

SB

114

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/22/99

FURTHER: Finance

Date of 5-Day Notice: 3/25/99
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 5/14/99

Judiciary Committee considered

SENATE BILL NO. 114

"An Act relating to impersonating a public servant."

and recommends:

be replaced with CS SB 114 (sub)

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 <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>J. G. Ellis</i>	<input checked="" type="checkbox"/>		
<i>Rich Helford</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>William Taylor</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

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

May 11, 1999

SUBJECT: Impersonating a Public Servant (Work Order No. 1-LS0690\I)

TO: Senator Robin Taylor
Attn: Sue

FROM: Gerald P. Luckhaupt *M for GP*
Legislative Counsel

Enclosed is the final CS(JUD) you requested. I have two concerns with the CS.

1. "Is" Page 1, line 15. The CS(JUD) substitutes "is" for "was" in the affirmative defense. The affirmative defense is concerned with the status of the operator of the propelled vehicle that resembles a police car at the time of the offense not at the present time. "Was" is the correct tense here. The use of "is" allows a person to operate a look-alike police car without being a member of a community patrol and still avail themselves of the affirmative defense provided that the person joins a community patrol by the time the person goes to trial.
2. "Member of an organized community patrol within a community or municipality" Page 1, line 15 through page 2, line 1. What is organized? What is an organized community patrol? What is a community? These questions immediately came to mind when drafting the CS. I do not know what these terms mean as they are not defined in statute and therefore do not provide the specificity usually desired in criminal statutes. Potentially, anyone would be able to qualify for this affirmative defense (and would be able to alter or customize their vehicle to look like a police or emergency vehicle) by merely claiming to be a member of a community and to have organized. For example, I could decide, on my own, to create a community council for downtown Juneau, and I could decide, again on my own, to have an organized community patrol. I would then be able to customize my vehicle to look like a police car and I would be able to avail myself of this affirmative defense.

Community councils are not created under state law. No provision for municipal recognition of community councils is made in AS 29, although, I understand that a number of municipalities have organized or recognized community councils by charter or ordinance and the legislature has referred to community councils organized in this manner.^{1/} To avoid the

^{1/}In this regard, AS 33.30.025 references community councils established by municipal charter or ordinance with regard to location of correctional facilities, and
(continued...)

Senator Robin Taylor
May 11, 1999
Page 2

offense being created from being subsumed by the defense, you might want to limit the availability of the affirmative defense to community patrols organized by or in cooperation with a municipality or by a community council established by municipal charter or ordinance.

GPL:pl
99-075.plm

¹¹(...continued)

AS 35.30.010 references community councils established by municipal charter or ordinance in regard to allow local review of public projects.

#2
advised
8/10/99

AMENDMENT

OFFERED IN THE SENATE

TO: SB 114

BY SENATOR ELLIS

1. Page 1, line 10, following vehicle:
2. Insert "owned or used by a federal, state, or municipal fire, law enforcement, or
3. emergency services agency or public or private ambulance service."

4. Page 1, following line 10:
5. Insert a new bill section to read:
6. "***Sec. 2. AS 11.56.830 is amended by adding a new subsection to read:**
7. (c) In a prosecution under (a)(2) of this section, it is an affirmative defense
8. that the person operating the propelled vehicle is a member of an organized community
9. patrol, within a community or municipality, and the propelled vehicle did not have

10. (1) lights or sirens that may only be used by a police or emergency
- vehicle;
11. (2) the words "police," "fire," or "emergency" affixed to or displayed on the
- vehicle."

CS FOR SENATE BILL NO. 114(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to public officials and to impersonating a public servant."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1. AS 11.56.830(a) is amended to read:**

4 (a) A person commits the crime of impersonating a public servant if the person

5 (1) pretends to be a public servant and does any act in that capacity;

6 **or**

7 (2) operates a propelled vehicle, not owned or used by a federal,

8 state, or municipal fire, law enforcement, or emergency services agency or public

9 or private ambulance service, that has been altered or customized to appear to

10 be a police or emergency vehicle owned or used by a federal, state, or municipal

11 fire, law enforcement, or emergency services agency or public or private

12 ambulance service.

13 *** Sec. 2. AS 11.56.830 is amended by adding a new subsection to read:**

14 (e) In a prosecution under (a)(2) of this section, it is an affirmative defense

15 that the person operating the propelled vehicle was a member of a community patrol

1 organized by or in cooperation with a municipality or a community council established
2 by municipal charter or ordinance, and the propelled vehicle did not have

3 (1) lights or sirens that may only be used by a police or emergency
4 vehicle;

5 (2) the words "police," "fire," or "emergency" affixed to or displayed
6 on the vehicle.

7 * Sec. 3. AS 11.56.850(a) is amended to read:

8 (a) A public servant commits the crime of official misconduct if

9 (1) [,] with intent to obtain a benefit or to injure or deprive another
10 person of a benefit, the public servant

11 (A) [(1)] performs an act relating to the public servant's office
12 but constituting an unauthorized exercise of the public servant's official
13 functions, knowing that that act is unauthorized; or

14 (B) [(2)] knowingly refrains from performing a duty that
15 [WHICH] is imposed upon the public servant by law or is clearly inherent in
16 the nature of the public servant's office; or

17 (2) the public servant uses the public servant's title, uniform, badge,
18 or other identifying accoutrements of office or public funds, facilities, equipment,
19 services, or another government asset or resource for partisan political purposes.

20 * Sec. 4. AS 11.56.850 is amended by adding new subsections to read:

21 (c) Paragraph (a)(2) of this section does not apply to

22 (1) a public servant who has been elected to a partisan public office
23 who uses the public servant's title relating to that partisan public office for partisan
24 political purposes;

25 (2) the use of the governor's residence or the use of communications
26 equipment in the governor's residence in the manner permitted under
27 AS 39.52.120(b)(6).

28 (d) In this section, "partisan political purposes" has the meaning given in
29 AS 39.52.120.

30 * Sec. 5. AS 39.52.120(b) is amended to read:

31 (b) A public officer may not

1 (1) seek other employment or contracts through the use or attempted
2 use of official position;

3 (2) accept, receive, or solicit compensation for the performance of
4 official duties or responsibilities from a person other than the state;

5 (3) use state time, property, equipment, or other facilities to benefit
6 personal or financial interests;

7 (4) take or withhold official action in order to affect a matter in which
8 the public officer has a personal or financial interest; or

9 (5) attempt to benefit a personal or financial interest through coercion
10 of a subordinate or require another public officer to perform services for the private
11 benefit of the public officer at any time;

12 (6) use or authorize the use of state titles, uniforms, badges, or other
13 identifying accouterments of office or state funds, facilities, equipment, services, or
14 another government asset or resource for partisan political purposes; this paragraph
15 does not prohibit use of the governor's residence for meetings to discuss political
16 strategy and does not prohibit use of the communications equipment in the governor's
17 residence so long as there is no special charge to the state for the use; in this
18 paragraph, "for partisan political purposes"

19 (A) means having the intent to differentially benefit or harm a

20 (i) candidate or potential candidate for elective office;

21 or

22 (ii) political party or group;

23 (B) but does not include having the intent to benefit the public
24 interest at large through the normal performance of official duties.

25 * Sec. 6. AS 39.52 is amended by adding a new section to read:

26 **Sec. 39.52.455. Private cause of action.** A person damaged or injured by the
27 act of a public officer in violation of this chapter may maintain a private cause of
28 action against the officer.

(3) "makes a false entry" means to change or create a public record, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or by any other means, so that the record so changed or created states or implies a fact that the maker knows is not true, or states or implies an opinion that the maker does not hold.

(c) Tampering with public records in the second degree is a class A misdemeanor. (§ 6 ch 166 SLA 1978; am § 2 ch 51 SLA 1985)

Effect of amendments. — The 1985 amendment added "in the second degree" at the end of the catchline; in subsection (a) inserted "in the second degree" and deleted "knowingly" following "person" in the introductory language, inserted "knowingly" in paragraphs (1) and (2), added paragraph (3), and made related stylistic and punctuation changes; designated former subsection (b) as present subsection (c) and in subsection (c) inserted "in the second degree"; and added subsection (b).

Opinions of attorney general. — When an official of a land title company seeking to file a warranty deed in Alaska, in the presence of the recorder altered a California notary clause to change the name and title of the person that the California notary public swore had appeared before her, the alteration may well have violated this section. December 22, 1987, Op. Att'y Gen.

NOTES TO DECISIONS

For case construing former AS 11.30.240 — 11.30.260, relating to mishandling of public records, see *Larson v. State*, 564 P.2d 365 (Alaska 1977).

Sec. 11.56.830. Impersonating a public servant. (a) A person commits the crime of impersonating a public servant if the person pretends to be a public servant and does any act in that capacity.

(b) It is not a defense to a prosecution under this section that

(1) the office the defendant pretended to hold did not in fact exist; or

(2) the defendant was in fact a public servant different than the one the defendant pretended to be.

(c) This section does not apply to a peace officer acting within the scope and authority of the officer's employment.

(d) Impersonating a public servant is a class B misdemeanor. (§ 6 ch 166 SLA 1978)

Cross references. — For criminal impersonation, see AS 11.46.570.

NOTES TO DECISIONS

For case construing former statute concerning impersonating a peace officer, see *Larson v. State*, 564 P.2d 365 (Alaska 1977).

Sec. 11.56.835. Failure to register as a sex offender or child kidnapper in the first degree. [Effective January 1, 1999.] (a) A person commits the crime of failure to register as a sex offender or child kidnapper in the first degree if the person violates AS 11.56.840

(1) and the person has been previously convicted of a crime under this section or AS 11.56.840 or a law or ordinance of this or another jurisdiction with elements similar to a crime under this section or AS 11.56.840; or

(2) with intent to escape detection or identification and, by escaping detection or identification, to facilitate the person's commission of a sex offense or child kidnapping.

(b) In a prosecution under (a)(2) of this section, the fact that the defendant, for a period of at least one year, failed to register as a sex offender or child kidnapper, failed to file the annual or quarterly written verification or changed the sex offender's or child kidnapper's address and did not file the required notice of change of address, is prima facie evidence that the defendant intended to escape detection or identification and, by escaping

(c) The attorney general, designated supervisors, hearing officers, and the personnel board must be guided by this section when issuing opinions and reaching decisions. (§ 1 ch 87 SLA 1986)

NOTES TO DECISIONS

Significance of personal or financial interest. — Substantial evidence supported the hearing officer's findings that Department of Corrections' official had neither a personal nor a financial interest in the awarding of a contract concerning the housing of

minimum security prisoners to a bidder for whom she had served as vice-president of operations. *Kila, Inc. v. State*, 876 P.2d 1102 (Alaska 1994). Cited in *Gates v. City of Tenakee Springs*, 822 P.2d 455 (Alaska 1991).

Sec. 39.52.120. Misuse of official position. (a) A public officer may not use, or attempt to use, an official position for personal gain, and may not intentionally secure or grant unwarranted benefits or treatment for any person.

(b) [See delayed amendment note.] A public officer may not

(1) seek other employment or contracts through the use or attempted use of official position;

(2) accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the state;

(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

(4) take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest; or

(5) attempt to benefit a personal or financial interest through coercion of a subordinate or require another public officer to perform services for the private benefit of the public officer at any time;

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; this paragraph does not prohibit use of the governor's residence for meetings to discuss political strategy and does not prohibit use of the communications equipment in the governor's residence so long as there is no special charge to the state for the use; in this paragraph, "for partisan political purposes"

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

(c) In addition to other provisions of this section, a public officer who is a member of the Board of Fisheries or the Board of Game may not act on a matter before the board if the public officer has not disclosed in the manner set out in AS 39.52.220 all personal or financial interests in a business or organization relating to fish or game resources.

(d) [Effective January 1, 1999.] In this section, when determining whether a public officer is considered to be performing a task on government time, the attorney general and personnel board shall consider the public officer's work schedule as set by the public officer's immediate supervisor, if any. A public officer other than the governor and lieutenant governor who, during the work days, engages in political campaign activities other than minor, inconsequential, and unavoidable campaign activities shall take approved leave for the period of campaigning. (§ 1 ch 87 SLA 1986; am § 5 ch 121 SLA 1992; am §§ 81, 82 ch 74 SLA 1998)

Delayed amendment of subsection (b). — Prior to January 1, 1999, subsection (b) reads as follows: "A public officer may not

"(1) seek other employment or contracts through the use or attempted use of official position;

"(2) accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the state;

"(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

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"(4) take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest; or

"(5) attempt to benefit a personal or financial interest through coercion of a subordinate."

Cross references. — For prohibition against nepotism, see AS 39.90.020.

Effect of amendments. — The 1992 amendment, effective September 20, 1992, added subsection (c).

The 1998 amendment, effective January 1, 1999, in subsection (b) added "or require another public officer to perform services for the private benefit of the public officer at any time;" at the end of paragraph (5) and added paragraph (6); and added subsection (d).

NOTES TO DECISIONS

Cited in *Gates v. City of Tenakee Springs*, 822 P.2d 455 (Alaska 1991).

Sec. 39.52.130. Improper gifts. (a) A public officer may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment, promise, or in any other form, that is a benefit to the officer's personal or financial interests, under circumstances in which it could reasonably be inferred that the gift is intended to influence the performance of official duties, actions, or judgment.

(b) [See **delayed amendment note.**] Notice of the receipt by a public officer of a gift with a value in excess of \$150, including the name of the giver and a description of the gift and its approximate value, must be provided to the designated supervisor within 30 days after the date of its receipt

- (1) if the public officer may take or withhold official action that affects the giver; or
- (2) if the gift is connected to the public officer's governmental status.

(c) In accordance with AS 39.52.240, a designated supervisor may request guidance from the attorney general concerning whether acceptance of a particular gift is prohibited.

(d) The restrictions relating to gifts imposed by this section do not apply to a campaign contribution to a candidate for elective office if the contribution complies with laws and regulations governing elections and campaign disclosure.

(e) [Effective January 1, 1999.] A public officer who, on behalf of the state, accepts a gift from another government or from an official of another government shall, within 60 days after its receipt, notify the Office of the Governor in writing. The Office of the Governor shall determine the appropriate disposition of the gift. In this subsection, "another government" means a foreign government or the government of the United States, another state, a municipality, or another jurisdiction.

(f) [Effective January 1, 1999.] A public officer who knows or reasonably ought to know that a family member has received a gift because of the family member's connection with the public office held by the public officer shall report the receipt of the gift by the family member to the public officer's designated supervisor if the gift would have to be reported under this section if it had been received by the public officer or if receipt of the gift by a public officer would be prohibited under this section. (§ 1 ch 87 SLA 1986; am §§ 83, 84 ch 74 SLA 1998)

Delayed amendment of subsection (b). — Prior to January 1, 1999, subsection (b) reads as follows: "Notice of the receipt by a public officer of a gift with a value in excess of \$50, including the name of the giver and a description of the gift and its approximate value, must be provided to the designated supervisor within 30 days after the date of its receipt if the public

officer may take or withhold official action that affects the giver."

Effect of amendments. — The 1998 amendment, effective January 1, 1999, in subsection (b) substituted "\$150" for "\$50," added the paragraph (1) designation, paragraph (2) and subsections (e) and (f).

Sec. 39.52.140. Improper use or disclosure of information. (a) A current or former public officer may not disclose or use information gained in the course of, or by reason of, the officer's official duties that could in any way result in the receipt of any benefit for the officer or an immediate family member, if the information has not also been disseminated to the public.

I-LS0690\G ✓
Luckhaupt
4/23/99

changed
5/10/99

CS FOR SENATE BILL NO. 114(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to public officials and to impersonating a public servant."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1. AS 11.56.830(a) is amended to read:**

4 (a) A person commits the crime of impersonating a public servant if the person

5 (1) pretends to be a public servant and does any act in that capacity;

6 or

7 (2) operates a propelled vehicle, not owned or used by a federal,

8 state, or municipal fire, law enforcement, or emergency services agency or public

9 or private ambulance service, that has been altered or customized to appear to

10 be a police or emergency vehicle owned or used by a federal, state, or municipal

11 fire, law enforcement, or emergency services agency or public or private

12 ambulance service.

13 *** Sec. 2. AS 11.56.830 is amended by adding a new subsection to read:**

14 (e) In a prosecution under (a)(2) of this section, it is an affirmative defense

15 that the person operating the propelled vehicle was a member of a community patrol

1 organized by or in cooperation with a municipality, and the propelled vehicle did not
2 have

3 (1) lights or sirens that may only be used by a police or emergency
4 vehicle;

5 (2) the words "police," "fire," or "emergency" affixed to or displayed
6 on the vehicle.

7 * Sec. 3. AS 39.52.120(b) is amended to read:

8 (b) A public officer may not

9 (1) seek other employment or contracts through the use or attempted
10 use of official position;

11 (2) accept, receive, or solicit compensation for the performance of
12 official duties or responsibilities from a person other than the state;

13 (3) use state time, property, equipment, or other facilities to benefit
14 personal or financial interests;

15 (4) take or withhold official action in order to affect a matter in which
16 the public officer has a personal or financial interest; or

17 (5) attempt to benefit a personal or financial interest through coercion
18 of a subordinate or require another public officer to perform services for the private
19 benefit of the public officer at any time;

20 (6) use or authorize the use of state titles, uniforms, badges, or other
21 identifying accouterments of office or state funds, facilities, equipment, services, or
22 another government asset or resource for partisan political purposes; this paragraph
23 does not prohibit use of the governor's residence for meetings to discuss political
24 strategy and does not prohibit use of the communications equipment in the governor's
25 residence so long as there is no special charge to the state for the use; in this
26 paragraph, "for partisan political purposes"

27 (A) means having the intent to differentially benefit or harm a

28 (i) candidate or potential candidate for elective office;

29 or

30 (ii) political party or group;

31 (B) but does not include having the intent to benefit the public

1 interest at large through the normal performance of official duties.

2 * Sec. 4. AS 39.52 is amended by adding a new section to read:

3 **Sec. 39.52.455. Private cause of action.** A person damaged or injured by the
4 act of a public officer in violation of this chapter may maintain a private cause of
5 action against the officer.

adopted
5/10/99

A M E N D M E N T # 1

OFFERED IN THE SENATE

BY SENATOR TAYLOR

TO: CSSB 114(JUD), Draft Version "G"

1 Page 2, following line 6:

2 Insert new bill sections to read:

3 ** Sec. 3. AS 11.56.850(a) is amended to read:

4 (a) A public servant commits the crime of official misconduct if

5 (1) [,] with intent to obtain a benefit or to injure or deprive another
6 person of a benefit, the public servant

7 (A) [(1)] performs an act relating to the public servant's office
8 but constituting an unauthorized exercise of the public servant's official
9 functions, knowing that that act is unauthorized; or

10 (B) [(2)] knowingly refrains from performing a duty that
11 [WHICH] is imposed upon the public servant by law or is clearly inherent in
12 the nature of the public servant's office; or

13 (2) the public servant uses the public servant's title, uniform,
14 badge, or other identifying accoutrements of office or public funds, facilities,
15 equipment, services, or another government asset or resource for partisan
16 political purposes.

17 * Sec. 4. AS 11.56.850 is amended by adding new subsections to read:

18 (c) Paragraph (a)(2) of this section does not apply to

19 (1) a public servant who has been elected to a partisan public office
20 who uses the public servant's title relating to that partisan public office for partisan
21 political purposes;

22 (2) the use of the governor's residence or the use of communications
23 equipment in the governor's residence in the manner permitted under
24 AS 39.52.120(b)(6).

25 (d) In this section, "partisan political purposes" has the meaning given in

1 AS 39.52.120."

2 Renumber the following bill sections accordingly.

#2

adopted
8/10/99

AMENDMENT

OFFERED IN THE SENATE

TO: SB 114

BY SENATOR ELLIS

1. Page 1, line 10, following vehicle:
2. Insert "owned or used by a federal, state, or municipal fire, law enforcement, or
3. emergency services agency or public or private ambulance service."

4. Page 1, following line 10:
5. Insert a new bill section to read:
6. "**Sec. 2.** AS 11.56.830 is amended by adding a new subsection to read:
7. (e) In a prosecution under (a)(2) of this section, it is an affirmative defense
8. that the person operating the propelled vehicle is a member of an organized community
9. patrol, within a community or municipality, and the propelled vehicle did not have

10. (1) lights or sirens that may only be used by a police or emergency
- vehicle;
11. (2) the words "police," "fire," or "emergency" affixed to or displayed on the
- vehicle."

1-LS0690D
Luckhaupt
4/13/99

adopted

CS FOR SENATE BILL NO. 114(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

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1 "An Act relating to impersonating a public servant."

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

3 * Section 1. AS 11.56.830(a) is amended to read:

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LEGAL SERVICES

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 23, 1999

SUBJECT: Political Activities by Public Servants (Work
Order No. 21-LS0690\G1 and \G2)

TO: Senator Robin Taylor

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

Enclosed please find the amendments you requested. The State currently restricts classified employees of state government from engaging in the active management of a political party above the precinct level. See AS 39.25.160. The Executive Branch Ethics Act prohibits employees in the executive branch from using or authorizing the use of state property or assets for partisan political purposes. See AS 39.52.120(b)(6). Please be advised that I believe that significant issues exist with regard to whether amendments G.1 and G.2 impermissibly burden the free speech and association rights of public servants under the United States Constitution and the Constitution of the State of Alaska. It is not clear to me from my cursory review that there is a sufficient governmental interest that would allow the state to prohibit (and provide criminal sanctions for) a public servant from identifying themselves and their position when endorsing a political candidate or cause.

GPL:lmb
99-058.lmb

Enclosure

PSEA takes a new tact with wayword legislators.

Corrections leads the way in driving the point home.

Joe Ryan made a decision not to stand by public safety. Joe Ryan made a bad choice, both for himself and the public at large. Based on Joe's record, PSEA decided to put the lion's share of its PAC war chest into his opponent's campaign.

In years past PSEA divided its PAC money among many candidates. This made a lot of candidates grateful, but we found that being grateful sometimes wasn't enough for some when it came to votes on public safety issues. So, PSEA decided to take a new approach. This election year PSEA decided to choose one legislator who, through his/her votes, had not supported public safety, and make sure their constituency knew it.

Choosing Sharon Cissna was not an easy choice. Yes, she was a supporter of public safety, and yes, she was running against an opponent who had let public safety down. But could she win? Sharon was running against an incumbent who was well ahead (12 to 15%) in every poll. Could the support of law enforcement and the PSEA/PAC fund make up the difference? It was felt that PSEA's support could swing an election anywhere from 10 to 12 percentage points. After careful consideration, it was decided the difference was not such that PSEA support could not make up. Thus the campaign was on. Joe Ryan saw the Law Enforcement Officers of PSEA come out in full force. Alaska Law Enforcement Officers stood together and they were standing behind Sharon Cissna.

As for the campaign, whether tracking down a suspect or exposing Joe Ryan's record, PSEA's Law Enforcement Officers gave no quarter. PSEA got the word out via t.v., radio, newspaper, flyers, postcards, word of mouth, and even door tags. Corrections led the

way with Corrections members participating in the planning (Sergeant Damron from Hiland) to walking the streets delivering door tags (Region 4 Board member Dana Churchel). Although Corrections can be proud of their leadership role in the campaign it was not a one-pony show.

The Municipal Chapter sent up Jerry Nankervis from the Juneau Police Department to star in our TV ad. Sergeant Bill Copadis came from the Air-

counted on election night, "Legislator Ryan" became "private citizen Ryan."

The goal for Election 2000 is to raise an additional \$90,000. Then pick three legislators who did not understand the need to support public safety, and to ensure they are no longer in a position to endanger the public. Thanks to members generous support, we are well on our way to raising the PAC funds.

In reality, its not so much that PSEA will choose the 3 legislators, as it is they will choose themselves. Legislators capable of putting special interests (such as private prison profiteers) above the public's safety, will definately make our short list. If selected, not all will be lost for these individuals ... Joe Ryan could certainly use the company.

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additional \$90,000.***

***Then pick three
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port Safety Officers chapter to work with Corrections Sergeant Mike Addington on Sharon's radio ad. Fairbanks Airport Safety Officer Craig Persson (PSEA legislative liaison) was, as always, right there with the advice expertise, and knowledge needed to keep things on track.

Once Joe Ryan realized the "Blitzkrieg" was coming his way, he not only paid the PSEA office a personal visit, but also asked his friends in the legislature to call us off. The fact is Joe lost his battle to "call us off" by his actions as "Representative Ryan," by the time it was "Candidate Ryan" it was simply too late. When the ballots were

Sharon Says Thanks

In political campaigns it does not matter how far behind you are or for how long you stay behind. The only thing that matters is where you finish the race. PSEA was standing side by side with Sharon Cissna at her election night campaign headquarters across from election central. The first returns had Sharon trailing, but just like in the actual campaign, she came from behind. Finally with seven of eight precincts reporting, she had pulled dead even. It seemed an eternity as we all waited for the last precinct to come in. When the last precinct finally reported, the explosion in the campaign suite left no doubt who would be going to Juneau. After the hugs, Representative Cissna stated "you guys (PSEA) made the difference." And we know Sharon will make a positive difference for her district. Good luck Sharon.

Alaska State Legislature

Chairman,
Judiciary Committee
Administrative Regulations
Revenue Committee

Vice Chairman,
Resources Committee



Senator Robin L. Taylor

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SPONSOR STATEMENT

SB 114

“An Act relating to impersonating a public servant.”

Senate Bill 114 has been introduced to resolve a problem brought forth by the Juneau Police Department. Recently an individual purchased a used police vehicle from the Ketchikan Police Department. The vehicle had been stripped of its police identification, light bar, and antennas by KPD prior to selling the vehicle.

A Juneau police officer saw the vehicle parked near JPD with a clean-cut gentleman standing nearby. The JPD officer presumed the man to be a visiting police officer. When the Juneau officer approached the man and asked if he could help, the officer was told by the man that he was wondering if there was any law prohibiting him from driving his vehicle with the adornments that he had applied to it. These adornments included a 7 pointed star on each door with the word “COPRICE” running through the star and on the lip of the trunk just like on a police vehicle, and radio antennas.

The vehicle in the attached photo clearly looks like a police vehicle. The Juneau officer was within 6 feet of the vehicle before he could tell it was not a police vehicle. Following this incident, the Juneau Police Department had complaints from the public about this vehicle. The owner of the vehicle also has a concealed carry permit and is presumed to carry a weapon. The fact that the vehicle deceives the public can in itself create problems. Currently there is no law prohibiting this type of activity.

Senate Bill 114 will amend the existing law regarding impersonating a public servant to include operation of a motor vehicle that has been disguised as a police or emergency vehicle unless it is a police, fire, ambulance, or other emergency vehicle. Violation would be a class B misdemeanor.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

adopted
4-12-99 1-LS0690A.1
Luckhaupt ✓
3/30/99

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR ELLIS

TO: SB 114

1 Page 1, line 10, following "vehicle":

2 Insert "owned or used by a federal, state, or municipal fire, law enforcement, or
3 emergency services agency or public or private ambulance service"

4 Page 1, following line 10:

5 Insert a new bill section to read:

6 "* Sec. 2. AS 11.56.830 is amended by adding a new subsection to read:

7 (e) In a prosecution under (a)(2) of this section, it is an affirmative defense
8 that the person operating the propelled vehicle was a member of a community patrol
9 organized by or in cooperation with a municipality, and the propelled vehicle did not
10 have

11 (1) lights or sirens that may only be used by a police or emergency
12 vehicle;

13 (2) the words "police," "fire," or "emergency" affixed to or displayed
14 on the vehicle."