

HB

474

LEGAL SERVICES

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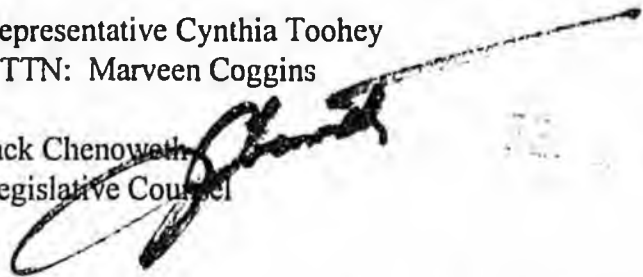
MEMORANDUM

February 10, 1996

SUBJECT: House Bill 474, relating to violations of municipal ordinance and regulations -- sectional analysis (Work Order No. 9-LS1555\C)

TO: Representative Cynthia Toohey
ATTN: Marveen Coggins

FROM: Jack Chenoweth
Legislative Counsel



FE 1996

House Bill 474 was prepared in response to a request from the Municipality of Anchorage to amend state law relating to disposition of offenses involving minors. The premises for the changes--prosecution of minors for certain offenses in the same manner as adults--necessitates a broader treatment than what may have originally been intended.

The bill is best explained back-to-front.

Bill section 3: Usually under state law, when a minor is charged with violation of a criminal offense under state or municipal law, the minor is not prosecuted but the matter is addressed and disposed of under statutes applicable to juvenile offenders. AS 47.10.010(b) lists a set of exceptions to this treatment, declaring that for the offenses there listed, the minor will be charged, prosecuted, and sentenced in the same manner as an adult. This bill section expands that list to include violations of ordinances and regulations of municipalities for which the punishment for the violation is only payment of a fine and imposition of no other penalty. The insertion, in the bill section, on lines 18 and 19 of page 2 is a conforming change.

Bill section 2: This section amends the provision of the Municipal Code, AS 29, in which is set out the authority of municipalities to regulate conduct and enforce its enactments. This section attempts to differentiate circumstances under which one may be charged with violation of an ordinance without imposing a corresponding obligation on the municipality to provide for a jury trial or, in proper circumstances, court-appointed legal counsel. The distinction is drawn on the basis of whether the municipality's enactment qualifies or does not qualify as a "minor offense"; if a minor offense, then trial on the violation need not involve a jury nor is there an obligation for the court to appoint legal counsel. The characteristics of a "minor offense" are identified in a District Court Criminal Rule, Rule 8. The amendment made by this bill section thus identifies the characteristics of a minor offense; if the municipality's enactment meets those characteristics, the matter may be

Representative Cynthia Roohy

February 10, 1996

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disposed of as a minor offense under the applicable court rule; if it does not, then arguably the defendant is entitled to trial by jury and, if applicable, court appointed counsel.

Bill section 1: Under the state's Code of Criminal Procedure, AS 12, generally the criminal laws of the state applicable to misdemeanors are applicable also to violations and infractions. See AS 12.80.040. However, there are exceptions, identified by cross-reference appearing in AS 12.80.040. This bill section adds the additional provisions of bill section 2 to the cross-referenced exceptions. The intent is to make the point that, as an exception to the state laws otherwise applicable to violations and infractions, when a municipality punishes an ordinance as a violation or infraction and the punishment qualifies the conduct's treatment as a minor offense, the exceptions from required jury trial and court appointed counsel apply.

JBC:lmb

96-038.lmb

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 474

Revision Date: 2/29/96 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to violations of municipal ordinances and regulations; and amending... BRU: none
 Component: none
 Sponsor: Rep. Toohy
 Requestor: House C&RA Committee COMPONENT SERIAL NO. _____

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

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING						
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES () Revenue Code						
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FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 95) impact: \$ none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4708
 Division: Director, Div. of Administrative Services Date: 2/29/96
 Approved by Commissioner: *[Signature]* Date: 2/29/96
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

DISTRICT 13

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

HOUSE BILL 474

"An Act relating to violations of municipal ordinances and regulations; and amending the definition of the jurisdiction of the superior court and the Department of Health and Social Services over delinquent minors to add a further exclusion from that jurisdiction for a minor's violation of a municipal ordinance or regulation that is punishable as an infraction or violation, and making a related technical amendment to that jurisdictional definition"

We hear more and more frequently about the need to improve the juvenile justice system in Alaska. Due to the increased number of serious offenses by juveniles, some of the less serious violations and infractions, in reality, offer no consequences. That is the wrong message to send to a juvenile offender.

According to the Anchorage Police Department, juvenile offenders have become increasingly dangerous and increasingly blatant regarding their offenses with the knowledge that the system can do very little to them.

House Bill 474 would expand the jurisdiction of a municipality to allow the municipality to respond to a violation or infraction of an ordinance or regulation. For violations of ordinances or infractions which are punishable by only a fine, juveniles would be treated as adults.

The expansion of jurisdiction would enable juveniles to realize there are consequences to all wrongful acts. This realization may help to prevent juveniles from progressing to more serious offenses.

Your support would be appreciated.

**MUNICIPALITY OF ANCHORAGE
PUBLIC SAFETY PARTNERSHIP PROGRAM
LEGISLATIVE ISSUES**

Allow municipalities to respond to less serious juvenile behavior by expanding its jurisdiction to include the ability to subject juvenile offenders to civil infractions and/or mediation

Early intervention has been proven an effective means of changing young people's attitudes and behaviors. Because the current juvenile justice system is overwhelmed with serious offenses and offenders, many offenders who begin with lower level or less dangerous conduct receive no meaningful consequences until they graduate to the higher level.

According to the 1994 Anchorage Police Department Annual Report, juvenile arrests have increased 66% since 1990. Juvenile offenders have become increasingly dangerous and increasingly blatant regarding their offenses in the knowledge that the system can do very little to them.

Recognizing this situation, the Municipality of Anchorage would like the ability to respond to less serious juvenile behavior by expanding its jurisdiction to include the ability to subject juvenile offenders to civil infractions and/or mediation. This will allow the juvenile justice system to focus on the more serious criminal activity while assuring that juvenile offenders of less serious offenses receive more immediate consequences for their actions.

Municipality
of
Anchorage



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4433

FEB 14 1996

Rick Mystrom, Mayor

OFFICE OF THE MUNICIPAL MANAGER

February 9, 1996

Representative Cynthia Toohey
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: H. B. 474

Dear Representative Toohey:

Thank you for sponsoring H. B. 474, regarding the jurisdiction of municipalities over certain juvenile infractions.

This bill offers an important reform to the way in which juvenile criminal activity is addressed.

Attached is an issue summary supporting the need for the proposed change.

Thank you again for sponsoring this legislation. If we can offer further information, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Tim Rogers".

Tim Rogers
Legislative Program Coordinator



Anchorage - Star of the North
Chamber of Commerce

February 28, 1996

Members: House Community & Regional Affairs Committee
Al Austerman & Ivan Ivan - Co-Chairs
Fax: 1-907-465-4589

Dear Committee Members:

The Anchorage Chamber of Commerce Crime Prevention Committee has worked with the Municipality of Anchorage on a criminal justice package. The chamber has passed Resolution 95/96-5 supporting the Municipality's efforts on criminal justice reform.

It is our understanding that HB 474 and HB 475 address part of the criminal justice reform package. We would like to encourage passage of both bills.

We appreciate the spirit of cooperation between the Legislature and the Municipality. The chamber applauds your work on reducing crime. Please let us know if the chamber can be of any assistance.

Again, we encourage the passage of HB 474 and HB 475. Thank you for your consideration.

Sincerely,

Carol Heyman
President

cc: Representative Cynthia Toohey
Bob Bailey, chair, Anchorage Chamber Crime Prevention Committee