

HB

135

**CITY OF FAIRBANKS***James C. Hayes, Mayor*800 CUSHMAN STREET
FAIRBANKS, ALASKA 99701-4683
OFFICE: 907-459-6793

March 12, 2001

Representative Gretchen Guess
Alaska State Legislature
State Capital
Juneau Alaska 99801-1182**RE: House Bill 135**

Dear Representative Guess:

Thank you for the opportunity to comment on House Bill 135. This measure would be an effective tool to encourage property owners to take responsibility for the use of their property. It is not uncommon for our police to become quite familiar with excessive criminal activity at a particular location. Currently, our law abiding taxpayers bear the cost of repeated calls for police service at "problem" locations. This bill would adopt the philosophy that "cost causer should be cost payer."

Fairbanks now has an "emergency response charge" in which persons convicted of drunk driving pay the actual cost of their arrest. We have a simple accounting system by which we compute the actual time and charges that are levied. It would be a simple solution for us - or other municipalities - to do the same thing under House Bill 135.

Fairbanks Police Chief Welch has an appointment Thursday, but in his stead Deputy Chief Ray Miller will be available to testify.

Sincerely,

A handwritten signature in cursive script that reads "James C. Hayes".
James C. Hayes, City Mayorcc: Community & Regional Affairs Committee Members
Interior Delegation
Ray Miller

domestic violence for judicial officers and court clerks who have contact with parties involved in domestic violence.

(c) The Department of Law and other prosecuting authorities in the state shall, in consultation with the Council on Domestic Violence and Sexual Assault, provide continuing education in domestic violence for prosecuting attorneys and other employees who have contact with persons involved in domestic violence.

(d) The continuing education required under (a) — (c) of this section must include information on the following subjects:

- (1) the nature, extent, and causes of domestic violence;
- (2) procedures designed to promote the safety of the victim and other household members;
- (3) resources available to victims and perpetrators of domestic violence; and
- (4) the lethality of domestic violence. (§ 33 ch 64 SLA 1996)

Sec. 18.66.900. Definitions. [Repealed, § 72 ch 64 SLA 1996.]

Article 5. General Provisions.

Section 990. Definitions

Effective dates. — Section 83, ch. 64, SLA 1996,
makes this article effective July 1, 1996.

Sec. 18.66.990. Definitions. In this chapter,

- (1) "council" means the Council on Domestic Violence and Sexual Assault;
- (2) "crisis intervention and prevention program" means a community program that provides information, education, counseling, and referral services to individuals experiencing personal crisis related to domestic violence or sexual assault and to individuals in personal or professional transition, excluding correctional half-way houses, outpatient mental health programs, and drug or alcohol rehabilitation programs;
- (3) "domestic violence" and "crime involving domestic violence" mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member:
 - (A) a crime against the person under AS 11.41;
 - (B) burglary under AS 11.46.300 — 11.46.310;
 - (C) criminal trespass under AS 11.46.320 — 11.46.330;
 - (D) arson or criminally negligent burning under AS 11.46.400 — 11.46.430;
 - (E) criminal mischief under AS 11.46.480 — 11.46.486;
 - (F) terroristic threatening under AS 11.56.810;
 - (G) violating a domestic violence order under AS 11.56.740; or
 - (H) harassment under AS 11.61.120(a)(2) — (4);
- (4) "domestic violence program" means a program that provides services to the victims of domestic violence, their families, or perpetrators of domestic violence;
- (5) "household member" includes
 - (A) adults or minors who are current or former spouses;
 - (B) adults or minors who live together or who have lived together;
 - (C) adults or minors who are dating or who have dated;
 - (D) adults or minors who are engaged in or who have engaged in a sexual relationship;

(E) adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;

(F) adults or minors who are related or formerly related by marriage;

(G) persons who have a child of the relationship; and

(H) minor children of a person in a relationship that is described in (A) — (G) of this paragraph;

(6) "judicial day" means any Monday through Friday that is not a state holiday and on which the court clerk's offices are officially opened to receive legal documents for filing;

(7) "local community entity" means a city or borough or other political subdivision of the state, a nonprofit organization, or a combination of these;

(8) "petitioner" includes a person on whose behalf an emergency protective order has been requested under AS 18.66.110(b);

(9) "sexual assault" means a crime specified in AS 11.41.410 — 11.41.450;

(10) "sexual assault program" means a program that provides services to the victims of sexual assault, their families, or perpetrators of sexual assault. (§ 33 ch 64 SLA 1996; am § 75 ch 21 SLA 2000)

Effect of amendments. — The 2000 amendment, effective April 28, 2000, inserted "an offense under" in the introductory language of paragraph (3).

NOTES TO DECISIONS

Degrees of consanguinity. — Where a domestic violence restraining order was issued, based in part on a finding that the defendant and victim were related within the fourth degree of consanguinity, the judge properly vacated the order upon the defendant proving that the relationship was within the fifth degree, not the statutorily prescribed fourth. *Jacko v. State*, 981 P.2d 1075 (Alaska Ct. App. 1999).

Domestic violence. — Although the real source of potential prejudice was not the ultimate validity or invalidity of a restraining order, but the fact that the order was termed a "domestic violence" restraining order, where the judge gave a curative instruction to the jury, none of the testimony at the trial suggested that the defendant had engaged in physical violence,

the course of the trial, the judge did not abuse his discretion when he precluded the defendant from presenting evidence that the restraining order was invalidated subsequent to the violation forming the basis for the charge. *Jacko v. State*, 981 P.2d 1075 (Alaska Ct. App. 1999).

The legislature consistently uses the phrase "crimes involving domestic violence" in a context which indicates that the reference is to a criminal act, not a criminal conviction. *State v. Bingaman*, 991 P.2d 227 (Alaska Ct. App. 1999).

Evidence of "other crimes involving domestic violence by the defendant" does not require proof of a conviction to be admissible. *State v. Bingaman*, 991 P.2d 227 (Alaska Ct. App. 1999).

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355

March 16, 2001

MAR 19 2001

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Representative Kevin Meyer
Alaska State Legislature
State Capitol Building
Juneau, Alaska 99801-1182

Dear Representative Meyer,

The Alaska Peace Officers Association (APOA) would like to thank you for introducing HB135 (22-LS042\C) relating to municipal fees for certain police protection services.

The APOA Legislative Advisory Committee has unanimously agreed to endorse HB135 in its current draft format. We believe this will open an avenue for municipalities to collect fees from excessive users of municipal public safety resources.

Please contact us if there is anything we can do to assist you with passage of this bill. You may contact us at the APOA office in Anchorage at 277-0515.

Sincerely,



Leo Brandlen
President

cc: Representative Gretchen Guess

ALASKA STATE LEGISLATURE



REPRESENTATIVE GRETCHEN GUESS

Sponsor Statement HB 135

“ An Act relating to municipal fees for certain police protection services.”

Within many of our communities, nuisance residential properties exist and cause continued disturbances to neighbors and neighborhoods. This bill strengthens local control to hold the owners of these properties accountable.

HB 135 grants municipalities the ability to impose a fee on the owner of residential property if the police department responds to the property an excessive number of times. The fee is granted lien status against the nuisance property. The state will not define “excessive” nor mandate a municipality to create such a fee system; it only allows municipalities to create such a system if they choose. Domestic violence calls, as defined under AS 18.66.990, have been exempted so as not to discourage a resident domestic violence victim from calling for help.

The intent of HB 135 is to provide stronger local control to hold property owners accountable for their impact on neighborhoods. These chronically problematic properties not only impact a neighborhood's peace and calm but also directly cost municipalities in excessive police visits.

THE
FOLLOWING
DOCUMENT(S)
ARE
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Passed on 4/27/01

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Submitted by: Assemblymembers TESCHE,
Taylor, Tremaine, Abney, Van Etten, Clementson
Prepared by: Assembly Office
For reading: FEBRUARY 27, 2001

ANCHORAGE, ALASKA
AR NO. 2001- 65

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HOUSE BILL 135,
"AN ACT RELATING TO MUNICIPAL FEES FOR CERTAIN POLICE PROTECTION SERVICES."**

WHEREAS, certain residential properties are the source of repeat disturbances to the peace, calm, and sometimes even the safety of our community - such as "crack house", places of prostitution, gambling, or other illegal activities; and

WHEREAS, property owners are not always held sufficiently accountable for continued violations of law committed on their property; and

WHEREAS, repeat police calls to disturbances at nuisance properties are costly to municipalities; and

WHEREAS, solutions to local problems are most effective when communities, by ordinance enacted only after a public hearing, control, devise and execute solutions; and

WHEREAS, House Bill 135, which has been introduced in the Alaska State Legislature, grants municipalities the ability to impose a fee on the owner of residential property if police respond to the property an excessive number of times; the fee is granted lien status against the nuisance property; and

WHEREAS, this bill is not a means of simply collecting more money; it makes irresponsible property owners assume the burden imposed on the public for illegal activities on their property; and

WHEREAS, under this bill, the State will not define "excessive" nor mandate a municipality to create such a fee system; it only allows municipalities to create such a system - as another tool for law enforcement - if they choose.

NOW, THEREFORE, the Anchorage Assembly resolves:

Section 1: That the Assembly supports House Bill 135 and encourages the Alaska State Legislature to pass the bill.

Section 2: That the Municipal Clerk forward copies of this resolution to the State Legislature upon passage and approval.

PASSED AND APPROVED by the Anchorage Municipal Assembly this 27 day of February, 2001.

Chair [Signature]

ATTEST:

Municipal Clerk

709

To: Jam

3/19/01

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 135(), Draft Version "F"

1 Page 1, line 13, following "AS 18.66.990.":

2 Insert "An ordinance enacted under this section shall require actual notice
3 to the property owner of police contacts and a warning that failure to take
4 appropriate corrective action may result in the imposition of a fee. The ordinance
5 shall also define "appropriate corrective action" and provide that the property
6 owner is not liable for the fee if that action is promptly taken.

Adopted

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6 owner is not liable for the fee if that action is promptly taken.

22-LS0421\F
Cook
3/9/01

CS FOR HOUSE BILL NO. 135()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES GUESS, Meyer

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to municipal fees for certain police protection services."**

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

3 *** Section 1.** AS 29.10.200 is amended by adding a new paragraph to read:

4 (60) AS 29.35.125 (fees for police protection services).

5 *** Sec. 2.** AS 29.35 is amended by adding a new section to read:

6 **Sec. 29.35.125. Fees for police protection services.** (a) A municipality may
7 by ordinance impose a fee on the owner of residential real property if a member of the
8 municipal police department goes to the property an excessive number of times during
9 a calendar year in response to a call for assistance, a complaint, an emergency, or a
10 potential emergency. The number of responses considered to be excessive and the
11 amount of the fee shall be set out in the ordinance that establishes the fee. A fee may
12 not be imposed under this subsection for responses to calls that involve potential
13 domestic violence, as defined in AS 18.66.990.

14 (b) A fee imposed under (a) of this section is a lien on the property to which
15 the municipal police have been called an excessive number of times. The lien is prior



1 and paramount to all liens except municipal tax liens and special assessment liens.
2 They may be enforced as provided in AS 29.45.320 - 29.45.470 for enforcement of
3 property tax liens.

4 (c) This section applies to home rule and general law municipalities.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 135
 () Publish Date: _____

Revision Date/Time (Note if correction): 03/14/2001 5:30p.m. Dept. Affected: DCED
 Title: Act related to municipal fees for police BRU: Comm.Asst & Econ. Dev.
protection services. Component: Community & Business
 Sponsor: Representative Guess Development
 Requester: House Community & Regional Affairs Component Number: 2486

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 ()						
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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 (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation would have no fiscal impact on this department.

Prepared by: Pat Poland, Director Phone 907-269 4580
 Division: Division Community and Business Development Date/Time 03/14/2001 5:30p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 03/14/01
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office