

SB

271

**Municipality
of
Anchorage**



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Rick Mystrom, Mayor

OFFICE OF THE MUNICIPAL MANAGER

April 16, 1996

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

VIA TELEFAX

Re: SB 271

Dear Senator Leman:

Attached is a memorandum from the Anchorage Municipal Attorney documenting the need for SB 271 and comparing it to SB 6.

If you have any questions regarding the memo, please feel free to contact me.

Thank you for your continued support of this important bill.

Sincerely,

Tim Rogers
Legislative Program Coordinator



MUNICIPALITY OF ANCHORAGE
MUNICIPAL ATTORNEY'S OFFICE



MEMORANDUM

DATE: April 16, 1996
TO: Tim Rogers, Executive Assistant, Municipal Manager
THRU: Mary K. Hughes, Municipal Attorney MKH/Aue
THRU: Ann Rosch, Deputy Municipal Attorney AR/Aue
FROM: Stephanie Galbraith, Assistant Municipal Attorney SG
SUBJECT: Revision To Method For Imposition Of Penalties For Minor Traffic Offenses Comparison of SB 271 and SB 5.

Problem: The Municipality of Anchorage and the State of Alaska court system have encountered difficulties for a number of years with a large number of outstanding bench warrants for unresolved minor traffic violations. Currently, any bench warrants which are outstanding for more than two years are deleted from the system. As a result, many individuals are not punished for their traffic violations. At any given time there may be approximately 12,000 warrants on the system for traffic violations. In a given year as many as 4,000 - 5,000 may be deleted and the cases administratively closed.

The resources available to the Anchorage Police Department are insufficient to concentrate on service of minor traffic violation warrants. The average value of outstanding warrants for non-jailable traffic violations is approximately \$60.00 - \$65.00. The average cost to serve a warrant of this type is \$120.00. As a result, the current system which relies on service of bench warrants is not cost efficient and is largely ineffective.

Solution: The Municipality requests that a procedure for resolving non-jailable traffic violations be revised to use a default judgment system rather than a bench warrant system for enforcement.

Comparison of SB 271 and SB 5:

SB 271. SB 271 allows for the entry of a "conviction by default" by the court when a person has failed to pay bail or a fine or fails to appear in court for a traffic offense. SB 271 allows for the court to enter a civil default judgment not to exceed the scheduled amount of bail. Judgments entered on a default basis can be recorded and collected in the same

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manner as other civil judgments and may be accumulated for entry of bulk judgments. This procedure will greatly reduce administrative time and costs and would solve the problem faced by Anchorage and the court system outlined above.

There is good public policy behind SB 271. Once a conviction of default is entered, points will be assessed on the individual's driver's license. This will discourage bad driving. SB 6 does not have this effect.

SB 6: SB 6 will not resolve the difficulties that the Municipality of Anchorage and the State of Alaska court system have encountered relating to the large number of outstanding bench warrants. SB 6 is ineffective for the following reasons:

1. If the intent of SB 6 is to allow for automatic suspension of a driver's license or attachment of a permanent fund dividend to pay a fine plus cost, it is legally and procedurally invalid. It is legally invalid because there is no provision for a judgment or conviction to be entered. It fails procedurally because there is no language that directs either the court or the citing agency to follow any specific guidelines regarding individuals who have failed to pay or appear.
2. Since there is no provision for a judgment, in order to obtain attachment of a person's permanent fund, a separate small claims action would have to be filed. The Municipality already has this ability under existing law. However, due to lack of manpower and resources, such actions are virtually impossible to bring for all individuals who have failed to voluntarily resolve their infractions. In other words, SB 6 adds nothing new to existing law.
3. SB 6 will not cut down on the back log of cases since it lacks procedural mechanisms for enforcement.
4. SB 6 lacks certainty since the language states that failure to pay the bail or fine or appear in court for a moving motor vehicle offense "may" result in suspension of a driver's license or attachment of a person's permanent fund.
5. Without a provision for a judgment, the citing agency is severely restricted in the ways in which it can collect the fine.
6. The loss of license provision in SB 6 may conflict with the penalty provisions set forth in the underlying infractions and therefore may be legally invalid.

Summary: The current bench warrant system is cumbersome, outmoded, and too costly to enforce. SB 271 is a concise and a tightly drafted piece of legislation that will allow for

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the entry of default in bulk against thousands of individuals who fail to resolve their minor traffic violations. SB 271 will allow local governments flexibility in collecting on the judgment while at the same time providing a system which is administratively practical. On the other hand, SB 6, as drafted, does not allow for a default judgment and is legally and procedurally deficient. The Municipality urges the passage of SB 271.

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SENATOR LOREN LEMAN'S OFFICE

TELECOPIER COVER SHEET

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ATTN: Chuck Achberger FAX: _____
OFFICE: _____ PHONE: _____
FROM: Mary Vilkendorf DATE/TIME: 4/17 3:15
COMMENTS: _____
Comparison of SB6 VS SB271

NUMBER OF PAGES (including cover sheet): 5

*** Please note address and telephone changes ***



WOMEN IN CRISIS

Counseling and Assistance

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April 17, 1996

The Honorable Robln Taylor
Senate Judiciary Committee
State Capitol - Room 30
Juneau, AK 99801-1182

Dear Senator Taylor:

I am writing in fervent support of HB 314 "The Domestic Violence Prevention and Victim Protection Act of 1996".

The court system would like to amend this bill to allow the court to refer mediation. We oppose this idea. Mediation, by its very nature, assumes each party has equal power. This is never so in cases involving domestic violence. Therefore, in cases where the parties have been involved in a domestic violence situation, the mediation process could never be fair.

Please do not allow mediation.

Respectfully,

A handwritten signature in cursive script that reads "Sandy Samaniego".

Sandy Samaniego
Executive Director