

**SB**

**218**

**HFIN**

**FILE**



Official Business

# Alaska State Legislature

## Senate

### Sponsor Statement CS SB 218 (FIN)

**"An Act relating to the crimes of murder, manslaughter, and criminally negligent homicide; to homicides of children and relating to the crime of interference with custody of a child or incompetent person."**

All too often, when a child is killed, even when the killer is convicted, they do not receive punishment commensurate with the severity of their actions. Tragically, this has especially been the case when very young children are killed. I believe these children, who are the most vulnerable members of our society, are owed far more than our criminal justice system has afforded them. CS SB 218 (FIN) makes the following changes to our criminal statutes:

- *amends current law by adding a new form of first degree murder when the death of a child results from the commission or attempted commission of kidnapping, or of a sexual offense,*
- *expands the list of offenses constituting felony murder to include sexual abuse of a minor in the first and second degrees,*
- *elevates criminally negligent homicide from a class C to a class B felony,*
- *establishes a twenty year mandatory minimum sentence for a person convicted of a murder of a child under the age of sixteen,*
- *increases the mandatory minimum sentence (from five to seven years) for manslaughter, when the victim is a child under the age of sixteen,*
- *establishes a new sentencing provision, which allows for a term of unsuspended imprisonment that exceeds the presumptive term, for certain felony offenses if the victim is a child under the age of 16,*
- *establishes the crime of custodial interference in the first degree if a person violates AS 11.41.330 and causes a child or incompetent person to be removed or kept outside the state.*

Children deserve a responsible level of care when they are entrusted to an adult. CS SB 218 (FIN) will help accomplish both the goals of deterrence and establishing a punishment more fitting the crime. Passage of this bill will correct serious deficiencies in our legal system. I urge your support.

**RICK  
HALFORD**

State Capitol  
Juneau, Alaska  
99801-1182  
Phone (907) 465-4958

P.O. Box 670190  
Chugiak, Alaska 99567  
Phone (907) 694-4958

600 E. Railroad Avenue  
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# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

April 29, 1998

**SUBJECT:** Sectional Summary of CSSB 218(FIN). (Work Order No. 20-LS1322/L)

**TO:** Senator Rick Halford  
Attn: Bill Stoltz

**FROM:** Gerald P. Luckhaupt *Jag*  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

**Section 1 of the bill** (1) amends AS 11.41.100(a)(2) by simplifying the language and expanding the range of conduct proscribed by this particular form of first degree murder of children under 16 years of age; and (2) also amends AS 11.41.100(a) by adding a new form of first degree murder which consists of making certain felony murders<sup>1/</sup> of children; these murders are currently, for the most part, proscribed under the felony murder provisions of AS 11.41.110(a)(3) as second degree murder.

**Section 2 of the bill** amends AS 11.41.110(a)(3) by making a conforming change to AS 11.41.110(a)(3) (p. 2, lines 16 - 17) to the recodification of certain felony murders of children as first degree murder and by expanding the application of the felony murder rule of AS 11.41.110(a)(3) to sexual abuse of a minor in the first and second degrees.

**Section 3 of the bill** increases the penalty for criminally negligent homicide from a class C felony to a class B felony.

**Section 4 of the bill** amends AS 11.41.320(a) by providing that a person commits the crime of interference with child custody if the person causes the victim to be kept out of state in addition to removing the victim from the state as provided under existing law.

**Section 5 of the bill** amends AS 12.55.125(b) by requiring a 20 year mandatory minimum sentence for a person convicted of murder in the second degree of a child under the age of 16 and the court finds by clear and convincing evidence that the person was the legal

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<sup>1/</sup>When the death of a child results from the commission or attempted commission of a sexual offense or kidnapping of the child.

Senator Rick Halford

April 29, 1998

Page 2

guardian of the child or occupied a position of authority in relation to the child or caused the death of the child during commission of an offense under AS 11.41.200 - 11.41.530.

**Section 6 of the bill** established a presumptive sentence of seven years for a first felony offender convicted of manslaughter in the death of a child under 16 years of age.

**Section 7 of the bill** amends AS 12.55.125(k) by instructing courts that a first felony offender convicted of criminally negligent homicide of a child under 16 years of age may be sentenced to a term of imprisonment that is greater than the presumptive term for a second or third felony offender.

**Section 8 of the bill** provides that the bill only applies to offenses committed after the effective date of the bill.

GPL:jdr  
98-279.jdr

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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Pres. Aleutian Islands Chapter

February 11, 1998

Senator Rick Halford  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801-1182

Dear Senator Halford,

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing SB 218 relating to the crime of murder and to the murder of children.

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 218. We feel that this legislation will eliminate convoluted language currently in AS 11 41.100. 100(a) and will provide easier prosecution for offenders violating this section of the Alaska Statutes.

We have spoken at length with law enforcement officers who investigate such crimes and have received much positive reaction to the intent of this bill. They feel that this legislation will assist them in their investigations.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

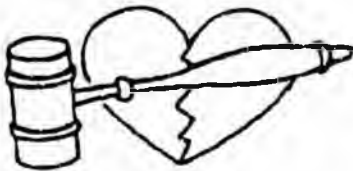
Once again, thank you for sponsoring this legislation.

Sincerely,

John Charbonneau  
State President  
Alaska Peace Officers Association

FEB 14 1998

**VICTIMS**



**for Justice** 619 East Fifth Avenue • Anchorage, AK 99501  
(907) 278-0977 • Fax: (907) 258-0740

February 4, 1998

Senator Rick Halford  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Halford:

Victims for Justice (VFJ) strongly supports the proposed Senate Bill 218, "an Act relating to the crime of murder and to murder of children."

The senseless death of a child is one of the greatest of all tragedies. It is time to ensure that those who would harm our children are dealt with in the strongest possible terms. The age of the victim should not deter or weaken this message.

Crimes of violence that jeopardize not only our personal safety, but destroy the tranquillity of our families, cannot be minimized or trivialized. If the most vulnerable of our society, our children, are murdered, those who are responsible must be held fully accountable. Those who value life so cheaply are entitled to no special consideration.

Sincerely,

*Janice Lienhart*  
Janice Lienhart  
Executive Director

*Cathy Satterfield*  
Cathy Satterfield  
Administrative Director

Author: ruawaic@aonline.com (Administration) at CC2MHS1  
Date: 1/26/98 4:58 PM  
Priority: Normal  
TO: Senator Rick Halford at LAA\_TRANS  
Subject: LSB218  
January 23, 1998

Senator Rick Halford  
State Capitol  
Juneau, AK 99801-1182

RE: SB218

Dear Senator Halford:

Thank you so much for sponsoring SB218, "An Act relating to the crime of murder and to murder of children." AWAIC provides shelter to children made homeless by domestic violence. In fact, at any given time, about sixty percent of our clients are children. As a long-time children's advocate, I certainly agree with your statement that children are the most vulnerable members of our society. They certainly deserve more protection than our society has afforded them. Your bill moves the system in the right direction. I appreciate your taking this initiative and will do whatever I can to provide support. Please let me know what I can do to be helpful.

Sincerely,

Jan MacClarence  
Executive Director

c: Sen. Robin L. Taylor  
Sen. Drue Pearce  
Sen. Mike Miller  
Sen. Sean Parnell  
Sen. Johnny Ellis  
Lauree Hugonen, Alaska Network on Domestic Violence and Sexual  
Assault

#1

no lobby  
Adopted

AMENDMENT

OFFERED IN THE HOUSE  
TO HCS for CS for SB 218(JUD)

BY

Page 3, line 27 before "legal"

INSERT: "natural parent, step parent, adopted parent."

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 1, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/5/98

The FINANCE Committee considered:

CSSB 218(FIN)

CS FOR SENATE BILL NO. 218(FIN)

CRIMES OF MURDER & CHILD MURDERS

"An Act relating to the crimes of murder, manslaughter, and criminally negligent homicide; relating to homicides of children; and relating to the crime of interference with custody of a child or incompetent person."

recommends it be replaced with the following committee substitute HCS CSSB 218(FIN)  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) Senate DOA, 2/12/98

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) Senate DOC, 2/12/98  
DOA, 2/12/98

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<u>Gene Therriault</u>	Therriault	X			
<u>Eden Mulder</u>	Mulder	X			
<u>Walter Kohring</u>	Kohring	X			
<u>James Martin</u>	Martin	X			
<u>John Davies</u>	Davies	X			
<u>Ben Grussendorf</u>	Grussendorf	X			
<u>David E. Moses</u>	Moses	X			
<u>Pat Kelly</u>	Kelly	✓			

CHAIR'S SIGNATURE Gene Therriault  
 CO-CHAIR Therriault

FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No. 1  
Bill Version: CSSB 218 (JUD)  
(S) Publish Date: 2-12-98

Revision Date: \_\_\_\_\_  
Title: "An Act relating to the crime of murder of children..."  
Sponsor: Senator Halford  
Requestor: (S) JUD

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	..	..	..	..	..	..
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	..	..	..	..	..	..

CAPITAL EXPENDITURES	..	..	..	..	..	..
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CHANGE IN REVENUES ( )	..	..	..	..	..	..
------------------------	----	----	----	----	----	----

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	..	..	..	..	..	..
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	..	..	..	..	..	..

Estimate of any current year (FY 98) cost: \$ 0

POSITIONS:

FULL-TIME	..	..	..	..	..	..
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would increase the severity of child homicides. Some non-intentional homicides that are currently charged as criminally negligent homicide, manslaughter, and second degree murder could be charged as first or second degree murder under this legislation. Felony murders involving sex offenses would be raised from second degree to first degree murder. Penalties would be increased as well. This bill is similar to provisions included in the Governor's Child Protection Bill.

The Public Defender Agency (PDA) does not believe that this bill would necessarily result in more criminal cases being filed. However, the seriousness of the offenses will obviously be increased. PDA is not able to say exactly what fiscal impact this bill, standing alone, would have, but it is sure to increase the amount of time attorneys and staff will have to spend on child homicide cases. It will also increase the amount PDA will need to expend on expert witnesses and other litigation support.

Prepared by: Barbara K. Brink, Director  
Division: Public Defender Agency

Phone: (907) 264-4414  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 2/3/98

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# FISCAL NOTI

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No. 2  
Bill Version: CSSB 218 (JUD)  
(S) Publish Date: 2-12-98

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Corrections  
Title An Act relating to the crime of murder and to BRU Administration and Operations  
muder of children Component ALL  
Sponsor Senator Halford, Green, Donley  
Requester Senate Judiciary Component Serial No. #0694

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

No Fiscal Impact

Prepared by Bruce Richards  
Division Commissioner's Office  
Approved by Commissioner Margaret M. Pugh  
Agency Department of Corrections

Phone 465-3307  
Date 2/4/98  
Date 2/4/98

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# FISCAL NOTE

No. 3  
 Bill Version: CSSB 218 (JUD)  
 (S) Publish Date: 2-12-98

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title An Act relating to the crime of murder and to BRU Criminal Division  
murder of children. Component 1st-4th Jud Dist; OSPA  
 Sponsor Senator Halford  
 Requester Senate Judiciary Committee Component Senal No 2198-99/2261/79/01/03

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 SB 218 increases the penalties for those people who kill children. These changes will have no fiscal impact on the Department of Law. The department already aggressively pursues criminal cases involving the murder of a child. Enactment of this legislation will increase the penalties for those charged, but will not increase the department's workload.

Prepared by Juan M. Kasson Phone 465-5370  
 Division Attorney General's Office Date 2/2/98  
 Approved by Commissioner Bruce M Botelho, Attorney General Date 2/2/98  
 Agency Department of Law

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