

**HB**

**338**

**LEGAL SERVICES**

*crucial*

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

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**MEMORANDUM**

March 23, 2000

**SUBJECT:** CSHB 338(JUD) Draft, Dated 3/22/00 (Work Order No. 21-GH2025\D)

**TO:** Representative Pete Kott, Chair  
House Judiciary Committee  
Attn: Lesil McGuire

**FROM:** Gerald P. Luckhaupt *gpl*  
Legislative Counsel

CS =  
① unclary changes  
② amend #1  
pg. 4 change  
mental state  
to reckless  
③ amend #2  
pg 5 remove "intentional"

Enclosed is the bill draft you requested. I have several comments.

*ok*

1. **Section 1 and 2.** While I understand the Department of Law's intent in expanding the description of the offensive material listed in AS 11.41.455 I am not sure that language goes far enough. You may want to consider using language similar to that employed in AS 11.61.125 and 11.61.127 dealing with child pornography. Consistency between these statutes may be wise. For example see the language employed in bill secs. 1 and 2 of CSSB 259(JUD) (21st Legislature).

*ok*

2. **Section 7.** The governor's bill eliminates "intent to defraud" as an element of the offense of criminal impersonation in the second degree substituting "intent to obtain a benefit to which the person is not entitled." You may want to reconsider eliminating "intent to defraud" as I don't believe the new term reaches all of the conduct proscribed under the old term. The existing language has been successfully used to prosecute persons for obtaining "things" that might not be classified as a "benefit." For example, in *Roath v. State*, 874 P.2d 312 (Alaska App. 1994), the defendant "persuaded women to pose for nude photographs by falsely representing that he was a photographer for Playboy magazine." I am not convinced that this conduct would be still be proscribed under the new language.

*ok*

3. **Section 8.** The governor's bill adds "electronic recording" to the definition of "business record" in AS 11.46.630(b)(1). You might consider changing this to "recording" as I believe "electronic recording" might be too restrictive and a court could construe the language to exclude other types of recordings not electronic in nature. See, e.g., sec. 8 of CSSB 259(JUD).

④ or  
electronic  
data

*no*

4. **Section 16.** (H) I am somewhat concerned about the overlap between "access device" and "identification document." For example, a social security number is an access device while a social security card is an identification document. I believe there are other potential

Representative Pete Kott  
March 23, 2000  
Page 2

areas of overlap that could cause some confusion as access device includes cards and credit cards. You might want to consider combining these two terms into one term, such as "identification device" that would include any article that is used to establish identity or to obtain property or services.

48  
(b) I am also concerned with the use of the word "key" in the definition of "access device." I understand the Department of Law did not intend to use the word "key" in its common meaning of a key to your car or a house but actually intended "key" to have the more nebulous meaning of a password or the like. Considering that we are dealing with the criminal law I suggest the use of a different word to convey that concept. See sec. 16 of CSSB 359(JUD).

no  
5. **Section 12.** With regard to the definition of "proprietary information" you may want to consider defining it in terms of or relating it to the concept/definition of trade secret in AS 45.50.940.

GPL:jdr:glc  
00-122.jdr

Enclosure

**CS FOR HOUSE BILL NO. 338(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to crimes involving computers, access devices, other technology,  
2 and identification documents; relating to the crime of criminal impersonation; and  
3 providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* Section 1. AS 11.41.455(a) is amended to read:

6 (a) A person commits the crime of unlawful exploitation of a minor if, in the  
7 state and with the intent of producing a live performance, film, audio recording,  
8 photograph, negative, slide, book, newspaper, magazine, or other printed or  
9 electronically recorded material that visually depicts the conduct listed in (1) - (7) of  
10 this subsection, the person knowingly induces or employs a child under 18 years of age  
11 to engage in, or photographs, films, records, or televises a child under 18 years of age  
12 engaged in, the following actual or simulated conduct:

- 13 (1) sexual penetration;
- 14 (2) the lewd touching of another person's genitals, anus, or breast;

- 1 (3) the lewd touching by another person of the child's genitals, anus,  
2 or breast;
- 3 (4) masturbation;
- 4 (5) bestiality;
- 5 (6) the lewd exhibition of the child's genitals; or
- 6 (7) sexual masochism or sadism.

7 \* Sec. 2. AS 11.41.455(b) is amended to read:

8 (b) A parent, legal guardian, or person having custody or control of a child  
9 under 18 years of age commits the crime of unlawful exploitation of a minor if, in the  
10 state, the person permits the child to engage in conduct described in (a) of this section  
11 knowing that the conduct is intended to be used in producing a live performance, film,  
12 audio recording, photograph, negative, slide, book, newspaper, magazine, or other  
13 printed or electronically recorded material that visually depicts the conduct.

14 \* Sec. 3. AS 11.46.140(a) is amended to read:

15 (a) A person commits the crime of theft in the third degree if the person  
16 commits theft as defined in AS 11.46.100 and

17 (1) the value of the property or services is \$50 or more but less than  
18 \$500;

19 (2) the property is an access device [A CREDIT CARD]; or

20 (3) the value of the property is less than \$50 and, within the past five  
21 years, the person has been convicted and sentenced on two or more separate occasions  
22 in this or another jurisdiction of theft or concealment of merchandise, or an offense  
23 under another law or ordinance with similar elements.

24 \* Sec. 4. AS 11.46.285 is amended to read:

25 **Sec. 11.46.285. Fraudulent use of an access device [A CREDIT CARD].**

26 (a) A person commits the crime of fraudulent use of an access device [A CREDIT  
27 CARD] if, with intent to defraud, the person uses an access device [A CREDIT  
28 CARD] to obtain property or services with knowledge that

29 (1) the access device [CARD] is stolen or forged;

30 (2) the access device [CARD] is expired or has been revoked or  
31 cancelled; or

1 (3) for any other reason, that person's use of the access device [CARD]  
2 is unauthorized by either the issuer or the person to whom the access device [CREDIT  
3 CARD] is issued.

4 (b) Fraudulent use of an access device [A CREDIT CARD] is

5 (1) a class B felony if the value of the property or services obtained  
6 is \$25,000 or more;

7 (2) a class C felony if the value of the property or services obtained is  
8 \$500 or more but less than \$25,000;

9 (3) [(2)] a class A misdemeanor if the value of the property or services  
10 obtained is \$50 or more but less than \$500;

11 (4) [(3)] a class B misdemeanor if the value of the property or services  
12 obtained is less than \$50.

13 \* Sec. 5. AS 11.46.290 is amended to read:

14 Sec. 11.46.290. Obtaining an access device or identification document [A  
15 CREDIT CARD] by fraudulent means. (a) A person commits the crime of  
16 obtaining an access device or identification document [A CREDIT CARD] by  
17 fraudulent means if

18 (1) the person buys an access device or identification document [A  
19 CREDIT CARD] from a person other than the issuer or, as other than the issuer, the  
20 person sells an access device or identification document [A CREDIT CARD];

21 (2) with intent to defraud, the person obtains an access device or  
22 identification document [CONTROL OF A CREDIT CARD AS A SECURITY FOR  
23 DEBT]; or

24 (3) with intent to defraud, the person makes a false statement in an  
25 application for an access device or identification document [A CREDIT CARD].

26 (b) [OBTAINING A CREDIT CARD BY FRAUDULENT MEANS UNDER  
27 (a)(1) OR (2) OF THIS SECTION IS A CLASS C FELONY.] Obtaining an access  
28 device or identification document [A CREDIT CARD] by fraudulent means [UNDER  
29 (a)(3) OF THIS SECTION] is a class A misdemeanor.

30 \* Sec. 6. AS 11.46 is amended by adding a new section to read:

31 Sec. 11.46.565. Criminal impersonation in the first degree. (a) A person

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commits the crime of criminal impersonation in the first degree if the person

(1) possesses an access device or identification document of another person;

(2) without authorization of the other person, uses the access device or identification document of the other person to obtain a false identification document, open an account at a financial institution, obtain an access device, or obtain property;

and  
 amend # 1  
 change  
 marital status to  
 reckless  
 (3) with criminal negligence, damages the financial reputation of the other person.

(b) Criminal impersonation in the first degree is a class B felony.

\* Sec. 7. AS 11.46.570 is amended to read:

**Sec. 11.46.570. Criminal impersonation in the second degree.** (a) A person commits the crime of criminal impersonation in the second degree if the person

(1) assumes a false identity and does an act in the assumed character with intent to obtain a benefit to which the person is not entitled [DEFRAUD]; or

(2) pretends to be a representative of some person or organization and does an act in the pretended capacity with intent to obtain a benefit to which the person is not entitled [DEFRAUD].

(b) Criminal impersonation in the second degree is a class A misdemeanor.

\* Sec. 8. AS 11.46.630(b)(1) is amended to read:

(1) "business record" means a writing, electronic recording, or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity;

\* Sec. 9. AS 11.46.710(c) is amended to read:

(c) Except as provided in (d) of this section, deceptive [DECEPTIVE] business practices is a class A misdemeanor.

\* Sec. 10. AS 11.46.710 is amended by adding a new subsection to read:

(d) Deceptive business practices is a class C felony if the person uses the Internet or a computer network to commit the offense. In this subsection, "Internet" means the combination of computer systems or networks that make up the international network for interactive communications services, including remote logins, file transfer,

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1 electronic mail, and newsgroups.

2 \* Sec. 11. AS 11.46.740(a) is amended to read:

3 (a) A person commits the offense of criminal use of a computer if, having no  
4 right to do so or any reasonable ground to believe the person has such a right, the  
5 person knowingly accesses, [OR] causes to be accessed, or exceeds the person's  
6 authorized access to a computer, computer system, computer program, computer  
7 network, or any part of a computer system or network, and, as a result of or in the  
8 course of that access,

9 (1) obtains information concerning a person; [OR]

10 (2) introduces false or misleading information into a computer,  
11 computer system, computer program, or computer network with the intent to damage  
12 or enhance the data record or the financial reputation of a person;

13 (3) introduces false or misleading information into a computer,  
14 computer system, computer program, or computer network and, with criminal  
15 negligence, damages or enhances the data record or the financial reputation of a  
16 person;

17 (4) obtains proprietary information of another person;

18 (5) obtains information that is only available to the public for a fee;

19 (6) introduces instructions, a computer program, or other  
20 information that tampers with, disrupts, disables, or destroys a computer,  
21 computer system, computer program, computer network, or any part of a  
22 computer system or network; or

23 (7) encrypts or decrypts data.

24 \* Sec. 12. AS 11.46.740 is amended by adding a new subsection to read:

25 (c) In this section, "proprietary information" means scientific, technical, or  
26 commercial information, including a design, process, procedure, customer list, supplier  
27 list, or customer records that the holder of the information has not made available to  
28 the public.

29 \* Sec. 13. AS 11.46.990 is amended by adding a new paragraph to read:

30 (14) "financial reputation" means a person's

31 (A) ability to obtain a loan from a financial institution, open an

amend #2  
remove misleading  
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1 account with a financial institution, obtain property or services on credit, or  
2 obtain an access device; or

3 (B) creditworthiness in a credit report.

4 \* Sec. 14. AS 11.61.125(d) is amended to read:

5 (d) In this section, "distribution" includes delivering, selling, renting, leasing,  
6 lending, giving, circulating, exhibiting, presenting, providing, [AND] exchanging, and  
7 placing on a computer network or computer system, whether or not for monetary  
8 or other consideration.

9 \* Sec. 15. AS 11.81.900(b)(48) is amended to read:

10 (48) "property" means an article, substance, or thing of value, including  
11 money, tangible and intangible personal property including data or information stored  
12 in a computer program, system, or network, real property, an access device [A  
13 CREDIT CARD], a domestic pet or livestock regardless of value, choses-in-action, and  
14 evidence of debt or of contract; a commodity of a public utility such as gas, electricity,  
15 steam, or water constitutes property, but the supplying of such a commodity to  
16 premises from an outside source by means of wires, pipes, conduits, or other  
17 equipment is considered a rendition of a service rather than a sale or delivery of  
18 property;

19 \* Sec. 16. AS 11.81.900(b) is amended by adding new paragraphs to read:

20 (61) "access device" means a card, credit card, plate, code, account  
21 number, key, or identification number, including a social security number, electronic  
22 serial number, or password, that is capable of being used, alone or in conjunction with  
23 another access device or identification document, to obtain property or services, or that  
24 can be used to initiate a transfer of property;

25 (62) "identification document" means a paper, instrument, or other  
26 article used to establish the identity of a person; "identification document" includes a  
27 social security card, driver's license, non-driver's identification, birth certificate,  
28 passport, employee identification, or hunting or fishing license.

29 \* Sec. 17. The uncoded law of the State of Alaska is amended by adding a new section  
30 to read:

31 **APPLICABILITY.** This Act applies to offenses committed or completed on or after

1 the effective date of this Act.

2 \* **Sec. 18.** This Act takes effect immediately under AS 01.10.070(c).

# STATE OF ALASKA

## DEPARTMENT OF LAW

CRIMINAL DIVISION  
February 4, 2000

The Honorable Pete Kott  
Chair, House Judiciary Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801

Re: HB 338 (Crimes perpetrated by computer and identity theft)

Dear Representative Kott:

House Bill 338, introduced February 4, 2000, has been referred to the House Judiciary Committee. I am writing to request that the bill be scheduled for a hearing at your earliest convenience.

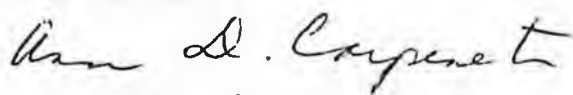
Technological advances in these times provide wonderful opportunities for communication with friends and business associates both in the office next door and the office on the other side of the world. These same technological developments, however, also allow victimization on a huge scale, particularly of unsophisticated children and seniors. While we take advantage of the benefits of progress, it is important to protect the public from persons who use computers to commit crimes. HB 338 makes important changes in the law to address computer crime.

The bill also addresses identity theft. With only a little information about another person, a criminal can obtain identification documents about that person that enable him or her to obtain property from merchants, credit cards, and bank loans. The merchants and banks then look to the innocent victim for payment. The resulting damage to a person's financial reputation can take years to unravel. The provisions in this bill will enable law enforcement to prosecute identity theft and help the victims move on with their lives.

Thank you for your consideration of this request. If you have any questions about the bill or require additional information, please call me at any time.

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:



Anne D. Carpeneti  
Assistant Attorney General

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 2, 2000

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

Dear Speaker Porter:

The advances in technology in the last decade have given us dazzling and practical tools for working together and communicating with the entire world. With these advances, however, come opportunities for criminals to victimize individuals and the public in devious and harmful ways. This bill I am transmitting today will help law enforcement prosecute those who cause harm and commit crimes through the use of computers and other high technology.

This bill recognizes that theft of personal information, known as "identity theft," can damage people in financial loss and reputation, which is difficult to repair. Moreover, it is often difficult for the owner of the identity to get help from law enforcement because that person is not considered the victim; the bank, credit card company, or retailer who advanced the property or services is considered the victim.

Deceptive business practices, such as fraud and false advertising, can more easily be perpetrated through electronic communication methods with a limitless number of potential victims. Additionally, offenses such as the production of child pornography are much more harmful to victims when the material is widely dispersed in an electronic format.

To address all of the above issues, the bill specifically makes the following changes in our criminal laws:

- Eliminates any potential confusion that placing child pornography in an electronic format and then onto a computer network or computer system is a serious crime.
- Replaces "credit card" with "access device" in our theft statutes so they clearly include identification numbers and telephone information in addition to credit card numbers.

The Honorable Brian Porter  
February 2, 2000  
Page 2

- Allows a person to be prosecuted for obtaining an "access device" with intent to use it fraudulently, and for using the device to defraud.
- Establishes a class B felony to use identity information of another person without authorization and for damaging the financial reputation of that person. A class B felony is punishable by imprisonment for up to 10 years and by a fine of up to \$50,000.
- Raises the stakes for engaging in deceptive business practices with the use of a computer by making it a class C felony, punishable by up to five years incarceration and a \$50,000 fine.
- Broadens the definition of criminal use of a computer, a class C felony, to include obtaining proprietary information, information that is only available to the public for a fee, introducing information that damages the computer, and encrypting information.
- Makes it a class A misdemeanor to eavesdrop on another person's electronic or voice mail or other communication in electronic storage. A class A misdemeanor is punishable by up to one year in jail and a fine of up to \$5,000.

This bill is timely and necessary to keep law enforcement in pace with modern technology.

Sincerely,



Tony Knowles  
Governor

**SECTIONAL ANALYSIS - HB 338**  
**Identity Theft and Cybercrime**

The complexity of enforcing state laws to protect people from crimes committed through the use of computers and other modern technology presents a significant challenge to law enforcement and criminal prosecution. The investigation of offenses committed in the obscurity of "cyberspace" presents difficult issues to law enforcement. The purpose of HB 338 is to allow for more effective prosecution of the cases that law enforcement investigates and refers for prosecution. The harm to victims can be as severe as more traditional crime.

Sections 1 and 2: These clarify that persons who produce pornographic depictions of children in an electronic format commit the offense of unlawful exploitation of a minor. Current law provides that this behavior is a class B felony, punishable by a maximum of 10 years incarceration and a \$50,000 fine. The amendments also clarify that a parent or guardian of a child commits the offense if the parent or guardian allows the child to engage in conduct that produces the pornographic material in an electronic format. The effect on child victims of having these images available to anonymous masses is very harmful.

Section 3: This amends the crime of theft in the third degree (a class A misdemeanor with a maximum period of incarceration of one year and a \$5,000 fine) by replacing theft of a credit card with theft of an access device. Access device is defined much more broadly than credit card, and includes not only a credit card, but the account number of a credit card or debit card, a telephone account number, a personal identification number, password, or other identifying number. Other states and the federal government have adopted similar changes, so that a person can be prosecuted not only for theft of a credit card, but also, for example, theft of telephone account number.

Section 4: Amends the crime that prohibits fraudulent use of a credit card to fraudulent use of an access device. This would prohibit a person from using an access device with intent to defraud to obtain property or services, knowing that the device is either stolen, forged, expired, canceled, or the use is otherwise unauthorized. This section also brings the penalty for this form of theft into conformity with other theft penalties; that is, a class B felony if the value of the property or services obtained is \$25,000 or more; a class C felony if the value is \$500 or more but less than \$25,000; a class A misdemeanor if the value is \$50 or more but less than \$500; and a class B misdemeanor if the value of the property or services obtained is less than \$50.

Section 5: Amends the offense of obtaining a credit card by fraudulent means to prohibit obtaining an access device or identification document by fraudulent means. This offense prohibits buying an access device or identification document from a person who is not the issuer of the item, or as other than an issuer, selling the item; it also prohibits obtaining an access device with intent to defraud; or, with intent to defraud, making a false statement in an application for an access device or identification

document. The penalties are amended so that the conduct is a class A misdemeanor, in conformity with the penalty for obtaining an access device by theft.

Section 6: Adopts the new offense of criminal impersonation in the first degree. The offense prohibits:

- possessing an access device or identification document of another person
- without authorization, using it to obtain a false identification document, open an account at a bank or similar institution, obtain an access device, or obtain property, and,
- with criminal negligence, damage the financial reputation of the other person.

The purpose of this offense is to protect the public from those who take another person's identity, and in the name of that person, open accounts, obtain loans, buy goods, or obtain access devices or identification documents in the other person's name.

The harm to the person whose identity is taken can be enormous, and can take years to unravel. In the meantime, the victim gets dunning letters from alleged creditors, is unable to obtain credit for their own legitimate purposes, and often cannot find a sympathetic ear in law enforcement; the reason is because under current law, the furniture store, credit card company, or other bank or merchant is considered the victim. This provision makes it a class B felony to do these fraudulent acts and damage the financial reputation of another person.

Section 7: The current statute prohibiting criminal impersonation becomes second degree criminal impersonation. It is amended to prohibit assuming a false identity and acting in the false identity with intent to obtain a benefit to which the actor is not entitled; it also prohibits pretending to be a representative an organization or person, and acting in that capacity with intent to obtain a benefit to which the actor is not entitled. This offense is a class A misdemeanor.

Section 8: This amends the definition of "business record" for the offense of falsifying business records to include an electronic recording, in addition a writing or other article that is kept to record activity for a business or other commercial or professional entity. Falsifying business records is a class C felony, and prohibits a person, with intent to defraud, from making a false entry in a business record, deleting or altering a correct entry in a business record, or failing to make an entry that is a person's duty to make.

Sections 9 and 10: Amend the offense of deceptive business practices to provide that if the crime is committed by a person who uses a computer, computer program, system or network, the offense is a class C felony. The statute prohibits deceptive business practices including conduct by a person who, while engaged in a business or profession, makes false statements in an advertising or communication to the public,

uses false weights, or commits similar acts. The penalty is a class A misdemeanor under current law. The potential for reaching victims by false representations over a computer is very large, and for that reason the penalty is increased if committed in this way.

Section 11: Amends the offense of criminal use of a computer, a class C felony, to prohibit the following behavior:

- Introduce misleading information into a computer or computer program with intent to damage the record or financial reputation of a person;
- Introduce false or misleading information into a computer and, with criminal negligence, and damage or enhance the financial reputation of a person;
- Obtain proprietary information about another person;
- Introduce information that disrupts, destroys, or disables a computer or system; or
- Encrypt or decrypt data.

Section 12: Defines "proprietary information" to include scientific, technical, or commercial information, procedures, lists, or other data that the owner has not made public.

Sections 13 - 16: These provide definitions for the new terms used in the bill. For example, "identification document" is defined to include a social security card, driver's license, non-driver's identification, birth certificate, passport, employee identification, and hunting or fishing license.

Sections 17 and 18: Amend the Communications, Eavesdropping, and Wiretapping chapter of Title 42 to add the prohibitions of accessing the wire or electronic communication that is being stored electronically without authorization to do so, use the information obtained to benefit or injure anyone, or divulge the information. The penalty for violation, as with other violations of the chapter, is a class A misdemeanor.

Sections 20 and 21: Provide applicability and effective date provisions.

**FISCAL NOTE**

Bill Version: HB 338  
 (H) Publish Date: 2/4/00

**STATE OF ALASKA**

**2000 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to crimes involving computers..."

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency

Sponsor: Rules Committee  
 Requestor: Governor

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	46.5	46.5	46.5	46.5	46.5	46.5
TRAVEL	3.5	3.5	3.5	3.5	3.5	3.5
CONTRACTUAL	26.3	26.3	26.3	26.3	26.3	26.3
SUPPLIES	1.9	1.9	1.9	1.9	1.9	1.9
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>84.7</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	84.7	78.2	78.2	78.2	78.2	78.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>84.7</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>

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

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary.) This bill amends current law and adds new statutes to enable prosecution of a wide variety of "Cybercrimes."

Prosecution and defense of Cybercrimes will require sophisticated technical expertise. The Public Defender Agency does not currently have staff who have the technical knowledge necessary to defend criminal cases that could be brought under this new legislation.

The Public Defender Agency will need to hire an Analyst Programmer I in order to consult with and train the attorneys appointed to defend these cases. The Analyst Programmer will be based in Anchorage. In addition to providing technical assistance on individual cases in Anchorage, the Analyst Programmer would also be responsible for training attorneys and investigators in all Public Defender Agency offices on technical issues in these cases. One-time equipment costs for computer equipment is also included in the first year.

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

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

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

Phone: \_\_\_\_\_  
 Date: 12/15/99

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# FISCAL NOTE

Bill Version: HB 338

(H) Publish Date: 2/4/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title	BRU	Criminal Division
access devices, other technology, identification documents ..."	Component	1st Judicial Dist; 4th Judicial Dist;
Sponsor	Rules Committee	Criminal Appeals/Special Litigation
Requester	Governor	Component No. 2198;2201;2203

**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	3.3	3.3	3.3	3.3	3.3	3.3
Contractual	6.7	6.7	6.7	6.7	6.7	6.7
Supplies						
Equipment	5.0	5.0	5.0	5.0	5.0	5.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</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	15.0	15.0	15.0	15.0	15.0	15.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill amends and expands the substantive criminal law to address the use of computers and other technology in the widespread perpetration of crimes. Child pornography, theft of personal information with the intent to defraud, theft of personal information resulting in damage to a person's financial reputation, deceptive business practices, "hacking" to get unauthorized information or introduce false information, introducing damaging viruses, eavesdropping on other peoples' voice or e-mail are all offenses where technology has offered new ways for criminals to victimize individuals. The amendments in this bill will update existing law to help law enforcement prosecute those who cause harm to others through the use of computers and other technology.

Prepared by: <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>12/15/99, 8:37 AM</u>
Approved by <u>Commissioner</u> <i>Ked for</i> <u>Bruce M. Botelho, Attorney General</u>	Date <u>12/15/99</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. HB 338

ANALYSIS CONTINUATION

Much of the bill expands on existing crimes already being prosecuted, and is not anticipated to cause increased workload. The new crimes defined in the bill are expected to result in approximately ten new prosecutions in the first year, with the number increasing in future years. These new white-collar cases will be handled by existing staff. Although no new personnel are believed to be necessary, other resources will be needed.

Investigation and prosecution of cybercrimes require that the prosecutor keep up with the constantly changing world of information technology. Those who use computers to commit crimes are very knowledgeable about technology, and usually have state-of-the-art equipment. Prosecutors must have the same or better knowledge and equipment as those who use the equipment for illegal purposes.

The Department of Law intends to have three of its prosecutors specialize in this technology driven area of law: one in Anchorage OSPA, and one each in the Juneau and Fairbanks district attorney's offices. These assistant district attorneys will need on-going training to stay ahead of the inventive ways people come up with to use technology to cause harm to others and to keep up with how law enforcement is responding in other jurisdictions. The department estimates \$10.0 per year will be spent on training, divided equally between the three components. \$5.0 per year is included to maintain state-of-the-art computer equipment, software, peripherals, and associated communications devices in Anchorage OSPA as a resource for the entire Criminal Division to use in preparing and presenting its cases.

**FISCAL NOTE**

Bill Version: HB 338

(H) Publish Date: 2/4/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date \_\_\_\_\_ Dept. Affected Public Safety  
 Title An Act relating to crimes involving computers, BRU Alaska State Troopers  
access devices, other technology, and identification documents ... Component Criminal Investigations Bureau  
 Sponsor Rules Committee  
 Requester Governor Component No. 830

**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	73.1	73.1	73.1	73.1	73.1	73.1
Travel	3.0	3.0	3.0	3.0	3.0	3.0
Contractual	22.4	22.4	22.4	22.4	22.4	22.4
Supplies	4.6	4.6	4.6	4.6	4.6	4.6
Equipment	42.5	3.0	3.0	3.0	3.0	3.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>145.6</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</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	145.6	106.1	106.1	106.1	106.1	106.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>145.6</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>

Estimate of any current year (FY2000) cost: 0.0**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

**ANALYSIS: (see attachment for more details)**

This bill will greatly enhance the ability of law enforcement to deal with computer related criminal activity, including: child pornography in electronic format or on the internet; using credit cards or electronic access devices fraudulently; identity theft; and committing deceptive business practices with the aid of a computer. This bill will also increase the penalties for engaging in such practices if the person commits the offense by computer.

This fiscal note would add 1 full time position (Trooper Investigator) and associated support costs in the Criminal Investigations Bureau. This position will be located in Anchorage. One time equipment request, in FY2001, is necessary to provide this position with sophisticated computer equipment adequate to meet new and expanded responsibilities provided for in this legislation.

Prepared by: Royce Weller, Special Assistant Phone 465-4322  
 Division Office of the Commissioner Date/Time 12/23/1999 12:00:00  
 Approved by Commissioner Ronald L. Otte Date 12/23/99  
 Agency Department of Public Safety

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**Fiscal Note: "An Act relating to crimes involving computers..."  
(FY2001 - start up costs)**

<b>PERSONAL SERVICES</b>		
76A, salary schedule 1A, 144 hrs OT		73,100
<b>TRAVEL and PER DIEM</b>		3,000
<b>CONTRACTUAL</b>		
Telephone, postage	1,080	
Film processing	600	
PSEA Physical exam, avg	400	
Fuel	1,272	
HWCF vehicle - Class 115 oper & replacement	11,256	
Training	7,800	
 Total Contractual		 22,408
<b>SUPPLIES and MATERIALS</b>		
Initial issue uniform	3,435	
Film, office supplies	600	
Consumables (1st aid, chains, flares, batteries, etc,)	600	
 Total Supplies/Materials		 4,635
<b>EQUIPMENT</b>		
Forensic computer, software, printers, storage devices	15,000	
Trooper interceptor vehicle (fully equipped)	27,500	42,500
 <b>Total first-year cost of a new State Trooper:</b>		 <b>145,643</b>