

HB

288

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/30/00

FURTHER: REPORTED OUT OF SFC 4/13/00

DATE TURNED IN TO OFFICE: 13 April 00

Finance Committee considered CS FOR HOUSE BILL NO. 288(JUD)

"An Act relating to the creation of an aggravating factor for the commission of domestic violence in the physical presence or hearing of a child."

and recommends:

- be replaced with S CS 3 HB 288 (FIN)
- adopt previous _____ CS _____
- attached amendment(s) CS forthcoming
- adopt Letter of Intent by _____
- further referral to the _____ Committee

- Senate Bill:
 - same title
 - new title
- House Bill:
 - same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓				
Co-Chair:					

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Cart	2/16/00	✓	
Corrections	2/21/00	✓	
Law	1/31/00	✓	
Public Safety	1/31/00	✓	
Admin-PDA	1/31/00		*

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Bill Version: CSHB 288 (JUD)
 (H) Publish Date: 2/25/00

STATE OF ALASKA REPORTED OUT OF
 2000 LEGISLATIVE SESSIONSFC 4/13/00

Revision Date/Time (Note if correction) <u>Feb. 19, 2000</u>	Dept. Affected <u>Department of Corrections</u>
Title <u>An act relating to the creation of an aggravating factor for the commission of domestic violence</u>	BRU <u>Administration and Operations</u>
Sponsor <u>Representative Kott</u>	Component <u>All</u>
Requester <u>House Finance Committee</u>	Component No. <u>#0694</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous		24.0	24.0	24.0	24.0	24.0
TOTAL OPERATING	0.0	24.0	24.0	24.0	24.0	24.0

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		24.0	24.0	24.0	24.0	24.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	24.0	24.0	24.0	24.0	24.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: <u>Candace Brower</u>	Phone <u>465-3307</u>
Division <u>Commissioner's Office</u>	Date/Time <u>2/21/00 11:01 AM</u>
Approved by Commissioner <u>Margaret M. Pugh</u>	Date <u>2-21-00</u>
Agency <u>Dept. of Corrections</u>	

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CS HB 288 (HFIN)
PAGE 2 of 2
DATE 2/21/00

Assumptions:

1. The Department of Corrections' data show that in 1999 approximately 2365 prisoners were admitted to correctional facilities on domestic violence charges. Of those admissions, 268 were charged with felony assault and 2097 with misdemeanor assault. The Department of Law reports that they anticipate 75 convictions for felony domestic violence assault in calendar year 1999. This number is based on convictions over the past 3 years.
2. Assuming 65% of those incidents occurred in the physical presence of children, this bill would affect 49 cases.
3. Assuming that perhaps one-half of those 49 would be presumptive cases affected by aggravating factors, that impacts 25 defendants.
4. Assuming 20% of those would result in increased sentences of approximately three months, (60 days to serve) the final number actually being impacted would be approximately 5. Since these cases are felony domestic violence, some may be ineligible to furlough into the community because of their risk factor, so the cost of incarceration for those inmates would be at the institutional rate which is currently \$110.73 per day. Three out of the five will possibly be furloughed to a CRC at a cost of \$59.61 per day. The cost of care for the two inmates, serving 60 days each at a cost of \$110.73/day is \$13,288. The cost of care for the three inmates serving 60 days each at a cost of 59.61/day is \$10,730. The total fiscal impact to the Department of Corrections will be approximately \$24,000 per year beginning in FY 02, since the aggravator would not be served until after FY01.

FISCAL NOTE

Bill Version: HB 288

(H) Publish Date: 2/4/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 4.13/00

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "... to the creation of an aggravating factor for ... BRU Criminal Division
... domestic violence in the physical presence of a child." Component 1st-4th Judicial Districts; Criminal
 Sponsor Representative Kott Appeals/Special Litigation
 Requester House HESS Committee Component No. 2198-99;2201;03;61;79

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 288 creates an aggravating factor for the commission of domestic violence in the physical presence of a child.

This new aggravator would apply to felony domestic violence cases. Felony domestic violence cases are already taken very seriously by the Department of Law's prosecutors, and many have other aggravating factors. While a new aggravating factor will require putting forward additional evidence to prove it, the department anticipates any fiscal impact from passage of this bill to be minimal.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date/Time 1/31/00, 10:32 AM
 Approved by Commissioner *K. Botelho* Bruce M. Botelho, Attorney General Date 1/31/00
 Agency Department of Law

COMMITTEE COPY

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FISCAL NOTE

Bill Version: HB 288

(H) Publish Date: 2/4/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFG 4/13/00

Revision Date 1/27/00 Dept. Affected Public Safety
 Title Children Witnessing Domestic Violence BRU CDVSA
 Component: CDVSA
 Sponsor Representative Kott
 Requester H. HES Component No. 521

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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 (FY2000) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would not impact our budget.

Prepared by: Royce Weller, Special Assistant Phone 465-4322
 Division Office of the Commissioner Date/Time 1/28/00 12:00 PM
 Approved by: [Signature] Date 1-31-00
 Agency Commissioner Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

Bill Version: HB 288

(H) Publish Date: 2/4/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 4/13/00

Revision Date: _____
Title: "An Act relating to the creation of an aggravating factor
for the commission of domestic violence in presence of child"
Sponsor: Representative Kott
Requestor: (H) HESS

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

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
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 00) cost: \$ -0-

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: 1/31/00

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 288

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill would add another aggravating factor to the list of aggravating factors used in sentencing in felony cases. The aggravating factor would provide for increased sentences if the crime involved domestic violence and was committed in the presence of a child under 16. The child would have to be a member of the household at the time of the offense.

The Public Defender Agency will need to do more work in many of its felony sentencing cases if this aggravating factor is established. The prosecution will have to prove the aggravating factor by clear and convincing evidence. Where the facts are at issue, Public Defender attorneys will have to prepare for and conduct evidentiary hearings. If the aggravating factor is established, the court will need to hear argument concerning the weight to be given to the factor in the case before the court.

However, the amount of additional work is difficult to quantify. Although more work will need to be done, we do not anticipate more criminal cases being brought or sentencings conducted as a result of this bill. In addition, it is not possible to say how many felony sentencings this aggravating factor would affect. Because of these uncertainties, we are submitting an indeterminate fiscal note.

SENATE FINANCE
COMMITTEE #1
Amendment Number: #1
Bill Number: HB 288
Sponsor: Phillips Date: 4/13/00
Logged In By: Mindy

AMENDMENT

OFFERED IN THE SENATE

TO: SCS FOR CSHB 288(JUD)

Sponsor: Senator Phillips

Page 1, line 14: after "offense,"

Insert: "living"

Page 2, line 1:

Delete: "household;"

Insert: "residence of the victim, the residence of the perpetrator, or the
residence where the crime involving domestic violence occurred;"

Kelly COMMITTEE
2000 COMMITTEE ACTION

Bill Number	HB 288		
Amendment	#1		
Motion	adpt		
<u>Motion by</u>	Ph		
<u>Objection by</u>	T		
Removed	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Pete Kelly			
Senator Lyda Green			
Senator Randy Phillips			
Senator Dave Donley			
Senator Loren Leman			
Senator Al Adams			
Senator Gary Wilken			
Co-Chair Sean Parnell			
Co-Chair John Torgerson			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u> Pass			



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 4/14/00 TIME: 8:15 AM

TO: Peggy

NUMBER OF PAGES, INCLUDING COVER SHEET: _____

FROM: JAMIE FOLEY
SENATE FINANCE CMTE. ASST. SECRETARY
PHONE: 465-2618
FAX: 465-2187

NOTES: Amend #1 -> HB 288

SPONSOR STATEMENT

HB 288

"An Act relating to the creation of an aggravating factor for the commission of domestic violence in the physical presence of a child."

This bill lets the courts to be tougher on those having been convicted of domestic violence if they committed that crime with their children present. If passed, the criminal justice system would have a new tool to further Alaska's fight against domestic violence and child abuse.

HB 288 creates an aggravated factor when domestic violence is committed in the presence of children who are also household members of the perpetrator. Under current law, a person convicted on domestic violence charges is subject to Alaska's presumptive sentencing rules found in AS 12.55.125. Although the court is given guidelines, under AS 12.55.155, it may also consider factors that can mitigate or aggravate the severity of the crime and resulting sentence. Considering the totality of the factors, the court may adjust the sentence up to the maximum or down to the minimum term of imprisonment prescribed by presumptive sentencing laws.

What is an aggravating factor? It is an act or circumstance characterized by some unique feature that enhances the severity of crime. For example that may be what the intentions of the criminal were or it may be the special vulnerability of the victim. This bill would expand the list of aggravating circumstances to include the special vulnerability of children.

Domestic violence is a scourge all over our state and Alaskans are fighting back to protect the lives of the victims and the children involved. HB 288 takes us a step further by recognizing that even if a child is not on the receiving end of the violence, they are profoundly damaged when they become witnesses to parents and caregivers engaging in this abhorrent behavior.

SENATE FINANCE COMMITTEE

SIGN-IN

HB 288-CHILDREN WITNESSING DOMESTIC VIOLENCE

NAME: Lauree Tiugonin Subject/Bill No: HB 288
Co./Dept./Title: ANVORSA Phone: 586-3650
Address: 130 Seward cm. 209 Juneau Zip: 99801

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Finance
Committee on HB288 Committee Name Dated 4/13/00
Bill / Subject

Attached . . .

apologizes for hand written nature
of the testimony.

Copy faxed 4/13/00

SIGNED:

Testifier

Representing

Address / Phone Number

I'm here to testify in favor of HB 288

Children learn from their environment and if that environment is one of violence and control that is what is learned and patterned in a child's brain. In essence DV in homes - children teaches that violence gets you what you want. It also shows that violence enables you to control someone else. Carried out to it's extreme DV. Could be the birth place for the need for Jails. It's for sure, it has been shown that children in a home where there is DV are much more likely to be abused and/or neglected. This in turn sets up a parenting pattern ~~that~~ ^{where} with more than likely they will in turn be abusers ^{intergenerational} and ^{and} ~~be~~ ^{involved in DV} ^{in and of itself} This is the basis of an ^{intergenerational} problem. No law ^{can} correct this pervasive problem but HB 288 ~~may~~ is one step in the right direction and I urge you to pass it on to the full Senate and then pass it ^{on to the Gov. for him to sign} ~~into law~~ ^{into law}. This Bill is long overdue and from all comments I've ~~heard~~ ^{heard} from ~~the~~ ^{the} HSS people I ~~work~~ ^{work} with, it will help them do their job to protect our most precious resource, our children, from harm.

Thank you

Arthur S. Hansen DDS.

FISCAL NOTE

No: 6

STATE OF ALASKA
2000 Legislative Session

REPORTED OUT OF
SFC 4/13/00

Bill Version: CSHB 288 (JUD)
(H) Publish Date: 2/25/00

Revision Date		Dept. Affected	<u>Alaska Court System</u>
Title	<u>Aggravating Factor for Domestic Violence Committed in the Presence of a Child</u>	BRU	<u>Alaska Court System</u>
Sponsor	<u>Representative Kott</u>	Component	<u>Trial Courts</u>
Requester	<u>House Judiciary</u>	Component Serial No.	<u>769</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
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						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
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: None

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

House Bill 288 adds an aggravating factor to a felony domestic violence crime if the crime was committed in the physical presence or hearing of a child. Although this bill may result in more lengthy sentencing hearings in some cases, the number of cases is too speculative to support a fiscal note.

Prepared by:	<u>Doug Wooliver, Administrative Attorney</u>	Phone:	<u>264-8265</u>
Agency:	<u>Alaska Court System</u>	Date/Time:	<u>2/16/00 11:40 AM</u>
Approved by:	<u>Stephanie J. Cole, Administrative Director</u>	Date:	<u>2/16/00</u>
Agency:	<u>Alaska Court System</u>		