

SB

3

Croft

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 3 (JUD)

Revision Date: _____
Title: "An Act authorizing prosecution and trial in the district court of municipal curfew violations"
Sponsor: Senator Pearce
Requestor: (H) JUD

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 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 | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| OTHER | | | | | | |
| TOTAL | *** | *** | *** | *** | *** | *** |

Estimate of any current year (FY 97) cost: \$ -0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

The CS reduces the fine to \$250 and permits community work service in lieu of it. With these reductions such penalty may not be considered criminal (see Booth v. State, 903 P.2d 1079 (Alaska App. 1995) and would therefore have no impact on the Public Defender Agency.

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: 4/25/97

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HOUSE COMMITTEE REPORT

5/7/97
Finance

(7)
Date Referred to Committee: April 17, 1997 FURTHER REFERRALS:

Date of Committee Action: _____

The JUDICIARY Committee considered: CSSB 3(JUD)

CS FOR SENATE BILL NO. 3(JUD) MINOR'S CURFEW VIOLATIONS

"An Act authorizing prosecution and trial in the district court of municipal curfew violations, and providing for punishment of minors upon conviction for violation of a curfew ordinance."

recommends it be replaced with the following committee substitute _____
 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) _____ ^{Senate} fiscal note(s) DFSS (Indeterminate) ^{2.21.97}
Admin (Indeterminate) ³ Adm (Indeterminate), COURT ^{2.21.97} 2.21.97
 zero fiscal note(s) _____ ^{Senate} zero fiscal note(s) DPS 2.21.97

| SIGNING WITH RECOMMENDATIONS | | DP | DNP | NR | AM |
|------------------------------|-----------|-----|-----|-----|----|
| <i>Brian D. Porter</i> | Porter | | | ✓ | |
| <i>John Green</i> | Green | | | ✓ | |
| <i>Monette James</i> | James | ✓ | | | |
| <i>Tom Burde</i> | Burde | ✓ | | | |
| <i>Arthur Berkowitz</i> | Berkowitz | | ✓ | ✓ | |
| <i>Nina Kalleberg</i> | Rolleberg | ✓ | | | |
| <i>Will Croft</i> | Croft | | | ✓ | |
| | | | | | |
| | | (3) | | (4) | |

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

No. 1
 Bill Version: SB3
 (S) Publish Date: 2/21/97

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Minor's Curfew Violation Heard in District Court BRU: Trial Courts
 Sponsor: Sen. Pearce and Donley Component: _____
 Requestor: _____ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PERSONAL SERVICES | 24.3 | 24.3 | 24.3 | 24.3 | 24.3 | 24.3 |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS & CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 24.3 | 24.3 | 24.3 | 24.3 | 24.3 | 24.3 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

Fund Source (Thousands of Dollars)

| | | | | | | |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 24.3 | 24.3 | 24.3 | 24.3 | 24.3 | 24.3 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other | | | | | | |
| TOTAL | 24.3 | 24.3 | 24.3 | 24.3 | 24.3 | 24.3 |

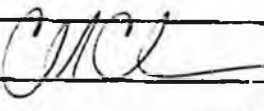
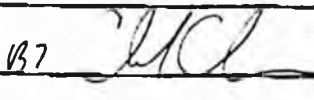
Estimate of any current year (FY 97) cost: None

Positions

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

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel 
 Agency: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director 
 Agency: Alaska Court System

Phone: 264-8228
 Date: 02/20/97
 Date: 02/20/97

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Alaska Court System
Fiscal Analysis
SB 3 ✖

SB 3 amends AS 47.12.030(b) to provide that if a minor is cited for violating a municipal ordinance which mandates a curfew, the minor shall be charged, prosecuted and sentenced in district court in the same manner as an adult.

It is anticipated that most municipalities will enact curfew ordinances. As drafted, SB 3 would allow municipalities to adopt criminal ordinances for which the penalty can be jail time, mandatory community service, or loss of a valuable license. Such ordinances would require the state to provide a jury trial. In addition, SB 3 would allow municipalities to require mandatory court appearances by juveniles. All citations which are contested will come before the court system, unless the municipality decides to pay for its own municipal hearing officer.

Based upon statistics generated during the first year of Anchorage's civil curfew system, which uses a municipal hearing officer rather than the court system, this note assumes that HB 474 will generate 3000 citations per year statewide. Noncontested citations may be paid directly to the municipalities; however, defendants may contest citations or enter guilty pleas at court. Thus, many persons subject to this section will come before a district judge and/or pay citations through the court's accounting system. This note assumes that no municipality will require a mandatory court appearance (probably an incorrect assumption), and that one-third of juvenile citations will be run through the court system; this is the rate at which the courts deal with other municipal citations. It should be kept in mind that the rate at which juveniles contest citations will depend on the size of fines set by the municipalities in their ordinances. This note also assumes that no municipality will criminalize curfew violations and require six-person jury trials. This last assumption is probably optimistic, in that some municipalities will likely criminalize repeat offenses or offenses by business owners who allow minors to remain on premises after curfew, if only to impose community service on the offenders.

Alaska Court SystemFiscal AnalysisSB 3 *^Personal ServicesPositions

| | <u>Salary</u> | <u>Benefits</u> | <u>Total</u> |
|--|---------------|-----------------|-----------------|
| Court Clerk II, range 10A, PPT, 4 months, Anchorage/statewide | \$8,420 | \$2,169 | \$10,589 |
| Committing Magistrate, range 22B, PPT, Anchorage/statewide, 1 1/2 months | 7,266 | 1,872 | 9,138 |
| Overtime for In-Court Clerks at range 12A for additional trials | | | <u>4,800</u> |
| | | | <u>\$24,327</u> |

Estimated Total Cost

\$24,327

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

N 3
BILL NO: Bill Version: SB3
 (S) Publish Date: 2/21/97

Revision Date: 02/17/97 Dept. Affected: Public Safety
 Title: Prosecute Juvenile Municipal Curfew BRU: Alaska State Troopers
Violations In District Court Component: Detachments
 Sponsor: Sen. Pearce
 Requestor: Senate HESS Committee **COMPONENT SERIAL NO.** 0799

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

| OPERATING | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|---|-------|-------|-------|-------|-------|-------|
| 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 97) 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: 02/17/97
 Approved by Commissioner: Ronald L. Otte Date: 2/18/97
 Agency: Department of Public Safety

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FISCAL NOTE

No. 2
 Bill Version: SB 3
 (S) Publish Date: 2/21/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act authorizing prosecution and trial in the district court of municipal curfew violations"
 Sponsor: Senator Pearce
 Requestor: (S) HES

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 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 | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| OTHER | | | | | | |
| TOTAL | *** | *** | *** | *** | *** | *** |

Estimate of any current year (FY 97) cost: \$ -0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill changes jurisdiction for violation of a municipal curfew ordinance from juvenile court to district court where the child will be prosecuted and sentenced in the same manner as if an adult. Fiscal impact will vary depending upon what degree of crime the municipal curfew ordinance establishes and whether or not the potential punishment gives rise to the right to appointed counsel. Without accurate numbers regarding referrals to the district court, fiscal impact is impossible to quantify.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Barbara K. Brink
 Date: 2/12/97

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STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 4
Bill Version: SB3
(S) Publish Date: 2/21/97

Revision Date: _____
Title: Prosecution in district court of municipal curfew violations.
Sponsor: Senator Pearce
Requestor: Senate (HESS)

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Probation Services
COMPONENT SERIAL NO. 2134
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

| OPERATING | FY98 | FY99 | FY00 | FY01 | FY02 | FY03 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | ***** | ***** | ***** | ***** | ***** | ***** |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------|--|--|--|--|--|--|
| 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 (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

DFYS is not able to accurately project the fiscal impact of this bill on the division's detention beds. Changes to the juvenile code in recent years have given districts court authority to handle an increasing number of juvenile offenses, with minor consuming and smoking being two examples. District judges and magistrates in some jurisdictions have been issuing bench warrants for failure to appear and contempt citations for failure to pay fines, resulting in juveniles being detained for smoking infractions. We have no way to anticipate what the increase would be if municipal curfew violations were added. However, serious overcrowding already exists in DFYS detention facilities, and it seems unnecessary to increase detention admissions for such minor violations when there is inadequate space to house serious offenders.

Signature
2/12/97

Prepared by: L. Diane Worley, Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 02/10/97
Date: 2/12/97

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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

May 6, 1997

The Honorable Joe Green
Chair, House Judiciary Committee
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801

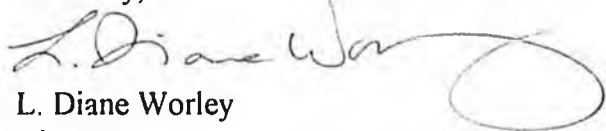
Dear Representative Green:

This letter is in response to Representative Jeannette James request for information during the April 25, 1997 Judiciary Committee hearing on SB 3 related to the case characteristics of those juveniles detained in our youth facilities by the district court for failure to appear or criminal contempt action related to tobacco, curfew and minor consuming alcohol offenses. The most significant impact occurred in Southeast where 16%, or 46 of the 288 detention admissions to the Johnson Youth Center, were related to district court action in these cases. Detentions for these offenses did occur in other regions in the state but were statistically insignificant when compared to the total number of detention admissions at the other regional facilities.

My analysis of the Johnson Youth Center detention admissions for FY 96 showed that 21% of these juveniles had no prior or post offense referrals to DFYS for delinquent offenses. 29% had delinquency referrals to DFYS for minor property offenses before or after their detention for an offense processed by the district court. The remaining 23 juveniles, 50%, were on formal juvenile probation prior to or following their status offense detention by the district court.

The impact on our detention resource in Southeast Alaska could have been reduced by 8% if sanctions available to the district court were limited to civil as opposed to criminal sanctions. Please let me know if you require additional information.

Sincerely,



L. Diane Worley
Director

A M E N D M E N T

*Sent to Pearce's
Office re:
Porter's
Went by to all points
so that a parent*

OFFERED IN THE HOUSE

TO: CSSB 3(JUD)

1 Page 1, line 1:

2 Delete "authorizing prosecution and trial in the district court of"

3 Insert "relating to"

4 Page 1, following line 5:

5 Insert a new subsection to read:

6 "(b) In a municipality that has acted by ordinance to provide for a curfew for
7 minors described in (a) of this section, the municipality may, by ordinance, also define
8 the offense of unreasonable failure to ensure the appearance of the minor before a
9 court or an administrative officer, as appropriate, in order to answer for a curfew
10 violation. The definition of the offense of unreasonable failure to ensure the
11 appearance of the minor before a court or an administrative officer, as appropriate, to
12 answer for the curfew violation must include failure of the parent or guardian of a
13 minor to enforce the minor's appearance at a hearing on the minor's violation of the
14 curfew ordinance of the municipality. The provisions of the ordinance authorized by
15 this subsection apply only if the municipality's ordinance requires that a copy of the
16 citation or other document charging the minor with violation of the municipality's
17 curfew ordinance is mailed to or served on the parent or guardian of the minor in a
18 timely manner so that the parent or guardian has reasonable opportunity to ensure the
19 appearance of the minor at the hearing."

20 Reletter the following subsections accordingly.

*the parent or
guardian notice*

*Failure to ensure
the child was
there*

Rough Draft

*Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

(54) AS 29.25.070(e) (notice of ordinance enforcement against a minor).

*Sec. 2. AS 29.25.070(b) is amended by adding new subsections to read:

(b) The municipality or an aggrieved person may institute a civil action against a person, including a minor as provided in AS 47.12.280, who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues constitutes a separate violation.

*Sec. 3. AS 29.25.070 is amended by adding new subsections to read:

(e) The municipality shall provide written notice to the commissioner of health and social services or to the commissioner's designee of the commencement of a civil enforcement action for the violation of a ordinance under (b) of this section against a minor. Unless the commissioner and the municipality negotiate an agreement making other arrangements to satisfy the obligation imposed on the municipality by this subsection, the municipality may provide notice by mailing a copy of the citation or other document setting out the notice of the commencement of the civil enforcement action. This subsection applies to home rule and general law municipalities.

(f) In this section, "minor" means a person under 18 years of age.

Sec. 4. AS 47.12 is amended by adding a new section to read:

Sec. 47.12.280. **Civil penalties for violation of municipal ordinances.** (a) Except as

otherwise provided in this section, the enforcement of a civil penalty under AS 29.25.070(b) against a minor for violation of a municipal ordinance shall be heard in the district court in the same manner as for similar allegations brought against an adult, except that the minor's parent, guardian, or legal custodian shall be present at all proceedings.

(b) Allegations against a minor for a civil penalty under a municipal ordinance may be assigned to a hearing officer for resolution, if provided for by municipal ordinance.

(c) The court may allow a minor the option of performing community work in place of a part or all of any fine imposed for the violation of a municipal ordinance. In this section, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the minor's place of residence, would benefit persons within the municipality or village who are elderly or disabled. The value of community work shall be determined as provided in AS 12.55.055(c).

(d) An action for a civil penalty filed against a minor under this section does not give rise to a right to trial by jury or to counsel appointed at public expense.

LEGAL SERVICES

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STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

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

RECEIVED

MEMORANDUM


April 28, 1997

APR 28 1997

SUBJECT: Amendment to CSSB 3(JUD) (Work Order No. 20-LS0078/E.1)

TO: Senator Drue Pearce
ATTN: Myrna Maynard

FROM: Jack Chenoweth
Legislative Counsel



I am trying to be responsive to Representative Porter's desire to expand coverage of this bill to cover the parents or guardian of a minor who doesn't show up for a court hearing.

I don't know how else to easily involve the parents or guardian without independently providing notice and opportunity for the parent or guardian so that they are able to offer a defense. One defends against a criminal charge and, in this instance, it is the minor who is to be charged with the curfew violation, not the parent or guardian. By taking the curfew violation provisions out from under "delinquency" proceedings and requiring the minor to face the criminal charge directly, the minor who refuses or fails to appear is subject to the mechanisms in place that are applicable to any other defendant in a criminal action for failure to appear. Moreover, nothing in criminal law otherwise holds a parent or guardian liable for a minor's failure to appear in any criminal proceeding.

Consequently, the easiest approach, it seems to me, is to set out a separate criminal offense. Since all of this curfew matter is tossed at the municipalities to handle, the most logical approach would be to tell the municipalities that, if you have a curfew in place and are trying to enforce it, then you may also pass an ordinance that makes a criminal offense for the failure of a parent or guardian to ensure the minor's appearance at a hearing for breaking the curfew ordinance. That's all that this amendment proposes to do.

If this material is inserted as offered, the parent or guardian may, under a municipal ordinance, be separately charged, and the maximum fine recoverable from the parent or guardian is the same for the minor's conviction on the underlying curfew ordinance.

Senator Drue Pearce
April 28, 1997
Page 2

Inclusion of this additional alternative sanction addressed to parents of minors would not seem to defeat or interfere with the efforts in Anchorage to deal with curfew violations under its civil/administrative enforcement mechanism. This provision could be adapted by the Municipal Assembly to be covered by the civil/administrative enforcement mechanism.

Unfortunately, the bill has a narrow title--too narrow to accommodate this expansion of the subject matter without modification. You know the drill: if the material is to be inserted, a concurrent resolution should be prepared and offered that suspends the rule to allow for addition of material necessitating a change of title by the members of the second house.

JBC:glc
97-276.glc

SPONSOR STATEMENT FOR SB 3

Currently, juvenile offenses other than traffic, tobacco, fish and game, parks and recreational facilities, or alcohol violations, are handled through municipal courts where these exist, or are not handled at all because of the Division of Family and Youth Services caseload.

SB 3 will put in place a uniform approach to handling curfew violations. It will enable those communities who so wish to put a curfew ordinance into effect, with the ability to prosecute.

SB 3 will help the City of Juneau, where plans for a youth curfew were set aside because the city had no avenue to prosecute offenders. This bill will relieve municipalities from the burden of prosecution and will allow for more effective and expeditious handling of these offenses. Municipalities where Youth Courts are currently in place will not be affected. They may continue their current process.

SB 3 will mandate that all juvenile curfew violations be handled in District Court. Alaska Delinquency Rules will not apply, and the minor accused of the offense will be charged, prosecuted, and sentenced in the district court in the same manner as an adult. When a minor is charged, prosecuted and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian will be present at all proceedings. When parents have to become involved with their children at these hearings, they will perhaps exert pressure and some of the gang activity will decrease. Juveniles, as well, will know their actions have direct, and serious, consequences.

The bill enables juveniles who are unable to pay the fine, or whose parents choose not to pay, to choose to participate in community work, which may be lower than the amount of the fine, but will have a more lasting impression on the individual who has to perform the work. "Community work" includes work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled.