

HB

103



# **REPRESENTATIVE KEVIN MEYER**

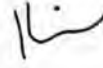
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**HOUSE DISTRICT 30**

## **MEMORANDUM**

**DATE:** April 25, 2003

**TO:** Representative Lesil McGuire  
Chair, House Judiciary Committee

**FROM:** Representative Kevin Meyer 

**RE:** Hearing Request for HB 103

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At your convenience, please schedule HB 103 Crime Victims' Compensation: Sexual Abuse/Assault for a hearing in the House Judiciary Committee.

This bill ensures compensation is not denied based on considerations of provocation: the use of alcohol or drugs, or the prior social history of the victim. It also retains the current language for compensation criteria for all other crimes.

Thank you.



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## Sponsor Statement HB 103

*"An Act limiting the factors that may be considered in making a crime victims' compensation award in cases of sexual assault or sexual abuse of a minor."*

In 1971, the State created the Victims' Compensation Board. The function of the Board is to ensure that the victim's role in a crime is taken into consideration. For example, if an individual starts a fight and is injured, the Board could deny his or her case.

As an unintended result of this language, victims of sexual assault and child abuse could be denied compensation if the Board found them to have contributed to the circumstances of the crime. Forseeably, victims of sexual assault who had been drinking could be denied because they were intoxicated when the assault occurred.

The implication that a victim of sexual assault or child abuse in some way "deserved" to be victimized runs counter to the values of our society. An individual has done nothing to bring such a crime on him or herself.

To rectify this unintended consequence, HB 103 does the following:

1. It ensures that the victim's behavior, prior social history, or use of drugs or alcohol are not considered by the Board when awarding compensation, and
2. Retains the existing language for compensation criteria for all other Crimes

The Victims' Compensation Board is funded 60/40, by the state and federal governments, respectively. Since the State's 60 percent is derived from permanent fund dividend checks garnisheed from convicted felons, the fiscal impact on the State is zero or is negligible.

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# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

### VIOLENT CRIMES COMPENSATION BOARD

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 111200  
JUNEAU, ALASKA 99811-1200  
PHONE: (907) 465-3040  
TOLL FREE: 1-800-764-3040  
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May 6, 2003

The Honorable Gretchen Guess  
State Senate  
State Capitol, Room 423  
Juneau, Alaska 99801-1182

By Facsimile: 907-465-6615  
Hand Deliver

RE: HB 103  
SB22

Dear Senator Guess:

In your letter of April 29, 2003, to Gerad Godfrey, Violent Crimes Compensation Board Chairperson, you afforded Mr. Godfrey the opportunity to provide suggested changes to this legislation. Please find attached suggested changes drafted based on my review of legislation, regulations, and guidelines implemented both here in Alaska and by other State crime victim compensation programs.

Alaska was one of the first ten states to establish a crime victim compensation program. Alaska's legislation is similar to the legislation adopted by most of the country's original crime victim compensation programs. Other States have expressed concern similar to your concern regarding the legislation and Mr. Godfrey's concerning the original proposed change. I am hoping the attached language presents a resolution.

The Board would appreciate your consideration of these suggested changes. Thank you.

Respectfully,



Susan L. Browne  
Administrator

Attachment

CC: House Judiciary Members  
Vanessa Tondini, Judiciary Committee Staff

18.67.080

(c) In determining whether to make an order under this section, the board shall consider all circumstances determined to be relevant, including provocation, consent, or any other behavior of the victim that directly or indirectly contributed to the victim's injury or death, the prior case or social history, if any, of the victim, the victim's need for financial aid, and any other relevant matters. To justify a denial under this section, the victim's behavior must relate significantly to the occurrence that caused the victimization and be such that a reasonable or prudent individual would know that the actions could lead to their victimization. Only evidence that indicates on a more probable than not basis that the victim consented to, provoked or incited the criminal act shall be considered. Cause exists if "but for" the acts of the victim, the crime would not have occurred and proximate cause exists if the acts of the victim resulted in a foreseeable injury. Consent involves a victim's voluntary entry into a course of action that naturally led to the crime. A denial based on this section involves a victim's decision to enter into actions that a reasonable person could foresee would result in the crime.

(d) In the case of sex crimes, if an offender is charged with and convicted of a sex crime then it is rarely possible that a victim's actions were so extreme that they constitute involvement. Therefore, no sex crime claim will be denied on that basis. Where there does not appear to be a preponderance of evidence that a sex crime occurred, the board will consider whether or not there is sufficient evidence of a crime eligible for compensation under this section. The Board shall not base a denial upon the involvement or behavior of the victim.

(e) To justify a denial based on drug use, the board will only consider evidence that the victim was clearly involved in a drug transaction such as buying, selling, or delivering at the time of the crime and/or evidence that the victimization was a direct result of a prior drug transaction. This must be corroborated by evidence from law enforcement or other credible sources. The evidence must show a direct correlation linking the drug-related activity to the incident in the claim which resulted in the victim's injuries or death.

Current 18.67.080(d) becomes 18.67.080(f)

(f) An order may be made under this section whether or not a person is prosecuted or convicted.....imminent.



121 West Fireweed Lane  
Suite 240  
Anchorage, AK 99503  
Phone: (907) 278-1122  
Fax: (907) 278-1121

March 19, 2003

To Whom It May Concern:

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

I am writing today in support of HB 103 "An act limiting the factors that may be considered in making crime victims' compensation awards in cases of sexual assault or sexual abuse of a minor."

The unintended consequence of the present law creates an "impression" of wrongdoing and blame on the part of the victim that is neither right nor consistent with the practices Alaskans hold dear. The present language could be subjectively interpreted and could potentially deny victims of sexual assault or abuse just compensation.

HB 103 will ensure a person's prior social history, or the use of alcohol/drugs will not be a mitigating factor when determining a sexual assault victim's claim for compensation.

On behalf of the Alaska Native Justice Center, the Alaska Native Women's Sexual Assault Committee and the clients we serve, I urge your support of HB 103.

Sincerely,

A handwritten signature in cursive script, appearing to read "Denise R. Morris".

Denise R. Morris  
President/CEO

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

## Main Office & Legal Advocacy Project

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Phone: (907) 586-3650

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## Pro Bono Project

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Sitka, Alaska 99835

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SAFV

#### Unalaska

USAFV

#### Valdez

AVV

Representative Kevin Meyer  
Room 513, State Capitol  
Juneau, Alaska 99811-1182

March 6, 2003

Dear Representative Meyer:

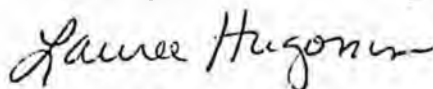
Please accept this letter as one of support for HB103.

We wish the day would have long come and gone when victims of sexual assault were routinely questioned or somehow made to feel guilty because of the clothes they chose to wear, or the fact that they may have had a drink, or that there may be something in their past they wished they had done differently. None of those things cause perpetrators to commit the crime of sexual assault or contribute to the crime. Unfortunately, the violent crimes compensation board still has similar items listed as things to be considered when determining whether or not to grant compensation to victims of sexual assault or sexual abuse of a minor.

It is difficult enough to come forward as a victim of sexual assault and enter the system to try and find some justice. Victims journeys are made more difficult when parts of the system rely on myths to respond to these crimes. Your bill will help stop the practice of victim blaming.

Thank you for your work to increase the availability of justice to victims of sexual assault.

Sincerely,



Lauree Hugonin  
Executive Director