

**HB**

**321**



SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 321  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GUESS, Meyer

Introduced: 1/30/02  
Referred: Judiciary, Finance

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the purpose for crime victims' compensation; and limiting the  
2 factors that may be considered in making a crime victims' compensation award in cases  
3 of sexual assault or sexual abuse of a minor."

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

5 \* Section 1. AS 18.67.010 is amended to read:

6       Sec. 18.67.010. Purpose. It is the purpose of this chapter to facilitate and  
7 permit the payment of compensation to [INNOCENT] persons injured, to dependents  
8 of persons killed, and to certain other persons who, by virtue of their relationship to  
9 the victim of a crime, incur actual and reasonable expense as a result of certain serious  
10 crimes or in attempts to prevent the commission of crime or to apprehend suspected  
11 criminals.

12 \* Sec. 2. AS 18.67.080(c) is amended to read:

13       (c) In determining whether to make an order under this section, the  
14 board shall consider all circumstances determined to be relevant, including

*Amendment #1. REINSERT  
ADOPTED*

1 provocation, consent, or any other behavior of the victim that directly or indirectly  
2 contributed to the victim's injury or death, the prior case or social history, if any, of the  
3 victim, the victim's need for financial aid, and any other relevant matters. However, if  
4 the claim is based on a crime of sexual assault or sexual abuse of a minor, the  
5 board may not deny an order based on considerations of provocation, the use of  
6 alcohol or drugs by the victim, or the prior social history of the victim.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE GRETCHEN GUESS

## Sponsor Statement HB 321

*An act relating to the purpose for crime victims' compensation; and limiting the factors that may be considered in making a crime victims' compensation award in cases of sexual assault or sexual abuse of a minor.*

When the state established Victims' Compensation Board over 20 years ago, it ensured the victim's role in the crime would be considered. For example, if someone started a bar brawl and was hurt, their case could be denied by the Victims' Compensation Board.

The unintended consequence of this language was child abuse and sexual assault victims could be denied funding if the board found them to have contributed to the circumstances of the crime. For example, a victim of sexual assault could be denied because they were drinking the night of their sexual assault.

Implying a victim of sexual assault somehow deserved or played a role in being victimized is in direct opposition to what we believe as a community – a victim of child abuse or sexual assault has not done anything to bring the crime on him or herself.

Toward fixing this unintended consequence, the language of this bill does the following.

- Deletes the word "innocent" from the purpose statement to ensure the subjective determination of "innocence" is not part of the Board's decision (section one).
- Ensures compensation is not denied based on considerations of provocation, the use of alcohol or drugs, or the prior social history of the victim.
- Retains the current language for compensation criteria for all other crimes.

The victim's compensation board is funded 60 percent by state government and 40 percent by federal government. The 40 percent from the state government comes from garnishing felon's permanent fund dividend checks. Given the nature of the funding mechanism, the fiscal note from the Department of Public Safety will be zero.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE GRETCHEN GUESS

## Sectional Analysis HB 321

“An act relating to the purpose for the crime victims’ compensation; and limiting the factors that may be considered in making a crime victim’ compensation award in cases of sexual assault or sexual abuse of a minor.”

- Section 1:** Amends AS 18.67.010 (Purpose) by omitting the word ‘innocent’ from the purpose statement of the chapter.
- Section 2:** Amends AS 18.67.080 (Awarding Compensation) (c) by adding language prohibiting the consideration of provocation, the use of alcohol or drugs, or the prior social history of the victim, in the case of sexual assault or sexual abuse of a minor.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SSHB 321  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 2/7/2002 10 a.m. correctio Dept. Affected: Public Safety  
Title: An Act Relating to the Purpose of BRU: Violent Crimes Compensation  
Crime Victims' Compensation Component: Violent Crimes Compensation  
Sponsor: Representative Guess  
Requester: House Judiciary Component No.: 163

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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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--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill should have no fiscal impact for the following reasons:

- 1) current claimants, under similar circumstances, are already being compensated;
- 2) the number of potential cases is small.

Prepared by: Susan L. Browne, Administrator  
Division: Violent Crimes Compensation Board  
Approved by: Commissioner Glenn Godfrey  
Agency: Department of Public Safety

Phone (907)465-5525  
Date/Time 2/7/02 10:11 AM  
Date 2/7/2002

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February 11, 2002

To Whom It May Concern:

My name is Denise Morris, I am the President/CEO of the Alaska Native Justice Center. I chair the Alaska Native Women's Sexual Assault Committee whose mission is to prevent sexual violence against Alaska Native women by increasing community awareness through outreach, education, ongoing evaluation, and supporting and promoting research. I am also a board member of Standing Together Against Rape.

I am writing today in support of HB 321 "An act relating to the purpose for crime victims' compensation; and limiting the factors that may be considered in making a crime victims' compensation award in cases of sexual assault or sexual abuse of a minor." offered by Representative Guess. This bill would simply ensure that victims of child abuse and sexual assault would not be denied compensation for crimes committed against them.

The present language includes the word "innocent" which could be subjectively interpreted and could potentially deny victims of serious crimes just compensation. A victim of sexual assault could potentially be denied compensation because they were consuming alcohol at the time of the assault.

On Friday February 8, 2002 I attended the sentencing of the individual responsible for the sexual assault and kidnapping of five Alaska Native women. The defense attorney alleged that these victims contributed to and were some how responsible for the brutal attacks because they were consuming alcohol prior to the sexual violence. This case demonstrates the need for clear and precise language regarding the rights of victims of violent crimes.

HB 321 will ensure that the use of alcohol/drugs or a person's prior social history will not be used to deny just compensation. The unintended consequence of the present law creates an "impression" of wrongdoing on the part of the victim and that is neither right nor consistent with the practices Alaskans hold dear.

On behalf of the Alaska Native Justice Center, the Alaska Native Women's Sexual Assault Committee and the clients we serve, I urge your support of HB 321.

Sincerely,

for Denise R. Morris  
President/CEO