

SB

46

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 8
Bill Version: SSA 16.1.14
(S) Publish Date: 3-22-95

Revision Date: _____
Title: "An Act revising the provision of law under which a minor may be charged...as an adult in the district court..."
Sponsor: Sen. Taylor
Requestor: (S) FIN

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
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
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE: (Thousands of Dollars)

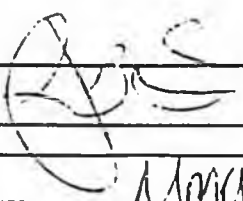
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
There is no fiscal impact to the Public Defender Agency.



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

phone: 264-4400
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 3/22/95

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FISCAL NOTE

Bill Version: SB 46^{rc} Sub Am
 (S) Publish Date: 3.6.95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: 3/3/95 Dept. Affected: Department of Law
 Title: "...revising the provisions ... under which a minor
may be charged, prosecuted, and sentenced as an adult ..." BRU: Prosecution
 Sponsor: Senator Taylor Component: All
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 0085-0090

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

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Senate Judiciary Committee amendment to SB 46 changes the penalty for possession, control, or consumption of an alcoholic beverage by a minor from a class A misdemeanor to a violation. Consequently, the costs shown in the Department of Law fiscal note analysis of 2/24/95 will not be required, because the large majority of misdemeanor cases expected were for the offense of possession, control, or consumption. Although we anticipate an increase in paperwork and forms processing, this increased work does not warrant fiscal note costs. Generally, violations are presented in District Court by arresting officers and the services or prosecutors (or publically paid defenders) are not required.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3/3/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 3/3/95
 Agency: Department of Law

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FISCAL NOTE

Bill Version: SP 11-0000

3 (S) Publish Date: 3/6/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: <u>03/03/95</u>	Dept. Affected: <u>Alaska Court System</u>
Title: <u>Prosecute juvenile as adult in District</u>	BRU: <u>Trial Courts</u>
Court: _____	Components: _____
Sponsor: <u>Sen. Taylor, Kelly, Pearce</u>	
Requestor: _____	COMPONENT SERIAL NO. <u>768</u>

EXPENDITURES/REVENUES	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	64.5	64.5	64.5	64.5	64.5	64.5
TRAVEL						
CONTRACTUAL	0.5	0.5	0.5	0.5	0.5	0.5
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	1.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	66.9	65.9	65.9	65.9	65.9	65.9
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	66.9	65.9	65.9	65.9	65.9	65.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	66.9	65.9	65.9	65.9	65.9	65.9

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: <u>C. S. Christensen III, Staff Counsel</u>	Phone: <u>264-8228</u>
Agency: <u>Alaska Court System</u>	Date: <u>03/03/95</u>
Approved by: <u>Arthur H. Snowden, II, Administrative Director</u>	
Agency: <u>Alaska Court System</u>	Date: <u>03/03/95</u>

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Alaska Court System
Fiscal Analysis
CSSB 46 (JUD)

At the present time, a minor is charged, prosecuted and sentenced in the district court in the same manner as an adult if the minor is accused of committing certain infractions, violations, or misdemeanors. These include traffic statutes, regulations or ordinances; AS 11.76.105, relating to the possession of tobacco by a minor; fish and game statutes or regulations under AS 16; and parks and recreational facilities statutes or regulations under AS 41.21.

CSSB 46 (JUD) adds certain new misdemeanor offenses to this list. These include AS 04.16.049, relating to access to licensed premises; 04.16.051, relating to furnishing of alcoholic beverages to a minor; AS 04.16.060, relating to alcoholic beverage purchases; and any misdemeanor drug offense defined in AS 11.71 or AS 17.30. CSSB 46 (JUD) also adds a new infraction to this list, AS 04.16.050, relating to possession or consumption of alcohol. This infraction would require a mandatory court appearance.

The practical effect of this legislation is to take a number of juveniles who previously had been dealt with by the juvenile justice system (DFYS and the superior court) and move them to the adult system (district court). Statistics obtained from DFYS indicate that in FY 94, DFYS handled 138 cases involving the additional misdemeanors listed in CSSB 46 (JUD), and 1116 cases involving the infraction of minor consumption. DFYS handled approximately 1173 of those cases without filing a delinquency petition with the superior court. None of the 81 cases referred to superior court resulted in a jury trial. Thus, actual costs to the court system were relatively low. On the other hand, if CSSB 46 (JUD) had been law in FY 94, virtually all 1254 cases would have gone straight to the court system (understand that police officers generally file citations for infractions and misdemeanors directly with the court, not with the municipal prosecutor or the district attorney; thus, prosecutors do not serve a screening function that will keep some of these cases out of court). There would have been judicial costs associated with 138 additional misdemeanor arraignments, approximately 136 sentencing hearings, judicial costs associated with 1116 additional infraction arraignments, clerical costs associated with processing the citations and collecting the fines, and a trial rate of approximately two percent (the rate at which adults go to trial for misdemeanors and infractions) resulting in additional judicial time and juror costs. The misdemeanor trials would have been expected to last one day, and utilize a six member jury. The infraction trials would have been expected to last under one hour and would not have required a jury.

Note that the actual number of charged offenses is likely to increase dramatically as a result of the changes made by CSSB 46 (JUD). It is common for state troopers and municipal police officers to simply take juveniles home with a warning when they are caught committing the specified offenses, rather than refer them to DFYS; while DFYS received 1254 referrals in FY 94 for the listed offenses, the Division of Motor Vehicles was notified by police officers of juvenile alcohol or drug use over 3200 times (this was done for purposes of revoking the minor's driver's license or privilege to obtain a license pursuant to AS 28.15.183). The reason that officers generally do not refer these offenses to DFYS is to avoid overloading DFYS with relatively minor cases when its resources have been strained by the substantial increase in serious juvenile crime. This is likely to change if the officer is empowered to simply write a citation for the juvenile to appear before a magistrate as an adult. This note assumes that the court system will receive 2000 citations for processing which involve cases that were not previously seen by either DFYS or the court system.

Alaska Court System

Fiscal Analysis

CSSB 46

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
In-Court Clerk, 12A, Anchorage, PPT, 4 months	\$9,036	\$2,385	\$11,421
Committing Magistrate, range 22A, PPT, Anchorage, 4 months	17,768	4,689	22,457
Court Clerk II, 10A, Anchorage, PFT, 12 months	24,012	11,440	35,452
			<hr/>
Total Personal Services			69,330
Offset of judicial time (master and superior court judge) for 81 superior court juvenile cases estimated at one hour each.			<hr/> (4,849)
Net Personal Services			64,481

This legislation will require over 80 hours of court time for a committing magistrate for arraignments and trials. For purposes of this analysis, this time requirement is offset by a reduction in the time currently used by superior court judges and standing masters for petition review. Most of the new cases will be processed as citations, approximately one clerical position is needed for every 3,000 citations.

Contractual

Jury fees - 3 one-day trials with 6 jurors at \$25 a day 450

Supplies

Offices supplies for processing additional cases 1,000

Equipment

Desk, chair and filing cabinet for permanent full-time position

1,000

Total estimated cost

\$66,931

Alaska State Legislature



Senator Robin L. Taylor

Sponsor Statement

Senate Bill 46

Senate Bill 46 was introduced at the urging of parents concerned with the lack of consequences within the juvenile justice system when a minor is arrested for an alcohol related offense.

Most of SB 46 is a re-write of existing law. The drafter took the occasion of complying with my request to address alcohol issues by re-ordering the material already in AS 47.10.010 (b). Juveniles are already exempted from juvenile delinquency rules for traffic offenses, tobacco related offenses and fish and game statutes, etc.

SB 46 would add alcohol and controlled-substance related offenses to that list and provide that such cases be handled in district court. A parent, guardian or individual with legal custody would have to be present at all proceedings.

The bill, as amended by the Judiciary and Finance Committees, would change minor consuming from its current misdemeanor status to that of an infraction, punishable by a fine of not less than \$100. More importantly, by moving the jurisdiction in these cases to district court, a judge would be able to intervene in cases of alcohol abuse which are currently falling through the cracks in the juvenile justice system. Often a minor must commit a serious crime in conjunction with alcohol before intervention takes place.

District A:

Hyder • Ketchikan • Kupreanof • Mevers Chuck • Petersburg • Saxman • Sitka • Wrangell

Judiciary Committee

Transportation Committee

Resources Committee

Western Legislative Forestry Task Force

STATE OF ALASKA
152 Front Street
Sitka, Alaska 99781
907 225 9173
907 225 9173

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Sitka, Alaska 99781
907 225 9173
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Sponsor Statement- SB 46
Page Two

The Finance Committee substitute for SB 46 included a provision that would add minor consuming to the list of situations where a law enforcement officer can make an arrest without a warrant. This is intended to address a problem in the First Judicial District where the court has ruled that an officer must actually witness the consumption before an intoxicated minor can be arrested.

The Rules Committee substitute added language, which appears on page two, beginning at line 27, to make clear that the intent is protective and not punitive. The new language requires that a person under 18 subjected to a warrantless arrest be cited and then released to a responsible adult.

MEMO

To: Rep. Brian Porter, Chair

From: Anne Carpeneti,
Staff Counsel

Subject: CSSB 46 (RLS) *AK*

Date: April 17, 1995

The reference bill deals with juveniles as they relate to the justice system. It provides the following:

1/ Changes the penalty for minor consuming alcohol from an A misdemeanor to a violation with penalty of a fine of at least \$100;

2/ Allows a peace officer to arrest a person for minor consuming without actually seeing the person consume the alcohol; however, if the minor is under 18 the bill provides the person should be cited for the violation and released to his or her parents or guardian;

3/ Adds to the criminal jurisdiction of the district court the power to hear cases of minor consuming (a violation under the bill) and minor in possession of tobacco (also a violation);

4/ AS 47.10.010 is the basic statute setting out the jurisdiction of the superior court for juvenile cases; the bill amends subsection (b) of the statute which excepts certain offenses from juvenile court jurisdiction and directs that the cases be handled in district court as if the person were an adult; the bill amends this subsection by expanding the type of offense where the child is treated as an adult in district court; specifically, new areas of law include:

- a/ Minor entering licensed premises, and none of the exceptions apply, for example entering a dining room with parents (AS04.16.049);
- b/ Minor consuming or possessing alcohol (AS04.16.050);
- c/ A minor furnishing alcohol to a minor (AS04.16.051);
- d/ Illegal purchase of alcoholic beverages (AS04.16.060);
- e/ Violation of controlled substances statutes in Title 11 which are misdemeanors;
- f/ Violation of the controlled substances misdemeanors in AS 17.30 (prescription drugs, etc.)

I spoke with Margot in the Department of Law; they have no problem with making minor consuming a violation and the automatic waiver in those cases. They do have concerns about the possibility of automatic waiver of juveniles for the other additions which are A misdemeanors. Apparently Sen. Taylor wanted it this way, though Margot said she wasn't able to understand the rationale. Sen. Adams offered an amendment on the floor deleting the A misdemeanors from the automatic waiver, but the amendment failed.

CS FOR SENATE BILL NO. 46(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/7/95

Referred: Today's Calendar

Sponsor(s): SENATORS TAYLOR, Kelly, Pearce, Phillips, Leman

A BILL

FOR AN ACT ENTITLED

1 "An Act revising the provision of law under which a minor may be charged,
2 prosecuted, and sentenced as an adult in the district court, and adding to the
3 list of offenses for which a minor may be prosecuted as an adult in the district
4 court; amending the criminal jurisdiction of the district court to provide for the
5 disposition of certain offenses relating to possession, control, or consumption of
6 alcoholic beverages by a person under 21 years of age and possession of
7 tobacco by a person under 19 years of age; allowing a person under age 21
8 to be arrested by a peace officer without a warrant for acts relating to illegal
9 possession, consumption, or control of alcohol; and amending the penalty
10 applicable to persons under 21 years of age who possess, control, or consume
11 alcoholic beverages."

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

SB0046C

-1-

CSSB 46(RLS)

New Text Underlined (DELETED TEXT BRACKETED)

Engrossed

COMMITTEE COPY

1 * Section 1 AS 04.16.050 is amended by adding a new subsection to read:

2 (b) A person who violates (a) of this section is guilty of a violation. Upon
3 conviction in the district court, the court may impose a fine of not less than \$100.

4 * Sec. 2. AS 04.16.180(a) is amended to read:

5 (a) Except as provided in AS 04.11.015, AS 04.16.050(b), 04.16.051
6 [AS 04.16.051], 04.16.200 - 04.16.210, and AS 04.21.065, a person who violates a
7 provision of this title or a regulation adopted by the board is guilty, upon conviction,
8 of a class A misdemeanor. Each violation is a separate offense.

9 * Sec. 3. AS 12.25.030(b) is amended to read:

10 (b) In addition to the authority granted under (a) of this section, a peace officer
11 without a warrant may arrest a person when the peace officer has reasonable cause for
12 believing that the person

13 (1) has committed a crime under, or violated conditions imposed as part
14 of the person's release before trial on misdemeanor charges brought under

15 (A) [(1)] AS 11.41.270 or AS 11.56.740; or

16 (B) [(2)] AS 11.41, AS 11.46.330, or AS 11.61.120, or has
17 violated an ordinance with elements substantially similar to the elements of a
18 crime under AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a
19 spouse or former spouse of the person who committed the crime; a parent,
20 grandparent, child, or grandchild of the person who committed the crime; a
21 member of the social unit comprised of those living together in the same
22 dwelling as the person who committed the crime; or another person who is not
23 a spouse or former spouse of the person who committed the crime but who
24 previously lived in a spousal relationship with the person who committed the
25 crime or is in or has been in a dating, courtship, or engagement relationship
26 with the person who committed the crime; or

27 (2) has violated AS 04.16.050; however, unless there is lawful
28 reason for further detention, a person who is under the age of 18 and who has
29 been arrested for violating AS 04.16.050 shall be cited for the offense and released
30 to the person's parent, guardian, or legal custodian.

31 * Sec. 4. AS 22.15.060(a) is amended to read:

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The district court has jurisdiction

(1) of the following crimes:

- (A) a misdemeanor, unless otherwise provided in this chapter;
- (B) a violation of an ordinance of a political subdivision;
- (C) a violation of AS 04.16.050 or AS 11.76.105;

(2) to provide post-conviction relief under the Alaska Rules of Criminal Procedure, if the conviction occurred in the district court.

* Sec. 5. AS 47.10.010(b) is amended to read:

(b) When a minor is accused of violating a statute specified in this subsection, other than [A TRAFFIC STATUTE OR REGULATION, A TRAFFIC ORDINANCE OR REGULATION OF AN INCORPORATED MUNICIPALITY, AS 11.76.105 RELATING TO THE POSSESSION OF TOBACCO BY A MINOR, A FISH AND GAME STATUTE OR REGULATION UNDER AS 16, OR A PARKS AND RECREATIONAL FACILITIES STATUTE OR REGULATION UNDER AS 41.21, EXCEPTING] a statute the violation of which is a felony. [THE PROCEDURE PRESCRIBED IN] AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules do not apply and the [MAY NOT BE FOLLOWED, EXCEPT THAT A PARENT, GUARDIAN, OR LEGAL CUSTODIAN SHALL BE PRESENT AT ALL PROCEEDINGS. THE] minor accused of the [AN] offense [SPECIFIED IN THIS SUBSECTION] shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult. If a minor is charged, prosecuted, and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings. The provisions of this subsection apply when a minor is accused of violating

(1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;

(2) AS 11.76.105, relating to the possession of tobacco by a person under 19 years of age;

(3) a fish and game statute or regulation under AS 16;

(4) a parks and recreational facilities statute or regulation under AS 41.21;

mc
to
tobacco

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- (5) each of the following statutes relating to alcoholic beverages:
 - (A) AS 04.16.049, relating to access to licensed premises:
 - (B) AS 04.16.050, relating to possession or consumption:
 - (C) AS 04.16.051, relating to furnishing of alcoholic beverages; or
 - (D) AS 04.16.060, relating to alcoholic beverage purchases:
- and
- (6) an offense defined in AS 11.71 or AS 17.30.

* Sec. 6. APPLICABILITY. This Act applies to an offense committed on or after the effective date of this Act.

*murder/manslaughter
drug offenses*