

HB

180

FISCAL NOTE

Bill Version: CSHB 180 (FIN)
 (H) Publish Date: 2/7/00

STATE OF ALASKA
 2000 LEGISLATIVE SESSION

Revision Date: January 31, 2000
 Title: "An Act relating to the possession, manufacture, use, or delivery of controlled substances while children are present"
 Sponsor: Representative Cowdery
 Requestor: (H) FIN

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 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	15.2	15.2	15.2	15.2	15.2	15.2
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	15.2	15.2	15.2	15.2	15.2	15.2

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	15.2	15.2	15.2	15.2	15.2	15.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	15.2	15.2	15.2	15.2	15.2	15.2

Estimate of any current year (FY 00) cost. \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME	.25	.25	.25	.25	.25	.25
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

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

Phone: (907) 264-4414
 Date: January 31, 2000

Approved by Commissioner: Bob Poe
 Agency: Department of Administration

Date: January 31, 2000

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 180(FIN)

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill would make it a class A misdemeanor to allow a child to be in a dwelling or vehicle where any controlled substance is being used, manufactured, displayed, or delivered. If the controlled substance is used, manufactured, etc. in the immediate presence of the child, it is also a class A misdemeanor even if the use, etc. is not in a dwelling or vehicle.

This bill has a broad reach. The child need not be aware of the use of the controlled substance in the dwelling. For example, even if a parent waited until the child is asleep in a separate room and used marijuana, the parent could still be subject to prosecution under this law.

The fiscal impact of this bill could be very significant. However, it is difficult to say how many criminal prosecutions there will be under this bill. We do have rough estimates from our experience in Child in Need of Aid (CINA) cases of parents using controlled substances in the home when children are present. Our CINA attorneys believe that there is some documentation of drug use in the home or in the presence of children in about a quarter of our CINA cases. The Public Defender Agency was appointed to 996 new CINA cases in FY99. Using a conservative estimate of 10% rather than 25% of these cases being strong enough for criminal prosecution, that would mean 100 addition misdemeanors to which the Public Defender Agency could be appointed.

According to national standards, public defender misdemeanor lawyers are supposed to handle no more than 400 new cases per year. Therefore, we are requesting funding for ¼ of a misdemeanor lawyer's salary. We are not making requests for equipment, supplies, contractual services, or travel. We believe most of these cases would arise in Anchorage.

FISCAL NOTE

Bill Version: CSHB 180 (FIN)
 (H) Publish Date: 2/7/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An act relating to possession of controlled substances BRU Administration and Operations
in the presence of children Component All
 Sponsor Representative Cowdery
 Requester House Finance Committee Component No. #0694

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						
-----------------------------	--	--	--	--	--	--

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	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department of Law reports approximately 500 cases of Misconduct Involving a Controlled Substance in a year. Attempts have been made to determine how many of those cases may involve children in some way, but there is no data available. Additionally, although someone may be charged with Endangering the Welfare of a Child under this bill, that in no way ensures that the charge would not be concurrent, or used as a bargaining tool, in sentencing. In all likelihood, there would be instances when it would result in additional time (up to one year for a Class A Misdemeanor). It is the Department of Corrections' belief that there could be significant costs attached to this, but we have no way of quantifying it at this time. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by: Candace Brower Phone 465-3307
 Division Commissioner's Office Date/Time 2/2/00 4:27 PM
 Approved by Commissioner Margaret M. Pugh Date Feb 2, 2000
 Agency Dept. of Corrections

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FISCAL NOTE

Bill Version: CSHB 180 (FIN)
 (H) Publish Date: 2/7/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "An Act relating to the possession, manufacture, use,...of controlled substances while children are present." BRU Criminal Division
 Sponsor Representative Cowdery Component 1st-4th Judicial Districts; Criminal Appeals/Special Litigation
 Requester House Finance 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	*****	*****	*****	*****	*****	*****

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 (Specify Type)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 180 (JUD) raises storing drugs in a vehicle or dwelling where children are allowed to enter or remain from a violation to a class A misdemeanor, and expands the prohibition to allowing children in the presence of other unlawful conduct in relation to drugs. A class A misdemeanor provides a maximum one year incarceration, and a \$5,000 fine, compared to a violation which is a maximum \$300 fine and no period of incarceration. The more serious consequences of the offense would make it more expensive to prosecute. The bill also expands Contributing to the Delinquency of a Minor by broadening the prohibition of allowing a child to be in the presence of illegal drug activity.

The Department of Law cannot estimate at this time how many cases this offense might generate. Until some more experience is gained, the department cannot project the fiscal impact of this bill.

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 *Ked For* Bruce M. Botelho, Attorney General Date 1/31/00
 Agency Department of Law

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FISCAL NOTE

Bill Version: CSHB 180 (FIN)

(H) Publish Date: 2/7/00

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date		Dept. Affected	<u>Alaska Court System</u>
Title	<u>Possession of Drugs While Children are Present</u>	BRU	<u>Alaska Court System</u>
Sponsor	<u>Rep. Cowdry</u>	Component	<u>Trial Courts</u>
Requester	<u>House Finance</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						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

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)

No fiscal impact anticipated.

Prepared by:	<u>Doug Wooliver, Administrative Attorney</u>	Phone:	<u>463-4750</u>
Agency	<u>Alaska Court System</u>	Date/Time:	<u>2/1/00 8:58 AM</u>
Approved by:	<u>Stephanie J. Cole, Administrative Director</u>	Date	<u>2/1/00</u>
Agency	<u>Alaska Court System</u>		

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SENATE COMMITTEE REPORT

DATE: 3/7/00

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

CS FOR HOUSE BILL NO. 180(FIN) am

"An Act relating to the manufacture, use, display, or delivery of controlled substances while children are present."

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>Rich Halford</i>	<input checked="" type="checkbox"/>	<i>J. H. Ellis</i>	<input checked="" type="checkbox"/>		
<i>John</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Chris Taylor</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Admin.</i>	<i>3/7</i>	.	*
<i>Corrections</i>	<i>2/22</i>		*

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

REPRESENTATIVE JOHN J. COWDERY

Sponsor Statement for CS HB 180(FIN) AM

Existing statutes acknowledge that children should not be allowed to enter or remain where drugs are stored (11.51.110) or sold (11.51.130). However, current law does not prohibit the manufacture or use of drugs in the presence of children. Children learn by example. I believe the destructive behavior modeled by drug use in the presence of a child is as damaging as that of being in the same room, dwelling or vehicle in which drugs are stored or sold. HB 180 corrects this situation.

New language in House Bill 180 expands the sphere of space in which the co-presence of children and drugs is forbidden. By using the phrase, "in the immediate physical presence of" children are protected in outdoor situations like a yard, campsite or park bench. Stiffer penalty provisions send the clear message that children and drugs don't mix.

To promote uniformity of application the new provision employs "use, manufacture, delivery and display," terms used in existing controlled substance statutes.

- Sectional Review -

House Bill 180 adds new language to 11.51.130. New provisions provide penalty for allowing, aiding, inducing, causing or encouraging a child to enter or remain in the immediate physical presence of the manufacture, use, display or delivery of drugs, knowing that the manufacture, use, display or delivery is occurring. Violation is a class A Misdemeanor.

Current language only prohibits aiding, inducing, causing or encouraging a child to enter or remain in the *same room in a building* where the *sale* of the drug occurs.

file

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Jerry Ritter
Press Secretary
(907) 465-3804

FOR IMMEDIATE RELEASE: March 3, 2000

**CONTACT: Representative John Cowdery
(907) 465-3879**

House: Keep Drugs Away from Minors **Bill Punishes Drug Use in the Presence of Children**

(JUNEAU) -- The Alaska House of Representatives Friday passed House Bill 180, which forbids allowing a child to be in the physical presence of controlled substances.

"HB 180 tightens the expectations placed on adults and sends a clear message that kids and drugs do not mix," said Representative John Cowdery (R-Anchorage), sponsor of HB 180. "It also corrects a small oversight in existing regulations to cover outdoor situations."

HB 180 prohibits adults from knowingly allowing a minor to enter or remain in the presence of the use, manufacture, delivery, or display of drugs. The crime would be punishable as a Class A Misdemeanor, Contributing to the Delinquency of a Minor.

HB 180 passed on a 25-11 vote. Notice of Reconsideration was filed.

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Broadcasters note: Comments are available on the Majority Actuality Line 1-800-478-6540