

SB

268



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

MEMORANDUM

TO: Representative Brian Porter, Chairman
House Judiciary Committee

FROM: Senator Loren Leman

A handwritten signature in cursive script that reads "Loren Leman".

DATE: April 3, 1996

RE: SB 268; Request for hearing

I respectfully request that you schedule SB 268; "An Act relating to release before trial in cases involving alcohol and controlled substances" for a hearing at your earliest convenience.

SB 268 revises the statute relating to release conditions for those arrested for the sale, possession, or consumption of controlled substances. It would also apply to alcohol violations under AS 04. Currently, judges and magistrates have the ability to impose the type of restrictions being proposed, but there is inconsistency in their application.

Thank you for your consideration.

FISCAL NOTE

No. 4
 B.. Version: ES SB 268 Jud
 (S) Publish Date: 4-2-96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO:

Revision Date: April 1, 1996
 Title: Pretrial release in drug cases
 Sponsor: Senator Leman
 Requestor: S. Rules

Dept. Affected: Public Safety
 BRU: Alaska State Troopers
 Component: Detachments
 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						
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: April 1, 1996
 Approved by Commissioner: *Ronald L. Otte* Date: 3/1/96
 Agency: Ronald L. Otte, Department of Public Safety

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FISCAL NOTE

No. 3
 Bill Version: CSSB 268 (JWD)
 (S) Publish Date: 4-2-96

**STATE OF ALASKA
 1996 LEGISLATIVE SESSION**

Revision Date: 3/28/96 Dept. Affected: Department of Law
 Title: "An Act relating to release before trial in cases involving controlled substances, stalking, or domestic violence." BRU: Criminal Division
 Component: Criminal Division
 Sponsor: Senator Leman
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 adds a new section to Alaska's release before trial statute, AS 12.30, to provide that a court shall, in considering conditions of release in cases involving controlled substances, consider several specified conditions and impose one or more conditions it considers reasonably necessary to protect the public safety and security. The conditions proposed in the bill are similar to the conditions that, as a matter of departmental policy, state prosecutors already request courts to impose when defendants in cases involving controlled substances are released on bail. Consequently, there will not be a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3/28/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 3/28/96
 Agency: Department of Law

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FISCAL NOTE

No. 2
 Version: CSSB 268(JUD)
 (S) Publish Date: 4-1-96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act relating to release before trial in cases
involving controlled substances..." BRU: _____
 Sponsor: Senator Leman Component: _____
 Requester: Senate Judiciary COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

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

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						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary,)

The department does not expect any additional individuals to be denied bail as a result of this bill. However, some additional defendants may have their release revoked for violation of the conditions listed in CSSB 268 (JUD). It is assumed that in most cases where release before trial has been revoked, the defendant will get credit for time served upon sentencing. The net effect on the department will be zero impact.

Prepared by: Jerry Shriner
 Division: Office of the Commissioner
 Approved by Commissioner: Walter M. Ryan
 Agency: Department of Corrections

Phone: 465-4652
 Date: 3/29/96
 Date: 3/29/96

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FISCAL NOTE

No. 1

Bill Version: CS SB 268 (JW)

BILL (S) Publish Date: 3-29-96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: 03/27/96
Title: Pre-trial release for drug offenses

Dept. Affected: Alaska Court System

BRU: Trial Courts

Component: _____

Sponsor: Sen. Leman
Requestor: Senate Judiciary

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						
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 ()						
------------------------	--	--	--	--	--	--

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel

Agency: Alaska Court System

Phone: 264-8228

Date: 03/27/96

Approved by: Arthur H. Snowden, II, Administrative Director

Agency: Alaska Court System

Date: 03/27/96

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Rev 1/98

Page 1 of 1



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

SPONSOR STATEMENT

Senate Bill 268

**"An Act relating to release before trial
in cases involving controlled substances."**

This legislation establishes new criteria for Alaska courts to consider in making decisions about pre-trial release of drug offenders. Each year, a substantial number of defendants in drug cases are arrested again, before adjudication of the original offense. According to the Anchorage Police Department, the below examples are NOT isolated cases, they are the norm:

- One street corner cocaine dealer was arrested, bailed out, and shortly thereafter, arrested again while selling cocaine just a short distance from the original arrest.
- Another person operating a crack house was arrested and released after promptly posting bail, only to re-open the business in the same house immediately upon release.

The public feels unsafe and loses confidence in the criminal justice system when drug offenders regularly engage in illegal drug consumption and trafficking even after arrest and this appears to be a recognized problem not only in Anchorage but across the State.

While SB 268 cannot prevent the release of drug offenders pending trial, it will decrease the opportunity for the defendant to pose a threat to the community while on release. It will provide for sufficient authority for the police to search them, and enable revocation of release.

**Municipality
of
Anchorage**



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4433

Rick Mystrom, Mayor

February 8, 1996

OFFICE OF THE MUNICIPAL MANAGER

Senator Loren Leman
Alaska State Legislature
State Capitol
Juneau, AK 99801

FEB 12 1996

Re: Senate Bill 268

Dear Senator Leman:

Mayor Mystrom supports Senate Bill 268, revising the statute relating to release conditions for those arrested for the sale, possession, or consumption of controlled substances.

Each year, a substantial number of defendants in drug cases are arrested again on similar charges, even before adjudication of the original offense. Approximately 2 months ago, a known drug dealer was arrested for misconduct of a controlled substance. He was released on bail and was back on the street only to be arrested for the same charge shortly thereafter. A female was arrested and charged with the same offense. Again, she was released on bail only to be caught on video tape a short time later dealing once again.

The judges and magistrates have the ability to impose the type of restrictions being proposed, but there is inconsistency in their application. The proposed legislation will help ensure that arrest is not just a minor inconvenience for drug dealers.

The conditions being proposed are those designed to hinder drug offenders by restricting their use of some of the tools of the trade. They would be restricted from returning to their place of business, using cellular phones or beepers, maintaining their regular business hours. Other conditions would subject them to engage in substance abuse counseling and drug screening if appropriate.

Viewing the same dealers on nearby street corners soon after arrest instills little public confidence in our public safety and judicial systems. This legislation takes a positive step toward solving this program.

Thank you for your introducing this important legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Rogers".

Tim Rogers
Legislative Program Coordinator

SB 268

TONY KNOWLES, GOVERNOR

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES**

ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE

P.O. BOX 110608
JUNEAU, ALASKA 99811-0608
PHONE: (907) 465-8920
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March 22, 1996

MAR 28 1996

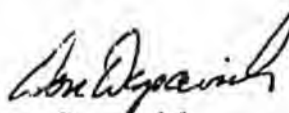
The Honorable Loren Leman
Alaska State Senate
State Capitol, Room 113
Juneau, AK 99801-1182

Dear Senator Leman:

The Advisory Board on Alcoholism and Drug Abuse has reviewed SB 268 and we strongly endorse its passage. We feel that it is imperative that the courts have means to control the behavior of those awaiting trial for drug related offenses. Although we encourage strong rehabilitation efforts on the part of the courts, we acknowledge that it may be problematic for judges to mandate treatment for those who are only accused of drug-related offenses and have not admitted drug use. It may be more appropriate to require assessment for the need for treatment services and require following of the assessment recommendations.

We want to assist in passage of this legislation and are available to assist in this effort. Please call on us for any additional support that we may be able to offer.

Sincerely,



Don Dapcevic
Executive Director



*Rick Mystrom,
Mayor*

ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500



Service since 1921

FEB 13 1996

February 6, 1996

Senator Loren Leman
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Re: "Catch and Release" of Repeat Drug Offenders

Dear Senator Leman:

The Anchorage Police Department supports a revision of the statutes relating to release conditions for those arrested for the sale, possession, or consumption of controlled substances. Each year, a substantial number of defendants in drug cases are arrested again, even before adjudication of the original offense. Most have ready cash available for bail, and once free, continue their trade in violation of the few additional conditions of release. Some examples include:

- One street corner cocaine dealer was arrested, bailed out, and shortly thereafter, arrested again while selling cocaine just a short distance away from the original arrest.
- Another person operating a crack house was arrested and released after promptly posting bail, only to re-open the business in the same house immediately upon release.
- A third dealer, an obviously pregnant woman, was arrested for selling cocaine to passing motorists. She, too, was arrested again shortly after being released.
- On a larger scale, the National Guard set up surveillance on a group of marijuana dealers after their release on bail. Within one week, the same individuals were seen buying new marijuana growing equipment and other hydroponics supplies from a local greenhouse.

These are not isolated cases; in fact, they are the norm. By virtue of large amounts of unreported income from the sale of drugs, and the comparatively low amounts of bail set on defendants, immediate release is a near-certainty.

Page 2
Repeat Drug Offenders
February 6, 1996

The Municipality of Anchorage has a greater share of offenders due to its population density and availability of various contraband. As such, both the Anchorage Police Department and the entire criminal justice system must deal with the same criminals time and again. Also at issue is the safety and concern of the public. When the same dealers are seen selling drugs day after day, even after having been arrested, confidence in our judicial system is surely eroded.

We would therefore encourage you to support amendments to AS 12.30.020 regarding the determination of release conditions for cases involving controlled substances.

Sincerely,

A handwritten signature in cursive script, appearing to read "Duane S. Udland".

Duane S. Udland
Deputy Chief of Police