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FISCAL NOTE

NO. 1
 Bill Version: SB 132
 (S) Publish Date: 3/12/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: _____

Revision Date: 3/10/97
 Title: Sex Offender Registration Update
 Sponsor: Rules Committee
 Requestor: Governor

Dept. Affected: Public Safety
 BRU: Alaska State Troopers
 Component: AST Director's Office
 COMPONENT SERIAL NO. 508

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	7.7	7.7	7.7	7.7	7.7	7.7
TRAVEL						
CONTRACTUAL	1.5	1.5	1.5	1.5	1.5	1.5
SUPPLIES	.3	.3	.3	.3	.3	.3
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.5	9.5	9.5	9.5	9.5	9.5
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	9.5	9.5	9.5	9.5	9.5	9.5
1006 GF/MHTIA						
Other						
TOTAL	9.5	9.5	9.5	9.5	9.5	9.5

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.)

A consequence of not passing this bill would be to have Alaska fail to comply with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1996 which would put in excess of \$200.0 in jeopardy of being withdrawn from Alaska's share of the Byrne Formula Grant moneys. This bill will require contact every 90 days with an estimated 500 lifetime registrants. Additional agencies will have to be notified whenever a change occurs or whenever an offender fails to make the required contacts. Registrants who fail to comply will have to be located and appropriately charged.

Prepared By: Capt. Ted Bachman Phone: 269-5650
 Division: Alaska State Troopers Date: February 3, 1997
 Approved by Commissioner: *Ronald L. Otte* Date: 3/10/97
 Agency: Ronald L. Otte, Department of Public

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FISCAL NOTE

No. 2
 Bill Version: SB 132
 (S) Publish Date: 9/12/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: _____

Revision Date: _____ Dept. Affected: Public Safety
 Title: Sex offender registration/release of criminal BRU: Statewide Support
justice information Component: Information Systems
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 0528

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	\$15.0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	\$15.0	0	0	0	0	0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE	\$15.0	0	0	0	0	0
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
TOTAL	\$15.0	0	0	0	0	0

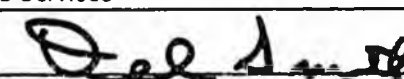
Estimate of current year (FY 97) impact: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Section 10. Modify Alaska Public Safety Information Network (APSIN) and sex offender registration application software to track 15 year cumulative registration instead of registration based on estimated unconditional discharge date: 200 hours X \$75/hour = \$15,000.

Prepared By: Diane Shenker Phone: (907) 269-5092
 Division: Administrative Services Date: 2/4/97
 Approved by Commissioner:  Date: 2/5/97
 Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

No. 3
 Bill Version: SB 132
 (S) Publish Date: 3/12/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to registration of sex offenders..."
 Sponsor: Rules Committee
 Requestor: Governor

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	***	***	***	***	***	***

CAPITAL EXPENDITURES	***	***	***	***	***	***
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CHANGE IN REVENUES ()	***	***	***	***	***	***
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FUND SOURCE: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill will increase both the number of potential defendants in failure to report cases and the time of exposure to such charges of some classes of sex offenders. Further, it will increase the number of sex offense trials because defendants will be less likely to plead guilty if they are subject to branding as sex offenders and many years of reporting. It is not possible to estimate the fiscal impact of this legislation with any precision.

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

Phone: 269-3500
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Administration

Mark Bover
 Date: 2/5/97

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FISCAL NOTE

No. 4
 Bill Version: SB 132
 (S) Publish Date: 3/12/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to registration of sex offenders..."
 Sponsor: Rules Committee
 Requestor: Governor

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	***	***	***	***	***	***
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CHANGE IN REVENUES ()	***	***	***	***	***	***
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FUND SOURCE: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill amends sex offender registration laws in a number of ways. It adds to the offenses that give rise to the requirement to register upon conviction, including even misdemeanors if the offense included a sixteen or seventeen-year old. It enlarges the category of sex offenders who must register for life from recidivists only, to even first offenders if convicted of sexual assault or sexual abuse in the first degree. It is a misdemeanor crime to fail to comply with the provisions of sex offender registration. Each of these charges enlarges the pool of people who may be charged with a crime for noncompliance. Fiscal impact is certain, but with no accurate forecast of numbers of cases, unquantifiable.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 2/5/97

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SENATE BILL 132

Sectional Analysis

Senate Bill 132 amends the sex offender registration provisions of Alaska law to bring them into compliance with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. 14071, and with the final guidelines adopted under the Wetterling Act. It also simplifies release of state criminal history records by removing unworkable release restrictions based on the length of time since unconditional discharge for past convictions. Finally, by clarifying the state's current compliance with federal guidelines for obtaining national criminal background checks, it allows Alaskans continued access to FBI criminal history records to screen people for positions involving children and dependent adults.

Section 1 makes it a violation for a sex offender required to register for life as a sex offender to fail to cooperate with the Department of Public Safety in its address verification program.

Section 2 would allow the release of past conviction information to any person, for any purpose, as long as the record subject consents to the release. This is the same standard for the release of current offender information. Current law restricts the release of past conviction information based on the length of time that has elapsed since the record subject's unconditional discharge date. The unconditional discharge date has proved to be complicated to determine, and is not readily available to the Department of Public Safety. Errors in calculating this date result in the illegal release or withholding of information. Because the record subject must consent to the release, the inclusion of all past convictions will avoid problems with illegal release or withholding of information without unreasonably compromising the privacy of the record subject.

Section 3 clarifies that an "interested person" may request a *national* criminal history record from the FBI. Since Section 2 eliminates the need for "interested person" status to obtain state records, it is necessary to restate this requirement for FBI records.

An Alaskan may not request a national criminal history from the FBI unless the U.S. Attorney General as approved the Alaska statute authorizing release of the information. The U.S. Attorney General has approved Alaska's law allowing access to national criminal history information for an "interested person". However, the FBI requires that the statute explicitly state that 1/ fingerprints of the record subject are required; 2/ the information will be released only to a government entity; and 3/ a non-government entity may be told only whether the

record contains disqualifying information. Section 3 is drafted to meet federal requirements for access to FBI records and will not change current procedures.

Sections 4 and 5 amend the definitions of "current offender information" and "past conviction information" to eliminate redundancy, because both categories of information would be subject to the same release criteria under the bill.

Section 6 corrects a technical error in the definition of "serious offense" which currently refers to a subsection of AS 11.51.130 that does not exist.

Section 7 defines "applicant" and "national criminal history system" to correspond with the provisions for requesting national criminal history records from the FBI in Section 3.

Section 8 requires that a person, when registering as a sex offender, provide information about his or her appearance, future residences, and whether the person has had treatment for a mental abnormality or personality disorder since conviction of the offense requiring registration as a sex offender.

Section 9 specifies that a sex offender who must register for life comply with the laws and regulations adopted by the Department of Public Safety for address verification.

Section 10 adds to those sex offenders who must register for life, presently recidivists, persons convicted for the first time of Sexual Assault in the First Degree and Sexual Abuse of a Minor in the First Degree, both unclassified felonies. Section 10 also provides that the period of registration for other sex offenders is 15 years from the date of registration, rather than from the date of unconditional discharge. It also provides that a sex offender doesn't get credit toward the 15 year registration requirement if he or she fails to notify the department of address changes or to check in with the department annually; further, it provides that an offender can get credit toward the 15 year registration requirement for complying with sex offender registration laws in another state or with regulations adopted by the FBI.

Section 11 adds offenses to the definition of "sex offense" for sex offender registration as required by the Wetterling Act. The additional offenses include kidnaping by a person who is not a parent of a person under 18 years of age and inducing a person who is 16 or 17 years of age to engage in prostitution (the statute presently includes inducing a person under 16 years of age to engage in prostitution).

Section 12 is a technical correction that provides that a person convicted of incest be identified as convicted of "felony sexual abuse" rather than "felony sexual abuse of a minor", because incest does not necessarily involve a minor.

Section 13 requires the Department of Public Safety to adopt regulations addressing the notification of the FBI and local law enforcement agencies when a sex offender changes

residence, and to notify the FBI if the department is unable to locate a sex offender. It also requires the department adopt regulations for address verification every 90 days of sex offenders registered for life .

Section 14 provides that the Department of Public Safety and other law enforcement agencies may not be found civilly liable for an error in administering the sex offender registration requirements.

Section 15 clarifies the duties of the Departments of Public Safety and Corrections for registration as a sex offender of an inmate being released from prison.

Section 16 requires the Department of Corrections to inform a person of sex offender registration requirements when taking supervision of the person under the Interstate Corrections Compact.

Sections 17 and 18 contain repealers. They are described in two sections because of different effective dates.

Section 19 attributes the burden of showing that a person is not required to register as a sex offender as a result of being unconditionally discharged before July 1, 1984, to the person claiming the exempt status.

Sections 20 - 22 contain procedural and effective date provisions.

SENATE BILL 132/ HOUSE BILL 186

Prepared by the Department of Public Safety

EXPLANATIONS RE. AMENDMENTS TO AS 12.62:

Section 2 would allow Public Safety to include all past convictions in a criminal history report, instead of excluding those convictions for which the subject has been unconditionally discharged for ten years or more. This change is needed because

- (1) Public Safety cannot accurately calculate the unconditional discharge date, and
- (2) the 10-year limit excludes many convictions that may be important for a potential employer, licensing agency, or other record user to consider.

UNCONDITIONAL DISCHARGE DATE COMPUTATION EXAMPLE

Greg was arrested on May 1, 1976 and convicted of 8 counts of Forgery on May 1, 1977. He received a sentence of 6 years in jail and 5 years probation. One third of his jail time is automatically deducted for "mandatory good time." Here's how Public Safety *could* compute his unconditional discharge date:

Date of Sentence	5/1/77
Add Jail	+ 6 years
Deduct "good time"	- 2 years (1/3 of 6 years)
Add Probation	+ <u>5 years</u>
Discharge Date	= 5/1/86

But there's a problem: Greg received "credit for time served" while awaiting sentencing in this case. This means he essentially started serving his sentence earlier, so his unconditional discharge date would also be earlier. Unfortunately, information about credit for time served is not recorded in APSIN. The only way to avoid "overestimating" discharge dates, then, is to use the arrest date, rather than the sentence date, as the beginning point to calculate the discharge date. This is the formula Public Safety must use:

Date of Arrest	5/1/76
Add Jail	+ 6 years
Deduct "good time"	- 2 years (1/3 of 6 years)
Add Probation	+ <u>5 years</u>
Discharge Date	= 5/1/85

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Co./Dept			Co.		
Phone #			Phone #		
Fax #			Fax #		

The problem is that Greg's credit for time served really didn't include the entire year between the arrest date and sentence date. Although it is not recorded in APSIN, Greg was actually released on bail immediately after his arrest. It was not until six months later, when he violated his bail conditions, that the court revoked his bail and he went to jail to await his trial and sentencing. So Greg really only received six months of credit for time served. Greg's *actual* unconditional discharge date should be figured as follows (the shaded information is not available in APSIN):

Date of Sentence	5/1/77
Add Jail	+ 6 years
Deduct "good time"	- 2 years (1/3 of 6 years)
<i>Less Credit for Time Served</i>	<i>- 6 months</i>
Add Probation	<u>+ 5 years</u>
Discharge Date	= 11/1/85

But there are more factors to consider in Greg's case - none of which can be discerned from data in APSIN. When Greg was released from prison on 11/1/80, he began serving 5 years of probation, concurrent to serving mandatory parole for the 2 years he received as credit for "good time." The Parole Board revoked Greg's "mandatory parole" on 11/1/81, after he'd already completed 1 year of the mandatory parole period. The Parole Board has the discretion to revoke the entire 2 years of Greg's mandatory parole, not just the year he has remaining, and the board did so in Greg's case. So on 11/1/81, Greg returned to prison to serve 2 years of mandatory parole time. Greg didn't have to serve 2 years, though, because he again received the "mandatory good time" reduction for his revoked "mandatory parole" which reduced his new jail time to only 16 months (2/3 of 2 years). But during that time, Greg was found guilty by a correctional disciplinary board of possessing drugs. As punishment, the disciplinary board took away Greg's 8 months of "good time credit." That delayed Greg's jail release date until 11/1/83. After he successfully finishes his 4 remaining years of probation, Greg is finally unconditionally discharged on 11/1/87:

Date of Sentence	5/1/77
Add Jail	+ 6 years
Deduct "good time"	- 2 years (1/3 of 6 years)
Less Credit for Time Served	- 6 months
Add Probation	+ 5 years
Add revoked mandatory parole	+ 2 years
Deduct "good time"	- 8 months (1/3 of 2 years)
Add "lost" good time	+ 8 months
Discharge Date	= 11/1/87

If someone requested Greg's criminal history record on May 1, 1995, Public Safety would exclude Greg's eight Forgery convictions from the report, having erroneously calculated Greg's discharge date to be 5/1/85 based on data available in APSIN. Believing that Greg was unconditionally discharged ten years prior to the record request, Public Safety would have

continued making this same error anytime Greg's record was requested over the next 2 ½ years. Not until 11/1/97 would Public Safety actually be correct to exclude Greg's convictions from a criminal history report.

Greg's hypothetical case is actually uncharacteristically simple. It involved only one court case, only one "statutory good time" formula, no consecutive sentences, no discretionary parole, nor any suspension of jail or probation. It is not uncommon for actual cases to involve dozens of overlapping charges (or "counts"). There are frequently overlapping periods of jail, probation, discretionary parole, mandatory parole, and pretrial detention time during which "credit for time served" applies to some, but not other charges, any of which may be served concurrently or consecutively. Neither does Greg's example address the varying "statutory good time" formulae and rules which have been in effect at different times over the past decades. The Department of Corrections uses a voluminous "time accounting" manual to track the rules for computing discharge dates and is nevertheless faced with constant litigation disputing computation of discharge dates. Removing the 10-year unconditional discharge date limit for criminal history reports will allow Public Safety to escape similar endless litigation.

EXAMPLES OF EXCLUDING RELEVANT CONVICTIONS FROM REPORTS

It is important to remember that a person cannot anonymously request another person's criminal history report. To get the report, the requester must submit the subject's fingerprints to Public Safety or ask the subject to get his or her own report from Public Safety, based on photo ID. The record subject's past convictions are therefore available to another person only if the record subject agrees to the background check. Because of this, most records are requested when someone is applying for a job or license for which a background check is required.

Another problem with the "10-year limit" is that some convictions, no matter how old, may be very relevant to the purpose of the record check. Recognizing this, the current law exempts "serious offense" convictions from the 10-year limit, but only if the report is for an "interested person" - one who is screening an applicant to have "supervisory or disciplinary power over a minor or dependent adult." This definition of "serious offense" poses yet another problem - it includes all felonies, and certain misdemeanors, including those that involve domestic violence. Unfortunately, APSIN "rap sheets" don't describe the relationship between a victim and an offender, so there's no way to know if a misdemeanor conviction "involves domestic violence." Public Safety plans to begin "flagging" domestic violence convictions in APSIN if the courts will provide that information on criminal judgments. Unfortunately, this solution won't help identify "serious offense - domestic violence" convictions among the tens of thousands of existing APSIN criminal history records.

Even if APSIN could accurately compute the unconditional discharge date *and* accurately identify all "serious offenses" many relevant convictions would be withheld, either because a record requester doesn't qualify as an "interested person" or because a crime is not considered "serious" or both. The following examples illustrate the why limits should not be placed on conviction records. It is impossible to predict every appropriate consideration for every

individual record check – it is better simply provide all past convictions and let the record user weigh the importance of them in light of the particular job, license, or other privilege being considered. This is why:

Example 1: John was convicted of Arson in the Second Degree (a class B felony) fifteen years ago in Bethel. As a volunteer firefighter, John had been setting fires himself and then calling them in so he could participate in the “rescue” effort. He was unconditionally discharged eleven years ago, after which he left the state and returned to live in Palmer last year. He applies to become a volunteer firefighter in Palmer. He lies to the volunteer coordinator and denies having ever been convicted of arson. The volunteer fire department asks John to submit his fingerprints for a criminal history record check. The fire department’s report won’t show John’s arson conviction because of the 10-year rule. If John had been applying for a job in a daycare center, the center would have been told of the arson conviction, because, as a felony, arson is considered a “serious offense” and the daycare center is considered an “interested person.” The fire department arguably has just as much need as a daycare center to consider John’s arson conviction, no matter how much time has elapsed.

Example 2. The same volunteer fire department also screens volunteer paramedics. Joe was convicted of multiple counts of Sexual Abuse of a Minor in the Second Degree (a class B felony) after sexually abusing young children under the guise of “playing doctor.” Joe was unconditionally discharged in 1983. Again, the volunteer fire department will not learn of Joe’s past even if it requests a criminal history record check, because of the 10-year rule. A paramedic would certainly have opportunities to be alone with and touch children, especially vulnerable children who may be injured or unconscious. A paramedic might even be seen as an “authority figure” during an emergency situation. However, the fire department does not fall under the definition of an “interested person” because a paramedic does not actually have “supervisory or disciplinary power” over a minor or dependent adult.

Example 3. Fifteen years ago Bob was convicted of Misconduct Involving a Corpse (a class A misdemeanor). At the time, Bob worked in a mortuary and was discovered sexually penetrating the corpse of a five year old child. Bob was unconditionally discharged for that crime fourteen years ago. Eleven years ago, Bob broke into a neighbor’s house at night and was found standing over the bed of a five year old boy, with his pants halfway unzipped and a crowbar in his hand. He pled guilty to Possession of Burglary Tools (a class A misdemeanor) and Criminal Trespass (a Class B misdemeanor). He was unconditionally discharged for those offenses ten years ago. He left the country afterwards and has just returned to Alaska, so there’s no telling whether he has been crime-free during the past ten years. Bob applies for a job babysitting for a five year old boy in a private residence. The boy’s mother submits Bob’s fingerprints to Public Safety to get an “interested person” criminal history report. The report does not show any criminal convictions for Bob because he was unconditionally discharged for all his crimes ten or more years ago, and none of Bob’s misdemeanors is a “serious offense.” The other applicant’s criminal history record shows a conviction for shoplifting nine years ago, so the woman chooses the candidate with the “no record” – Bob.

Example 4. June applies for a job as a bookkeeper for a restaurant. The job is open because the owner's previous bookkeeper has just been indicted for embezzling over \$50,000 from the business. Nearing bankruptcy and extremely wary, the owner is more than willing to pay \$20 to have June fingerprinted plus \$35 to get a fingerprint-based criminal history record from Public Safety. His money is not well-spent, though, because the criminal history report he receives will show no convictions since June was unconditionally discharged ten years ago for Theft, Credit Card Fraud, Issuing Bad Checks, and Embezzlement. Because some of June's convictions are felonies they meet the definition of a "serious offense." Ironically, these "property crime" convictions would have been made available to someone considering June to work in a daycare center, even if that position would not have involved any financial responsibilities, but they are withheld from the owner of this business.

Example 5. Harry was convicted of three counts of Sexual Assault in the Second Degree (a Class B felony) and unconditionally discharged 13 years ago. The crimes occurred when Harry entered women's houses using copies of their house keys he obtained as a carpenter working for a construction and home remodeling company. All the sexual assaults were alcohol-related. Within the past five years, he has been twice convicted of DWI. Harry applies for a job as a carpenter with Angelo's construction company, which specializes in home remodeling. Because the job involves entering private homes, both when residents are home and away, Angelo requires criminal history background checks of all applicants. Angelo receives a criminal history report showing only that Harry has been convicted twice for DWI. Angelo never learns of Harry's prior job- and alcohol-related rape convictions because of the 10-year limit. The carpentry position does not involve driving company vehicles, and it is not uncommon for the seasonal workers who apply for this sort of job to have some misdemeanor criminal convictions. Angelo, a recovering alcoholic himself, decides to take a chance on Harry based on the criminal history report showing only two DWI convictions. Two months later when Harry is arrested for allegedly raping one of the company's customers, Angelo is stunned to learn (from news reports) that Harry had been convicted of raping three other women in similar circumstances before.

Example 6. Ted was found "guilty but mentally ill" of twenty-five counts of Cruelty to Animals (a Class A misdemeanor) for intentionally setting neighborhood cats on fire, trapping and dismembering squirrels, and conducting other brutal and sadistic rituals on "pets" that he obtained from the local animal shelter. He was unconditionally discharged for his concurrent sentences ten years ago, after which he relocated to a rural area and has since lived alone on an isolated piece of land. Ted has recently volunteered to provide "animal therapy" once a week for his nearest neighbors, an 80 year old woman and her 85-year old husband, who is afflicted with Parkinson's Disease. Ted proposes to "borrow" animals from the local animal shelter twice a week, take them to visit the Parkinson's patient, then return the animals to the shelter. The couple's daughter is uneasy with the idea, although she has nothing more than a suspicious hunch that something is "wrong" with Ted. She asks Ted to provide fingerprints so she can get a criminal history report before allowing Ted into her parents' home. She will get a report showing no convictions for Ted because of the unconditional discharge date rule. Even if she qualified as an "interested person" (which is doubtful, since Ted would not really have

"supervisory or disciplinary power" over the Parkinson's patient) she would not learn of Ted's past convictions because Cruelty to Animals, even when a person "intentionally inflicts severe and prolonged pain or suffering on an animal" is not a "serious offense."

Example 7. Eleven years ago in Fairbanks, Susan was convicted of Criminal Use of a Computer (a Class C felony). She was unconditionally discharged ten years ago. Susan applies for a job as a computer programmer for the State of Alaska, in Ketchikan. She lies on the state's employment application, checking "No" in response to the question "Have you ever been convicted of a felony?" She knows that even if her employer requests a criminal history background check, it won't show her conviction because of the ten-year limit. She's hired. Her supervisor later mentions Susan's name to a relative in Fairbanks, who happened to know about Susan's conviction because of extensive local news coverage at the time. Armed with this information, including the approximate date of conviction, the supervisor in Ketchikan may dispatch someone to go through the manual records at the Fairbanks courthouse, a time-consuming process. (The court records are not protected by the same kinds of confidentiality as Public Safety's records.) Upon finding court documentation of Susan's conviction, the supervisor can begin the lengthy, costly process of termination since Susan lied on her employment application.

Example 8. Jerry was convicted twice for Assault in the Third Degree (a class C felony), once for Stalking in the First Degree (a class C felony), and ten more times for Assault in the Fourth Degree (a class A misdemeanor). In all the cases, the victims were Jerry's wives, ex-wives, women he had dated, or the children of those women. Jerry was unconditionally discharged for the last of the charges ten years ago. Nine years ago he was indicted for Assault in the First Degree, (a Class A felony) for allegedly attacking his then-wife with a kitchen knife, causing her permanent blindness in one eye, a ruptured spleen, and other serious injuries. However, after spending two years in jail awaiting trial, he was found "Not Guilty By Reason of Insanity." The court immediately committed Jerry to the custody of the Commissioner of Health and Social Services. Jerry was released from a mental institution seven years later - he's been out for two months now. Jerry has just moved to a rural Alaskan village and has volunteered to provide building maintenance services at a counseling center for battered women. The center requests a criminal history report, which contains none of Jerry's convictions because of the 10-year limit. Naturally, Jerry's acquittal is not included in the report, so the center has no way of knowing that Jerry's past ten years of "crime-free" behavior coincided with ten years of institutionalization. Since Jerry's duties don't involve "supervisory or disciplinary power" over children or dependent adults, the center does not qualify for an "interested person" report that would include Jerry's convictions - all of which meet the definition of "serious offense."

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Section 3 is a technical amendment to ensure that Alaska's law will continue to allow "interested persons" to request national criminal history records as well as state criminal history records.

Federal law restricts access to F.B.I. (national criminal history) records to (1) criminal justice agencies, and (2) persons authorized access by a state or federal law that has been approved by the U.S. Attorney General. This means that when Alaska enacts a law specifically requiring school teachers, school bus drivers, or foster parents to undergo a criminal history check, Public Safety can submit it to the FBI for federal approval. If approved, Public Safety enters the "approved statute" citation on fingerprint cards that it sends to the FBI for national criminal history record checks under that law.

The F.B.I. has already approved Alaska's law allowing "interested persons" to get national criminal history records to screen applicants for working with children or vulnerable adults. If Alaska eliminates the need for an "interested person" report at the state record level, by making all past convictions available to all persons, it needs to retain the "interested person" provisions that have already been approved by the FBI for record checks at the national level.

Only a government agency may view the FBI report. If the record is requested by someone other than a government agency, some government agency must "screen" the report. The government agency may only tell the requester whether or not the subject has been convicted of a "serious offense" but cannot tell the details of the record.

Many "interested persons" are government agencies, for example the Department of Education may screen teachers, the Department of Administration may screen state nursing home employees, and the Department of Health and Social Services may screen day care centers. In each of these examples, Public Safety may release F.B.I. records to the government agency with jurisdiction over the particular employment, license, or permit being sought.

However, if DHSS contracts with a private firm to handle background screening for foster parents, Public Safety cannot give the F.B.I. record to the private contractor. Instead, Public Safety must give it to the government agency responsible for the private contractor's work (DHSS).

Sometimes there is no government agency with jurisdiction over an activity that involves "supervisory or disciplinary power over a minor or dependent adult." For example, no state agency is responsible for licensing or otherwise screening Boy Scout volunteers or privately employed babysitters. Since these examples meet the "interested person" definition that has already been approved by the F.B.I., however, national criminal history checks may be requested. Public Safety must screen the FBI record since no other government agency is involved. Public Safety will tell the Boy Scout Troop or private person whether or not the FBI record shows any "serious offense" convictions but may not provide details of the FBI record.

SENATE BILL 132/ HOUSE BILL 186

Prepared by the Department of Public Safety

EXPLANATIONS RE. AMENDMENTS TO AS 12.62:

Section 2 would allow Public Safety to include all past convictions in a criminal history report, instead of excluding those convictions for which the subject has been unconditionally discharged for ten years or more. This change is needed because

- (1) Public Safety cannot accurately calculate the unconditional discharge date, and
- (2) the 10-year limit excludes many convictions that may be important for a potential employer, licensing agency, or other record user to consider.

UNCONDITIONAL DISCHARGE DATE COMPUTATION EXAMPLE

Greg was arrested on May 1, 1976 and convicted of 8 counts of Forgery on May 1, 1977. He received a sentence of 6 years in jail and 5 years probation. One third of his jail time is automatically deducted for "mandatory good time." Here's how Public Safety could compute his unconditional discharge date:

Date of Sentence 5/1/77
 Add Jail + 6 years
 Deduct "good time" - 2 years (1/3 of 6 years)
 Add Probation + 5 years
 Discharge Date = 5/1/86

But there's a problem: Greg received "credit for time served" while awaiting sentencing in this case. This means he essentially started serving his sentence earlier, so his unconditional discharge date would also be earlier. Unfortunately, information about credit for time served is not recorded in APSIN. The only way to avoid "overestimating" discharge dates, then, is to use the arrest date, rather than the sentence date, as the beginning point to calculate the discharge date. This is the formula Public Safety must use:

Date of Arrest 5/1/76
 Add Jail + 6 years
 Deduct "good time" - 2 years (1/3 of 6 years)
 Add Probation + 5 years
 Discharge Date = 5/1/85

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The problem is that Greg's credit for time served really didn't include the entire year between the arrest date and sentence date. Although it is not recorded in APSIN, Greg was actually released on bail immediately after his arrest. It was not until six months later, when he violated his bail conditions, that the court revoked his bail and he went to jail to await his trial and sentencing. So Greg really only received six months of credit for time served. Greg's *actual* unconditional discharge date should be figured as follows (the shaded information is not available in APSIN):

Date of Sentence	5/1/77
Add Jail	+ 6 years
Deduct "good time"	- 2 years (1/3 of 6 years)
Less Credit for Time Served	- 6 months
Add Probation	+ 5 years
Discharge Date	= 11/1/85

But there are more factors to consider in Greg's case - none of which can be discerned from data in APSIN. When Greg was released from prison on 11/1/80, he began serving 5 years of probation, concurrent to serving mandatory parole for the 2 years he received as credit for "good time." The Parole Board revoked Greg's "mandatory parole" on 11/1/81, after he'd already completed 1 year of the mandatory parole period. The Parole Board has the discretion to revoke the entire 2 years of Greg's mandatory parole, not just the year he has remaining, and the board did so in Greg's case. So on 11/1/81, Greg returned to prison to serve 2 years of mandatory parole time. Greg didn't have to serve 2 years, though, because he again received the "mandatory good time" reduction for his revoked "mandatory parole" which reduced his new jail time to only 16 months (2/3 of 2 years). But during that time, Greg was found guilty by a correctional disciplinary board of possessing drugs. As punishment, the disciplinary board took away Greg's 8 months of "good time credit." That delayed Greg's jail release date until 11/1/83. After he successfully finishes his 4 remaining years of probation, Greg is finally unconditionally discharged on 11/1/87:

Date of Sentence	5/1/77
Add Jail	+ 6 years
Deduct "good time"	- 2 years (1/3 of 6 years)
Less Credit for Time Served	- 6 months
Add Probation	+ 5 years
Add revoked mandatory parole	+ 2 years
Deduct "good time"	- 8 months (1/3 of 2 years)
Add "lost" good time	+ 8 months
Discharge Date	= 11/1/87

If someone requested Greg's criminal history record on May 1, 1995, Public Safety would exclude Greg's eight Forgery convictions from the report, having erroneously calculated Greg's discharge date to be 5/1/85 based on data available in APSIN. Believing that Greg was unconditionally discharged ten years prior to the record request, Public Safety would have

continued making this same error anytime Greg's record was requested over the next 2 ½ years. Not until 11/1/97 would Public Safety actually be correct to exclude Greg's convictions from a criminal history report.

Greg's hypothetical case is actually uncharacteristically simple. It involved only one court case, only one "statutory good time" formula, no consecutive sentences, no discretionary parole, nor any suspension of jail or probation. It is not uncommon for actual cases to involve dozens of overlapping charges (or "counts"). There are frequently overlapping periods of jail, probation, discretionary parole, mandatory parole, and pretrial detention time during which "credit for time served" applies to some, but not other charges, any of which may be served concurrently or consecutively. Neither docs Greg's example address the varying "statutory good time" formulae and rules which have been in effect at different times over the past decades. The Department of Corrections uses a voluminous "time accounting" manual to track the rules for computing discharge dates and is nevertheless faced with constant litigation disputing computation of discharge dates. Removing the 10-year unconditional discharge date limit for criminal history reports will allow Public Safety to escape similar endless litigation.

EXAMPLES OF EXCLUDING RELEVANT CONVICTIONS FROM REPORTS

It is important to remember that a person cannot anonymously request another person's criminal history report. To get the report, the requester must submit the subject's fingerprints to Public Safety or ask the subject to get his or her own report from Public Safety, based on photo ID. The record subject's past convictions are therefore available to another person only if the record subject agrees to the background check. Because of this, most records are requested when someone is applying for a job or license for which a background check is required.

Another problem with the "10-year limit" is that some convictions, no matter how old, may be very relevant to the purpose of the record check. Recognizing this, the current law exempts "serious offense" convictions from the 10-year limit, but only if the report is for an "interested person" - one who is screening an applicant to have "supervisory or disciplinary power over a minor or dependent adult." This definition of "serious offense" poses yet another problem - it includes all felonies, and certain misdemeanors, including those that involve domestic violence. Unfortunately, APSIN "rap sheets" don't describe the relationship between a victim and an offender, so there's no way to know if a misdemeanor conviction "involves domestic violence." Public Safety plans to begin "flagging" domestic violence convictions in APSIN if the courts will provide that information on criminal judgments. Unfortunately, this solution won't help identify "serious offense - domestic violence" convictions among the tens of thousands of existing APSIN criminal history records.

Even if APSIN could accurately compute the unconditional discharge date *and* accurately identify all "serious offenses" many relevant convictions would be withheld, either because a record requester doesn't qualify as an "interested person" or because a crime is not considered "serious" or both. The following examples illustrate the why limits should not be placed on conviction records. It is impossible to predict every appropriate consideration for every

individual record check – it is better simply provide all past convictions and let the record user weigh the importance of them in light of the particular job, license, or other privilege being considered. This is why:

Example 1: John was convicted of Arson in the Second Degree (a class B felony) fifteen years ago in Bethel. As a volunteer firefighter, John had been setting fires himself and then calling them in so he could participate in the “rescue” effort. He was unconditionally discharged eleven years ago, after which he left the state and returned to live in Palmer last year. He applies to become a volunteer firefighter in Palmer. He lies to the volunteer coordinator and denies having ever been convicted of arson. The volunteer fire department asks John to submit his fingerprints for a criminal history record check. The fire department’s report won’t show John’s arson conviction because of the 10-year rule. If John had been applying for a job in a daycare center, the center would have been told of the arson conviction, because, as a felony, arson is considered a “serious offense” and the daycare center is considered an “interested person.” The fire department arguably has just as much need as a daycare center to consider John’s arson conviction, no matter how much time has elapsed.

Example 2. The same volunteer fire department also screens volunteer paramedics. Joe was convicted of multiple counts of Sexual Abuse of a Minor in the Second Degree (a class B felony) after sexually abusing young children under the guise of “playing doctor.” Joe was unconditionally discharged in 1983. Again, the volunteer fire department will not learn of Joe’s past even if it requests a criminal history record check, because of the 10-year rule. A paramedic would certainly have opportunities to be alone with and touch children, especially vulnerable children who may be injured or unconscious. A paramedic might even be seen as an “authority figure” during an emergency situation. However, the fire department does not fall under the definition of an “interested person” because a paramedic does not actually have “supervisory or disciplinary power” over a minor or dependent adult.

Example 3. Fifteen years ago Bob was convicted of Misconduct Involving a Corpse (a class A misdemeanor). At the time, Bob worked in a mortuary and was discovered sexually penetrating the corpse of a five year old child. Bob was unconditionally discharged for that crime fourteen years ago. Eleven years ago, Bob broke into a neighbor’s house at night and was found standing over the bed of a five year old boy, with his pants halfway unzipped and a crowbar in his hand. He pled guilty to Possession of Burglary Tools (a class A misdemeanor) and Criminal Trespass (a Class B misdemeanor). He was unconditionally discharged for those offenses ten years ago. He left the country afterwards and has just returned to Alaska, so there’s no telling whether he has been crime-free during the past ten years. Bob applies for a job babysitting for a five year old boy in a private residence. The boy’s mother submits Bob’s fingerprints to Public Safety to get an “interested person” criminal history report. The report does not show any criminal convictions for Bob because he was unconditionally discharged for all his crimes ten or more years ago, and none of Bob’s misdemeanors is a “serious offense.” The other applicant’s criminal history record shows a conviction for shoplifting nine years ago, so the woman chooses the candidate with the “no record” – Bob.

Example 4. June applies for a job as a bookkeeper for a restaurant. The job is open because the owner's previous bookkeeper has just been indicted for embezzling over \$50,000 from the business. Nearing bankruptcy and extremely wary, the owner is more than willing to pay \$20 to have June fingerprinted plus \$35 to get a fingerprint-based criminal history record from Public Safety. His money is not well-spent, though, because the criminal history report he receives will show no convictions since June was unconditionally discharged ten years ago for Theft, Credit Card Fraud, Issuing Bad Checks, and Embezzlement. Because some of June's convictions are felonies they meet the definition of a "serious offense." Ironically, these "property crime" convictions would have been made available to someone considering June to work in a daycare center, even if that position would not have involved any financial responsibilities, but they are withheld from the owner of this business.

Example 5. Harry was convicted of three counts of Sexual Assault in the Second Degree (a Class B felony) and unconditionally discharged 13 years ago. The crimes occurred when Harry entered women's houses using copies of their house keys he obtained as a carpenter working for a construction and home remodeling company. All the sexual assaults were alcohol-related. Within the past five years, he has been twice convicted of DWI. Harry applies for a job as a carpenter with Angelo's construction company, which specializes in home remodeling. Because the job involves entering private homes, both when residents are home and away, Angelo requires criminal history background checks of all applicants. Angelo receives a criminal history report showing only that Harry has been convicted twice for DWI. Angelo never learns of Harry's prior job- and alcohol-related rape convictions because of the 10-year limit. The carpentry position does not involve driving company vehicles, and it is not uncommon for the seasonal workers who apply for this sort of job to have some misdemeanor criminal convictions. Angelo, a recovering alcoholic himself, decides to take a chance on Harry based on the criminal history report showing only two DWI convictions. Two months later when Harry is arrested for allegedly raping one of the company's customers, Angelo is stunned to learn (from news reports) that Harry had been convicted of raping three other women in similar circumstances before.

Example 6. Ted was found "guilty but mentally ill" of twenty-five counts of Cruelty to Animals (a Class A misdemeanor) for intentionally setting neighborhood cats on fire, trapping and dismembering squirrels, and conducting other brutal and sadistic rituals on "pets" that he obtained from the local animal shelter. He was unconditionally discharged for his concurrent sentences ten years ago, after which he relocated to a rural area and has since lived alone on an isolated piece of land. Ted has recently volunteered to provide "animal therapy" once a week for his nearest neighbors, an 80 year old woman and her 85-year old husband, who is afflicted with Parkinson's Disease. Ted proposes to "borrow" animals from the local animal shelter twice a week, take them to visit the Parkinson's patient, then return the animals to the shelter. The couple's daughter is uneasy with the idea, although she has nothing more than a suspicious hunch that something is "wrong" with Ted. She asks Ted to provide fingerprints so she can get a criminal history report before allowing Ted into her parents' home. She will get a report showing no convictions for Ted because of the unconditional discharge date rule. Even if she qualified as an "interested person" (which is doubtful, since Ted would not really have

"supervisory or disciplinary power" over the Parkinson's patient) she would not learn of Ted's past convictions because Cruelty to Animals, even when a person "intentionally inflicts severe and prolonged pain or suffering on an animal" is not a "serious offense."

Example 7. Eleven years ago in Fairbanks, Susan was convicted of Criminal Use of a Computer (a Class C felony). She was unconditionally discharged ten years ago. Susan applies for a job as a computer programmer for the State of Alaska, in Ketchikan. She lies on the state's employment application, checking "No" in response to the question "Have you ever been convicted of a felony?" She knows that even if her employer requests a criminal history background check, it won't show her conviction because of the ten-year limit. She's hired. Her supervisor later mentions Susan's name to a relative in Fairbanks, who happened to know about Susan's conviction because of extensive local news coverage at the time. Armed with this information, including the approximate date of conviction, the supervisor in Ketchikan may dispatch someone to go through the manual records at the Fairbanks courthouse, a time-consuming process. (The court records are not protected by the same kinds of confidentiality as Public Safety's records.) Upon finding court documentation of Susan's conviction, the supervisor can begin the lengthy, costly process of termination since Susan lied on her employment application.

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CS FOR SENATE BILL NO. 132(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of sex offenders and child kidnappers and to the
2 central registry of sex offenders and child kidnappers; and amending Rules 11(c)
3 and 32(c), Alaska Rules of Criminal Procedure."

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

5 * Section 1. AS 11.56.840 is amended to read:

6 Sec. 11.56.840. Failure to register as a sex offender or child kidnapper.

7 (a) A person commits the crime of failure to register as a sex offender or child
8 kidnapper if the person [WHO] knowingly fails to (1) register, (2) file the written
9 notice of change of address, [OR] (3) file the annual or quarterly written notice,
10 verification, or statement, or (4) or supply all of the information required to be
11 submitted under (1) - (3) of this subsection, as required in AS 12.63.010,

12 (b) Failure to register as a sex offender or child kidnapper is [, IS
13 GUILTY OF] a class A misdemeanor.

14 * Sec. 2. AS 12.55.148 is amended to read:

1 **Sec. 12.55.148. Judgment for sex offenses or child kidnappings.** (a) When
2 a defendant is convicted of a sex offense or child kidnapping by a court of this state,
3 the written judgment must set out the requirements of AS 12.63.010.

4 (b) In this section, "sex offense" and "child kidnapping" have [HAS] the
5 meanings [MEANING] given in AS 12.63.100.

6 * **Sec. 3.** AS 12.63.010(a) is amended to read:

7 (a) A sex offender or child kidnapper who is physically present in the state
8 shall register as provided in this section. The sex offender or child kidnapper shall
9 register within

10 (1) seven days of release from an in-state correctional facility;

11 (2) seven days of conviction for a sex offense or child kidnapping if
12 the sex offender or child kidnapper is not sentenced to a term of incarceration; or

13 (3) 14 days of becoming physically present in the state, except the sex
14 offender or child kidnapper shall register within seven days of becoming physically
15 present in the state if the sex offender or child kidnapper

16 (A) is a probationer or parolee being supervised by the state as
17 the receiving state under AS 33.36.110 - 33.36.120; or

18 (B) has been released from an out-of-state correctional facility
19 where the sex offender or child kidnapper was serving a term of incarceration
20 for a sex offense or child kidnapping conviction in this state.

21 * **Sec. 4.** AS 12.63.010(b) is amended to read:

22 (b) A sex offender or child kidnapper required to register under (a) of this
23 section shall register in person at the Alaska state trooper post or municipal police
24 department located nearest to where the sex offender or child kidnapper resides at the
25 time of registration. To fulfill the registration requirement, the sex offender or child
26 kidnapper shall

27 (1) complete a registration form that includes, at a minimum, the sex
28 offender's or child kidnapper's name, address, place of employment, date of birth,
29 each conviction for a sex offense or child kidnapping for which the duty to register
30 has not terminated under AS 12.63.020, date of sex offense or child kidnapping
31 convictions, place and court of sex offense or child kidnapping convictions, the date

1 the sex offender or child kidnapper was unconditionally discharged from a
2 conviction for a sex offense or child kidnapping, all aliases used, [AND] driver's
3 license number, any identifying features of the sex offender or child kidnapper,
4 anticipated changes of address, and a statement concerning whether the offender
5 or kidnapper has had treatment for a mental abnormality or personality disorder
6 since the date of conviction for an offense requiring registration under this
7 chapter;

8 (2) allow the Alaska state troopers or municipal police to take a
9 complete set of the sex offender's or child kidnapper's fingerprints and to take the
10 sex offender's or child kidnapper's photograph.

11 * Sec. 5. AS 12.63.010(c) is amended to read:

12 (c) If a sex offender or child kidnapper changes residence within the state
13 after having registered under (a) of this section, the sex offender or child kidnapper
14 shall provide written notice of the change to the Alaska state trooper post or municipal
15 police department located nearest to the new residence within 10 days of the change.

16 * Sec. 6. AS 12.63.010(d) is amended to read:

17 (d) A sex offender or child kidnapper required to register

18 (1) for 15 years under (a) of this section and AS 12.63.020(a)(2) shall,
19 annually, during the term of a duty to register under AS 12.63.020, on a date set by
20 the department at the time of the sex offender's or child kidnapper's initial
21 registration, provide written verification [NOTICE] to the department, in the manner
22 required by the department, of the sex offender's or child kidnapper's address
23 and any changes to the information previously [INITIALLY] provided under (b)(1)
24 of this section;

25 (2) for life under (a) of this section and AS 12.63.020(a)(1) shall, not
26 less than quarterly, on a date set by the department, provide written verification
27 to the department, in the manner required by the department, of the sex
28 offender's or child kidnapper's address and any changes to the information
29 previously provided under (b)(1) of this section [, OR IF THERE ARE NO
30 CHANGES, A STATEMENT TO THAT EFFECT].

31 * Sec. 7. AS 12.63.020 is amended to read:

1 Sec. 12.63.020. Duration of sex offender or child kidnapper duty to
2 register. (a) The duty of a sex offender or child kidnapper to comply with the
3 requirements of AS 12.63.010 for each sex offense or child kidnapping

4 (1) continues for the lifetime of a sex offender or child kidnapper
5 convicted of

6 (A) one aggravated sex offense; or

7 (B) two or more sex offenses, two or more child kidnappings,
8 or one sex offense and one child kidnapping;

9 (2) ends 15 years following the sex offender's or child kidnapper's
10 unconditional discharge from a conviction for a single sex offense that is not an
11 aggravated sex offense or a single child kidnapping; the registration period under
12 this paragraph

13 (A) is tolled for each year that a sex offender or child
14 kidnapper fails to comply with the requirements of this chapter; and

15 (B) may include the time a sex offender or child kidnapper
16 has complied with the sex offender or child kidnapper registration
17 requirements of another jurisdiction if the sex offender or child kidnapper
18 provides the department with proof of compliance while the sex offender
19 or child kidnapper was absent from this state.

20 (b) The department shall adopt, by regulation, procedures to notify a sex
21 offender or child kidnapper who, on the registration form under AS 12.63.010, lists
22 a conviction for a sex offense or child kidnapping that is a violation of a former law
23 of this state or a law of another jurisdiction, of the duration of the offender's or
24 kidnapper's duty under (a) of this section for that sex offense or child kidnapping.
25 As a part of those regulations, the department shall require the offender or
26 kidnapper to supply proof of unconditional discharge and the date it occurred.

27 * Sec. 8. AS 12.63 is amended by adding a new section to read:

28 Sec. 12.63.030. Notification of other jurisdictions. (a) If a sex offender or
29 child kidnapper notifies the department that the sex offender or child kidnapper is
30 moving from the state, the department shall notify the Federal Bureau of Investigation
31 and the state where the sex offender or child kidnapper is moving of the sex offender's

1 or child kidnapper's intended address.

2 (b) If a sex offender or child kidnapper fails to register or to verify the sex
3 offender's or child kidnapper's address and registration under this chapter, or the
4 department does not know the location of a sex offender or child kidnapper required
5 to register under this chapter, the department shall immediately notify the Federal
6 Bureau of Investigation.

7 * Sec. 9. AS 12.63.100(2) is amended to read:

8 (2) "sex offender or child kidnapper" means a person convicted of a
9 sex offense or child kidnapping in this state or another jurisdiction regardless of
10 whether the conviction occurred before, after, or on August 10, 1994;

11 * Sec. 10. AS 12.63.100(3) is amended to read:

12 (3) "sex offense" means a crime, or an attempt, solicitation, or
13 conspiracy to commit a crime, under the following statutes or a similar law of
14 another jurisdiction:

15 (A) AS 11.41.410 - 11.41.438, 11.41.440(a)(2), 11.41.450, or
16 11.41.455;

17 (B) [,] AS 11.61.125;

18 (C) [,] AS 11.66.110 or 11.66.130(a)(2) if the person who was
19 induced or caused to engage in prostitution was 16 or 17 years of age at
20 the time of the offense; or

21 (D) [,] former AS 11.15.120, former [OR] 11.15.134, or
22 assault with the intent to commit rape under former AS 11.15.160, [OR.]
23 former AS 11.40.110, or 11.40.200 [, OR A SIMILAR LAW IN ANOTHER
24 JURISDICTION];

25 * Sec. 11. AS 12.63.100 is amended by adding new paragraphs to read:

26 (5) "aggravated sex offense" means a crime, or an attempt to commit
27 a crime, under AS 11.41.410, 11.41.434, or a similar law of another jurisdiction;

28 (6) "child kidnapping" means a crime or an attempt, solicitation, or
29 conspiracy to commit a crime, under AS 11.41.300, or a similar law of another
30 jurisdiction, if the victim was under 18 years of age at the time of the offense.

31 * Sec. 12. AS 18.65.087(a) is amended to read:

1 (a) The Department of Public Safety shall maintain a central registry of sex
2 offenders and child kidnappers required to register under AS 12.63.010 and shall
3 adopt regulations necessary to carry out the purposes of this section and AS 12.63. A
4 post of the Alaska state troopers or a municipal police department that receives
5 information under AS 12.63.010 shall forward the information within five working
6 days of receipt to the central registry of sex offenders and child kidnappers.

7 * Sec. 13. AS 18.65.087(b) is amended to read:

8 (b) Information about a sex offender or child kidnapper that is contained in
9 the central registry, including sets of fingerprints, is confidential and not subject to
10 public disclosure except as to the sex offender's or child kidnapper's name, address,
11 photograph, place of employment, date of birth, crime for which convicted, date of
12 conviction, place and court of conviction, and length of sentence.

13 * Sec. 14. AS 18.65.087(d) is amended to read:

14 (d) The Department of Public Safety

15 (1) shall adopt regulations to

16 (A) allow a sex offender or child kidnapper to review sex
17 offender or child kidnapper registration information that refers to that sex
18 offender or child kidnapper, and if the sex offender or child kidnapper
19 believes the information is inaccurate or incomplete, to request the department
20 to correct the information; if the department finds the information is inaccurate
21 or incomplete, the department shall correct or supplement the information;

22 (B) ensure the appropriate circulation to law enforcement
23 agencies of information contained in the central registry;

24 (2) shall provide to municipal police departments the forms and
25 directions necessary to allow sex offenders and child kidnappers to comply with
26 AS 12.63.010;

27 (3) may adopt regulations to establish fees to be charged for registration
28 under AS 12.63.010 and for information requests; the fee for registration shall be based
29 upon the actual costs of performing the registration and maintaining the central registry
30 but may not be set at a level whereby registration is discouraged; the fee for an
31 information request may not be greater than \$10;

1 (4) shall remove from the central registry of sex offenders and child
2 kidnappers under AS 18.65.087 information about a sex offender or child kidnapper
3 required to register under AS 12.63.020(a)(2) at the end of the sex offender's or child
4 kidnapper's duty to register if the offender or kidnapper has not been convicted of
5 another sex offense or child kidnapping; in this paragraph, "sex offense" and "child
6 kidnapping" have the meanings [HAS THE MEANING] given in AS 12.63.100.

7 * Sec. 15. AS 33.30.012 is amended to read:

8 Sec. 33.30.012. Notice of release, parole, community placement, work
9 release placement, furlough or escape of sex offender or child kidnapper. (a) At
10 the earliest possible date, and in no event later than 10 days before release of a sex
11 offender or child kidnapper with a duty to register under AS 12.63, the
12 commissioner shall complete the registration of the sex offender or child kidnapper,
13 take the sex offender's or child kidnapper's photograph, and determine if legible
14 fingerprints of the sex offender or child kidnapper have been previously provided
15 to the Department of Public Safety; if legible fingerprints have not previously
16 been provided to the Department of Public Safety, the commissioner shall obtain
17 the sex offender's or child kidnapper's fingerprints in the manner required by the
18 Department of Public Safety and shall immediately forward the fingerprints to the
19 department. When completing the registration under this subsection, the
20 commissioner shall also send written notice of release, parole, community placement,
21 work release placement, or furlough of a sex offender or child kidnapper [SPECIFIC
22 INMATE CONVICTED OF A SEX OFFENSE] to:

23 (1) the chief of police of the community, if any, in which the inmate
24 will reside;

25 (2) the Alaska state trooper post located nearest to where the inmate
26 will reside; [AND]

27 (3) the village public safety officer of the rural community without a
28 municipal police department or Alaska state trooper post in which the inmate will
29 reside; and

30 (4) the Department of Public Safety.

31 (b) If an inmate convicted of a sex offense or child kidnapping escapes from

1 a correctional facility, the commissioner shall immediately notify the chief of police
2 of the community and Alaska state trooper post located closest to where the inmate
3 resided immediately before the inmate's arrest and conviction.

4 * Sec. 16. AS 33.30.035 is amended to read:

5 Sec. 33.30.035. Notice to sex offenders or child kidnappers of registration
6 requirement. The department shall provide written notice to a sex offender or child
7 kidnapper of the registration requirements of AS 12.63.010 [,] and shall obtain a
8 written [SIGNED ACKNOWLEDGMENT OF] receipt of notice from the sex offender
9 or child kidnapper [(1) AT THE TIME OF THE SEX OFFENDER'S RELEASE
10 FROM A STATE CORRECTIONAL FACILITY; (2)] immediately after taking
11 supervision of a sex offender or child kidnapper under the Interstate Corrections
12 Compact or AS 33.36.110. The department shall forward the written receipt to the
13 Department of Public Safety, along with a description of any identifying features
14 of the offender or kidnapper, the anticipated address of the offender or
15 kidnapper, and a statement concerning whether the offender or kidnapper has
16 received treatment for the offender's or kidnapper's mental abnormality or
17 personality disorder related to the sex offense or child kidnapping. In this
18 section, "sex offense" and "child kidnapping" have the meanings given in
19 AS 12.63.100.

20 * Sec. 17. AS 33.30.901(13) is amended to read:

21 (13) "sex offender or child kidnapper" and "sex offense" and "child
22 kidnapping" have the meanings [" HAS THE MEANING] given in AS 12.63.100.

23 * Sec. 18. COURT RULES. The provisions of AS 12.55.148, amended by sec. 2 of this
24 Act, have the effect of changing Alaska Rules of Criminal Procedure 11(c) and 32(c) relating
25 to judgment and sentences for defendants convicted of sex offenses or child kidnappings.

26 * Sec. 19. APPLICABILITY. (a) A sex offender or child kidnapper with (1) one
27 conviction for an aggravated sex offense, (2) two or more convictions for a sex offense or
28 child kidnapping, or (3) one conviction for a child kidnapping and one conviction for a sex
29 offense regardless of whether the offender or kidnapper has been unconditionally discharged
30 from that conviction or convictions before the effective date of this Act, shall register under
31 AS 12.63.010, amended by secs. 3 - 6 of this Act, by the 60th day after the effective date of

1 this Act. A sex offender or child kidnapper with only one conviction for a sex offense that
2 is not an aggravated sex offense or only one conviction for a child kidnapping who was
3 unconditionally discharged from that offense before July 1, 1984, does not have to register
4 under this Act. A sex offender or child kidnapper with only one conviction for a sex offense
5 that is not an aggravated sex offense or only one conviction for a child kidnapping who was
6 required to register under sec. 12, ch. 41, SLA 1994, shall continue to register as provided by
7 AS 12.63.010, amended by secs. 3 - 6 of this Act.

8 (b) A conviction for a sex offense or child kidnapping before the effective date of this
9 Act is a sex offense or child kidnapping for purposes of the duration of registration
10 requirement of AS 12.63.020(a), amended by sec. 7 of this Act.

11 (c) In this section, "aggravated sex offense," "sex offender or child kidnapper," "sex
12 offense," and "child kidnapping" have the meanings given in AS 12.63.100, amended by
13 secs. 9 - 11 of this Act.

TONY KNOWLES
GOVERNOR

STATE OF ALASKA
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JUNEAU

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March 10, 1997

The Honorable Mike Miller
Senate President
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Mike
Dear President Miller:

Reducing the number of people, especially children, who are victimized by violent and repeat sex offenders is an important part of my goal of ensuring safe, healthy communities for Alaskans. This bill strengthens the sex offender registration statutes and broadens access to criminal records in an effort to better protect the public from these criminals.

The bill is prompted, in part, to comply with the requirements of the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act which requires registration of sex offenders whose victims were under 18 years old. Compliance with the Act will maintain the state's eligibility for \$200,000 in grant funds.

The state already complies with much of the Wetterling Act by requiring registration of most sex offenders who victimize children. For full compliance with the act, this bill adds to the list of offenses that require registration to include kidnaping when the victim is under 18; sexual abuse of a minor in the fourth degree if the victim is 16 or 17 years old; and promoting prostitution in the third degree, if the offender induces a person 16 or 17 years of age to engage in prostitution.

The bill also enlarges the category of sex offenders who must register for life. Under present law, only repeat sex offenders must register for life while other sex offenders register for 15 years. This bill requires life registration for first-time offenders convicted of the most serious sex offenses, the unclassified felonies of sexual assault in the first degree and sexual abuse of a minor in the first degree. The state must verify the addresses of life registrants every 90 days.

The Honorable Mike Miller
March 10, 1997
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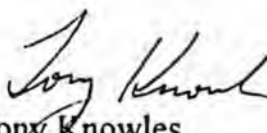
By requiring those most serious first-time offenders to register for life, the state is expecting to avoid the costly and time-consuming procedure recommended by the Wetterling Act. That is to require a sentencing court, with the advice of a statewide board of experts in the treatment and behavior of sex offenders, to determine whether each sex offender is a sexually violent predator. The expense of establishing such a board of experts and the costs of open-ended litigation concerning whether a sex offender continues to be a predator would be very high. Registration for life and address verification is not only less expensive, but will better protect the public.

Separate from the Wetterling Act requirements, the bill also changes when the time begins on the 15-year requirement for sex offender registration. Currently the clock starts at the time of unconditional discharge, which is an elusive date determined by a complex formula based on Department of Corrections information which is not available in the record system of the Department of Public Safety. The bill would start the clock at the time the offender registers, which will actually create an incentive for the offender to register as quickly as possible. It is a misdemeanor to fail to comply with the sex offender registration law; thus it is important the period of registration be absolutely clear.

Finally, the bill expands public access to information on all convictions by opening state criminal history records beyond the current 10-year limit. Broader information to the public will enable people to better protect themselves and their families.

This bill is one more step the state can take to keep our communities safe. I urge your favorable action.

Sincerely,


Tony Knowles
Governor

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/12/97

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 3/20/97
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/16/97

HESS Committee considered

SENATE BILL NO. 132

"An Act relating to registration of sex offenders and central registry of sex offenders relating to access to, release of, and use of criminal justice information and systems; relating to notices concerning sex offender registrants; and providing for an effective date."

and recommends:

- PRM's*
- be replaced with _____ CS _____
- 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 title
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Public Safety	3/10/97		9.5
Public Safety	2/5/97		15.0
Admin	2/5/97		indis
Admin	2/5/97		indis

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill