

HB

334

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

Mailing Address:
119 N. Cushman, Suite 203
Fairbanks, Alaska 99701
(907) 456-8161

Write in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-2327

House District 31

House Of Representatives

Sponsor Statement HB 334

An Act Waiving State Tuition for Sons or Daughters of a Peace Officer or Firefighter Slain in the Line of Duty.

With this bill we are adding to the fairly short list of youth for which we will waive tuition at our State University. The University plays an important role in all of our lives; it should be available for a youth whose parent made the ultimate sacrifice protecting our lives and freedoms.

Nothing can replace a husband, a wife, a father or a mother, but for those men and women who will stand in harms way for us this bill is a small token of our appreciation.

I am sure the body is aware that, in Fairbanks, we have suffered the loss of one of our police officers. Officer Lamb gave his life, shielding others who were in the line of fire. In a larger way Officer Lamb gave his life shielding all of us. His sacrifice gives all of us a glimpse across the thin line of blue that protects our civilization from the violent among us.

The Alaska Law Enforcement Officers Memorial lists 29 officers killed in the line of duty. The names of Trooper Bruce Heck and Fairbanks Police officer Kevin Lamm bring this total to 31. Only Officer Lamm's wife or 11-year-old son, and Officer Heck's 19-year-old son (now in the military), 17-year-old daughter, or 13-year-old son are in a position to consider using this benefit.

There have been six firefighters killed since before statehood. None are known to have immediate family likely to make use of this benefit.

Alaska Law Enforcement Officers Memorial



Doris Wayne Barber
Sitka Police Department, July 28, 1865

Leroy Garvin Bohuslov
Department of Fish & Game, March 5, 1964

Gary George Wohlfiel
Department of Fish and Game, March 5, 1964

Donald Thomas Dull
Juneau Police Department, October 19, 1964

Kenneth Grant Nauska
Craig Police Department, January 30, 1966

Benjamin Franklin Strong
Anchorage Police Department, January 4, 1968

Thomas Charles Dillon
Bethel Police Department, November 19, 1972

Dennis Finbar Cronin
Alaska State Troopers, February 18, 1974

Earl Ray Hoggard
Ketchikan Police Department, March 30, 1974

Larry Robert Carr
Alaska State Troopers, December 11, 1974

Frank Stuart Rodman
Alaska State Troopers, December 11, 1974

Jonathon Paul Flora
Anchorage Police Department, September 8, 1975

Richard James Adair
Juneau Police Department, April 17, 1979

Jimmy Earl Kennedy
Juneau Police Department, April 17, 1979

Harry Edward Kier
Anchorage Police Department, October 25, 1980

Roland Edgar Chevalier, Jr.
Alaska State Troopers, April 4, 1982

John David Bumeon
Fish & Wildlife Protection, January 14, 1983

Gordon Brewster Bartel
Kodiak Police Department, January 15, 1983

Troy Lynn Duncan
Alaska State Troopers, May 18, 1984

David Cameron Harris
56th MP Co. Ft. Richardson, July 23, 1984

Ignatious John Charlio
Alakanuk Police Department, May 10, 1985

Harry Biddington Hanson, Jr.
Anchorage Police Department, July 17, 1985

Ronald Eugene Zimin
VPSO S. Naknek, October 22, 1986

Louie Gordon Mizeffe
Anchorage Police Department, June 6, 1989

Anthony Crawford Jones
Dillingham Police Department, February 12, 1992

Karl William Reishua
Juneau Police Department, May 4, 1992

C.E. "Swack" Swackhammer
Department of Public Safety, October 11, 1994

Robert Lee Blitick
Alaska State Troopers, October 11, 1994

Dan Richard Seely
Anchorage Police Department, October 26, 1996

The Journal of the Alaska Peace Officers Association is dedicated to all the Peace Officers in Alaska who have been killed in the line of duty since Statehood.

The names of these fallen officers are engraved on bronze plaques on the pedestal of the statue of the Peace Officer, located in front of the Statewide Scientific Crime Detection Laboratory, 5500 Tudor Road, Anchorage. These names, and the statue commemorating their dedication to duty along with flowers, usually sent anonymously, may be viewed at any time.

The memory of their supreme sacrifice lives forever in the tradition of peace officers throughout Alaska.

Trpr. Bruce Heck

FPD John Kevin Lamm

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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



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Pres. Prince of Wales Chapter

John Lucking, Jr. Member
Unalaska
Pres. Aleutian Islands Chapter

Representative Pete Kelly
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

February 11, 1998

Dear Representative Kelly,

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing HB 334 relating to the waiver of tuition and fees for certain family members of a police officer killed in the line of duty.

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse the spirit of HB 334. We feel that this legislation will assist families of killed police officers as it relates to state-supported educational institutions.

We suggest that some of the language of this bill be expanded to other peace officers as well. In addition, we feel that the language and intent of this bill be restricted to only the current spouse of a peace officer and should also include the unborn child of a peace officer killed in the line of duty. ✓

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515. ✓

Once again, thank you for sponsoring this legislation.

Sincerely,

John Charbonneau
State President
Alaska Peace Officers Association

HB 334

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

March 2, 1998

SUBJECT: Tuition waiver (SCSCSHB 334(STA))

TO: Representative Pete Kelly
Attn: Bruce

FROM: Michael F. Ford *M.F.*
Legislative Counsel

We have discovered a technical defect in the title of SCSCSHB 334(STA). The title should contain a reference to "a member of the armed services" and at present does not. This omission was not discovered until after the bill passed the House, but as a technical defect it can be corrected in the Senate under Uniform Rule 41(b). I would suggest that the title be changed to read "An Act relating to waiver of tuition and fees for certain family members of a member of the armed services, a peace officer, or a fire fighter killed in the line of duty; and providing for an effective date."

If you have further questions please contact me.

MFF:jdr
98-126.jdr

HUGH C. "BILL" RUDOLPH



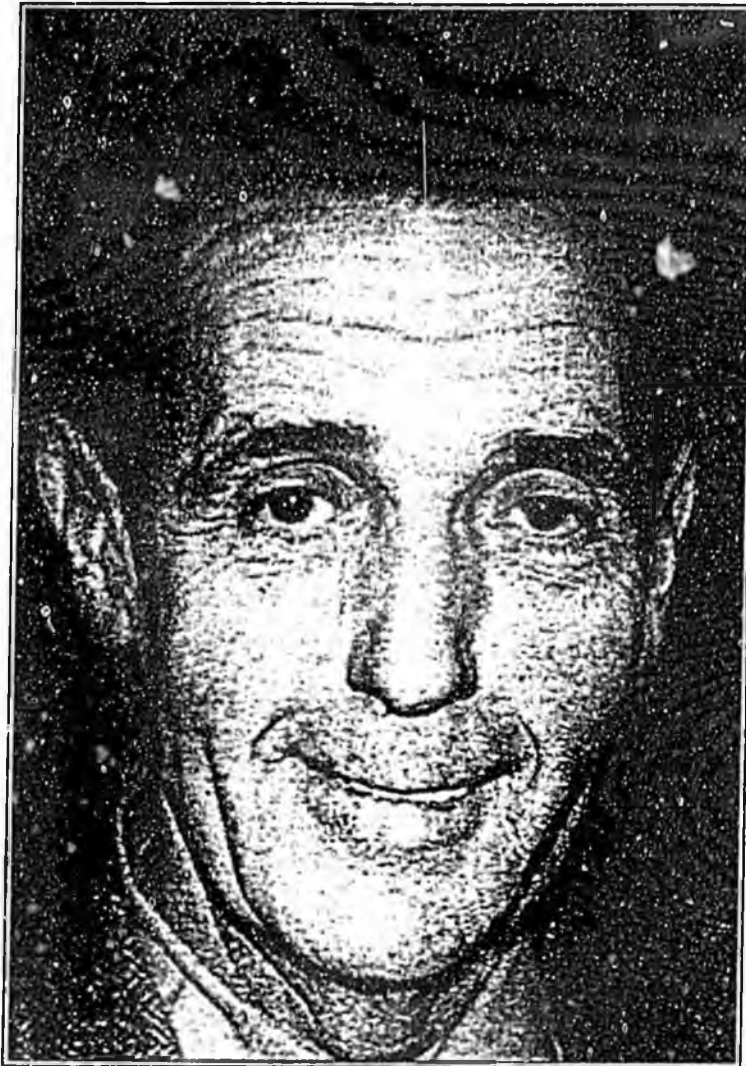
1908 - 1946

Hugh C. "Bill" Rudolph, born in Valdez, Alaska, in 1909, moved to Juneau in 1926. Rudolph was a well known and respected young business man and a member of the Juneau Volunteer Fire Department. Bill Rudolph was also a member of the Moose Lodge of Sitka and the Elks Lodge of Juneau.

On May 28, 1946, The Juneau Volunteer Fire Department responded to a fire at the Perelle Apartments. Volunteer Firefighter Bill Rudolph, while carrying a hose line up a 20-foot ladder, fell and was knocked unconscious. He was later diagnosed with a skull fracture. The twenty foot fall took the life of Firefighter Rudolph on June 4, 1946.

Bill Rudolph's survivors at the time of his death, in addition to his widow, Mungie Larsen Rudolph, were his parents, Mr. & Mrs. C. Rudolph, three sisters and three brothers.

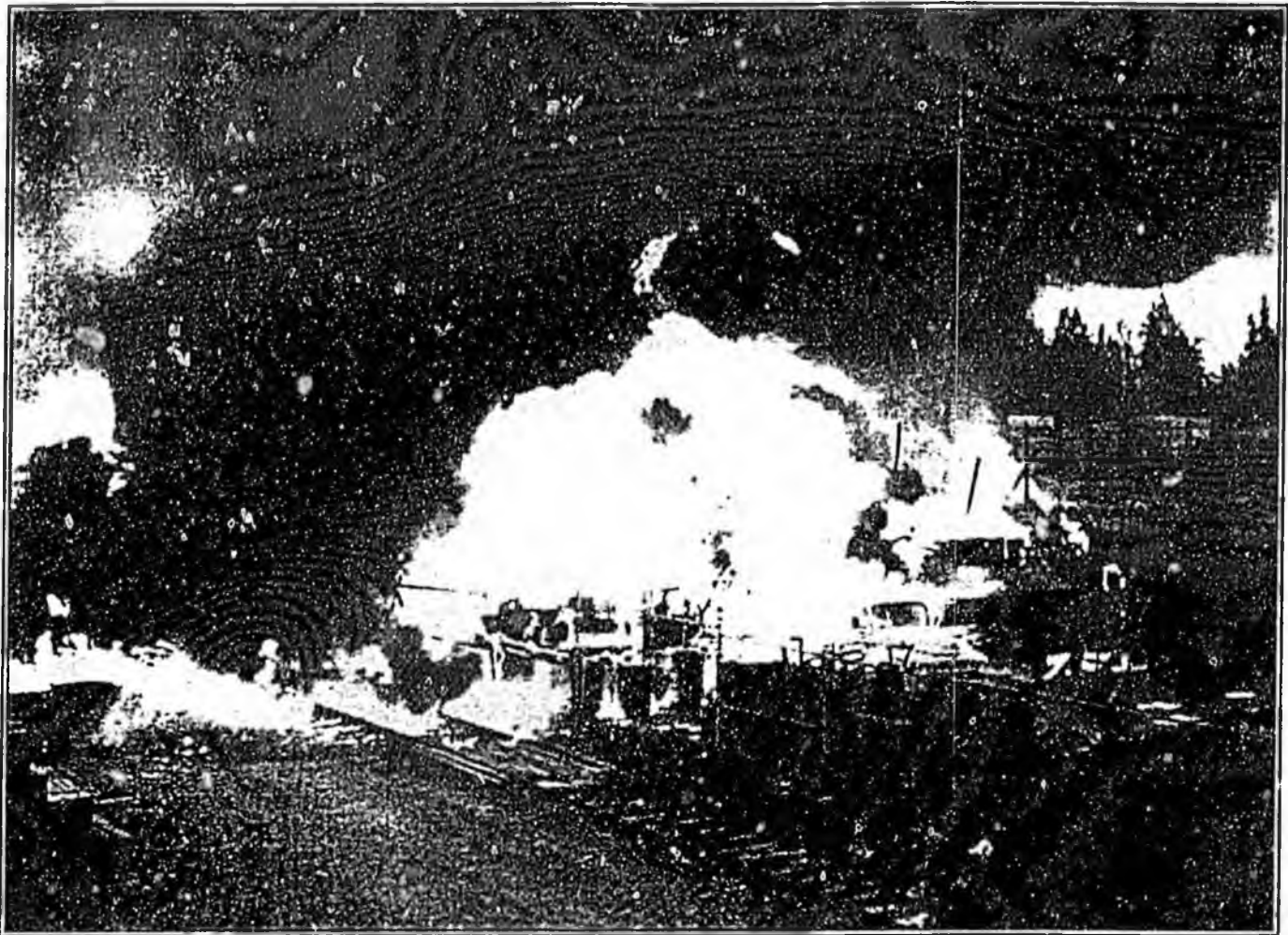
THOMAS A. DUNNIGAN



1908 - 1967

Thomas A. Dunnigan, born in 1908 in Walla Walla, Washington, moved to Anchorage in 1953. He became a volunteer firefighter with Spenard Volunteer Fire Department and was elected as Fire Chief in 1961, a position he held until 1965.

Chief Dunnigan was one of the founders and a Charter member of the Alaska State Firefighter's Association. Chief Dunnigan was also an active member of the Spenard Lions Club.



SPENARD BUILDERS SUPPLY FIRE - 1967

On May 28, 1967, a General Alarm Fire did \$500,000 damage to the Spenard Builders Supply and took the life of Retired Spenard Fire Chief Thomas Dunnigan, who was working as a volunteer firefighter. Dunnigan was killed instantly when he stepped on a downed power line at the scene of the fire. Five engine companies and an aerial unit responded from the City of Anchorage Fire Department when the 2:15 am call came in and arrived to find the structure fully involved. Tom Dunnigan was killed only 45 minutes later, just before 3:00 AM.

At the time of his death, survivors included a son Dennis Dunnigan, who was a City of Anchorage firefighter and was on duty the night his father was killed, a daughter, Mrs. Doreen Donald, three brothers, Archie, Joe and Jerry and a sister, Rose Dunnigan.

HARRY V. NEWELL



1899 - 1955

Harry V. Newell, 56 years old, Captain of the Ketchikan Fire Department, was killed on April 7, 1955 fighting a fire in the basement repair shop of the Smith Electric Company in Ketchikan.

Three other firefighters and police officers were overcome by smoke and gases, but were revived shortly after. Newell who was wearing a Scott Air Pak had been in the fire building for an estimated 20 minutes before he was rescued and brought outside. Records regarding the fire do not indicate the cause nor the damage.

Harry Newell had been a Captain in the Ketchikan Fire Department for a number of years, was a past governor for the Moose Lodge, a past ruler of the Elks Lodge, and a member of the Eagles Lodge. He was survived by a separated wife, Mary, two sons of Ketchikan, Bob and Harry F., and a daughter then of Vancouver, Washington, Mrs. John Connors. Harry had lived in Ketchikan for 32 years.

DONALD P. HYDE



_____ - 1971

Firefighter Specialist Four Donald P. Hyde, distinguished himself by an exceptionally valorous act on April 27, 1971 at Fort Wainwright, Alaska.

Firefighter Specialist Hyde was in an off-duty status in the Post Fire Station at Fort Wainwright, Alaska, when a fire call came in. Firefighter Specialist Hyde voluntarily responded to the emergency along with the on-duty firefighters.

When he arrived at the scene he was confronted by neighbors of the fire victims and the screams of, "Save my baby," by the mother of a child that was trapped inside the burning apartment.

Immediately, Firefighter Specialist Hyde, donned his protective breathing apparatus, without waiting for a hose line, dashed through the back door of the dense, smoke filled and extremely hot apartment to attempt to rescue the child.

Firefighter Specialist Hyde proceeded upstairs and was able to search the two bedrooms before the intense heat and smoke almost overpowered him. Seeking to escape, he returned to the first floor apartment. By this time his breathing apparatus had apparently malfunctioned due to the extreme heat. Firefighter Specialist Hyde was caught in an unexpected backflash and his protective clothing was ignited. He directed firefighters working at a window to his location in the inferno to spray water on him and was able to get through a broken window where he was assisted to safety.

Firefighter Specialist Hyde was taken to Bassett Army Hospital where he succumbed to his injuries a few hours later.

Firefighter Specialist Hyde demonstrated heroism far beyond the call of duty with the utmost courage and bravery in his attempt to save another's life without regard to his own.

CHARLES W. "CHUCK" WHITETHORN



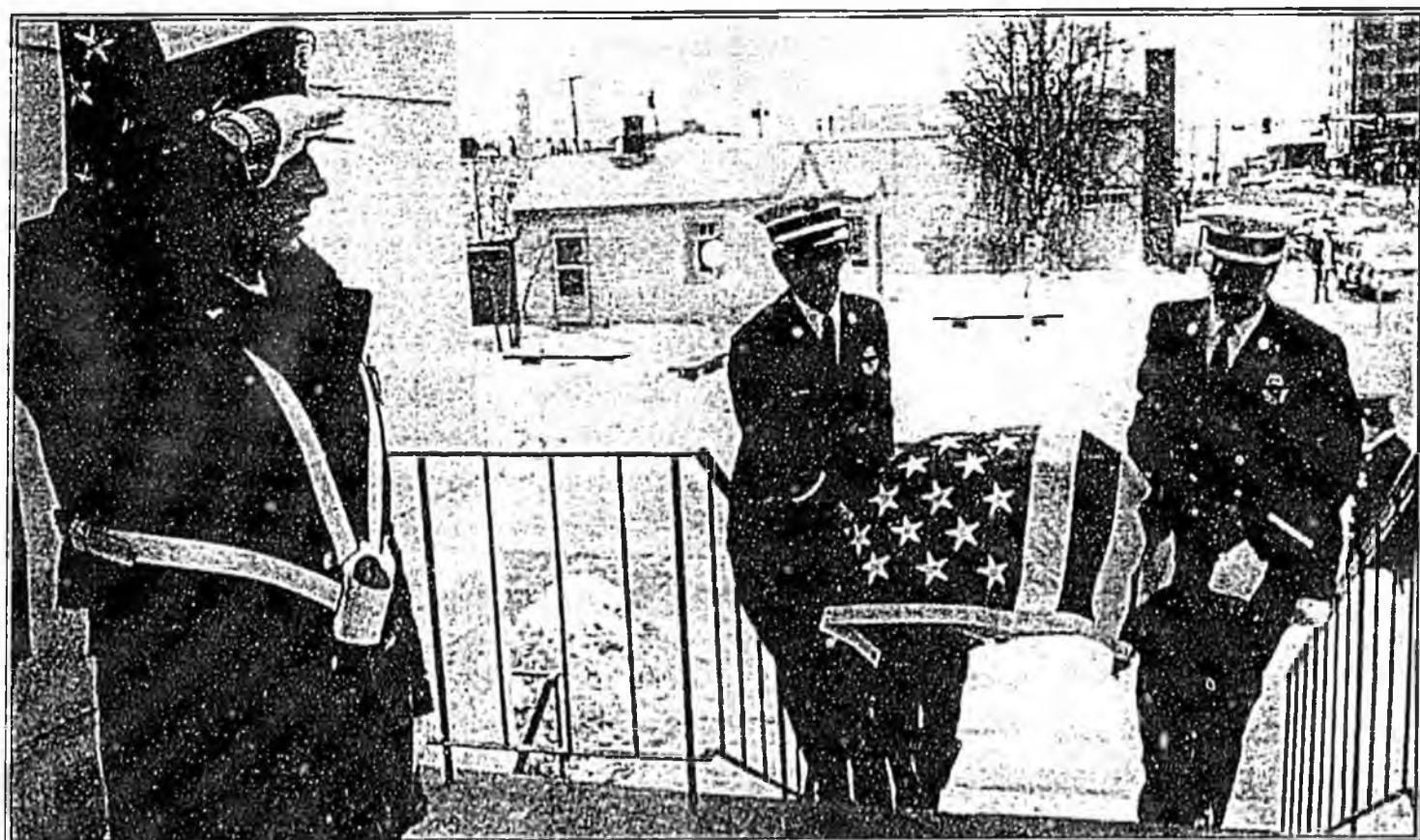
1952 - 1976

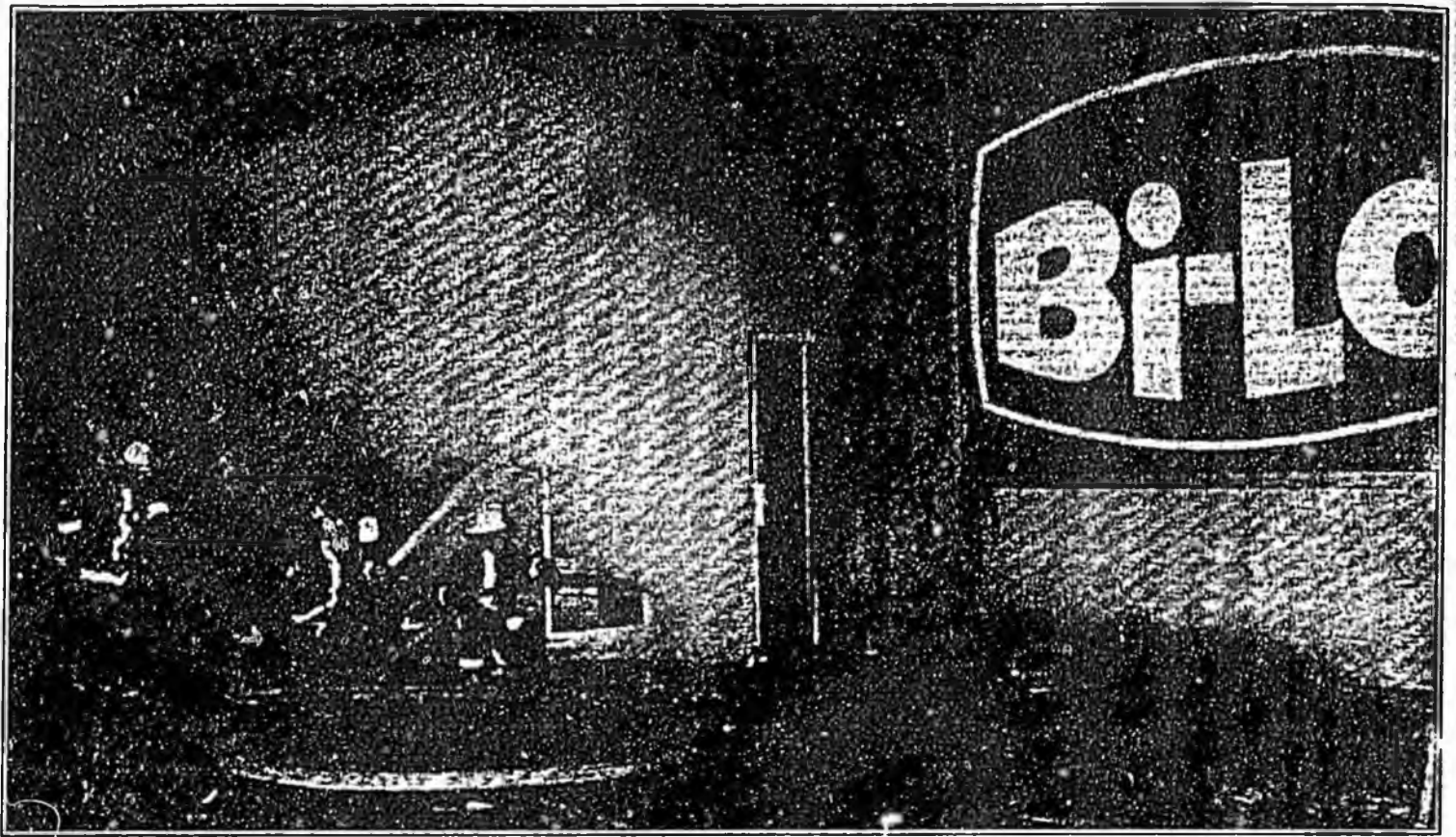
Charles W. "Chuck" Whitethorn was born in South Dakota in 1952, he moved to Anchorage in 1972 and went to work for the Greater Anchorage Area Borough Fire Department after his discharge from his firefighting position with Elmendorf Air Force Base Fire Department.

Firefighter Whitethorn was struck in the chest by an unknown object during the violent flashover and there in the raging fire gave his life while protecting his community.

Charles Whitethorn was only 23 but he died doing what he wanted to do: fighting fires. He is an example of the quiet valor of dedicated men who spend long days waiting for that call which may require them to give their utmost -- even their lives. They are too seldom appreciated.

Among his survivors at the time of his death was his widow, Debbie Whitethorn, his bride of six weeks, his parents, Charles and Lavonne Whitethorn of Madison, South Dakota, a sister, Patricia Andrews and two brothers, John and Hal.





BI-LO SUPERMARKET FIRE - 1976

On February 6, 1976, just past mid-night, a fire was reported at the Bi-Lo Supermarket on Muldoon Road. Anchorage Fire Department, Engine 6 was the first to respond. The fire was immediately declared a Third Alarm Fire and mutual aid units from Ft. Richardson Army Base and Elmendorf Air Force Base assisted. Fire apparatus responding to the Bi-Lo Supermarket fire was six engines, one squad, one aerial ladder truck, one elevating platform truck, one rescue vehicle, one ambulance, 41 firefighters and five chief officers. It took two hours and twenty-two minutes to bring the fire under control.

Firefighter Whitethorn was a member of Engine 6, which was the first due engine on location at the Muldoon Bi-Lo Supermarket.

Firefighter Whitethorn, upon arriving at the scene, was manning an 1 1/2 inch hose line and went through the front door of the supermarket, attempting to bring the fire under control, when a violent flashover occurred.

CHRISTINE J. "CHRISTY" PENNINGTON



1971 - 1991

Christine J. "Christy" Pennington, was born in Kodiak, Alaska, in 1971 and had been a Firefighter/EMT with the Ester Volunteer Fire Department since January, 1990. Christy was attending classes at the University of Alaska - Fairbanks and had a three month old son.

On March 15, 1991, Christine Pennington, a Firefighter & Emergency Medical Technician for Ester Volunteer Fire Department, responded from her home to a medical emergency call, along with her three month old baby, Jonathan. While rushing to save a life, she lost hers and that of her infant son when she lost control of her Ford Bronco and slammed into an on-coming pickup . The infant died instantly and Christine who was pinned in the crushed car, died later at Fairbanks Memorial Hospital.

Christine was survived by her parents, Henry and Janet Pennington of Kodiak, her sister, Linda Pennington and her fiancé, Johnnie Patterson. Christine was described by her friends and co-workers as cheerful, energetic, loving and helpful person. Christy loved the outdoors and horses. She competed in rodeos from age 9 to 19.

Christy died while doing the most meaningful thing she found in life.

circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state. (§ 1 ch 67 SLA 1983)

NOTES TO DECISIONS

Jurisdiction over divorce action. — This section does not affect the common-law rule that Alaska courts have jurisdiction over a divorce action when one of the parties is domiciled in Alaska, where

"domicile" is defined as physical presence plus an intent to remain permanently. *Perito v. Perito*, 756 P.2d 895 (Alaska 1988).

Sec. 01.10.060. Definitions. In the laws of the state, unless the context otherwise requires,

- (1) "action" includes any matter or proceeding in a court, civil or criminal;
- (2) "daytime" means the period between sunrise and sunset;
- (3) "month" means a calendar month unless otherwise expressed;
- (4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;
- (5) "nighttime" means the period between sunset and sunrise;
- (6) "oath" includes affirmation or declaration;
- (7) "peace officer" means
 - (A) an officer of the state troopers;
 - (B) a member of the police force of a municipality;
 - (C) a village public safety officer;
 - (D) a United States marshal or deputy marshal; and
 - (E) an officer whose duty it is to enforce and preserve the public peace;
- (8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;
- (9) "personal property" includes money, goods, chattels, things in action, and evidences of debt;
- (10) "property" includes real and personal property;
- (11) "real property" is coextensive with land, tenements, and hereditaments;
- (12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;
- (13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;
- (14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968; am § 19 ch 74 SLA 1985; am § 1 ch 60 SLA 1990)

Revisor's notes. — Reorganized in 1985 to alphabetize the defined terms.

Cross references. — For additional definition of "peace officer", see AS 11.81.900(b); for listing of peace officers for purposes of the Fish and Game Code, see AS 16.05.150; for a definition of "police officer", see AS 18.65.290.

Effect of amendments. — The 1990 amendment rewrote paragraph (7).

Opinions of attorney general. — The statutory framework of the Alaska Statutes viewed as a whole contemplates that for any publicly employed law enforcement officer to be considered a peace officer within the meaning of present paragraph (7), he or she must be empowered with a full range of police duties and authority and must be currently function-

ing on essentially a full-time basis in that role. September 18, 1977, Op. Att'y Gen.

Law enforcement officers within the category "peace officers" as used in present paragraph (7) include, but are not limited to, state troopers, fish and wildlife protection officers and police officers employed by police departments of incorporated municipalities. September 18, 1977, Op. Att'y Gen.

Law enforcement officers with limited police authority with respect to specific statutes or ordinances are not police officers and are not necessarily peace officers either, at least within the meaning of present paragraph (7). September 18, 1977, Op. Att'y Gen.

Comparing the classification of "peace officer" in present paragraph (7) with that of "police officer," it is apparent that police officers, as defined in AS

18.65.290(2), are always peace officers performing full police duties that are not limited to that basis. However, the converse is not necessarily the case; that is, peace officers do not automatically vest one with the authority of a peace officer since peace officers are not members of a police department and are not given all the power to enforce all the laws of the state. September 18, 1977, Op. Att'y Gen.

Because AS 11.55.020 (no longer in effect) only "peace officers" from a police department are prohibited against carrying concealed weapons, including state employees performing enforcement duties, unless a statute provides a meaning of present paragraph (7), the prohibition against concealed weapons. December 18, 1985, Op. Att'y Gen.

Retirement plan interest. — The court did not err in holding that the interest in a retirement plan did not attach to debtor's interest in a pension plan, as such interest is "property" within the meaning of "person" in the United States, 152 Bankr. 61 (9th Cir. 1994).

State as "person". — The court necessarily exclude political subdivisions of "person". Accordingly, a village is properly considered a "person" under the rule of judicial discretion. AS 22.20.020. *Mustafoski v. State*, 982 P.2d 1000 (Alaska Ct. App. 1994).

Sec. 01.10.065. Certificates required by the laws of the state. (§ 1 ch 66 SLA 1965)

Section

- 70. Time statutes become law
- 80. Computation of time

Collateral references. — Statutes, §§ 342-373.
82 C.J.S., Statutes, §§ 399

Sec. 01.10.070. Time when laws of the state become effective. If the legislature becomes effective on the day after expiration of the term of the Alaska Constitution, the laws of the legislature, by concurrence with the next legislature, become effective on another effective date.

(b) The actual effective date of laws of the legislature by starting with the day after expiration of the term of the legislature, if a veto is overridden or the laws of the legislature are enacted by art. II, § 17 of the Alaska Constitution, become effective at 1: