

HB

9

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/15/97

FURTHER: REPORTED OUT OF: 4/23/97

DATE TURNED IN TO OFFICE: 4/23/97

Finance Committee considered CS FOR HOUSE BILL NO. 9(FIN) am

VICTIM'S RIGHT TO BE PRESENT AT TRIAL

and recommends:

- be replaced with S CS CS HB 9 (FIN)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to the Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Paul E. Kelly</i>	✓				
<i>Debra</i>	X				
<i>John Johnson</i>	✓				
Co-Chair: <i>Peace</i>	✓	Co-Chair:			
Co-Chair: <i>Barry</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Alaska Court	4/10/97	Ø	
Admin/PDA	2/17/97	Ø	
Admin/OPA	2/4/97	Ø	
Law	4/16/97	Ø	
Pub. Safety	4/15/97	Ø	
HESS/DFYS	1/23/97	Ø	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE CS FOR CS FOR HOUSE BILL NO. 9(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES PORTER, Green, Croft, Kubina, Kemplen, Dyson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the rights of crime victims and victims of juvenile offenses;
 2 relating to the collection by victims of restitution from prisoners; relating to the
 3 definition of 'incapacitated' for sexual offenses; creating the crime of interfering
 4 with a report of a crime involving domestic violence; relating to mental
 5 examinations of victims in criminal prosecutions; relating to the safety of
 6 victims, other persons, and the community in setting bail or conditions of
 7 release; relating to access to certain records of the Violent Crimes Compensation
 8 Board; amending Rules 6 and 43(d), Alaska Rules of Criminal Procedure, Rules
 9 404 and 615, Alaska Rules of Evidence, and Rule 3, Alaska Delinquency Rules;
 10 and providing for an effective date."

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

12 * Section 1. PURPOSE. The purpose of secs. 2, ¹⁶15, ¹⁷17, ²⁰20, and ²¹21 of this Act is to clarify

L

FISCAL NOTE

No. 5

Version: CSHB 9(FIN)

(H) Publish Date: 2/19/97

**STATE OF ALASKA
1997 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Department of Law
 Title: ... to the rights of crime victims, collection by BRU: Criminal Division/Civil Division
victims of restitution, safety of victims, amending court rules Component: Criminal Division/General Legal Services
 Sponsor: Representative Porter
 Requester: House Finance Committee COMPONENT SERIAL NO. 2085/2087

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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill clarifies the "rights of crime victims" amendment contained in art. I, sec. 24, of the Alaska Constitution. The bill amends AS 12.61 by providing that the victim has a right to be present at every proceeding in a criminal prosecution or delinquency adjudication in which the defendant or a minor has the right to be present. Further, the bill amends provisions in the substantive and procedural criminal law to facilitate, particularly from the victim's perspective, the prosecution of a person charged with a crime or the adjudication of a minor for delinquent acts. The bill also adopts provisions intended to better protect the safety and welfare of victims, other persons, and the community. It requires a court to consider the safety of the victim in setting bail and conditions of release. It makes it a class A misdemeanor to interfere with the report to law enforcement of a domestic violence crime. Finally the bill facilitates the collection of restitution by providing that the weekly income and liquid assets exemptions from execution do not apply to collection of court-ordered restitution from a prisoner from funds held outside a correctional facility.

CSHB 9 (FIN) workdraft H will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 2/14/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho* Date: 2/14/97
 Agency: Department of Law

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FISCAL NOTE

No. 6
 Bill Version: GSHB 9(FIN)
 (H) Publish Date: 2/19/97

STATE OF ALASKA
 .997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to the right of crime victims and victims of juvenile offenses to be present at court..."
 Sponsor: Representative Porter
 Requestor: (H) FIN

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

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	0.0	0.0	0.0	0.0	0.0	0.0

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	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will have no impact on Office of Public Advocacy.

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Mark Bover *Hanson M Stage*
 Agency: Administration

Date: 2/4/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 7
 Bill Version: CSHB 9(FIN)
 (H) Publish Date: 2/19/97

Revision Date: _____
 Title: "An Act relating to the right of crime victims..."
 Sponsor: Representative Porter
 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 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: \$ **

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill revises a number of criminal statutes from the "victim's rights" perspective. It creates new crimes and makes it easier to obtain convictions by altering the rules of admissibility of evidence. These changes will result in additional cases and additional work for the Public Defender. Without accurate predictors as to numbers, 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

Date: 2/17/97

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1997 LEGISLATIVE SESSION

Revision Date: 2/15/97

Dept. Affected: Public Safety

Title: Victim's Rights to be Present at Trial

DPS Statewide Support

Component: Commissioner's Office

Sponsor: Representative Porter

Requestor: S.JUD

COMPONENT SERIAL NO. 0523

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 EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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.)

No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner

Phone: 465-4322

Division: Commissioner's Office

Date: 4/15/97

Approved by Commissioner: *Ronald L. Otte*

Date: 4/15/97

Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

No. 4

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO:

Bill Version: CSHB 9 (JUD)

(H) Publish Date: 1/27/97

Revision Date: _____
 Title: "An Act relating to the rights of crime victimsto be present at court proceedings"
 Sponsor: Representative Porter
 Requestor: House Judiciary Committee

Dept. Affected: Public Safety
 BRU: Statewide Support
 Component: Commissioner's Office
 COMPONENT SERIAL NO. 0523

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 EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

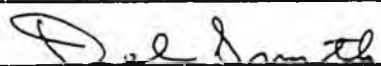
Estimate of current year (FY 97) impact: \$ -0-

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 does not impact the Department of Public Safety

Prepared By: Sandy Perry-Frovost, Special Assistant to the Commissioner Phone: 465-4322
 Division: Commissioner's Office Date: 1/14/97
 Approved by Commissioner:  Date: 1/14/97
 Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

NOT PUBLISHED

B) Identical to No. 1
 Bill Version: SCS CSHB 9 (JUD)

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: 04/10/97 Dept. Affected: Alaska Court System
 Title: Victim's right to be present at trial BRU: Trial Courts
 Sponsor: Rep. Porter Component: _____
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 708

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	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

Positions

Full-Time					
Part-Time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Doug Wooliver, Administrative Attorney Phone: 254-8285
 Agency: Alaska Court System Date: 04/10/97
 Approved by: Stephanie J. Cole, Acting Administrative Director Date: 04/10/97
 Agency: Alaska Court System

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FISCAL NOTE

No. 1
 Bill Version: CSHB 9 (JUD)
 (H) Publish Date: 1/27/97

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Victim's right to be present at trial BRU: Trial Courts
 Component: _____
 Sponsor: Rep. Porter
 Requestor: House Judiciary 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						
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						
CHANGE IN REVENUES ()						

Fund Source (Thousands of Dollars)

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

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

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
 Agency: Alaska Court System Date: 01/23/97

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 01/23/97
 Agency: Alaska Court System

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COMMITTEE COPY

A FAX

Alaska State Legislature

Date: 4/23/97 8:25 p.m.

To: Legal Services

Fax #: 2029 Phone #: 2450

From: Terry Lee, Sen. Fin. Committee Secretary

Phone #: 2618

Re: please incorporate attached amend #1 into SCS CSHB 9 (JUD)
O-LS0088\ P into final finance form.

Many thanks!

Following this page, please find 1 pages(s). If this does not reach you in full, please inform us ASAP.



THANK YOU

A FAX

Alaska State Legislature

Date: 4/24/97

To: Legal Services

Fax #: 2029 Phone #: 2450

From: Jerry Lee, Sen. Fin. Committee Secretary

Phone #: 2618

Re: Apparently page 1, line 12 the section numbers changed as to how I have written them in per Larry. Please conform into new final CS (FIN) Thanks!

Following this page, please find 1 pages(s). If this does not reach you in full, please inform us ASAP.



THANK YOU

SENATE FINANCE
COMMITTEE
Amendment Number: 1
Bill Number: HB 9
Sponsor: _____ Date: 11/23/97
Logged In By: Sceltani

AMENDMENT

*moved by Sen. Pearce.
w/o objection adopted*

OFFERED IN THE SENATE FINANCE COMMITTEE

BY PEARCE

TO: SCS for CSHB 9 (JUD)

Page 5, following line 14:

Insert a new bill section to read:

"Sec. 14. AS 12.45 is amended by adding a new section to read:

Sec. 12.45.042. Mental examination of victim. In a criminal prosecution under AS 11.41, the court may not order or compel the victim to undergo a psychiatric or psychological examination unless

(1) the victim's psychiatric or psychological condition is an element of the offense charged; or

(2) the prosecution has given notice that it will present evidence at trial that the victim suffers from a continuing psychological or psychiatric condition that resulted from the offense charged."

Renumber following bill sections accordingly.

SENATE CS FOR CS FOR HOUSE BILL NO. 9(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/15/97
Referred: Finance

Sponsor(s): REPRESENTATIVES PORTER, Green, Croft, Kubina, Kemplen, Dyson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the rights of crime victims and victims of juvenile offenses;
2 relating to the collection by victims of restitution from prisoners; relating to the
3 definition of 'incapacitated' for sexual offenses; creating the crime of interfering
4 with a report of a crime involving domestic violence; relating to the safety of
5 victims, other persons, and the community in setting bail or conditions of
6 release; relating to access to certain records of the Violent Crimes Compensation
7 Board; amending Rules 6 and 43(d), Alaska Rules of Criminal Procedure, Rules
8 404 and 615, Alaska Rules of Evidence, and Rule 3, Alaska Delinquency Rules;
9 and providing for an effective date."

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

11 * Section 1. PURPOSE. The purpose of secs. ^{16 18 27 23} 2, ~~15~~, 17, 20, and 21 of this Act is to clarify
12 that the right of crime victims "to be present at all criminal or juvenile proceedings where the

SENATE FINANCE
COMMITTEE
Amendment Number: 2
Bill Number: HB 9
Sponsor: _____ Date: 4/23/97
Logged In By: J. Kottlaoui

AMENDMENT

not offered

OFFERED IN THE SENATE FINANCE COMMITTEE

BY PEARCE

TO: SCS for CSHB 9 (JUD)

Page 5, following line 14:

Insert a new bill section to read:

“**Sec. 14.** AS 12.45 is amended by adding a new section to read:

Sec. 12.45.042. Mental examination of sexual assault or sexual abuse victim.

In a criminal prosecution under AS 11.41.410 - 11.41.470, the court may not order or compel the victim to undergo a psychiatric or psychological examination unless

(1) the victim’s psychiatric or psychological condition is an element of the offense charged; or

(2) the prosecution has given notice that it will present evidence at trial that the victim suffers from a continuing psychological or psychiatric condition that resulted from the offense charged.”

Renumber following bill sections accordingly.

SENATE CS FOR CSHB 9 (JUD)
SECTIONAL ANALYSIS

Sections one, 15, 17, 21, and 22 implement art. I, sec. 24 of the Alaska Constitution by allowing the victim to be present at every stage of a criminal prosecution or adjudication of a juvenile where the defendant or the juvenile has a right to be present. The Alaska Constitution guarantees these rights; these provisions amend the statutes and court rules to implement them.

Sections three through six create an exception to the weekly earnings and liquid assets exemptions from execution to allow a victim, in attempting to collect on an order of restitution, to levy upon assets held by a prisoner outside an institution (assets held inside the institution are already available to victims under AS 09.38.030(f)).

Section seven amends the definition of "incapacitated" in the sexual assault statutes. Sexual Assault in the Third Degree, for example, prohibits sexual contact with a person who the offender knows is incapacitated. The definition is amended so that the state, in establishing its case, must prove either that the victim was temporarily unable to appraise the nature of his or her conduct, or that the victim was temporarily unable to express unwillingness to act. At present the state is required to prove both in order establish that the victim was incapacitated.

Section eight adds a new provision to the criminal code making it a class A misdemeanor to interfere with a person who is reporting or attempting to report a crime of domestic violence to the police.

Sections nine, 10, 11 and 13 amend the bail statutes to require that the safety of the victim be considered by the court when it makes its decision concerning bail and conditions of release for the defendant pending trial, sentence, and appeal. Art. I, sec. 24 of the Alaska Constitution guarantee a victim the right to be reasonably protected from the accused through the imposition of bail or conditions of release by the court. These sections implement that guarantee.

Section 12 provides that when the trial court dismisses an indictment or grants the defendant a new trial, and the state appeals the dismissal or order for a new trial, the decision to release the defendant shall be determined according to the statutes governing release before trial.

Section 14 addresses cases that are referred to a three-judge panel for sentencing. The law allows the panel to sentence a defendant to a lower or higher term of imprisonment, under certain circumstances, than the presumptive sentence which would otherwise apply. This section provides that if the panel hears additional testimony regarding the appropriate sentence, the victim of the crime will also be allowed to testify.

Section 15 amends the victims' rights statute. In addition to setting forth the right to be present, it implements Art. I, sec. 24 of the Alaska Constitution by providing that a victim has the right to notice of any hearing where the defendant's release from custody will be considered. Additionally, notice to victims required by other provisions of law, for example, the right to notice of the status of a defendant found not guilty by reason of insanity, are set forth in the victims' rights statute.

Section 16 provides that applications and personally identifying information in the files of the Violent Crimes Compensation Board are confidential.

Section 18 allows victims who are subpoenaed to testify at the grand jury, who live more than 50 miles from the site of the grand jury or who must customarily fly to the site of the grand jury, to testify telephonically. Present law allows other witnesses to testify at the grand jury by telephone under these circumstances.

Section 19 amends Rule 43(d), Alaska Rules of Criminal Procedure, to require, when the state appeals a decision dismissing an indictment or granting a new trial, that the court consider the release of the defendant under the laws addressing pretrial release.

Section 20 amends the Alaska Rules of Evidence to allow, in a prosecution of a crime involving domestic violence or interfering with a report of domestic violence, evidence to be introduced that the defendant has committed other crimes involving domestic violence or interfering with the report of a crime involving domestic violence against the same or another victim.

Sections 23 - 27 include effective date, applicability, and repealer provisions, and the court rule change notations.

Alaska State Legislature

Representative Brian S. Porter

HOUSE MAJORITY LEADER

MEMBER
HOUSE JUDICIARY COMMITTEE
HOUSE RULES COMMITTEE
HEALTH, EDUC. & SOCIAL SERVICES COMMITTEE
LEGISLATIVE COUNCIL JOINT COMMITTEE



DISTRICT 20

SESSION:
STATE CAPITOL, ROOM 216
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-4100
FAX: (907) 465-3434

INTERIM:
716 W. 4TH AVE., SUITE 160
ANCHORAGE, AK 99501-2134
PHONE: (907) 258-4197
FAX: (907) 258-3510

To: Senator Bert Sharp
Senator Drue Pearce
Senate Finance Committee

Fm: Representative Brian Porter

Re: HB 9 Rights of Crime Victims

April 17, 1997

At your earliest convenience, please set HB 9 on for consideration by the Senate Finance Committee.

Attached please find the following documents:

1. Copy of the most recent version of the bill, together with a resolution which may or may not have to be acted upon by the committee, depending upon whether a provision deleted by the Judiciary Committee is reinstated.
2. A Sponsor Statement
3. A Sectional Analysis
4. Supporting research materials and letters.

Thank you for your prompt attention to this matter.

Respectfully yours,

A handwritten signature in cursive script that reads "Brian S. Porter".

Brian Porter

SENATE CONCURRENT RESOLUTION NO. 12
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 4/16/97
Referred: Rules

A RESOLUTION

1 **Suspending Uniform Rules 24(c), 35, 41(b), and 42(e) of the Alaska State**
2 **Legislature concerning House Bill No. 9, relating to victims of crime and other**
3 **criminal law matters.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 That under Rule 54 of the Uniform Rules of the Alaska State Legislature, the
6 provisions of Rules 24(c), 35, 41(b), and 42(e) of the Uniform Rules, regarding changes to the
7 title of a bill, are suspended in consideration of House Bill No. 9, relating to victims of crime
8 and other criminal law matters.

Alaska State Legislature

Representative Brian S. Porter

HOUSE MAJORITY LEADER

MEMBER
HOUSE JUDICIARY COMMITTEE
HOUSE RULES COMMITTEE
HEALTH, EDUC. & SOCIAL SERVICES COMMITTEE
LEGISLATIVE COUNCIL JOINT COMMITTEE



DISTRICT 20

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SPONSOR STATEMENT

For

HB 9 RIGHT OF CRIME VICTIMS AND VICTIMS OF JUVENILE OFFENSES TO BE PRESENT AT COURT PROCEEDINGS

The Constitution of the State of Alaska was amended in 1994 by adding to Article 1, a new Section 24, which specifically extended to crime victims "the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present..."

Currently at least two Superior Court judges are interpreting the Alaska Statutes, and Rule 615, Alaska Rules of Evidence, to exclude victims of crimes and juvenile offenses from being present in the courtroom during a trial of the accused until after the victim has testified.

This bill is then offered to implement the mandate of the 1994 Amendment to the Constitution and to make absolutely clear to the judiciary a crime victim's right to be present at the trial and other proceedings of the accused, including juvenile proceedings, whenever the accused has the right to be present.

Alaska State Legislature



Official Business

House Majority Leader

State Capitol
Juneau, AK 99801-1182
(907) 465-3718

SECTIONAL ANALYSIS

OF

SENATE CS FOR CS FOR HOUSE BILL NO. 9(JUD)

Sections 1, 2, 15, 17, 20, 21 and 22 of this Act clarify the right of crime victims to be present at all criminal or juvenile proceedings where the accused or juvenile has the right to be present.

Sections 3, 4, 5, and 6 create an exception to the weekly earnings and liquid assets exemptions from execution to allow a victim, in attempting to collect on an order of restitution, to levy upon assets held by a prisoner outside an institution. Under present law, assets held inside the institution are already available to victims under AS 09.38.030(f).

Section 7 amends the definition of "incapacitated" in the sexual assault statutes. Sexual Assault in the Third Degree prohibits, for example, sexual contact with a person who the offender knows is incapacitated. The definition is amended so that the state, in proving its case, must prove either that the victim was temporarily unable to appraise the nature of his or her conduct, or that the victim was temporarily unable to express unwillingness to act. At present the statutes require the state to prove both in order to establish its case.

Section 8 adds a new provision to the criminal code making it a class A misdemeanor to interfere with a person who is reporting or attempting to report a domestic violence crime to the police.

Sections 9, 10, 11, 12, 13, 19 and 24 amend the bail statutes to require that the safety of the victim be considered by the court when it makes decisions concerning bail and conditions of release for the defendant pending trial, sentence and appeal.

Section 14 allows a crime victim to testify before a three judge sentencing panel.

Section 16 provides that applications for compensation and personally identifying information are confidential records in proceedings before the Violent Crimes Compensation Board.

Section 18 allows victims who are subpoenaed to testify before a grand jury, who live more than 50 miles from the site of the grand jury, or who must customarily fly to the site of the grand jury, to testify telephonically. Other witnesses are allowed under present law to testify by telephone under these circumstances.

Section 20 amends Alaska Evidence Rule 404(b) to allow, in a prosecution of a crime involving domestic violence or interfering with a report of domestic violence, evidence to be introduced that the defendant has committed other crimes involving domestic violence or interfering with the report of a crime involving domestic violence against the same or another victim.

Section 23 repeals Rule 6(u)(4), Alaska Rules of Criminal Procedure.

Sections 25-27 include applicability and effective date provisions.

Collateral references. — Validity, construction, and effect of state laws requiring public officials to protect confidentiality of income tax returns or information. 1 ALR4th 959.

Name appropriation by employer or former employer. 32 ALR4th 156.

False light invasion of privacy — cognizability and elements. 57 ALR4th 22.

Invasion of privacy by a clergyman, church, or religious group. 67 ALR4th 1086.

Nonconsensual treatment of involuntarily committed mentally ill persons with neuroleptic or antipsychotic drugs as violative of state constitutional guarantee. 74 ALR4th 1099.

Section 23. Resident Preference. This constitution does not prohibit the State from granting preferences, on the basis of Alaska residence, to residents of the State over nonresidents to the extent permitted by the Constitution of the United States.

Effective dates. — This section took effect January 4, 1939 (15th Legislature's CSHJR 18 (1988).)

Section 24. Rights of Crime Victims. Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication.

Effective dates. — This section took effect December 30, 1994 (18th Legislature's Legislative Resolve No. 58).

Article II

The Legislature

Section 1. Legislative Power; Membership. The legislative power of the State is vested in a legislature consisting of a senate with a membership of twenty and a house of representatives with a membership of forty.

Opinions of attorney general. — Distinction between legislative and executive powers. See July 22, 1976, Op. Att'y Gen.

Vesting authority in the legislative Budget and Audit Committee to approve transfers between appropriation items violates the separation of powers doctrine and is an improper delegation of a legislative function to an interim committee. July 22, 1976 Op. Att'y Gen.

Section 13(3) of the 1976 budget bill, which autho-

rized the Budget and Audit Committee to supervise the governor's execution of the budget act, specifically over that portion of it which permitted him to transfer appropriation items constituted an encroachment on executive power and offended the Alaska Constitution. July 22, 1976 Op. Att'y Gen.

The apparent invalidity of Alaska's apportionment plan does not transform its legislature into an illegal assembly, prohibited from meeting and enacting laws. 1954 Op. Att'y Gen. No. 4.

NOTES TO DECISIONS

Separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Confirmation is not a distinct legislative power, but rather a part of the executive power of appointment which has in turn been delegated in

some specific instances by constitution to the legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Limitation on legislative checks on governor's power. — The lack of ambiguity in Alaska Const., art. III, §§ 25 and 26 mandate that the supreme court interpret these express provisions as embodying not only the maximum parameters of the delegation of the

Injustice. *Duncan v. State*, 782 P.2d 381 (Alaska Ct. App. 1989).

Panel not bound by trial court's evaluation. — The three-judge panel is not bound by the trial court's evaluation of the facts or determination of the law. *Winther v. State*, 749 P.2d 1356 (Alaska Ct. App. 1988).

Trial court should not propose a nonstatutory mitigating factor to the three-judge panel where the legislature specifically rejected that factor for inclusion in AS 12.55.185(d). Where the legislature has expressly addressed a consideration, such as the relationship between a defendant's past conduct and his present offense, and imposed limitations on the trial court's power to consider that relationship in mitigation of sentence, the trial court should not propose the same mitigating factor to the three-judge panel without complying with the limitations; to do so is to suggest a common-law development inconsistent with legislation. *Totemoff v. State*, 739 P.2d 769 (Alaska Ct. App. 1987).

Applied in *McMannera v. State*, 650 P.2d 414 (Alaska Ct. App. 1982); *Shaw v. State*, 673 P.2d 781 (Alaska Ct. App. 1983); *Negler v. State*, 741 P.2d 659 (Alaska Ct. App. 1987); *Totemoff v. State*, 739 P.2d 769 (Alaska Ct. App. 1987); *Lowe v. State*, 866 P.2d 1320 (Alaska Ct. App. 1994).

Sec. 12.55.180. Designation of representative. If more than one person who qualifies as a victim under AS 12.55.185 desires notice under AS 12.55.088, the prosecuting attorney shall designate one person to represent all victims for purposes of receiving the notice required and exercising the rights granted under this chapter. (§ 6 ch 59 SLA 1989)

Revisor's notes. — Formerly AS 12.55.172. Renumbered in 1990.

Sec. 12.55.185. Definitions. In this chapter, unless the context requires otherwise,

- (1) "crime against a person" has the meaning given in AS 33.30.901;
- (2) "criminal street gang" has the meaning given in AS 11.81.900(b);
- (3) "dangerous instrument" has the meaning given in AS 11.81.900;
- (4) "domestic violence" has the meaning given in AS 18.66.990;
- (5) "firearm" has the meaning given in AS 11.81.900;
- (6) "first felony conviction" means that the defendant has not been previously convicted of a felony;
- (7) "judicial officer" has the meaning given in AS 11.56.900;
- (8) "most serious felony" means
 - (A) arson in the first degree, promoting prostitution in the first degree under AS 11.66.110(a)(2), or any unclassified or class A felony prescribed under AS 11.41; or
 - (B) an attempt, or conspiracy to commit, or criminal solicitation under AS 11.31.110 of an unclassified felony prescribed under AS 11.41;
- (9) "paramedic" means a mobile intensive care paramedic licensed under AS 08.64;
- (10) "peace officer" has the meaning given in AS 11.81.900;
- (11) "pecuniary gain" means the amount of money or value of property at the time of commission of the offense derived by the defendant from the commission of the offense, less the amount of money or value of property returned to the victim of the offense or seized by or surrendered to lawful authority before sentence is imposed;
- (12) "second felony conviction" means that the defendant previously has been con-

Quoted in *Kirby v. State*, 748 P.2d 767 (Alaska Ct. App. 1987); *Wiley v. State*, 822 P.2d 940 (Alaska Ct. App. 1991).

Stated in *Erhart v. State*, 856 P.2d 1199 (Alaska Ct. App. 1982); *State v. Rastopoff*, 659 P.2d 630 (Alaska Ct. App. 1983); *Maldonado v. State*, 676 P.2d 1093 (Alaska Ct. App. 1984); *Tulowitzke v. State*, Dep't of Pub. Safety, 743 P.2d 368 (Alaska 1987).

Cited in *Juneby v. State*, 641 P.2d 823 (Alaska Ct. App. 1982); *Griffith v. State*, 653 P.2d 1067 (Alaska Ct. App. 1982); *Neahok v. State*, 653 P.2d 658 (Alaska Ct. App. 1982); *Wright v. State*, 656 P.2d 1226 (Alaska Ct. App. 1983); *Langton v. State*, 662 P.2d 954 (Alaska Ct. App. 1983); *State v. LaPorte*, 672 P.2d 466 (Alaska Ct. App. 1983); *Walsh v. State*, 677 P.2d 912 (Alaska Ct. App. 1984); *State v. Brinkley*, 661 P.2d 351 (Alaska Ct. App. 1984); *Flink v. State*, 683 P.2d 725 (Alaska Ct. App. 1984); *Dancer v. State*, 715 P.2d 1174 (Alaska Ct. App. 1986); *Kuvana v. State*, 717 P.2d 855 (Alaska Ct. App. 1986); *James v. State*, 739 P.2d 1314 (Alaska Ct. App. 1987); *Schnecker v. State*, 739 P.2d 1310 (Alaska Ct. App. 1987); *Comegys v. State*, 747 P.2d 654 (Alaska Ct. App. 1987); *James v. State*, 754 P.2d 1336 (Alaska Ct. App. 1988); *Russell v. State*, 752 P.2d 1022 (Alaska Ct. App. 1988); *Beauvois v. State*, 837 P.2d 1118 (Alaska Ct. App. 1992).

(14) "third felony conviction" means that the defendant has been at least twice previously convicted of a felony;

(15) "unconditional discharge" means that a defendant is released from all disability arising under a sentence, including probation and parole;

(16) "victim" means

(A) a person against whom an offense has been perpetrated;

(B) one of the following, not the perpetrator, if the person specified in (A) of this paragraph is a minor, incompetent, or incapacitated:

(i) an individual living in a spousal relationship with the person specified in (A) of this paragraph; or

(ii) a parent, adult child, guardian, or custodian of the person;

(C) one of the following, not the perpetrator, if the person specified in (A) of this paragraph is dead:

(i) a person living in a spousal relationship with the deceased before the deceased died;

(ii) an adult child, parent, brother, sister, grandparent, or grandchild of the deceased;

or

(iii) any other interested person, as may be designated by a person having authority in law to do so. (§ 12 ch 166 SLA 1978; am E.O. No. 55, § 9 (1984); am § 3 ch 15 SLA 1984; § 7 ch 59 SLA 1989; am § 6 ch 64 SLA 1991; am § 8 ch 36 SLA 1993; am § 5 ch 6 SLA 1996; am § 13 ch 7 SLA 1996; am § 10 ch 60 SLA 1996; am § 15 ch 64 SLA 1996)

Revisor's notes. — Paragraph (3) was enacted as paragraph (12). Renumbered in 1991, at which time former paragraphs (3)-(11) were renumbered as (4)-(12).

Paragraph (7) enacted as (13). Renumbered in 1993, at which time former paragraphs (7)-(12) were renumbered as (8)-(13), respectively.

Paragraphs (2), (8), and (10) were enacted as (14), (15), and (16) respectively, at which time former paragraphs (2)-(6) were renumbered as (3)-(7), former paragraph (7) was renumbered as (9), and former paragraphs (8)-(13) were renumbered as (11)-(16).

Cross references. — For findings related to the definition of "most serious felony," see § 1, ch. 7, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 1991 amendment, effective September 16, 1991, added paragraph (3) (now (4)).

The 1993 amendment, effective August 25, 1993, added paragraph (9).

The first 1996 amendment, effective June 27, 1996, added paragraph (10).

The second 1996 amendment, effective June 27, 1996, added paragraph (8).

The third 1996 amendment, effective September 1, 1996, added paragraph (2).

The fourth 1996 amendment, effective July 1, 1996, rewrote paragraph (4).

Legislative history reports. — For House letter of intent relating to the definition of "victim" in this section, as amended by § 7, ch. 59, SLA 1989 (CS118 36(Fin) am), and related letter from the Department of Law, see 1989 House Journal 710 — 712.

NOTES TO DECISIONS

Prior convictions for presumptive sentencing. — Under the plain terms of former AS 12.55.145(a)(3) and 12.55.185(6), (7), and (8) (now see (6), (13), and (14)), one conviction must precede the next before presumptive sentencing can apply. *State v. Rastopoff*, 659 P.2d 630 (Alaska Ct. App. 1983).

Where defendant's three separate criminal episodes occurred in close proximity and his convictions were entered after all of the offenses had been committed, he cannot be deemed to be a second felony offender under AS 12.55.125 and AS 12.55.185. *State v. Rastopoff*, 659 P.2d 630 (Alaska Ct. App. 1983).

A person has not been convicted of a felony offense for presumptive sentencing purposes until after he has been sentenced on the first felony offense. *Sawyer v. State*, 663 P.2d 230 (Alaska Ct. App. 1983).

"Unconditional discharge" construed. — The definition of "unconditional discharge" in AS 15.60.010(33) is functionally identical to the definition

The definition of "unconditional discharge" set forth in this section must be interpreted to require the completion of any sentence of imprisonment, discharge from parole or probation, and release from any other restriction directly imposed as part of the judgment of conviction; restoration of collaterally affected rights or privileges, such as to vote and to carry a gun, is not required. *Singleton v. State*, Ct. App. Op. No. 1475 (File No. A-5378), P.2d (1996).

"Victim." — The legislature did not intend the definition of "victim" to be limited to "offenses against the person," because the term appears in statutes defining property crimes that are outside that class. *Municipality of Anchorage v. Sanders*, 902 P.2d 310 (Alaska Ct. App. 1995).

Applied in *Fry v. State*, 655 P.2d 789 (Alaska Ct. App. 1983); *Weeslie v. State*, 837 P.2d 130 (Alaska Ct. App. 1992).

Quoted in *Wright v. State*, 656 P.2d 1226 (Alaska Ct. App. 1983).

ALASKA STATS.

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Victim Rights Clarification Act of 1997 (Enrolled Bill (Sent to President))

--H.R.924--

H.R.924

One Hundred Fifth Congress
of the
United States of America
 AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday,

the seventh day of January, one thousand nine hundred and ninety-seven

An Act

To amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Victim Rights Clarification Act of 1997'.

SEC. 2. RIGHTS OF VICTIMS TO ATTEND AND OBSERVE TRIAL.

(a) IN GENERAL- Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

Sec. 3510. Rights of victims to attend and observe trial.

(a) NON-CAPITAL CASES- Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence.

(b) CAPITAL CASES- Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim's family or as to any other factor for which notice is required under section 3593(a).

(c) DEFINITION- As used in this section, the term 'victim' includes all persons defined as victims in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990.'

(b) CLERICAL AMENDMENT- The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following new item:

'3510. Rights of victims to attend and observe trial.'

(c) CLARIFICATION OF GROUNDS FOR EXCLUSION- Section 3593(c) of title 18, United States Code, is amended by inserting 'For the purposes of the preceding sentence, the fact that a victim, as defined in section 3510, attended or observed the trial shall not be construed to pose a danger of creating unfair prejudice, confusing the issues, or misleading the jury.' after 'misleading the jury.'

(d) EFFECT ON PENDING CASES- The amendments made by this section shall apply in cases pending on the date of the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

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H.R.924

One Hundred Fifth Congress
of the

United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday,
the seventh day of January, one thousand nine hundred and
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An Act

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the right of victims of crime to attend and observe the trials of
those accused of the crime.

[Italic->] Be it enacted by the Senate and House of
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SECTION 1. SHORT TITLE.

This Act may be cited as the 'Victim Rights Clarification Act of
1997'.

SEC. 2. RIGHTS OF VICTIMS TO ATTEND AND OBSERVE TRIAL.

(a) IN GENERAL- Chapter 213 of title 18, United States Code, is
amended by adding at the end the following:

'Sec. 3510. Rights of victims to attend and observe trial.

(a) NON-CAPITAL CASES- Notwithstanding any statute, rule, or
other provision of law, a United States district court shall not
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defendant accused of that offense because such victim may, during
the sentencing hearing, make a statement or present any information
in relation to the sentence.

(b) CAPITAL CASES- Notwithstanding any statute, rule, or other
provision of law, a United States district court shall not order
any victim of an offense excluded from the trial of a defendant
accused of that offense because such victim may, during the
sentencing hearing, testify as to the effect of the offense on the
victim and the victim's family or as to any other factor for which
notice is required under section 3593(a).

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chapter 223 of title 18, United States Code, is amended by adding
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title 18, United States Code, is amended by inserting 'For the
purposes of the preceding sentence, the fact that a victim, as
defined in section 3510, attended or observed the trial shall not
be construed to pose a danger of creating unfair prejudice,
confusing the issues, or misleading the jury.' after 'misleading
the jury.'

(d) EFFECT ON PENDING CASES- The amendments made by this section
shall apply in cases pending on the date of the enactment of this
Act.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

VOLUME 28
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APRIL 1, 1997

CRIMINAL JUSTICE NEWSLETTER

AN INDEPENDENT REPORT
ON ISSUES IN CRIMINAL JUSTICE
POLICY AND ADMINISTRATION

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*Providing a Systemwide Perspective on
Law Enforcement, the Courts, and Corrections*

SUMMARY

"Many missing children do not know that they are missing, having been abducted when they were very young and told that their mother is dead, or that their father left them, or that they are not wanted anymore by the other parent."

—The National Center for Missing and Exploited Children, on efforts to locate children who have been taken away from one parent by the other (p. 4)

Victims

- Congress moves quickly to help Oklahoma City victims (1)
- Justice Dept. funds search for good restitution plans (3)

Probation & Parole

- Supreme Court requires due process for "pre-parole" (3)

Law Enforcement

- Some progress seen in state laws protecting children (4)

Juvenile Justice

- Justice Dept. begins probe of Georgia facilities (5)
- Police and prosecutors create anti-truancy programs (5)

VICTIMS

CONGRESS VOTES TO LET VICTIMS ATTEND TRIAL AND MAKE STATEMENTS

Congress has approved, and President Clinton has signed into law, a measure allowing crime victims to be present at trial in their cases without compromising their right to make a victim-impact statement at the time of sentencing.

Quick action on the measure, H.R. 924, the Victim Rights Clarification Act of 1997, was prompted by the impending trial of Timothy McVeigh for the bombing of a federal office building in Oklahoma City. The judge handling the case, Richard P. Matsch of the U.S. District Court in Denver, had issued a controversial ruling that victims of the bombing had to choose between watching the trial and making a victim-impact statement if McVeigh is convicted.

Soon after Congress approved the new law, Judge Matsch reversed himself, saying if survivors of the bombing and relatives of those who were killed choose to attend the trial or watch it on closed-circuit television, they still can be considered for offering victim-impact statements at sentencing.

Witnesses generally are excluded from attending a trial until after they have testified, in order to prevent them from tailoring their testimony to fit the accounts already provided by previous witnesses. But sponsors of the Victim Rights Clarification Act said there needs to be an exception for "victim-impact" testimony, in which crime victims testify only about the effects that the crime had on them, not on matters pertaining to the guilt or innocence of the accused.

"The victims in the Oklahoma City bombing case are being categorically excluded from both watching the trial and providing victim-impact testimony," said Sen.

Patrick Leahy, the ranking Democrat on the Senate Judiciary Committee, as the legislation reached the Senate floor. "Thus, the victims are faced with an excruciating dilemma: If they sit outside the courtroom during the trial, they may never learn the details of how the justice system responded to this horrible crime. On the other hand, if they attend the trial, they will never be able to tell the jury the full extent of the suffering the crime has caused to them and to their families."

When Congress passed a law in 1994 allowing for victim impact statements, it intended only to ensure that sentencing hearings were even-handed, not to prevent victims from attending trials, Senator Leahy said.

"During my days as a prosecutor, I found many times (that) the person being sentenced had suddenly gotten religion, had suddenly become a model person, usually dressed in a better suit and tie than I wore as a prosecutor, and was able to cry copious tears seeking forgiveness and saying how it was all a mistake," Leahy said. "Sometimes reality came to the courtroom only when the victim would speak."

Leahy and other supporters of the legislation said they considered the judge's ruling in the Oklahoma City case a misinterpretation of the Federal Rules of Evidence. The new law affects only testimony by victims during sentencing hearings, in cases where the defendant already has been found guilty beyond a reasonable doubt.

The legislation was placed on a fast track in Congress, because sponsors wanted to reverse the judge's ruling in the Oklahoma City case before McVeigh's trial was scheduled to begin on March 31. The trial judge's ruling was upheld by the 10th Circuit U.S. Court of Appeals on February 4, and on March 5, Rep. Bill McCollum, chairman of the House Subcommittee on Crime, introduced the legislation to reverse it. The full House approved the measure by a 418-10-9 vote on March 18, and the Senate approved it the next day under a unanimous-consent agreement. President Clinton signed the bill into law on March 19, and Judge Matsch reversed his previous order on March 25.

Congress acting to protect Oklahoma City victims: Sponsors of the bill noted that it was not the first time Congress has acted to protect victims of the Oklahoma City bombing. Last year, after there was a change of venue in the case to Denver, Congress approved legislation providing closed-circuit television coverage of the trials to the victims.

Outrage over the Oklahoma City bombing also was widely credited with propelling Congress to approve habeas corpus reform legislation last year. That legislation is designed to make it more difficult for death row inmates to delay their executions for many years. Various versions of the measure had been stalled in Congress for years, despite repeated efforts to get them passed. But when a habeas corpus bill was attached to an anti-terrorism bill in the wake of the Oklahoma City bombing, sponsors said it

would help ensure the speedy execution of whoever was responsible, and the bill was approved easily. President Clinton signed that legislation last April, a few days after the first anniversary of the Oklahoma City bombing.

To ensure there would be no doubt that the most recent measure would apply to the Oklahoma City trials, the legislation specifies that it "shall apply in cases pending on the date of . . . enactment."

Sponsors of the legislation said they intended it to benefit victims in any future trial in which a judge might require them to choose between observing the trial and making a victim-impact statement. "This bill in no way singles out a case for unique or special treatment," said Sen. Don Nickles (R-Okla.).

Sponsors acknowledged, however, that the bill was rushed to passage in order to ensure that it would affect the trial of McVeigh and that of his alleged partner, Terry Nichols, whose trial is to begin after McVeigh's. "It is critical that we pass H.R. 924 before the trial in the Oklahoma City bombing case begins on March 31," said Sen. James M. Inhofe (R-Okla.).

The few opponents of the measure argued that it was improper to pass a law to reverse a judge's ruling in a particular case. "Whether or not Congress agrees with this ruling, the judge should have the ability to render it according to the law and the facts before him in this particular case," said Rep. Robert C. Scott (D-Va.). "The judge should be allowed to run his courtroom and conduct these trials without Congress grabbing the gavel from him after a ruling not to our political liking."

Congressman Scott called the measure "a blatant intrusion upon the Constitutional principles of separation of powers."

Rep. William D. Delahunt (D-Mass.) warned that the measure could backfire. "Congress should not be changing the rules in the middle of a trial," he said. "As a former district attorney, I know it does no good to secure a guilty verdict that is vulnerable to reversal on appeal. Defense attorneys have already announced their intention to challenge Congressional action in this case. Whether or not their challenge succeeds, why would we go out of our way to increase the government's burden and put a possible guilty verdict at risk? . . . It would be truly unfortunate were our actions to create the possibility of a retrial, further compounding the terrible trauma suffered by both the victims and their families."

Oklahoma Attorney General W. A. Drew Edmondson rejected the idea that the legislation would create grounds for appealing any guilty verdict. "Congress has the power to set the rules for federal cases," he said in a letter to the sponsors of the bill, joined by the attorneys general of 22 other states. Many states already have state constitutional amendments or legislation guaranteeing victims the right to attend trials and make victim-impact statements, the state attorneys general wrote. "The federal government needs to join the states and put in place these protections for victims," they said.

Date: January 15, 1997

To: Representative Joe Green
Chairman, House Judiciary Committee

From: Representative Brian Porter
House Majority Leader

Subject: Additional Sectional Analysis of HB 9

In general, at common law it was within the discretion of a trial judge to exclude witnesses from the courtroom during a trial on the theory that a witness who sits through a court proceeding could shape his or her testimony to match the testimony given by other witnesses. Even at common law, however, the exclusion of witnesses applied only to ordinary witnesses, and not to witnesses who were also parties to the litigation. The exemptions from exclusion enjoyed by party witnesses extended to prosecution witnesses in criminal proceedings. So under common law, a judge exercising sound discretion generally refused to exclude crime victims from the trial of an accused.

The reason underlying the common law exception which allowed crime victims to be present throughout a trial is that a crime victim's presence at the prosecutor's table was necessary in most instances because the crime victim was the only person with personal knowledge of what occurred during the criminal activity. Information which the crime victim could furnish to the prosecutor during the course of the trial could not be obtained from anyone else other than the crime victim. Excluding the crime victim would, in almost all cases, place the state at an enormous disadvantage. See Miller v. State, 648 N.E. 2d 1208, 1210 (Ind. 1995).

This rationale was implicitly accepted by the Alaska Supreme Court in a decision which predated Alaska's adoption of the Federal Rules of Evidence in 1979. In Dickens v. State, 398 P.2d 1008 (Ak. 1965), the court upheld the right of a police officer who was in charge of a criminal investigation to remain in the courtroom, despite the fact that he was to testify during the trial.

With the adoption of the Federal Rules of Evidence by Congress in 1973, the issue of which witnesses should or should not be excluded was finally settled in the federal courts. Federal Evidence Rule 615 mandated that a party witness could not be excluded if the party was a "natural person". By definition, all crime victims are "natural persons". The Federal Evidence Rules applied to both civil and criminal cases. Moreover, under the Federal

Evidence Rule 615, there no longer was discretion to exclude a party witness. It was now mandatory for a judge to refuse to exclude a crime victim from the trial of the accused.

Effective August 1, 1979, Alaska adopted, with few modifications, the Federal Rules of Evidence. Alaska Evidence Rule 615, as adopted, was virtually identical to the Federal Evidence Rule 615. The provisions regarding nonexclusion of party witnesses was identical in both the Federal and Alaska versions of Rule 615.

The Alaska Evidence Rules Commentary to Rule 615 reiterate the consistency of interpretations between Federal and Alaska Evidence Rules 615. In Alaska, natural persons who are parties clearly have the right to be present at criminal trials.

Even though Alaska Evidence Rule 615 on its face expressly makes mandatory the nonexclusion of a party witness, at least two Alaska Superior Court judges have insisted on exercising discretionary powers to exclude crime victims. This is so despite the absence of discretion under the applicable portion of Rule 615. Apparently state and municipal authorities have neither the inclination nor the means to take the issue to the Alaska Supreme Court.

A similar problem may have arisen in New Hampshire, since that state's Evidence Rule 615 now specifically includes "a victim of the crime" provision to the category of party witnesses who are exempt from exclusion. See New Hampshire Evidence Rule 615, attached hereto as exhibit A. This could serve as a model for the very minor changes which will need to be made to Alaska Rule 615. See also State v. Hamd, 547 A.2d 223, 224 (N.H. 1988) in which the Supreme Court of New Hampshire affirmed that the trial court was correct in refusing to exclude the crime victim from the court room on the basis of its Evidence Rule 615, which explicitly exempted "a victim of crime" from being excluded during the trial.

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New Hampshire Rules of EVIDENCE, RULE 615

WEST'S NEW HAMPSHIRE RULES OF COURT
NEW HAMPSHIRE RULES OF EVIDENCE
ARTICLE VI. WITNESSES

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Current with amendments received through 12-15-95

RULE 615. EXCLUSION OF WITNESSES

At the request of a party the court shall in criminal cases and may in civil cases order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person or a victim of the crime, or (2) an officer or employee of a party in a civil case which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of the party's cause.

Federal Rule: Exclusion of Witnesses.

At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause.

Current New Hampshire Law: New Hampshire law is silent on the subject matter of this Rule.

Reporter's Notes

Sequestration of witnesses in criminal trials has long been New Hampshire practice. *State v. Peters*, 90 N.H. 438, 10 A.2d 242 (1939). There does not appear to be any express rule with respect to exclusion of witnesses in civil proceedings. Nor does there appear to be any express clarification of which persons are allowed to remain in attendance, such as exists in the Federal Rule. This Rule appears to be consistent with the considerable discretion allowed trial judges.

Under this Rule requests for sequestration of witnesses in criminal cases must be honored, while such requests in civil proceedings should be within

the discretion of the trial judge.

The Rule is not intended to exclude the police prosecutor in a criminal case.

EXHIBIT A

duction cost evidence or, concomitantly, in instructing the jury that it might consider such evidence.

would not color his testimony by listening to other witnesses.

Affirmed.

[5] The housing authority also contends that the trial judge improperly suggested to the jury that the property's physical condition made it unique. We find no merit in MHA's contention, first, because it presupposes a uniqueness requirement that we decline to adopt, for the reasons provided above. In addition, however, our consideration of the instruction reveals the trial judge's purpose, in referring to fire damage and deterioration, to explain the unavailability of comparable sales rather than to describe any uniqueness of the property.

Because we now affirm the result reached below, we need not address the issues raised in the cross-appeal.

AFFIRMED.

THAYER, J., did not sit; the others concurred.



The STATE of New Hampshire

v.

Gilbert HAMEL.

No. 87-246.

Supreme Court of New Hampshire.

July 8, 1988.

Defendant was convicted in the Superior Court, Hillsborough County, O'Neil, J., as accomplice to robbery. Defendant appealed. The Supreme Court, Batchelder, J., held that: (1) trial court was not authorized to sequester victim as witness, and (2) trial court did not abuse discretion by failing to order State to present allegedly inebriated victim as first witness so that he

1. Criminal Law §665(1)

Trial court must order sequestration of witnesses in criminal cases upon request. Rules of Evid., Rule 615.

2. Criminal Law §665(2)

Trial court was not authorized to sequester victim as witness. Rules of Evid., Rule 615.

3. Criminal Law §680(1)

Trial court's decision to direct order of witnesses lies within its sound discretion.

4. Criminal Law §680(1)

Trial court did not abuse discretion by failing to order State to present victim, who was allegedly inebriated during crime, as first witness so that he would not color his testimony by listening to other witnesses; defendant made only conclusory allegations that police officer's testimony gave victim unfair opportunity to color his testimony.

5. Criminal Law §1168(2)

Trial court's failure to require State to present victim, who was allegedly inebriated during crime, as first witness so that he would not color his testimony by hearing other witnesses did not require reversal in prosecution for being accomplice to robbery; record did not indicate that victim colored testimony to conform to that of police officer; and defendant unsuccessfully tried to impeach victim's ability to perceive and relate facts and presented defense witness who gave different account of victim's activities on night of incident. RSA 626:8, 636:1.

Stephen E. Merrill, Atty. Gen. (T. David Plourde, Asst. Atty. Gen., on the brief), for the State.

Joanne Green, Asst. Appellate Defender, Concord, for defendant.

BATCHELDER, Justice.

The defendant was convicted after a jury trial in Superior Court (O'Neil, J.) of accomplice to robbery. RSA 626:8; RSA 636:1. He was sentenced to twelve months at the county house of correction, with a twelve-month probation period following incarceration, and ordered to make restitution in the amount of \$100. We affirm.

The testimony in this case reveals that in the early morning of October 9, 1986, the victim, Roland Roy, reported that he had been robbed by a group of five young men outside the Mayflower restaurant in Manchester. Roy testified at trial that, upon leaving the restaurant after an afternoon and evening of heavy drinking, he encountered the group of men and agreed to accompany them to a nearby party. He recognized one of the men as the brother of a former girlfriend. He later identified the man by name as the defendant, but not until after he had overheard Officer Kinney of the Manchester Police Department mention the name to another officer. According to Roy, as the group was en route to the party, he was struck in the face by one of the men and fell to the ground. He testified that the defendant knelt on his chest and pinned him down while one of the other men took his wallet, which contained approximately \$80. Roy further testified that after he was released he called to the fleeing men, "Hamel, give me back my wallet."

Officer Kinney testified before Roy at trial. He described Roy's disheveled physical appearance, including his apparent drunkenness, and testified that he took a description of the defendant from Roy. He added that Roy identified the defendant by name after Kinney mentioned it. He further testified that he saw a group of several young men in the area at the approximate time of the reported robbery.

Prior to trial, the defendant moved to sequester all of the witnesses, which included the two State's witnesses, Roy and Officer Kinney, to prevent them from hearing each other's testimony. The defendant argued that Roy's drunkenness at the time of the incident rendered his potential testi-

mony suspect, and that he should not be permitted the opportunity to conform his testimony to that of Officer Kinney. The defendant suggested, alternatively, that the trial court could order the State to present Roy's testimony first. The trial court granted the sequestration motion except with respect to Roy.

The defendant pursues the same issue on appeal. He claims that under the circumstances of this case it was an abuse of discretion for the trial court not to have sequestered the victim-witness or, in the alternative, to have directed the State to call the victim as its first witness. The State argues, on the other hand, that Rule 615 of the New Hampshire Rules of Evidence precludes the trial court from sequestering the victim of the crime and that, in any event, the defendant has failed to show any prejudice as a result of the trial court's complete denial of relief.

[1, 2] Rule 615 of the New Hampshire Rules of Evidence provides, in pertinent part:

"At the request of a party the court shall in criminal cases . . . order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) . . . a victim of the crime . . ."

N.H.R.Ev. 615. The rule alters our common law to the extent that sequestration of witnesses in criminal cases has traditionally been within the discretion of the trial court. See *State v. Blake*, 113 N.H. 115, 119, 305 A.2d 300, 303 (1973); *State v. Peters*, 90 N.H. 438, 439, 10 A.2d 242, 244 (1939). Under the rule, the trial court must order sequestration in criminal cases upon request. The rule also plainly states that it does not authorize the trial court to exclude the victim of the crime. The trial court here cannot then be said to have committed error with respect to its refusal to sequester Roy.

[3, 4] The defendant's alternative request for the court to direct the order of the State's witnesses requires a different analysis. Authorities have suggested that in certain cases it may be appropriate for a

BEDFORD RESIDENTS v. BEDFORD PLANNING BD. N.H. 225

Cite as 547 A.2d 225 (N.H. 1988)

trial court to direct the order of witnesses so as to achieve the same purpose as that underlying sequestration; i.e., to prevent witnesses from conforming their testimony to that of others. See 6 Wigmore, *Evidence* § 1841, at 476 (Chadbourn rev. 1976) (where party witness not excluded); see also 88 C.J.S. *Trial* § 68 (1955). That decision, however, lies within the sound discretion of the trial court, and it will not be upset on review absent a showing of abuse of discretion. Cf. *McKinney v. Riley*, 105 N.H. 249; 250, 197 A.2d 218, 220 (1964) (order of calling witnesses, at least in civil case, rests in sound discretion of trial court); 6 Wigmore *supra*. Moreover, as the State argues, establishing abuse of discretion necessarily entails a showing of prejudice to the defendant by the trial court's decision. See C. Torcia, *Wharton's Criminal Evidence* § 376, at 502-03 (14th ed. 1986) (denial of motion to sequester not reversible error absent a showing of prejudice); cf. *State v. Hotchkiss*, 129 N.H. 260, 264, 525 A.2d 270, 272 (1987) (admission of evidence must be to prejudice of defendant to constitute abuse of discretion). We are also mindful that the presentation of evidence, which includes the order in which witnesses are called, is a matter of trial strategy for counsel. J. Weinstein & M. Berger, *Weinstein's Evidence* ¶ 611[01], at 611-16 (1987).

[5] Here, the defendant has made only conclusory allegations to the effect that permitting Roy to hear the testimony of Officer Kinney gave Roy an unfair opportunity to color his testimony. Upon review of the record, we do not see that Roy gave testimony that so mirrored that of Officer Kinney as to lead to the conclusion that Roy colored his own testimony to conform to that of Officer Kinney. Nor did the defendant describe any instances in his brief where this occurred. Moreover, defense counsel tried several avenues of impeachment, including focusing on Roy's ability to perceive and relate the facts, as limited by his inebriation, and presenting a defense witness who gave a different account of Roy's activities on the evening of the incident. That the jury was not swayed by these efforts is not enough to

prompt us to return the conviction and order a new trial. Finally, while the record reveals that Roy was deposed prior to trial, absent from the record is any attempt on the part of defense counsel to impeach Roy through the use of his deposition.

AFFIRMED.

All concurred.



BEDFORD RESIDENTS GROUP

v.

TOWN OF BEDFORD, PLANNING BOARD, Grove Realty Trust & Roland & Diane Auger.

No. 87-396.

Supreme Court of New Hampshire.

July 11, 1988.

Property owners challenged the validity of a town's zoning amendment. The Superior Court, Hillsborough County, O'Neil, J., found that the property owners had been denied notice. Appeal was taken. The Supreme Court, Johnson, J., held that: (1) the notice provided by the town planning board of the proposed zoning amendment did not comply with the statutory requisites for constructive notice; (2) the defective notice was not cured by subsequent publication of a warrant for the town meeting; and (3) the property owners were not required to exhaust their administrative remedies before challenging the adequacy of notice.

Affirmed.

1. Zoning and Planning ¶194

While property owners need not be afforded actual notice of proposed zoning change, they must be afforded constructive

21-M:8-k

21-M:8-k Rights of Crime Victims.

I. As used in this section:

(a) "Victim" means a person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of the commission or the attempted commission of a crime. "Victim" also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim.

(b) "Crime" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law to be a felony.

II. To the extent that they can be reasonably guaranteed by the courts and by law enforcement and correctional authorities, and are not inconsistent with the constitutional or statutory rights of the accused, crime victims are entitled to the following rights:

(a) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

(b) The right to be informed about the criminal justice process and how it progresses.

(c) The right to be free from intimidation and to be reasonably protected from the accused throughout the criminal justice process.

(d) The right to be notified of all court proceedings.

(e) The right to attend trial and all other court proceedings the accused has the right to attend.

(f) The right to confer with the prosecution and to be consulted about the disposition of the case, including plea bargaining.

(g) The right to have inconveniences associated with participation in the criminal justice process minimized.

(h) The right to be notified if presence in court is not required.

(i) The right to be informed about available resources, financial assistance, and social services.

(j) The right to restitution, as granted under RSA 651:62-67 or any other applicable state law, or victim's compensation, under RSA 21-M:8-h or any other applicable state law, for their losses.

(k) The right to be provided a secure, but not necessarily separate, waiting area during court proceedings.

(l) The right to be advised of case progress and final disposition.

(m) The right of confidentiality of the victim's address, place of employment, and other personal information.

(n) The right to the prompt return of property when no longer needed as evidence.

(o) The right to have input in the probation presentence report impact statement.

(p) The right to appear and make a written or oral victim impact statement at the sentencing of the defendant or, in the case of a plea bargain, prior to any plea bargain agreement.

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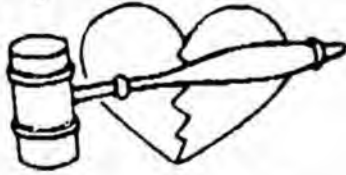
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VICTIMS

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

January 15, 1997

The Honorable Brian Porter
Alaska House of Representatives
Juneau, AK 99811

Dear Representative Porter:

My name is Janice Lienhart. I am the co-founder of Victims for Justice in Anchorage. Victims for Justice and its Board of Directors have long been champions in Alaska for the rights of crime victims.

I am joining with scores of other crime victims and concerned citizens across Alaska to support HB 9, "the right of crime victims and victims of juvenile offenses to be present at court proceedings; and amending Rule 615, Alaska Rules of Evidence, by making the witness exclusion rule inapplicable to victims of offenses."

To fully understand the need for this amendment, each of us must answer this question: How would I wish to be treated if I or a loved one were a victim of a violent crime? No one expects or deserves to be a victim of a violent crime. And when that happens victims not only suffer crime's consequences, but are victimized by the criminal justice system as well. Despite the passage of the Alaska's Victims' Bill of Rights Amendment to our state constitution in 1994, Alaskan victims of crime are still being re-victimized. *Because the system is perfectly tolerant of the unequal treatment for victims who are daily excluded from courtrooms because they may be called as witnesses.* Defendants may be witnesses in their own trials but they of course have a right nonetheless to remain in the courtroom. If juries can put aside influences by the defendants they certainly can by victims.

Representative Porter

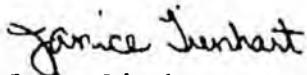
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The right to be informed of and given the opportunity to be present at every proceeding in which those rights are extended to the accused or convicted offender should be intended to expressly overturn all witness exclusion rules that presently result in the expulsion of the victims from the courtroom. It should mandate that the same standard be used for the victim and the defendant; hence it should be intended that the same rules govern the presence of the victim that govern the presence of the defendant.

Only when the rights of victims, *such as the right to be present at trial proceedings*, are given equal weight to the rights of the accused, will they be guaranteed protection under the law.

Passage of HB 9 sends a clear message that *victim justice* must be an integral component of criminal justice in Alaska, as well as setting an unprecedented standard for our nation.

Sincerely,



Janice Lienhart
Executive Director
Victims for Justice

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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



January 17, 1997

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Pres. First City Chapter

James See, Member
Craig
Pres. Prince of Wales Chapter

Representative Brian Porter
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Porter,

On behalf of the Alaska Peace Officers Association, I would like to thank you for introducing House Bill 9 relating to the right of crime victims and victims of juvenile offenses to be present at court proceedings and amending Rule 615 of the Alaska Rules of Evidence. At a recent meeting of the APOA State Board, we decided to unanimously support this legislation. We believe that this legislation would better communicate to offenders especially juveniles how their illegal activities affect victims. We also believe that this legislation would further tear down the walls of confidentiality that currently protect juvenile offenders. Finally, we feel that victims should have the right to know how their case is being handled by the courts.

We encourage you to call on us when there are hearings on this bill, so that we may testify about the need for this legislation. If you need assistance as you shepherd this bill through the legislative process, please call me at 451-5316, or our business manager, Joseph Young at 277-0515.

Sincerely,

Michael Corkill
APOA State President



Telephone: (907) 522-6233
FAX: (907) 522-6234

Anchorage Chapter
615 East 82nd Avenue, Ste. B 1
Anchorage, AK 99518-3157

Mothers Against Drunk Driving

DATE: January 16, 1997
TO: Representative Brian Porter
FROM: Marti Greeson, Executive Director
Mothers Against Drunk Driving
RE: House Bill No. 9

Marti Greeson

This letter is in support of House Bill No. 9 which will ensure the protection of a victim's right to be present during criminal proceedings including juvenile proceedings.

The rights of victims as stated in the Victims Rights amendment must be protected at least to the extent that defendant's rights are protected. Victims have been excluded from the criminal justice process and left to suffer unanswered questions, trauma and loss, and frequently second and ensuing victimization through that exclusion far too long.

The fact that a perpetrator of a criminal act is a juvenile does not negate nor diminish the impact and affect of the violation or trauma for the victim.

Please feel free to contact me if you have any questions.