

HB

474

CS FOR HOUSE BILL NO. 474(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES TOOHEY, Kelly

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to violations of municipal ordinances and regulations, and to
2 civil penalties for violation of municipal ordinances by juveniles."

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

4 * Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

5 (54) AS 29.25.070(e) (notice of ordinance enforcement against a
6 minor).

7 * Sec. 2. AS 29.25.070(b) is amended to read:

8 (b) The municipality or an aggrieved person may institute a civil action against
9 a person who violates an ordinance, including a minor as provided in AS 47.10.145.
10 In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000
11 may be imposed for each violation. An action to enjoin a violation may be brought
12 notwithstanding the availability of any other remedy. On application for injunctive
13 relief and a finding of a violation or a threatened violation, the superior court shall
14 grant the injunction. Each day that a violation of an ordinance continues constitutes

1 a separate violation.

2 * Sec. 3. AS 29.25.070 is amended by adding new subsections to read:

3 (e) The municipality shall provide written notice to the commissioner of health
4 and social services or to the commissioner's designee of the commencement of a civil
5 enforcement action for the violation of an ordinance under (b) of this section against
6 a minor. Unless the commissioner and the municipality negotiate an agreement
7 making other arrangements to satisfy the obligation imposed on the municipality by
8 this subsection, the municipality may provide notice by mailing a copy of the citation
9 or other document setting out the notice of the commencement of the civil enforcement
10 action. This subsection applies to home rule and general law municipalities.

11 (f) In this section, "minor" means a person under 18 years of age.

12 * Sec. 4. AS 47.10 is amended by adding a new section to read:

13 Sec. 47.10.145. CIVIL PENALTIES FOR VIOLATION OF MUNICIPAL
14 ORDINANCES. (a) Except as otherwise provided in this section, the enforcement of
15 a civil penalty under AS 29.25.070(b) against a minor for violation of a municipal
16 ordinance shall be heard in the district court in the same manner as for similar
17 allegations brought against an adult, except that the minor's parent, guardian, or legal
18 custodian shall be present at all proceedings.

19 (b) Allegations against a minor for a civil penalty under a municipal ordinance
20 may be assigned to a hearing officer for resolution, if provided for by municipal
21 ordinance.

22 (c) An action for a civil penalty filed against a minor under this section does
23 not give rise to the right to a trial by jury or to counsel appointed at public expense.

Date of Committee Action: 3/25/96

The JUDICIARY Committee considered:

HB 474

HOUSE BILL NO. 474

VIOLATIONS OF MUNICIPAL ORDINANCES & REGS

"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."

recommends it be replaced with the following committee substitute CSHB 474 (JUDI) 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) Courts zero fiscal note(s) DHSS, DCRA, DPS
(3/8/96)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Brian Porter</u>	<input checked="" type="checkbox"/>			
<u>David Abate</u>			<input checked="" type="checkbox"/>	
<u>Bump</u>	<input checked="" type="checkbox"/>			
<u>Scott</u>	<input checked="" type="checkbox"/>			
<u>Don Bueche</u>	<input checked="" type="checkbox"/>			
<u>Joseph</u>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Brian Porter

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 474

Revision Date: _____
Title: Juvenile Infractions

Dept. Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Rep. Toohay
Requestor: House Judiciary

Component: _____
COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	49.1	49.1	49.1	49.1	49.1	49.1
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	49.1	49.1	49.1	49.1	49.1	49.1

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	49.1	49.1	49.1	49.1	49.1	49.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	49.1	49.1	49.1	49.1	49.1	49.1

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel
Agency: Alaska Court System

Phone: 264-8228
Date: 03/21/96

Approved by: Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Date: 03/21/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System
Fiscal Analysis
HB 474

HB 474 amends AS 47.10.010(b), to provide that if a juvenile is cited for a noncriminal offense under a municipal ordinance for which a conviction cannot result in incarceration or the loss of a valuable license and for which a fine schedule has been established under AS 29.25.070(a), the juvenile will be charged, prosecuted and sentenced in district court in the same manner as an adult.

It is anticipated that the major municipalities will create infractions specific to juveniles, such as curfew infractions. It is also anticipated that municipalities will create juvenile infraction substitutes for many existing crimes such as vandalism and shoplifting. The citations which are contested will come before the court system. Based upon statistics generated during the first two months of Anchorage's complex civil curfew system, and the per capita rate at which adults are charged with misdemeanors, this note assumes that HB 474 will generate 6000 citations per year statewide. Noncontested citations may be paid directly to the municipalities; however, defendants may contest citations or enter guilty pleas at court. Thus, many persons subject to this section will come before a district judge and/or pay citations through the court's accounting system. This note assumes that one-third of juvenile citations will be run through the court system; this is the rate at which the courts deal with other municipal citations. It should be kept in mind that the rate at which juveniles contest citations will depend on the size of fines set by the municipalities in the fine schedule.

Alaska Court System

Fiscal Analysis

HB 474

Personal Services

Positions

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, range 10A, PPT, 8 months, Anchorage/statewide	\$16,008	\$6,800	\$22,808
Committing Magistrate, range 22B, PPT, Anchorage/statewide, 3 months	13,815	3,667	17,482
Overtime for In-Court Clerks at range 12A for additional trials			8,800
			<hr/>
Estimated Total Cost			<u>\$49,089</u>

9-LS1555K
Chenoweth
3/22/96

CS FOR HOUSE BILL NO. 474()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES TOOHEY, Kelly

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23 not give rise to the right to a trial by jury or to counsel appointed at public expense.



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol
Juneau, AK 99801-1182

DISTRICT 13

MEMORANDUM

TO: Representative Brian Porter
Judiciary Committee

FROM: Representative Cynthia Toohey *CT*

DATE: March 12, 1996

RE: Request for hearing 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"

I respectfully request that, at your earliest convenience, the above-referenced bill be scheduled for hearing in your committee

Attached herewith are:

Sponsor statement
Zero fiscal notes
Sectional Analysis
Letters of support

It is anticipated that the Administration will oppose this bill. The Department of Law and the Division of Family and Youth Services testified against it.

A teleconference to the Anchorage LIO and one off-site in Anchorage is requested.

Please contact Marveen at extension 6820 if you have any questions. Your consideration of this request is appreciated. Thank you.

Thank you for your consideration of this request. Please contact Marveen Coggins at extension 6820 if you have any questions.

INTERIM ADDRESS: 716 West 4th Avenue, Suite 330, Anchorage, 99501-2133



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

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.

INTERIM ADDRESS: 716 West 4th Avenue, Suite 330, Anchorage, 99501-2133

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105


MEMORANDUM

February 10, 1996

SUBJECT: House Bill 474, relating to violations of municipal ordinance and regulations -- sectional analysis (Work Order No. 9-LS1555C)

TO: Representative Cynthia Toohey
ATTN: Marveen Coggins

FROM: Jack Chenoweth
Legislative Counsel



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 Toohey

February 10, 1996

Page 2

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

Municipality
of
Anchorage



P.O. Box 190650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4433

Rick Mjstrom, 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,

Tim Rogers
Legislative Program Coordinator

**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.



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

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

No. 1
Bill Version: HB 474
(H) Publish Date: 3/8/96

Revision Date: 03/01/96
Title: Violations of Municipal Ordinances
Sponsor: Representative Toobey
Requestor: House (CRA)

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: DFYS Central Office
COMPONENT SERIAL NO. 259
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
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						
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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 (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 (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary.)

Recent information provided by federal staff indicates that there will be no loss of funds due to the detention of minors on contempt of court orders resulting from a minor's failure to pay a fine.

There is already some impact on overcrowded youth facilities because of the waiver of smoking and alcohol consumption by minors because district judges are issuing bench warrants when minors fail to appear for court on those charges. However, we are not able to gauge the financial impact of increasing the numbers and kinds of offenses for which arrests and detention on such bench warrants will result in part because we don't know what municipal ordinances already exist or may result from this legislation.

In addition, this 0 fiscal note is based on the assumption that minors who have been ordered to serve time in detention on contempt charges will wait until a bed is available rather than adding to the overcrowding.

Prepared by: L. Diane Worley, Director
Division: Family and Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 03/01/96
Date: 3/5/96

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FISCAL NOTE

No. 2

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: _____
Bill Version: HB 474
(H) Publish Date: 3/8/96

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
Sponsor: Rep. Toohy Component: none
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
CHANGE IN REVENUES ()						
Revenue Code						

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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FISCAL NOTE

No. 3

Bill Version: HB 474

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL N

(H) Publish Date: 3/8/96

Revision Date: _____ Dept. Affected: Public Safety
 Title: Municipal ordinances and regulations BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Toohey
 Requestor: H. CRA COMPONENT SERIAL NO. 0799

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

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-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						
TOTAL	-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.)

This bill will not have a fiscal impact on the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: March 5, 1996
 Approved by Commissioner: *[Signature]* Date: 3/5/96
 Agency: Ronald L. Otte, Department of Public Safety

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(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: March 8, 1996

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/12/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 474

HOUSE BILL NO. 474

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recommends it be replaced with the following committee substitute [] 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) _____ (3) [] zero fiscal note(s) H+SS, C+RA, DPS

Table with 5 columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Contains handwritten signatures and checkmarks.

CHAIR'S SIGNATURE

Car Beude