

SB

320

Date of Committee Action: 4/24/96

The JUDICIARY Committee considered:

SB 320

SENATE BILL NO. 320

NEW SUPERIOR COURT JUDGE FOR DILLINGHAM

"An Act increasing the number of superior court judges designated for the Third Judicial District to provide an additional superior court judge at Dillingham."

recommends it be replaced with the following committee substitute SB 320 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) Courts/4-15-96

zero fiscal note(s) _____

zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|----|----|
| <i>Brian Porter</i> | ✓ | | | |
| <i>Joseph [unclear]</i> | | | ✓ | |
| <i>Ken Bonde</i> | ✓ | | | |
| <i>[unclear]</i> | ✓ | | | |
| <i>William [unclear]</i> | | | ✓ | |
| <i>Paul [unclear]</i> | ✓ | | | |
| <i>Betty [unclear]</i> | ✓ | | | |
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| | | | | |

CHAIR'S SIGNATURE Brian Porter

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

APR 11 1996

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-2075

April 10, 1996

The Honorable Rick Halford
Alaska State Senator
State Capitol
Juneau, AK 99801-1182

Dear Senator Halford:

The Department of Law strongly supports SB 320, a bill which creates a new superior court judge position in Dillingham. We believe that creation of this judgeship is essential to our ability to provide adequate criminal justice services to the Bristol Bay region.

As you know, I recently traveled to Dillingham with Deputy Attorney General Laurie Otto and Anchorage District Attorney Ken Goldman. While there we participated in a public meeting and heard many residents of the community discuss their criminal justice needs. We also met separately with region leaders, including city officials, school officials, Native leaders, victims' advocates, and police officials. From all we heard the same message - delivery of criminal justice services by those living outside the region simply does not work. Although most of our discussions revolved around the need for a resident district attorney, it is clear that the criminal justice needs of the community will not be met until there is a resident superior court judge.

For example, until there is a superior court judge, grand juries for felony cases arising in the Bristol Bay and Aleutian Chain regions must be conducted in Anchorage, and, because the judges serving this region live in Anchorage, many motion hearings on these cases are heard in Anchorage. This means that the district attorney for the region must spend a significant amount of time in Anchorage handling grand juries and motion hearings.

The Honorable Rick Halford

April 10, 1996

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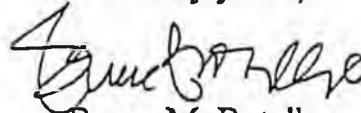
Although we requested in September 1995 that we be allowed to conduct grand juries on Bristol Bay cases in Dillingham, this request was turned down by the court system, which concluded "Grand juries require management by a Superior Court judge. That would have to be done telephonically which may be OK in some cases, but in most cases is not appropriate. Our grand juries are convened in areas served by Superior Court judges which makes management of the grand jury that much easier."

This is not the only problem created by the lack of a Superior Court judge. Because the judge travels to Dillingham/Naknek only one week a month, that is the only week available to conduct trials, a period of time that is wholly inadequate. The result of having inadequate time on the calendar is that we are forced to enter into plea agreements in order to avoid having cases dismissed for failure to bring a defendant to trial within 120 days. In other words, there are cases that we cannot pursue at appropriate levels based on the limited court time that is currently available.

I know you share our belief that protecting the public through adequate prosecution of criminal offenses is a priority for all communities in the state. SB 320 is an important step forward in fully protecting the citizens of Bristol Bay and the Aleutian Chain.

Please let me or Laurie Otto know if you need any additional assistance in seeking passage of this important legislation.

Sincerely yours,



Bruce M. Botelho
Attorney General

cc: Bristol Bay Times
Senator Robin Taylor
Senator Lyman Hoffman
Representative Ivan Ivan
Representative Carl Moses



Senator Lyman F. Hoffman

Alaska State Legislature
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-4453

- District T
- Adak
- Akiachak
- Aktak
- Akutan
- Aleknagik
- Amchitka
- Atka
- Atmauquak
- Artu
- Belkofski
- Bethel
- Chefornak
- Chignik
- Chignik Lagoon
- Chignik Lake
- Clark's Point
- Cold Bay
- Dillingham
- Dutch Harbor
- Ekuk
- Egegik
- Ekuk
- Ekwok
- False Pass
- Goodnews Bay
- Igigig
- Iliamna
- Ivanof Bay
- Kasigluk
- King Cove
- King Salmon
- Kipnuk
- Kokhanok
- Kokhanok Bay
- Koliganek
- Kongiganak
- Kwethluk
- Kwigillingok
- Levelock
- Manokotak
- Naknek
- Napaklak
- Napaskiak
- Nelson Lagoon
- New Stuyahok
- Niwahale
- Niukolski
- Nondalton
- Nunapitchuk
- Scarville
- Sedro Bay
- Serryville
- Sit Point
- Tatlinum
- Port Alsworth
- Port Heiden
- Port Moller
- Orange Creek
- Quinhagak
- Saint George Island
- Saint Paul Island
- Sand Point
- Semna
- South Naknek
- Stuaw Harbor
- Togiak
- Tuntutulkak
- Twin Hills
- Tashik
- Talaska
- Tiga

TO: Senator Dave Donley
Senate Finance Committee

FROM: Senator Lyman Hoffman
District T

RE: Senate Bill 320 - New Superior Court Judge For
Dillingham.

DATE: April 12, 1996



Senator Donley,

Thank you for your consideration of Senate Bill 320 - an integral component in the equitable delivery of justice to the people of Dillingham and the Bristol Bay region.

The primary objective of Bristol Bay residents is to facilitate the return of their District Attorney. The Attorney General believes the establishment of a Superior Court in Dillingham partnered with the return of the District Attorney will provide a more comprehensive delivery of justice and public protection.

The Court System has provided a trim, yet responsible, fiscal note and the Court House in Dillingham was originally built with the eventual acquisition of a Superior Court in mind.

P.O Box 886 • Bethel, Alaska 99559 • (907) 543-3541

Senator
Senate Finance Committee
re: SB 320, continued

Combined with passage of SB 320, these factors lay the groundwork for a system that will address the needs of Bristol Bay residents while relieving substantial stress on an overburdened Anchorage Court system. I believe this is what is commonly referred to as a "win-win" situation.

Also, the attached letter will further illustrate the fact that Bristol Bay, as a region, will benefit from this action. Although the Superior Court will be physically located in the City of Dillingham, people throughout Bristol Bay will be provided a justice system equitable to other areas of Alaska.

During my frequent conversations with Terry Hoeffler, CEO of the Bristol Bay Native Corporation, he raises an alarming point. Under the current system, the region's young people are seeing criminals - who endanger the lives and safety of local residents - simply walk away, in many instances, for lack of a proper delivery of justice. What are our children to make of this message?

Thank you for your attention to this important matter.

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 310
DILLINGHAM, ALASKA 99576
PHONE (907) 842-5257

*File copy
done 3/2/96
add*

February 29, 1996

Tribal Councils
Served by BONA:

Aleknagik

Chignik Bay Rep. Carl E. Moses
Alaska State Legislature
Chignik Lagoon State Capitol (MS 3100)
Chignik Lake Juneau, Alaska 99801-1182
Chukchi Point

Dillingham Dear Representative Moses,

Egegik

We are writing to ask for your help in our continuing efforts to obtain adequate and responsible criminal justice services for Bristol Bay communities.

Ektak

Ekwok

Ignorik

First, we seek your assistance in regaining the full time resident District Attorney position assigned to Bristol Bay for over ten years before the Department of Law chose to reduce services to us in 1994. This has been and remains our first priority. Second, we ask that you begin the Legislative process necessary to establish a Superior Court judgeship located in Bristol Bay with jurisdiction over both the Bay and the Aleutian region.

Ilisnoo

Isimat Bay

King Salmon

Kotikanek

Kuligak

Larsvik

Makrochik

Nalnet

New Smyrnaok

Niwahik

Nondatu

Peche Bay

Perryville

Point Barrow

Point Barrow

Portage Creek

South Naknek

Togalak

Three Hills

Ustahik

As you know, we have been struggling for some time to correct the damage done when the Department of Law chose to physically relocate Bristol Bay's District Attorney and incorporate the position into the Anchorage office in 1994.

Continuing deterioration of already inadequate prosecution services to our region caused a public uproar that resulted in the recent visit to Dillingham of Attorney General Bruce Botelho accompanied by Laurie Otto, Chief Prosecutor and Ken Goldman, supervisor of the Anchorage D.A. Office. In Dillingham the attorney General met with representatives of four of the undersigned organizations.

While Mr. Botelho made no promises, he did listen and said he would reconsider his decision to pull the D.A.'s position from Bristol Bay. However, we believe that Mr. Botelho has and will continue to base his decisions on inadequate and misleading information about the nature and scope of the criminal justice needs of our communities. Further, that without direct and assertive intervention by you the Department of Law will not change its mind in this matter.

We need your help. We understand that the Department of Law has funding for an additional full time D.A. and is likely to assign that position to an area that already has a resident office with at least one full time prosecutor. We ask that the Department assign that full time position to Bristol Bay and give the half-time position we now have to another jurisdiction to augment their already existing staff.

Rep. Carl E. Moscos
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February 29, 1996

This seems a fair, equitable and cost effective solution. If the Department of Law does not agree, we ask that you carefully scrutinize both their policy and fiscal arguments against such a plan. The information we've seen from the Department thus far regarding Bristol Bay case load and cost comparisons of providing services has been both biased and inaccurate. We would be happy to assist in your analysis of their arguments if you feel as though our insights on their derivative statistics might be helpful.

Our second/secondary request concerns the establishment of a Superior Court in our Region. During a February 26 public hearing in Dillingham, Attorney General Botelho pointed out that, historically, Bristol Bay had been the only area of the state without a Superior Court that had a resident D.A. He argued that the absence of a Superior Court played a large role in persuading him to withdraw the position. He said that he would assign a full time resident D.A. if we had a Superior Court and outlined the steps that had to be taken to make it so.

While we remain convinced that the bulk of the prosecution problems we are currently experiencing (particularly that community values be reflected in our justice system and that the system engender the respect for justice that our system should deserve) will be substantially alleviated by the relocation of a full time Bristol Bay D.A. position - our communities would clearly benefit from the long overdue establishment of a regional Superior Court. Therefore we request that you introduce a Committee Bill which would accomplish this purpose and that you expedite consideration of the measure through the legislative process this year.

There are several factors which favor establishing a Superior Court in the Bay. The Court House in Dillingham was constructed with the assumption that a Superior Court would be assigned to the Bristol Bay Region - so the physical accommodations are already in place. Art Snowden said he will support the establishment of a Superior Court for the Bay and Aleutian Region (he made the same assurance years ago if we were to secure an air transport link between Dutch Harbor and the Bay). Attorney General Botelho said that Superior Court Presiding Judge Karl Johnstone has indicated his support for establishment of a regional court. The Department of Law has assured us that we will get a full time resident D.A. if we have a Superior Court. The overburdened Anchorage Court system will benefit by having Bristol Bay cases handled here instead of there. Finally, the people of our Region need and deserve responsive, appropriate, and accountable

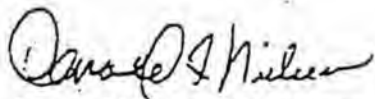
Rep. Carl E. Moses
Page 3
February 29, 1996

criminal justice services. The best way to accomplish that goal is to provide the people a Superior Court where their needs can be met locally, expeditiously, and fairly.

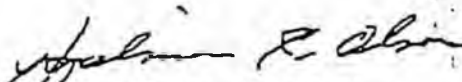
It's been said that justice delayed is justice denied. So is justice at a distance. Justice on the run, sandwiched between Anchorage calendars and plane schedules is no way to run a court. Half a District Attorney who doesn't live in the community cannot hope to understand and address the attitude that there is a double standard of justice in Dillingham, much less meet the needs of the people he is supposed to serve.

We deserve better than that and look forward to your positive response to our request.

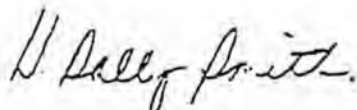
Sincerely,



Donald Nielsen, President
Bristol Bay Native Association



Hjalmar Olson, President
Bristol Bay Native Corporation



H. Sally Smith, President
Bristol Bay Area Health Corporation



William Tennyson, Chairman
Bristol Bay Housing Authority



Robin Samuelsen, President
Bristol Bay Economic Development Corporation

TOTAL P.04

TOTAL P.04



4/11/96

Senator Rick Halford
Co-Chair Senate Finance Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Halford:

Several weeks ago, 80 to 90 community members met with Bruce Botelho, Laurie Otto, and Ken Goldman to air their concerns about the need to reestablish the District Attorneys office here.

Speaker after speaker expressed their concerns that too many Dillingham cases were being dismissed by the Anchorage District Attorney's office. They stated that this practice does not send the right message because there is little threat of punishment and no incentive to mend ones ways.

Mr. Goldman suggested that the high dismissal rate was caused by improperly prepared cases. This was quite a surprise because we have seen nothing to date to support this contention. I suspect the truth in the matter lies elsewhere. When the District Attorney comes to town, he is extremely busy and very cognizant of airline schedules so he can get back to Anchorage for the weekend.

We mean no disrespect for the Anchorage office because I am sure they are overloaded with work and short on funding. However, the impact of not having local prosecutors and judges will be magnified in future felony cases because there case dismissal are sending the wrong message.

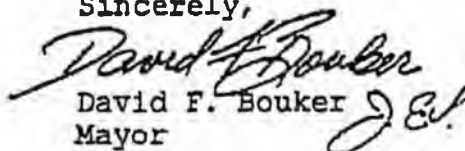
While the community's original intention were to ask for reinstatement of the District Attorney's office here, Mr. Botelho suggested that justice would be better served to ask for a Superior Court judge and this would automatically require a resident District Attorney. I might add that our courthouse had an office designated for a Superior Court Judge some fifteen years ago but it was never occupied.

In the meantime, the population and crime level has significantly increased.

We are pleased to note that Mr. Botelho's office is supporting your bill SB320 and are gratified that you have taken the time to listen to us. This effort will not only have a beneficial impact on Dillingham but, on all of the communities in Southwestern Alaska.

Thank you again.

Sincerely,


David F. Bouker
Mayor

FISCAL NOTE

No. 1

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Bill Version: SB 320

(S) Publish Date: 4/15/96

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: New superior court judge for Dillingham BRU: Trial Courts
 Sponsor: Senate Finance Component: _____
 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 | 201.8 | 201.8 | 201.8 | 201.8 | 201.8 | 201.8 |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| EQUIPMENT | 23.0 | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS & CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 226.8 | 203.8 | 203.8 | 203.8 | 203.8 | 203.8 |
| CAPITAL EXPENDITURES | | | | | | |
| CHANGE IN REVENUES () | | | | | | |

Fund Source (Thousands of Dollars)

| | | | | | | |
|--------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 226.8 | 203.8 | 203.8 | 203.8 | 203.8 | 203.8 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other | | | | | | |
| TOTAL | 226.8 | 203.8 | 203.8 | 203.8 | 203.8 | 203.8 |

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

Positions

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

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Agency: Alaska Court System Date: 04/01/96

Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/01/96
 Agency: Alaska Court System

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Alaska Court System

Fiscal Analysis

SB 320

Personal Services

| <u>Position</u> | <u>Salary</u> | <u>Benefits</u> | <u>Total</u> |
|--|---------------|-----------------|----------------|
| Superior Court Judge, PFT, 12 months, Dillingham | \$103,596 | \$52,795 | \$156,391 |
| In-Court Clerk/Secretary, range/step 12A, PFT, 12 months, Dillingham | 31,824 | 13,549 | <u>45,373</u> |
| Total Personal Services | | | <u>201,764</u> |

Supplies

| | | | |
|-----------------------------------|--|--|--------------|
| Office supplies for new positions | | | <u>2,000</u> |
|-----------------------------------|--|--|--------------|

Equipment (one-time cost)

| | | | |
|--|--|--|---------------|
| Desk, chair, filing cabinet and computer equipment for new positions | | | 7,000 |
| Conversion of public law library to electronic format | | | <u>16,000</u> |
| Total Equipment | | | <u>23,000</u> |

Estimated Total Cost 226,764