

SB

26

May 4, 1995

My name is Nicole Davis. I am a senior at Lathrop high school in Fairbanks, Alaska. I have recently become very interested in the number of crimes committed by juveniles in my area. I agree with the premise behind the majority of Senate Bill 26, but disagree with section two.

I support section one which allows for juveniles who have committed certain crimes to be charged, prosecuted, and sentenced in superior court in the same manner as an adult. I feel that by trying the juvenile as an adult for the charges stated, there will be fewer repeat offenders in our prison system. Many young criminals face few serious consequences for their actions which only encourages them to continue down the wrong path. Being tried as an adult will force the juvenile to take the crime and it's consequences seriously.

I disagree with the premise behind the second section of the bill, because I feel the records of the individual should not be sealed. If an individual has to face the consequences of their actions for the rest of their life, then other criminals will think twice before committing an offense. I also feel that future employers, landlords, etc. have the right to if the individual has been previously convicted of a crime.

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: CSB 26 FIN
(S) Publish Date: 4-2-95

Revision Date: _____
Title: Providing for Automatic Waiver of minors who
use firearms to commit criminal offenses
Sponsor: Senators Kelly, Donley
Requestor: Senate (JUD)

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						
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 will be no increase in cost to the division since this legislation does not add new clients

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

Phone: 465-3191
Date: 02/14/95
Date: 2/16/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version CSSB 26 FIN
(S) Publish Date: 4-12-95

Revision Date: _____
Title: "An Act providing for automatic waiver of juvenile jurisdiction and prosecution of minors as adults ..."
Sponsor: Sen. Donley
Requestor: (S) JUD

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender

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.)

No measurable impact on the Public Defender Agency is anticipated.

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

Phone: 264-4400
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 3/14/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version CSSB 26 FIN
(S) Publish Date: 4-12-95

Revision Date: _____
Title: Providing for Automatic Waiver of minors who
use firearms to commit criminal offenses
Sponsor: Senators Kelly, Dunley
Requestor: Senate (JUD)

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						
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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						
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 will be no increase in cost to the division since this legislation does not add new clients.

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: 02/14/95
Date: 2/16/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

f.iii Version: SB 216
(S) Publish Date: 3/20/95

Revision Date: _____
Title: Providing for Automatic Waiver of minors who
use firearms to commit criminal offenses
Sponsor: Senators Kelly, Donley
Requestor: Senate (JUD)

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

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 will be no increase in cost to the division since this legislation does not add new clients.

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: 02/14/95
Date: 2/16/95

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1995 LEGISLATIVE SESSION

Bill Version: SB 26

(S) Publish Date: 3/20/95

Revision Date: _____ Dept. Affected: Public Safety
 Title: Offenses by juveniles using firearms Alaska State Troopers
 Component: Detachments
 Sponsor: Senator Donley
 Requestor: (S)JUD COMPONENT SERIAL NO. 0799

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 () <small>Revenue Code</small>	-0-	-0-	-0-	-0-	-0-	-0-

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: \$ -0-

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 significant impact on the Alaska State Troopers.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 03/09/95
 Approved by Commissioner: [Signature] Date: 3-9-95
 Agency: Ronald L. Otte, Dept. of Public Safety

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BII Bill Version: SB 26
(S) Publish Date: 3/20/95

Revision Date: _____ Dept. Affected: Department of Law
 Title: Automatic waiver of juvenile jurisdiction - minors BRU: Prosecution
and use firearms to commit criminal offenses Component: All
 Sponsor: Senator Donley COMPONENT SERIAL NO. 1995-00
 Requester: Senator Donley

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1006 GF/MHTIA							
Other							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

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

POSITIONS		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 would waive a minor, at least 14 years of age, to adult court if the minor is charged with an offense involving the use of a firearm in the commission of the offense, and the minor was previously adjudicated as a delinquent or convicted as an adult, as a result of an offense that involved use of firearms in the commission of the offense.

1993 data indicates that the total of all weapons charges involving juveniles 13 years of age and older was 240 for the year. This number includes all types of weapons and not just firearms. It also includes lower level weapons charges such as possession of a firearm without the permission of a parent or guardian or misuse of a firearm, which accounts for nearly one-half of the charges. Based on this data, and because the bill would apply to second offenses, it appears that the number of juveniles who would be waived under the bill would be relatively small, perhaps twenty or thirty per year. When spread between various locations, this additional caseload is not sufficient to warrant fiscal note costs.

Prepared by: Richard I. Peoues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/10/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/10/95
 Agency: Department of Law

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SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT
SB 26

**Treating juvenile offenders with multiple convictions for
violent offenses with deadly weapons as adults**

Senate Bill 26 would create a strong deterrent to the repeated use of deadly weapons by juveniles. Senate Bill 26 would treat minors over age 14, who for the second time use a deadly weapon to commit a violent crime, as adults. Existing law only waives juveniles to adult court if they are at least 16 years of age, commit unclassified or class A felony crimes against a person, or commit arson in the first degree.

Deadly weapons are defined by AS 11.81.900, as:

" 'deadly weapon' means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive."

SB26 does not require any additional mandatory sentence or any specified punishment. Minors who are convicted of adult crimes, if incarcerated, are required by law to be segregated from adult prison populations.

SB26 is supported by: The National Education Association, The National Rifle Association, Public Safety Employees Association, Juneau Police Department, Fairbanks Police Department, and Anchorage Police Department.

DD/pah

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MEMBER: Senate Finance Committee • Senate State Affairs Committee

Produced in House

- (1) "affirmative defense" means that
- (A) some evidence must be admitted which places in issue the defense; and
- (B) the defendant has the burden of establishing the defense by a preponderance of the evidence;
- (2) "benefit" means a present or future gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary;
- (3) "building", in addition to its usual meaning, includes any propelled vehicle or structure adapted for overnight accommodation of persons or for carrying on business; when a building consists of separate units, including apartment units, offices, or rented rooms, each unit is considered a separate building;
- (4) "cannabis" has the meaning ascribed to it in AS 11.71.900(10), (11), and (14);
- (5) "conduct" means an act or omission and its accompanying mental state;
- (6) "controlled substance" has the meaning ascribed to it in AS 11.71.900(4);
- (7) "correctional facility" means premises, or a portion of premises, used for the confinement of persons under official detention;
- (8) "credit card" means any instrument or device, whether known as a credit card, credit plate, courtesy card, or identification card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining property or services on credit;
- (9) "crime" means an offense for which a sentence of imprisonment is authorized; a crime is either a felony or a misdemeanor;
- (10) "culpable mental state" means "intentionally", "knowingly", "recklessly", or with "criminal negligence", as those terms are defined in (a) of this section;
- (11) "dangerous instrument" means any deadly weapon or anything that, under the circumstances in which it is used, attempted to be used, or threatened to be used, is capable of causing death or serious physical injury;
- (12) "deadly force" means force that the person uses with the intent of causing, or uses under circumstances that the person knows create a substantial risk of causing, death or serious physical injury; "deadly force" includes intentionally discharging or pointing a firearm in the direction of another person or in the direction in which another person is believed to be and intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument;
- (13) "deadly weapon" means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive;
- (14) "deception" means to knowingly

(A) create or confirm another's false impression that the defendant does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression that the defendant previously has created or confirmed;

(C) prevent another from acquiring information pertinent to the disposition of the property or service involved;

(D) sell or otherwise transfer or encumber property and fail to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether or not that impediment is a matter of official record; or

(E) promise performance that the defendant does not intend to perform or knows will not be performed;

(15) "defense", other than an affirmative defense, means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the state then has the burden of disproving the existence of the defense beyond a reasonable doubt;

(16) "defensive weapon" means an electric stun gun, or a device to dispense mace or a similar chemical agent, that is not designed to cause death or serious physical injury.

(17) "drug" has the meaning ascribed to it in AS 11.71.900(9);

(18) "dwelling" means a building that is designed for use or is used as a person's permanent or temporary home or place of lodging;

(19) "explosive" means a chemical compound, mixture, or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including dynamite, blasting powder, nitroglycerin, blasting caps, and nitrojelly, but excluding salable fireworks as defined in AS 18.72.050, black powder, smokeless powder, small arms ammunition, and small arms ammunition primers;

(20) "felony" means a crime for which a sentence of imprisonment for a term of more than one year is authorized;

(21) "fiduciary" means a trustee, guardian, executor, administrator, receiver, or any other person carrying on functions of trust on behalf of another person or organization;

(22) "firearm" means a weapon, including a pistol, revolver, rifle, or shotgun, whether loaded or unloaded, operable or inoperable, designed for discharging a shot capable of causing death or serious physical injury;

(23) "force" means any bodily impact, restraint, or confinement or the threat of imminent bodily impact, restraint, or confinement. "force" includes deadly and nondeadly force;

(24) "government" means the United States, any state or any municipality or other political subdivision within the United States or its territories; any department, agency, or subdivision of any of the fore-

AS 11.31.100 — 11.31.120 and commission of the crime that is the object of the attempt, conspiracy, or solicitation. (§ 2 ch 166 SLA 1978; am §§ 2 — 4 ch 3 SLA 1994)

Effect of amendments. — The 1994 amendment, effective May 30, 1994, made section reference substitutions in subsections (a), (b), and (d); in subsection (a), substituted "the defendant attempted to

commit, solicited to commit, or conspired to commit" for "that is the object of the attempt or solicitation" and ", solicitation, or conspiracy" for "or solicitation"; and, in subsection (d), inserted ", conspiracy,".

Chapter 41. Offenses Against the Person.

Article

1. Homicide (§ 11.41.110)
2. Assault and Reckless Endangerment (§§ 11.41.200 — 11.41.220, 11.41.260, 11.41.270)
3. Kidnapping and Custodial Interference (§ 11.41.300)
4. Sexual Offenses (§§ 11.41.410 — 11.41.425, 11.41.434 — 11.41.440, 11.41.455, 11.41.470)
5. Robbery, Extortion, and Coercion (§§ 11.41.500, 11.41.520)

Article 1. Homicide.

Section

110. Murder in the second degree

Sec. 11.41.100. Murder in the first degree.

NOTES TO DECISIONS

Intent to kill required.

Paragraph (a)(1) plainly requires proof of knowing (but not intentional) conduct rather than mere recklessness. *Odom v. State*, 798 P.2d 353 (Alaska Ct. App. 1990).

Intent to kill found. — First-degree murder charge was supported by sufficient evidence of an intent to kill where defendant and friend were incensed by the fact that a Toyota had come so close to their car; their anger provided a motive for shooting at the driver. Moreover, the grand jury heard testimony that, when the Toyota failed to stop or veer off following defendant's rifle shot, defendant declared, "I missed." *Gustafson v. State*, 854 P.2d 751 (Alaska Ct. App. 1993).

Joinder of charges. — Cocaine charges and murder, kidnapping, and robbery charges were properly joined, where the state's theory of the murder, kidnapping, and robbery offenses was that defendants committed the murder and carried out the kidnapping and robbery in defense of their cocaine distribution business.

Mathis v. State, 778 P.2d 1161 (Alaska Ct. App. 1989).

Admissibility of evidence. — Where evidence of cocaine possession and sale would have been admissible on murder, kidnapping, and robbery charges, but the murder, robbery, and kidnapping evidence would not have been admissible on the cocaine charges, the appropriate action upon appeal from conviction on all counts was to vacate the cocaine convictions but affirm the other convictions. *Mathis v. State*, 778 P.2d 1161 (Alaska Ct. App. 1989).

Evidence of victim's reputation for violence. — The court properly refused to allow the defendant to introduce evidence of the victim's reputation for violence, where the defendant picked up a rifle, hit the victim in the head with it, then knocked her down again, straddled her, and pointed the barrel toward her head as she lay prostrate, at which point the rifle discharged, killing the victim. Given this progress of events, the reasonableness of the defendant's initial decision to pick up the rifle had essentially no bearing on his

Sec. 33.30.901. Definitions. In this chapter, unless the context requires otherwise,

- (1) "center" means a correctional restitution center;
- (2) "commissioner" means the commissioner of the Department of Corrections;
- (3) "community service" means work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public services, lands, forests, parks, roads, highways, facilities, or education; community service may not confer a private benefit on a person except as may be incidental to the public benefit;
- (4) "correctional facility" or "facility" means a prison, jail, camp, farm, half-way house, group home, or other placement designated by the commissioner for the custody, care, and discipline of prisoners; a "state correctional facility" means a correctional facility owned or run by the state;
- (5) "court" means the supreme court, the court of appeals, the superior court, the district or magistrate court, or a justice or judge of a court;
- (6) "crime against a person" means a crime as set out in AS 11.41, or a crime against a person in this or another jurisdiction having elements substantially identical to those of a crime as set out in AS 11.41;
- (7) "department" means the Department of Corrections;
- (8) "furlough" means an authorized leave of absence from actual confinement for a designated purpose and period of time;
- (9) "health care provider" means
 - (A) a physician's assistant or nurse practitioner licensed to practice in the state and working under the direct supervision of a licensed physician or psychiatrist; or
 - (B) a mental health professional as defined in AS 47.30.915;
- (10) "municipality" means a municipality authorized by law to establish a correctional facility;
- (11) "prisoner"
 - (A) means a person held under authority of state law in official detention as defined in AS 11.81.900(b);
 - (B) includes a juvenile committed to the custody of the commissioner when the juvenile has been charged, prosecuted, or convicted as an adult;
- (12) "sex offender" has the meaning given in AS 12.63.100.
- (13) "temporary commitment" means detention of a person for any period under authority of state law, but does not include confinement upon conviction and judgment of a court of this state;
- (14) "victim" has the meaning given in AS 12.55.185. (§ 6 ch 88 SLA 1986; am § 23 ch 59 SLA 1989; am § 9 ch 41 SLA 1994; am § 4 ch 113 SLA 1994)



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT
SB 26

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violent offenses with deadly weapons as adults**

Senate Bill 26 would create a strong deterrent to the repeated use of deadly weapons by juveniles. Senate Bill 26 would treat minors over age 14, who for the second time use a deadly weapon to commit a violent crime, as adults. Existing law only waives juveniles to adult court if they are at least 16 years of age, commit unclassified or class A felony crimes against a person, or commit arson in the first degree.

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MEMBER: Senate Finance Committee • Senate State Affairs Committee

Produced in House