

SB

3

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 1/25/99

FURTHER: 2/2/99

DATE TURNED
IN TO OFFICE: 2 Feb 99

Finance Committee considered

SENATE BILL NO. 3

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

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- 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>Bill E. Hood</i>	✓				
<i>Lynne Green</i>	✓				
<i>Patricia Kelly</i>	✓				
<i>Joe Adams</i>	✓				
<i>George Leibel</i>	✓				
<i>Edward D. Simon</i>	✓				
<i>William D. ...</i>	✓				
Co-Chair: <i>William D. ...</i>	✓	Co-Chair:			
Co-Chair: <i>Heidi ...</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Admin/ Public Advocacy	1/22/99		*
Law	1/22/99	0	
Admin/ Public Defender	1/22/99		*
Corrections	1/21/99	0	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 4 2/2/99
 Bill Version: SB 3
 (S) Publish Date: 1-25-99

STATE OF ALASKA
 1999 LEGISLATIVE SESSION

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

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES	**	**	**	**	**	**
----------------------	----	----	----	----	----	----

CHANGE IN REVENUES ()	**	**	**	**	**	**
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	**	**	**	**	**	**
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	**	**	**	**	**	**

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

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FISCAL NOTE

2/2/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

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

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

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)

SB 3 increases the penalties for those people who kill children. These changes will have no fiscal impact on the Department of Law. The department already aggressively pursues criminal cases involving the murder of a child. Enactment of this legislation will increase the penalties for those charged, but will not increase the department's workload.

Prepared by Joan M. Kasson *Joan M. Kasson*
Division Attorney General's Office
Approved by Commissioner Bruce M. Botelho, Attorney General
Agency Halvorsen & Rauschman Department of Law

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

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FISCAL NOTE

2/2/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

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

Revision Date: _____
Title: "An Act relating to the crimes of murder..."
Sponsor: Senator Halford
Requestor: (S) JUD

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL	**	**	**	**	**	**
CONTRACTUAL	**	**	**	**	**	**
SUPPLIES	**	**	**	**	**	**
EQUIPMENT	**	**	**	**	**	**
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

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

FUND SOURCE: (Thousands of Dollars)

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

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

Phone: (907) 264-4414
Date: _____

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

Date: 1/22/99

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 3

#2

1999 LEGISLATIVE SESSION

ANALYSIS: (Continued)

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

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

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

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

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

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 1 870 2/2/99
Bill Version: SB 3
(S) Publish Date: 1-25-99

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
Title An Act relating to the crimes of murder, BRU Administration and Operations
solicitation to commit murder in the first degree, manslaughter Component All
Sponsor Senator Halford
Requester Senate Judiciary 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		35.8	35.8	86.0	143.3	179.1
TOTAL OPERATING	0.0	35.8	35.8	86.0	143.3	179.1

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		35.8	35.8	86.0	143.3	179.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	35.8	35.8	86.0	143.3	179.1

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by Bruce Richards Phone 465-3307
Division Commissioner's Office Date/Time 1/21/99 3:25 PM
Approved by Commissioner Margaret M. Pugh Date 1/21/99
Agency Department of Corrections

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

#1

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. SB 3
PAGE 2 of 2
DATE 1/21/98

Section 1. In consultation with the Dept. of Law it was determined this section will have a budgetary impact. However, it will most likely occur outside the scope of this fiscal note. This type of crime happens rarely and therefore is difficult to estimate the fiscal impact.

Section 2. The Dept. of Corrections does not anticipate a fiscal impact as a result of the changes made to AS 11.41.100.

Section 3 & 6. The Dept. of Law (DOL) estimates the changes proposed to AS 11.41.110(a) in conjunction with the sentencing changes under section five will impact one (1) case per year. The sentencing provisions will increase the mandatory minimum sentence from five (5) to twenty (20) years for a net gain of fifteen (15) years. Subtracting one-third for statutory good time, the actual increase in sentence will be ten (10) years per case.

Section 4. The DOL estimates the increase in penalty for criminally negligent homicide will impact one case per year. This section will raise the penalty from a class C felony to a class B felony. This will result in an additional sentence of one and a half (1.5) years. Subtracting one third for good time results in a total increase of one (1) year per case.

Section 5. No impact.

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

Section 8. The impact from the proposed changes in section seven is difficult to project because the language is permissive and left to the discretion of the judge.

Alaska State Legislature

Senate

Official Business

**RICK
HALFORD**

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

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

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

Sponsor Statement Senate Bill 3

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

All too often, when a child is killed, even when the killer is convicted, they do not receive punishment commensurate with the severity of their actions. Tragically, this has especially been the case when very young children are killed. I believe these children, who are the most vulnerable members of our society, are owed far more than our criminal justice system has afforded them. SB 3 makes the following changes to our criminal statutes:

- *amends current law by adding a new form of first degree murder when the death of a child results from the commission or attempted commission of kidnapping, or of a sexual offense,*
- *expands the list of offenses constituting felony murder to include sexual abuse of a minor in the first and second degrees,*
- *elevates criminally negligent homicide from a class C to a class B felony,*
- *establishes a twenty year mandatory minimum sentence for a person convicted of a murder of a child under the age of sixteen,*
- *increases the mandatory minimum sentence (from five to seven years) for manslaughter, when the victim is a child under the age of sixteen,*
- *establishes a new sentencing provision, which allows for a term of unsuspended imprisonment that exceeds the presumptive term, for certain felony offenses if the victim is a child under the age of 16,*
- *establishes the crime of custodial interference in the first degree if a person violates AS 11.41.330 and causes a child or incompetent person to be removed or kept outside the state.*

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

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

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 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 20, 1999

SUBJECT: Sectional Summary of SB 3 (Work Order No. 21-LS0028/D)

TO: Senator Rick Halford
Attn: Bill Stoltz

FROM: Gerald P. Luckhaupt *JLP*
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 of the bill repeals and reenacts AS 11.31.110(c) to provide that solicitation of first degree murder is an unclassified felony punishable as provided in AS 12.55.125. Under current law this offense is a class A felony. This change conforms the penalty for this inchoate crime (solicitation of first degree murder) to the penalties for the other inchoate crimes that have first degree murder as their objective, i.e. attempt to commit first degree murder (AS 11.31.100(d)), and conspiracy to commit first degree murder (AS 11.31.120(h)).

Section 2 of the bill (1) amends AS 11.41.100(a)(2) by simplifying the language and expanding the range of conduct proscribed by this particular form of first degree murder of children under 16 years of age; and (2) amends AS 11.41.100(a) by adding a new form of first degree murder which consists of making certain felony murders^{1/} of children; these murders are currently, for the most part, proscribed under the felony murder provisions of AS 11.41.110(a)(3) as second degree murder.

Section 3 of the bill amends AS 11.41.110(a)(3) by making a conforming change to AS 11.41.110(a)(3) (p. 2, lines 16 - 17) to the recodification of certain felony murders of children as first degree murder and by expanding the application of the felony murder rule of AS 11.41.110(a)(3) to sexual abuse of a minor in the first and second degrees.

Section 4 of the bill increases the penalty for criminally negligent homicide from a class C felony to a class B felony.

^{1/}When the death of a child results from the commission or attempted commission of a sexual offense or kidnapping of the child.

Section 5 of the bill amends AS 11.41.320(a) by providing that a person commits the crime of interference with child custody if the person causes the victim to be kept out of state in addition to removing the victim from the state as provided under existing law.

Section 6 of the bill amends AS 12.55.125(b) by requiring a 20 year mandatory minimum sentence for a person convicted of murder in the second degree of a child under the age of 16 and the court finds by clear and convincing evidence that the person was the legal guardian of the child or occupied a position of authority in relation to the child or caused the death of the child during commission of an offense under AS 11.41.200 - 11.41.530.

Section 7 of the bill established a presumptive sentence of seven years for a first felony offender convicted of manslaughter in the death of a child under 16 years of age.

Section 8 of the bill amends AS 12.55.125(k) by instructing courts that a first felony offender convicted of criminally negligent homicide of a child under 16 years of age may be sentenced to a term of imprisonment that is greater than the presumptive term for a second or third felony offender.

Section 9 of the bill provides that the bill only applies to offenses committed on or after the effective date of the bill.

GPL:glc
99-120.glc

DEPARTMENT OF LAW

CRIMINAL DIVISION

July 23, 1998

The Honorable Randy Phillips
Alaska State Senator
P. O. Box 142
Eagle River, AK 99577

Dear Senator Phillips:

This is in response to your request for our comments about the Alaska laws relating to child homicides, and the sentencing in those cases. Let us start by pointing out that we continue to support the ideas in Senate Bill 218, introduced last session by Senator Halford. That bill would have made several important changes in the laws that define homicides when the victim is a child. In general, the bill would have made many homicides more serious offenses, carrying more serious penalties.

In addition, the bill would have made many changes to the sentencing in child homicide cases. For example, under current law a judge has the discretion to give a sentence as low as five years for second degree murder. Indeed, were it not for the powerful and moving testimony and letters of Linda Tellsworth and her family and friends, we might not have gotten the sentence that we did in the recent case of the murder of Kyle Tellsworth. Senate Bill 218 would have changed the law such that 20 years of unsuspended time would be the *minimum* that could be imposed if the victim is under 16 and the death occurred by violent means. Senate Bill 218 would have also made sentences longer than are now being given, even if the defendant is convicted of lesser offenses such as manslaughter and criminally negligent homicide. We believe these are appropriate changes, and we support them.

PLEASE REPLY TO:

- CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 485-3428
FAX: (907) 485-4043
- CRIMINAL DIVISION CENTRAL OFFICE
310 K STREET, SUITE 501
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-6379
FAX: (907) 269-6321
- OFFICE OF SPECIAL PROSECUTIONS AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501-2064
PHONE: (907) 269-6250
FAX: (907) 269-6270

The Honorable Randy Phillips
Alaska State Senator

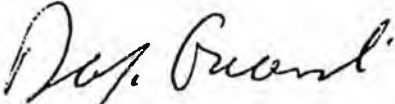
July 23, 1998
Page 2

We understand you will be meeting with Linda Tellsworth, and we ask that you convey to her our gratitude for her letters and testimony. We cannot hope to fully appreciate what she is feeling, and we know her testimony must have been painful for her.

Please contact us if we can be of further assistance.


Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

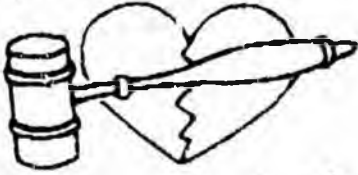
By: 
Dean J. Guaneli
Chief Assistant Attorney General

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Mary Anne Henry
Assistant District Attorney

DJG:tg

VICTIMS

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

January 21, 1999

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

Re: YES on Senate Bill 3!

Dear Senator Taylor and Members of the Judiciary Committee:

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

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

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

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

Please support the passage of Senate Bill 3.

Sincerely,

A handwritten signature in cursive script that reads "Cathy Satterfield".

Cathy Satterfield
Director

FROM : DYNAMIC

FAX NO. : 907 258 7662

Jan. 22 1999 05:46AM P1

January 22, 1999

Karen Campbell
2024 Saratoga Ave.
Anchorage, AK 99517

Senator Rick Halford
State Capitol
Juneau, AK 99801-1182

Dear Senator Halford,

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

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

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

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

Sincerely,

Karen Campbell

Karen Campbell
(907) 261-7662