

HB

67

4/15

CS FOR HOUSE BILL NO. 67()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Dyson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to release of certain persons alleged to have committed certain
2 sexual offenses."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 12.30 is amended by adding a new section to read:

5 Sec. 12.30.029. Release in sexual abuse and sexual assault cases. (a)
6 Before ordering release before or after trial, or pending appeal, of a person charged
7 with or convicted of a crime under AS 11.41.410 - 11.41.438 or 11.41.450 - 11.41.458,
8 the court shall consider the safety of the alleged victim. To protect the alleged victim
9 and the public and to reasonably assure the person's appearance, the court may impose
10 bail and any of the conditions authorized under AS 12.30.020 and any other condition
11 necessary to protect the alleged victim and to assure the appearance of the person in
12 court.

13 (b) The court may impose any of the following conditions on a person charged
14 or convicted of an offense under AS 11.41.410 - 11.41.438 or 11.41.450 - 11.41.458

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(1) that the person have no contact with the alleged victim except as specifically allowed by the court;

(2) that the person reside in a place where the person is not likely to come into contact with the alleged victim of the offense; and

(3) if the person is on medication, that the person take the medication as prescribed.

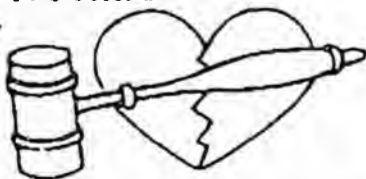
(c) Before a judicial officer releases a person charged or convicted of an offense under AS 11.41.410 - 11.41.438 or 11.41.450 - 11.41.458, the court shall

(1) assure that the alleged victim, or the alleged victim's parent or guardian if the alleged victim is under 18 years of age, has been notified by a law enforcement agency or the prosecuting attorney of the hearing where the release is being considered, or a reasonable effort at notification has been made;

(2) solicit comments from the victim or the victim's parent or guardian who is present and wishes to comment and consider those comments before making a decision to release the person.

* Sec. 2. APPLICABILITY. This Act applies to criminal proceedings occurring on or after the effective date of this Act regardless of whether the criminal offense occurred before, on, or after the effective date of this Act.

VICTIMS



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

January 25, 1999

Representative Norman Rokeberg
State Capitol
Juneau, AK 99801-1182

Dear Representative Rokeberg

I am sending this letter to support your proposal to tighten the conditions under which individuals charged with sexual offenses may be released from custody, and to legislate the solicitation of victim comments by the judicial officer before making a decision to release an alleged offender.

Too often the person charged with a sexual offense is released back to the neighborhood where the alleged offense occurred, often without bond or on personal recognizance only. Imagine the feelings of fear and vulnerability the victim experiences when she or he sees the person who committed such an offense again walking the streets of the neighborhood, with few restrictions, and often with little or no supervision.

This re-victimizes the victim and adds to the trauma the victim has already experienced. The perception of the victim may be that there is no protection, no place of safety from the person who committed the offense.

This proposed legislation will permit the victim or her/his representative to express their concerns and fears to the judge, and to tell the judge what it will take to help them feel safe if the alleged offender is released. Further, it will allow them to tell the judge what they feel are appropriate conditions of release, if any, to guarantee the safety of the victim and the neighborhood.

We all know that most sex offenders repeat their crimes again and again. This proposed legislation will strengthen the laws protecting victims of sex offenses, and enable the courts to place additional restrictions on the movements of alleged offenders until they can be brought to trial.

Respectfully,

Charlotte Phelps
Victim Advocate

Subject: Unsupervised Sex Offenders

Date: Mon, 14 Dec 1998 06:55:09 -0900

From: "Angela Camos" <acamos@ibm.net>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

First I would like to take this opportunity to thank you and your staff for your help and courtesy in this matter.

I am writing this letter in regards to changing how sex offenders are supervised on third party when released on bail, waiting trial or sentencing.

I am a concerned parent whose ten-year-old daughter was molested. The man who did this, Eric Kostiner (Case # 3AN-S98-9699CR), was released on an unsupervised third party after pleading no contest. His third party works swing shifts, which include nights and graveyard shifts, while the offender works days. This concerns me greatly as this provides the opportunity for this sex offender to repeat this crime with yet another child or my daughter. As a result, this has left my daughter feeling unsafe.

The statistics that I have read show that 1 in 4 children are molested. These aren't very good odds. How many children or grandchildren do you have? Now apply these odds to your own family. How many of these people repeat this offense? I have read that quite a number of sex offenders do repeat this crime. As a victim of this crime myself, to me there is no greater crime. I say this because this crime is something the victim lives with for the rest of their lives. It is not something that is ever forgotten. The original pain eventually subsides, but the memory exists forever.

I get the impression that some people in our judicial system see these offenders as not being dangerous if they have no prior history; they haven't snatched a child off the street; they aren't dealing or using, drugs; they aren't having drug parties; or they have no prior record. With all due respect this is generally not the case. These sex offenders are usually upstanding folks who find their way into the lives of people, and then take advantage of their children. I know this first hand both as a result of my childhood and this case with my daughter.

On December 4, 1998 Channel 2 News, Laura Tannis, aired a story regarding this offender being out on third party unsupervised. As a result of this story it was found that an offender is required to register with the Alaska Department of Public Safety as soon as they plead guilty or no contest to these charges. Unlike another law on the books which doesn't require them to register until 7 days after they are sentenced. As of December 13, 1998 I still have not found this offender registered. A new law is going to be passed on January 1, 1999 which will also require offenders to register immediately instead of 7 days after they are sentenced.

Some questions come to mind regarding unsupervised offenders. Shouldn't all of these sex offenders be placed on supervised third party bail? Should any of these offenders, whether they plead guilty or not, have the opportunity to hurt any other children? Should any child have to feel unsafe during this judicial process? Isn't the whole experience scary enough? I am aware that there are those who have been falsely accused and this too appalls me because there are enough true cases to go around. For those who plead not guilty, yet are found guilty, let's not allow any other child to be hurt or unsafe.


I am asking that the law be written more clearly so that no sex offender can be released on bail to a third party without sight and sound supervision. I think that once these offenders have pleaded no contest or guilty to this crime they remain incarcerated to fulfill their sentence. Unfortunately I do not know how to make this fair to all parties concerned - landlords, mortgage holders etceteras.

Thank you for taking the time to read this letter and I sincerely hope that you will consider some changes to help our children be and feel safe. I have attached a copy of the letter written to Judge Andrews concerning this matter. Feel free to contact me if you have any questions.

Thank you for your prompt action.

Sincerely,

Angela S. Camos
3401 W. 64th Ave #5
Anchorage, AK 99502
(907) 248-2512

 <u>Judge Andrews.doc</u>	Name: Judge Andrews.doc Type: Winword File (application.msword) Encoding: base64
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Subject: Re: HB 67

Date: Wed, 10 Feb 1999 15:36:15 -0900

From: "Anne Gwen" <acamos@ibm.net>

To: "Janet Seitz" <Janet_Seitz@legis.state.ak.us>

Janet,

Here is the copy of the letter to Judge Andrews that you requested. Please accept and pass on my gratitude for all that you are doing.

Angela

Angela Camos
3401 W. 64th Ave #5
Anchorage, AK 99502
(907) 248-2512

Judge Andrews
825 W. 4th Ave
Anchorage, AK 99501

December 7, 1998

Judge Andrews:

I am writing this letter in regards to your actions in Eric Kostiner's bail hearing (Case # 3AN-S98-9699CR). I would also like to take the opportunity to express my thoughts and feelings in this matter.

At the bail hearing it was decided that this sex offender would be released without constant supervision until his sentencing. I feel that you are making a mistake by letting any child sex offender out on a third party which is not sight and sound. As a result of your letting Eric Kostiner out in such a manner, I now have a ten-year-old daughter who does not feel safe. She is worried that he will come and pick her up at school, or try to come to the house and get her.

At Eric Kostiner's bail hearing I thought that I would have the opportunity to speak, but I didn't. After the hearing when I spoke to the DA and I was told it doesn't work like that. So I would like to take this time to tell you what I had to say. It may not change anything in this case, but I am hoping that it will change your views in the future.

As I listened to your ruling I got the impression that you see these offenders as not being dangerous if they have no prior history; they haven't snatched a child off the street; they aren't dealing or using, drugs; they aren't having drug parties; or they have no prior record. With all due respect this is generally not the case. These sex offenders are usually upstanding folks who find their way into the lives of people, and then take advantage of their children. I know this first hand both as a result of my childhood and this case with my daughter.

In the hearing it came up that the offender had a letter from a psychiatrist. I did not have the opportunity to tell anyone that I have additional information about this. The offender told me he has a degree in psychology and he feels those in this profession are his equals. This could easily allow him to mislead someone else in this

profession.

As I mentioned I am familiar with being the victim of a sex offender. This offender was a tax investigator for the City of Chicago; very well respected in the community, he worked elections, and had many reputable friends. At home this man was molesting me. It began at the age of 6 and it didn't end until I was 14. The first time I told my mother what happened she didn't know what to do, so we went to the church. But the abuse continued. Next I told the police about the abuse that was occurring. They knew my stepfather very well and decided for themselves that this could not be true, so they brought me home. The next time I told what happened I was brought down to the Department of Child and Family Services. I was placed out of my home for a short time, but my aunt and uncle could not keep me there. So I ended up back at home and the abuse continued. When my mother tried to go to court DCFS had mysteriously lost his file. There suddenly seemed to be no record of the report made on my stepfather, a fine member of the community. The court appointed psychiatrist had moved and couldn't be located. Eventually my mother divorced this man.

Now, 22 years later I am still faced with a system that doesn't protect the child victim and allow them to feel safe. I am asking that laws be written more clearly so that no sex offender can be released on bail to a third party without sight and sound supervision. I think that once these offenders have pleaded no contest or guilty to this crime they should remain in prison. Unfortunately, I do not know how to make this fair to all parties concerned, landlords, mortgage holders, etceteras. The child victim needs to be kept and made to feel safe. Letting out an offender on a third party who is not supervised under an order of sight and sound does not do this. The statistics I have read show that 1 in 4 children are molested. Can you honestly tell by meeting an offender for a few moments at a bail hearing you know whether or not they will do this while they are out awaiting sentencing if they are unsupervised?

On December 4, 1998 Channel 2 News, Laura Tannis, aired a story regarding this offender being out on third party unsupervised. As a result of this story it was found that an offender is required to register with the Alaska Department of Public Safety as soon as they plead guilty or no contest to these charges. Unlike another law on the books which doesn't require them to register until 7 days after they are sentenced. As of December 13, 1998 I still have not found this offender registered. A new law is going to be passed on January 1, 1999 which will also require offenders to register immediately instead of 7 days after they are sentenced.

Some questions come to mind regarding unsupervised offenders. Shouldn't all of these sex offenders be placed on supervised third party bail? Should any of these offenders, whether they plead guilty or not, have the opportunity to hurt any other children? Should any child have to feel unsafe during this judicial process? Isn't the whole experience scary enough? I am aware that there are those who have been falsely accused and this too appalls me because there are enough true cases to go around. For those who plead not guilty, yet are found guilty, let's not allow any other child to be hurt or unsafe.

I am asking you to reconsider these types of situations, help get some laws passed so that this doesn't have to happen to any more children. Things have come a long way since I was a child. Please don't let it end here. Take it to the next level.

Please, don't let this happen anymore. Thank you for taking the time to read this letter and think over what I have set before you.

Sincerely,

Angela S. Camos

Cc: Governor
City Assembly Members
District Attorney's Office
House and Senate Committee Representatives
House and Senate Judiciary Representatives
Congressional House and Senate Representatives
President of the United States

TUNJORA WOMEN'S COALITION
WORKING TOGETHER TOWARD A BRIGHTER FUTURE



FEB 03 1999

February 2, 1999

Representative Norman Rokeberg
Alaska State Legislature
House of Representatives
State Capital, Room 24
Juneau, AK 99801-1182

Dear Representative Rokeberg,

Thank you most sincerely for introducing House Bill 67 to your colleagues. I believe that this legislation will significantly strengthen protection for children who have been sexually abused. It is imperative that those of us who are aware of the devastating impact of sexual abuse work together to lessen the likelihood that an alleged offender against children has an opportunity to reoffend.

I strongly support efforts to ensure that a suspected offender against children has 24 hour supervision if released to a third party following a bail review; I believe that asking for comments from the victims or those who can speak, in the case of very young children, on the victim's behalf will do a great deal to educate judges on the impact of sexual abuse, also.

I again offer my appreciation for your introduction of this much needed legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy J. O'Mara". The signature is written in dark ink and is positioned above the printed name.

Nancy J. O'Mara

SITKANS AGAINST FAMILY VIOLENCE

P.O. Box 6136 • Sitka, Alaska 99835
(907) 747-3370 • Fax 747-3450 • Crisis Line 1-800-478-6511

February 8, 1999

Senator Rokeberg
Alaska Senate
Capital Building
Juneau, Alaska 99801

Dear Senator Rokeberg:

Sitkans Against Family Violence would like to express our support of House Bill 67 "An Act relating to releases of certain persons alleged to have committed certain sexual offenses." We appreciate the provisions in the bill that would strengthen protections for sexually abused minors, some of our most vulnerable citizens. Thank you for sponsoring this important legislation.

Yours very truly,

SITKANS AGAINST FAMILY VIOLENCE



Christine M. Pate
Executive director

FEB 10 1999



Member of the Alaska Network on Domestic Violence and Sexual Assault
United Way Member Agency

TOTAL P. 01



Unalaskans Against Sexual Assault & Family Violence

Box 36, Unalaska, AK 99885 • Office: 581-1500 • Crisis Line Call: 711

FEB 09 1999

Alaska State Legislature
House of Representatives
State Capitol - Room 24
Juneau, AK 99801-1182

Attn: Representative Norman Rokeberg

Dear Representative Rokeberg,

I am writing this letter in support of House Bill 67, which you introduced in January.

HB 67 will provide additional protections for sexually abused minors. It provides (1) that the judge or magistrate must solicit comments from the victim, and consider those comments at any bail hearing; and (2) if the alleged perpetrator is charged with second- or third-degree sexual assault or incest and the victim is under the age of 18, any release to a third-party custodian must be a 24 hour sight and sound supervision by a court approved third-party custodian.

I want to thank you for sponsoring this bill, and express our support for it. Child victims of sexual abuse need every possible protection that the law can provide, and their comments must be taken into consideration when a perpetrator may be released on bail. Please do not let children be victimized twice by a court system that fails to protect them. Please continue to support this bill.

Sincerely,

M. Lynn Craze
Director
USAFV

LEGAL SERVICES

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

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

130 Seward Street, Suite 405
Juneau, Alaska 99801-2155

MEMORANDUM

February 1, 1999

SUBJECT: Sectional Summary of HB 67

TO: Representative Norman Rokeberg
Attn: Janet Seitz

FROM: Gerald P. Luckhaupt *JPL*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1. Amends AS 12.30.020(a) to provide that a person charged with a sexual assault of a child, incest with a child, sexual abuse of a child, unlawful exploitation of a minor, or indecent exposure in the first degree may not be released pending trial on their own recognizance or upon the execution of an unsecured appearance bond.

Section 2. Amends AS 12.30.020(b) to provide that a person charged with a sexual assault of a child, sexual abuse of a child, incest with a child, unlawful exploitation of a child, or indecent exposure in the first degree may not be placed with a third party custodian unless that custodian will maintain 24 hour supervision of the person.

Section 3. Amends AS 12.30.020 to provide that a judicial officer shall solicit and consider comments from the victim before making a release decision under AS 12.30.020 if the defendant is accused of sexual assault of a child, incest of a child, sexual abuse of a child, unlawful exploitation of a child, or indecent exposure in the first degree.

Section 4. Provides a applicability section.

GPL:lmb:gle
99-008.lmb

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 67

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to release of certain persons BRU Administration and Operations
alleged to have committed certain sexual offenses. Component All
 Sponsor Representative Rokeberg
 Requester House Judiciary Committee Component Serial No. #0694

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 ()						
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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: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation will impact the pre-trial inmate population within the department of corrections, to what extent is unknown. It is anticipated that fewer people will be able to make bail or be released to a third party custodian under House Bill 67. It is difficult to predict the fiscal costs resulting from this legislation. Therefore the DOC is submitting an indeterminate fiscal note.

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date/Time 2/23/99 4:24 PM
 Approved by Margaret M. Pugh Date 2/22/99
 Agency Department of Corrections

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Anchorage, AK 99501
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FAX: (907) 269-0119

SESSION:

State Capitol
Juneau, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

REPRESENTATIVE NORMAN ROKEBERG

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

MEMORANDUM

TO: Representative Pete Kott, Chairman
House Judiciary Committee

FROM: Representative Norman Rokeberg *Norman Rokeberg*

DATE: February 11, 1999

RE: Scheduling request

I would request that House Bill 67 (An Act relating to release of certain persons alleged to have committed certain sexual offenses) be heard before the Judiciary Committee.

I am submitting the following:

1. Sponsor Statement
2. Sectional Analysis (prepared by Legislative Counsel)
3. E-mail message from Angela Camos entitled "Unsupervised Sex Offenders"
4. Letters of Support:
 - a. Victims for Justice
 - b. Tundra Women's Coalition
 - c. Sitkans Against Family Violence
 - d. Unalaskans Against Sexual Assault & Family Violence

Ms. Camos would like to testify on this legislation. Therefore, I would request a teleconference be scheduled for this bill. At a minimum, I would request that the Anchorage Legislative Information Office be on line for any hearing.

If you have any questions, please contact me or Janet Seitz of my office.



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE NORMAN ROKEBERG

State Capitol, Room 24, Juneau, AK 99801-1182

Telephone: (907) 465-4968

Fax: (907) 465-2040

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

House Bill 67

An Act relating to release of certain persons alleged to have committed certain sexual offenses

House Bill 67 is being proposed to strengthen protection for sexually abused minors. It provides that the judge has to solicit comments from the victim and consider those comments at the bail hearing. It further provides that if the alleged criminal is charged with a crime involving a child under 18 that any release to a third-party custodian has to be 24 hours a day (except for any periods personally approved by the judicial officer).

This legislation stems from a situation faced by one of my constituents this past year. This person's young child was sexually abused. The parent was not notified of the bail hearing and the predator, who changed his plea at the last minute, was released back into the community with minimal supervision despite the District Attorney's request for 24-hour supervision. As might be expected, the victim's parent was outraged that the criminal who abused a young child was again in the community without any supervision. I agreed with the parent's concerns and drafted this legislation.

Sexual assault in the second degree, third degree, and incest would be covered by this legislation when the victim was under 18 years of age. All of these are horrible crimes and are made even more so when the victim is a young person. Alaska needs to protect its children from sexual predators from the time of arrest through sentencing or acquittal. House Bill 67 will help accomplish this goal.

Currently a victim is usually notified of a bail hearing but such notification is not statutorily required as under this legislation. Additionally, it is currently left to the discretion of the judicial officer as to the supervision status of any released alleged offender, who may be awaiting trial or sentencing. House Bill 67 indicates that "the judicial officer may not place the person in the custody of a designated person or organization under this paragraph unless the designated person or organization will maintain supervision of the person for 24 hours a day except for any periods personally approved by the officer."

I would urge your support of this legislation.

ED1:1/25/99



ALASKA COURT SYSTEM
State of Alaska
Office of the Administrative Director

Doug Wooliver
Administrative Attorney

920 West 4th Avenue
Anchorage, Alaska 99501-2005
(907) 264-8265
FAX (907) 264-8291

February 19, 1999

The Honorable Norm Rokeberg
Chairman, House Labor and Commerce
State Capitol
Juneau, Alaska 99811

Dear Representative Rokeberg:


The purpose of this letter is to explain an amendment (attached) that the court system would like to offer to HB 67. Although the court takes no position on the public policy reflected in the bill, I would like to offer some clarifying language that should not change the substance of the bill but might provide judges with more guidance.

Section 3 of the bill states that before a judge can release on bail a person charged with certain offenses, he or she must solicit comments from the victim. The problem that judges have expressed to me is that frequently victims do not attend bail hearings so there is no one to solicit comments from. Under the victim rights provisions of our constitution (article I, section 24) and our statutes (AS 12.61.010), the victim has the right to be notified of the bail hearing, and the right to attend and to speak if they wish. However, they are not compelled to attend.

The proposed amendment simply clarifies that inquiries need not be made of victims who are not present and it emphasizes that the decision is up to the victim. It leaves in place the judge's affirmative duty to inquire whether a victim who is present wants to testify.

Thank you for considering the amendment. If you have any questions please do not hesitate to contact me in Juneau at 463-4750 or by e-mail at dwooliver@courts.state.ak.us.

Sincerely,



Doug Wooliver
Administrative Attorney

Amendment offered by the Alaska Court System

Section 3, page 3, line 2: following "from" delete "the victim" and replace with "any victim who is present wishes to testify."

With this change, section 3 would read:

- (i) Notwithstanding another provision of this section, a judicial officer shall solicit comments from any victim who is present and wishes to testify and shall consider those comments before making a decision to release a person who is charged with a violation of AS 11.41.410 – 11.41.425 or 11.41.450 in which the victim is alleged to be a child under 18 years of age or of AS 11.41.434 – 11.41.440, 11.41.455, or 11.41.458.