

**HB**

**16**

# Alaska State Legislature

REPRESENTATIVE  
PETER KELLY

Mailing Address:  
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Fairbanks, Alaska 99701  
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White in Juneau  
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House District 31

## House Of Representatives

### Sponsor Statement

#### House Bill 16

House Bill 16 is a product of the Governor's Conference on Juvenile Justice, offering several solutions to the problems facing Alaska's juvenile justice system.

The juvenile justice system operates on the presumption that minors make mistakes, sometimes serious ones, but that they deserve additional attention and care because they have a greater possibility of rehabilitation. Increasingly serious juvenile crime and increasingly frequent rates of crime have placed the juvenile justice system under great stress. HB 16 does not pretend to solve all of these problems, but it does provide the juvenile justice system with additional tools to address some of these needs:

- 1) Provides for dual sentencing of serious juvenile offenders;
- 2) Allows municipalities to seek civil court remedy for juveniles who violate municipal ordinances;
- 3) Allows the Department of Health and Social Services to draw upon the available resources of local communities or other entities who desire to get involved in juvenile crime issues; and
- 4) Reduces the burden on victims, by allowing police officers to report their input at preliminary hearings.

HB 16 also provides additional insight into the workings of our juvenile justice system. I have added portions of the existing Alaska Court Delinquency Rules to the statutes in an effort to give police, DFYS and the Courts a single set of instructions to follow when dealing with juveniles.

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House District 31

## House Of Representatives

March 30, 1998

Talking Points

HB 16.

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### New tools for the Juvenile Justice System:

- 1) Dual sentencing of serious offenders.  
Sections 5, 10, 12, 13, 15, 16, 17, 18, 19, 20, 21, 25, 26, 27, 28, 29, 39, 40, 41, & 43.
- 2) Amends the Juvenile Waiver statute to provide that minors who commit murder or other serious class "A" felonies are treated like adults.  
Sections
- 3) Authorizing municipalities to take minors before civil court.  
Sections 1, 2, 3 & 4.
- 4) Involving communities in the informal adjudication process.  
Sections 8, 9 & 43.
- 5) Allow police officers to testify at the preliminary detention hearing and to report matters observed by victims or witnesses. This prevents the victims from having to report to the court many times before the trial.  
Sections 19, 32 & 51.
- 6) Community service.  
Section 22.
- 7) Communication between federal and state officials.  
Section 39.
- 8) Providing semi-secure and secure residential treatment for minors with mental health problems who now end up in our juvenile detention centers.  
Sections 7, 8, 9, 10, 11, 12, 13, 14, 33, 44, 46, 47, 48, 49 & 50.

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House District 31

## House Of Representatives

Sectional

House Bill 16

4/29/98, HB 16U

**Section 1 & 2.** Technical reference.

**Section 3.** Requires a municipality to provide notification to the Department of Health and Social Services when the Municipality commences a civil action against a minor. This keeps the records of HSS intact.

**Section 4.** Authorizes Municipalities to take a **minor to civil court** for violations of municipal ordinances.

**Section 5.** Collateral references to the dual sentence provided in section 12.

**Section 6.** Encourages the Department of Law to extend its victim witness assistance program to the juvenile justice system. This is in response to Fairbanks constituents who discovered that, although their homes had been broken into, they were faced great difficulty gaining access to police reports and the court process.

**Sections 7, 8, 9, 10, 11, 12, 13, & 14.** Creates "secure residential psychiatric treatment" for troubled youth. Many youth with mental health and substance abuse problems now end up in with serious offenders in Youth Facilities for delinquents. To achieve treatment for less severe mental health problems, and substance abuse a less restrictive, but secure facility is appropriate. These new residential facilities will complete the spectrum of treatment, providing a less expensive alternative to Youth Facilities and the Alaska Psychiatric Institute.

The deletions of [NONPROFIT] from the code will allow private hospitals, including Charter North, possibly Brightway, to provide services funded by private insurance. See also Sections 33, 44, 46, 47, 48, 49, & 50.

**Section 15.** An expansion of the goals and purposes of the delinquency chapter. Incorporates elements of the "restorative justice model" into Alaska's goals for juveniles.

**Section 16.** Amends the code that provides for the waiver of juveniles to adult court. Fixes the "taxi cab killer" case in Anchorage, where 16 and 17 year olds were not treated like adults under a court ruling that found "arraignment" to mean grand jury indictment. This amendment corrects this issue by correcting the word usage to "charged by complaint, information, of indictment."

**Section 17 & 18.** Allow the department to bring communities i.e. "entities" into the juvenile justice system.

**Section 19.** Dual sentencing.

(a) The department shall refer a case to the District attorney if the minor was:

- (1) at least 13, but not yet 16, and the offense is
  - (A) an unclassified or class A felony, and the minor would have been waived into adult court if 16 years of age; or
  - (B) sexual assault in the second degree; or
- (2) 16 years of age or older, and the offense was
  - (A) a felony crime against a person and the minor has been previously adjudicated a delinquent for a felony offense.
  - (B) sexual abuse of a minor in the second degree.

(b) The **District Attorney** is authorized to take a case before a **grand jury for indictment**, and then may seek imposition of a dual sentence.

**Section 20.** Clarifies that the minor has the right to **confront adverse witnesses** at the full petition hearing. See also section 24.

**Section 21.** Technical reference.

**Section 22.** **Opens the court proceedings to the public**, when the District Attorney seeks the imposition of a **dual sentence**.

**Section 23.** (Page 13) **Expands the court's ability to assign community service.**

**Section 24.** Deletes the 90 day court review required for CINA, but not needed for Delinquency proceedings.

**Section 25.**

New part (i) from delinquency court rule 11(a).

New part (J), **dual sentencing**. If the district attorney seeks imposition of a dual sentence, and the court finds the minor to be delinquent, then the court shall (1) enter a juvenile sentence under AS 47.12.120(b); and (2) pronounce an adult sentence that must include some period of imprisonment that is not suspended by the court.

**Section 26.** Technical reference.

**Section 27.** The department may petition for imposition of the adult portion of the dual sentence if:

- (1) the minor commits a subsequent felony offense;
  - (2) commits a subsequent offense against a person that is a misdemeanor and involves injury to a person or the use of a deadly weapon;
  - (3) fails to comply with the terms of a restitution order;
  - (4) fails to engage in or satisfactorily complete a rehabilitation program ordered by a court or required by a facility or juvenile probation officer; or
  - (5) escapes from a juvenile correction facility.
- (e) if the court finds, by the preponderance of the evidence that the minor has failed as listed above, then the minor is transferred to adult corrections.

**Section 28, 29.** Technical references.

**Section 30.** Allows a minor to be incarcerated in an adult correctional facility if **16 years of age or older**, and the court has imposed a dual sentence and transferred custody of the minor to the Department of Corrections.

**Section 31.** Arrest procedures from delinquency court rule 7(a) combined with existing code AS 47.12.250(a).

**Section 32.** Arrest procedure language is conformed in these two sections to completely place Court Rule 7 into statute.

**Section 33.** Deletes the requirement that the accused have the right to "confront adverse witnesses" at the initial 48 hour probable cause court hearing. (The right to "confront adverse witnesses" is a constitutional right – however it applies to the court hearing under AS 47.12.110(a) – not to the initial hearing that serves like the bail hearing in adult court.)

**Section 34.** New **secure residential psychiatric treatment centers**, same as in 47.10, see sections 7 through 14.

**Sections 35, 36, 37 & 38.** Technical references & conforming edits.

**Section 39.** New part (g). **Dual sentencing court proceedings open to the public.** This section provides the minor with the protections afforded adults by open court hearings. It prevents "star chamber" like secret hearings.

**Section 40.** (b)(1) Provides for communication between **federal** and state law enforcement agencies and the department of Health and Social Services.

**Section 41.** Technical reference.

**Section 42.** Allows the Department of Health and Social Services to discuss otherwise confidential delinquency cases with legislators. This will allow the department to respond factually to constituent concerns made by legislators, but it does not allow legislators to communicate confidential information to anyone else.

**Section 43.** Technical reference.

**Section 44.** Defines "**entity**" as used in sections 10 & 11.

**Section 45.** Links definitions of "gravely disabled," "mental health professional," "mental illness," and "secure residential psychiatric treatment center" to the same meanings used in existing mental health provisions.

**Section 46.** Rendition. Alaska is a signatory to the Interstate Compact on Juveniles, providing for extradition or juvenile offenders, this codifies these provisions.

**Sections 47, 48, 49, 50 & 51.** Adds "semi-secure residential" and "secure residential psychiatric treatment centers" to the list of options for our mental health professionals. The deletions of [NONPROFIT] allow private hospitals to provide these services, with appropriate court oversight, and to access private insurance funding.

**Section 52.** Changes delinquency court rule 10(c) to allow a police officer to present evidence at a preliminary detention hearing on behalf of witnesses and victims. This has the effect of reducing the burden now placed on victims. Allowing them to concentrate their efforts to the actual trial, not all of the preliminary hearings and motions for delay.

**Sections 53.** Repeal delinquency court rules that define executive branch actions. Rule 6 defines the juvenile intake process and rule 7 defines the arrest process. This legislation places these procedures into statute, and the court rules are duplicative.

**Section 54.** Repeal of AS 47.12.110(c), This is an old, unused portion of code. It requires school principles to give judges lists of students for selection for "young adult advisory panels." This concept has been supplanted with the youth court. Its repeal in no way impairs the youth court, which is entirely different.

AS 47.12.120(g) is also repealed. This provision was required for CINA cases, and is not needed for delinquency cases. It is a clean-up of the new delinquency code created in my HB 387.

**Sections 55 & 56.** Court rule changes resulting from the dual sentencing provisions of this bill.

**Section 57.** The dual sentencing provisions apply to crimes committed after July 1, 1998.

**Section 58.** Applicability of the rendition provision in section 45.

**Section 59.** Effective date is July 1, 1998.

Conceptual  
0-LS0121\J

Amendment

Offered in the Senate

By: Adams

To: HB 16\J

- 1 Page 25, line 8:
- 2 Delete "or"
- 3 Page 25, line 9, following "corporation"
- 4 Insert "; or
- 5 (3) two or more persons recognized by the community and operating under contract or license from the department."

## HB 16

HB 16 would implement a number of improvements to Alaska's Juvenile Delinquency statutes. Many of these proposals came out of the 1996 Governor's Conference On Youth And Justice and are supported by a broad and bi-partisan constituency including local citizen groups, victim advocates, law enforcement, juvenile corrections personnel and members of both the majority and minority parties of the Alaskan Legislature. Here are a few of the highlights of the bill.

<b>Balanced Justice</b>	<ul style="list-style-type: none"> <li>• The Goals and purposes of AS 47.12.010 establish a balance between public safety, offender accountability, victim and community restoration and offender rehabilitation</li> <li>• Swift and consistent consequences</li> <li>• Early and individualized response</li> <li>• Mandatory community work service</li> </ul>
<b>Community Involvement</b>	<ul style="list-style-type: none"> <li>• Provides opportunities for local communities and groups to play an active role in the juvenile justice process</li> <li>• Allows the Department to enter in to partnerships with local groups to process minor offenses</li> </ul>
<b>Enhanced Victim Services</b>	<ul style="list-style-type: none"> <li>• Increased victim support, greater access to juvenile information</li> <li>• Victim's insurance company would have access to juvenile information</li> <li>• Victim assistance provided by the Department of Law</li> </ul>
<b>Dual Sentencing</b>	<ul style="list-style-type: none"> <li>• A "last chance" sentencing option for certain 16 and 17 year olds who commit serious felony offenses. Allows the court to pronounce an adult sentence and a juvenile disposition giving the juvenile an opportunity for rehabilitation in the juvenile system</li> <li>• Opens "dual sentencing" hearings to the public</li> </ul>
<b>Increased Treatment Options</b>	<ul style="list-style-type: none"> <li>• Enhanced continuum of care</li> <li>• Expands semi-secure care</li> <li>• Creates new secure psychiatric residential treatment center category</li> </ul>
<b>Procedural Improvements</b>	<ul style="list-style-type: none"> <li>• Department may disclose information to state officials in a manner now allowed under the child protection law, AS 47.10</li> <li>• Extends authority to share juvenile information with Federal law enforcement agencies</li> </ul>

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (FIN)

Revision Date: 3/23/98 at 10:00 a.m.  
 Title: "An Act relating to delinquent minors..."  
 Sponsor: Representative Kelly  
 Requestor: (H) FIN

Department Aff. cted: 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	36.5	36.5	36.5	36.5	36.5	36.5
TRAVEL	1.8	1.8	1.8	1.8	1.8	1.8
CONTRACTUAL	8.5	8.5	8.5	8.5	8.5	8.5
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	6.5	.7	.7	.7	.7	.7
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>54.3</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>

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	54.3	48.5	48.5	48.5	48.5	48.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>54.3</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>

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

**POSITIONS:**

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

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

See attached.

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

Phone: \_\_\_\_\_  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 3/23/98

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 16(FIN)

1998 LEGISLATIVE SESSION

ANALYSIS: (continued)

Section 7 of this CS authorizes the court to place a child who is already in state's custody as a CINA or delinquent in a secure residential psychiatric treatment center if certain conditions are met. Those conditions are similar to the ones required to commit an adult: the child must be gravely disabled or suffering from mental illness and likely to cause serious harm to the child or another person. There has to be no less restrictive alternative available and reason to believe the child's mental condition could be improved by treatment or would deteriorate if untreated. The Department of Health and Social Services estimates 60 children a year would be petitioned into this involuntary commitment process. The amendment does not currently contain language explicitly guaranteeing the right to counsel but it is assumed it will be included as constitutionally required. It is further assumed that the Public Defender Agency would be appointed to represent these children in this process, at least in the instance where no legal conflict of interest existed. A part-time Attorney III with attendant support costs would be necessary to handle this influx of new proceedings with a FY 99 cost of \$54.3.

Note: The Public Defender Agency supports the CONCEPTUAL amendment. That is, we agree with the wisdom of having a secure psychiatric facility available for children in the State of Alaska and agree with expanding the eligible facilities. However, the amendment as drafted is woefully inadequate in terms of a fair process. It fails to provide the minimal protections built in to the current civil commitment process: explicit right to counsel; mandatory screening investigation; probable cause hearing before a judicial officer within 48 hours; mandatory evaluation by a mental health professional and a physician within 24 hours after arrival at a facility; 30-day commitment hearing held within 72 hours; written notification of rights; the right to communicate with a guardian or other adult; the right to present evidence and cross-examine witnesses; the right to be free from the effects of medication unless certain procedures are followed; and written notification of the allegations, the lack of any less restrictive alternative, the witnesses anticipated to be called and the facts and specific behavior alleged. At the 30-day hearing there are additional safeguards: the right to be present; to view and copy all petitions and reports; to have the hearing open or closed to the public as desired; to have the rules of evidence and civil procedure followed; to have an interpreter; to present evidence; to cross-examine witnesses; to remain silent; and to call experts. The state's case has to be proven by clear and convincing evidence, there is a right to appeal and if commitment is sought to extend past the 30 days, the respondent has the right to a jury trial. (AS 47.30.700-805). These safeguards must be built into this process. Additionally, the CS allows continued involuntary commitment upon a much lower standard. It is doubtful if this prolonged restraint will be found to be constitutional.

Section 18 of the CS revises the proposed dual sentencing provisions to apply only to 16 and 17 years olds accused of felony crimes against persons with previous adjudication of a felony crime against a person, or sexual abuse of a minor in the second degree. According to estimates by the Department of Health and Social Services, this could involve approximately 11 cases a year. Were these predictions to hold true, the Public Defender would not anticipate additional fiscal impact.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. CSHB 16 (FIN)**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to delinquent minors, to the taking action based on the alleged criminal misconduct of certain..."  
 Sponsor: Representative Kelly  
 Requestor: (H) FIN

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Office of Public Advocacy  
 COMPONENT SERIAL NO. 43

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	36.9	36.9	36.9	36.9	36.9	36.9
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	11.0	11.0	11.0	11.0	11.0	11.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.6					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>54.5</b>	<b>48.9</b>	<b>48.9</b>	<b>48.9</b>	<b>48.9</b>	<b>48.9</b>

<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.5	48.9	48.9	48.9	48.9	48.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>						

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

**POSITIONS:**

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

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

The new section seven of this committee substitute authorizes the court to place a child who is already in the state's custody as a child in need of aid or as a delinquent in a residential psychiatric treatment center under certain conditions. The Department of Health and Social Services estimates 60 children a year would be petitioned into this involuntary commitment process. The amendment contains no specific statutory guarantee of the right to counsel but there is little question that courts will require the state to provide counsel to these children. Further, the Public Defender Agency and the Office of Public Advocacy are the logical choices to provide such counsel.

The new section seven is curious in that it does not provide for the traditional, and seemingly essential, constitutional guarantees that are currently afforded to adult respondents in commitment proceedings. This fiscal note assumes that the current language will be amended to include those protections or that a court will, in order to hold the statute constitutional, enforce the guarantees afforded to adults.

(continued)

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

Phone: 269-3500  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
 Agency: Administration

Date: 3/23/98

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FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (FIN)

**ANALYSIS:** (continued)

The Office of Public Advocacy assumes that it will provide representation in at least half of the 60 complex proceedings now anticipated. Because of the location of current facilities, the agency further assumes that it will provide these services in Anchorage. Given the complexity of these proceedings, and the constitutional necessity of subsequent hearings, the agency anticipates it would require the part-time services of an Attorney III with attendant support costs for a total of \$81.9 in FY 99.

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (FIN)

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>. . .delinquent minors, to the taking of action based</u>	BRU: <u>Criminal Division/Civil Division</u>
<u>on the alleged criminal misconduct of certain minors . . .</u>	Component: <u>1st-4th Jud District/OSPA</u>
Sponsor: <u>Representative Kelly</u>	<u>Human Services</u> #2198/99/
Requester: <u>House Finance Committee</u>	COMPONENT SERIAL NO. <u>2251/79/01/03/08</u>

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	21.0	21.0	21.0	21.0	21.0	21.0
TRAVEL	0.1	0.1	0.1	0.1	0.1	0.1
CONTRACTUAL	3.4	3.4	3.4	3.4	3.4	3.4
SUPPLIES	0.3	0.3	0.3	0.3	0.3	0.3
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>

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	24.8	24.8	24.8	24.8	24.8	24.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>

Estimate of any current year (FY98) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill repeals and reenacts AS 47.12.010 (purposes of juvenile delinquency laws) to set out a new philosophy toward juvenile offenders, balancing the goal of reformation of a juvenile offender with protection of the public. Further, the bill authorizes local communities to handle minor juvenile offenses by allowing municipalities to assess civil penalties for juvenile offenses and by allowing the Department of Health and Social Services to delegate to community programs or review panels the authority to handle minor offenses. This bill also amends the delinquency adjudication statutes to authorize district attorneys to seek "dual sentencing" in certain serious juvenile criminal cases; i.e., the state asks the court to pronounce both a juvenile and an adult sentence for the offense, but the adult sentence would be imposed only if the minor commits a new offense or fails to abide by the ordered conditions of the juvenile sentence. Included in the bill is also a provision to enact the rendition amendment to the Interstate Compact on Juveniles that allows one state to take into custody and return to another state a juvenile who is alleged to have violated a criminal law in the second state but who has not been adjudicated a delinquent, and a provision to permit the Department of Health and Social Services to

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

Phone: 465-5370  
 Date: 3/18/98  
 Date: 3/18/98

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ANALYSIS CONTINUATION:

provide additional information to public officials, such as legislators, who are contacted by parents with concerns about children's proceedings. Without this amendment, the state is unable to explain to these officials why the action it has taken was necessary.

Passage of this legislation will have no fiscal impact on the Criminal Division. The House Finance Committee Substitute eliminates 13 -15 year olds from the dual sentencing provisions, and makes them optional for the remaining juveniles. The department estimates that approximately 10 cases per year, statewide, may require additional criminal proceedings under the proposed dual sentencing provisions. Although this represents an increase in the Criminal Division caseload. when this increase is spread between the division's several offices, fiscal note costs are not warranted.

This bill was also amended in House Finance to authorize courts to place certain children in need of aid, as well as delinquent children, in secure residential psychiatric treatment centers. It will be necessary for the Department of Law's Civil Division, Human Services attorneys to appear at these children's initial placement hearings, as well as at hearings every 90 days for the continuation of the placement. It is expected that the initial hearings will be contested and thus last three to four hours and that the continuation hearings will require one hour of an attorney's time. Finally, it is assumed that on average one continuation hearing will be necessary in each case.

The department anticipates there will be 60 children annually for whom secure treatment is sought through an initial hearing, requiring a total of 240 attorney hours (60 cases x 4 hours), and in 90 percent of the cases (54) a disposition for secure treatment will be granted. Of those 54 cases, the department assumes that half of these children will be moved to a less restrictive setting within 90 days, and half will require a hearing for placement continuation, requiring an additional 27 attorney hours (54 cases/2 x 1 hour). Using the Civil Division's FY98/99 standard attorney cost schedule of \$92.72/hour, the total cost of this provision will be \$24,756 (240 + 27 = 267 hours x \$92.72/hour).

Action by municipalities on minor juvenile offenses will have no fiscal impact on the department, either positive or negative. The types of cases that would be handled by municipal authorities under these amendments do not require the use of Department of Law staff under current law, so no savings would be achieved in the Civil Division from a reduced caseload.

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (FIN)

Revision Date (Note if correction) 3/16/98 Dept. Affected Corrections  
 Title An Act relating to delinquent minors, to the BRU Administration and Operations  
 taking of action based on the alleged criminal misconduct... Component ALL  
 Sponsor Representative Kelly  
 Requester House Finance Committee 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		109.5	219.1	327.8	401.7	365.2
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>109.5</b>	<b>219.1</b>	<b>327.8</b>	<b>401.7</b>	<b>365.2</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		109.5	219.1	327.8	401.7	365.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>109.5</b>	<b>219.1</b>	<b>327.8</b>	<b>401.7</b>	<b>365.2</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See attached analysis.

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date 3/16/98  
 Approved by Commissioner Margaret M. Pugh Margaret M. Pugh Date 3/16/98  
 Agency Department of Corrections

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FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION  
DEPARTMENT OF CORRECTIONS

BILL NO. CSHB 16 (FIN)  
PAGE 2 of 2  
DATE 3/16/98

The major impact of this bill upon the Dept. of Corrections (DOC) is Section 18 where AS 47.12 is amended by adding a new section whereby delinquent minors age 16 and 17 may have dual juvenile and adult sentencing provisions imposed on them if the crime they are charged with committing is sexual abuse of a minor in the second degree or a felony that is a crime against a person and the minor has previously been adjudicated a delinquent for another felony offense that was a crime against a person.

DOC does not anticipate an impact during the first year of this legislation. A juvenile would have to unsuccessfully go through juvenile proceedings and a number of other alternative diversions before the adult dual sentencing provision would be imposed. Based on the statewide average daily cost of \$100.07 per day, the first year financial impact on the DOC would be \$109,576 (\$109.5), with three (3) new juveniles and \$109.5 added every year thereafter until FY 03. In that year, it is anticipated that one of the three juveniles who began serving an adult sentence in FY 00 will have finished the two-year presumptive sentence for a class C felony and be released. Similarly, the next year it is anticipated that one of the three juveniles for FY 01 will complete his or her sentence and be released. (It is assumed that the other two juveniles each year are serving four-year presumptive sentences for class B felonies).

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. CSHB 16 (FIN)**

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: Delinquent Minors - Dual Sentencing BRU: Trial Courts  
 Component: \_\_\_\_\_  
 Sponsor: Rep. Kelly  
 Requestor: House Finance COMPONENT SERIAL NO. 768

**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>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

**Fund Source (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY 98) cost: \$ None

**Positions**

Full-Time						
Part-Time						
Temporary						

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

See attached analysis.

Prepared by: Drug Wooliver, Administrative Attorney Phone: 264-8265  
 Agency: Alaska Court System Date: 03/17/98  
 Approved by: Stephanie J. Cole, Administrative Director Date: 03/17/98  
 Agency: Alaska Court System

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Alaska Court System  
Fiscal Analysis  
CSHB 16(FIN)

The court system does not anticipate a fiscal impact from the passage of CSHB 16(FIN). However, should the number of minors subject to the dual sentencing provisions of the bill increase, the court system may return to the legislature for additional funding.

Additionally, CSHB 16(FIN) allows the court to authorize the Department of Health and Social Services to place certain minors in a secure residential psychiatric treatment center. The court is to review that placement every 90 days. The court system does not currently foresee significant costs associated with the 90-day reviews because, according to the department, placements in secure facilities rarely exceed 90 days. Additionally, the department has historically only placed 5 or 6 minors a year into such facilities. However, should the number of such placements increase (due to the availability of in-state facilities), or should the length of placements increase to beyond 90 days, or should extra procedural steps be required prior to placement, the court system may return to the legislature for additional funding.

Finally, this note does not estimate the additional costs that will result from allowing municipalities to bring civil actions against minors for violations of municipal ordinances. It is not known how many municipalities will choose this option or how often they will utilize it. Should there be a significant impact, however, the court system may return to the legislature for additional funding.

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (FIN)

Revision Date: 03/09/98  
 Title: relating to institutions for juveniles; cfd  
 Sponsor: Kelly  
 Requestor: House Finance

Dept. Affected: Health and Social Services  
 BRU: Medical Assistance  
 Component: Medicaid Facilities  
 COMPONENT SERIAL NO. 230  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
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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CHANGES IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY99	FY00	FY01	FY02	FY03	FY04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<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>

**POSITIONS:**

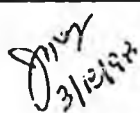
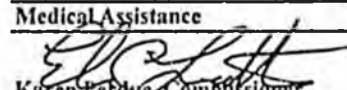
POSITIONS	FY99	FY00	FY01	FY02	FY03	FY04
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

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

There does not appear to be a substantial Medicaid program impact associated with the provisions of CSHB 16 (FIN). This is because a Residential Psychiatric Treatment Center (RPTC) may already enroll as a Medicaid provider regardless of the provisions of the bill. A limited fiscal impact may result from the bill's provisions for "semi-secure" or "secure", but such impacts could arguably increase costs related to fire code requirements for secure facilities, or arguably decrease costs due to the availability of secure RPTC as an alternative to less appropriate placements in higher cost settings.

Medicaid enrolled RPTCs are already authorized to bill under Medicaid regulations. One in-state RPTC has been paid since 1993 and several out-of-state providers have been billing Medicaid for the past two years. A new in-state RPTC (30 beds) has submitted a request for Medicaid enrollment (a 2 to 3 week process), and enrollment of another new RPTC (10 beds) is actively being pursued. Enrollment of these facilities is not dependent upon the provisions of the bill and, thus, any increased expenditures required by their enrollment is also not dependent upon


 Prepared by: Dave Williams  
 Division: Medical Assistance  
 Approved by Commissioner:   
 Agency: Department of Health & Social Services

Phone: 465-3355  
 Date: 03/16/98

Date: 3/19/98

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## ANALYSIS (cont.):

any provision in the bill. Additional Medicaid funds may be necessary to cover the cost associated with an increased availability and use of in-state secure RPTC beds, but that increased need is not directly dependent upon the provisions of this bill.

Medicaid regulations (7 AAC 43.550 through 7 AAC 43.570) set out requirements for Medicaid recipient eligibility and admission, conditions for provider payment, establishment of a per diem rate for RPTC services, appeal of the Medicaid rate, and other provisions. Not all RPTCs that could be licensed under CSHB 16 (FIN) would necessarily qualify for Medicaid reimbursement since some Medicaid provider enrollment requirements are not requirements under the bill. (For example, Medicaid regulations require that an enrolled RPTC be accredited by the Joint Commission on Accreditation of Healthcare Organizations.)

Medicaid regulations (7 AAC 43.557) establish an initial RPTC rate that is the lesser of the

- (1) per diem rate of \$255 for a single recipient; or
- (2) per diem rate negotiated between a RPTC and the Division of Family and Youth Services; or
- (3) lowest per diem rate charged to any other payor.

Regulations also provide for an increase or decrease of the \$255 per diem (7 AAC 43.557(b)), however, no enrolled program has submitted documentation under that provision for an adjustment. Presently, some out-of-state programs are paid less than the \$255 per diem, but no enrolled provider is paid more.

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### DIVISION OF FAMILY AND YOUTH SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110630

JUNEAU, ALASKA 99811-0630

PHONE: (907) 465-3170

FAX: (907) 465-3397

March 23, 1998

The Honorable Representative Pete Kelly  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801

Representative Kelly,

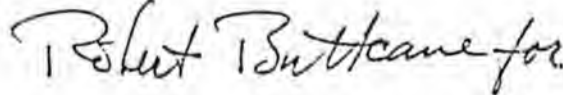
Your staff had requested additional information regarding the department's fiscal note for HB 16 related to costs for semi-secure programs. This letter is a response to that request.

The department had estimated a need for \$210.0 to establish at least one semi-secure residential care facility in each of the three DFYS regions in the state. Based on our discussions with or letters received from our current residential care providers, we estimated this was the minimum amount needed to establish these programs in our regions.

It is not possible to separate out what amount of this might be designated to increased staffing levels as opposed to facility enhancements. Individual providers indicated varying needs in this regard. Some providers would use the bulk of a grant award on facility improvements where others would focus more on increased staffing. As we discussed during our meeting on March 18, 1998, DFYS would develop a Request For Proposal for semi-secure residential services delineating the program goals and objectives while allowing the grant applicant the latitude to specify how they might use these grant funds to provide semi-secure care services.

Finally, your staff wanted to see copies of the letters we received from the providers and I have attached those for your reference. I appreciate your interest and willingness to explore the options to meet the need for semi-secure programming. Please let me know if we can be of further assistance.

Sincerely,



Theresa Tanoury  
Family Services Administrator  
DFYS

rb/TT



## Alaska Baptist Family Services

1600 O'Malley Rd. • Anchorage, Ak. 99516 • Phone (907) 349-2222

### MEMO

**TO: THERESA TANOURY**

**FROM: LEONARD R. EVERMAN**

**SUBJECT: COMMENTS ON CSH 16 DISCUSSION**

**DATE: MARCH 12, 1998**

Alaska Baptist Family Services presently is not a secure or semi-secure unit as defined in this bill. We have, from time to time, placed residents on suicide watch and tight security with one-on-one staff. These one-on-one staffings have been purchased on an as-needed-basis by DFYS or Corrections. Our staff ratio and program runs 1:6 awake staff and 1:12 during sleeping hours. During the day we often are 1:4 due to appointments.

Here are my concerns. If the secure, semi-secure program is developed will it be at the expense of existing programs as was Dot Lake. How much space would the program call for in each region. Presently, I have 16 beds and am full with a waiting list. We have turned away over thirty-five requests for beds since December 26, 1977 because we have been full. If we made two beds available of our sixteen, would we be able to maintain safety for other residents. We serve mostly pre-adolescent children averaging 9-12 years of age. Our program license is unisex out for this cottage. The present grant has twelve beds with DFYS continually purchasing at least three additional beds, regularly. I have one private interstate bed full as well.

If we took the \$70,000 being considered for this service and add some security systems, change the windows in a room with a private bath, and added staff, that would equal what we get for one and three quarters beds per year presently. Our bed rate is \$127 per day and we subsidize all beds up to thirteen. There have been no rate increases since 1991, however, cost for us has increased considerably. You can see that the gain would be slim to negligible for us or you unless we could work out something together.

I believe it is possible, since these clients would not be public enemy number one type offenders, to blend some of these children and youth in programs like ours. Our first concern would be safety for all concerned. Thanks for the opportunity to give input. I look forward to our retreat in May. I am back to work part-time since my mild heart attack --- usually during the a.m.

**BETHEL GROUP HOME, INC.**

P.O. BOX 385 • BETHEL, AK 99559 • (907) 543-2846 • FAX: (907) 543-5219

March 23, 1998

Theresa Tanoury  
Administrator  
Child Protective Services  
Division Of Family And Youth Services  
Juneau, AK

Dear Ms. Tanoury:

I am writing to request additional funding in order that we may better serve the needs of the severely emotionally disturbed children that are placed in our facility.

As you may be aware, on March 11, 1998, a child placed in our facility by your agency attempted to hang himself using a belt and the pipes used for heating our facility. Our staff intervened with barely enough time to prevent a tragedy.

We are being asked on an ever more frequent basis to accept increasingly more disturbed children into our care. While we have implemented some safeguards to assist in the prevention of these children harming themselves or others, we lack the necessary funding to provide for the level of care, supervision, etc. required by these children.

Specifically, we are in need of funds for additional night and evening staff. We currently operate with a staff to child ratio of 1:2.6 during the evening hours of 4:00pm-12:00am. From 12:00am until 7:00am, our staff to child ratio drops to 1:8. We are experiencing much difficulty managing the behaviors of some of these children with a 1:2.6 ratio. We are requesting your assistance in securing the necessary funds to drop the staff to child ratios to 1:2 and 1:4 during the evening and night.

Additionally, there are several building improvements which need to be made to our building to enhance the supervision of the children. First, we need to install a window in a staff office which will enable supervision of the hall/foyer area. Currently, this area is impossible to supervise due to the design of the building. If a window were installed in the staff office, this would enable us to provide this supervision. Second, we would like to install security cameras for the halls and common areas of the building. This would allow a single night staff person the ability to supervise these areas of the house while the second night staff person conducted room checks. Due to the "hodge-podge" construction of our building, it is impossible for two people to physically supervise the entire building without the aid of video equipment.

Thank you for your assistance in this matter. Please contact me should you have any questions or wish to discuss these matters further. Hopefully, we will be able to work

Theresa Tanoury, March 23, 1998, PAGE 2

together to resolve these security issues in order that we may continue to care for the children placed in our facility.

Respectfully,

A large, stylized handwritten signature in black ink, appearing to read 'Amy L. Smith', is written over the typed name and title.

Amy L. Smith, M.A.  
Executive Director

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### DIVISION OF FAMILY AND YOUTH SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110630

JUNEAU, ALASKA 99811-0630

PHONE: (907) 465-3170

FAX: (907) 465-2333

March 23, 1998

The Honorable Representative Pete Kelly  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801

Dear Representative Kelly,

James Dieringer, Bruce Campbell and DFYS staff met on March 18, 1998 to discuss funding options for semi-secure facilities related to HB 16. Your staff requested additional information on our corrections facility staff ratios and daily cost of care rates. This letter provides that information.

The average staff to resident ratio at our Youth Corrections facilities throughout Alaska is 1 to 8 during waking hours. This ratio is lower during the night time hours.

The daily cost of care for our facilities is estimated as follows:

Facility	Avg. Pop. First Half FY98	Capacity	%Capacity	Avg. Daily Cost of Care
McLaughlin	195	150	130%	\$155.00
Fairbanks	50	40	125%	\$263.00
Bethel	21	19	110%	\$333.00
Juneau	17	8	218%	\$323.00

We should be cautious in making comparisons between the corrections facility numbers and those related to community residential care services. Differences in facility design, the variations in resident groups and the levels of judicial or regulatory authorities over these youth populations are factors which would effect the respective staffing ratios and daily cost of care rates.

Please let us know if you we can be of further assistance.

Sincerely,



George Buhite

Youth Corrections Administrator

rb/GB