

**HB**

**99**

FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HB 99

Revision Date: \_\_\_\_\_  
Title: "An Act relating to sexual assault..."

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

Sponsor: Rules Committee  
Requestor: (H) JUD

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	**	**	**	**	**	**

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 Poo Jr.  
Agency: Department of Administration

Date: 3/25/99

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This bill makes it illegal for Department of Corrections' employees or "legal guardians" of 18 or 19-year olds committed to the care of the Department of Health and Social Services to have sex relations with people committed to their custody.

It is expected that the prosecutions envisioned by this bill would be rare. There would also be a fairly good chance that the people prosecuted would be able to afford to hire their own attorneys, although attorneys in private practice generally charge a substantial, up-front fee before entering an appearance in a sexual assault case.

Although the Public Defender Agency expects that there will be a few prosecutions under this bill where a Public Defender attorney would be appointed, the fiscal impact cannot be determined with any precision. Therefore, an indeterminate fiscal note is being submitted.

# FISCAL NOTE

Bill version: HB 99

(H) Publish Date: 2/19/99

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Revision Date/ Title: Sex with Inmates  
Dept. Affected: Public Safety  
Component: BRU  
Sponsor: Rules Committee  
Requester: Governor  
Component Serial No.:

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Prepared by: Sandy Perry-Provost, Special Assistant  
 Division: Office of the Commissioner  
 Approved by: Commissioner Ronald L. Otte  
 Agency: Department of Public Safety  
 Phone: 465-4322  
 Date/Time: 2/17/99 11:53 AM  
 Date: 2-17-99

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# FISCAL NOTE

No. 4

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

Bill Version: HB 99  
(H) Publish Date: 2/19/99

Revision Date/Time (Note if correction)	Dept Affected	Law
Title "An Act relating to sexual assault and the definitions of 'sexual contact,' 'sexual penetration,' and	BRU	Criminal Division
Sponsor Rules Committee	Component	1st-4th Judicial Districts, Special Prosecutions/Appeals
Requester Governor	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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill makes it a crime for a person employed in a correctional facility or other placement for prisoners to engage in sexual conduct with a prisoner. The bill also makes it a crime for a legal guardian of a person 18 or 19 years of age who is in the custody of the Department of Health and Social Services to engage in sexual conduct with that person. The criminalization of this conduct is premised on the offender's abuse of authority over others.

This bill is not anticipated to have a fiscal impact on the Department of Law.

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>2/16/99, 12:16 PM</u>
Approved by Commissioner <u>Francis M. Baisden</u> <i>Francis M. Baisden</i>	Date <u>2/16/99</u>
Agency <u>Department of Law</u>	

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STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Bill Version: HB 99  
(H) Publish Date: 2/19/99

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: Relating to Sexual conduct with a prisoner  
or juvenile offender.  
 Sponsor: Rules Committee by Request of the Governor  
 Requestor: Governor

Dept. Affected: Health and Social Services  
 BRU: Youth Corrections  
 Component: Probation Services  
 COMPONENT SERIAL NO. 2134  
 See also (SN#): \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

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

OPERATING	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES 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 (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY1999) cost: \$0.0

POSITIONS:

FULL-TIME	0				
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

This bill would have no fiscal impact on the department. Violations under this bill would be processed through the adult criminal system. Although department employees may need to be called as witnesses in an adult prosecution under this bill, this need is viewed as being extremely limited and rare. Any such occurrence would be met through the normal course of business and would not justify a separate budgetary allocation.

*S* 2/10/99

Prepared by: George Buhite  
 Division: Family & Youth Services  
 Approved by Commissioner: Karen Perdue, Commissioner  
 Agency: Department of Health & Social Services

Phone: 465-2212  
 Date/Time: 2/10/99 11:27 AM  
 Date: 2/10/99

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# FISCAL NOTE

No: 2

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Bill Version: HB 99  
(H) Publish Date: 2/19/99

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Department of Corrections  
 Title An Act relating to sexual assault and the BRU Administration and Operations  
 definitions of 'sexual penetration' and 'legal guardian' is AS 11 Component All  
 Sponsor Rules Committee  
 Requester Governor 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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**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						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

POSITIONS	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Full-time						
Part-time						
Temporary						

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

A zero fiscal note is provided as these types of assault are extremely rare.

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date/Time 2/16/99 5:01 PM  
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 2/16/99  
 Agency Department of Corrections

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(Rev 10/98) 99fncm xls/OMB

FISCAL NOTE

No: 1

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Bill Version: HB 99  
(H) Publish Date: 2/19/99

Revision Date: 2/3/99  
Title: "An Act relating to sexual assault ..."  
Sponsor: Rules  
Requestor: Governor

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
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 ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The bill creates a new class C felony and class A misdemeanor if a person employed in a correctional facility or prisoner placement or a legal guardian of a person in DHSS custody engages in sexual conduct with a person subject to that authority. Fiscal impact should be zero as predicted cases are few and public defender financial eligibility is unlikely.

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: 2/3/99

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LOSY KNOWLES  
GOVERNOR

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Juneau, Alaska 99811-0001  
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Fax (907) 465-3510

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 18, 1998

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

Dear Speaker <sup>Brian</sup> Porter:

I am transmitting today a bill making it a crime for a person employed in a correctional facility or other placement for prisoners to engage in sexual conduct with a prisoner. The bill also makes it a crime for a legal guardian of a person 18 or 19 years of age, who is in the custody of the Department of Health and Social Services (DHSS), to engage in sexual conduct with that person.

Alaska law currently prohibits persons in specific authoritative positions from engaging in sexual conduct with other persons subject to that authority. For example, employees who work in licensed care facilities are prohibited from engaging in sexual conduct with clients who are mentally incapable, incapacitated, or unaware a sexual act is being committed. The criminalization of this conduct is premised on the offender's abuse of authority over others. Those employed in correctional facilities or other placements designated by the commissioner of the Department of Corrections (DOC), and those who are a legal guardian of an 18- or 19-year old in the custody of the DHSS, have a similar position of authority over persons committed to the state's custody, and should not abuse their position by engaging in sexual conduct with the persons subject to that authority.

The bill provides that it is a class C felony for these persons in authority to engage in sexual penetration, and a class A misdemeanor to engage in sexual contact with a person subject to that authority. A defendant convicted of either offense would be required to register as a sex offender.

The Honorable Brian Porter .

February 18, 1999

Page 2

The bill does not address conduct involving juveniles under the age of 18 who are committed to the legal custody of the DHSS, because that conduct is already illegal under Alaska law.

I urge your prompt and favorable consideration of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is fluid and cursive, with a large initial "T" and "K".

Tony Knowles  
Governor

# Alaska State Legislature



## House of Representatives House Judiciary Committee

### COMMITTEE SECTIONAL ANALYSIS

DATE: March 26, 1999  
TO: Judiciary Committee Members  
FROM: Representative Pete Kott, Chair  
RE: Sectional Analysis of HB 99

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SECTION 1: This section is amended adding language which raises the offense of *sexual penetration* by an employee of the Department of Corrections with an inmate of the Department of Corrections to Third Degree Sexual Assault.

This section is also amended adding language which raises the offense of *sexual penetration* with a person 18 or 19 years of age who is committed to the custody of the Department of Health and Social Services per AS 47.10 or AS 47.12 to Third Degree Sexual Assault.

SECTION 2: This section is added which makes *sexual contact* under the circumstances of the two categories listed in Section 1 a Fourth Degree Sexual Assault.

SECTION 3: This section amends the definitions of "legal guardian" to comport with the intent of Section 1.

SECTION 4: This section amends the definitions of "sexual contact" to exclude legitimate searches of the person.

SECTION 5: This section amends the definitions of "sexual penetration" to exclude legitimate searches of the person.