

SB

46

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 22, 1995

FURTHER REFERRALS:

Date of Committee Action: 5/3/95

The FINANCE Committee considered:

CSSB 46(RLS)

CS FOR SENATE BILL NO. 46(RLS)

PROSECUTE JUVENILE AS ADULT IN DIST. CT.

"An Act revising the provision of law under which a minor may be charged, prosecuted, and sentenced as an adult in the district court, and adding to the list of offenses for which a minor may be prosecuted as an adult in the district court; amending the criminal jurisdiction of the district court to provide for the disposition of certain offenses relating to possession, control, or consumption of alcoholic beverages by a person under 21 years of age and possession of tobacco by a person under 19 years of age; allowing a person under age 21 to be arrested by a peace officer without a warrant for acts relating to illegal possession, consumption, or control of alcohol; and amending the penalty applicable to persons under 21 years of age who possess, control, or consume alcoholic beverages."

recommends it be replaced

with the following committee substitute

CSSB 46(RLS)

the same title
 a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) AK COUNT SLS. 3/6/95

zero fiscal note(s) _____

zero fiscal note(s) Admin 3/22/95

Law 3/6/95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Richard Foster</i> FOSTER			X	
<i>Ellen Nash</i> NASH			X	
<i>Terry Martin</i> MARTIN	✓			
<i>Sean Parnell</i> PARNELL			X	
<i>Barbara Gussendorf</i> GUSSENDORF			X	
<i>Eric Kuhring</i> KUHNING			X	
<i>Mike Navarra</i> NAVARRA			X	
<i>Tam Brown</i> BROWN				✓
<i>John Kelly</i> KELLY			✓	
<i>Gene Theriault</i> THERIAULT			X	

CHAIR'S SIGNATURE _____

Richard Foster
FOSTER

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 46 (FIN)
WORK DRAFT 9-LS0155/F

Revision Date: _____
Title: "An Act revising the provision of law under which a minor may be charged... as an adult in the district court..."
Sponsor: Sen. Taylor
Requestor: (S) FIN

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE: (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

Estimate of any current year (FY 95) cost: \$ 0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Public Defender Agency.

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

phone: 264-4400
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 3/22/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 46 am (JUD)

Revision Date: 3/3/95 Dept. Affected: Department of Law
 Title: "...revising the provisions ... under which a minor
may be charged, prosecuted, and sentenced as an adult ..." BRU: Prosecution
 Sponsor: Senator Taylor Component: All
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 0085-0090

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

The Senate Judiciary Committee amendment to SB 46 changes the penalty for possession, control, or consumption of an alcoholic beverage by a minor from a class A misdemeanor to a violation. Consequently, the costs shown in the Department of Law fiscal note analysis of 2/24/95 will not be required, because the large majority of misdemeanor cases expected were for the offense of possession, control, or consumption. Although we anticipate an increase in paperwork and forms processing, this increased work does not warrant fiscal note costs. Generally, violations are presented in District Court by arresting officers and the services of prosecutors (or publically paid defenders) are not required.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3/3/95
 Approved by Commissioner: Richard I. Pegues
Bruce M. Botelho, Attorney General Date: 3/3/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 46

Revision Date: 03/03/95 Dept. Affected: Alaska Court System
 Title: Prosecute juvenile as adult in District BRU: Trial Courts
 Court: _____ Components: _____
 Sponsor: Sen. Taylor, Kelly, Pearce
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	64.5	64.5	64.5	64.5	64.5	64.5
TRAVEL						
CONTRACTUAL	0.5	0.5	0.5	0.5	0.5	0.5
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	1.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	66.9	65.9	65.9	65.9	65.9	65.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	66.9	65.9	65.9	65.9	65.9	65.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	66.9	65.9	65.9	65.9	65.9	65.9


POSITIONS

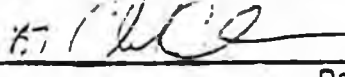
FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 03/03/95

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 03/03/95
 Agency: Alaska Court System

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Alaska Court System

Fiscal Analysis

CSSB 46 (JUD)

At the present time, a minor is charged, prosecuted and sentenced in the district court in the same manner as an adult if the minor is accused of committing certain infractions, violations, or misdemeanors. These include traffic statutes, regulations or ordinances; AS 11.76.105, relating to the possession of tobacco by a minor; fish and game statutes or regulations under AS 16; and parks and recreational facilities statutes or regulations under AS 41.21.

CSSB 46 (JUD) adds certain new misdemeanor offenses to this list. These include AS 04.16.049, relating to access to licensed premises; 04.16.051, relating to furnishing of alcoholic beverages to a minor; AS 04.16.060, relating to alcoholic beverage purchases; and any misdemeanor drug offense defined in AS 11.71 or AS 17.30. CSSB 46 (JUD) also adds a new infraction to this list, AS 04.16.050, relating to possession or consumption of alcohol. This infraction would require a mandatory court appearance.

The practical effect of this legislation is to take a number of juveniles who previously had been dealt with by the juvenile justice system (DFYS and the superior court) and move them to the adult system (district court). Statistics obtained from DFYS indicate that in FY 94, DFYS handled 138 cases involving the additional misdemeanors listed in CSSB 46 (JUD), and 1116 cases involving the infraction of minor consumption. DFYS handled approximately 1173 of those cases without filing a delinquency petition with the superior court. None of the 81 cases referred to superior court resulted in a jury trial. Thus, actual costs to the court system were relatively low. On the other hand, if CSSB 46 (JUD) had been law in FY 94, virtually all 1254 cases would have gone straight to the court system (understand that police officers generally file citations for infractions and misdemeanors directly with the court, not with the municipal prosecutor or the district attorney; thus, prosecutors do not serve a screening function that will keep some of these cases out of court). There would have been judicial costs associated with 138 additional misdemeanor arraignments, approximately 136 sentencing hearings, judicial costs associated with 1116 additional infraction arraignments, clerical costs associated with processing the citations and collecting the fines, and a trial rate of approximately two percent (the rate at which adults go to trial for misdemeanors and infractions) resulting in additional judicial time and juror costs. The misdemeanor trials would have been expected to last one day, and utilize a six member jury. The infraction trials would have been expected to last under one hour and would not have required a jury.

Note that the actual number of charged offenses is likely to increase dramatically as a result of the changes made by CSSB 46 (JUD). It is common for state troopers and municipal police officers to simply take juveniles home with a warning when they are caught committing the specified offenses, rather than refer them to DFYS; while DFYS received 1254 referrals in FY 94 for the listed offenses, the Division of Motor Vehicles was notified by police officers of juvenile alcohol or drug use over 3200 times (this was done for purposes of revoking the minor's driver's license or privilege to obtain a license pursuant to AS 28.15.183). The reason that officers generally do not refer these offenses to DFYS is to avoid overloading DFYS with relatively minor cases when its resources have been strained by the substantial increase in serious juvenile crime. This is likely to change if the officer is empowered to simply write a citation for the juvenile to appear before a magistrate as an adult. This note assumes that the court system will receive 2000 citations for processing which involve cases that were not previously seen by either DFYS or the court system.

Alaska State Legislature

Chairman.
Judiciary Committee

Vice Chairman.
Transportation Committee

Member.
Resources Committee
Western Legislative Forestry Task Force



Senator Robin L. Taylor

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Sponsor Statement

Senate Bill 46

Senate Bill 46 was introduced at the urging of parents concerned with the lack of consequences within the juvenile justice system when a minor is arrested for an alcohol related offense.

Most of SB 46 is a re-write of existing law. The drafter took the occasion of complying with my request to address alcohol issues by re-ordering the material already in AS 47.10.010 (b). Juveniles are already exempted from juvenile delinquency rules for traffic offenses, tobacco related offenses and fish and game statutes, etc.

SB 46 would add alcohol and controlled-substance related offenses to that list and provide that such cases be handled in district court. A parent, guardian or individual with legal custody would have to be present at all proceedings.

The bill, as amended by the Judiciary and Finance Committees, would change minor consuming from its current misdemeanor status to that of an infraction, punishable by a fine of not less than \$100. More importantly, by moving the jurisdiction in these cases to district court, a judge would be able to intervene in cases of alcohol abuse which are currently falling through the cracks in the juvenile justice system. Often a minor must commit a serious crime in conjunction with alcohol before intervention takes place.

District A:

Hyder • Ketchikan • Kupreanof • Mevers Chuck • Petersburg • Saxman • Sitka • Wrangell

Sponsor Statement- SB 46
Page Two

The Finance Committee substitute for SB 46 included a provision that would add minor consuming to the list of situations where a law enforcement officer can make an arrest without a warrant. This is intended to address a problem in the First Judicial District where the court has ruled that an officer must actually witness the consumption before an intoxicated minor can be arrested.

The Rules Committee substitute added language, which appears on page two, beginning at line 27, to make clear that the intent is protective and not punitive. The new language requires that a person under 18 subjected to a warrantless arrest be cited and then released to a responsible adult.