

SB

340

# STATE OF ALASKA

## DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601  
JUNEAU, ALASKA 99811-0601  
PHONE: (907) 465-3030  
FAX: (907) 465-3068

February 17, 2004

Honorable Fred Dyson, Chairman  
Senate Health, Education and  
Social Services Committee  
Alaska State Capitol; Rm. 121  
Juneau, AK 99801-1182

Dear Senator Dyson,

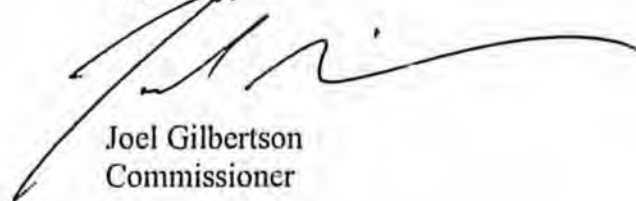
The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education, and Social Services Committee on Senate Bill 340 "An Act relating to the detention of delinquent minors in correctional facilities; relating to emergency detention of minors for evaluation for involuntary admission for mental health treatment; relating to detention of intoxicated minors incapacitated by alcohol or drugs; and providing for an effective date."

The purpose of this bill is to bring Alaska into compliance with recent revisions to the federal Juvenile Justice and Delinquency Act. Under the Act, emergency protective custody of juveniles may not include placement in a locked jail or youth facility. Failure to comply with this federal requirement jeopardizes receipt of approximately \$700,000 in federal funds that are a cornerstone of the department's juvenile justice program.

The Governor's transmittal letter and zero fiscal note relating to SB 340 are on file with the committee.

Your favorable consideration of this request will be appreciated.

Sincerely,



Joel Gilbertson  
Commissioner

cc: Mike Tibbles, Director  
Legislative Office, Office of the Governor  
Patty Ware, Director, DJJ

FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



SB340  
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 13, 2004

The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Therriault:

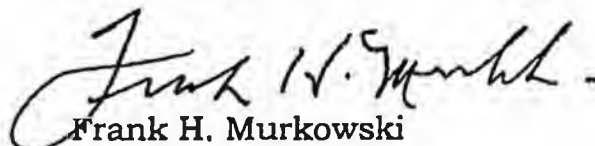
Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the detention of delinquent and other juveniles.

The 2002 reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJJPA) went into effect on October 1, 2003. The JJJPA has traditionally prohibited incarceration of non-offenders and status offenders in adult jails and "lock-ups." New language in the 2002 reauthorization prohibits the use of juvenile detention facilities for these non-offenders and status offenders as of October 1, 2003.

This bill would modify AS 47.12.240, AS 47.30.705, and AS 47.37.170 to come into compliance with the federal requirements set out in the Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2003. Under these amendments, emergency protective custody of minors may not include placement in a jail or other secure facility. This language is also found in current law relating to placement of children in need of aid in AS 47.10.141(c), and has been interpreted by both state and federal officials to provide sufficient flexibility for holding minors until a more appropriate facility can be found or until transportation to such a facility is feasible. The purpose of this draft bill is to preserve Alaska's federal formula grant receipts of approximately \$700,000 and to meet certain requirements to apply for other federal grant money through the federal office of juvenile justice and delinquency prevention.

I urge your prompt and favorable action on this measure.

Sincerely yours,

  
Frank H. Murkowski  
Governor

Enclosure

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 340  
 ( S ) Publish Date: 2/16/04  
 Dept. Affected: Health & Social Services  
 RDU: Juvenile Justice  
 Component: Delinquency Prevention

Revision Date/Time (Note if correction):  
 Title: RELATING TO DETENTION OF JUVENILES

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR  
 Requester: \_\_\_\_\_

Component No. 248

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
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 (FY2004) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The proposed changes to statute will have no fiscal impact on the Division of Juvenile Justice. The proposed changes will put the state in compliance with the federal Juvenile Justice and Delinquency Act (JJDP A) formula grant program.

Prepared by: Karen Forrest  
 Division: Juvenile Justice  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone: 465-2339  
 Date/Time: 02/11/2004  
 Date: 02/12/2004

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: SB 340  
 (S) Publish Date: 2/16/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title Juvenile Detention RDU Alaska State Troopers  
 Component AST Detachments  
 Sponsor Rules Committee  
 Requester Governor Component No. 2325

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill will amend AS 47.12.240, AS 47.30.705 and AS 47.37.170. The stated purpose of this bill is to preserve Alaska's federal formula grant receipts of approximately \$700,000 and to meet certain requirements to apply for other federal grant money. The bill, in essence, states that "emergency protective custody under these sections may not include placement of a minor in a jail or secure facility". The bill addresses minors who are taken into protective custody for mental health issues or those in protective custody due to intoxication because of drugs or alcohol.

The Department of Health and Social Service, Division of Juvenile Justice, has committed to supplying training and training materials to law enforcement officers to insure compliance with this statute.

There is no fiscal impact anticipated by the Department of Public Safety.

Prepared by: Lt. Al Storey Phone 269-4532  
 Division Alaska State Troopers Date/Time 2/12/04 3:19 PM  
 Approved by: Commissioner William Tandeske Date 2/12/2004  
 Agency Department of Public Safety

SB 340 /HB 487 Relating to the Detention of Juveniles  
Department of Health and Social Services  
Division of Juvenile Justice- 2/20/04

**Highlights related to the Proposed Legislation:**

- ❖ Modifies AS 47.12.240, AS 47.30.705 and AS 47.37.170 to prohibit the placement of minors in a jail or secure facility who are in protective custody due to mental illness, grave disability, intoxication or incapacitation by alcohol or drugs.
- ❖ Required for DHSS/DJJ to be in compliance with the 2002 reauthorization of the federal Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) that went into effect on October 1, 2003.
- ❖ Does not affect existing statutory provisions for the detention of minors for delinquent or "criminal-type" offenses described in AS 47.12.240. The emphasis is on ensuring that state statute comports with the federal requirements for not holding non-offenders in a locked facility when they have not committed a crime.

**Background:**

**DHSS, DJJ receives approximately \$700,00 annually through the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) formula grant program.** Funds are used to pay for a variety of services, including nonsecure shelters and prevention/intervention services for juveniles. States receiving JJDP funds must meet four core juvenile justice mandates. The mandates along with the actual numerical standards for "violations" are:

- a. Deinstitutionalization of status offenders and non-offenders: 5.7 per 100,000;
- b. Separation of juveniles from adult offenders in institutions: Zero (0);
- c. Removal of juveniles from adult jails and lockup facilities: 9.0 per 100,000;
- d. Reduction of disproportionate minority contact: no statistical de minimis.

**Alaska is currently out of compliance with these standards at a fairly significant rate.** Violation rates for the first three core mandates in FY02 and FY03 are as follows:

- a. Deinstitutionalization: FY02 at 47.70 and FY03 at 37.82;
- b. Separation from Adult offenders: FY02 at 21.35 and FY03 at 4.1; and,
- c. Jail Removal: FY02 at 68.08 and FY03 at 47.05.

**Without passage of this legislation, the Department will lose 40% of the FFY2004 grant award, or \$280,000 in the first year and an additional 40% of the FFY2005 award, for a total anticipated loss of \$560.0 in federal grant funds.**

If violations of the JJDP Act are incurred once the statute is changed, the argument can be made to OJJDP that all violations were in violation of existing state law, which is an allowable "exception" to the de minimum numerical standards for monitoring compliance with the JJDP Act.

The change in state statute is consistent with best practice, i.e. juveniles should not be held in a locked facility when they have not committed a crime.

The Division will continue to work with local and state law enforcement, as well as within this Department with the Division of Behavioral Health, to further develop the alternatives that will provide the appropriate response for these juveniles.

NON-SECURE SHELTER GRANTS

<u>Provider</u>	<u>Service Area</u>	<u># FY02 Clients</u>	<u># FY03 Clients</u>	<u>FY04 Awards*</u>
Fairbanks Native Association	Fairbanks	94	62	27,000
Juneau Youth Services	Juneau	39	19	15,000
Kenai Peninsula Community Care Center	Kenai Peninsula	178	163	50,000
Kodiak Youth Services Center	Kodiak	5	2	8,000
Residential Youth Care	Ketchikan	24	8	23,000
Valdez Counseling Center	Valdez	(no award)	0	6,000
Youth Advocates of Sitka	Sitka	19	15	12,000
North Slope Borough	Barrow	7	11	(no award)
Wrangell, City of	Wrangell	1	1	(no award)
Totals		367	281	141,000

\*Funds purchase actual services and limited administrative costs only, so awards not fully expended when service is underutilized.

Working to establish or re-establish shelters in:  
 Mat-Su Borough (provider agreement signed 1/04)  
 Anchorage  
 Barrow  
 Wrangell  
 Dillingham  
 Emmonak  
 Hooper Bay  
 Kotzebue

updated 2/5/04

**Subject: Committee Hearing on SB 340 - Detention of Minors**

**Date:** Tue, 2 Mar 2004 14:17:50 -0900

**From:** "Schultz, Anne G." <Anne\_Schultz@health.state.ak.us>

**To:** "Jason\_Hooley@legis.state.ak.us" <Jason\_Hooley@legis.state.ak.us>

Dear Jason:

Will you please pass on to Senate Health and Social Services Committee members the following message regarding SB 340?

Advisory Board members were able to visit with many legislators during their Juneau meeting last week. Their packets included their top five legislative priorities for this session. One of the bills they strongly support is SB 340. This issue has been a priority for board members for a number of years. They have asked that I reaffirm their support for this bill as you address it in committee on Wednesday, March 3 at 3:15 pm..

Thank you for your assistance. Including this message in members' meeting packets will be greatly appreciated.

Anne Schultz

Acting Executive Director

Advisory Board on Alcoholism and Drug Abuse

PO Box 110608

Juneau AK 99811 - 0608

(907) 465-5114 or 1-888-464-8920

Fax: (07) 465-4410

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 2/16/04

FURTHER: Judiciary

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3.03.04

Health, Education and Social Services Committee considered SENATE BILL NO. 340

**SB 340 DETENTION OF MINORS**

"An Act relating to the detention of delinquent minors in correctional facilities; relating to emergency detention of minors for evaluation for involuntary admission for mental health treatment; relating to detention of intoxicated minors and minors incapacitated by alcohol or drugs; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>
<input type="checkbox"/> Same Title
<input type="checkbox"/> New Title
<b>House Bill:</b>
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/11			X	1
DPS	2/12			X	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Lynda Green</i>	✓			
<i>Gary Wilber</i>	✓			
CHAIR: <i>Fred Dymally</i>	✓			