

**S B**

**218**

0-LS1322\K  
Luckhaupt  
2/10/98

**CS FOR SENATE BILL NO. 218(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

Offered:  
Referred:

Sponsor(s): **SENATORS HALFORD, Green, Donley, Taylor, Leman**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the crimes of murder, manslaughter, and criminally negligent  
2 homicide and to homicides of children."

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

4 \* Section 1. AS 11.41.100(a) is amended to read:

5 (a) A person commits the crime of murder in the first degree if  
6 (1) with intent to cause the death of another person, the person  
7 (A) causes the death of any person; or  
8 (B) compels or induces any person to commit suicide through  
9 duress or deception; [OR]

10 (2) the person knowingly engages in conduct directed toward [,  
11 UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE  
12 VALUE OF HUMAN LIFE, IN A PATTERN OR PRACTICE OF ASSAULT OR  
13 TORTURE OF] a child under the age of 16 and the person with criminal negligence  
14 [, AND ONE OF THE ACTS OF ASSAULT OR TORTURE RESULTS IN THE

1 DEATH OF THE CHILD; FOR PURPOSES OF THIS PARAGRAPH, A PERSON  
2 "ENGAGES IN A PATTERN OR PRACTICE OF ASSAULT OR TORTURE" IF  
3 THE PERSON] inflicts serious physical injury on the [A] child by at least two  
4 separate acts, and one of the acts results in the death of the child; or

5 (3) acting alone or with one or more persons, the person commits  
6 or attempts to commit a sexual offense or kidnapping against a child under 16  
7 years of age and, in the course of or in furtherance of the offense or in immediate  
8 flight from that offense, any person causes the death of the child; in this  
9 paragraph, "sexual offense" means an offense defined in AS 11.41.410 - 11.41.470.

10 \* Sec. 2. AS 11.41.110(a) is amended to read:

11 (a) A person commits the crime of murder in the second degree if

12 (1) with intent to cause serious physical injury to another person or  
13 knowing that the conduct is substantially certain to cause death or serious physical  
14 injury to another person, the person causes the death of any person;

15 (2) the person knowingly engages in conduct that results in the death  
16 of another person under circumstances manifesting an extreme indifference to the value  
17 of human life;

18 (3) under circumstances not amounting to murder in the first  
19 degree under AS 11.41.110(a)(3), while acting either alone or with one or more  
20 persons, the person commits or attempts to commit arson in the first degree,  
21 kidnapping, sexual assault in the first degree, sexual assault in the second degree,  
22 sexual abuse of a minor in the first degree, sexual abuse of a minor in the second  
23 degree, burglary in the first degree, escape in the first or second degree, robbery in  
24 any degree, or misconduct involving a controlled substance under AS 11.71.010(a),  
25 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) or (2) and, in the course of or  
26 in furtherance of that crime [,] or in immediate flight from that crime, any person  
27 causes the death of a person other than one of the participants; [OR]

28 (4) acting with a criminal street gang, the person commits or attempts  
29 to commit a crime that is a felony and, in the course of or in furtherance of that crime  
30 or in immediate flight from that crime, any person causes the death of a person other  
31 than one of the participants; or

1                   (5) the person with criminal negligence causes the death of a child  
2                   under the age of 16, and the person has been previously convicted of a crime  
3                   involving a child under the age of 16 that was

4                   (A) in violation of AS 11.41;

5                   (B) in violation of a law or ordinance in another jurisdiction  
6                   with elements similar to a crime under AS 11.41; or

7                   (C) an attempt, a solicitation, or a conspiracy to commit a  
8                   crime listed in (A) or (B) of this paragraph.

9 \* Sec. 3. AS 11.41.13C(b) is amended to read:

10                   (b) Criminally negligent homicide is a class B [C] felony.

11 \* Sec. 4. AS 12.55.125(b) is amended to read:

12                   (b) A defendant convicted of murder in the second degree, attempted murder  
13                   in the first degree, conspiracy to commit murder in the first degree, kidnapping, or  
14                   misconduct involving a controlled substance in the first degree shall be sentenced to  
15                   a definite term of imprisonment of at least five years but not more than 99 years. A  
16                   defendant convicted of murder in the second degree shall be sentenced to a  
17                   definite term of imprisonment of at least 20 years but not more than 99 years  
18                   when the defendant is convicted of the murder of a child under 16 years of age  
19                   and the court finds by clear and convincing evidence that the defendant (1) was  
20                   a legal guardian or a person occupying a position of authority in relation to the  
21                   child; or (2) caused the death of the child by committing a crime against a person  
22                   under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and  
23                   "position of authority" have the meanings given in AS 11.41.470.

24 \* Sec. 5. AS 12.55.125(c) is amended to read:

25                   (c) A defendant convicted of a class A felony may be sentenced to a definite  
26                   term of imprisonment of not more than 20 years, and shall be sentenced to the  
27                   following presumptive terms, subject to adjustment as provided in AS 12.55.155 -  
28                   12.55.175:

29                   (1) if the offense is a first felony conviction and does not involve  
30                   circumstances described in (2) of this subsection, five years;

31                   (2) if the offense is a first felony conviction

1           (A) [,] other than for manslaughter [,] and the defendant  
2           possessed a firearm, used a dangerous instrument, or caused serious physical  
3           injury during the commission of the offense, or knowingly directed the conduct  
4           constituting the offense at a uniformed or otherwise clearly identified peace  
5           officer, fire fighter, correctional employee, emergency medical technician,  
6           paramedic, ambulance attendant, or other emergency responder who was  
7           engaged in the performance of official duties at the time of the offense, seven  
8           years;

9                        (B) for manslaughter and the victim is a child under the age  
10           of 16, seven years;

11                       (3) if the offense is a second felony conviction, 10 years;

12                       (4) if the offense is a third felony conviction and the defendant is not  
13           subject to sentencing under (l) of this section, 15 years.

14   \* Sec. 6. AS 12.55.125(k) is amended to read:

15                       (k) A first felony offender convicted of an offense for which a presumptive  
16           term of imprisonment is not specified under this section

17                       (1) may be sentenced to a term of unsuspended imprisonment that  
18           exceeds the presumptive term for a second or third felony offender convicted of  
19           the same crime if the offender is convicted of criminally negligent homicide and  
20           the victim is a child under the age of 16;

21                       (2) except as provided in (1) of this subsection, may not be sentenced  
22           to a term of unsuspended imprisonment that exceeds the presumptive term for a second  
23           felony offender convicted of the same crime unless the court finds by clear and  
24           convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or  
25           that circumstances exist that would warrant a referral to the three-judge panel under  
26           AS 12.55.165.

27   \* Sec. 7. This Act applies to offenses committed on or after the effective date of this Act.  
28   However, previous convictions refer to convictions occurring before, on, or after the effective  
29   date of this Act.

FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB 218

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

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ( )	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

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

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

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

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

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

*Alison H. Elgee*  
Date: 2/3/98

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# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB 218

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

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

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

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

**FUND SOURCE** (Thousands of Dollars)

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner *Bruce M. Botelho* Bruce M. Botelho, Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date 2/2/98  
 Date 2/2/98

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# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB 218 | \_\_\_\_\_

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

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

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

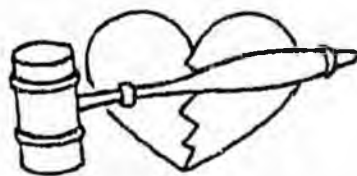
No Fiscal Impact

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date 2/4/98  
 Approved by Commissioner Margaret M. Pugh Date 2/4/98  
 Agency Department of Corrections

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**VICTIMS**



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

February 4, 1998

Senator Rick Halford  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Halford:

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

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

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

Sincerely,

*Janice Lienhart*  
Janice Lienhart  
Executive Director

*Cathy Satterfield*  
Cathy Satterfield  
Administrative Director

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

Senator Rick Halford  
State Capitol  
Juneau, AK 99801-1182

RE: SB218

Dear Senator Halford:

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

Sincerely,

Jan MacClarence  
Executive Director

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



Official Business

# Alaska State Legislature

## Senate

**RICK  
HALFORD**

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

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

600 E. Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 376-4958

### SPONSOR STATEMENT

#### SB 218

#### "An Act relating to the crime of murder and to murder of children"

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

SB 218 expands the range of conduct proscribed by this particular form of first degree murder of children. It also amends current law by adding a new form of first degree murder when the death of a child results from the commission or attempted commission of kidnapping, or of a sexual offense. Additionally, SB 218 expands the list of offenses constituting felony murder to include sexual abuse of minors in the first and second degrees. This legislation also amends current statutes by requiring a 20 year mandatory minimum sentence for a person convicted of a murder of a child under the age of sixteen.

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

# LEGAL SERVICES

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

(907) 465-3367 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


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

## MEMORANDUM

January 12, 1998

**SUBJECT:** Sectional Summary of SB 218. (Work Order No. 20-LS1322/B)

**TO:** Senator Rick Halford  
Attn: Brett Huber

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

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

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

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

Section 3 of the bill amends AS 12.55.125(b) by requiring a 20 year mandatory minimum sentence for a person convicted of murder in the second degree of a child under the age of 16 and the court finds by clear and convincing evidence that the person caused the death of the child by the neglect of a duty of care the person owed the child or by an assault the person committed against the child.

Section 4 of the bill provides that the bill only applies to offenses committed after the effective date of the bill.

GPL:pl:glc  
98-003.plm

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

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/11/98

FURTHER: Finance

Date of 5-Day Notice: 1/29/98  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 2-11-98

Judiciary Committee considered

SENATE BILL NO. 218

"An Act relating to the crime of murder and to murder of children."

and recommends:

- be replaced with CS FOR SB 218 ( JUD )
- 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>Mate Miller</i>	<input checked="" type="checkbox"/>				
<i>Tracy K. Rouse</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Adrian I. Taylor</i>	<input checked="" type="checkbox"/>	CHAIR:			

**NEW FISCAL NOTE(S):**

Department                      Date              Zero              Fiscal

<i>#1</i>	<i>DOA</i>	<i>2/3/98</i>		<i>***</i>
<i>#2</i>	<i>DOC</i>	<i>2/4/98</i>	<i>0</i>	
<i>#3</i>	<i>DOLaw</i>	<i>2/3/98</i>	<i>0</i>	

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date              Zero              Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

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

Revision Date: \_\_\_\_\_  
Title: "An Act relating to the crime of murder of children..."

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

Sponsor: Senator Halford  
Requestor: (S) JUD

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

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

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

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

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

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 2/3/98

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# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

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

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

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

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No Fiscal Impact

Prepared by Bruce Richards Phone 465-3307  
Division Commissioner's Office Date 2/4/98  
Approved by Commissioner Margaret M. Pugh Date 2/4/98  
Agency Department of Corrections

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# FISCAL NOTE

No. 3

Bill Version: CSB 218 (JUD)

(S) Publish Date: 2-12-98

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>An Act relating to the crime of murder and to</u>	BRU <u>Criminal Division</u>
<u>murder of children.</u>	Component <u>1st-4th Jud Dist; OSPA</u>
Sponsor <u>Senator Halford</u>	
Requester <u>Senate Judiciary Committee</u>	Component Serial No. <u>2198-99/2261779/01/03</u>

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

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

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

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

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

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CS FOR SENATE BILL NO. 218(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS HALFORD, Green, Donley, Taylor, Leman

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the crimes of murder, manslaughter, and criminally negligent  
2 homicide and to homicides of children."

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

4 \* Section 1. AS 11.41.100(a) is amended to read:

5 (a) A person commits the crime of murder in the first degree if  
6 (1) with intent to cause the death of another person, the person  
7 (A) causes the death of any person; or  
8 (B) compels or induces any person to commit suicide through  
9 duress or deception; [OR]

10 (2) the person knowingly engages in conduct directed toward [,  
11 UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE  
12 VALUE OF HUMAN LIFE, IN A PATTERN OR PRACTICE OF ASSAULT OR  
13 TORTURE OF] a child under the age of 16 and the person with criminal negligence  
14 [, AND ONE OF THE ACTS OF ASSAULT OR TORTURE RESULTS IN THE

1 DEATH OF THE CHILD; FOR PURPOSES OF THIS PARAGRAPH, A PERSON  
 2 "ENGAGES IN A PATTERN OR PRACTICE OF ASSAULT OR TORTURE" IF  
 3 THE PERSON] inflicts serious physical injury on the [A] child by at least two  
 4 separate acts, and one of the acts results in the death of the child; or

5 (3) acting alone or with one or more persons, the person commits  
 6 or attempts to commit a sexual offense or kidnapping against a child under 16  
 7 years of age and, in the course of or in furtherance of the offense or in immediate  
 8 flight from that offense, any person causes the death of the child; in this  
 9 paragraph, "sexual offense" means an offense defined in AS 11.41.410 - 11.41.470.

10 \* Sec. 2. AS 11.41.110(a) is amended to read:

11 (a) A person commits the crime of murder in the second degree if

12 (1) with intent to cause serious physical injury to another person or  
 13 knowing that the conduct is substantially certain to cause death or serious physical  
 14 injury to another person, the person causes the death of any person;

15 (2) the person knowingly engages in conduct that results in the death  
 16 of another person under circumstances manifesting an extreme indifference to the value  
 17 of human life;

18 (3) under circumstances not amounting to murder in the first  
 19 degree under AS 11.41.110(a)(3), while acting either alone or with one or more  
 20 persons, the person commits or attempts to commit arson in the first degree,  
 21 kidnapping, sexual assault in the first degree, sexual assault in the second degree,  
 22 sexual abuse of a minor in the first degree, sexual abuse of a minor in the second  
 23 degree, burglary in the first degree, escape in the first or second degree, robbery in  
 24 any degree, or misconduct involving a controlled substance under AS 11.71.010(a),  
 25 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) or (2) and, in the course of or  
 26 in furtherance of that crime [,] or in immediate flight from that crime, any person  
 27 causes the death of a person other than one of the participants; [OR]

28 (4) acting with a criminal street gang, the person commits or attempts  
 29 to commit a crime that is a felony and, in the course of or in furtherance of that crime  
 30 or in immediate flight from that crime, any person causes the death of a person other  
 31 than one of the participants; or

1                   (5) the person with criminal negligence causes the death of a child  
 2                   under the age of 16, and the person has been previously convicted of a crime  
 3                   involving a child under the age of 16 that was

4                               (A) in violation of AS 11.41;

5                               (B) in violation of a law or ordinance in another jurisdiction  
 6                   with elements similar to a crime under AS 11.41; or

7                               (C) an attempt, a solicitation, or a conspiracy to commit a  
 8                   crime listed in (A) or (B) of this paragraph.

9 \* Sec. 3. AS 11.41.130(b) is amended to read:

10                   (b) Criminally negligent homicide is a class B [C] felony.

11 \* Sec. 4. AS 12.55.125(b) is amended to read:

12                   (b) A defendant convicted of murder in the second degree, attempted murder  
 13                   in the first degree, conspiracy to commit murder in the first degree, kidnapping, or  
 14                   misconduct involving a controlled substance in the first degree shall be sentenced to  
 15                   a definite term of imprisonment of at least five years but not more than 99 years. A  
 16                   defendant convicted of murder in the second degree shall be sentenced to a  
 17                   definite term of imprisonment of at least 20 years but not more than 99 years  
 18                   when the defendant is convicted of the murder of a child under 16 years of age  
 19                   and the court finds by clear and convincing evidence that the defendant (1) was  
 20                   a legal guardian or a person occupying a position of authority in relation to the  
 21                   child; or (2) caused the death of the child by committing a crime against a person  
 22                   under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and  
 23                   "position of authority" have the meanings given in AS 11.41.470.

24 \* Sec. 5. AS 12.55.125(c) is amended to read:

25                   (c) A defendant convicted of a class A felony may be sentenced to a definite  
 26                   term of imprisonment of not more than 20 years, and shall be sentenced to the  
 27                   following presumptive terms, subject to adjustment as provided in AS 12.55.155 -  
 28                   12.55.175:

29                               (1) if the offense is a first felony conviction and does not involve  
 30                   circumstances described in (2) of this subsection, five years;

31                               (2) if the offense is a first felony conviction

1           (A) [,] other than for manslaughter [,] and the defendant  
 2 possessed a firearm, used a dangerous instrument, or caused serious physical  
 3 injury during the commission of the offense, or knowingly directed the conduct  
 4 constituting the offense at a uniformed or otherwise clearly identified peace  
 5 officer, fire fighter, correctional employee, emergency medical technician,  
 6 paramedic, ambulance attendant, or other emergency responder who was  
 7 engaged in the performance of official duties at the time of the offense, seven  
 8 years;

9           (B) for manslaughter and the victim is a child under the age  
 10 of 16. seven years;

11           (3) if the offense is a second felony conviction, 10 years;

12           (4) if the offense is a third felony conviction and the defendant is not  
 13 subject to sentencing under (l) of this section, 15 years.

14 \* Sec. 6. AS 12.55.125(k) is amended to read:

15           (k) A first felony offender convicted of an offense for which a presumptive  
 16 term of imprisonment is not specified under this section

17           (1) may be sentenced to a term of unsuspended imprisonment that  
 18 exceeds the presumptive term for a second or third felony offender convicted of  
 19 the same crime if the offender is convicted of criminally negligent homicide and  
 20 the victim is a child under the age of 16;

21           (2) except as provided in (1) of this subsection, may not be sentenced  
 22 to a term of unsuspended imprisonment that exceeds the presumptive term for a second  
 23 felony offender convicted of the same crime unless the court finds by clear and  
 24 convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or  
 25 that circumstances exist that would warrant a referral to the three-judge panel under  
 26 AS 12.55.165.

27 \* Sec. 7. This Act applies to offenses committed on or after the effective date of this Act.  
 28 However, previous convictions refer to convictions occurring before, on, or after the effective  
 29 date of this Act.

# FISCAL NOTE

No. 3

Bill Version: CSB 218 (JUD)

(S) Publish Date: 2-12-98

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

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

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

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

CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

**FUND SOURCE (Thousands of Dollars)**

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by Joan M. Kasson  
 Division Attorney General's Office  
 Approved by Commissioner Bruce M. Botelho, Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date 2/2/98  
 Date 2/2/98

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# FISCAL NOTI

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

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

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

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

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

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

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

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

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

ANALYSIS: (Attach a separate page if necessary)

No Fiscal Impact

Prepared by <u>Bruce Richards</u>	Phone <u>465-3307</u>
Division <u>Commissioner's Office</u>	Date <u>2/4/98</u>
Approved by <u>Commissioner Margaret M. Pugh</u> <i>Margaret M. Pugh</i>	Date <u>2/4/98</u>
Agency <u>Department of Corrections</u>	

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FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

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

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

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

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

*002 Federal Receipts	**	**	**	**	**	**
103 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

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

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

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

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

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 2/3/98

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