

SB

3

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 24, 1999

FURTHER REFERRALS:

Date of Committee Action: 5/10/99

The FINANCE Committee considered:

CSSB 3(RLS)

CS FOR SENATE BILL NO. 3(RLS)

CRIMES OF MURDER & CHILD MURDERS

"An Act relating to the crimes of murder, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, manslaughter, and criminally negligent homicide; relating to homicides of children; relating to registration as a sex offender or child kidnapper; relating to the crime of interference with custody of a child or incompetent person; and providing for an effective date."

recommends it be replaced with the following committee substitute HCS CS SB 3 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) CRIMINALS fiscal note(s) DNA 1/25/99

zero fiscal note(s) _____ zero fiscal note(s) WOW 1/25/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Therrault</i> Therrault	X			
<i>Tom Bledsoe</i> Bledsoe				
<i>Jim Kohns</i> Kohns	X			
<i>Alan Austinman</i> Austinman	X			
<i>Carl Davis</i> J. DAVIS			X	
<i>Bar Brissindat</i> BRISSINDAT	X			
<i>Paul E. Moses</i> MOSES			X	
<i>John G. Davis</i> G. DAVIS			X	
<i>W. Williams</i> WILLIAMS			X	
<i>John Foster</i> FOSTER	X			

CHAIR'S SIGNATURE *Gene Therrault*
 Therrault

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CS SB 3 (JUD)

Revision Date/Time (Note if correction) <u>4/28/99</u>	Dept. Affected <u>Department of Corrections</u>
Title <u>An Act relating to the crimes of murder, solicitation to commit murder in the first degree,...</u>	BRU <u>Administration and Operations</u>
Sponsor <u>Senator Halford</u>	Component <u>All</u>
Requester <u>House Judiciary Committee</u>	Component Serial No. <u>#0694</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous		35.8	35.8	86.0	143.3	179.1
TOTAL OPERATING	0.0	35.8	35.8	86.0	143.3	179.1

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match		35.8	35.8	86.0	143.3	179.1
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	35.8	35.8	86.0	143.3	179.1

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

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

See attached analysis.

Prepared by <u>Bruce Richards</u>	Phone <u>465-3307</u>
Division <u>Commissioner's Office</u>	Date/Time <u>4/28/99 11:41 AM</u>
Approved by <u>Comm. Margaret M. Pugh</u> <i>Margaret M. Pugh</i>	Date <u>4/28/99</u>
Agency <u>Department of Corrections</u>	

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CS SB 3 (JUD)
PAGE 2 of 2
DATE 4/28/99

Section 2. In consultation with the Dept. of Law it was determined this section will have a budgetary impact. However, it will most likely occur outside the scope of this fiscal note. This type of crime happens rarely and therefore is difficult to estimate the fiscal impact.

Section 3. The Dept. of Corrections does not anticipate a fiscal impact as a result of the changes made to AS 11.41.100.

Section 4 & 9. The Dept. of Law (DOL) estimates the changes proposed to AS 11.41.110(a) in conjunction with the sentencing changes under section nine will impact one (1) case per year. The sentencing provisions will increase the mandatory minimum sentence from five (5) to twenty (20) years for a net gain of fifteen (15) years. Subtracting one-third for statutory good time, the actual increase in sentence will be ten (10) years per case.

Section 5. The DOL estimates the increase in penalty for criminally negligent homicide will impact one case per year. This section will raise the penalty from a class C felony to a class B felony. This will result in an additional sentence of one and a half (1.5) years. Subtracting one third for good time results in a total increase of one (1) year per case.

Section 6. No impact.

Section 10. The DOL estimates the changes proposed to AS 12.155.125(c) will impact one case per year. Under current sentencing provisions the offender would be sentenced to a five (5) year presumptive sentence. The proposed change would increase the presumptive sentence to seven (7) years for a net gain of two (2) years. Subtracting one third for statutory good time the actual increase in sentence will be 474 days per case.

Section 11. The impact from the proposed changes in section eleven is difficult to project because the language is permissive and left to the discretion of the judge.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 3
 Bill Version: SB 3
 (S) Publish Date: 1-25-99

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

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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 (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 3 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, Attorney General
 Agency Department of Law

Phone 465-5370
 Date/Time 1/22/99, 9:14 AM
 Date 1/22/99

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FISCAL NOTE

No. 4
 Bill Version: SB 3
 (S) Publish Date: 1-25-99

STATE OF ALASKA
 1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____ Dept. Affected Administration _____
 Title "An Act relating to the crimes of murder..." BRU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Senator Halford
 Requester (S) JUD Component Serial No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Service	**	**	**	**	**	**
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 (Specify Type)						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY99) cost: \$ _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Office of Public Advocacy is currently unable to provide precise cost data.

Prepared by Brant McGee, Public Advocate Phone 269-3500
 Division Office of Public Advocacy Date/Time 1/22/99
 Approved by Commissioner Robert G. Poe Date 1/22/99
 Agency Administration

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 2
Bill Version: SB 3
(S) Publish Date: 1-25-99

Revision Date: _____
Title: "An Act relating to the crimes 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 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES
TRAVEL
CONTRACTUAL
SUPPLIES
EQUIPMENT
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING

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						
TOTAL	..	..	..	..	..	..

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

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

Phone: (907) 264-4414
Date: _____

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

Date: 1/22/99

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 3

#2

1999 LEGISLATIVE SESSION

ANALYSIS: (Continued)

The proposed legislation re-writes the homicide laws in Alaska based solely upon a victim's status as a child younger than 16. The bill makes it easier to charge and convict individuals and increases the sentences they receive based solely upon a victim's status as a child younger than 16. The bill also expands the definition of felony custodial interference.

Alaska's current set of homicide laws is a well ordered and logical system of varying degrees of seriousness and consequences based upon the conduct, the intent, and the circumstances surrounding the offense. The punishment for crimes against children, or other particularly vulnerable victims such as the elderly or the disabled, can already be enhanced when appropriate. There is no need to make separate laws based solely upon the victim's status. The bill is part of an ill-advised trend to make significant changes to Alaska's reasonable, orderly criminal justice system based upon anecdotal and incomplete information. Because the law already takes into account the vulnerable nature of children, such changes are unnecessary and damaging to the quality of the system as a whole.

Increasing the penalties based upon the status of the victim, and making it easier to charge and convict individuals will increase the workload of Agency attorneys who are already appointed to represent most of the defendants in these types of cases. The Department of Law already aggressively pursues these types of criminal cases. Increasing penalties for merely negligent or reckless conduct disproportionately to other cases will result in increased numbers of these cases proceeding to costly and expensive jury trials rather than settlement. Such significant increases will likely foster a "nothing to lose by going to trial" attitude. Additional litigation will also result in lower level charges to prevent the accumulation of the predicate convictions that may later form the basis for these enhanced charges.

Child homicide trials are often very expensive because of the complex medical and psychological issues that arise. These cases, for example, can involve cutting edge medical diagnoses like the "shaken baby syndrome." Investigation is often difficult and expensive as well. The Department of Law will have some of its expenses covered by other agencies, such as the Medical Examiner's office in the Department of Public Safety, the Alaska State Troopers, local police departments, and the State Crime Lab. However, the Public Defender Agency has to pay for all its expenses out of its budget.

Last year the Department of Law received an additional criminal prosecutor specifically to increase response to child abuse and neglect. Whether by means of this fiscal note, or a different incremental appropriation, balance must be maintained to effectively process these cases through the court system.

5/10/99

I-LS0028V.1
Luckhaupt
5/10/99

adopted N/D
AMENDMENT I

OFFERED IN THE HOUSE

BY REPRESENTATIVE THERRIAULT

TO: HCS CSSB 3(JUD)

- 1 Page 2, line 27:
- 2 Delete "or kidnapping against"
- 3 Insert "against or kidnapping of"

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 3
 Bill Version: SB 3
 (S) Publish Date: 1-25-99

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 Sponsor Senator Halford
 Requester Senate Judiciary Committee Component Serial No. 2198-99/2261/79/01/03

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Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
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1004 GF						
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1037 GF/Mental Health						
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Estimate of any current year (FY99) cost: _____

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Part-time						
Temporary						

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Prepared by Joan M. Kasson *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date/Time 1/22/99, 9:14 AM
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 1/22/99
 Agency Halford & Rauphan Department of Law

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 4
Bill Version: SB 3
(S) Publish Date: 1-25-99

Revision Date/Time (Note if correction) _____ Dept. Affected Administration _____
 Title "An Act relating to the crimes of murder..." BRU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Senator Halford
 Requester (S) JUD Component Serial No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	**	**	**	**	**	**
Travel	**	**	**	**	**	**
Contractual	**	**	**	**	**	**
Supplies	**	**	**	**	**	**
Equipment	**	**	**	**	**	**
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**	**	**	**	**	**

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

FUND SOURCE (Thousands of Dollars)

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1003 GF Match						
1004 GF	**	**	**	**	**	**
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY99) cost: \$ _____

POSITIONS

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Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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 Approved by Commissioner Robert G. Poe Date 1/22/99
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1999 LEGISLATIVE SESSION

No. 2
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(S) Publish Date: 1-25-99

Revision Date: _____
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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 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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	**	**	**	**	**	**

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POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

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

Phone: (907) 264-4414
Date: _____

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

Date: 1/22/99

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 3

#2

1999 LEGISLATIVE SESSION

ANALYSIS. (Continued)

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Last year the Department of Law received an additional criminal prosecutor specifically to increase response to child abuse and neglect. Whether by means of this fiscal note, or a different incremental appropriation, balance must be maintained to effectively process these cases through the court system.



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 HCS CS Senate Bill 3 (JUD)

"An Act relating to the crimes of murder, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, manslaughter, and criminally negligent homicide; relating to homicides of children; relating to registration as a sex offender or child kidnapper; relating to the crime of interference with custody of a child or incompetent person; and providing for an effective date."

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 3 makes the following changes to our criminal statutes:

- *adds a new form of first degree murder when the death of a child results from the commission or attempted commission of kidnapping or a sexual offense;*
- *expands the list of offenses constituting felony murder to include sexual abuse of a minor in the first and second degrees;*
- *adds a new form of second degree murder when a person causes the death of a child with criminal negligence and has a previous felony conviction against a child;*
- *elevates criminally negligent homicide from a class C to a class B felony,*
- *establishes a twenty year mandatory minimum sentence for a person convicted of a murder of a child under the age of sixteen;*
- *increases the mandatory minimum sentence (from five to seven years) for manslaughter, when the victim is a child under the age of sixteen;*
- *establishes a new sentencing provision, which allows for a term of unsuspended imprisonment that exceeds the presumptive term, for certain felony offenses if the victim is a child under the age of 16;*
- *expands the crime of custodial interference in the first degree to include the act of keeping a child or incompetent person outside of the state;*
- *clarifies language in the sex offender registry statute; and*
- *elevates solicitation of murder to an unclassified felony.*

Children deserve a responsible level of care when they are entrusted to an adult. SB 3 will help accomplish both the goals of deterrence and establishing a punishment more fitting the crime.

Identical legislation was considered by the 20th legislature and moved through the committee process in both bodies with unanimous bipartisan support before dying on the House calendar on the final day of session. Passage of this bill will correct serious deficiencies in our legal system. I urge your support.



Official Business

Alaska State Legislature

Senate

**RICK
HALFORD**

State Capitol
Juneau, Alaska
99801-1182
Phone (907) 465-4958
Fax (907) 465-4928

P.O. Box 670190
Chugiak, Alaska 99567
Phone (907) 694-4958
Fax (907) 694-0549

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

Sectional Analysis HCS CS Senate Bill 3 (JUD)

Section 1. States purpose of Section 15.

Section 2. Increases the penalty for the crime of solicitation of first degree murder from a Class A felony to an unclassified felony, bringing it in line with the crime of conspiracy to commit murder.

Section 3. (1) Simplifies the language and expands the range of conduct constituting this particular form of first degree murder. (2) Creates a new form of first degree murder when the death of a child results from the commission or attempted commission of kidnapping or a sexual offense.

Section 4. (1) Expands the list of offenses constituting felony murder to include sexual abuse of a minor in the first and second degrees. (2) Makes causing the death of a child with criminal negligence a form of second degree murder if there is a previous conviction of a felony crime against a child.

Section 5. Increases the penalty for criminally negligent homicide from a class C to a class B felony.

Section 6. Expands the definition of custodial interference to include keeping a child or incompetent person outside of the state.

Section 7 and 8. Adds solicitation to commit murder in the first degree and conspiracy to commit murder in the first degree to the listing of unclassified offenses and unclassified felonies.

Section 9. Establishes a mandatory 20 year minimum sentence for the murder of a child under 16 years of age, providing the assailant was a legal guardian, occupied a position of authority, or caused the death of the child by committing a crime against a person under AS 11.41.200 – 11.41.530.

Section 10. Increases the presumptive penalty for child manslaughter from 5 to 7 years.

Section 11. Allows the courts to sentence a first felony offender convicted of criminally negligent homicide of a child under 16 years of age to a longer sentence than the presumptive sentence for a second or third felony offender convicted of the same crime.

Section 12. Adds AS 11.41.100(a)(3) and certain offenses under AS 11.41.110(a)(3) to the definition of aggravated sex offense in the definition sections of the sex offender registration statutes.

Section 13. Adds AS 11.41.100(a)(3) and AS 11.41.110(a)(3), when coupled with kidnapping, to the definition of child kidnapping in the definition sections of the sex offender registration statutes.

Section 14. Adds AS 11.41.100(a)(3) and certain offenses under AS 11.41.110(a)(3) to the definition of sex offense in the definition sections of the sex offender registration statutes.

Section 15. Clarifies that the definition for "conviction" in the sex offender registry statutes.

Sections 16 – 17. Bifurcates applicability of the act.

Sections 2-6 and 9-11 apply to offenses committed on or after the immediate effective date.

Previous convictions refer to convictions occurring before, on, or after the effective date.

Sections 12-14 reach back to require registration for commission of a sex offense or a child kidnapping similar to those crimes established in AS 11.41.100(a)(3) or AS 11.41.110(a)(3) after July 1, 1984.

A conviction for a sex offense or child kidnapping before the effective date of this Act is a sex offense for registration requirements under AS 12.63.020(a).

Section 18. Definition for conviction in the sex offender registry statutes applies to convictions that occurred before, on or after the effective date.

Section 19. Immediate effective date

BILL: SB 218 **SHORT TITLE: CRIMES OF MURDER & CHILD MURDERS**
BILL VERSION: HCS CSSB 218(FIN)
SPONSOR(S): SENATOR(S) HALFORD, Green, Donley, Taylor, Leman, Duncan,
Lincoln, Parnell, Kelly, Pearce, Sharp, Miller; REPRESENTATIVE(S) Ogan,
Croft

CURRENT STATUS: 3RD RDG,5/12 CAL(H) STATUS DATE: 5/12/98

TITLE: "An Act relating to the crimes of murder, manslaughter, and
criminally negligent homicide; relating to homicides of children; and
relating to the crime of interference with custody of a child or
incompetent person."

Jrn-Date Jrn-Page Action

1/12/98	2167	(S) PREFILE RELEASED 1/9/98
1/12/98	2167	(S) READ THE FIRST TIME - REFERRAL(S)
1/12/98	2167	(S) JUD, FIN
2/12/98	2495	(S) JUD RPT CS 3DP NEW TITLE
2/12/98	2495	(S) DP: TAYLOR, MILLER, PEARCE
2/12/98	2495	(S) INDETERMINATE FN TO SB & CS (ADM)
2/12/98	2495	(S) ZERO FN TO SB & CS (COR, LAW)
4/02/98	3110	(S) FIN RPT CS 7DP NEW TITLE
4/02/98	3110	(S) DP: PEARCE, SHARP, PHILLIPS, PARNELL,
4/02/98	3110	(S) ADAMS, DONLEY, TORGERSON
4/02/98	3110	(S) PREVIOUS INDETERMINATE FN (ADM)
4/02/98	3110	(S) PREVIOUS ZERO FNS (LAW, COR)
4/06/98	3159	(S) RULES TO CALENDAR 4/6/98
4/06/98	3160	(S) READ THE SECOND TIME
4/06/98	3161	(S) FIN CS ADOPTED UNAN CONSENT
4/06/98	3161	(S) COSPONSOR(S): DUNCAN, LINCOLN, PARNELL,
4/06/98	3161	(S) KELLY, PEARCE, SHARP, MILLER
4/06/98	3161	(S) ADVANCED TO THIRD READING UNAN CONSENT
4/06/98	3161	(S) READ THE THIRD TIME CSSB 218(FIN)
4/06/98	3161	(S) PASSED Y19 N- E1
4/06/98	3166	(S) TRANSMITTED TO (H)
4/07/98	2897	(H) READ THE FIRST TIME - REFERRAL(S)
4/07/98	2898	(H) JUDICIARY, FINANCE
5/01/98	3395	(H) JUD RPT HCS(JUD) 7DP
5/01/98	3396	(H) DP: PORTER, ROKEBERG, CROFT, GREEN,
5/01/98	3396	(H) JAMES, BUNDE, BERKOWITZ
5/01/98	3396	(H) SENATE INDETERMINATE FN (ADM) 2/12/98
5/01/98	3396	(H) 2 SENATE ZERO FNS (COR, LAW) 2/12/98
5/06/98	3558	(H) FIN RPT HCS(FIN) 8DP
5/06/98	3558	(H) DP: THERRIault, MULDER, KOHRING, MARTIN,
5/06/98	3558	(H) DAVIES, GRUSSENDORF, MOSES, KELLY
5/06/98	3559	(H) SENATE INDETERMINATE FN (ADM) 2/12/98
5/06/98	3559	(H) 2 SENATE ZERO FNS (COR, LAW) 2/12/98
5/11/98	3826	(H) RULES TO 1ST SUPPLEMENTAL CAL 5/11/98
5/11/98	3826	(H) READ THE SECOND TIME
5/11/98	3827	(H) FIN HCS ADOPTED UNAN CONSENT
5/11/98	3827	(H) ADVANCED TO THIRD READING 5/12 CALENDAR
5/12/98	3904	(H) MOVED TO BOTTOM OF CALENDAR
5/12/98	3940	(H) NOT TAKEN UP
5/12/98	3941	(H) CROSS SPONSOR(S): OGAN, CROFT

Index to Statutes, SB 3

Sec. 11.31.110. Solicitation.

Crimes under 11.41:

Sec. 11.41.100. Murder in the first degree.

Sec. 11.41.110. Murder in the second degree.

Sec. 11.41.115. Defenses to murder.

Sec. 11.41.120. Manslaughter.

Sec. 11.41.130. Criminally negligent homicide.

Sec. 11.41.135. Multiple deaths.

Sec. 11.41.140. Definition (person)

Sec. 11.41.200. Assault in the first degree.

Sec. 11.41.210. Assault in the second degree.

Sec. 11.41.220. Assault in the third degree.

? Sec. 11.41.230. Assault in the fourth degree.

Sec. 11.41.250. Reckless endangerment.

Sec. 11.41.260. Stalking in the first degree.

? - Sec. 11.41.270. Stalking in the second degree.

Sec. 11.41.300. Kidnapping.

Sec. 11.41.320. Custodial interference in the first degree.

? - Sec. 11.41.330. Custodial interference in the second degree.

Sec. 11.41.370. Definitions.

~~Sec. 11.41.410. Sexual assault, 1st degree.~~

six offenses are in 11.61

Sec. 11.41.420. Sexual assault, 2nd degree.

Sec. 11.41.425. Sexual assault, 3rd degree.

Sec. 11.41.430. Repealed

Sec. 11.41.432. Defenses.

Sec. 11.41.434. Sexual abuse of a minor, 1st degree.

Sec. 11.41.436. Sexual abuse of a minor, 2nd degree.

Sec. 11.41.438. Sexual abuse of a minor, 3rd degree.

Sec. 11.41.440. Sexual abuse of a minor, 4th degree.

Sec. 11.41.443. Repealed

Sec. 11.41.445. General provisions.

Sec. 11.41.450. Incest.

Sec. 11.41.455. Unlawful exploitation of a minor.

Sec. 11.41.458. Indecent exposure, 1st degree.

Sec. 11.41.460. Indecent exposure, 2nd degree. *TK*

Sec. 11.41.470. Definitions.

Sec. 11.41.500. Robbery in the first degree.

Sec. 11.41.510. Robbery in the second degree.

Sec. 11.41.520. Extortion.

Sec. 11.41.530. Coercion.

Sec. 11.81.250. Classification of offenses.

Sec. 12.55.125. Sentences of imprisonment for felonies.

Sec. 12.63.100 Registration of sex offenders

FEB 24 1999

729 East 75th Avenue
Anchorage, AK 99518
(907) 344-0616
Feb. 24, 1999

Senator Halford
State Capitol Building
Juneau, AK 99801

Dear Senator Halford:

We were pleased to hear that you support Senate Bill 3 that will give longer jail time to people that kill babies.

On June 9, 1997 we brought Timothy Kalmakoff home from the hospital. His birth mother, Karey Kalmakoff, wanted us to adopt him because she was not able to care for him. He was such a calm and peaceful baby. We loved and cared for him. On the tenth day, his birth mother wanted Timothy back. She couldn't live without him.

A month later, we were asked to go to the hospital. Five days later he died from being shaken to death. The medical staff said that Timothy had hemorrhages in his eyes that were in various stages of healing. The nurse told me that meant that he had been shaken repeatedly. He also had ribs that were healing. That means that baby Timothy lived in pain for much of the last month of his life.

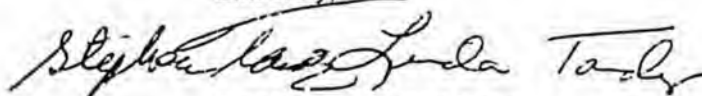
Mark Nusbaum, the boyfriend, was brought to trial (Court No.3AN-S97-5750). The first trial was a hung jury. The second trial never took place. He is out with only a little over a year spent in jail.

It is our hope and prayer that no child ever has to go through what Timothy did. The only thing that gives us peace is that Timothy is safe in the arms of Jesus. No one can hurt him again.

We heard that people that kill babies do not get more than 2 years in jail. Now, we know that this is true. Why is the life of a baby of less value than an adult? We do not think so.

We support any bill that you pass that will tell everyone that babies and young children are valuable to the State of Alaska.

Sincerely,



Stephen and Linda Tandy



Anchorage man charged with shaking

By DANIELLE STANTON
Daily News reporter

An 18-year-old Anchorage man was charged Friday with second-degree murder in the death of his girlfriend's month-old baby.

Mark Adam Nusbaum allegedly killed the baby by shaking him while the mother was at work Sunday, according to documents filed

Friday in district court.

Nusbaum was being held Friday at Cook Inlet Pre-Trial Facility in lieu of \$250,000 bail, police spokesman Ron McGee said.

The baby, Tim Kalmakoff, died Thursday at Providence Alaska Medical Center. He had been on a life-support system since Monday.

An autopsy performed Friday by

a state medical examiner showed the baby had blunt traumatic injuries to the head, which are consistent with shaken baby syndrome. He also had fresh rib fractures, evidence of having been grabbed under the arms and violently shaken, the document says.

The autopsy also revealed evidence of earlier abuse — healed rib

month-old infant to death

fractures and bruising on the chest wall — the document says.

Nusbaum told police detective Linda Branchflower that he sometimes became frustrated with the baby and would abruptly lay him down.

On Sunday, the baby continued to cry after his 19-year-old mother, Karey Kalmakoff, left for work,

Nusbaum told police. He said he had tried to feed the baby. Then he put him in a swing. When Nusbaum bounced the baby on his knee, the infant finally quieted down.

Nusbaum told police he called his girlfriend twice at work to tell her the baby seemed unusually tired, he

Please see Page B-3, INFANT

INFANT: Man charged with shaking baby to death

Continued from Page B-1

told police.

Nusbaum took the baby when he went to pick up his girlfriend at work about 7 p.m. The mother noticed the baby seemed limp, that one pupil was larger than the oth-

er and that his skin was cold.

The couple immediately drove the baby to Alaska Native Medical Center. Nusbaum told a doctor that the baby had been in that condition since noon.

The child was later transferred to Providence.

**AUTHORIZATION FOR RELEASE OF MINOR AND/OR MINOR'S RECORDS
TO PERSON OTHER THAN PARENT OR GUARDIAN**

Alaska Native Medical Center, 4315 Diplomacy Dr., Anchorage, Ak.

Name and Address of Facility Where Minor and/or Minor's Records Are Located:

I/We, as the parent(s) or guardian(s) of Timothy Adam Kalmakoff, born 6-8-97
(Name of Minor) (Date)

at ANMC hereby: (Mark out any statement that does not apply)
(Place of Birth)

1. Authorize the Service Unit Director of the above facility, or his/her designee, to release, when ready for discharge, said minor into the care of:

Steve & Linda Tandy
(Name of Individual or Agency)

Anchorage, AK
(Address)

2. Authorize the Service Unit Director of the above facility, or his/her designee, to furnish information from or copies of said minor's health record, covering the following dates (inclusive):
6-8-97 to D/C to:

Steve & Linda Tandy
(Name of Health Professional or Agency)

(Address)

I/We have read the above (the above has been read and explained to me/us by: Joan E. Galt;
and this consent is voluntarily executed. (Name) J.E.G.

PARENT(S) OR GUARDIAN(S):

Karen L. Kalmakoff
(Signature)

6-9-97
(Date)

2080 Diamond Dr
(Address)

Anchorage, Alaska 99507
(City) (State)

(Signature)

(Date)

(Address)

(City)

(State)

WITNESS:

Joan E. Galt
(Signature)

6-9-97
(Date)

ANMC, 4315 Diplomacy Dr.
(Address)

Anchorage, AK 99508
(City) (State)

Imprint of Minor's Identification Plate

(Name) Kalmakoff, Timothy Adam
(Record #) 13-62-40
(DOB) 6-8-97

**AUTHORIZATION FOR RELEASE OF MINOR AND/OR
MINOR'S RECORDS TO PERSON OTHER THAN
PARENT OR GUARDIAN**

Mother decries short sentence

Vows fight to change law so killers punished

By LEE JORDAN
Alaska Star Editor

Linda Tellsworth insists that justice was not served when the woman who killed her baby received a sentence that will make her eligible for parole after serving about 66 months in jail. Tellsworth has mounted a campaign to demand changes in the law.

"People need to know they will be held accountable if they kill a baby," Tellsworth said Monday. She is circulating flyers with her son's

picture and a heading that reads, "Murder this baby and you will only get 5 and 1/2 years! If you disagree, please contact your local senator."

Eagle River daycare operator Michelle Dague, 29, on Friday was sentenced by Judge Milton Souter to 20 years in prison with an additional 20 years suspended. Souter said, though, that Dague should be eligible for parole after serving as little as 5-1/2 years. If she is paroled, she would be required to be on probation for 10 years. She also was ordered to pay \$1,000 in restitution.

The sentence is the minimum in the range he had recommended, said John Novak, chief assistant district attorney. Novak had asked Souter to require Dague to spend 20 to 30 years in prison.

An Anchorage jury in April convicted Dague of killing 10-month-old Kyle Tellsworth who on Jan. 28, 1977 had been left at the home-based daycare center by his mother, a neighbor of Dague's. Dague initially denied harming the child, saying he had fallen. In (See MOTHER, Page 2)



Linda Tellsworth is posting flyers with son Kyle's photo.

STAR PHOTO BY LEE JORDAN

MOTHER:

(Continued from page 1)

court, she admitted that she had thrown Kyle, who she said had been crying incessantly, during a moment of blind rage caused by a severe headache. She said she suffered from migraine headaches.

Novak's witnesses, however, testified that the woman had probably held the child's feet and forcefully slammed his head against something hard. During an interview, Tellsworth painstakingly and graphically described the massive injuries to Kyle's head that resulted in his death.

The jury convicted the woman of second degree murder.

Reaction to Souter's explanation of the sentence sent Tellsworth on a mission to change the law. "It's wrong," she said, adding that the judge had said there was no need for punishment in this case.

"Someone who kills a baby, no matter what the excuse, has to be held accountable," Tellsworth said. "Other people have to know that, no matter what the excuse, if they give in and do something terrible like this, they will have to pay the consequences."

The judge's explanation, Novak said, is required under a "truth in sentencing" law that was passed in the last year or so.

"The judge is required to tell what the sentence means," Novak said. The law is designed to "let people know that when a person is sentenced to 20 years, it doesn't mean that person will necessarily spend 20 years in jail."

one-third of the balance. Souter explained that under the law, five and a half years would be the earliest Dague could expect to be released, Novak said.

"It's up to the parole board" when she might be released, Novak said.

Tellsworth said she cannot accept the situation surrounding the event that changed her life.

"Someone who kills a baby, no matter what the excuse, has to be held accountable."

— Linda Tellsworth

"(Dague) will be at Hiland Mountain (Correction Center in Eagle River). Her family can go and visit her.

Under sentencing guidelines, the prosecutor said Souter "had a lot of discretion. He could have imposed anywhere from five to 99 years in prison."

There is a difference between the federal system and the one under which Alaska operates, Novak said. In the federal criminal justice system, "good time maybe amounts to one month off for each year served." That would take 20 months off a 20-year sentence.

Under Alaska law, however, the offender is required to serve two-thirds of the presumptive time, then

She's only spent 60 days in jail since she was arrested. And now they're going to let her out in five and a half years? That's wrong."

Tellsworth's flyers list Sen. Randy Phillips as the person to contact with demands for changes in the law.

Phillips said this week that he has directed his staff to investigate the case in order for him to see if the law was followed and to consider possible changes.

"It could be that (Tellsworth) is right," Phillips said. "It certainly raises questions in my mind."

Michelle Dauge
Case Number: 3AN-S97-3317-CR

TO WHOM IT MAY CONCERN:

This letter is extremely devastating to write because I have to relive this nightmare again when this situation should have never occurred. Part of this nightmare that I relive is the neighbor calling me to inform me that something was wrong with my infant son Kyle George Tellsworth. This is every parents nightmare to receive a call of this nature. Another part of the nightmare is remembering walking into Michelle's house and seeing my infant son Kyle lying on the floor in a coma, and seeing Officer Tincher at the scene of the Crime. Officer Tincher told me that my son was in critical condition. The ambulance and four police officers vehicles and a fire truck were at the scene of the crime at the time I arrived at Michelle's house. My teenage son Chris was with me when I arrived and informed me that he did not want to go into the house because he was afraid that his little brother, Kyle was dead. After arriving at Michelle's house Michelle informed my teenage son Chris and I that Kyle fell off the couch. At the time Michelle said this neither Chris nor I believed her story because of where Kyle was lying on the floor, and the fact that the couch was not even a foot from the floor. We also did not believe her because Kyle was in a coma when we arrived.

On the way to Alaska Regional Hospital in the ambulance I watched my infant son Kyle go into cardiac arrest. After arriving at Alaska Regional Hospital Kyle's pediatrician Janet Alexander informed my teenage son Chris and I that Kyle was going to die. This was not an accident, this was a deliberate act against my infant son Kyle. Chris and I were in tremendous shock and the doctors on duty wanted to give me an intravenous sedative because I was going into an anxiety hyperventilating attack. After Janet informed my son Chris and I of Kyle's condition I telephoned my mother in California, from Alaska Regional Hospital. After I made this telephone call Kyle was transported over to Providence Hospital to the Intensive Care Unit on the Pediatrics Ward. Two hours after

my mother received the telephone call from me; my sister Patricia took my mother to Kaiser Hospital in Walnut Creek, California because she was having a heart attack.

In the meantime my brother Georgie and my father George F. Tellsworth left California on separate flights bound for Alaska. Their flights were an hour to an hour and a half apart. They had no knowledge of my mother's condition prior to leaving. When Georgie arrived at Providence Hospital he received a telephone message to call Kaiser Hospital in Walnut Creek, California. After Georgie returned the telephone call he learned that our mother was also in critical condition. After Georgie received this information about our mother I saw the look on his face and he said to me that it is nothing for you to worry about; you just need to concentrate all your concerns on Kyle. Georgie then went into see Kyle. After entering Kyle's room he was devastated to see Kyle hooked up to all the mechanical devices that were keeping him alive and stated "OH SHIT!"

This situation was so serious at Providence Hospital that the Intensive Care Unit Pediatric Ward that the only way a person could gain access to the ward was by showing a drivers license or a police badge. The reason security was so tight was because Michelle sneaked around the hospital, and came up to the Intensive Care Pediatrics Ward by gaining access to the floor by the back elevators. Michelle came to the ward to determine what Kyle's condition was because she knew she committed a horrible act of violence. Michelle did not care about anyone else's feelings or concerns of our family. Her only concerns and feelings at the time she came to the hospital were surrounded around her, and that fact that she was going to lose her day care license. To this day Michelle still shows no remorse for her act of violence. Her only concerns shown throughout the trial were all related to her own self pity. The hospital has changed the access to the Intensive Care Pediatrics Ward due to Michelle coming to the ward and trying to cause a scene when this was not the place for her to be. This was done to prevent abusers from gaining access to the victims and their family members.

In the interim my brother Georgie informs me that we need to make a decision about Kyle. He said "let's call the doctor". The doctors who responded were Callie Gonzales and Dr. Brauner. The doctors informed my brother Georgie and I that Kyle was brain dead. There were certain medical signs to prove that Kyle brain dead. These signs were as follows:

1. Doll eyes-- a medical term for his pupil being big like when you look at a doll. The pupils do not respond to dilation.

2. No response to tickling.

3. No nerve impulses

4. Cat scan that showed no live brain movement.

These facts were presented to us of what will take place during the next four-eight hours.

1. Kidneys will shut down and will cause Kyle to develop Diabetes mellitus. Trauma to the cranial causes Diabetes mellitus.

2. Not breathing on his own, therefore the only way he can keep breathing is to be kept on mechanical devices.

3. Went into cardiac arrest several times, and Kyle will continue to go into cardiac arrest.

4. Catheterization to his heart will have to be performed. This is due to the massive head injuries which caused his body fluids to back flow which caused Kyle to drown in his own body fluids.

5. His temperature was not staying stable.

6. Seizures will continue to get worse.

The only artery they could find in order to put the intravenous tube was the femora artery because all of his arteries and veins had collapsed due to the massive trauma to his cranial. Kyle had a tube in his stomach in order to feed him. The end result of all of this is that the doctors were continually giving Kyle morphine intravenously through the femora artery in

order to ease the seizures. The doctors were also doing this in order to try and prevent him from going into cardiac arrest and keep him from suffering which resulted in Kyle developing Diabetes mellitus.

The doctors said that eventually the machines will no longer work. My brother Georgie and I were informed that we had two choices.

1. Not to resuscitate him when he goes into cardiac arrest.

2. To unhook Kyle from all mechanical devices; but before we can legally do this we must call in another physician to obtain a third opinion. We must counsel you about the procedures and test run prior to unhooking him from mechanical devices.

In the meantime I took off my crystal necklace for my infant son Kyle to hold on to, and squeeze while he was going through seizures. Watching my infant son Kyle go through these seizures I was emotionally being torn me apart. Because there was nothing I could do except try to comfort him during these seizures. While in the room observing my infant son Kyle going through the seizures I would lift his eyelids to see if there was any response; but there was never a response. This was also part of the procedure prior to unhooking Kyle from the life support. Because the first procedure the doctors did was take a Q-tip and run it over his eye lids to see if there was a response.

Now the doctors are getting ready to unhook my infant son Kyle from the medical devices which were his only life support. The second procedure that the doctors did was tickling him for nerve responses and again there was no response. The last test prior to unhooking my infant son Kyle from mechanical devices was to take a look at the Cat scan. In doing this we evaluated a live brain in Cat scan and then the doctors showed us my infant son Kyle's brain Cat scan. In evaluating the Cat scan of Kyle's brain, the doctors showed us that there was no live brain. When we looked at Kyle's brain my brother Georgie remark was "OH MY GOD" and I said to the doctor "I do not see any live brain!" Georgie and I were both shocked by what we saw on the Cat scan. At this time we also saw how bad his skull had been fractured. After seeing his skull fractured and being in a state of shock "I

responded there is no live brain and my brother Georgie said "NO SHIT Michelle killed all of it!" That is when the final decision was made to unhook my infant son Kyle from all mechanical devices that were supporting his life. All three of us, my brother Georgie, and my teenage son Chris and I were at the hospital for forty-eight hours with very little rest in an extremely stressful situation. At this time on the Intensive Care Pediatric ward there was a seven year old girl who had suffered severe head injuries from an automobile accident and was in a comma also. Our two families supported each other at a desperate time of need. Meanwhile my father George F. Tellsworth arrives at Providence Hospital at the time of making the final decision to unhook Kyle from all life support devices. Remember my infant son Kyle was named after both my brother Georgie and my father. Therefore my father could not bear to see Kyle in this critical condition as he wanted to remember his grandson Kyle from the three hundred and forty seven pictures of Kyle. My father choose to support my brother's, and my decision by waiting in the lobby area on the Intensive Care Unit on Pediatric Ward by pacing about nervously. At this time my father was totally unaware about the critical condition our mother was in, in California. We then called in Father Luiz to have Kyle baptized before unhooking him from all mechanical devices. Kyle went downhill extremely fast prior to unhooking him from all mechanical devices. Callie Gonzales unhooked Kyle and handed Kyle to me. He took one breath and then he was gone. We stayed at the hospital for approximately four hours before leaving because I wanted to take him home, but my brother Georgie intervened again, and said "NO" to me. The doctors allowed us to have as much time as we needed to say good by to Kyle, and told us to close the door when were done so they would know it was time to call the coroners office. We wanted to donate his organs, but were unsuccessful as an autopsy had to be performed. On the day Kyle was born it snowed. and on the day Kyle died it also snowed. I believe this was Kyle's way of saying good-bye. This was the hardest experience I have had to endure as a mother; coming home with out her baby and knowing he will never come home again. My arms felt empty and my heart was heavy with sorrow

when I walked into my house without my baby. For months I was in total denial and shock of everything that had taken place in the last forty-eight hour to seventy two hour period. I felt like I was in bad dream and hoping to wake up with Kyle alive and well and in my home.

My brother Georgie was a great family supporter through all of this, he told our father about our mother being in the hospital in California, after we unhooked Kyle from life support. So now our father is left with grieving over the loss of his grandson Kyle and with worry and grief over our mother being hospitalized for a heart attack. Georgie on the other hand left his wife and his daughter soon to be a year old, whom turned a year old three days after Kyle was murdered. Therefore, Georgie was unable to be with his daughter on her first birthday. A friend Kailisa, son Brice turned a year old three days prior to Kyle's murder. Yet another friend of mine had a birthday on the day of the accident. The funeral was also very difficult for my family and a lot of other people. There were over 1000 attendees. On the day of the funeral it snowed. In the mean time my mother was hospitalized for a tumor on her liver. They had to remove one third of her liver. The only family member with my mother during this surgery were my sister Patricia. My father was not able to attend Kyle's funeral because he had to go back to California to be there to support my mother through the surgery and my sister through these difficult times.

If all of this is not bad enough the lose of my infant son Kyle and my mothers surgery, we were made to wait several months prior to Michelle's arrest. I was continuously harassed by Michelle and her friends driving around my neighborhood. During this period I also find it strange that I found a dead baby duck on my front porch along with the continuous hang-up telephone calls. Due to these persisting telephone calls I was forced to have my telephone number changed. The day of Michelle's arrest finally came. A week later Michelle was able to make bail; making another disappointment in my life. After Michelle being out on bail for a year we finally go to court after she filed numerous motion to delay this murder trial, we finally get to go to trial.

On Kyle's first birthday my mother's best friend died. In the interim my teenage son Chris has a friend on his baseball team that commits suicide. Chris in the mean time feels guilty for not protecting his baby brother and is still extremely angry about this murder. In the mean time our family to keep Chris away from the trial and sentencing because he has already suffered a great loss. Chris is continuously in counseling due to this situation.

On Kyle's second birthday we still have not been to trial. Two days after Kyle would have turned two years old we started the murder trial. From the time of the telephone call from Michelle's neighbor to the present I have experienced post trauma depressed syndrome with continuous nightmares of seeing my infant sons head being bashed in and his brains flowing like a water fall from his head. I can not sleep with out a television on; half of my heart is gone and I only have half a heart left to share with my family and my only son left.

Due to this violent murder people around me want to avoid me. My counselor and I call this the death murder disease. People avoid me at work. This is causing havoc at work. As a result I am being put in jeopardy of loosing my occupation. My personal friends have turned against me; and will no longer associate with me because of this murder. People do not know how to deal with this murder situation. Have I failed as a mother? or has society failed to protect my son? These are guilt's and questions that I will have to accept for the rest of eternity.

I am in the process of changing legislation in order to protect our children in society. I feel that this will not be enough. Therefore, I intend to further my education and broaden my horizons by obtaining a law degree. My interests are in the area of criminal law and being an advocate for children's rights.

Now that we have been through this devastating trial and we are upon sentencing I find out my father has to go into the hospital for surgery. Does it not end yet? My mother has another surgery to look forward too due to another tumor. My aunt has had TIA strokes. I feel that this situation has devastated our family. If this is not enough my

parents forty-seventh anniversary is the day before the sentencing. They will not be together on their anniversary because of my fathers surgery. My father is still having a hard time dealing with the loss of his grandson. After all your grandchildren are not suppose to die before their grandparents. My brother Georgie still has nightmares about seeing Kyle in the hospital. The funeral was difficult for Georgie to attend. He usually never cries and I saw him cry at the funeral. He will have his forty third birthday four days before the sentencing but will be in transit to Alaska to be here for the sentencing. He will be with his family, but his wife and child will be in California, on his birthday. Georgies wife Sonya has taken Kyle's death extremely hard she goes to church everyday twice a day to pray for me and my teenage son Chris.

This letter is extremely difficult to write because I have had to relive this murder experience. My teenage son Chris cannot be here at this difficult time of sentencing because he is not at the proper stage of the grieving process and has a hard time dealing with the fact that his baby brother is gone forever. We can only pray and hope that Kyle is with us. I have friends and other family members that are unable to write letters due to grief over the loss of Kyle, who was an extremely beautiful child. Do not ask me to let go of my grief and anger with Michelle. I am not at the point in my grieving process to enable me to just let go of this so easily.

My requests are to you that when you sentence Michelle you set her minimum sentence preferably at sixty years with no parole, and no time taken off for good behavior, and with a maximum sentence of ninety nine years or better with no parole, and no time taken for good behavior. I request that you put Michelle's in a maximum security prison preferably in the lower forty-eight. I prefer that Michelle not be put in Highland which is a minimum security prison less than two miles from my residents. I fear for my safety. I fear that Michelle will be allowed to have conjointly visits; and have contact with her two year old child and her soon to be newborn child. This women is a danger to children and a danger to society. I do not want Michelle allowed to deliver her newborn at Providence

Hospital; and allowed to bond with her newborn. This is also another disappointment in my life because she is became pregnant and is going to have another child and I am unable. I fear for Michelle's children's safety and emotional state. Please allow Michelle to have no contact with any children or infants because she is an extremely dangerous women. She should never be allowed to get out of prison and harm any other children in our society and in our lifetime. Another request I have is that Michelle or any of her family be able to have contact with me or my family. I also request that if she or her family want to contact me or my family to apologize that this be done in a legal fashion through the correctional officers. I request to always be notified of her whereabouts in the judicial system and her progress and performance in prison.

This is murder that has taken place in my life and within my family unit is a situation that will never go away. This murder has made a great change in my personal life and has changed our whole family unit as we will never be the same people we were prior to this murder taking place. Every time Michelle comes up for parole I will be there. every time she has a thought of gaining freedom I will be there as a reminder to her, what her violent action have caused to our family. Our family is a well respected family in society. We would like to believe that things like this do not happen to families like ours and now we know that this is not true and that it can happen to any family in our society. Our family will no longer allow Michelle and her family to destroy our family anymore. Our family is a family of survivors. Our family will rise above this and become a stronger family than we have ever been before.

I still have a long way to go in my grieving process, and my family does too. It is a known fact that the grieving process can take six years or longer. Please feel the pain and anxiety our family has already endured, when you are considering our request at the time of sentencing. Thank you for your patience for our thoughts and grief. You and the jurors have endured a terrible murder trial. You have the most difficult decision to make in sentencing Michelle for this devastating murder of my infant son Kyle George Tellsworth.

We do not know what Kyle could have become in our society but his personality and good nature lead us to believe that he would have been a well respected and loved person in our community. I will never be able to watch Kyle grow nor will I be able to see him play ball or him playing with Chris nor will we ever be a family unit the three of us again. I will not be able to see him graduate from high school or get married or have children. Michelle will still have these opportunities even though she will be in prison. She will always have her children. This is very wrong and unfair.

We will never forget Kyle. He will always be with us. So when you make your final decision on this sentencing please remember what our family has already endured and GOD be with you.

Yours Sincerely

Linda Tellsworth

January 22, 1999

Karen Campbell
2024 Saratoga Ave.
Anchorage, AK 99517

Senator Rick Halford
State Capitol
Juneau, AK 99801-1188

Dear Senator Halford,

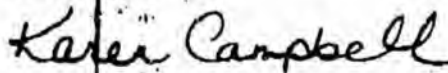
I am Karen Campbell, Bonnie Craig's mother. Bonnie was on her way to school when she was brutally raped and murdered September 28, 1994. Her murderer is still free, free to continue harming the children in our community.

Losing a child is the worst possible pain anyone could go through. The whole family is devastated for years to come. The struggles of dealing with such a senseless tragedy continue to affect my life and the life of Bonnie's brothers and sister. A child's future was taken away. We will never see her graduate from college, her wedding day, or the birth of children she planned. She could have been a doctor or a Nobel Prize Winner. Now, we only have pain and memories.

It saddens me greatly when criminals don't seem to get as much of a sentence for murdering an infant, toddler, or teenager, as they would an adult. Our children are worth so much more. It is our duty to protect our children, our future, and make sure anyone responsible for the death of a child will pay greatly.

I strongly support Senate Bill no. 218. I urge all our lawmakers to stand behind this bill and ensure its swift passage.

Sincerely,



Karen Campbell
(907) 261-7662

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-1315

FEB 23 1999

February 19, 1999



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Senator Halford
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

Dear Senator Halford,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 3.

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.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau

State President

Alaska Peace Officers Association

To Senate Staff:

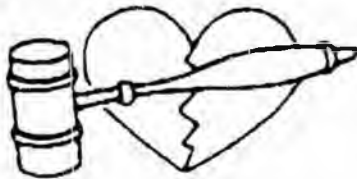
I have been informed that CS SB 3 (RLS) "Crimes of murder/Child Murders" by Senator Halford will be on the calendar tomorrow. Please be advised that the Department of Public Safety supports the Rules CS. We have worked with the sponsor on the bill and the committee substitute.

If you have any questions please feel free to call me.

Sandy Perry-Provost

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Sandy Perry-Provost
Special Assistant
Department of Public Safety
465-2649 tel
465-4362 fax
sandra_perry-provost@dps.state.ak.us

VICTIMS

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

January 21, 1999

Senator Robin Taylor, Chair
Members of the Judiciary Committee
State Capitol
Juneau, AK 99801-1182

Re: YES on Senate Bill 3!

Dear Senator Taylor and Members of the Judiciary Committee:

A child is dead! Our minds stagger at the jarring impact. One of the greatest tragedies of all is the death of a child from abuse or neglect. It is not an accident when a child is so severely abused or neglected that it results in death. Parents/legal guardians deliberately murder children every year!

We are shocked and horrified by these senseless deaths of children. What remains equally senseless is that most of the people who murder these children receive very little jail time or no jail time at all.

Victims for Justice strongly supports the proposed Senate Bill 3; "relating to the homicide of children."

Crimes of violence that destroy our children must not be minimized or trivialized. It is time to ensure that those who abuse and kill our children are dealt with in the strongest possible terms. The laws must change so innocent children will be saved.

Please support the passage of Senate Bill 3.

Sincerely,


Cathy Satterfield
Director



Alaska State Legislature

Please enter into the record my testimony to the House Finance
 committee name
 committee on SB 3, dated _____
 bill/subject

see attached news paper
 clippings

Signed: Paul Sweet
 Testifier

Representing (Optional)

P O Box 1562

Palmer AK
99645

Address

745-2242

Phone No.

'Two Strikes Law' would jail second offenders for life

By Cynthia Smith
MPG Newspapers

Convicted sex offenders might soon face harsher penalties in Massachusetts. State Executive Office of Public Safety spokesman Charlie McDonald speaks for many who consider child molestation a crime rather than an illness. "Police officers who investigate these cases see a pattern of arraignments which continue until they are (finally convicted). When the sentence doesn't fit the violent nature of the crime, we as a society pay for it later."

As a way of addressing this problem, McDonald says, the Cellucci administration recently filed new legislation intended to "absolutely incapacitate the child molesters who continue to do this again and again."

"There are three pieces of the puzzle," McDonald said. "The first

piece is the Two Strikes Law under which a second time offender for violent sexual assault would be sent to prison for life. Secondly, we're talking about lifetime supervision for sex offenders, which would be like lifetime parole because of the high rate of recidivism. The third piece would be a civil commitment option by which a prosecutor could have someone designated as a sexually dangerous predator and they would still have to stay behind bars until they proved themselves no longer sexually dangerous.

At the present time, local families might find that their strongest line of defense lies in the state-sponsored Offender Registry Program. According to McDonald, this program is not meant to be a punitive tool but an informational tool. Prior to 1996, when the law that created the registry system was passed, McDonald says law enforcement officials and private

residents alike had no right to information about convicted sex offenders who might be living or working in their communities.

Some treatment-oriented professionals have protested the posting of names and photographs of citizens who, after serving prison sentences, have paid their debts to society. The registry system, these critics say, creates a new American sub-class. One such professional, speaking on condition of anonymity, said, "I don't know of a precedent in history where pulling a certain group of citizens out of society and putting them in a different class than everybody else has ever proved to be a good sign for that society."

Critics of the newly proposed articles of legislation consider them simplistic attempts to solve a complex problem. In Dr. Avrom Weinberg's words, "not all serious problems have good solutions."

No group free of child sexual abuse

By Cynthia Smith
WPG Newspapers

Child sexual abuse occurs across socio-economic classes, religious orientations, and races, occurring in 10-25 percent of American families and striking both male and female children, according to the federal probation report. According to 1992 statistics furnished from the United States Department of Health and Human Services, between 1976 to 1986, the number of reported cases of child sexual abuse grew from 6,000 to 132,000, an increase

totaled 432,000 an increase of another 227 percent. Nobody seems to know how much of the increase is attributable to increasing press coverage and how much reflects an increase in actual occurrences.

Some studies suggest that approximately one in six boys are sexually abused before age 16. But experts also warn that the most trustworthy statistics on childhood sexual abuse among males are those obtained by means of anonymous questionnaires, since males are less willing to acknowledge unwanted sexual experiences in the presence of others.

Since adults who sexually abuse children assume so many different faces, labels like "pedophile" fail to adequately classify all of them. The latest edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* says that true pedophiles must be over 16 years old and least 5 years older than the children they target.

Some experts hold that offenders who sexually abuse children are motivated by power and ego needs than they are by sexual interest. Others, including Dr. Avrom Weinberg of Marshfield, a clinical psychologist who has treated victims of assault, view "pedophilia" as a condition (which is) as ingrained as heterosexuality or adult homosexuality. So when a person has a pedophile orientation, it is not something any known form of therapy can really alter."

Greg Canfield, director of Justice Programs for the Justice Resource Institute, a private, non-profit organization that administers treatment programs for incarcerated sexual offenders through the Center for Sex Offender Management at Bridgewater State Prison, views things differently. "Just about all the time, there are patterns which have been learned," Canfield says. "They've never been able to find a gene that makes some one an offender. Usually people stay with age appropriate sexual and romantic partners throughout their lives. So one could argue that something has to happen to that person to make it that they're interested in younger people. Some of these people were introduced to pornography or to sex way before they had the developmental ability to deal with it."

Keep talk lines open

Experts do agree that parents can do three things to decrease the chance that a child will be abused:

1. build trusting relationships and maintain open lines of communication with children so that they feel comfortable speaking even the unspeakable;
2. watch over them carefully;

comes to knowing the background of the adults who spend a lot of time with your children.

Adults who molest children sexually will continue to reside in local communities. Parents, law enforcement agencies, helping professionals and legislators all play important roles in containing a problem that just won't go away. One innovative Massachusetts organization that calls itself Stop It Now provides confidential information to those calling their helpline at 1-888-PREVENT, Mondays through Fridays from 1 to 4 pm. The group's name echoes the sentiments of many who really don't care whether offenders are punished, as long as they stop offending.

"So in the offender population," Canfield said, "we are usually dealing with people who have been hurt themselves. A certain number of people are psychopathic or sociopathic criminals and this is the crime they commit. (But) you have to be careful when you paint a whole section of people with the same brush."

Perpetrators of sex crimes may or may not be victims of child sexual abuse themselves. In one 1984 study, after data on 1,000 sex offenders from 18 different studies was reviewed, the average rate of childhood abuse was found to be 28 percent. A 1984 study found that 28 percent of surveyed college students reported having sexual encounters with adults during childhood. These findings suggest that most people who experience sexual abuse as children do not invariably become molesters later in life. Among any group of child molesters though, the percentage of those who were sexually abused as children is likely to be higher than the percentage of sexually abused persons in the general population.

Regardless of why these tendencies exist, the central question is whether offenders can be cured. "Frankly, I'm very pessimistic about that," Weinberg said. "I'm not saying that they can't (be treated) but it might be like asking whether Down's Syndrome is treatable. It may be, but I don't know of any. The best that can be hoped for is that -- because of fear of

punishment or through an understanding of the psychological harm to people -- they will divert those impulses so that they don't do that. But I don't feel that their fantasies stop, and I don't believe that they ever stop wishing to have sex in that manner."

Canfield, on the other hand, argues that conventional therapists occupy a different reality than therapists who specialize in treating sex offenders. "When therapists say that (sex offenders) can't be treated, they're right in the sense that they can't be treated using conventional therapeutic approaches," he said.

over to the whole idea that children are far exploitation, Canfield said, "the majority of sex offenders don't want to be. Say that you're married, and your husband is leaving you, and you've lost your job, and your car broke down. Well, it's really hard to self-actualize under those conditions. If you go back into most of these guys' lives, the car has always been broken down, and they were always being left behind. Some of the older group of people have been in care all of their lives. They were defective delinquents, then they were in DSS, then DYS, then in the mental health system. Then they committed these crimes. Some of their lives have been very tragic. We don't accept that as an excuse for hurting other people, but it's just that an awful lot of work has to be done with them to get them to the point where they can get control of their lives."

According to Canfield, not all convicted offenders strike again. Some estimate recidivism rates to be as high as 30 to 70 percent others as low as 40 percent. "Some sex offender treatment programs report very low recidivism rates -- as low as 3 to 5 percent. Others aim for rates as high as 20 percent. We have to live with the fact that some will recidivate, and that, since it's very hard to get a matched sample, it's just not something that we know a whole lot about. It's like a doctor who works with cancer patients. To be cured is the highest standard. Sometimes they can cure the symptoms, but not the actual disease."

This is why, Canfield says, "sexual offender treatment employs a cognitive, behavioral approach, which means that it uses everything it can to try to come up with a very powerful intervention." Such treatment might include behavioral interventions like desensitization, drug interventions and group therapy sessions with other offenders.

"When a sex offender does turn his or her life around, it's worth it because you have essentially saved victims," Canfield said. "Some people do need to be locked up and given longer sentences. On the other hand, people who have been successful in treatment and are legitimately interested in reintegrating back into society in a responsible manner which provides for public safety, should be given a chance to do so."