and social services until the minor's 18th birthday, then transferred to the custody of the commissioner of corrections for the duration of the term. The constraints on placement addressed to the commissioner of health and social services are intended to assure that the minor is placed in a facility with appropriate secure confinement and is not placed in a detention home or similar placement where secure confinement is not a significant characteristic.

By **bill section 11**, the changes made in the nine earlier sections are made applicable to minors whose offenses are committed after the Act's taking effect.

Bill section 12 would give the measure a September 1, 1993, effective date.

JBC:pl
93-069.plm

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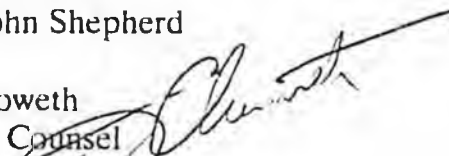
130 Seward Street, Suite 409
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February 5, 1993

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SECTIONAL ANALYSIS

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Senator Rick Halford
February 5, 1993
Page 5

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