

HB

350

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 20, 2002

FURTHER REFERRALS: Finance

Date of Committee Action: April 17, 2002

The JUDICIARY Committee considered:

HB 350

HOUSE BILL NO. 350

TERRORISTIC THREATS

"An Act relating to terroristic threatening."

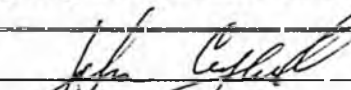
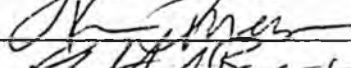
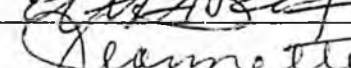

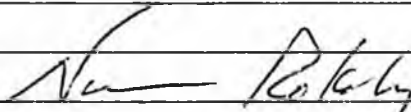
Recommends it be replaced with CS HB 350 (JUD) | Same Title | New Title
 For Senate Bills with new title: Technical Title | New Title: HCR _____

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev. for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LAA
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW</u> FISCAL NOTES				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>ADM</u>			✓	
<u>COR</u>			✓	

<u>PREVIOUS</u> FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indej.	Zero
<u>LAW</u>	<u>3</u>		✓	
<u>CRT</u>	<u>1</u>			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Coyne			✓	
	Mayer			✓	
	BERKOWITZ				✓
	JAMES	✓			
Chair: 	ROBERT KELLY			✓	
Chair:					

22-LS1300\B
Luckhaupt
4/15/02

*Adopted
4-17-02*

CS FOR HOUSE BILL NO. 350(JUD)

*public hearing
closed*

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

*JJ- manual
w/ notes of writing
out*

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE MCGUIRE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to murder, conspiracy, criminal mischief, and terroristic threatening;**
2 **and providing for an effective date."**

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

4 *** Section 1. AS 09.60.070(c) is amended to read:**

5 (c) In this section, "serious criminal offense" means the following offenses:

- 6 (1) murder in any degree;
- 7 (2) manslaughter;
- 8 (3) criminally negligent homicide;
- 9 (4) assault in any degree;
- 10 (5) kidnapping;
- 11 (6) sexual assault in any degree;
- 12 (7) sexual abuse of a minor in any degree;
- 13 (8) robbery in any degree;
- 14 (9) coercion;

- 1 (10) extortion;
- 2 (11) arson in any degree;
- 3 (12) burglary in any degree;
- 4 (13) criminal mischief in the first, second, [OR] third, or fourth
- 5 degree;
- 6 (14) driving while intoxicated or another crime resulting from the
- 7 operation of a motor vehicle, boat, or airplane when the offender is intoxicated;
- 8 (15) a crime involving domestic violence, as defined in AS 18.66.990.

9 * Sec. 2. AS 11.31.120(i)(2) is amended to read:

- 10 (2) "serious felony offense" means an offense
- 11 (A) against the person under AS 11.41, punishable as an
- 12 unclassified or class A felony; [OR]
- 13 (B) involving controlled substances under AS 11.71,
- 14 punishable as an unclassified, class A, or class B felony;
- 15 (C) that is criminal mischief in the first degree under
- 16 AS 11.46.475; or
- 17 (D) that is terroristic threatening in the first degree under
- 18 AS 11.56.807.

19 * Sec. 3. AS 11.41.100(a) is amended to read:

- 20 (a) A person commits the crime of murder in the first degree if
- 21 (1) with intent to cause the death of another person, the person
- 22 (A) causes the death of any person; or
- 23 (B) compels or induces any person to commit suicide through
- 24 duress or deception;
- 25 (2) the person knowingly engages in conduct directed toward a child
- 26 under the age of 16 and the person with criminal negligence inflicts serious physical
- 27 injury on the child by at least two separate acts, and one of the acts results in the death
- 28 of the child; [OR]
- 29 (3) acting alone or with one or more persons, the person commits or
- 30 attempts to commit a sexual offense against or kidnapping of a child under 16 years of
- 31 age and, in the course of or in furtherance of the offense or in immediate flight from

1 that offense, any person causes the death of the child; in this paragraph, "sexual
2 offense" means an offense defined in AS 11.41.410 - 11.41.470;

3 (4) acting alone or with one or more persons, the person commits
4 or attempts to commit criminal mischief in the first degree under AS 11.46.475
5 and, in the course of or in furtherance of the offense or in immediate flight from
6 that offense, any person causes the death of a person other than one of the
7 participants; or

8 (5) acting alone or with one or more persons, the person commits
9 terroristic threatening in the 1st degree under AS 11.56.807 and, in the course of
10 or in furtherance of the offense or in immediate flight from that offense, any
11 person causes the death of a person other than one of the participants.

12 * Sec. 4. AS 11.41.260(a) is amended to read:

13 (a) A person commits the crime of stalking in the first degree if the person
14 violates AS 11.41.270 and

15 (1) the actions constituting the offense are in violation of an order
16 issued or filed under AS 18.66.100 - 18.66.180 or issued under former
17 AS 25.35.010(b) or 25.35.020;

18 (2) the actions constituting the offense are in violation of a condition of
19 probation, release before trial, release after conviction, or parole;

20 (3) the victim is under 16 years of age;

21 (4) at any time during the course of conduct constituting the offense,
22 the defendant possessed a deadly weapon;

23 (5) the defendant has been previously convicted of a crime under this
24 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
25 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
26 AS 11.56.740; or

27 (6) the defendant has been previously convicted of a crime, or an
28 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,
29 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810 [AS 11.56.810], AS 11.61.120, or (B)
30 a law or an ordinance of this or another jurisdiction with elements similar to a crime,
31 or an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250,

1 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810 [AS 11.56.810], or AS 11.61.120,
2 involving the same victim as the present offense.

3 * **Sec. 5.** AS 11.46 is amended by adding a new section to read:

4 **Sec. 11.46.475. Criminal mischief in the first degree.** (a) A person
5 commits the crime of criminal mischief in the first degree if, having no right to do so
6 or any reasonable ground to believe the person has such a right,

7 (1) the person intentionally damages an oil or gas pipeline or
8 supporting facility;

9 (2) with intent to cause a substantial interruption or impairment of a
10 service rendered to the public by a utility or by an organization that deals with
11 emergencies involving danger to life or property, the person damages or tampers with
12 property of that utility or organization and causes substantial interruption or
13 impairment of service to the public;

14 (3) with intent to damage property of another by the use of widely
15 dangerous means, the person damages property of another in an amount exceeding
16 \$100,000 by the use of widely dangerous means.

17 (b) Criminal mischief in the first degree is a class A felony.

18 * **Sec. 6.** AS 11.46.480(a) is amended to read:

19 (a) A person commits the crime of criminal mischief in the second [FIRST]
20 degree if, having no right to do so or any reasonable ground to believe the person has
21 such a right,

22 (1) [WITH INTENT TO CAUSE A SUBSTANTIAL
23 INTERRUPTION OR IMPAIRMENT OF A SERVICE RENDERED TO THE
24 PUBLIC BY A UTILITY OR BY AN ORGANIZATION WHICH DEALS WITH
25 EMERGENCIES INVOLVING DANGER TO LIFE OR PROPERTY, THE PERSON
26 DAMAGES OR TAMPERS WITH PROPERTY OF THAT UTILITY OR
27 ORGANIZATION AND CAUSES SUBSTANTIAL INTERRUPTION OR
28 IMPAIRMENT OF SERVICE TO THE PUBLIC;

29 (2) WITH INTENT TO DAMAGE PROPERTY OF ANOTHER BY
30 THE USE OF WIDELY DANGEROUS MEANS, THE PERSON DAMAGES
31 PROPERTY OF ANOTHER IN AN AMOUNT EXCEEDING \$100,000 BY THE

1 USE OF WIDELY DANGEROUS MEANS;

2 (3)] the person tampers with [INTENTIONALLY DAMAGES] an oil
3 or gas pipeline or supporting facility or an airplane or helicopter, with reckless
4 disregard for the risk of harm to or loss of the property; or

5 (2) [(4)] with intent to cause physical injury to another person, the
6 person [:]

7 (A) tampers with food, air, water, or an item that is a [FOOD,]
8 drug [,] or cosmetic, or a container for food, air, water, or the item; or

9 (B) delivers, dispenses, or distributes food, air, water, or an
10 item described in (A) of this paragraph knowing that a person has tampered
11 with the food, air, water, or item or a container for the food, air, water, or
12 item.

13 * Sec. 7. AS 11.46.480(b) is amended to read:

14 (b) Criminal mischief in the second [FIRST] degree is a class B felony.

15 * Sec. 8. AS 11.46.480(c) is amended to read:

16 (c) In (a)(2) [(a)(4)] of this section,

17 (1) "deliver" means the actual, constructive, or attempted transfer from
18 one person to another of food, air, water, or an item;

19 (2) "dispense" means to deliver a drug to an ultimate user or research
20 subject by or under the lawful order of a practitioner, including the prescribing,
21 administering, packaging, labeling, or compounding necessary to prepare the drug for
22 that delivery;

23 (3) "distribute" means to deliver food, air, water, or an item, whether
24 or not there is any money or other item of value exchanged; it includes sale, gift, or
25 exchange;

26 (4) "drug" has the meaning given in AS 11.71.900(9);

27 (5) "tamper" means to interfere with something improperly, meddle
28 with it, or make unwarranted alterations to its existing condition.

29 * Sec. 9. AS 11.46.482(a) is amended to read:

30 (a) A person commits the crime of criminal mischief in the third [SECOND]
31 degree if, having no right to do so or any reasonable ground to believe the person has

1 such a right,

2 (1) with intent to damage property of another, the person damages
3 property of another in an amount of \$500 or more;

4 (2) [THE PERSON TAMPERS WITH AN OIL OR GAS PIPELINE
5 OR SUPPORTING FACILITY OR AN AIRPLANE OR HELICOPTER WITH
6 RECKLESS DISREGARD FOR THE RISK OF HARM TO OR LOSS OF THE
7 PROPERTY;

8 (3)] the person recklessly creates a risk of damage in an amount
9 exceeding \$100,000 to property of another by the use of widely dangerous means; or

10 (3) [(4) REPEALED

11 (5) REPEALED

12 (6)] the person knowingly

13 (A) defaces, damages, or desecrates a cemetery or the contents
14 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,
15 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or
16 memorial appears to be abandoned, lost, or neglected;

17 (B) removes human remains or associated burial artifacts from
18 a cemetery, tomb, grave, or memorial regardless of whether the cemetery,
19 tomb, grave, or memorial appears to be abandoned, lost, or neglected.

20 * Sec. 10. AS 11.46.482(b) is amended to read:

21 (b) It is an affirmative defense to a prosecution under (a)(3) [(a)(6)] of this
22 section that the defendant, at the time of the offense, was

23 (1) an employee of the cemetery and was engaged in an authorized
24 activity on behalf of the cemetery; or

25 (2) authorized by law or state permit to engage in the conduct.

26 * Sec. 11. AS 11.46.482(d) is amended to read:

27 (d) Criminal mischief in the third [SECOND] degree is a class C felony.

28 * Sec. 12. AS 11.46.484(a) is amended to read:

29 **Sec. 11.46.484. Criminal mischief in the fourth [THIRD] degree.** (a) A
30 person commits the crime of criminal mischief in the fourth [THIRD] degree if,
31 having no right to do so or any reasonable ground to believe the person has such a

1 right

2 (1) with intent to damage property of another, the person damages
3 property of another in an amount of \$50 or more but less than \$500;

4 (2) [REPEALED

5 (3) REPEALED

6 (4)] the person tampers with a fire protection device in a building that
7 is a public place;

8 (3) [(5)] the person knowingly accesses a computer, computer system,
9 computer program, computer network, or part of a computer system or network;

10 (4) [(6)] the person uses a device to descramble an electronic signal
11 that has been scrambled to prevent unauthorized receipt or viewing of the signal unless
12 the device is used only to descramble signals received directly from a satellite or
13 unless the person owned the device before September 18, 1984; or

14 (5) [(7)] the person knowingly removes, relocates, defaces, alters,
15 obscures, shoots at, destroys, or otherwise tampers with an official traffic control
16 device or damages the work upon a highway under construction.

17 * Sec. 13. AS 11.46.484(b) is amended to read:

18 (b) Criminal mischief in the fourth [THIRD] degree is a class A
19 misdemeanor.

20 * Sec. 14. AS 11.46.486 is amended to read:

21 **Sec. 11.46.486. Criminal mischief in the fifth [FOURTH] degree.** (a) A
22 person commits the crime of criminal mischief in the fifth [FOURTH] degree if,
23 having no right to do so or any reasonable ground to believe the person has such a
24 right,

25 (1) with reckless disregard for the risk of harm to or loss of the
26 property or with intent to cause substantial inconvenience to another, the person
27 tampers with property of another;

28 (2) with intent to damage property of another, the person damages
29 property of another in an amount less than \$50; or

30 (3) the person rides in a propelled vehicle knowing it has been stolen
31 or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

1 (b) Criminal mischief in the fifth [FOURTH] degree is a class B
2 misdemeanor.

3 * Sec. 15. AS 11.46.487 is amended to read:

4 **Sec. 11.46.487. Forfeiture of property upon conviction.** Firearms and other
5 personal property, except a motor vehicle, used in aid of a violation of AS 11.46.460,
6 11.46.462, or 11.46.484(a)(5) [11.46.484(a)(7)] may be forfeited to the state upon
7 conviction of the offender for the crime.

8 * Sec. 16. AS 11.56.800(a) is amended to read:

9 (a) A person commits the crime of false information or report if the person
10 knowingly

11 (1) gives false information to a peace officer

12 (A) with the intent of implicating another in an offense; or

13 (B) concerning the person's identity while the person is

14 (i) under arrest, detention, or investigation for a crime;

15 or

16 (ii) being served with an arrest warrant or being issued a

17 citation;

18 (2) makes a false report to a peace officer that a crime has occurred or
19 is about to occur;

20 (3) makes a false report or gives a false alarm, under circumstances
21 not amounting to terroristic threatening in the second degree under
22 AS 11.56.810, that a fire or other incident dangerous to life or property calling for an
23 emergency response has occurred or is about to occur; or

24 (4) makes a false report to the Department of Natural Resources under
25 AS 46.17 concerning the condition of a dam or reservoir.

26 * Sec. 17. AS 11.56 is amended by adding a new section to read:

27 **Sec. 11.56.807. Terroristic threatening in the first degree.** (a) A person
28 commits the crime of terroristic threatening in the first degree if the person sends,
29 delivers, or attempts to send or deliver a package or any other item containing a
30 biological or chemical substance or an imitation biological or chemical substance with
31 intent to

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- (1) place a person in fear of physical injury to any person;
- (2) cause evacuation of a building, public place or area, business premises, or mode of public transportation; or
- (3) cause serious public inconvenience.

(b) In this section,

- (1) "biological or chemical substance" means a material that is harmful to the health of a person;
- (2) "imitation biological or chemical substance" means a material that by its appearance would lead a reasonable person to believe that it is harmful to the health of a person.

(c) Terroristic threatening in the first degree is a class B felony.

* Sec. 18. AS 11.56.810 is amended to read:

Sec. 11.56.810. Terroristic threatening in the second degree. (a) A person commits the crime of terroristic threatening in the second degree if the person knowingly makes a false report that a circumstance

(1) dangerous to human life exists or is about to exist and

(A) [(1) PLACES] a person is placed in reasonable fear of physical injury to any person;

(B) [(2)] causes evacuation of a building, public place or area, business premises, or mode of public transportation; [OR]

(C) [(3)] causes serious public inconvenience;

(D) the report claims that a biological or chemical substance that is harmful to the health of a person has been sent or is present in a building, public place or area, business premises, or mode of public transportation; or

(E) substantially disrupts the schedule of an entity providing transportation services for persons or property; or

(2) exists or is about to exist that is dangerous to the proper or safe functioning of an oil or gas pipeline or supporting facility, utility, or transportation or cargo facility; in this paragraph, "oil or gas pipeline and supporting facility" and "utility" have the meanings given in AS 11.46.490.

drafts
corrected
Revised
Amend #1
Km - W
JS - W
SC - W
rv - W
CS - Y

L

1 (b) Terrorist threatening in the second degree is a class C felony.

2 * **Sec. 19.** AS 12.61.120(b) is amended to read:

3 (b) If the defendant is proceeding without counsel in a case involving a
4 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, 11.56.807,
5 11.56.810, AS 11.61.190 - 11.61.210, or a crime involving domestic violence [,] and
6 the court finds that the defendant may pose a continuing threat to the victim of or
7 witness to the offense charged, the court shall protect the address and telephone
8 number of the victim or witness by providing the information only to a person
9 specified by the court or by imposing other restrictions that the court considers
10 necessary. When an address or telephone number is released to a person specified by
11 the court under this subsection, that person, who shall be ordered not to disclose the
12 information to the defendant, shall contact the victim or witness on behalf of the
13 defendant, and the defendant shall meet or speak with the victim or witness only in the
14 presence of that person.

15 * **Sec. 20.** AS 18.66.990(3) is amended to read:

16 (3) "domestic violence" and "crime involving domestic violence" mean
17 one or more of the following offenses or an offense under a law or ordinance of
18 another jurisdiction having elements similar to these offenses, or an attempt to commit
19 the offense, by a household member against another household member:

20 (A) a crime against the person under AS 11.41;

21 (B) burglary under AS 11.46.300 - 11.46.310;

22 (C) criminal trespass under AS 11.46.320 - 11.46.330;

23 (D) arson or criminally negligent burning under AS 11.46.400 -
24 11.46.430;

25 (E) criminal mischief under AS 11.46.475 - 11.46.486
26 [AS 11.46.480 - 11.46.486];

27 (F) terrorist threatening under AS 11.56.807 or 11.56.810
28 [AS 11.56.810];

29 (G) violating a domestic violence order under AS 11.56.740; or

30 (H) harassment under AS 11.61.120(a)(2) - (4);

31 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. This Act applied to offenses committed on or after the effective
3 date of this Act.

4 * **Sec. 22.** This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

Session
State Capitol, Room 418
Juneau, AK 99801-1182
(907) 465-2995 fax: 465-6592



Interim
716 W. 4th Ave. Suite 430
Anchorage, AK 99501
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Representative Lesil McGuire District 17

Sponsor Statement CS for House Bill 350

"An Act relating to terroristic threatening"

Since September 11, 2001, what was once considered only a concern for those living, working or visiting overseas locations has painfully come home. September 11th changed our world and the way we will be expected to conduct ourselves in public from now on. Today when we board a plane, we scrutinize others around us more closely and have been encouraged to take matters into our own hands should someone try to commit a terroristic action.

We have also seen changes in how we prepare to board public transportation, as security has tightened. The event of that day in September has altered how we live our day-to-day lives. For many it is frustrating to stand in long lines and undergo questioning, but it does not give us the right to threaten airport personnel simply trying to do their jobs, or to instill fear in the minds of fellow passengers.

In a recent incident in Sitka, an Alaska Airlines employee was doing her job in security. An individual threatened to leave the airport and return as an assassin if he was not permitted to pass through. The diligent employee contacted local authorities and the individual was detained and later released.

Likewise, we have been warned of the dangers associated with terrorism. The CS in House Bill 350 adds to the bill, threats to our water and food supplies, utilities and pipelines. House Bill 350 will provide law enforcement the necessary tools to arrest, detain and ultimately prosecute an individual who threatens public areas or conveyances.

A threat in this day and age must be taken seriously. House Bill 350 will make sure that if an individual threatens an airport or one of it's employees with harm, that they will be punished in accordance with the law.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 350(TRA)
 (H) Publish Date: 2/20/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Terroristic threatening BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative McGuire
 Requester Representative McGuire Component No. 768

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						
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)

The court system does not anticipate any fiscal impact from the passage of HB 350.

Prepared by: Douglas Wooliver Phone 463-4750
 Division: Alaska Court System Date/Time 2/20/02 9:28 AM
 Approved by: Stephanie Cole Date 2/20/02
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 350(TRA)
 (H) Publish Date: 2/20/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to terroristC
threatening..." BRU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Rep. McGuire
 Requester: (H) TRA Component No.: 1631

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						
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--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

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)
 See attached.

Prepared by: Barbara Brink, Director Phone (907) 334-4416
 Division: Public Defender Agency Date/Time 2/19/02 8:28 AM
 Approved by: Jim Duncan Date 2/19/2002
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. CSHB 350(TRA) - FN#2

ANALYSIS CONTINUATION

This legislation would amend the crime of terroristic threatening (a class C felony) to include when a person knowingly makes a false report that a circumstance dangerous to human life exists or is about to exist that disrupts the schedule of a public transportation service or causes evacuation of a public area or public conveyance. More troubling is the provision of the bill that proposes to include in the same crime when a person knowingly threatens a person engaged in providing transportation services or support services with physical injury regardless of whether the person making the threat had the ability or intent to carry out the threat and the person threatened actually was placed in fear of physical injury. If this bill, as broadly written as it is, became law, it would likely have a significant fiscal impact on the Public Defender Agency. It is not possible to determine the extent of that impact, however, because it is unknown how many potential cases would result from this broadly written proscriptive language. The Public Defender Agency has serious concerns about broadening the language in the terroristic threatening statute to include personal threats that might not have any real terroristic qualities. Since the Agency cannot predict how many more cases would result if this proposed legislation passed, an indeterminate fiscal note is submitted.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 350(TRA)
 (H) Publish Date: 2/20/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to terroristic threatening." BRU Criminal Division
 Component 1st-4th Judicial Districts; Criminal
 Appeals/Special Litigation
 Sponsor Representative McGuire
 Requester House Transportation 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 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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--Do not abbreviate)						
TOTAL	*****	*****	*****	*****	*****	*****

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)
 HB 350 would expand the actions that could lead to a charge of terroristic threatening, a class C felony. Specifically, if an individual causes the evacuation of a public area, public conveyance, or building; disrupts the schedule of a public transportation entity; or threatens, even jokingly, a transportation service provider or transportation support services provider with physical injury, even if the person threatened was not placed in fear of physical injury, that individual could be charged with this crime.

The language in subsection (2) regarding threats to persons actually providing transportation services or support services would cover a very large variety of situations not currently considered felonies. Felony prosecutions are costly, but the Department of Law has no way of estimating how many new cases might be referred for prosecution if this bill becomes law, and cannot assign a potential fiscal impact.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division Attorney General's Office Date/Time 2/19/02 8:27 AM
 Approved by: Kathryn Daughhetee for Bruce M. Botelho, Attorney General Date 2/19/2002
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 350(TRA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to criminal mischief
and terroristic threatening..." BRU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Rep. McGuire
 Requester (H) Judiciary Component No. 1631

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						
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--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

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)
 See attached.

Prepared by: Barbara Brink, Director Phone (907) 334-4416
 Division Public Defender Agency Date/Time 2/21/02 1:29 PM
 Approved by: Jim Duncan, Commissioner Date 2/21/2002
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. CSHB 350

ANALYSIS CONTINUATION

This legislation would amend the crime of criminal mischief in the first degree (class B felony) to include tampering with a water supply with intent to cause physical injury. The crime currently prohibits tampering with other items with intent to cause physical injury (food, drugs, cosmetics). The bill also proposes to amend the crime of terroristic threatening (a class C felony) to include when a person knowingly makes a false report that a circumstance dangerous to human life exists or is about to exist that disrupts the schedule of a public transportation service or causes evacuation of a public area or public conveyance, or a false report that a circumstance exist or is about to exist that is dangerous to the safe functioning of an oil or gas pipeline or supporting facility, utility, or transportation or cargo facility.

The last provision in Section 2, subsection (a)(2) would likely have a fiscal impact on the Public Defender Agency. This subsection may cover a sizeable variety of situations not currently covered as felonies. It is not possible to determine the extent of that impact, however, because it is unknown how many potential cases would result from this broadly written proscriptive language. Since the Agency cannot predict how many more felony cases would result if this proposed legislation passed, an indeterminate fiscal note is submitted.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 350 (TRAN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title An Act relating to terroristic threatenin BRU Administration and Operations
Component All
Sponsor Rep. McGuire
Requester House Judiciary Committee Component No. 694

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						
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--Do not abbreviate)						
TOTAL	***	***	***	***	***	***

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 legislation expands the circumstances under which someone can be charged with Terroristic Threatening, a felony. This bill will add a provision to include knowingly making a false report that a circumstance dangerous to human life exists or is about to exist and causes evacuation of a public area, mode of public transportation or building or disrupts the schedule of an entity providing transportation services for persons or property. It additionally will include false reports of a circumstance exists or is about to exist regarding the safe or proper functioning of oil or gas pipeline or supporting facility, etc. Any addition of circumstances expanding felony prosecution will likely have a fiscal impact on the Department of Corrections. It is anticipated that the number of cases that apply in this legislation will be minimal, therefore, the Dept. of Corrections is submitting an indeterminate fiscal note.

Prepared by: Candace Brower
Division: Commissioner's Office
Approved by: Margaret Pugh, Commissioner
Agency: Dept. of Corrections

Phone 465-4652
Date/Time 2/26/02 4:53 PM
Date 2/26/02

Sec. 11.56.810. Terroristic threatening.

(a) A person commits the crime of terroristic threatening if the person knowingly makes a false report that a circumstance dangerous to human life exists or is about to exist and

- (1) places a person in fear of physical injury to any person;
- (2) causes evacuation of a building; or
- (3) causes serious public inconvenience.

(b) Terroristic threatening is a class C felony.

(§ 6 ch 166 SLA 1978; am § 1 ch 108 SLA 1984 am § 4 ch 40 SLA 1993)

Effect of amendments. The 1993 amendment, effective May 28, 1993, rewrote subsection (a).

NOTES TO DECISIONS

Constitutionality. - This section does not constitute an impermissibly broad restriction of protected speech. *Allen v. State*, 759 P.2d 541 (Alaska Ct. App. 1988).

This section is not impermissibly vague when the word "repeated" in the statute is accorded its ordinary meaning. *Konrad v. State*, 763 P.2d 1369 (Alaska Ct. App. 1988).

Focus on intent of accused. - The statutory definition of terroristic threatening hinges the offense on the specific intent of the accused rather than on the subjective reaction of the victim. *Konrad v. State*, 763 P.2d 1369 (Alaska Ct. App. 1988).

Provoking accused. - No defense arises under the statutory definition of the offense merely because the accused is in some manner provoked to threaten the victim. *Konrad v. State*, 763 P.2d 1369 (Alaska Ct. App. 1988).

Repeated threats. - The obvious purpose in requiring that a threat be "repeated" before becoming a terroristic threat is to assure that the harsh sanction of felony prosecution will not be visited upon a person for making a rash statement out of transitory anger or in the heat of passion. *Konrad v. State*, 763 P.2d 1369 (Alaska Ct. App. 1988).

There was ample evidence to permit a finding that defendant made "repeated threats" to take his wife's life, where the threats were not made in a continuous manner but were repeated over a period of more than fifteen minutes. *Konrad v. State*, 763 P.2d 1369 (Alaska Ct. App. 1988).

Attempted coercion is not a lesser included offense of terroristic threatening. *Konrad v. State*, 763 P.2d 1369 (Alaska Ct. App. 1988).

Voice spectrographic analysis. - Trial court did not err in admitting opinion evidence, based on a voice spectrographic analysis, that defendant made terroristic telephone calls of which he was accused. *State v. Coon*, 974 P.2d 386 (Alaska 1999).

Sentence held excessive. - Sentence of four years, with one year suspended, for terroristic bombing was excessive, where the aggravating factors of deliberate cruelty and prior repeated instances of assaultive behavior were not supported by the record. *Allen v. State*, 759 P.2d 541 (Alaska Ct. App. 1988).

Collateral references. Criminal offense of bomb hoax or making false report as to planting of explosive, 93 ALR2d 304.

Possession of bomb, Molotov cocktail, or similar device as criminal offense, 42 ALR3d 1230.

Validity and construction of "terroristic threat" statutes, 45 ALR4th 949.

Imposition of state or local penalties for threatening to use explosive devices at schools or other buildings. 79 ALR5th 1.

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State frees man held for making threats

■ **ARREST:** Alaska Airlines bans Washington man from flights after he became angry over late luggage.

The Associated Press

SITKA — The state decided Friday not to prosecute a 58-year-old Washington man who was arrested at the Sitka airport after allegedly threatening an airline worker.

But Alaska Airlines has banned Dr. Bruce Stevenson from its flights for life because of Thursday's incident.

Stevenson apparently became upset about possible delays in retrieving baggage, police said. Lt. John Baeza said Stevenson told the Alaska Airlines ticket agent, "If I don't get my bag I'm coming back here as an assassin."

"He said it seriously, with no hint of a smile or that he was joking, and all the witnesses took it very seriously," Baeza said.

Sitka Police Chief Bill McLendon criticized the state's refusal to take the Woodinville, Wash., medical doctor to court.

"The decision reeks of favoritism and documents a steady history of political maneuvering and ineptness in handling cases," McLendon said Friday. "To say we have no confidence in (prosecutors') abilities would be a gross understatement."

Earlier Friday, assistant district attorney Corinne Vorenkamp told the Daily Sentinel in Sitka that the state did not have enough evidence for a criminal prosecution against Stevenson, a doctor at the prestigious Virginia Mason Hospital in Seattle.

"While there's certainly no accounting for the exceedingly poor taste and bad judgment of essentially ignoring a national tragedy, the state has decided to not file a complaint," Vorenkamp said.

Responding to a call from the airport Thursday afternoon, Sitka police arrested Stevenson on a felony charge of terroristic threatening and a misdemeanor charge of fourth-degree assault.

Stevenson was held overnight in the Sitka jail without bail and was released Friday after the charges were dropped.

In Anchorage, assistant U.S. attorney Stephan Collins said the federal government does not have jurisdiction in the case.

"The threat wasn't made by telephone or by wire, and it wasn't made in the air," Collins said. "If the plane were in the air at the time, we'd have jurisdiction -- maritime, or territorial -- but on the ground, in the airport, to a tick-



JAMES POULSON / The Associated Press

Sitka Police Lt. John Baeza, left, stands by as Dr. Bruce Stevenson, 58, background center, is placed in a patrol car following his arrest for allegedly threatening an airline worker at the airport in Sitka. Police say that Stevenson, a doctor at Virginia Mason Hospital in Seattle, apparently told the Alaska Airlines ticket agent, "If I don't get my bag I'm coming back here as an assassin."

et agent, from what details I understand about this case we don't have jurisdiction. That would be up to the state."

Vorenkamp said that to be prosecuted for terroristic threatening under state law, a person would have to "knowingly make a false report that a circumstance dangerous to human life exists or is about to exist."

"What Mr. Stevenson said certainly was insensitive to the fears of the person to whom he said it, and it's appalling in light of the national tragedy that happened this week," she said, "but under state law it is not a crime."

However, Stevenson will never be allowed onboard an Alaska Airlines flight again, company spokesman Greg Witter said from the airline's Seattle headquarters.

"We have a zero-tolerance policy for anyone who tries to abuse or threaten our employees in any way, shape or manner," he said.

Doctor sorry for making threat to airline agent

■ **APOLOGY:** He admits he 'demonstrated a terrible lack of judgment.'

The Associated Press

SITKA — The Washington state doctor who was arrested in Sitka for making threatening comments to an Alaska Airlines ticket agent apologized Tuesday for his actions.

Dr. Bruce Stevenson was arrested at the Sitka airport Thursday, when commercial flights were allowed to resume after the terrorist attacks on the East Coast. The state, however, decided not to prosecute, though Alaska Airlines has banned the 58-year-old doctor from its planes for life.

In last week's incident, Stevenson became upset about possible delays in retrieving baggage and re-

portedly told the ticket agent he would "come back as an assassin" if that occurred.

Stevenson, a doctor at Virginia Mason Hospital in Seattle, issued a prepared statement Tuesday, saying he is sorry for the stress his comments caused.

Stevenson has been placed on indefinite administrative leave because of the incident, said hospital spokeswoman Linda Stepanich. The hospital faxed the doctor's comments to the Daily Sentinel in Sitka.

In the statement, Stevenson wrote: "I made an inappropriate remark that was interpreted as a threat.

"I demonstrated a terrible lack of judgment and I sincerely apologize for my actions. As a frequent traveler to Alaska, I have built many warm

See Page B-2 DOCTOR

DOCTOR: *He's sorry*

Continued from B-1

relationships over the years. I genuinely regret jeopardizing the goodwill of the many friends and colleagues I have in your fine state.

"I am very sorry that this incident added to the stress of airline, airport and public officials during this difficult time."

Police had charged the doctor with felony terroristic threatening and misdemeanor fourth-degree assault. Stevenson spent a night in the Sitka jail before charges were dropped Friday after the state decided not to prosecute.

Stevenson left Sitka Friday.



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KTVA.COM

Alaska Airlines passenger arrested for terrorist threatening

September 24, 2001

An Alaska Airlines passenger who had lost a bag joked with an employee at the Juneau Airport that it contained a bomb. But the airline took it seriously, and the man was arrested Monday morning at his hotel room.

Twenty-nine-year-old James Longcroft was taken into custody at about 7 a.m. and charged with felony terroristic threatening. He was lodged at the Lemon Creek Correctional Center.

Longcroft, an Irish national who gave his residence as England, lost a bag on his flight in last night.

Juneau Police say that while he was describing the bag to an employee, he noted it had a bomb in it. He told the airline employee he was kidding.

But the employee contacted police, who then contacted the FBI, the Juneau District Attorney's Office and Juneau Airport Security and Alaska Airlines Dispatch Operations in Seattle.

The missing luggage had been located at the Seattle airport. Seattle police searched the bag and found no bomb.

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Bomb threat shuts down Ketchikan airport

December 30, 2001

Authorities are investigating an anonymous bomb threat that shut down the Ketchikan International Airport for more than an hour Friday.

The airport was evacuated while airport police and troopers checked the premises. No explosives were found.

Airport manager David Allen says the threat was called in to Ketchikan police about 1:30 p-m. He says police then notified the airport, prompting the evacuation. Allen says he's not sure how many people were affected.

Allen says a jet was not due to land until a few hours later, so the building was relatively empty other than airport workers. He says people were allowed back in the building at about 2:45 p-m.

Alaska State Troopers say they are investigating the threat. Police are looking into the origin of the call, but Deputy Chief David Guzman says that's the department's only involvement.

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STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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



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March 29, 2002

Representative Lesil McGuire
State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing House Bill 350 relating to terroristic threatening.

The Alaska Peace Officers Association fully supports HB 350. This will enhance police and prosecutor efforts to hold persons accountable for threatening public areas or conveyances, and causing disruption to public transportation due to threatening behavior. The world we live in has changed and law enforcement must respond to all threats against public facilities in a serious manner. This legislation will help facilitate the investigation and prosecution of these crimes.

Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Leo Brandlen
State President