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CSHB 122(JUD)

- ▶ **Further reduces frivolous, repetitive litigation by prisoners and closes loopholes created by the courts**
- ▶ **Promotes finality of judgments of conviction, so important to victims and the public, while preserving the rights of defendants to appeal**
- ▶ **Makes it a crime for a prisoner to refuse to give a sample for the DNA bank created in 1995, which is important in solving many cases of sexual assault and homicide**
- ▶ **No fiscal impact (four zero fiscal notes)**
- ▶ **Passed 40 - 0 in House**

CS for HOUSE BILL 122 (JUD)

Sectional Analysis

CSHB 122 was submitted to make additions and improvements to the comprehensive legislation adopted in 1995 to reduce the volume of frivolous litigation filed by prisoners against the state. That enactment has been very successful in reducing unnecessary lawsuits, while at the same time allowing prisoners to raise legitimate issues and enabling state attorneys to focus attention on those issues.

The 1995 legislation requires a prisoner to pay a filing fee to the court for pursuing a lawsuit, as other litigants are required to do, or to request an exemption from the fee based on need. The law currently requires a prisoner to supply certain information in support of a request for an exemption. **Section 1** of the bill adds the requirement that the prisoner include information about money held in bank accounts outside the prison in the request for a filing fee exemption.

Section 2 makes a technical correction to the statutes and repairs an omission in the 1995 legislation. Current law provides that the automatic disclosure requirements of Civil Rule 16.1 do not apply to prisoner litigation; however, that rule has been deleted from the Civil Rules. The bill amends the law to reflect the deletion. Additionally, the bill provides that the automatic disclosure requirements of Civil Rule 26 do not apply to prisoner litigation. The rationale for automatic disclosure - reducing the cost and duration of litigation by cooperative discovery - does not readily apply in most cases filed by prisoners.

Section 3 expands the definition of "litigation against the state" to include all proceedings in the appellate courts. This clarifies that the laws regulating prisoner litigation apply to all litigation, not only to cases filed in the trial courts.

Sections 4 - 7 and 11 also concern a law enacted in 1995. The legislature enacted a provision that expands the use of DNA profile evidence in criminal prosecutions. In addition, the law requires the Department of Public Safety to establish a DNA identification system to help in the investigation of crimes in Alaska. It requires the department to obtain blood samples, oral samples, or both, from adults convicted of a crime against the person (except custodial interference) and arson, and minors 16 years of age or older adjudicated delinquents based on

similar conduct. Unfortunately, enforcement of the sample requirement is inadequate if a person refuses to cooperate. The bill provides several enforcement options, including making it a class A misdemeanor if a person is required to provide a sample and refuses a lawful request from a health care provider.

Section 8 clarifies that the Parole Board may revoke mandatory parole before the actual release of a prisoner if the prisoner has violated a court order to participate in the treatment plan of a rehabilitation program.

Section 9 is a technical amendment to the parole statutes.

Section 10 limits the time an appellate court may allow extensions of time to file an appeal or request for review of a criminal conviction or sentence to 60 days after the last deadline for filing the appeal or request. This does not limit requests for an extension of time filed before a deadline; rather, it disallows requests filed two months after a deadline has passed, when no request for an extension has been filed.

Section 12 limits the time a court may relax the deadline for filing a motion to reduce or modify a sentence under Criminal Rule 35(b) in the trial court to 10 days beyond the 180 days in which a defendant may file the motion under the terms of the rule. Criminal Rule 35(b) motions allow a court to reconsider a sentence in the six months following imposition. It is not intended to allow a court to change a sentence after that period. The Parole Board is in a better position to make decisions about the release of a person at this time.