

HB

205

CS FOR HOUSE BILL NO. 205(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a claim based on criminal street gang activity; relating to
2 offenses related to criminal street gang activities; relating to the crime of
3 recruitment for, sentencing for, and forfeiture of property relating to criminal
4 street gang activities; restricting criminal street gang offenders from obtaining a
5 permit to carry a concealed handgun; amending Alaska Rule of Civil Procedure
6 82; and providing for an effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 09.55 is amended by adding a new section to read:

9 Sec. 09.55.700. CLAIM BASED ON CRIMINAL GANG ACTIVITY. (a)
10 A person who has been coerced, intimidated, threatened, or otherwise harmed by
11 another person as a result of that other person's participation in a criminal street gang
12 has a civil cause of action for treble damages against that other person and, if that
13 other person is an unemancipated minor under the age of 18, against the parent of the

1 minor for acts that were committed by the minor. However, a parent of a minor who
2 is a runaway or missing person is not liable under this subsection for the acts of the
3 minor that are committed by the minor after the parent has made a report to a law
4 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away
5 or is missing. In this subsection, "minor who is a runaway or missing person" means
6 a minor who a parent reasonably believes is absent from the minor's residence for the
7 purpose of evading the parent or who is otherwise missing from the minor's usual
8 place of abode without the consent of the parent.

9 (b) A prevailing party who had a civil cause of action for treble damages
10 under (a) of this section may recover full reasonable attorney fees.

11 (c) In this section, "criminal street gang" has the meaning given in
12 AS 11.81.900(b).

13 * Sec. 2. AS 11.61 is amended by adding new sections to article 1 to read:

14 Sec. 11.61.160. RECRUITING A GANG MEMBER IN THE FIRST
15 DEGREE. (a) A person commits the crime of recruiting a gang member in the first
16 degree if the person uses or threatens the use of force against a person or property to
17 induce another person to participate in a criminal street gang or to commit a crime on
18 behalf of a criminal street gang.

19 (b) Recruiting a gang member in the first degree is a class C felony.

20 Sec. 11.61.165. RECRUITING A GANG MEMBER IN THE SECOND
21 DEGREE. (a) A person commits the crime of recruiting a gang member in the
22 second degree if the person is over 18 years of age and, without force or the threat of
23 force, encourages or recruits a person who is under 18 years of age and at least three
24 years younger than the offender to participate in a criminal street gang.

25 (b) Recruiting a gang member in the second degree is a class A misdemeanor.

26 * Sec. 3. AS 11.81.900(b) is amended by adding a new paragraph to read:

27 (59) "criminal street gang" means a group of three or more persons
28 who

29 (A) have in common a name or identifying sign, symbol, tattoo
30 or other physical marking, style of dress, or use of hand signs; and

31 (B) either individually, jointly, or in combination, have

1 committed or attempted to commit, within the preceding three years, for the
2 benefit of, at the direction of, or in association with the group, two or more
3 offenses under any, or any combination of, the following:

- 4 (i) AS 11.41;
5 (ii) AS 11.46; or
6 (iii) any other felony offense.

7 * Sec. 4. AS 12.55.015(a) is amended to read:

8 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
9 sentence on a defendant convicted of an offense, may singly or in combination

10 (1) impose a

11 (A) fine when authorized by law and as provided in
12 AS 12.55.035; or

13 (B) [A] day fine when authorized by law and as provided in
14 AS 12.55.036. if the court does not impose a term of periodic or continuous
15 imprisonment or place the defendant on probation;

16 (2) order the defendant to be placed on probation under conditions
17 specified by the court that may include provision for active supervision;

18 (3) impose a definite term of periodic imprisonment;

19 (4) impose a definite term of continuous imprisonment;

20 (5) order the defendant to make restitution under AS 12.55.045;

21 (6) order the defendant to carry out a continuous or periodic program
22 of community work under AS 12.55.055;

23 (7) suspend execution of all or a portion of the sentence imposed under
24 AS 12.55.080;

25 (8) suspend imposition of sentence under AS 12.55.085;

26 (9) order the forfeiture to the commissioner of public safety of a deadly
27 weapon that was in the actual possession of or used by the defendant during the
28 commission of an offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

29 (10) order the defendant, while incarcerated, to participate in or comply
30 with the treatment plan of a rehabilitation program that is related to the defendant's
31 offense or to the defendant's rehabilitation if the program is made available to the

1 defendant by the Department of Corrections;

2 (11) order the forfeiture to the state of a motor vehicle, weapon,
3 electronic communication device, or money or other valuables, used in or obtained
4 through an offense that was committed for the benefit of, at the direction of, or
5 in association with a criminal street gang.

6 * Sec. 5. AS 12.55 is amended by adding a new section to read:

7 Sec. 12.55.137. PENALTIES FOR GANG ACTIVITIES. (a) If a class B
8 misdemeanor offense was committed for the benefit of, at the direction of, or in
9 association with a criminal street gang, the offense is a class A misdemeanor.

10 (b) If a class A misdemeanor offense was committed for the benefit of, at the
11 direction of, or in association with a criminal street gang, the offense is a class C
12 felony.

13 * Sec. 6. AS 12.55.155(c) is amended by adding a new paragraph to read:

14 (29) the defendant committed the offense for the benefit of, at the
15 direction of, or in association with a criminal street gang.

16 * Sec. 7. AS 12.55.185 is amended by adding a new paragraph to read:

17 (14) "criminal street gang" has the meaning given in AS 11.81.900(b).

18 * Sec. 8. AS 18.65.705(4) is amended to read:

19 (4) has not been convicted, within the five years immediately preceding
20 the application, of, and is not currently charged under a complaint, information,
21 indictment, or presentment with, any of the following misdemeanor offenses or similar
22 laws of another jurisdiction:

23 (A) AS 11.41.230, 11.41.250, 11.41.270;

24 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

25 (C) AS 11.51.130;

26 (D) AS 11.56.330, 11.56.350, 11.56.380, 11.56.545, 11.56.700,
27 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800, 11.56.805;

28 (E) AS 11.61.110, 11.61.120, 11.61.165, 11.61.210, 11.61.220,
29 11.61.240; or

30 (F) AS 11.71.050, 11.71.060;

31 * Sec. 9. AS 18.65.705 is amended by adding a new paragraph to read:

1 (17) has not been sentenced under AS 12.55.137 for an offense.

2 * **Sec. 10.** This Act applies to an act that occurred on or after the effective date of this Act.

3 * **Sec. 11.** AS 09.55.700(b), added by sec. 1 of this Act, has the effect of changing Alaska
4 Rule of Civil Procedure 82 by requiring an award of full reasonable attorney fees to persons
5 who have been harmed as a result of certain criminal gang activity.

6 * **Sec. 12.** AS 09.55.700(b), added by sec. 1 of this Act, takes effect July 1, 1995, only if
7 sec. 11 of this Act receives the two-thirds majority vote of each house required by art. IV,
8 sec. 15, Constitution of the State of Alaska.

9 * **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect July 1, 1995.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

8
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____ Dept. Affected: Public Safety
Title: Gang Violence 3RU: DPS Statewide Support
Component: Commissioner's Office
Sponsor: Rules/Governor
Requestor: Governor's Office COMPONENT SERIAL NO. 0523

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

OPERATING	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-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 95) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact to the Department of Public Safety is anticipated.

Prepared By: Lee Ann Lucas, Special Assistant to the Commissioner Phone: 465-4322
Division: Commissioner's Office Date: 2/20/95
Approved by Commissioner: *Ronald L. Otte* Date: 2-20-95
Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

No. 5
 Bill Version: HB 205
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to a claim based on criminal street gang activity..." BRU: Prosecution, Legal Services
 Sponsor: Rules by Request of the Governor Component: Prosecution - All
 Requester: Governor's Office/OMB COMPONENT SERIAL NO. 0085-90,93

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)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill will provide important new tools to crack down on criminal activities of gangs in this state in several different ways. First, it creates a civil cause of action for victims against gang members, affording treble damages and full reasonable attorney fees, for harm resulting from the member's participation in the criminal street gang. If the gang member is an unemancipated minor, the parent of the minor is liable, as well.

Next, the bill makes it a crime (a class C felony) for a person to use or threaten to use force to induce another person to participate in, or commit a crime on behalf of, a criminal street gang. The bill also makes it a crime (a class A misdemeanor) for an adult to encourage or recruit a minor to participate in a criminal street gang, even if force or the threat of force is not used.

The bill allows the court to impose criminal forfeiture to the state of certain property used in or obtained through criminal street gang activities.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/19/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/19/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO.

ANALYSIS CONTINUATION:

This bill also makes it an aggravator for presumptive sentencing purposes in felony cases for a person to commit an offense for the benefit of, at the direction of, or in association with a street gang. If the offense is not a felony, this bill will increase the level of the offense for purposes of sentencing, so that a class B misdemeanor conviction that is related to criminal street gang activities will be punishable as a class A misdemeanor and a class A misdemeanor conviction that is related to criminal street gang activities will be punishable as a class C felony. Crimes committed in association with gang activity generally result in more serious injury or damage than other offenses, and it is appropriate that they be treated more seriously.

Finally, the bill amends concealed handgun permit statutes in AS 18.65 to prohibit those who have committed or are charged with committing certain misdemeanor offenses related to criminal street gang activities from being eligible for a concealed handgun permit. Under existing AS 18.65.705(2), a felony charge or conviction, whether or not related to criminal street gang activities, would make a person ineligible for a permit.

It is not anticipated that the bill will have fiscal impact for the Department of Law because, except for the new crimes of recruiting minors into gangs, the bill is concerned with increasing penalties for those who commit crimes as part of a gang or on behalf of a gang. These increased penalties will give the courts greater latitude in fashioning meaningful sentences, particularly in respect to offenders tried in juvenile court.

FISCAL NOTE

No. 6
 Bill Version: HB 205
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act related to a claim based on criminal BRU: all
street gang activity..... Component: all
 Sponsor: _____
 Requester: Governor's Office COMPONENT SERIAL NO. _____

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: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

DOC would be effected by all but Sec. 1 of the bill to the extent that violations are raised to a higher level or new offenses created.

Sec. 2, AS 11.61.160 (b), recruitment in the first degree, would be a class C felony as would Sec. 5, AS 12.55.140 (b). Both would require a pre-sentence investigation plus a prison sentence, probation supervision or both. There is no basis to judge the nature of the sentences that would be handed down nor the number of convictions for this offense. The remainder of the sections pertaining to class of offenses specify misdemeanors; which do not require pre-sentence investigations and are not supervised by probation officers.

The department would monitor those cases coming into the system to evaluate the impact on it's resources. Such impact is expected to be slight and would be limited to urban areas.

Prepared by: Jerry Shriner Phone: 465-4640
 Division: Commissioner's Office Date: 2/20/95
 Approved by Commissioner: Margaret M. Pugh Date: 2/20/95
 Agency: Department of Corrections

COMMITTEE

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 5
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____
Title: Gang Violence
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Southeastern Region
COMPONENT SERIAL NO. 258
See also (SN#): 254,255

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 02/21/95
Date: 2/2/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 4
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____
Title: Gang Violence
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Southcentral Region
COMPONENT SERIAL NO. 354
See also (SN#): 355 258

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

	FY96	FY97	FY98	FY99	FY00	FY01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

	FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 02/21/95
Date: 2/21/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 3
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____
Title: Gang Violence
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Northern Region
COMPONENT SERIAL NO. 255
See also (SN#): 254,258

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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

CHANGES IN REVENUES ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 02/21/95
Date: _____

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 2
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____
Title: "An Act relating to prevention of criminal activities of street gangs..."
Sponsor: _____
Requestor: _____

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.)

Unless gang-related criminal activity rises dramatically in the future, this proposed legislation will have negligible impact on the Public Defender Agency.

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

Phone: 264-4412
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: *[Signature]* 2/21/95

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FISCAL NOTE

No. 1
 Bill Version: HB 205
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to prevention of criminal activities of street gangs..."
 Sponsor: _____
 Requestor: _____

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

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
------------------------	---	---	---	---	---	---

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.)

Prepared by: Brant McGee, Director
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 2/21/95

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F USE COMMITTEE REPORT

(7)
 Date Referred: February 27, 1995 FURTHER REFERRALS: State Affairs
Judiciary
 Date of Committee Action: 03/09

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 205

HOUSE BILL NO. 205 STREET GANG ACTIVITY

"An Act relating to a claim based on criminal street gang activity; relating to offenses related to criminal street gang activities; relating to the crime of recruitment for, sentencing for, and forfeiture of property relating to criminal street gang activities; restricting criminal street gang offenders from obtaining a permit to carry a concealed handgun; amending Alaska Rule of Civil Procedure 82; and providing for an effective date."

recommends it be replaced with the following committee substitute 020.01.001-205 [X] 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) _____

[] zero fiscal note(s) _____ [X] zero fiscal note(s) Public Safety
Law Enforcement, Admin 2/27/95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Fred L. ...</i>			✓	
<i>...</i>			✓	
<i>...</i>	✓			
<i>...</i>				✓
<i>Green Richardson</i>			✓	
<i>Tom ...</i>			✓	

CHAIR'S SIGNATURE *[Signature]*

DEPARTMENT OF LAW
PROPOSED H. H&SS COMMITTEE AMENDMENT TO
HB 205 (STREET GANGS)

Page 2, line 1: Add the following after the period:

However, a parent of a minor who is a runaway or missing person is not liable under this subsection for the acts of the minor that are committed by the minor after the parent has made a report to a law enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or is missing; "runaway or missing minor" means a minor who a parent reasonably believes is absent from the minor's residence for the purpose of evading the parent or who is otherwise missing from the minor's usual place of abode without the consent of the parent.

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TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 205
P O Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

February 27, 1995

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the prevention of criminal activities by street gangs. These crimes have become a distressing part of life in Anchorage and other urban areas of the state. Gangs have been responsible for drive-by shootings, random brutal violence, and a major increase in drug trafficking. If we cannot control the criminal acts of gangs, we cannot control crime as a whole in this state.

This bill will allow us to crack down on criminal activities of gangs in this state in several different ways. First, it creates a civil cause of action for victims against gang members, affording treble damages and full reasonable attorney fees, for harm resulting from the member's participation in the criminal street gang. If the gang member is an unemancipated minor, the parent of the minor is liable, as well.

Next, the bill makes it a crime (a class C felony) for a person to use or threaten to use force to induce another person to participate in, or commit a crime on behalf of, a criminal street gang. The bill also makes it a crime (a class A misdemeanor) for an adult to encourage or recruit a minor to participate in a criminal street gang, even if force or the threat of force is not used.

The bill allows the court to impose criminal forfeiture to the state of certain property used in or obtained through criminal street gang activities.

This bill also makes it an aggravator for presumptive sentencing purposes in felony cases for a person to commit an offense for the benefit of, at the direction of, or in association

GOVERNOR'S TRANSMITTAL LETTER

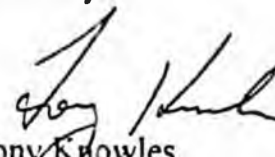
The Honorable Gail Phillips
February 27, 1995
Page 2

with a street gang. If the offense is not a felony, this bill will increase the level of the offense, so that a class B misdemeanor that is related to criminal street gang activities will be a class A misdemeanor and a class A misdemeanor that is related to criminal street gang activities will be a class C felony. Crimes committed in association with gang activity generally result in more serious injury or damage than other offenses, and it is appropriate that they be treated more seriously.

Finally, the bill amends concealed handgun permit statutes in AS 18.65 to prohibit those who have committed or are charged with committing certain misdemeanor offenses related to criminal street gang activities from being eligible for a concealed handgun permit. Under existing AS 18.65.705(2), a felony charge or conviction, whether or not related to criminal street gang activities, would make a person ineligible for a permit.

We need to free our communities from the fear created by criminal activities of street gangs. We can do this by stopping the recruitment of minors into gangs for these activities and by increasing the penalties for those who commit crimes as part of a gang or on behalf of a gang. This bill does both. I urge your favorable action on it.

Sincerely,



Tony Knowles
Governor

Voice of The Times

The Anchorage Times

Publisher: BILL J. ALLEN

"Delivering in Alaskans, putting Alaska first"

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

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Gang crackdown

AMONG THE anti-crime proposals Gov. Tony Knowles is asking the Legislature to enact is one that would target gang violence.

Specifically, he would make it a felony to threaten the use of force to induce someone to commit a crime on behalf of a gang.

That's a strong suggestion, and one lawmakers should quickly approve. But it doesn't go far enough. Oregon has come up with an even broader way to control gangs. It is doing so through conspiracy statutes.

Portland, especially, is using using this as a tool to get gangs off the streets and into jail. And gang members who haven't yet been picked up are leaving town, rather than face being swept into the police net.

Under the Oregon conspiracy laws, police making arrests in connection with criminal activity by gang members don't just nab those directly involved. They also pick up other gang members, on the contention that by their membership in gang affairs they effectively conspired to aid and abet the criminal activity involved.

Gov. Knowles takes an important step in the fight against gangs with his proposal. Oregon has taken another.

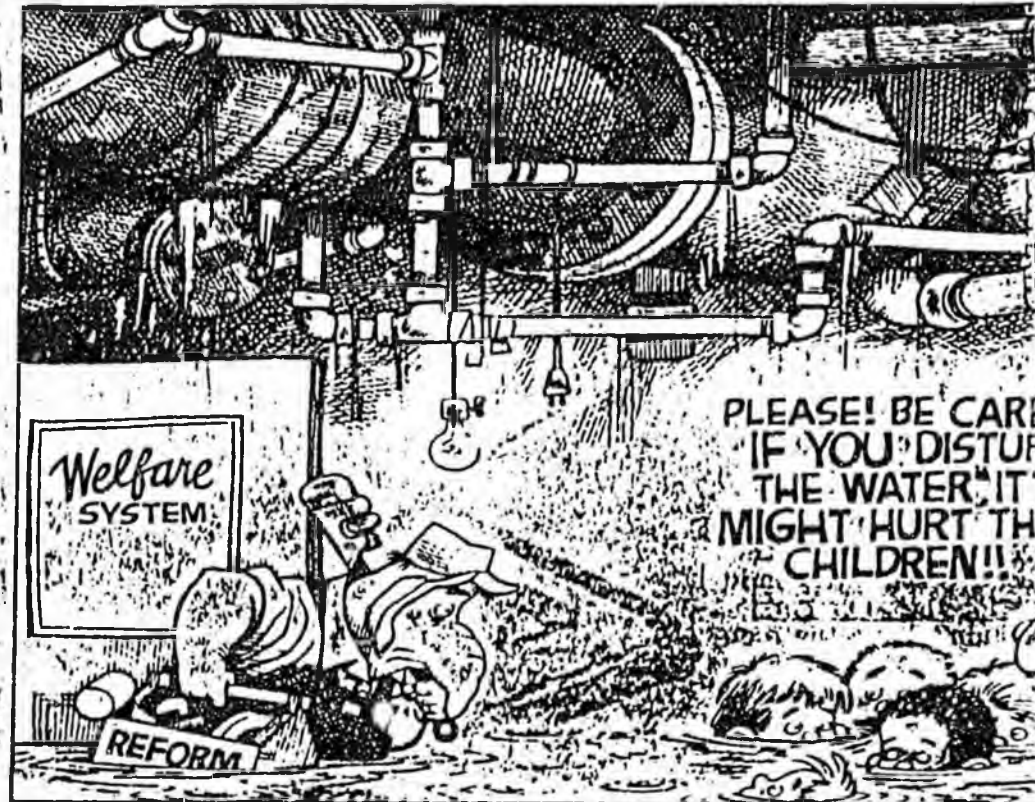
Every move against the rise of gangs is important in the war against crime. Legislators surely will back the governor, quickly.

Egan Center windows

SPEAKING OF gang activity brings to mind the recent midnight shooting that blew out a number of big windows at the Egan Civic and Convention Center.

Police did not label this as gang related.

SUPPORT



Black leaders in denial as racism

By WALTER E. WILLIAMS

If you're black and take seriously the race lobby's pronouncements since the Republican sweep of Congress, by now you should be packed and awaiting the train to take us back to the plantation. Since Republicans and now I've-seen-the-light Democrats are seriously talking about welfare reform, balanced budgets, deregulation and ending



Williams

such as basketball, boxing, football and track-and-field events, it is not uncommon for blacks to be close to 100 percent of the contestants. Fan turnout and loyalty, of course, translates into millions of dollars for the contestants. The sports arena highlights another important lesson: Internal factors play a much more important role in socioeconomic progress than external factors. Internal factors include personal self-discipline, education, deferring gratification and hard work. External factors include phenomena beyond the control of the individual, such as slavery, codified discrimination, lynching and gross malevo-



March 7, 1995

Rep. Cynthia Toohey, Co-Chair
House Health and Social Services Committee
State Capitol
Juneau, Alaska 99801

Dear Representative Toohey:

On behalf of the Alaska Council on Prevention of Alcohol and Drug Abuse, I would like to offer our complete support of HB 205 as introduced on February 27, 1995, by the House Rules Committee.

We fully support efforts to prevent the criminal activities of street gangs, and believe the five main points outlined in the proposed bill will enable Alaskans to protect themselves from these activities. The Alaska Council realizes the ubiquitous nature of drug abuse in street gangs and understands the importance of stopping it.

We support the creation of a civil cause of action for victims against gang members, affording treble damages and full reasonable attorney fees, for harm resulting from the member's participation in the criminal street gang. We support the clause stating that if the gang member is an unemancipated minor, the parent of the minor is liable as well. Overall, we support the entire bill as it is written.

I urge your favorable action on this bill which would help stop the recruitment of minors into gangs and would increase the penalties for those who commit crimes as part of a gang or on behalf of a gang.

Thank you for your time and attention to this important matter.

Sincerely,

A handwritten signature in cursive script that reads 'Joseph DiMatteo'.

Joseph DiMatteo
Executive Director