

**SJR**

**2**

## SPONSOR STATEMENT

### SENATE JOINT RESOLUTION NUMBER 2

#### PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO THE RIGHTS OF VICTIMS OF CRIMES.

In the past, courts both state and national, have leaned toward the rights of the accused in concern to judicial process, trial proceedings, and sentencing. This has led in some cases to the rights of the victims of crime being overlooked or even overtly ignored.

SJR 2 seeks to balance the approach courts take in trial proceedings, by mandating that the impact on the victims of crime be taken into account in nine specific areas. These nine rights of crime victims are:

1. The right to be treated with fairness and respect for their dignity and privacy; throughout the criminal justice process;
2. The right to timely disposition of the case following arrest of the accused;
3. The right to be reasonably protected from the accused throughout the criminal justice process;
4. The right to notification of court proceedings;
5. The right to attend trial and all other court proceedings that the accused has the right to attend;
6. The right to confer with the prosecution;
7. The right to make a statement to the court at sentencing;
8. The right to restitution as provided by law;
9. The right to information about the conviction, sentence, imprisonment, and release of the accused.

None of these guaranteed rights of the victim in any way diminish the rights of the defendant or his/her defense.



**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

August 17, 1993

AUG 17 1993

Senator Loren Leman  
Chair  
Senate State Affairs Committee  
716 West 4th Avenue  
Suite 540  
Anchorage, Alaska 99501

Dear Senator Leman:

The United States Constitution guarantees criminals certain rights and protections. Unfortunately, until recently innocent victims of crime have not been afforded the same protections. Although some progress has been made in statutory law, victims are still not given the same constitutional protections as are afforded criminals.

To help to rectify this injustice, I introduced Senate Joint Resolution 2 (SJR 2) last session, which would provide these constitutional protections to victims of crime. I was pleased to see you as a co-sponsor of this important resolution. Unfortunately, SJR 2 was not scheduled for any hearings during session, so I am asking if you would schedule it for interim hearings before our return to Juneau, so that interested members of the public have an opportunity to discuss this important matter with us in person.

Secondly, I would like to ask that as a committee chair, you request agency fiscal notes on this resolution. Apparently fiscal notes are only being issued to committee chairs, not sponsoring legislators, so your assistance on this score would be appreciated.

Thank you for your consideration of these requests.

Sincerely,

A handwritten signature in cursive script that reads "Dave Donley".

Senator Dave Donley

DD/jbv

CC: Victims for Justice  
Anchorage Crime Commission  
Alaska Peace Officers Association  
STAR

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-5571

CO-CHAIR: Anchorage Caucus • MEMBER: Senate Judiciary Committee • Senate Resources Committee

SJR 2

# ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240106 • Anchorage, Alaska 99524-0106 • (907) 277-0515



March 22, 1993

APR 7 1993

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Senator Loren Leman  
Alaska State Legislature  
Capitol, Room 113  
P.O. Box V (MS 3100)  
Juneau, Alaska 99801


Dear Senator Leman:

On behalf of Alaska's Peace Officers we encourage you to support SJR 2, the Victim's Rights Bill. In 1990 the U.S. Congress passed the Victim's Rights and Restitution Act and urged the States to follow suit. To be both effective and humane, a criminal justice system must respond to the needs and concerns of the victims of crime at all stages of the criminal justice process.

One way to ensure appropriate consideration of victim's rights is to codify and enforce a "Victims' Bill of Rights." Victims' needs can include protection from further violence or retribution, restitution to cover economic loss and information about and participation in the criminal justice process. The criminal justice system should do all it can to minimize the pain of victims and victim-witnesses.

Sincerely,

ALASKA PEACE OFFICERS ASSOCIATION

  
Terry L. Marquart  
President

## CHAPTERS

- Anchorage
- Mike Grimes
- Fairbanks
- John F. Bilyeu, Jr.
- Fairbanks
- Mike A. Nielsen
- Fairbanks
- Greg Russell
- Juneau
- Steve Kalwara
- Juneau
- Carlos Salazar
- Juneau
- Ray Mestas
- Anchorage
- David C. Churchill

Ms. Janice Lienhart 278-0977  
619 E. 5th Avenue  
Anchorage AK 99501 Date POM Sent 01/29/93  
Constituency C Bill Number SJR 2 Response SUPPORTS  
Subject

I ENCOURAGE YOU TO PASS THIS OUT OF COMMITTEE. THIS HELPS TO GIVE VICTIMS EQUAL RIGHTS.

Mrs. Theresa Cain 694-9997  
P. O. Box 771318  
Eagle River AK 99577 Date POM Sent 01/28/93  
Constituency N Bill Number SJR 2 Response SUPPORTS  
Subject

AS A VICTIM OF A CRIME, I ENCOURAGE THIS BILL TO PASS.

Nov. 17 1990

# Anchorage Daily News

Gerald E. Grilly  
Publisher



Howard Weaver  
Editor

Michael Carey, Editorial Page Editor

Patrick Dougherty, Managing Editor

Kathorino Fanning, Editor and Publisher 1971 to 1983

Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded In 1946 by Norman C. Brown

## Justice?

### *Innocent victims find indifference*

Alaska, like the rest of the country, strives to have a law enforcement system in which justice is blind. For those accused of crimes, it's a noble and appropriate goal.

But as presently structured, the criminal justice system too often is blind to the plight of innocent victims and witnesses. All the attention focuses on determining suspects and proving their guilt or innocence. The needs of victims and witnesses are an afterthought.

Take the case of Eagle River resident Rob Chamberlain. He was driving his \$5,000 sports car when his passenger was shot and killed by another motorist. His car has been impounded as evidence until the suspect goes on trial. In the meantime, Mr. Chamberlain has to bum rides for his lengthy trip to work, while he's stuck paying for a car he cannot use.

In a system that cared about justice for innocent bystanders, there would be a simple process for helping people like Mr. Chamberlain. Society has a legitimate need to take his car for evidence. It's less clear why society should be allowed to take it without just compensation.

The violent crimes compensation board, welcome as it is, provides no relief here. The board does not compensate victims of property crimes. It cannot pay for economic losses that an investigation or prosecution inflicts on innocent witnesses.

One reason society doesn't do more for victims and witnesses is money. The \$600,000 a year Alaska spends on victims of violent crimes is barely enough to meet the demand. Helping innocent witnesses with their losses and expenses could cost considerably more.

But then, no one ever said justice is cheap.

# Wounded by a gunman, hobbled by the system

Injured bystander struggles to piece life together

By SHEILA TOOMEY  
Daily News reporter

John Miller was strolling down Fourth Avenue picking breakfast out of his teeth when he saw the guns.

It was 5 a.m. on an August Sunday and Miller had stumbled into an armed confrontation between the Anchorage police and Roy Fox, a deranged loner with a stolen shotgun.

As Miller remembers it, he had a choice of getting shot by Fox, crouched in the doorway of an Army-Navy store, or shot by the police under the assumption he was involved in whatever was going on.

When Miller dreams about what happened, he dreams about being trapped.

As it turned out, his decision to just keep walking, looking as uninvolved as possible, didn't work. Fox nailed him in the back, right at the belt line, lifting Miller off his feet and slamming him to the pavement, where he lay in terror as the

police fired more than 20 shots, hitting Fox 17 times.

It all happened more than a year ago and, as angry as he was at Fox, Miller is angrier at what has happened since: namely, not much.

Miller, 32, was a building trades worker before the shooting, working job-to-job as a subcontractor on renovations. He had no medical insurance. He had just finished a home burned out in a fire and was scheduled to start another job in a few days.

He had his own apartment and an unremarkable life that suited him fine.

Now he has a hole in his back you could put your fist in. He spent 2½ months in the hospital, had three operations and still has a bunch of birdshot in his body. He has nerve damage in his back, his left thigh is numb and doctors have told him to get ready for arthritis.

"I really wanted to know that," Miller said Wednesday, sitting in the living room of his mother's Sand Lake condo which he now shares. "Like, here I am in my prime and I'm looking forward to having arthritis in 10 years."

He can't do construction any

Please see Back Page, TALES



John Miller says he's angry at the way assistance agencies have let him down after his 1989 injury.

Miller, in  
Eugene

Thor  
Nov 1 1990



JOE LAVRACAS / Anchorage Daily News

## THE BACK PAGE

### TALES OF THE CITY: Wounded bystander tries to rebuild his life

Continued from Page A-1

more because he can't lift heavy weights. He says all he wants is re-training and a chance to work at a decent job, like the one he lost.

As Miller remembers it, the first sign that the world didn't care much about him was when the hospital told him to stop going to physical therapy because state emergency medical assistance didn't cover it. His \$59,000 hospital bill was taken care of but out-of-hospital medi-

cal expenses were his problem.

He had lost his apartment. He had no income. So he went to welfare for help. He wasn't disabled enough to qualify, but they offered \$120 a month toward rent. "I couldn't even find a roommate who would let me move in for that."

He ended up back home with mom, an arrangement that neither finds satisfactory.

"Luckily, I had someone to stay with," Miller said.

"Where would I go, the Brother Francis Shelter?"

At vocational rehabilitation they gave him lots of tests and made lots of appointments. Either he was too disabled for a program or not disabled enough, he said. They told him to get some special tests — he's not sure what — but they cost money Miller doesn't have. No tests, no re-training program.

And he still hadn't figured out how to get the physical therapy he needed.

"The baddest part about it, I needed it so bad at the time," Miller said Wednesday. "They should have helped me at the time."

By now the bills were piling up. Doctors who had extended credit figured out Miller wasn't eligible for anything reliable. He applied for help to the Violent Crimes Compensation Board, but he wasn't an emergency and the board only meets quarterly. He and the board's executive director, Nola Capp, still disagree about whether he has sub-

mitted all the necessary paperwork.

Miller is not adept at working the system. He's not sure exactly what he applied for and exactly why he didn't get it. He says he filled out all the forms people gave him and went where they told him to go but nothing happened. "They're just giving me a runaround," he concluded.

On Oct. 17, the board paid \$5,000 of Miller's outstanding medical bills and approved funds for physical therapy — a year after he

got out of the hospital.

"Of all the people in the world he was purely innocent," Capp said. "But the board has to have regulations. We can't just give out money."

Russ Cusack over at vocational rehab says he'll check Miller's case file and see what he can do.

Miller still has flashbacks about the shooting, dreams that wake him up with the sweats. But he's madder at the system now than he ever was at Roy Fox.

# "The Spark of Justice": A Call for Enacting A Constitutional Amendment

By Steve Twist

The welcoming ceremonies at the Fourteenth Annual Conference followed traditional form, with a warm greeting from Pima County Attorney Stephen Neely and a thoughtful address by NOVA President Daniel Rosenblatt, among others. Greetings from Attorney General Robert Corbin, delivered by his Chief Assistant, were expected to lean more towards a friendly welcome than towards the thought-provoking. If that is what the participants wanted of Steve Twist, they were disappointed. Judging from their reactions, however, they were anything but disappointed.

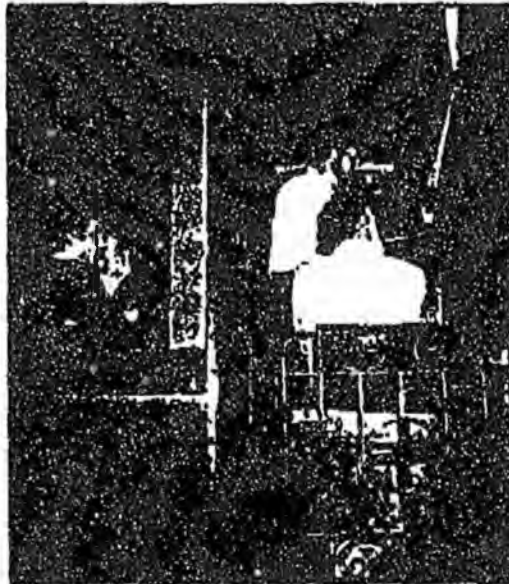
As a service to the many conference-goers who asked for a copy of Steve Twist's stemwinder on victim rights, we are reprinting it here:

Steve comes by his impatience the hard way. As a principal supporter of a victim rights amendment to the Arizona constitution, he led the fight that found that proposal just one vote short of ratification in the Arizona legislature last session. He and other victim advocates in the state are determined to get their proposal on the ballot through a petition drive. It seems likely that they will succeed. Steve's speech follows.

Good evening. It is my great privilege to join Steve Neely in welcoming you to Tucson and to the warm hospitality of Southern Arizona.

It is highly appropriate to have selected Tucson as the host site for this meeting. Steve Neely has been one of the pioneers of victim/witness programs among prosecutors in America and his program, run by Vicki Sharp, Sharon Hochman, Stuart Gellman and the many fine and dedicated staff and volunteers, is consistently regarded as among the best in the nation.

It has brought new sensitivity to the business of prosecution by recognizing the plight of victims as they suffer not only the ordeal of the crime, but also the ordeal of the criminal justice system. Pima County's program helps victims



Steve Twist speaks at the opening ceremonies. The platform is a made-for-movies train, at the sound stage at Old Tucson. Other white-stoppers are (l. to r.) Dan Rosenblatt, Marlene Young, and Stuart Gellman.

cope with both ordeals. We are proud to have them in Arizona.

But the strength of their program has also taught us that new frontiers must be explored, that new answers must be found. Here in Tucson, as elsewhere in Arizona and America, the most caring and effective victim/witness program cannot protect victims from a criminal justice system which is itself abusive, destructive, and deaf to the cry for victims' rights.

The best counseling programs are strained to breaking when the system itself causes the emotional pain which needs treatment.

The most caring prosecutor, who regularly consults with victims about their cases, cannot overcome the trauma caused by the inexcusable delays he must report, or the procedural setbacks, the suppression of evidence, the repeated releases of defendants, or sentences that neither deter nor punish nor protect future victims.

The strongest victims' rights statutes will never protect victims if they are

always second to the constitutional rights of defendants . . . or for that matter, to the interests or convenience of the judges or the lawyers.

The best-funded compensation and assistance programs, even if they had badly-needed additional revenues, will never compensate for the injustice or the indignity of our systems' treatment of victims.

Many of us in the victims' movement believe that we must seek more fundamental reforms in the justice system if we are to make our dreams of justice a reality.

In 1988 in Arizona, over 200,000 of our neighbors will be victims of either murder, rape, robbery, aggravated assault, or serious theft. As they begin to cope with the crime and the justice system, in many ways we force them to face it legally alone. In my state, victims have not one constitutional right or remedy to protect them.

They have no right to a speedy trial.  
They have no right to privacy.

They have no right to a lawyer.  
They have no right to refuse a pre-trial interview.

They have no right to be informed or consulted.

They have no right to be in the courtroom.

They have no right to finality to their ordeal.

They have no right to be heard until the trial is over.

They have no right to access to the entire court record.

They have no right to due process.

In short, they are treated as a hard piece of evidence in our system.

Having failed victims in our duty to protect them from crime, we then subject them to a system which affords them no constitutional rights and they are brutalized by it.

Many of us believe the answer lies in constitutional reform. Unless victims' rights are made a part of our basic law — our constitutional law — victims will always be second-class citizens. It is time for this atrocity to stop.

As those of us in Arizona know, our

challenge is great and our opposition is strong. Not all the venom in my state is found in the creatures of the Arizona desert.

Of course none of our opponents are against "victims' rights". The strength of the movement you have forged has captured the agenda and they are afraid to oppose us.

They are for "victims rights but..." — but they don't believe those rights should be in the Constitution.

They are for victim rights but

... they are not for the right of the victim to be in the courtroom throughout the trial;

... they are not for the victims right to a speedy trial;

... or reasonable finality;

... or to refuse pre-trial interviews;

... or to have all relevant evidence introduced so the truth of what happened can fully be heard.

They are not for the child victims

right to testify outside the threatening presence of the defendant.

They are not for the victims' right to prison sentences which will protect future victims.

Those who say they are for "victim rights but..."

**"... you've seen it in the eyes of caring police and dedicated prosecutors; you've seen it in the mirror."**

are deceitful, fraudulent, and they have no right to associate with you or carry the banner which you have raised.

Our movement is the most important civil rights movement of the Eighties and Nineties. Our success will depend on courage and spirit and perseverance.

Napoleon said there are only two powers in the world, the sword and the spirit. In the end, he said, the sword will always be conquered by the spirit.

For now, it seems, the sword is in the

hands of the criminal and we have lost the spirit to overcome him.

But in all the injustice we see, in all the victims' pain, there is a spark. You know that spark. You have seen it in the eyes of those you counsel and comfort; you've seen it in the eyes of citizens who

can no longer stomach the repeated horror stories which daily come from our system; you've seen it in the eyes of caring police and dedicated

prosecutors; you've seen it in the mirror.

It is the spark of justice. Remember when you first felt that spark, what your hearts were touched and filled by it. Inspire yourself again for this cause and you will inspire others. Use this conference to re-ignite the spark, or feed it with the oxygen that is here. Share your ideas, share your vision of our new frontier, and we will see justice for victims in our day.

Thank you. □

## News from the States:

### California Updates "Miranda" Warnings

For years, victim advocates have spoken of a "Reverse Miranda" warning or card — one that would routinely be used to read to the victim that person's rights.

Due to an initiative of the California Youth Authority and the California Corrections Department — supported by the state's major law enforcement associations — victims there may soon receive such a recital of their rights as a standard part of filing a crime report.

The following is an announcement describing the new program.

"You have a right to remain silent..." That's a phrase that has become well known to law enforcement and criminal suspects with whom they deal. If police agencies, the California Youth Authority (CYA), the California Department of Corrections (CDC) and victim rights advocates have their way, crime victims will have their rights explained at the scene of crimes too.

That is why the CYA, CDC and

major law enforcement organizations are distributing cards to law enforcement officers throughout the state that can be used not only to advise suspects of their rights, but the victims of their rights as well.

The cards will be accompanied by a letter signed by Cal Terhune, Director, CYA; Jim Rowland, Director, CDC; Glen Craig, President, California Peace Officers Association (CPOA); Craig Meacham, President, California Police Chiefs' Association; and Sherman Block, President, California State Sheriffs' Association.

Although victims of crime in California have had these rights for years, only the suspects have had their rights read to them at the time of arrest. This card will inform the victims of their rights under the law and provide them with information for assistance.

The local law enforcement agencies are being encouraged to use the same information with local assistance phone

numbers for distribution to victims, who may not remember the information given to them by the officers at the scene of the crime.

The implementation of this project is the accomplishment of a cooperative effort between law enforcement associations, CYA, CDC, and the office of Governor George Deukmejian, who has fully supported the project.

If all those involved have their way, "As a victim of a crime, you may..." will become as well known as the Miranda warning given to criminal suspects.

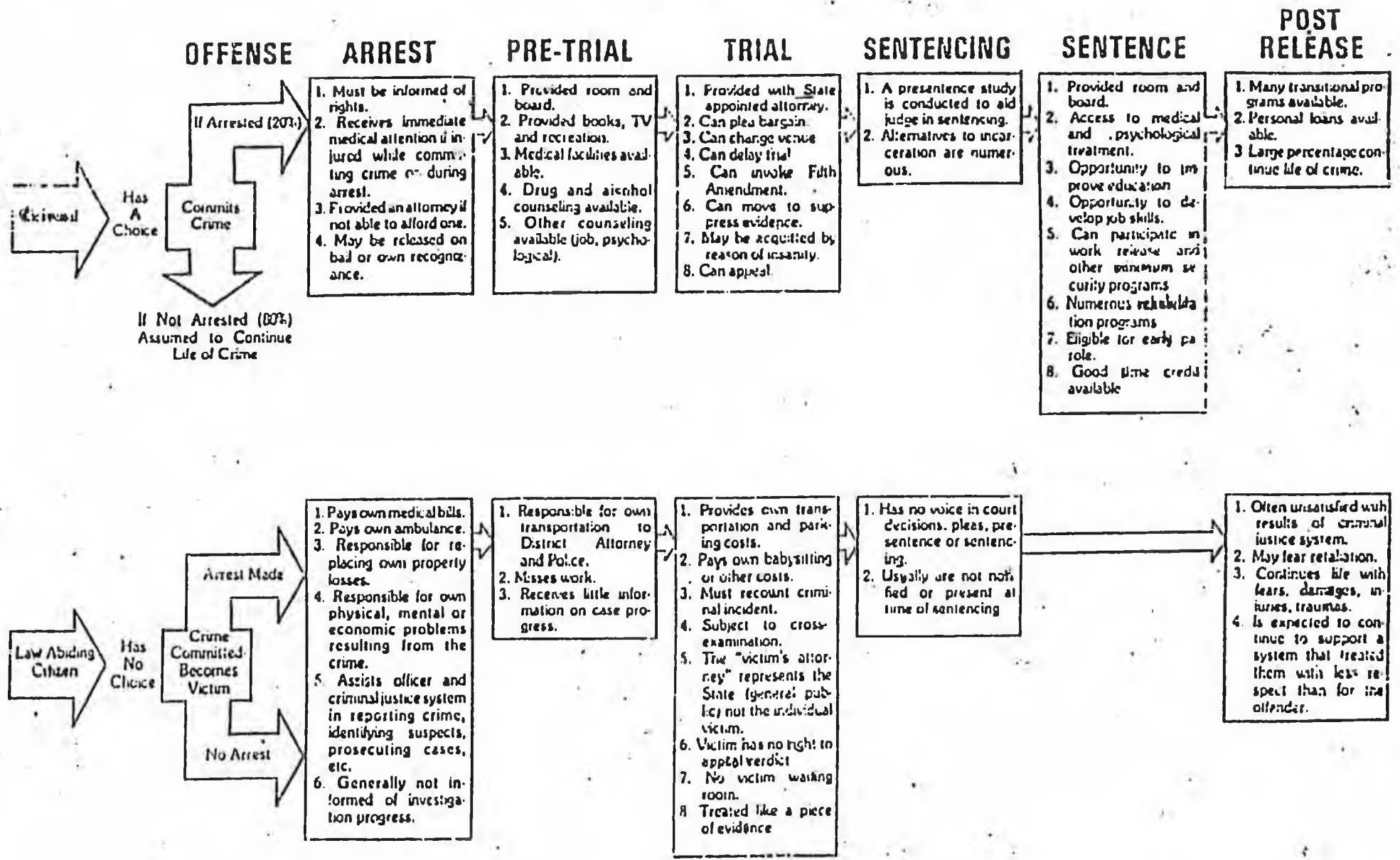
For more information, write:

Sharon English  
California Youth Authority  
4241 Williamsborough Drive  
Sacramento, CA 95823 □

- o Substance abuse is an almost universal problem among criminals. New misdemeanor centers with on-site alcohol screening, and residential treatment programs in existing facilities are all cost-effective ways to combat the problem.
- o The Administration recognizes the need for additional high security beds at the Spring Creek Correctional Facility. The Department of Corrections has been operating over emergency capacity for more than a year. The Department will be reporting its projections for the future jail and prison populations in the upcoming weeks. The report will identify the immediate and long-term needs to expand the correctional system.
- o More prison beds are not the department's only answer to reducing crime. The department can achieve impressive success with innovative, cost-effective programs which emphasize offender responsibility and can lower recidivism.
- o New policies place the lowest risk offenders in the lowest cost placements so that secure prison beds can be used for the most dangerous criminals. Offenders who don't pose an immediate risk to the public are being placed in prerelease programs to help reduce recidivism. These programs emphasize personal responsibility by requiring community work service and requiring offenders with jobs to pay for part of the costs of their incarceration. Most prisoners will be returning to society eventually, and these programs insure a careful, closely supervised reintegration to help them avoid returning to crime after release from prison.
- o Constitutional Amendment -- House and Senate Resolutions have been introduced by Rep. Brian Porter and Sen. Dave Donley for Constitutional amendments which would change the emphasis of penal administration in Alaska. The Constitution should clarify that public protection, deterrence, and reaffirmation of societal norms are chief goals of incarceration. The rights of the offender must be balanced with the rights of victims and law-abiding citizens.
- o Offender Fees -- Increasingly, offenders are being required to pay their fair share, just like other Alaskans. The Administration is exploring ways to expand the state's ability to collect fees for certain medical, program, housing, and supervision services. Contracting out the fee collection to the private sector in some instances may be an efficient way to increase offender responsibility as well as offset the expenses of the correctional system.
- o Alternative Punishments -- Highly structured day reporting programs can be operated out of existing Community Residential Centers. Graduated levels of

Gen. Havel's Anti-Crime Package

# THE CRIMINAL INJUSTICE SYSTEM



FISCAL NOTE

BILL NO. SJR 2

STATE OF ALASKA  
93 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: Amendment to the Constitution RE: rights of victims of crimes  
Sponsor: Senators Donley and Leman  
Requestor: \_\_\_\_\_

Department Affected: Office of the Governor  
BRU: Division of Elections  
Component: General and Primary Elections  
COMPONENT SERIAL NO. 22

PENDITURES/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	2.2*	0	0	0	0	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	2.2*	0	0	0	0	0

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	2.2*	0	0	0	0	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	2.2*	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 (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.) \*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing and additional ballot card, the fiscal impact would be 53.4.

Prepared by: Charlot E. Thickstun, Director *Charlot E. Thickstun* Phone: 465-4611  
Division: Division of Elections Date: 1/15/93

Approved by Commissioner: Lt. Governor John B. Coghill *J. B. Coghill*  
Agency: Office of the Lt. Governor Date: 1/15/93

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FISCAL NOTE

BILL NO. SJR 2

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Revision Date: January 14, 1994  
Title: "...amendment to the Constitution...relating to the right of victims of crime..."  
Sponsor: Senator Donlev  
Requestor: Senate State Affairs

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

EXPENDITURES/REVENUES:

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

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING:

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

POSITIONS:

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

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

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

Prepared by: Richard I. Pegues, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: January 14, 1994

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

Date: January 14, 1994

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SJR 2

ANALYSIS CONTINUATION:

SJR 2 would place an amendment to the state's constitution before the voters at the next general election that would establish certain constitutional rights for victims of crime. Currently, victims rights are provided by statute (AS 12.61.010-AS 12.61.900) and the effect of the amendment, if approved by the voters, would be to guarantee those rights in a far broader and absolute fashion. For instance, AS 12.61.015 provides for many of the same rights that are included in the proposed amendment. Adoption of this resolution will not have a fiscal impact for the Department of Law.

**FISCAL NOTE**

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

SJR 2

Revision Date:	_____	Dept. Affected:	<u>Corrections</u>
Title:	<u>Amendment to the Constitution RE: Penal Administration</u>	BRU:	<u>All</u>
Sponsor:	<u>Sen. Donley</u>	Component:	<u>All</u>
Requestor:	<u>Senate State Affairs</u>	COMPONENT SERIAL NO.	<u>694-1884</u>

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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**FUNDING:**

(Thousands of Dollars)

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

Estimate of current year (FY94) impact: \$ 0

**POSITIONS:**

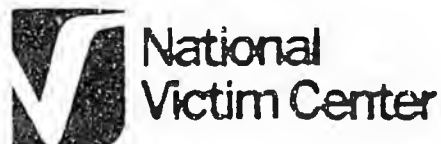
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By:	Diane Schenker <i>[Signature]</i>	Phone:	465-3315/561-4426
Division:	Office of the Commissioner	Date:	1/17/94
Approved by Commissioner:	J. Frank Prewitt, Jr. <i>[Signature]</i> (For)	Date:	1/18/94
Agency:	Department of Corrections		

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An advocacy and resource center founded in honor of Sunny von Bülow

## OVERVIEW OF CRIME AND VICTIMIZATION IN AMERICA

### GENERAL DATA

- About 34.7 million Americans age 12 or older were victims of crime in 1987. This is a 1.8% increase in overall crimes from 1986, the lowest level of crime since 1971. (Bureau of Justice Statistics, *Criminal Victimization in 1987*, NCJ-113587, October 1988)
- One violent crime occurred every 21 seconds in 1987. (Federal Bureau of Investigation, Uniform Crime Reports, *Crime in the United States*, JUS-432, Release date July 10, 1988)
- Almost 6,000,000 of the crimes committed in 1987 were classified as violent. (Bureau of Justice Statistics, *Criminal Victimization 1987*, NCJ-113587, October 1988)
- One in four American households were touched by a crime of violence or theft in 1987, the same proportion as in the previous two years. (Bureau of Justice Statistics, *Households Touched by Crime, 1987*, NCJ-111240 May 1988)
- The *National Crime Survey* determined that an estimated 34.1 million crimes, including both completed and attempted offenses, were committed against individuals or households across the United States in 1986. (Bureau of Justice Statistics, *Criminal Victimization in the United States, 1986*, NCJ-111456, August 1988)
- Almost 5% of the nation's households had a member who was the victim of a violent crime in 1987. (Bureau of Justice Statistics, *Households Touched by Crime, 1987*, NCJ-111240, May 1988)
- Males were more often victimized by strangers than were females: 67% of violent crimes committed against males and 45% of violent crimes committed against females were committed by strangers. (Bureau of Justice Statistics, *Criminal Victimization in the United States, 1986*, NCJ-111456, August, 1988)
- Approximately a third of violent crimes involved the presence or use of a weapon. (Bureau of Justice Statistics, *Criminal Victimization in the United States, 1986*, NCJ-111456, August 1988)
- At current crime rates, an estimated five-sixths of U.S. citizens will be victims of attempted or completed violent crimes during their lifetimes. The risk is greater for males than females and for blacks than whites. (Bureau of Justice Statistics, *Report to the Nation on Crime and Justice, Second Edition*, NCJ-105506, March 1988)

## DOMESTIC VIOLENCE

- Conservative estimates predict domestic violence affects more than 2.1 million women, four million children and one million older people each year. (Family Violence Project, San Francisco, California, *Safe at Home: Domestic Violence is Everyone's Business*)
- The most likely classification for incidents of domestic violence is simple assault, which is a misdemeanor in most jurisdictions. (American Bar Association *Journal. Violence in the Home*, May 1, 1987)
- In 1986, at least half of the domestic "simple assaults" actually involved bodily injury as serious or more serious than 90% of all rapes, robberies and aggravated assaults. (Bureau of Justice Statistics, *Preventing Domestic Violence Against Women*, NCJ-102037, August, 1986)
- Twenty to fifty percent of American couples have suffered violence regularly in their marriage. (National Institute of Mental Health, *Plain Talk About Wife Abuse*, July 29, 1987)
- In the *National Crime Survey*, seven out of ten incidents of domestic violence were committed by the woman's spouse, ex-spouse, boyfriend or ex-boyfriend. An estimated 52% of all incidents of domestic violence were reported to police. (Bureau of Justice Statistics, *BJS Data Report, 1987*, NCJ-110643, April 1988).

## DRUNK DRIVING

- Every 22 minutes, one person dies in an alcohol-related auto crash. (National Highway Traffic Safety Administration, *Preliminary Estimates of 1987 Highway Safety Statistics, 1988*)
- Estimates of the economic costs of drunk driving range from \$11 billion (NHTSA, 1985) to \$24 billion (Allstate, 1982) each year. (Mothers Against Drunk Driving, *A Summary of Statistics Related to the National Drunk Driving Problem*, October 1988)
- In 1987, nearly nine 15- to 19-year-olds died each day in alcohol-related traffic crashes. (National Highway Traffic Safety Administration, *Preliminary Estimates of 1987 Highway Statistics, 1988*)
- Between 1970 and 1986 arrests for DWI increased nearly 223%, while the number of licensed drivers increased by 42%. (Bureau of Justice Statistics, *Drunk Driving*, NCJ-109945, February 1988)
- Nearly half of those in jail for DWI had previously been sentenced to probation, jail, or prison for DWI. (Bureau of Justice Statistics, *Drunk Driving*, NCJ-109945, February 1988)

## HATE/VIOLENCE CRIMES (cont'd)

- The incidents of anti-gay violence rose 42% in 1987. A record 7,008 incidents, ranging from verbal abuse to slayings, were reported to the *National Gay and Lesbian Task Force*. Fifteen percent of all incidents reported in 1987 and five percent of the physical assaults involved verbal references to AIDS. (National Gay and Lesbian Task Force, *Anti-Gay Violence, Victimization & Defamation in 1987*)
- In January of 1988, five states required police to record and report incidents of racial, religious and ethnic violence. Three states had established procedures to collect data, although there was no data collection legislation. (National Institute Against Prejudice and Violence, *Forum* newsletter, Vol 3, No. 1, January 1988)

## HOMICIDE

- In 1987, there was one murder every 26 seconds. (Federal Bureau of Investigation, Uniform Crime Reports, *Crime in the United States*, JUS-432, Release date July 10, 1988)
- Criminal homicide is one of the 15 most frequent causes of death, and for the 15- to 34-year age group, it is second only to accidents as a cause of death. (Washington Criminal Justice Reports, *Crime Victims Digest*, Vol 5, No. 11, November 1988)
- At the current homicide rates, about one out of every 133 Americans will become a murder victim. For black males, the proportion is estimated to be one in 30. (Bureau of Justice Statistics, *Lifetime Likelihood of Victimization*, NCJ-104274, March 1987)
- In 1986, 95% of the black murder victims were slain by black offenders; 88% of the white murder victims were killed by white offenders; males were most often slain by males (83%); however, 9 out of every 10 female victims were murdered by males. (Federal Bureau of Investigation, *Uniform Crime Reports 1986*, JUS-432, Release date July 25, 1987)

## SEXUAL ASSAULT

- Every six minutes during 1987, one American was forcibly raped. (Federal Bureau of Investigation, Uniform Crime Reports, *Crime in the United States*, JUS-432, Release date July 10, 1988)
- Of the almost 125,000 rapes reported to the *Bureau of Justice Statistics* in 1987, 36.4% happened between 6:00 a.m. and 6:00 p.m. and 35.9% occurred between 6:00 p.m. and midnight. (Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics, 1987*, NCJ-111612)

## LEGISLATION (cont'd)

- Forty-eight states now allow the use of victim impact statements.
- Seventeen states mandate court appearance for victims.
- Twenty-four states have plea bargain/consultation legislation.
- Forty-four states have victim/witness information statutes.
- Thirty-four states have notification of final disposition.
- Thirty-nine states have notification of the release of prisoners in felony cases.
- Forty-six states have victim compensation programs.
- Every state, including the District of Columbia, have some sort of restitution legislation, and 23 states have mandatory restitution legislation.

Source: *National Organization for Victim Assistance*, January 1988.

## FOR FURTHER INFORMATION CONTACT:

*National Victim Center*  
307 W. 7th Street, Suite 1001  
Fort Worth, TX 76102  
(817) 877-3355

*U.S. Department of Justice*  
633 Indiana Avenue, N.W.  
Washington, DC 20531

Bureau of Justice Statistics: (202) 724-7782  
National Institute of Justice: (202) 724-2949  
Office for Victims of Crime: (202) 724-6134

*Federal Bureau of Investigation*  
Office of Public Affairs  
10th and Pennsylvania Avenue  
Washington, DC 20535  
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December 7, 1993

Ms. Janice Lienhart  
Victims for Justice  
619 E. Fifth Avenue  
Anchorage, Alaska 99501

Re: Alaska Victims' Rights Constitutional Amendment

Dear Janice:

I did not want the year to end without formally thanking you for your courtesy and hospitality during my recent visit in Alaska.

In the time intervening since my visit, I have continued to seek out information that may be helpful as we approach the legislative session early next year. I spoke today with Senator William Van Regenmorter in Michigan. He wrote and sponsored both the Michigan victims' rights statute and subsequently the Michigan victims' rights constitutional amendment. The Senator is sending me a booklet prepared after the passage of their law to explain victims' rights to citizens in Michigan. He also had some suggestions about how to approach certain sensitive issues.

Senator Van Regenmorter indicated that states opting for what he calls the "philosophical approach" (broad statements preserving and protecting the rights of victims to due process and fair treatment without specifying those rights) have found that they left too much discretion in the courts without sufficient direction regarding what those rights should be. He told me that in Michigan a victim's right to be present in the courtroom after he or she had testified was not adequately assured until a constitutional amendment was passed. Judicial power to control the courtroom preempted the victim's right to be present without reliance on any right of the defendant. It is therefore not simply a matter of defendants' rights defeating victims' rights.

I specifically asked about any legislative implementation language in their constitutional amendment. He said that his staff had researched the issue and felt that it was necessary. Without it, the Senator opined that the legislature would not be able to fully implement the victims' rights to provide for such things as enforcement, limitations, and means of implementation.

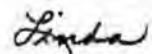
As for opposition to the proposed constitutional amendment, a Michigan taxpayer organization initially opposed the proposed constitutional amendment because they feared that prosecutors (and hence the state) could be liable to victims for violation of their rights. The resulting monetary damages would be paid out of the public coffers and place an additional burden on the taxpayer, hence their opposition. Senator Van Regenmorter indicated that as a result of this concern language was added restricting suits for monetary damages.

Finally, the Michigan victims' rights amendment was drafted to provide that an assessment against defendants could be ordered by the court to pay for the preservation and implementation of victims' rights. This provision was added to allow the state to shift the cost of implementation to the defendants. He cautioned however that the state needs to be prepared to meet this cost initially and not depend on revenues from defendants who frequently are indigent. Senator Van Regenmorter indicated that the it has cost the State of Michigan approximately \$1 1/2 million dollars to implement their constitutional amendment state wide, but in his opinion it is well worth the cost.

The Senator would be happy to answer any questions that we may have, or talk to any legislator that has questions. He is deeply committed to victims and victims rights and may be a valuable ally. His opinion as a Senator (and elected official) may be more persuasive to other Legislators since he understands the political implications of support for victims' rights.

Please keep me informed of the progress of your legislation. I am prepared to return to Alaska as needed to ensure our goal of passing a victims' rights constitutional amendment. Best regards to you and your sister, Sharon, for a safe and happy holiday season!

Sincerely,



Linda A. Akers  
Deputy Director  
CrimeStrike