

**HB**

**350**

**HFIN**

**FILE**

HB 350

TONY KNOWLES  
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 4, 2000

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Porter:

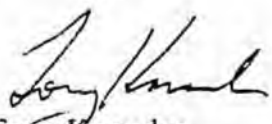
I am transmitting a bill that would allow the State of Alaska to prosecute and punish an offender for a crime that has been prosecuted by the federal government or by another state or territory.

Since early statehood, the State of Alaska has had statutory prohibitions on the state prosecuting and punishing a person, including a corporation, for an act that another jurisdiction has already prosecuted. This policy is not based on constitutional law: the state and federal constitutional prohibitions against being placed twice in jeopardy for the same act do not prohibit separate jurisdictions from separately prosecuting, and punishing, the same act under different bodies of law.

Recent events have suggested a reconsideration of this policy. The federal prosecution of a cruise ship company for illegally discharging water polluted with oil and hazardous waste into our pristine Alaska waters demonstrates that the harm suffered by our state should have been addressed in a separate state prosecution. This bill will allow the State of Alaska to prosecute an offender if a similar situation should arise again.

I urge your prompt and favorable consideration of this bill.


Sincerely,

  
Tony Knowles  
Governor

LETTER OF INTENT

HB 350

It is the intent of the Legislature, in repealing AS 12.20.010 and AS 11.71.310, to allow the State to prosecute all criminal conduct that has a direct impact on the citizens of Alaska, when the State's interests have not been adequately vindicated in a prosecution by another jurisdiction. It is not the intent of the Legislature to encourage multiple prosecutions if the State's interests have been upheld by the prosecution in another jurisdiction. Rather, when criminal conduct in violation of the laws of Alaska has occurred, and the State's compelling interest in achieving justice for Alaska and its people has not been sufficiently vindicated, Alaska statutes should not bar the state from pursuing a criminal action.

  
3/16/00  
Representative Pete Kott  
Chairman, House Judiciary

# FISCAL NOTE

Bill Version: HB 350  
 (H) Publish Date: 2/7/00

## STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title \*An Act repealing the statutory bars to the State BRU Criminal Division  
 of Alaska's prosecution of a criminal act that resulted .... Component 1st-4th Judicial Districts; Criminal  
 Sponsor Rules Committee Appeals/Special Litigation  
 Requester Governor Component No. 2198-99;2201/03/61/79

### Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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>

<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						
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 (FY2000) cost: \_\_\_\_\_

### POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill repeals the statutory prohibitions on the State of Alaska for prosecuting and punishing a criminal act that has been prosecuted by the federal government or another jurisdiction. This statute recently prevented the State of Alaska from prosecuting a cruise ship company that was illegally dumping water containing oil and hazardous waste in Alaska waters, because the federal government had already prosecuted the company for the same acts under federal law. This conduct should have been addressed in a separate state prosecution, so that injury to the state could be compensated by fines or restitution. This bill would allow the State of Alaska to prosecute an offender if a similar situation should arise again.

Passage of this legislation is expected to result in only a handful of new cases per year. Although they may be highly visible cases, their numbers are not anticipated to be sufficient to cause a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370  
 Division Attorney General's Office Date/Time 12/1/99, 11:02 AM  
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 12/1/99  
 Agency Department of Law

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**FISCAL NOTE**

Bill Version: HB 350  
 (H) Publish Date: 2/7/00

**STATE OF ALASKA**

**2000 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_  
 Title: "An Act repealing the statutory bars to the State of Alaska's prosecution of a criminal act..."  
 Sponsor: Rules Committee  
 Requestor: Governor

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

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

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

Estimate of any current year (FY 00) cost: \$ 0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) This bill would remove Alaska's longstanding statutory bars against successive prosecution by different sovereigns. Although successive prosecution by different sovereigns (for example, by the federal government and then the state) does not violate federal double jeopardy, several states, including Alaska have traditionally prohibited it. The United States Department of Justice has a strict policy against successive state and federal prosecutions. Presumably, if this bill passed, the Department of Law would develop similar standards.

Nevertheless, this bill could result in additional criminal cases being brought and the Public Defender Agency being appointed to additional cases. The Public Defender Agency is particularly concerned about repealing the Bar against successive prosecutions in drug cases. AS 11.71.310. The federal authorities in Alaska prosecute many drug offenses under federal law. If even a small percentage of these cases were prosecuted in state court as well, there could be a considerable effect on the Public Defender Agency's operations.

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

Phone: (907) 264-4414  
 Date: 12/3/99

Approved by Commissioner: Robert Poe Jr.  
 Agency: Department of Administration

Phone: 465-2200  
 Date: 12/3/99

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