

SB

63

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 30, 1997

FURTHER REFERRALS:

Date of Committee Action: 1/30/98

The FINANCE Committee considered:

SB 63

SENATE BILL NO. 63

DEADLY WEAPON OFFENSES BY JUVENILES

"An Act providing for automatic waiver of juvenile jurisdiction and prosecution of minors as adults for certain violations of laws by minors who use deadly weapons to commit offenses that are crimes against a person, and relating to the sealing of the records of those minors."

recommends it be replaced with the following committee substitute HCS SB 63 (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: (Dep/Date)

4 fiscal note(s) AK Court Sys [] fiscal note(s) _____
DDC; DDA; DDA; _____
 2 zero fiscal note(s) DPS; DHSS [] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therriault</i>	Therriault	✓			
<i>Mark Hanley</i>	Hanley	X			
<i>Pat Kelly</i>	Kelly	✓			
<i>Gordon Mulder</i>	Mulder	✓			
<i>Erin Martin</i>	Martin	X			
<i>J. Davis</i>	J. Davis			X	
<i>Grussendorf</i>	Grussendorf			X	
<i>Robins</i>	Robins	X			

CO-CHAIR'S SIGNATURE

Gene Therriault *Mark Hanley*
 Therriault Hanley

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. *HCS SB 63 (FIN)

*(Draft: 6/30/97)

Revision Date: 01/27/98
Title: Juvenile Waiver/Deadly Weapons

Dept. Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Sen. Donlay
Requestor: House Finance

Component: _____
COMPONENT SERIAL NO. 788

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						
CHANGE IN REVENUES ()						

Fund Source		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1006 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY 98) cost: \$ None

Positions						
Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Because of the small number of juveniles anticipated to fall within the waiver provisions of this bill, the court system does not anticipate a fiscal impact. However, should the number significantly increase the court system may return to the Legislature for additional funding.

Prepared by: Doug Wooliver, Administrative Attorney
 Agency: Alaska Court System

Approved by: Stephanie J. Cole, Administrative Director
 Agency: Alaska Court System

Phone: 264-8265
 Date: 01/27/98

Date: 01/27/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

HCS SB 63

Revision Date (Note if correction) 1/27/98 Dept. Affected Corrections
 Title "An Act providing for automatic waiver of juvenile BRU Administration and Operations
jurisdiction and prosecution of minors as adults for certain violation Component Office of the Commissioner
 Sponsor Senator Donley
 Requester House Finance Committee 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	110.9	220.5	330.1	330.1	330.1	330.1
TOTAL OPERATING	110.9	220.5	330.1	330.1	330.1	330.1

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

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	110.9	220.5	330.1	330.1	330.1	330.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	110.9	220.5	330.1	330.1	330.1	330.1

Estimate of any current year (FY98) cost: 0.0

POSITIONS

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached page 2

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date 1/27/98
 Approved by Commissioner Margaret M. Pugh Date 1-27-98
 Agency Department of Corrections

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Assumptions

1. According to DFYS the number of juveniles who would be automatically waived under the proposed change to AS47.12.030(a) is approximately three per year. These juveniles would be convicted of felonies which would average a sentence of three years.
2. Each felony case will require a pre-sentence investigation (PSI) report for the court. Preparing a PSI report for class A felonies costs approximately \$630 each. Each class B felony PSI report costs approximately \$455.
3. The statewide average daily cost of incarceration is \$100.07. It is assumed that those convicted of AS 47.12.030(a) offenses will require incarceration in state correctional facilities, as opposed to lower-cost community residential centers.
4. The department (when possible) houses waived juveniles in single cells, at least during the initial months of incarceration, to determine their level of vulnerability to adult predators in the prison population. It is generally assumed that juvenile inmates require closer security than the average adult. The department does try to place juveniles with other juveniles when possible. However, this is more difficult to do in smaller facilities.

Operating Expenses

FY99: 3 class B felony offenses X \$455 per PSI report= \$1.4
 3 inmates X 365 days X \$100.07 per day = \$109.5
TOTAL = \$110.9

YEAR	OLD-NEW	TOTAL	CLST PER DAY	DAYS	INCARC COST PER YEAR	PSI COSTS	TOTAL
FY99	3	3	\$100.07	365	\$109.5	\$1.4	\$110.9
FY00	3 + 3	6	\$100.07	365	\$219.1	\$1.4	\$220.5
FY01	6 + 3	9*	\$100.07	365	\$328.7	\$1.4	\$330.1

*Beginning in FY02 the first offenders (3) under proposed AS 47.12.030(a) would be released. This results in a no net gain from this point forward since three would enter the system and three would be released.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

SB 63

Revision Date (Note if correction) 1/21/98 Dept. Affected Corrections
 Title "An Act providing for automatic waiver of juvenile BRU Administration and Operations
jurisdiction and prosecution of minors as adults for certain violation Component Office of the Commissioner
 Sponsor Senator Donley
 Requester House Finance Committee 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	295.8	588.0	880.2	880.2	880.2	880.2
TOTAL OPERATING	295.8	588.0	880.2	880.2	880.2	880.2

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	295.8	588.0	880.2	880.2	880.2	880.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	295.8	588.0	880.2	880.2	880.2	880.2

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached page 2

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date 1/21/98
 Approved by Commissioner Margaret M. Pugh Date _____
 Agency Department of Corrections

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Assumptions

1. According to DFYS the number of juveniles who would be automatically waived under the proposed change to AS47.12.030(a) is approximately eight per year. These juveniles would be convicted of felonies which would average a sentence of three years.
2. Each felony case will require a pre-sentence investigation (PSI) report for the court. Preparing a PSI report for class A felonies costs approximately \$630 each. Each class B felony PSI report costs approximately \$455.
3. The statewide average daily cost of incarceration is \$100.07. It is assumed that those convicted of AS 47.12.030(a) offenses will require incarceration in state correctional facilities, as opposed to lower-cost community residential centers.
4. The department (when possible) houses waived juveniles in single cells, at least during the initial months of incarceration, to determine their level of vulnerability to adult predators in the prison population. It is generally assumed that juvenile inmates require closer security than the average adult. The department does try to place juveniles with other juveniles when possible. However, this is more difficult to do in smaller facilities.

Operating Expenses

FY99: 8 class B felony offenses X \$455 per PSI report= \$3.6
 8 inmates X 365 days X \$100.07 per day = \$292.2
TOTAL = \$295.8

YEAR	OLD+ NEW	TOTAL	COST PER DAY	DAYS	INCARC COST PER YEAR	PSI COSTS	TOTAL
FY99	8	8	\$100.07	365	\$292.2	\$3.6	\$295.8
FY00	8 + 8	16	\$100.07	365	\$584.4	\$3.6	\$588.0
FY01	16 + 8	24*	\$100.07	365	\$876.6	\$3.6	\$880.2

*Beginning in FY02 the first offenders (8) under proposed AS 47.12.030(a) would be released. This results in a no net gain from this point forward since eight would enter the system and eight would be released.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 63

Revision Date (Note if correction) _____ Dept. Affected Administration _____
 Title "An Act providing for automatic waiver of juvenile jurisdiction and prosecution of minors..." BRU Legal & Advocacy Services
 Component Office of Public Advocacy
 Sponsor Senator Donley
 Requester (S) JUD Component Serial No. 43

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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CHANG REVENUES ()	***	***	***	***	***	***
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	***	***	***	***	***	***
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Absent accurate projections of juvenile cases affected by the bill, OPA cannot quantify its anticipated costs.

Prepared by Brant McGee, Public Advocate
 Division Office of Public Advocacy
 Approved by Mark Boyer, Commissioner
 Agency Department of Administration

Phone (907)269-3500
 Date _____
 Date 1/20/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 63

Revision Date: _____
 Title: "An Act providing for automatic waiver of juvenile jurisdiction and prosecution of minors as adults..."
 Sponsor: Senator Donley
 Requestor: (H) FIN

Department Affected: Administration
 BRU: Public Defender Agency
 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 ()	***	***	***	***	***	***
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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: \$ _____

POSITIONS:

FULL-TIME	***	***	***	***	***	***
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill expands the number of crimes for which a minor will automatically be treated as an adult to include any crime against a person punishable as a felony in which the minor is alleged to have used a deadly weapon and was previously adjudicated or convicted of a felony offense against a person that involved the use of a deadly weapon. This is a large category of cases, ranging down to class C felonies. In juvenile court less focus is placed on trial and more energy is expended to find the appropriate treatment. As felonies in adult court, this bill will cause an increase in the numbers of cases to go to trial with attendant expenditures. Law predicted that eight cases of this nature would have occurred in FY 96. As the Public Defender is likely to be appointed, this will definitely increase Agency costs.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 1/20/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: SB 63

Revision Date: 01/19/98 Dept. Affected: Public Safety
 Title: Minor felons using guns treated as adults. BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Sen. Donley
 Requestor: House Finance **COMPONENT SERIAL NO. 0799**

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	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	-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 98) 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 would not have any significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman Phone: 269-5650
 Division: Alaska State Troopers Date: 01/19/98
 Approved by Commissioner: Ronald J. Otte Date: 1/19/98
 Agency: Department of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB63

Revision Date: _____
 Title: Automatic Waiver of Juveniles
 Sponsor: Donley
 Requestor: House (FIN)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: DFYS Central Office
 COMPONENT SERIAL NO. 259
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
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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CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact to the Division if this bill were to become law.

Prepared by: Russ E. Webb, Acting Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3030
 Date: 01/20/98
 Date: 1/26/98

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adopted 1/30/98

HOUSE CS FOR SENATE BILL NO. 63()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Halford, Phillips, Lemman, Pearce, Kelly, Green, Sharp

REPRESENTATIVE Rokeberg

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for automatic waiver of juvenile jurisdiction and prosecution
2 of minors as adults for certain violations of laws by minors who use deadly
3 weapons to commit offenses that are crimes against a person, and relating to the
4 sealing of the records of those minors."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 47.12.030(a) is amended to read:

7 (a) When a minor who was at least 16 years of age at the time of the offense
8 is arraigned on a charge for an offense specified in this subsection, this chapter and
9 the Alaska Delinquency Rules do not apply to the offense for which the minor is
10 arraigned or to any additional offenses joinder to it under the applicable rules of court
11 governing criminal procedure. The minor shall be charged, prosecuted, and sentenced
12 in the superior court in the same manner as an adult unless the minor is convicted of
13 some offense other than an offense specified in this subsection, in which event the
14 minor may attempt to prove, by a preponderance of the evidence, that the minor is

1 amenable to treatment under this chapter. If the court finds that the minor is amenable
2 to treatment under this chapter, the minor shall be treated as though the charges had
3 been heard under this chapter, and the court shall order disposition of the charges of
4 which the minor is convicted under AS 47.12.120(b). The provisions of this
5 subsection apply when the minor is arraigned on a charge

6 (1) that is an unclassified felony or a class A felony and the felony is
7 a crime against a person; [OR]

8 (2) of arson in the first degree; or

9 (3) that is a class B felony and the felony is a crime against a
10 person in which the minor is alleged to have used a deadly weapon in the
11 commission of the offense and the minor was previously adjudicated as a
12 delinquent or convicted as an adult, in this or another jurisdiction, as a result of
13 an offense that involved use of a deadly weapon in the commission of a crime
14 against a person or an offense in another jurisdiction having elements
15 substantially identical to those of a crime against a person, and the previous
16 offense was punishable as a felony; in this paragraph, "deadly weapon" has the
17 meaning given in AS 11.81.900(b).

18 * Sec. 2. APPLICABILITY. This Act applies to offenses committed on or after the
19 effective date of this Act. However, references to previous adjudications or convictions
20 include offenses committed on, before, or after the effective date of this Act.

AMENDMENT

#1 Withdrawn
Replaced
Am 2

OFFERED IN THE HOUSE

BY REP. DAVIES

TO: HCS SB 63 Work Draft

Page 2 , line 5, following "charge":

Delete lines 6 through 17 and

Insert:

"(1) that is a crime against a person and is

(A) an unclassified felony;

(B) a class A felony; or

(2) arson in the first degree; or

(3) that is a crime against a person in which the minor is alleged to have used a deadly weapon in the commission of the offense as defined in AS 11.81.900(b) and the minor was previously adjudicated as a delinquent or convicted as an adult in this or another jurisdiction, as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially identical to those of a crime against a person, and the previous offense was punishable as a felony and the new crime is punishable as

(A) an unclassified felony,

(B) a class A felony; or

(C) a class B felony."

AMENDMENT

#2 withdrawn 1/30/98

OFFERED IN THE HOUSE

BY REP. DAVIES

TO: HCS SB 63 Work Draft 1K

Page 2, line 5, following "charge":

Insert: "that is"

Delete lines 6 through 17⁸ and

Insert:

"(1) a crime against a person and is

(A) an unclassified felony;

(B) a class A felony; or

(C) a class B felony in which the minor is alleged to have used a

deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially identical to those of a crime against a person, and the previous offense was punishable as a felony; in this paragraph, "deadly weapon" has the meaning given in AS 11.81.900(b); or

(2) arson in the first degree."

0-LS0295\K
Glover
1/27/98

Adopted
1/27/98

AS Amended
pg 2

HOUSE CS FOR SENATE BILL NO. 63()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Halford, Phillips, Leman, Pearce, Kelly, Green, Sharp
REPRESENTATIVE Rokeberg

A BILL
FOR AN ACT ENTITLED

1 "An Act providing for automatic waiver of juvenile jurisdiction and prosecution
2 of minors as adults for certain violations of laws by minors who use deadly
3 weapons to commit offenses that are crimes against a person, and relating to the
4 sealing of the records of those minors."

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

6 * Section 1. AS 47.12.030(a) is amended to read:

7 (a) When a minor who was at least 16 years of age at the time of the offense
8 is arraigned on a charge for an offense specified in this subsection, this chapter and
9 the Alaska Delinquency Rules do not apply to the offense for which the minor is
10 arraigned or to any additional offenses joinable to it under the applicable rules of court
11 governing criminal procedure. The minor shall be charged, prosecuted, and sentenced
12 in the superior court in the same manner as an adult unless the minor is convicted of
13 some offense other than an offense specified in this subsection, in which event the
14 minor may attempt to prove, by a preponderance of the evidence, that the minor is

1 amenable to treatment under this chapter. If the court finds that the minor is amenable
 2 to treatment under this chapter, the minor shall be treated as though the charges had
 3 been heard under this chapter, and the court shall order disposition of the charges of
 4 which the minor is convicted under AS 47.12.120(b). The provisions of this
 5 subsection apply when the minor is arraigned on a charge

6 (1) that is either
 7 (A) an unclassified felony under AS 11; or
 8 (B) a class A felony that is [AND THE FELONY IS] a crime
 9 against a person; [OR]

10 (2) of arson in the first degree; or

11 (3) that is a crime against a person punishable as a felony in which
 12 the minor is alleged to have used a deadly weapon in the commission of the
 13 offense and the minor was previously adjudicated as a delinquent or convicted as
 14 an adult in this or another jurisdiction, as a result of an offense that involved use
 15 of a deadly weapon in the commission of a crime against a person or an offense
 16 in another jurisdiction having elements substantially identical to those of a crime
 17 against a person, and the offense was punishable as a felony; in this paragraph,
 18 "deadly weapon" has the meaning given in AS 11.81.900.

CLASS B felony and the felony is a crime
 Against
 A
 Person

19 * Sec. 2. APPLICABILITY. This Act applies to offenses committed on or after the
 20 effective date of this Act. However, references to previous adjudications or convictions
 21 include offenses committed on, before, or after the effective date of this Act.

Adopted 1/21/98

~~Rescinded~~
Replaced
1/27

0-LS0295\B-
Chenoweth
6/30/97

HOUSE CS FOR SENATE BILL NO. 63()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Halford, Phillips, Leman, Pearce, Kelly, Green, Sharp
REPRESENTATIVE Rokeberg

A BILL

FOR AN ACT ENTITLED

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9 the Alaska Delinquency Rules do not apply to the offense for which the minor is
10 arraigned or to any additional offenses joinable to it under the applicable rules of court
11 governing criminal procedure. The minor shall be charged, prosecuted, and sentenced
12 in the superior court in the same manner as an adult unless the minor is convicted of
13 some offense other than an offense specified in this subsection, in which event the
14 minor may attempt to prove, by a preponderance of the evidence, that the minor is

1 amenable to treatment under this chapter. If the court finds that the minor is amenable
2 to treatment under this chapter, the minor shall be treated as though the charges had
3 been heard under this chapter, and the court shall order disposition of the charges of
4 which the minor is convicted under AS 47.12.120(b). The provisions of this
5 subsection apply when the minor is arraigned on a charge

6 (1) that is an unclassified felony or a class A felony and the felony is
7 a crime against a person; [OR]

8 (2) of arson in the first degree; or

9 (3) that is a crime against a person punishable as an unclassified
10 felony, a class A felony, or a class B felony in which the minor is alleged to have
11 used a deadly weapon in the commission of the offense and the minor was
12 previously adjudicated as a delinquent or convicted as an adult, in this or another
13 jurisdiction, as a result of an offense that involved use of a deadly weapon in the
14 commission of a crime against a person or an offense in another jurisdiction
15 having elements substantially identical to those of a crime against a person, and
16 the previous offense was punishable as a felony; in this paragraph, "deadly
17 weapon" has the meaning given in AS 11.81.900(b).

18 * Sec. 2. APPLICABILITY. This Act applies to offenses committed on or after the
19 effective date of this Act. However, references to previous adjudications or convictions
20 include offenses committed on, before, or after the effective date of this Act.

SENATE BILL NO. 63

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATORS DONLEY, Halford, Phillips, Leman, Pearce, Kelly, Green, Sharp

REPRESENTATIVE Rokeberg

Introduced: 1/27/97

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for automatic waiver of juvenile jurisdiction and prosecution
2 of minors as adults for certain violations of laws by minors who use deadly
3 weapons to commit offenses that are crimes against a person, and relating to the
4 sealing of the records of those minors."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 47.12.030(a) is amended to read:

7 (a) When a minor who was at least 16 years of age at the time of the offense
8 is arraigned on a charge for an offense specified in this subsection, this chapter and
9 the Alaska Delinquency Rules do not apply to the offense for which the minor is
10 arraigned or to any additional offenses joinable to it under the applicable rules of court
11 governing criminal procedure. The minor shall be charged, prosecuted, and sentenced
12 in the superior court in the same manner as an adult unless the minor is convicted of
13 some offense other than an offense specified in this subsection, in which event the
14 minor may attempt to prove, by a preponderance of the evidence, that the minor is

1 amenable to treatment under this chapter. If the court finds that the minor is amenable
2 to treatment under this chapter, the minor shall be treated as though the charges had
3 been heard under this chapter, and the court shall order disposition of the charges of
4 which the minor is convicted under AS 47.12.120(b). The provisions of this
5 subsection apply when the minor is arraigned on a charge

6 (1) that is an unclassified felony or a class A felony and the felony is
7 a crime against a person; [OR]

8 (2) of arson in the first degree; or

9 (3) that is a crime against a person punishable as a felony in which
10 the minor is alleged to have used a deadly weapon in the commission of the
11 offense and the minor was previously adjudicated as a delinquent or convicted as
12 an adult, in this or another jurisdiction, as a result of an offense that involved use
13 of a deadly weapon in the commission of a crime against a person or an offense
14 in another jurisdiction having elements substantially identical to those of a crime
15 against a person, and the offense was punishable as a felony; in this paragraph,
16 "deadly weapon" has the meaning given in AS 11.81.900.

17 * Sec. 2. APPLICABILITY. This Act applies to offenses committed on or after the
18 effective date of this Act. However, references to previous adjudications or convictions
19 include offenses committed on, before, or after the effective date of this Act.



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

Sponsor Statement
for the proposed committee substitute for
Senate Bill 63
"Treating juvenile offenders with multiple convictions for violent offenses with deadly weapons as adults"

The proposed committee substitute for Senate Bill 63 would create a strong deterrent to the repeated use of deadly weapons by juveniles and would treat minors age 16 and older, who for the second time use a deadly weapon to commit a violent crime, as adults.

The legislation would prosecute minors as adults who:

1. use a deadly weapon to commit a class B felony crime against a person;
2. are 16 or older, and
3. were previously adjudicated delinquent or convicted as an adult of using a deadly weapon to commit a crime against a person punishable as a felony.

The term "deadly weapons" is defined by AS 11.81.900 (b)(14) as
... any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive."

Senate Bill 63 does not require any additional mandatory sentence or any specified punishment. Minors who are convicted of adult crimes, if incarcerated, are required by law to be segregated from adult prison populations as defined by AS 47.12.240.

The Department of Health & Social Services estimates that approximately 6 juveniles in FY'95 would have met the criteria under the previous version of Senate Bill 63. This total is misleading, however, because in three of the cases the juveniles committed offenses with "dangerous instruments" and not "deadly weapons" and therefore would not have waived to adult court under Senate Bill 63. Accordingly, the proposed CS would only increase automatic waiver by about three juveniles a year but clearly these will be the most serious of the offenders that are not currently waived.

The Anchorage Police Department compiled 1995 data which revealed a 200% increase in arrests of juveniles for violent crimes between 1990 and 1994. That same period showed only a 40% increase in juvenile arrests for property crimes. Alaska lawmakers can help curb this unprecedented increase in juvenile violent crime in Alaska by passing Senate Bill 63.

If you have further questions, please contact myself or James Armstrong of my staff at 465-3892.

DD/jja

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

Produced in House

Chapter 11.41. OFFENSES AGAINST THE PERSON

Crime Classification

Article 01. HOMICIDE

- Sec. 11.41.100. Murder in the first degree.
- Sec. 11.41.110. Murder in the second degree.
- Sec. 11.41.120. Manslaughter.
- Sec. 11.41.130. Criminally negligent homicide.

Unclassified Felony
Unclassified Felony
Class A Felony
Class C Felony

Article 02. ASSAULT AND RECKLESS ENDANGERMENT

- Sec. 11.41.200. Assault in the first degree.
- Sec. 11.41.210. Assault in the second degree.
- Sec. 11.41.220. Assault in the third degree.
- Sec. 11.41.230. Assault in the fourth degree.
- Sec. 11.41.250. Reckless endangerment.
- Sec. 11.41.260. Stalking in the first degree
- Sec. 11.41.270. Stalking in the second degree.

Class A Felony
Class B Felony
Class C Felony
Class A Misdemeanor
Class A Misdemeanor
Class C Felony.
Class A Misdemeanor

Article 03. KIDNAPPING AND CUSTODIAL INTERFERENCE

- Sec. 11.41.300. Kidnapping.
- Sec. 11.41.320. Custodial interference in the first degree.
- Sec. 11.41.330. Custodial interference in the second degree.

Unclassified Felony
Class C Felony
Class A Misdemeanor

Article 04. SEXUAL OFFENSES

- Sec. 11.41.410. Sexual assault in the first degree.
- Sec. 11.41.420. Sexual assault in the second degree.
- Sec. 11.41.425. Sexual assault in the third degree.
- Sec. 11.41.434. Sexual abuse of a minor in the first degree.
- Sec. 11.41.436. Sexual abuse of a minor in the second degree.
- Sec. 11.41.438. Sexual abuse of a minor in the third degree.
- Sec. 11.41.440. Sexual abuse of a minor in the fourth degree.
- Sec. 11.41.450. Incest.
- Sec. 11.41.455. Unlawful exploitation of a minor.
- Sec. 11.41.460. Indecent exposure.

Unclassified Felony
Class B Felony
Class C Felony
Unclassified Felony
Class B Felony
Class C Felony
Class A Misdemeanor
Class C Felony
Class B Felony
Class B Misdemeanor

Article 05. ROBBERY, EXTORTION, AND COERCION

- Sec. 11.41.500. Robbery in the first degree.
- Sec. 11.41.510. Robbery in the second degree.
- Sec. 11.41.520. Extortion.
- Sec. 11.41.530. Coercion.

Class A Felony
Class B Felony
Class B Felony
Class C Felony

- offenses Remain under CS.

STATE OF ALASKA

DEPARTMENT OF HEALTH AND
SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

TONY KNOWLES, GOVERNOR

P.O. 110630

JUNEAU, ALASKA 99811-0630

PHONE: (907) 465-3170

FAX: (907) 465-3397

RECEIVED APR 4 1997

April 1, 1997

The Honorable Robin Taylor
Chair, Senate Judiciary Committee
Alaska State Senate
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor,

This letter is in response to Senator Pearce's request during the Senate Judiciary committee hearing on March 27, 1997 for case information related to SB 63. I have identified those cases in FY 95 and 96 which would have meet the automatic waiver criteria of the bill. Bob Buttane has contacted the specific district probation offices responsible for the respective cases and I have summarized the case circumstances below. The offense referral which would have initiated an automatic waiver response under SB 63 is listed first.

Case #1

A 16 year old boy was referred to Youth Corrections on September 7, 1995 for an Assault in the Third Degree for recklessly causing injury to another student with a set of brass knuckles during an argument over stolen stereo speakers. This boy had a prior delinquency adjudication for an Assault in the Third Degree on July 25, 1994. During the 1994 incident, the boy pointed a loaded hand gun at another youth. A third youth attempted to disarm the boy and during the struggle, a single shot was fired into the air. No one was injured during the incident.

*Detail by
Wesley*

Case #2

A 17 year old boy was referred to Youth Corrections on November 20, 1995 for an Assault in the Third Degree for using the vehicle he was driving in a manner which recklessly caused fear of imminent serious physical injury to the driver of another vehicle. After further investigation by the Youth Corrections probation officer and a review from the Department of Law, the arrest charge was reduced to an Assault in the Fourth Degree and adjusted with informal action. This boy had been previously adjudicated delinquent for an Assault in the Third Degree on August 30, 1993. In the 1993 incident, the boy cut another person in the neck with a knife during a fight on a downtown street.

*Dan
Instur*

copy on file

page 2

Case #3

A 17 year old boy was referred to Youth Corrections on October 13, 1994 for an Assault in the Third Degree. This boy had instigated a series of events where another youth attacked and seriously injured a third young person. Investigation found sufficient evidence to hold this 17 year old fully accountable for the offense, even though he was not the one who had physical contact with the victim. Youth Corrections and the Department of Law considered a discretionary waiver petition, but felt the overall case circumstances were not sufficient to support this action. The case was adjudicated as a felony assault and the boy was placed in a youth corrections institution. The boy had previously been adjudicated for an Assault in the Third Degree on February 1, 1993. In that incident, the boy stabbed another boy in the hand with a knife after the other boy decided he could be returned home from a camping trip if he sustained some type of serious injury.

Case #4

A 17 year old girl was referred to Youth Corrections on October 9, 1995 for an Assault in the Second Degree. After the girl had sex with an adult male, a dispute arose over the amount of money he was to have given to her. During the ensuing argument, the girl stabbed the man. There were numerous inconsistencies in both the girl and man's rendition of the facts. After further investigation and negotiation between the girl's attorney and Department of Law, the girl admitted to an Assault in the Fourth Degree offense as part of an agreement to be institutionalized at a youth facility. The girl had previously been adjudicated delinquent for an Assault in the Third Degree on July 21, 1992. In the 1992 incident, the girl threatened and attempted to kill her older brother with a kitchen knife during a domestic violence disturbance in the family home.

Case #5

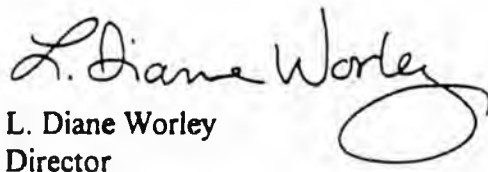
A 17 year old boy was referred to Youth Corrections on November 28, 1994 for an Assault in the Third Degree. This boy had been arguing and fighting with a group of other young people when he produced a pistol and fired two shots into the air. The boy had previously been adjudicated delinquent on an Assault in the Third Degree charge on April 22, 1993. The 1993 incident involved a domestic violence dispute with a sibling. The boy discharged two rounds from a handgun during an argument. There were no injuries, however the boy stipulated to an institutional placement at a youth facility for the incident.

Case #6

A 17 year old boy was referred to Youth Corrections on February 8, 1995 for Assault in the Second Degree. Together with a co-defendant, this boy pulled another youth out of a vehicle and beat him in the head with a glass juice bottle because the victim had been pressuring the 17 year olds sister to engage in sexual intercourse. After review by Youth Corrections and the district attorney, the offense was reduced to Assault in the Third Degree. The boy had a prior adjudication for Assault in the Third Degree on April 20, 1993. During the 1993 incident, the boy, who was certified learning disabled by the school, became agitated in class. A teacher assistant directed him into a time out area. When the boy returned to the class room, he became agitated again and was asked to leave. As he walked out of the class room, he produced a pocket knife, opened it and waived the open blade in front of the teacher assistant's face. He inflicted no injury but did place her in fear of serious injury.

These are the total number of cases meeting the specific criteria of SB 63 during both fiscal years 1995 and 1996. I hope this provides you with the understanding of the specifics of these cases and assists you in your action regarding this bill. Please do not hesitate to contact me if you have additional questions.

Sincerely,


L. Diane Worley
Director



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

July 29, 1997

Representative Gene Therriault
State Capitol Room 511
Juneau, AK 99801

Dear Representative ^{Gene} Therriault:

I am writing to request your support for a proposed committee substitute to Senate Bill 63 which if adopted should address the Knowles' administration concerns with this legislation.

The proposed committee substitute would automatically waive juveniles, 16 and older, to adult court when they are charged with using a deadly weapon to commit a class B felony crime against a person when they have a previous adult conviction or a juvenile adjudication for using a deadly weapon to commit either a class B or C crime against the person.

During testimony last session, administration officials were concerned that the original bill would allow for the automatic waiver of some repeat juvenile offenders who committed class C felony offenses. Under the proposed CS, the commission of class C felony offenses would not trigger the automatic waiver of juveniles to adult court, only a class B felony offense could do so.

The administration also expressed concern that the reference to "deadly weapon" in the bill would unintentionally expand the list of offenses subject to automatic waiver. The Department of Family and Youth Services estimated that six juveniles would meet the automatic waiver criteria of the bill. This total is misleading, however, because in three of the cases the juveniles committed offenses with "dangerous instruments" and not "deadly weapons" and therefore would not have been waived to adult court under SB 63. Accordingly this proposed CS would only increase automatic waiver by about three juveniles a year but clearly these will be the most serious of offenders that are not currently waived.

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MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

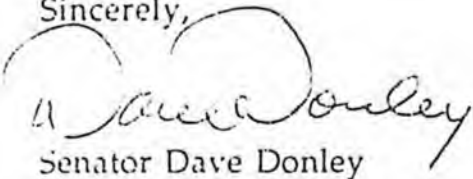
Representatives Therriault
July 29, 1997
Page 2

The proposed CS only waives those juveniles who have committed felony offenses with a "deadly weapon". I have included the statutory definitions (AS 11.81.900) for "dangerous instruments" and "deadly weapons" for your review.

The proposed committee substitute still strengthens existing law and creates a strong deterrent to the most serious type of repeat violent juvenile offenders and I request the House Finance Committee adopt CS SB 63, LS0295\B.

I have included a copy of CS SB 63 for your review. I appreciate your consideration of this request. Please call me at 258-8181 if you have any questions.

Sincerely,



Senator Dave Donley

enclosures: two

DD/jja

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

May 5, 1997

SUBJECT: "Dangerous weapon" and "deadly weapon"
TO: Senator Dave Donley
ATTN: James Armstrong
FROM: Jack Chenoweth
Legislative Counsel



I've been asked to respond to your question of Saturday to Tam Cook.

The Criminal Code (AS 11) regularly uses the term "deadly weapon." It defines the term as

... any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive;

AS 11.81.900(b)(14).

The Criminal Code does not use the term "dangerous weapon." It regularly uses the term "dangerous instrument" and, for that term, provides this definition:

... any deadly weapon or anything that, under the circumstances in which it is used, attempted to be used, or threatened to be used, is capable of causing death or serious physical injury;

AS 11.81.900(b)(12).

So, under the definitions of the Criminal Code, all "deadly weapons" are also to be treated as "dangerous instruments," but the opposite is not necessarily true.

Contemporary drafting practice involving addition to or amendment of AS 11 should keep with these terms and maintain the distinction between them. If "dangerous weapon" is

Senator Dave Donley

May 5, 1997

Page 2

offered as part of material to be added to AS 11, the term should not be offered without a definition.¹

*

The term "dangerous weapon" appears only once in the body of Alaska Statute law, at AS 12.35.070, part of the Code of Criminal Procedure.^{2/} AS 12.35.070 is a statute that derives from before Statehood, and has not been amended since its inclusion in the 1962 general recodification of state statutes. It is also a statute for which there are no reported annotations.^{3/}

JBC:lmb
97-073.lmb

¹ For the record, Oregon's Penal Code of 1971 does make use of the terms "dangerous weapon" and "deadly weapon," and supplies definitions for both terms. The term "dangerous weapon" of the Oregon Code equates to "dangerous instrument" under the Alaska Code of Criminal Procedure in that elements of its definition include consideration of the circumstances of use and the capability of causing death or serious physical injury. "Deadly weapon" under the Oregon Code is substantially similar to the like term as used in the Alaska Code of Criminal Procedure in that its definition considers the weapon's design and present capability of causing death or serious physical injury.

^{2/} AS 12.35.070 addresses the ability of a judicial officer to order a warrantless search of an accused in the presence of the judicial officer:

When a person charged with a crime is believed by the judge or magistrate before whom that person is brought to have on the person a dangerous weapon, or anything that may be used as evidence of the commission of the crime, the judge or magistrate may direct the accused to be searched in the presence of the judge or magistrate, and the weapon or other thing be retained subject to the order of the judge or magistrate or the order of the court in which the defendant may be tried.

^{3/} The statute, though modified, derives from sec. 2501 of the Act of March 3, 1899, the criminal code enacted by Congress for the Territory of Alaska. The 1899 enactment was generally based on the criminal laws of the State of Oregon.

STATE OF ALASKA

DEPARTMENT OF HEALTH AND
SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110630

JUNEAU, ALASKA 99811-0630

PHONE: (907) 465-3170

FAX: (907) 465-3397

January 27, 1998

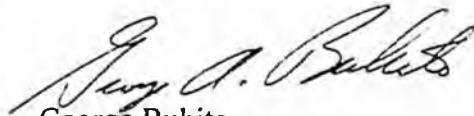
The Honorable Gene Therriault
Co-Chair, House Finance Committee
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Re: SB 63, Request by Representative John Davies

Dear Representative Therriault,

Representative Davies has asked my office to identify the offenses related to the discretionary waiver cases and information about the FY 97 associated cases to HCS SB63 (Fin) reported in my January 26, 1998 letter to you. I have had my staff prepare this information for Representative Davies and the members of your committee and have attached this information to this letter.

Sincerely,


George Buhite
Youth Corrections Administrator

Attachment.

Cc: James Armstrong, Aide to Senator Dave Donley
Margot Knuth, Department of Corrections
Annie Carpinetti, Department of Law

rb/GB

Discretionary Waiver Cases FY 97

Name	Age	Waiver Date	Offense	Deadly Weapon	Dangerous Instrument
T.T.	17	08/07/97	Assault 4	No	No
J.D.	16	06/25/97	Negligent Homicide	No	Yes (Vehicle)
M.J.	16	07/11/97	Arson 2	No	No
C.O.	17	10/10/97	Crim. Tress. 2	No	No
B.G.	17	01/16/97	Assault 4	No	No
B.G.	17	06/23/97	Burglary 1	No	No

HCS SB 63 (FIN) Related Cases During FY 97

Name	Age	Referral Date	Offense	Weapon Used	Prior Adjudication
B.N.	17	11/17/96	Assault 2	Metal Pipe	Assault 2
M.H.	17	11/02/96	MIW 2	Gun	Assault 3
R.H.	17	08/09/96	Assault 2	Gun	MIW 1

STATE OF ALASKA

DEPARTMENT OF HEALTH AND
SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110630

JUNEAU, ALASKA 99811-0630

PHONE: (907) 465-3170

FAX: (907) 465-3397

January 26, 1998

The Honorable Gene Therriault
Co-Chair, House Finance Committee
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Re: SB 63

Dear Representative Therriault,

This letter is in response to the House Finance Committee's request for additional information on the number of juvenile cases which would have been effected had SB 53 been enacted in FY 97. Related to this, we had reported there were 7 discretionary waiver cases in FY 97. A further check of our records showed one of these cases was incorrectly coded and was an automatic waiver case not subject to the juvenile system under 47.12.030. The actual total number of cases resulting in a discretionary waiver action during FY 97 was 6.

We had reported a total of 8 cases would have fallen under SB 63. However, this number included the automatic waiver case discussed above. Subtracting this case, there would have been 7 additional waiver cases had SB 63 been in effect in FY 1997. None of these 7 SB 63 related cases were among the discretionary waiver cases discussed above.

Of the 7 SB 63 related cases, four were for C felony offenses. Under the draft HCS SB63 (FIN) which excludes C felony offenses, there would have been 3 cases subject to the automatic waiver provisions of AS 47.12.030 based on our FY 97 case numbers.

The tables on page two serve to illustrate these numbers.

Representative Therriault
January 26, 1998

RE: SB 63

Page 2

FY97

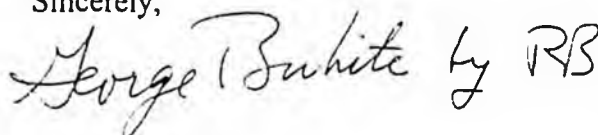
	Discretionary Waiver	SB 63 Related	Total
Discretionary Waiver	6	0	6
SB 63 Related	0	7	7
Total	6	7	13

FY 97

HCS SB63 (FIN)	Total	Excluding C Felony Offenses	Total
SB 63 Offenses	7	(4)	3

Please do not hesitate to contact me if I can answer other questions on this matter.

Sincerely,



George Buhite
Youth Corrections Administrator

Cc: James Armstrong, Aide to Senator Dave Donley
Margot Knuth, Department of Corrections
Annie Carpinetti, Department of Law