

**SB**

**169**



# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## Sponsor Statement

for

CS SB 169 (FIN)

February 27, 2002

Senate Bill 169 amends AS 47.12.030 to automatically waive juveniles over 16 years of age to adult court when they are charged with a violent felony against a person because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin.

The language used to determine whether a crime is a "hate crime" is the exact language contained in AS 12.55.155 (22) that is used as an aggravating factor when sentencing adults. The Governor's Tolerance Commission report recommends the legislature, "pass hate crime legislation to include crimes against individuals based upon race, religion, disability, ethnicity/national origin. . ." This legislation is consistent with the Tolerance Commission's recommendations.

Violent hate crimes are particularly dangerous and destructive to our communities. This legislation ensures public accountability of those persons accused and increases deterrence of such future crimes. While juveniles waived to adult court under AS 47.12.030 are tried and convicted as adults, **it is against federal and state law to incarcerate a juvenile with adults.** There has never been an incident in Alaska's history of a juvenile being abused by an adult in any Alaskan prison.

The juvenile justice system has no public accountability. Current law requires that the identity and court records of persons tried in juvenile court be kept confidential. We need public accountability for such crimes so Alaskans can be sure that justice is accomplished.

The Department of Health and Social Services, Division of Juvenile Services has suggested that the use of Alaska's dual sentencing law would be a suitable substitute for this legislation. However, the dual sentencing law, since its inception two years ago, is obviously not working since it has **never been utilized.**

Senate Bill 169 sends a clear message to juveniles that Alaskans and Alaska's justice system will not tolerate hate crimes. Moving these crimes of particular concern against society and our communities to adult court will ensure public accountability that justice is done.

DD/kk:ja

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**Offenses committed by a minor 16 years of age  
resulting in the automatic waiver to adult court  
if the offense occurred because of the victim's race, sex, color, creed,  
physical or mental disability, ancestry or national origin  
under changes made by CSSB 169(Fin)**

- AS 11.41.130. Criminally negligent homicide – Class B felony
- AS 11.41.210. Assault in the second degree – Class B felony
- AS 11.41.220. Assault in the third degree – Class C felony
- AS 11.41.260. Stalking in the first degree - Class C felony
- AS 11.41.420. Sexual assault in the second degree – Class B felony
- AS 11.41.425. Sexual assault in the third degree – Class C felony
- AS 11.41.436. Sexual abuse of a minor in the second degree – Class B felony
- AS 11.41.438. Sexual abuse of a minor in the third degree – Class C felony
- AS 11.41.458. Indecent exposure in the first degree – Class C felony
- AS 11.41.510. Robbery in the second degree – Class B felony
- AS 11.41.520. Extortion – Class B felony
- AS 11.41.530. Coercion – Class C felony

**Notes:**

Offenses under current law for which a minor 16 or older is automatically waived to adult court:

- unclassified and Class A felonies that are crimes against a person;
- Arson in the first degree (class A felony that is a crime against property);
- and Class B felonies that are crimes against a person provided that the minor allegedly used a deadly weapon and was previously adjudicated as a delinquent or convicted as an adult

**Unclassified and Class A Felonies for Crimes against a person:**

|                             |   |
|-----------------------------|---|
| Assault in the First Degree | Manslaughter                                |
| Kidnapping                  | Robbery in the First Degree                 |
| Murder in the first degree  | Sexual Assault in the First Degree          |
| Murder in the second degree | Sexual Abuse of a minor in the first degree |

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ALASKA STATE LEGISLATURE

## Explanation of Adult vs. Juvenile Delinquency Sentences related to Senate Bill 169

by  
Senator Dave Donley  
May 7, 2001

There are no mandatory minimum sentences for Class B or Class C felony first time offenders. Class C felonies are punishable by "not more than 5 years" and Class B felonies by "not more than 10 years". Presumptive sentencing for both classes only occurs after multiple felony convictions as follows:

|         |                                   |                                   |
|---------|-----------------------------------|-----------------------------------|
| Class C | 2 <sup>nd</sup> offense – 2 years | 3 <sup>rd</sup> offense – 3 years |
| Class B | 2 <sup>nd</sup> offense – 4 years | 3 <sup>rd</sup> offense – 6 years |

Juveniles convicted as delinquents are sentenced to not more than 2 years, not to exceed their 19<sup>th</sup> birthday, with hearings optional to impose 2-year extensions, not to exceed their 19<sup>th</sup> birthday. It is possible to impose 1 year of supervision past the 19<sup>th</sup> birthday if the court deems it is in the best interest of the juvenile and the public.

**CONFIDENTIALITY:** The only time a juvenile's identity or court records can be made public is if they are subjected to the dual sentencing law but the current dual sentencing law has NEVER been used in its two years of existence.

DD/kk:jj

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Distributed by Senator Dave Donley SB 169

**Title 47. WELFARE, SOCIAL SERVICES AND INSTITUTIONS**  
**Chapter 47.12. DELINQUENT MINORS**

Sec. 47.12.030. Provisions inapplicable.

(a) When a minor who was at least 16 years of age at the time of the offense is charged by complaint, information, or indictment with an offense specified in this subsection, this chapter and the Alaska Delinquency Rules do not apply to the offense for which the minor is charged or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, held, released on bail, prosecuted, sentenced, and incarcerated in the same manner as an adult. If the minor is convicted of an offense other than an offense specified in this subsection, the minor may attempt to prove, by a preponderance of the evidence, that the minor is amenable to treatment under this chapter. If the court finds that the minor is amenable to treatment under this chapter, the minor shall be treated as though the charges had been heard under this chapter, and the court shall order disposition of the charges of which the minor is convicted under AS 47.12.120. The provisions of this subsection apply when the minor is charged by complaint, information, or indictment with an offense

- (1) that is an unclassified felony or a class A felony and the felony is a crime against a person;
- (2) of arson in the first degree; or
- (3) that is a class B felony and the felony is a crime against a person in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially identical to those of a crime against a person, and the previous offense was punishable as a felony; in this paragraph, "deadly weapon" has the meaning given in AS 11.81.900 (b).



# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## Differences between Class A Misdemeanors and Class C Felonies in Crimes Against a Person Pertaining to CSSB 169 (Fin)

| Class C Felony  | Class A Misdemeanor   |
|---|---|
| <p><b>Sec. 11.41.220. Assault in the third degree.</b><br/>A person commits the crime of assault in the third degree if that person<br/>Recklessly causes physical injury to another person <b>by means of a dangerous instrument</b></p> <p>places another person in fear of imminent serious physical injury <b>by means of a dangerous instrument;</b></p> <p>with intent to place another person in fear of death or serious physical injury to the person or the person's family member makes repeated threats to cause death or serious physical injury to another person</p> | <p><b>Sec. 11.41.230. Assault in the fourth degree.</b><br/>A person commits the crime of assault in the fourth degree if that person<br/>Recklessly causes physical injury to another person</p> <p><b>by words or other conduct</b> that person recklessly places another person in fear of imminent physical injury.</p> <p>with criminal negligence that person causes physical injury to another person by means of a dangerous instrument</p>           |
| <p><b>Sec. 11.41.458. Indecent exposure in the first degree.</b><br/>(a) An offender commits the crime of indecent exposure in the first degree if</p> <ul style="list-style-type: none"> <li>• the offender violates AS 11.41.460(a);</li> <li>• while committing the act constituting the offense, the offender knowingly masturbates; and</li> <li>• the offense occurs within the observation of a person under 16 years of age.</li> </ul>   | <p><b>Sec. 11.41.460. Indecent exposure in the second degree.</b><br/>An offender commits the crime of indecent exposure in the second degree if the offender knowingly exposes the offender's genitals in the presence of another person with reckless disregard for the offensive, insulting, or frightening effect the act may have.</p> <p>(b) Indecent exposure in the second degree before a person under 16 years of age is a class A misdemeanor.</p> |

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| Class C Felony   | Class A Misdemeanor  |
|--|--|
| <p><b>Sec. 11.41.438. Sexual abuse of a minor in the third degree.</b><br/>           An offender commits the crime of sexual abuse of a minor in the third degree if being 16 years of age <b>or older</b>, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender</p>   | <p><b>Sec. 11.41.440. Sexual abuse of a minor in the fourth degree.</b><br/>           An offender commits the crime of sexual abuse of a minor in the fourth degree if being <b>under</b> 16 years of age, the offender engages in sexual penetration or sexual contact with a person who is under 13 years of age and at least three years younger than the offender</p> |
| <p><b>Sec. 11.41.260. Stalking in the first degree.</b><br/>           A person commits the crime of stalking in the first degree if the person violates AS 11.41.270 and</p> <ul style="list-style-type: none"> <li>• the actions constituting the offense are in violation of a condition of probation, release before trial, release after conviction, or parole;</li> <li>• the victim is under 16 years of age;</li> <li>• at any time during the course of conduct constituting the offense the defendant possessed a deadly weapon;</li> <li>• the defendant has been previously convicted of a crime under this section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another jurisdiction with elements similar to a crime under this section, AS 11.41.270, or AS 11.56.740; or</li> <li>• the defendant has been previously convicted of a crime, or an attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or another jurisdiction with elements similar to a crime, or an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.</li> </ul> | <p><b>Sec. 11.41.270. Stalking in the second degree</b><br/>           A person commits the crime of stalking in the second degree if the person knowingly engages in a course of conduct that recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member.</p>                                    |



# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## OPPOSITION TO DEPARTMENT RECOMMENDATION NO "DUAL SENTENCING"

- \* DHSS has been extremely reluctant to call upon AS 47.12.065, the existing optional Dual Sentencing Law, even though the provision was enacted specifically as a compromise between those who demanded greater accountability on the part of young lawbreakers (victims of crime & the legislature), and those who promised the utilization of the provision in exchange for continued inclusion in the process (DHSS)
- \* Since becoming "effective" on July 1, 1998, the optional Dual Sentencing Provision (AS 47.12.065) has **never** actually been utilized.
- \* Representatives of the Department of Law have stated that AS 47.12.065 has little or no value in its current form.
- \* It has been stated to my staff that the Department has only **once** attempted to utilize the provision in over two years, but it failed because the D.A. chose not to proceed.
- \* With neither the DA nor DHSS have utilized the "Dual Sentencing Provision" in its current form, it seems highly unlikely that they would be any less reluctant to use it in the future.
- \* The sponsor seeks to hold young adults who commit heinous crimes more accountable to deter future crime, while the DHSS seems determined to continue the old, failed juvenile delinquency system

Distributed By Senator Donley CSSB 169 (FIN)

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## Tolerance Commission

December 6, 2001

The Honorable Governor Tony Knowles  
3<sup>rd</sup> Floor, State Capitol  
Juneau, AK 99801

Dear Governor Knowles:

The following pages contain the recommendations of the Commission on Tolerance. You formed the commission with the instructions that we travel the state, hear personal accounts of discrimination and intolerance, and recommend ways the state can respond.

We held 11 public meetings in Anchorage, Juneau, Kodiak, Fairbanks, Bethel, Kotzebue and Kenai. We met in facilities ranging from the Egan Center in Anchorage to the Borough Assembly Chambers in Kotzebue. We gathered in office buildings, libraries, and community centers.

The Commission heard heartbreaking testimony of discrimination and injustice, expressions of frustration at a system in which many feel they are not full participants, and demands for positive action.

The Commission's report focuses on four major areas: education, institutions, economic concerns and the judicial system. Each section contains findings and recommendations based on the testimony heard and research conducted.

The report also includes a Community Action Guide, offering ways each Alaskan can take personal responsibility to work toward a society that celebrates diversity. The guide illustrates many of the positive actions Alaskans are already taking to combat intolerance.

On behalf of the commissioners, thank you for appointing us to this Commission and giving us the opportunity to listen to Alaskans. We look forward to assisting you in any way we can in presenting our findings to the Legislature and others.

Sincerely,

Rev. Chuck Eddy, Chair

## Excerpt from Governors Commission on Tolerance Final Report

### **Pass Hate Crime Legislation**

*Finding:* Alaska's statutes regarding punishment for crimes motivated by bias or hate are limited, too lenient, and do not offer positive approaches to preventing further offenses. Alaska law enforcement officials and the public are unaware of the extent of hate crimes in our state because there is no requirement to report these crimes.

*Recommendation:* Pass hate crime legislation to include crimes against individuals based upon race, religion, disability, ethnicity/national origin, gender, sexual orientation, and economic status. Consider establishing a separate criminal charge for hate crimes, as opposed to the current provisions that allow only a harsher sentence for a crime in which hate is a factor.

*Recommendation:* Encourage sentencing in hate crime cases to include cultural diversity/sensitivity training for the offender.

*Recommendation:* Require all law enforcement agencies to compile and report hate crimes to appropriate authorities.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSSB 169(FIN)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title "An Act relating to the nonapplicability BRU Administration & Operations  
delinquency laws to certain minors accused of certain... Component All  
 Sponsor Senator Donley  
 Requester House Judiciary 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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>***</b> | <b>***</b> | <b>***</b> | <b>***</b> | <b>***</b> | <b>***</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**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>***</b> | <b>***</b> | <b>***</b> | <b>***</b> | <b>***</b> | <b>***</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 legislation would automatically waive minors aged 16 and older into the adult system for commission of a felony crime against a person in which the minor is alleged to have directed the conduct constituting the crime at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin.  
  
 At this time we have no way of knowing how many offenders might be included in this group. We are therefore submitting an indeterminate fiscal note.

Prepared by: Candace Brower Phone 465-4652  
 Division: Commissioner's Office Date/Time 2/28/02 1:44 PM  
 Approved by: Margaret Pugh, Commissioner Date 2/28/02  
 Agency: Department of Corrections

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CS SB 169 (FIN)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health & Social Services  
 Title: HATE CRIMES AND JUVENILE WAIVERS BRU: Juvenile Justice  
 Component: Probation Services  
 Sponsor: DONLEY  
 Requestor: HOUSE (JUD) Component Number: 2134

**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>CHANGE IN REVENUES ( 0 )</b> |  |  |  |  |  |  |
|---------------------------------|--|--|--|--|--|--|

**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: \_\_\_\_\_

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)

Sixteen and seventeen year olds impacted by this legislation would be treated as adult offenders. As a result there would be no fiscal impact to the department if this legislation were to become law.

Prepared by: Susan M. Taylor, Administrative Manager IV Phone 465-1385  
 Division: Juvenile Justice Date/Time: 03/05/2002  
 Approved by: Elmer A. Lindstrom, Deputy Commissioner Date: 03/06/2002  
 Agency: Department of Health & Social Services

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March 1, 2002

The Honorable Rick Halford  
President of the Senate  
State Capitol Room 111  
Juneau, AK 99801

The Honorable Brian Porter  
Speaker of the House of Representatives  
State Capitol Room 208  
Juneau, AK 99801

The Honorable Gene Therriault,  
Chair, Senate State Affairs Committee  
State Capitol Room 121  
Juneau, AK 99801

The Honorable Norman Rokeberg  
Chair, House Judiciary Committee  
State Capitol Room 118  
Juneau, AK 99801

RE: Support for SB 163 – Hate Crimes Legislation; Opposition to SB 169

Dear Senate President Halford, Senator Therriault, Speaker Porter, and Rep. Rokeberg:

I am writing to you on behalf of the Alaska Federation of Natives to express our strong support for SB 163, entitled "*An Act relating to the commission of an offense or a juvenile delinquency act involving the victim's race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin; relating to sentencing, informal adjustment, and adjudication for those offenses and acts; relating to a diversity tolerance program for certain juvenile delinquency acts; relating to a civil cause of action for certain acts involving discriminatory harassment.*" This "Hate Crimes" bill was introduced by Senator Georgianna Lincoln, and is co-sponsored by Senators Davis, Ellis, Hoffman and Elton.

AFN believes that hate crimes are serious, well-documented problems that remain inadequately recognized and largely unaddressed in this state. While the Alaska Legislature has condemned hate crimes (Legislative Resolve 27, July 7, 2001), and called on the citizens of the state to likewise condemn hate crimes and racism, we believe much more needs to be done. This fact is reflected in the final report of the Governor's Commission on Tolerance. That Commission held 11 public meetings around the state and heard testimony of discrimination and injustice. The Commission concluded that

Letter re: SB 163  
March 1, 2002  
Page 2 of 3

"Alaska's statutes regarding punishment for crimes motivated by bias or hate are limited, too lenient, and do not offer positive approaches to preventing further offenses." It went on to recommend that the legislature pass hate crimes legislation that would address crimes against individuals that are based upon race, religion, disability, national origin, gender, and sexual orientation. It recommended changes in the law that would encourage cultural diversity/sensitivity training for offenders and consideration of a separate criminal charge for hate crimes, as opposed to the current law which simply allows harsher sentences for crimes in which hate is a factor. AFN supports these recommendations and believes that SB 163 addresses each of them.

SB 163 expands the legal protection given to those of our citizens who are most vulnerable to attack because of prejudice. The bill incorporates much of what was proposed by the Governor in SB 200. It creates a separate criminal charge for hate crimes and expands the law to cover crimes targeting a victim's sexual orientation; it clarifies that the law may apply even if the offender mistakenly perceived the victim to fall into one of the listed attributes; it imposes mandatory minimum sentences for hate crime misdemeanors; prohibits the suspension of imposition of sentences in hate crime cases and requires sanctions for juveniles who commit hate crimes, including retribution in the form of community work service and referral to diversity tolerance programs. Finally, the bill creates a civil cause of action that would allow the victims of such crimes to sue their attacker or the parents or guardian of a juvenile attacker.

SB 163 has been assigned to the Senate State Affairs, Judiciary and Finance Committees, but to date has not been scheduled for a hearing in any of these committees. We have heard some say that SB 169 sufficiently addresses the hate crimes issue. That bill has passed the Senate and is now scheduled for a hearing in the House Judiciary Committee on March 6, 2002. Unfortunately, SB 169 does not adequately deal with the issue of hate crimes. We believe that every Alaskan has the right to live in an environment free of the terror brought on by hate violence, and that Alaska's laws need to be expanded and strengthened so that prosecutors have an additional set of tools to reinforce society's moral response to such crimes. Hate crimes have no place in a civilized society, and for that reason the issue needs to be addressed in a comprehensive way. SB 169 does not do that. It only provides for harsher punishment for some juveniles (those over the age of 16) who commit certain felony crimes that target the victims based on their race, sex, color, creed, physical or mental disability, ancestry, or national origin. It does not include alternative sentencing and rehabilitation for young hate crime offenders. Studies have shown that early intervention and education can help prevent future crimes of this nature. SB 163, unlike SB 169, contains provisions that require juveniles who commit hate crimes to participate in a diversity tolerance program or other educational program and to perform a minimum of 100 hours of community work.

SB 163 offers a more comprehensive approach to the problem. It would significantly increase the ability of state law enforcement agencies to work together to solve and prevent a wide range of hate crimes committed because of bias based on race,

Letter re: SB 163  
March 1, 2002  
Page 3 of 3

color, national origin, religion, sexual orientation, gender or disability of the victim. The bill is a thoughtful, measured response to the problem. For that reason we strongly urge your support for SB 163 and ask that you oppose passage of SB 169.

Thank you for your consideration and assistance on this important issue.

Sincerely,



Julie Kitka  
President

JK/chd

Cc: Senator Georgianna Lincoln, Sponsor, SB 163  
Senator Bettye Davis, co-sponsor  
Senator Johnny Ellis, co-sponsor  
Senator Lyman Hoffman, co-sponsor  
Senator Kim Elton, co-sponsor  
Senate State Affairs Committee members  
House Judiciary Committee members  
Members of the Bush Caucus

**Subject:** [Fwd: Judicial Committee Hearing on SB 169]  
**Date:** Fri, 15 Mar 2002 08:01:54 -0900  
**From:** Representative Norman Rokeberg <Representative\_Norman\_Rokeberg@legis.state.ak.us>  
**Organization:** Alaska State Legislature  
**To:** Heather\_Nobrega@legis.state.ak.us

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**Subject:** Judicial Committee Hearing on SB 169  
**Date:** Thu, 14 Mar 2002 13:16:30 -0900  
**From:** "Sandy Wassilie" <swassilie@seward.net>  
**To:** <Representative\_Norman\_Rokeberg@legis.state.ak.us>  
**CC:** <Representative\_Scott\_Ogan@legis.state.ak.us>,  
<Representative\_Jeannette\_James@legis.state.ak.us>,  
<Representative\_John\_Coghill@legis.state.ak.us>,  
<Representative\_Kevin\_Meyer@legis.state.ak.us>,  
<Representative\_Ethan\_Berkowitz@legis.state.ak.us>,  
<Representative\_Albert\_Kookesh@legis.state.ak.us>

Representative Norman Rokeberg  
Chairman, House Judicial Committee

Dear Representative Rokeberg:

Thank you for hearing legislation regarding hate crimes. This problem and particularly the underlying issues of prejudice, stereotyping and bullying that goes on in our schools and communities need to be addressed systematically. I do not feel that trying and punishing juveniles as adults as SB 169 establishes really gets to these issues. At best it isolates individuals who may or may not be dangerous, but the problems persist.

As an educator, a lifelong citizen of Alaska, and a member of a mixed ethnic family, I witness that juveniles mirror what their parents and elders believe and act within the limits of what their neighborhood or community tolerates. I would prefer a more progressive criminal proceeding where the juveniles are tried as juveniles and sentenced to a community based program which may include that they face their victims and see the consequences of their actions. In this way, their families and communities become more involved, and some meaningful change of attitude, not just behavior but attitude as well, may be put into action. I believe we already have laws where juveniles are tried as adults for dangerous crimes of murder and sexual assault and where they coexist with hate crimes, then these laws come into effect.

I believe SB 163 contains a comprehensive approach, and it is my hope you will hear this bill as well.

Sincerely,  
Sandra P. Wassilie  
High Tide Writing  
P.O. Box 1576  
Seward, AK 99664

Phone: 907-224-3950  
Fax: 907-224-3950 (call first)  
Cell: 907-362-1568

[swassilie@seward.net](mailto:swassilie@seward.net)

**Subject:** [Fwd: SB 169]

**Date:** Mon, 18 Mar 2002 11:36:34 -0900

**From:** Representative Norman Rokeberg <Representative\_Norman\_Rokeberg@legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Heather\_Nobrega@legis.state.ak.us

**Subject:** SB 169

**Date:** Mon, 18 Mar 2002 09:55:06 -0900

**From:** "Millie Eskey" <millieeskey@gci.net>


**To:** "Albert Kookesh" <Representative\_Albert\_Kookesh@legis.state.ak.us>, "Ethan Berkowitz" <Representative\_Ethan\_Berkowitz@legis.state.ak.us>, "Kevin Meyer" <Representative\_Kevin\_Meyer@legis.state.ak.us>, "John Coghill" <Representative\_John\_Coghill@legis.state.ak.us>, "Jeannette James" <Representative\_Jeannette\_James@legis.state.ak.us>, "Scott Ogan" <Representative\_Scott\_Ogan@legis.state.ak.us>, "Norman Rokeberg" <Representative\_Norman\_Rokeberg@legis.state.ak.us>


SB 169 does not deal with the issues of hate crimes. We want every issue of hate crimes to be addressed and therefore support SB 163. With your support we could eliminate hate crimes in Alaska. If hate crime in Alaska is ignored it will destroy us all.

Please look at the following attachments and know that we know that SB 169 is not sufficient enough!!

Thank you.

Mildred N. Eskey, President  
Alaska Native Sisterhood, Camp # 87  
Anchorage, Alaska

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|  | <u>Della Brown Murder Case.xls</u> | <b>Name:</b> Della Brown Murder Case.xls<br><b>Type:</b> Microsoft Excel Worksheet<br>(application/vnd.ms-excel)<br><b>Encoding:</b> base64<br><b>Download Status:</b> Not downloaded with message |
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|  | <u>DELLA BROWN CASE UPDATE.doc</u> | <b>Name:</b> DELLA BROWN CASE UPDATE.doc<br><b>Type:</b> WINWORD File (application/msword)<br><b>Encoding:</b> base64<br><b>Download Status:</b> Not downloaded with message |
|---|------------------------------------|--|

**Subject:** [Fwd: Senate Bill 169.doc.HJC]  
**Date:** Mon, 18 Mar 2002 11:36:57 -0900  
**From:** Representative Norman Rokeberg <Representative\_Norman\_Rokeberg@legis.state.ak.us>  
**Organization:** Alaska State Legislature  
**To:** Heather\_Nobrega@legis.state.ak.us

**Subject:** Senate Bill 169.doc.HJC  
**Date:** Mon, 18 Mar 2002 10:35:09 -0900  
**From:** "Doloresa Cadiente" <doloresa@ptialaska.net>  
**To:** "Albert Kookesh" <kookesh@ptialaska.net>,  
"Representative Ethan Berkowitz" <Representative\_Ethan\_Berkowitz@legis.state.ak.us>,  
"Representative Jeannett James" <Representative\_Jeannette\_James@legis.state.ak.us>,  
"Representative John Coghill" <Representative\_John\_Coghill@legis.state.ak.us>,  
"Representative Kevin Meyer" <Representative\_Kevin\_Meyer@legis.state.ak.us>,  
"Representative Norman Rokeberg" <Representative\_Norman\_Rokeberg@legis.state.ak.us>,  
"Representative Scott Ogan" <Representative\_Scott\_Ogan@legis.state.ak.us>



*Office of the Grand President*

*Doloresa Cadiente*

*Alaska Native Sisterhood*

*Grand Camp*

March 18, 2002

To: The House Judiciary Committee

Re: SB 169

My name is Dolores Cadiente; I am the Grand President of the Alaska Native Sisterhood Grand Camp, representing the Alaska Native Sisterhood Camps. The Alaska Native Sisterhood (ANS) formed immediately following the Alaska Native Brotherhood (ANB), however the Sisterhood didn't officially organize as a constituent part of the Brotherhood until 1923 and is warmly known as the backbone of the ANB.

The Alaska Native Brotherhood and Alaska Native Sisterhood Grand Camp is comprised of 138 delegates

from 46 ANB and ANS chartered local Camps from communities within the State of Washington, throughout Southeast Alaska including Anchorage, 25 ANB and ANS Executive Committee men and women, and 12 ANB and ANS Grand Officers for a possible total of 175 voting members at the annual convention to conduct business and elect Officers for the work year.

Mr. Chairmen, and members of the committee, the Sisterhood would like to go on record to state that SB 169 does not adequately address the issue of hate crimes and urge you to consider the passage of a more meaningful hate crime bill that would include a more comprehensive approach to deter crimes of hate by incorporating the recommendation of the Tolerance Commission. As Civil Rights Leader Elizabeth Peratrovich said in her testimony during 1945 to Honorable men like yourself, "No law will eliminate crimes but, at least you as legislators, can assert to the world that you recognize the evil of the present situation and speak your intent to help us overcome discrimination." As President of the Alaska Native Sisterhood I don't believe that SB 169 is the answer if your intent is to help overcome discrimination. Your most serious consideration for a more comprehensive solution is greatly appreciated.

Gunalcheesh, Howa, and Thank You for all that you do for the people of the State of Alaska.

In Sisterhood,

Doloresa Cadiente, Grand President

Alaska Native Sisterhood Grand Camp

9621 Glacier Highway

Juneau, Alaska 99801

(907) 789-0272

ANOTHER ONE MILLIONTH REASON TO PASS THE 'HATE LAW' CRIME"

This report is to be submitted to the Grand Camp President Doloresa Cadiente

Report: January 18, 2002

Attendance: Millie Eskey, President ANS; Harriet Belcal, Vice President ANS; Eva Tennison, Chaplain ANS; Daisy Keenak Paggott, Member ANS; Kirkland Scott Piggott Daisy's Husband; Dolores Martinez, Victims for Justice, Inc. 1057 W. Fireweed, Ste 101, Anchorage, Alaska 99503 (907) 278-088; Advocate for Daisy. Wesley Dick, ANB.

Alaska Native Sisterhood, Camp# 87 attended a hearing in a rape, murder Case of the daughter of Daisy Keenak Piggott: Della Brown. We went in Support of our sister Daisy.

Background: Three Boys: Daniel Troxel, Timothy Beckett and Jonathan McCune were approached by Joshua Allen Wade to participate In a murder of Della Brown, of which all three refused to participate In such a crime. Approximately 3-days later or so Joshua Wade Approached the three boys to show them the body of Della Brown. The 3-boys turned J. Wade into the police.

All three of the young men were in one jail Cook Inlet jail because the 3-boys were in an armed robbery charge and have been threatened of their lives and family lives if they testify. According to the paper they are unsure who is threatening them. (01/19/02 Anchorage Daily News)

The 3-boys are claiming the 5<sup>th</sup> AMENDMENT:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor shall private property be taken for public use without just compensation." As the January 19<sup>th</sup>, Anchorage Daily Newspaper state these 3-witnesses "are important to the state's case against Joshua Wade in the rape and beating to death of Della Brown, whose body was found in September 2000 in a shack in Spenard."

Judge Mike Wolverton ordered a CLOSED hearing for January 31, 2002, 8:30 AM in the morning for Troxel, 9:30 for Beckett and 10:30 for McCune, because they refused to attend the trial of 01/18/02 AND are now claiming the 5<sup>th</sup> amendment. Judge says he will meet privately with each witness and their lawyers, then decide if they can testify for the prosecution

The Judge Wolverton also set February 8, 2002, Friday, 10:30 AM for a "Continued Motion Hearing".

Judge Wolverton set March 4, 2002 as the tentative TRIAL DATE Only in the event it is DUABLE. Note too sure if it can be solidified as the Date of the TRIAL.

DELLA BROWN MURDER CASE AS OF 2/6/02 ANCHORAGE DAILY NEWS NEED TO READ THE NEWSPAPER FOR MORE DETAILS.

Background: Joshua Wade accused of murdering Della Prown.  
Raped and beat Della Brown to death.  
Killed Della on September 2, 2000.  
Attorney Cynthia Strout.

Daniel Troxell and Timothy Beckett the two most important witness'es in the case  
Are claiming the fifth amendment.

The two were in an armed robbery on January 2001, three times robbed Spenard  
Motel. Spenard Motel qualifies as interstate commerce because of  
Out-of-state guests. This now involves the Federal Government.  
The Feds have stiffer sentences then the State of Alaska for armed  
Robbery.

There may be a possibility of Wade killing four other native women.  
No evidence as yet.

Judge Mike Wolverton ruled Thursday that this clash of  
Constitutional rights means Troxel and Beckett can't be forced to  
Testify at Wade's murder trial unless the State gives them immunity,  
Which in this case would mean dismissing the robbery charges.  
And, with no state charges hanging over them, Troxel and  
Beckett would have no legal right to plead the fifth in the  
Wade trial, Mary Ann Henry, Assistant District Attorney,  
Said. Judge Wolverton did not agree. Federal prosecutors  
Also would have to give them immunity, the judge said.  
That's not going to happen, Feldis said. Henry said,  
There are other legal ways the tape can be used at Wade's trial, plus  
The state has other evidence against him. Defense attorney Cynthia  
Strout said the state doesn't have a good case against Wade,  
Her client, with or without the tape.

#### UPDATE ON ANS:

On 2/8/02 10:30AM there is to be a "Continued Motion Hearing:"  
Daisy Keenak Piggott called me about having a legislature  
Calling ANS/ANB to give their opinion on changing the law  
Regarding the 5<sup>th</sup> amendment. So, this type of incident would not  
Happen again. Even though, it would not help Daisy at this  
Time. Daisy gave me the name of Kathy Jasper at 269-6358 Paralegal.  
Kathy said to give the list to Mary Ann Henry at the hearing.  
The list of names will be called by the legislator (possibly Spenard, not  
Sure as yet) to ask them on their opinions of changing the law regarding  
The 5<sup>th</sup> amendment.

So far the following are volunteering to be called for whatever reason  
To help Daisy:

Frank Dennis, ANB, President, Camp # 33: 332-7080  
Eva Tennison, Chaplin, ANS, Camp 87: 333-7500  
Millie Eskey, President, ANS, Camp 87: 338-5982  
Jessica Knox: Member ANS Camp 87: 338-1985  
Cindy Vallejo, Treasurer, ANS Camp 87: 333-7500  
Arnold Didrickson 276-0600  
Monica Wolf, First Grand Vice President ANS: 245-9233  
Elizabeth Webber, ANS Camp 87: 344-2307  
Ruth Willard, T & H Central Council: 272-4885

Mary Moreno, ANS Camp 87: 245-2710  
Arnella Osborne-Horsford: 222-0587  
Cecelia Tavelaro, Second Vice President Grand Camp: 830-2745  
Sonya Fairbanks, Sargent of Arms, ANS Camp 87: 243-3465  
Maggie Fairbanks: 243-3465  
Janet Graham: 349-1403  
Jane (Igtanlog) Goldbach: 563-7912  
Eva Merrifield:  
Virginia Hudson:

Joseph A. Garoutte, Legal Advocate, of  
Alaska Native Justice Center at 121 West Fireweed, Phone Number 278-1122,  
Fax Number 278-1121 is going with her to tomorrow's hearing 2/8/02 10:30 AM.  
Alaska Native Justice said they have \$50,000.00 for the 5-Alaska Native  
Women killed. She has no other details.

Daisy will be going to the new Victims for Justice building, Dolores Martinez  
At 278-0988, meetings to seek help to get over this tragic death of her  
Daughter Della Brown.

Daisy Piggott and her sister Mary Montgomery (633-4747) Eagle River)  
Are today forming a PRAYER GROUP.

UPDATE: 2/8/02 HEARING. Should have started 10:30 was  
Delayed due to Black man Gregory Poindexter as sentenced Friday to  
30 years in prison by Judge Elaine Andrews for kidnapping & raping 5 Native Women.  
(SEE ANCHORAGE DAILY NEWS 2/9/02 FOR DETAILS)

11:42 am HEARING begins. Strout says loudly to Judge that "bad faith,  
No evidence" Because Henry did not respond to the letter requesting  
the names of the police officers with the tape and the wiring of the 3-young men.  
And that there were no tapes! Henry says there are too much static, not audible.  
To hear the testimony.

Judge Wolverton sets 3/8/02 for Evidentiary Hearing. And sets 3/11/02  
For trial. Henry says trial is not going to happen.  
Will appeal.

Gave list of names to Ms. Henry.

## Summary Research on Juvenile Waiver

Children in adult correctional facilities suffer higher rates of physical and sexual abuse and suicide. Compared to those held in juvenile detention centers, youth held in adult jails are:

- 7.7 times more likely to commit suicide
- 5 times more likely to be sexually assaulted
- Twice as likely to be beaten by staff
- 50% more likely to be attacked with a weapon<sup>1</sup>

Waiver proponents assert more severe punishment will result in reduced crime and greater public safety. However, research suggests juvenile waiver has exactly the opposite effect.

- A Florida study comparing recidivism rates for matched groups of youthful offenders (comparable on the basis of the number and seriousness of past and current offenses committed as well as sociodemographic characteristics) found that juveniles coming out of the adult system were more likely to re-offend, to re-offend earlier, to commit more subsequent offenses, and to commit more serious subsequent offenses than juveniles retained in the juvenile system.<sup>2</sup>
- A study of over 500 youth charged in Pennsylvania found that youths transferred to adult court are more likely to be convicted and incarcerated but their recidivism rates are higher than those who remain in juvenile court.<sup>3</sup>
- A study comparing 15-16 year olds charged with robbery in New York and New Jersey found that New York juveniles whose cases originated in criminal court were more likely to reoffend and to reoffend sooner than the New Jersey juveniles whose cases were heard in juvenile court.<sup>4</sup>

Idaho enacted a juvenile transfer statute for juveniles charged with certain serious crimes in 1981. Social scientists examined arrest rates for five years before and five years after the passage of the law and found no evidence that it had any deterrent effect on the level of juvenile crime in Idaho. In fact, when researchers compared arrest rates for the target offenses with those in Montana and Wyoming, which were similar demographically to Idaho, they found juvenile arrests for the targeted offenses actually increased in Idaho, while decreasing in the other two states.<sup>5</sup>

Two-thirds of children sentenced to adult prisons are released before they are 21 and more than 90% are released before age 30; upon release, re-offending occurs earlier and additional offenses tend to be more serious.<sup>6</sup>

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<sup>1</sup> Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy, J. Fagan, M. Frost and T.S. Vivona, *Juvenile and Family Court*, No. 2, 1989.

<sup>2</sup> The Transfer of Juveniles to Criminal Court: Does It Make A Difference? D. Bishop, C. Frazier, L. Lanza-Kaduce, and L. Winner, *Crime & Delinquency*, Vol. 42 No. 2, April 1996.

<sup>3</sup> Excluding Violent Youths from Juvenile Court: The Effectiveness of Legislative Waiver, David Myers, University of Maryland, 1999

<sup>4</sup> The Comparative Advantage of Juvenile vs. Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders, Jeffrey Fagan, *Law and Policy*, Vol. 18# 1 and 2, Jan/Apr. 1996.

<sup>5</sup> A Test of the Deterrent Effect of Legislative Waiver on Violent Juvenile Crime, Eric L. Jensen and Linda K. Metsger, *Crime and Delinquency*, Vol. 40:96-104, cited in "Bishop, Donna. "Juvenile Offenders in the Adult Criminal System." 27 *Crime and Justice* 81 (2000)

<sup>6</sup> Tragedy Grows Larger If Santana High School Shooter Is Charged As Adult, Nancy Gannon, News Advisory, Coalition for Juvenile Justice, March 6, 2001.