

**HB**

**386**

REPRESENTATIVE  
BEN GRUSSENDORF  
1221 HALIBUT POINT ROAD  
SITKA, ALASKA 99836  
(907) 747-8458

FINANCE COMMITTEE

DISTRICT 2  
KUPREANOF  
PETERSBURG  
SITKA  
WRANGELL

# Alaska State Legislature



WHILE IN JUNEAU  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1102  
(907) 465-3824

## House of Representatives

### MEMORANDUM

TO: Representative Brian Porter  
Chair, House Judiciary Committee

FROM: Representative Ben Grussendorf

DATE: February 15, 1996

RE: CS House Bill 386 (Res). "An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."

I would appreciate your consideration in scheduling a hearing for CS HB 386 (Res) in your committee. This bill was introduced in response to concerns regarding the difficulty of prosecuting cases which involve cruelty to animals. The bill also addresses the difficulty some boroughs are facing regarding their ability to enact ordinances to prohibit cruelty to animals.

There have been many acts of obvious neglect and cruelty across the state which courts have been unable to prosecute because the language in the statute is too difficult to prove. One district attorney has testified that the current language, which reads "intentionally inflicts severe and prolonged physical pain or suffering on an animal," is "unprosecutable." He said, "a dead animal is your only evidence." CS HB 386 offers prosecutors a more workable statute.

CS HB 386 also gives first and second class boroughs the option to adopt an ordinance to prohibit cruelty to animals. As state law reads now, these entities may only license, impound, and dispose of animals. Without the authority to deal with neglect or abuse issues, borough cases are often turned over to state troopers who consider them a low priority. One animal control officer said, "unless the animal is dead or unable to get up, troopers won't even investigate." Without this legislation, boroughs need an expensive vote of the people to enact an ordinance to prohibit cruelty to animals. CS HB 386 does not mandate boroughs to enact animal cruelty ordinances, but merely gives them the option if they choose to do so.

Thank you for your consideration in scheduling a hearing for this bill.

Mr. Chairman --  
This is my one and only bill!

Ben

**Sec. 11.81.620. Effect of ignorance or mistake upon liability.**

## NOTES TO DECISIONS

Applied in *Russell v. State*, 793 P.2d 1085 (Alaska Ct. App. 1990).

Quoted in *De Nardo v. State*, 819 P.2d 903 (Alaska Ct. App. 1991).

**Sec. 11.81.640. Application of AS 11.81.600 — 11.81.630.**

## NOTES TO DECISIONS

Cited in *Cole v. State*, 828 P.2d 175 (Alaska Ct. App. 1992).

**Article 6. Definitions.****Section  
900. Definitions**

**Sec. 11.81.900. Definitions.** (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

**Sec. 11.61.140. Cruelty to animals.** (a) A person commits the crime of cruelty to animals if the person

(1) intentionally inflicts severe and prolonged physical pain or suffering on an animal;

(2) recklessly neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe pain or suffering to the animal; or

(3) kills an animal by the use of a decompression chamber.

(b) It is a defense to a prosecution under (a)(1) or (2) of this section that the conduct of the defendant

(1) conformed to accepted veterinary practice;

(2) was part of scientific research governed by accepted standards; or

(3) was necessarily incident to lawful hunting or trapping activities.

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Cruelty to animals is a class A misdemeanor. (§ 7 ch 166 SLA 1978; am § 1 ch 78 SLA 1980; am § 20 ch 59 SLA 1982)

**Editor's notes.** — The provisions of paragraphs (2) and (3) of subsection (a) as it existed prior to the 1980 amendment may now be found in AS 11.61.145.

**Collateral references.** — 4 Am. Jur. 2d, Animals, §§ 27-30.

3A C.J.S., Animals, §§ 99-112.

Cruelty in trapping animals, 79 ALR 1308.

What constitutes statutory offense of cruelty, 82 ALR2d 794.

## Article 3. Additional Powers.

## Section

200. First class borough powers

210. Second class borough powers

**Sec. 29.35.200. First class borough powers.** (a) A first class borough may exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law.

(b) A first class borough may by ordinance exercise the following powers on an areawide basis:

- (1) provide transportation systems;
- (2) provide water pollution control;
- (3) provide air pollution control in accordance with AS 46.14.400;
- (4) license day care facilities;
- (5) license, impound, and dispose of animals.

(c) In addition to powers conferred by (b) of this section, a first class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300.

(d) A first class borough that exercises power necessary to contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09 shall exercise its authority in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210. (§ 10 ch 74 SLA 1985; am § 4 ch 83 SLA 1991; am § 7 ch 74 SLA 1993)

**Effect of amendments.** — The 1993 amendment, effective June 26, 1993, made a section reference substitution in paragraph (b)(3).

## NOTES TO DECISIONS

Cited in *Keane v. Local Boundary Comm'n*, 893 P.2d 1239 (Alaska 1995).

**Sec. 29.35.210. Second class borough powers.** (a) A second class borough may by ordinance exercise the following powers on a nonareawide basis:

- (1) provide transportation systems;
- (2) regulate the offering for sale, exposure for sale, sale, use, or explosion of fireworks;
- (3) license, impound, and dispose of animals;
- (4) subject to AS 29.35.050, provide garbage, solid waste, and septic waste collection and disposal;
- (5) provide air pollution control under AS 46.14.400;
- (6) provide water pollution control;
- (7) participate in federal or state loan programs for housing rehabilitation and improvement for energy conservation;
- (8) provide for economic development;
- (9) provide for the acquisition and construction of local service roads and trails under AS 19.30.111 — 19.30.251;

--continued

(10) establish an emergency services communication center under AS 29.35.130;

(11) subject to AS 28.01.010, regulate the licensing and operation of motor vehicles and operators;

(12) engage in activities authorized under AS 29.47.460;

(13) contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this paragraph in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210.

(b) A second class borough may by ordinance exercise the following powers on an areawide basis:

(1) provide transportation systems;

(2) license, impound, and dispose of animals;

(3) provide air pollution control under AS 46.14.400;

(4) provide water pollution control;

(5) license day care facilities.

(c) In addition to powers conferred by (a) of this section, a second class borough may, on a nonareawide basis, exercise a power not otherwise prohibited by law if the exercise of the power has been approved at an election by a majority of voters living in the borough but outside all cities in the borough.

(d) In addition to powers conferred by (b) of this section, a second class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300. (§ 10 ch 74 SLA 1985; am § 1 ch 118 SLA 1988; am § 39 ch 21 SLA 1991; am § 5 ch 83 SLA 1991; am §§ 8, 9 ch 74 SLA 1993)

*Effect of amendments.* — The 1993 amendment, effective June 26, 1993, made section reference substitutions in paragraphs (a)(5) and (b)(3).

#### NOTES TO DECISIONS

Cited in *Keane v. Local Boundary Comm'n*, 893 P.2d 1239 (Alaska 1995).

## ORGANIZED BOROUGHS - UNIFIED MUNICIPALITIES

	<u>Classification</u>
* <u>Aleutians East Borough</u> .....	Second Class
Municipality of Anchorage .....	Unified Home Rule
* <u>Bristol Bay Borough</u> .....	Second Class
Denali Borough .....	Home Rule
* <u>Fairbanks North Star Borough</u> .....	Second Class
Haines Borough .....	Third Class
City and Borough of Juneau .....	Unified Home Rule
* <u>Kenai Peninsula Borough</u> .....	Second Class
* <u>Ketchikan Gateway Borough</u> .....	Second Class
* <u>Kodiak Island Borough</u> .....	Second Class
Lake and Peninsula Borough .....	Home Rule
* <u>Matanuska-Susitna Borough</u> .....	Second Class
North Slope Borough .....	Home Rule
Northwest Arctic Borough .....	Home Rule
City and Borough of Sitka .....	Unified Home Rule
City and Borough of Yakutat .....	Home Rule

Borough of Yakutat. Each of the other home rule boroughs have cities within their boundaries.

\* *First class boroughs* gain their powers from State laws; they have no charters. Alaska has no first class boroughs. That may be largely due to voter preferences with respect to the substantial authority of the assembly of a first class borough to assume nonareawide powers and service area powers.

State law permits a first class borough to exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law. [AS 29.35.200] Further, the assembly of a first class borough may by ordinance establish, operate, alter or abolish a service area to exercise any power granted a first class city or any power that a first class borough can exercise on a nonareawide basis. [AS 29.35.480] As is the case for first class cities, most of the laws governing first class boroughs are codified in Title 29 of the Alaska Statutes.

\* *Second class boroughs* are distinguished from first class boroughs principally in that voter approval is required to assume many nonareawide powers. Voter approval is also required for a second class borough to assume any power on a service area basis, except if the service area is uninhabited. In that case, all real property owners must consent to the assumption of the service area power.

Seven of Alaska's 16 organized boroughs are second class boroughs. They include the Bristol Bay Borough, which was incorporated in 1962 as Alaska's first organized borough. The Bristol Bay Bor-

ough, like the City and Borough of Yakutat, has no cities within its boundaries. However, it is technically possible for one of the three communities within the Bristol Bay Borough to form a city.

Five of the seven second class boroughs were formed directly or indirectly under the 1963 Mandatory Borough Act. Those five are: the Matanuska-Susitna Borough, Kodiak Island Borough, Ketchikan Gateway Borough, Kenai Peninsula Borough and Fairbanks North Star Borough.<sup>5</sup>

The Aleutians East Borough is the other second class borough. It was formed in 1987.

*Third class boroughs* are distinguished from other organized boroughs in a number of ways. First, State law limits the areawide powers of a third class borough to education, and assessment and collection of

taxes. [AS 29.35.220] While planning, platting and land use regulation are required areawide functions for all other organized boroughs, they are not required (or even permitted on an areawide basis) for a third class borough.



Haines Borough, Alaska's only third class borough

<sup>5</sup> Three other boroughs were formed under the Mandatory Borough Act. These were the Greater Anchorage Area Borough, the Greater Sitka Borough and the Greater Juneau Borough.

# 'It was like a case out of Auschwitz'

## Officials seize 11 sickly dogs from home

By KATE RIPLEY  
Staff Writer

Borough animal control officials have seized 11 dogs from the home of a Fairbanks man they say starved one dog to death and caused the others to suffer without adequate water, food and veterinary care.

Officials are awaiting a final necropsy report on the dead dog before deciding whether to charge the man, Steve Ferraro, with violating the borough's animal cruelty law. The husky mix dogs were taken from Ferraro's home off the Elliott Highway earlier this month.

Ferraro said he's innocent and would not allow his dogs to suffer. In explaining the dead dog, he said he shot it in the head because it had parvo, a condition that attacks the intestines.

"They can't say I'm starving them to death. I'm not an animal criminal here," Ferraro said Monday. "My dogs never suffered one bit. Never one bit."

But Dr. R.W. Van Pelt, the veterinarian who examined all the dogs for the borough, said there was no evidence of a bullet wound anywhere on the dead dog's body.

"I know what parvo looks like, and it doesn't look like this," Van Pelt said. "This dog starved to death."

Van Pelt said he could nearly count every bone in the dog's body without opening it up.

"He had literally digested his own tissues. It was like a case out of Auschwitz," Van Pelt said. "It was one of the worst cases I've seen, and I've seen a lot of them."

Indeed, a week after the dogs were seized, three of the adults still looked skeletal and acted listless Friday at the borough animal shelter, off Peger Road. Their ribs protruded from their sides and their hip bones jutted out sharply.

Four other adults were thin but in better shape. Most of the

dogs were infested with lice. All were severely dehydrated.

The dogs were seized from Ferraro's trailer, at about 9 Mile Elliott Highway, Feb. 15. They've been under the care of the borough since and are slowly improving.

Animal control officer Vicki Adkins said the dogs were taken into custody just in time. One mother and her 6-week-old pup weren't moving and had to be pulled out of their house. She was wobbly when Adkins stood her up.

"I think she would have died that night. She was dying," Adkins said of the shy cream-colored mother. The pup, found curled on top of its mother trying to stay warm, was hypothermic and full of worms.

Van Pelt also discovered two older pups, ages 4K and 5K months, have rickets, a bone disease caused by lack of vitamin D and calcium. The pups' front legs

See DOGS, Page B-2



Hora Grunel/News-Miner

ABUSED—Animal control officer Vicki Adkins holds one of the huskies that were removed from a home off the Elliott Highway. The dogs were all underweight and dehydrated.

## DOGS: Owner may face cruelty charges

Continued from Page B-1  
The pups seemed not to know of their health problems as they played in a large cage at the shelter Friday. They wagged their tails and walked around on their funny legs, happy to see visitors.

Ferraro admitted his dogs had worms, and he contends that's why they're so skinny. He said he was feeding them worm medication but found out later it was the wrong kind.

"It's my fault for not taking them to the vet, but I don't have

the money to take them to the vet," said Ferraro, who said he lost his latest job and doesn't own a vehicle that runs.

Ferraro said he has been mushing dogs for two years but is getting out of the sport because it's too expensive. He said he hasn't run his dogs much this winter.

Rather than get into a legal fight, Ferraro said he wants to work something out with the borough and have his dogs assigned to a friend.

It was a neighbor's complaint that led Adkins and Colleen Thompson, another animal control officer, to Ferraro's place Feb. 8. They could see the

mother and pup in front of the trailer and suspected other dogs were chained out back. The dead dog was stashed in an open shed in front of the trailer.

"That gave us probable cause to believe others would die," Adkins said.

Adkins wanted to get a search warrant right away, but an attorney wasn't available to help. She and Thompson made one more visit before obtaining the search warrant six days later.

People may be cited under the borough's animal cruelty law if they intentionally or negligently fail to provide dogs with adequate food, water, shelter or veterinary care to prevent physical suffering. The charge is a misdemeanor punishable by a \$500 maximum fine and up to 30 days in jail.

Adkins said that in her 16 years as an animal control officer she can remember the borough obtaining search warrants for similar cases only three times.

That's because many cruelty cases are borderline and difficult to prove, Adkins said. It's even more difficult in areas outside the borough, which falls under state jurisdiction.

Critics say the state law is vague and nearly requires an animal to die before authorities can act. Two bills in the Legislature would give those laws more teeth, but one, Senate Bill 238, has bogged down in the Senate Judiciary Committee while another, House Bill 386, is slowly working its way through the House.

Will Forsberg, of the educational group Mush with PRIDE, said animal cruelty laws must be strengthened.

"Authorities are at the scene, yet they don't have good enough statutes to go in and protect these animals until it's so extreme," Forsberg said. "That's what we've got to address."

# Alaska State Legislature

REPRESENTATIVE  
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FINANCE COMMITTEE

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SITKA  
WHANGELL



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## House of Representatives

### SPONSOR STATEMENT CSHB 386 (RES)

**"An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."**

This bill was introduced in response to concerns expressed by constituents regarding the difficulty of prosecuting cases which involve cruelty to animals. The bill also addresses the difficulty some boroughs are facing regarding their ability to enact ordinances to prohibit cruelty to animals.

There have been many acts of obvious neglect and cruelty across the state which courts have been unable to prosecute because the language in the statute is too difficult to prove. One district attorney has testified that the current language which reads, "intentionally inflicts severe and prolonged physical pain or suffering on an animal," is "unprosecutable." He said, "a dead animal is your only evidence."

CSHB 386 offers prosecutors a more workable statute. Changing "intentionally" to "knowingly" lowers the state of mind the state must prove in prosecuting a case. Changing the wording, which describes the animal's level of suffering, offers more options under which to prosecute and lowers the difficult standard which exists.

In order to prove cruelty through neglect, current law requires that the accused acted "recklessly" which means "a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur..." Criminal negligence is defined in our law to mean:

"A person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation for the standard of care that a reasonable person would observe in the situation."

Criminal negligence is a lower state of mind than recklessness.

**CSHB 386 (RES)** *continued*

CSHB 386 also gives first and second class boroughs the option to adopt an ordinance to prohibit cruelty to animals. As state law reads now, these entities may only license, impound, and dispose of animals. Without the authority to deal with neglect or abuse issues, borough cases are often turned over to state troopers who consider them a low priority. One animal control officer said, "unless the animal is dead or unable to get up, troopers won't even investigate."

Without this legislation, boroughs need an expensive vote of the people to enact an ordinance to prohibit cruelty to animals. The proposed changes do not mandate boroughs to enact animal cruelty ordinances, but merely gives them the option if they choose to do so.

Existing law designates that cruelty to animals is a class A misdemeanor. This remains unchanged.

## CS FOR HOUSE BILL NO. 386(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES GRUSSENDORF, Finkelstein, B.Davis

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to cruelty to animals and to the power of first and second  
2 class boroughs to prohibit cruelty to animals."

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

4 \* Section 1. AS 11.61.140(a) is amended to read:

5 (a) A person commits the crime of cruelty to animals if the person

6 (1) knowingly [INTENTIONALLY] inflicts severe [AND  
7 PROLONGED] physical pain or prolonged suffering on an animal;

8 (2) with criminal negligence, [RECKLESSLY] neglects an animal and,  
9 as a result of that neglect, causes the death of the animal or causes severe physical  
10 pain or prolonged suffering to the animal; or

11 (3) kills an animal by the use of a decompression chamber.

12 \* Sec. 2. AS 29.35.200(b) is amended to read:

13 (b) A first class borough may by ordinance exercise the following powers on an  
14 areawide basis:

- 1 (1) provide transportation systems;
- 2 (2) provide water pollution control;
- 3 (3) provide air pollution control in accordance with AS 46.14.400;
- 4 (4) license day care facilities;
- 5 (5) license, impound, prohibit cruelty to, and dispose of animals.

6 \* Sec. 3. AS 29.35.210(a)(3) is amended to read:

- 7 (3) license, impound, prohibit cruelty to, and dispose of animals;

8 \* Sec. 4. AS 29.35.210(b) is amended to read:

9 (b) A second class borough may by ordinance exercise the following powers on  
10 an areawide basis:

- 11 (1) provide transportation systems;
- 12 (2) license, impound, prohibit cruelty to, and dispose of animals;
- 13 (3) provide air pollution control under AS 46.14.400;
- 14 (4) provide water pollution control;
- 15 (5) license day care facilities.

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 19, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/28/96

The JUDICIARY Committee considered:

HB 386

HOUSE BILL NO. 386

CRUELTY TO ANIMALS

"An Act relating to cruelty to animals and the provision of food and water to confined or impounded animals."

recommends it be replaced with the following committee substitute CSHB 386 (JUD) [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) \_\_\_\_\_ [X] fiscal note(s) DPS (2/19/96)

[ ] zero fiscal note(s) \_\_\_\_\_ [X] zero fiscal note(s) DCRA (2/19/96)

Table with 5 columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows include signatures: and Emberton, Betty Rann, [crossed out], Bryan A. Porter, C. M. B. [unclear].

CHAIR'S SIGNATURE Bryan A. Porter

Date Referred to Committee: January 8, 1996

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/14/96

The RESOURCES Committee considered:

HB 386

HOUSE BILL NO. 386

CRUELTY TO ANIMALS

"An Act relating to cruelty to animals and the provision of food and water to confined or impounded animals."

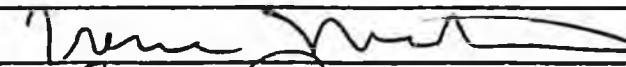
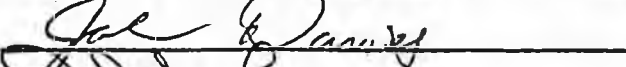
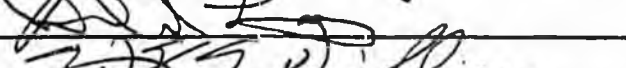
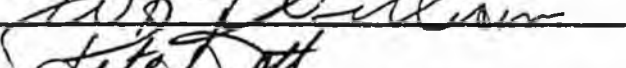
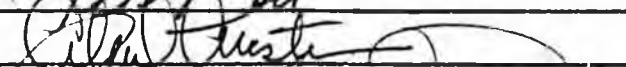

recommends it be replaced with the following committee substitute CSHB 386(Res)  the same title  a new title

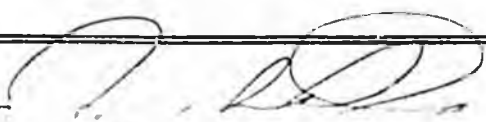
additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) DPS  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DCRA  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 Nicholia DAVIES			X	
 Long	X		X	
 Williams				X
 Kott			X	
 Austerman	X			
 Green				
	(2)		(4)	(1)

CHAIR'S SIGNATURE 

# FISCAL NOTE

STATE OF ALASKA

BILL NO: CSHB 386(RES)

1996 LEGISLATIVE SESSION

Revision Date: February 20, 1996

Dept. Affected: Public Safety

Title: Cruelty to Animals

BRU: Alaska State Troopers

Component: Detachments

Sponsor: Representative Grussendorf

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 0799

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

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

Estimate of current year (FY 96) 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.)**

During 1995, the Alaska State Troopers investigated 20 cruelty to animal cases. This bill would change the mental states required in some of the sub-sections in the cruelty to animals statute. Those changes have the potential of increasing the number of cases the division would have to investigate, however that impact should be negligible.

Prepared By: Lt. Dan Lowden

Phone: 465-5505

Division: Alaska State Troopers

Date: February 20, 1996

Approved by Commissioner: 

Date: 2/22/96

Agency: Ronald L. Otte, Department of Public Safety

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# FISCAL NOTE

No. 2

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO:**                       
**Bill Version:** CSHB 386(RES)  
**(H) Publish Date:** 2/19/96

Revision Date: 2/13/96 Dept. Affected: Community & Regional Affairs  
Title: An Act relating to cruelty to animals and the BRU: none  
provision of food and water to confined... Component: none  
Sponsor: Rep. Grussendorf  
Requestor: Rep. Grussendorf COMPONENT SERIAL NO.                     

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CHANGE IN REVENUES ( )</b>						
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program Receipts						
1006 GE/MHT/A						
Other						
<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 (FY 95) impact \$ none

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

This legislation would have no fiscal impact on the department

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4708  
Division: Director, Administrative Services Date: 2/13/96  
Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 2/13/96  
Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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*Please note this fiscal note is for the work draft. The new fiscal note is on its way.*

Work Draft  
2/1/96  
BILL NO. CSHB 386 ( )

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "...cruelty to animals and the provision of food and water to confined or impounded animals." BRU: Criminal Division  
 Component: Criminal Division  
 Sponsor: Representative Grussendorf COMPONENT SERIAL NO. 2085  
 Requester: Representative Grussendorf

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**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 (FY96) 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)

This bill amends Alaska laws relating to cruelty to animals in two ways. First, the bill amends AS 11.61.140 to lower the legal standard of conduct from one who acts intentionally to one who acts knowingly and inflicts severe physical pain or prolonged suffering on an animal. Similarly, the bill lowers the legal standard of conduct from one who acts recklessly to one who acts with criminal negligence and neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe physical pain or prolonged suffering of the animal. These changes have the effect of making cruelty to animal cases easier to prove and, consequently, they will not have a fiscal impact.

Second, the bill amends AS 29.35 to authorize first and second class boroughs to enact ordinances prohibiting cruelty to animals. Providing this authority will allow local governments to deal with a problem that is primarily one of local concern.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: 2/7/96  
 Date: 2/7/96

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# Fairbanks North Star Borough

# Assembly

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

Fax 907/459-1224

February 13, 1996

The Honorable Ben Grussendorf  
Alaska State House Of Representatives

Dear Representative Grussendorf,

This letter concerns the proposed committee substitute for House Bill 386, relating to "Cruelty to Animals" which you pre-filed for the Second Session of the Nineteenth Legislature.

\* ( On October 12, 1995, the Fairbanks North Star Borough Assembly adopted Resolution 95-052; "A Resolution Relating To Cruelty To Animals." The resolution requests a member (s) of the Legislature to "introduce legislation which would allow municipalities, by ordinance, to exercise the power of preventing cruelty to animals and to be able to prosecute those guilty of animal cruelty." Your legislation satisfies that request and I sincerely appreciate the introduction of the bill.

I'm sure you are aware of the resistance by municipalities throughout the state to have mandated responsibilities without state monetary assistance. I know that I normally would not be in favor of such legislation. This matter is different! A municipality does not have to accept this responsibility except by ordinance. Other provisions in the bill help clarify the definition of animal cruelty.

The prevention of cruelty to animals is important to the Fairbanks North Star Borough. It had been enforcing animal cruelty prevention powers and punishment for violations until the summer of 1995 when the court determined that the borough only had the power to practice the prevention of canine cruelty. The borough has trained staff and equipment in place which would allow it to exercise the broader animal cruelty prevention powers at little or no additional cost to our taxpayers.

The extent of legal animal control powers that the Fairbanks North Star Borough has exercised in recent years is varied. Attached, you will find a memo from the borough's legal department detailing the changes over the years.

In closing, I applaud your introduction of HB 386 and I believe it is the best vehicle to fulfill the Fairbanks North Star Borough's needs in this area. If there is any way I can assist in the passage of the bill, please let me know.

Sincerely,

  
Dan LaSota

Fairbanks North Star Borough Assembly Member



# THE ALASKA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC.

SPCA State Headquarters and Spay Clinic • 549 W. International Airport Road • Anchorage, Alaska 99518  
Phone: 562-2999

Representative Grussendorf;

The Alaska SPCA (Society for the Prevention of Cruelty to Animals) is in strong support of CSHB 386, enacting stronger legislation for cases of animal cruelty and abuse.

\* During the past years a very evident need for clarified statutes was and is obvious. There have been cases in the past that took as long as one and one-half (1 1/2) years to prosecute because the District Attorneys did not have laws to base their obvious abuse cases upon. This type of legislation is the tool needed to help stop cruelty.

Statistics have shown a strong link between animal abuse and child/spousal abuse. Perhaps this bill can work twofold in ending cruelty with in the home.

Again, we strongly urge the committee to look very seriously at signing the very important piece of legislation.

Sincerely,

Diane Zarfoss, SPCA

THE HUMANE SOCIETY OF CARROLL COUNTY, INC.

ANIMAL CONTROL AND SHELTER DIVISIONS

2517 LITTLESTOWN PIKE  
WESTMINSTER, MARYLAND 21158  
848-4810 875-5379

February 13, 1996

Representative Ben Grussendorf  
State Capital Building  
Juneau, Alaska 99801

Dear Rep. Grussendorf,

I have reviewed House Bill #386 and your amendments seem to accomplish two things.

First and maybe more importantly, the new wording continues to protect those who might inadvertently cause physical pain or prolonged suffering to an animal. It also clarifies the law and makes those who would deliberately be cruel to an animal more easily answerable to a society which deplores such actions.

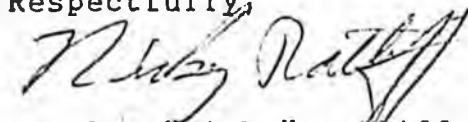
I should think these amendments would easily be passed into law especially in light of the fact that your existing law is probably one of the most reasonable state animal cruelty laws I've seen. (Our Maryland law is enclosed.)

The amendments that address first and second class boroughs is of course much needed since any attempt to weaken the state law would be unconscionable to say the least.

It is nice to know that in spite of all the overwhelming issues facing our elected officials today, we still manage to elect men and women who can understand the plight of those not able to cast a vote.

Thank you for the opportunity to assist you in your efforts.

Respectfully,



Carolyn "Nicky" Ratliff  
Executive Director

Enclosures  
CNR/cik

# ALASKA ANIMAL CONTROL ASSOCIATION

February 26, 1996

Representative Ben Grussendorf  
State Capitol Building  
Juneau, Alaska 99801

Dear Representative Grussendorf:

On behalf of the Alaska Animal Control Association (AACA) we would like to go on record as being in support of CS House Bill 386 with one concern however regarding the language in Sec. 3 line 8 and Sec. 6 line 22.

*changed*

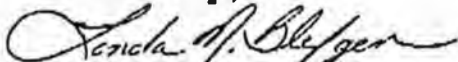
...may not enact an ordinance prohibiting cruelty to animals that is inconsistent with state laws prohibiting cruelty to animals.

If inconsistent is referring to the fine/penalties we support the sections as written but feel it needs to be clarified.

This will enable first and second class boroughs to adopt an ordinance to prohibit cruelty to animals and handle such cases in the borough. They currently do not have the authority to handle these cases and must rely on state troopers who consider them a low priority.

\* The current language in law AS 11.61.140 is very difficult to prove and courts have been unable to prosecute a number of neglect and cruelty cases. Bill 386 will improve the language in AS 11.61.140 and enable prosecutors to convict those that have participated in obvious acts of neglect and cruelty.

Sincerely,

  
Linda M. Blegen  
President