

SB

385

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: SB385-DMVA-HLS&ES-4
 Bill Version: SB385
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Military & Veterans' Affairs
 Title An act relating to homeland security BRU Homeland Security & Emergency Ser
 Component Homeland Security & Emergency Ser
 Sponsor Senator Fred Dyson
 Requester Military & Veterans' Affairs Component No. 2657

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	0.0	*	*	*	*	*
Travel	0.0	*	*	*	*	*
Contractual	0.0	*	*	*	*	*
Supplies	0.0	*	*	*	*	*
Equipment	0.0	*	*	*	*	*
Land & Structures	0.0	*	*	*	*	*
Grants & Claims	0.0	*	*	*	*	*
Miscellaneous	0.0	*	*	*	*	*
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	*	*	*	*	*
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CHANGE IN REVENUES ()	0.0	*	*	*	*	*
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FUND SOURCE (Thousands of Dollars)

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

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	0.0	*	*	*	*	*
Part-time	0.0	*	*	*	*	*
Temporary	0.0	*	*	*	*	*

ANALYSIS: (Attach a separate page if necessary)

The department strongly supports this legislation. It is needed for implementation for Homeland Security programs. Implementation will have no fiscal impact to the Department of Military & Veterans' Affairs.

Prepared by: John Cramer, Director Phone (907) 465-4602
 Division Administrative Services Date/Time 4/5/04 2:07 PM
 Approved by: Commissioner Craig Campbell Date 4/5/2004
 Agency Department of Military & Veterans' Affairs

Sponsor Statement:

SB _____

“An Act Relating To Homeland Security”

updated: 4/04/04

contact: Senator Fred Dyson's office 907 465-2199

SB ___ revises the Civil Defense chapter (AS 26.20) of Title 26, Military Affairs and Veterans to apply to the new Division of Homeland Security created by Governor Murkowski on January 23, 2003 using Administrative Order # 203. The new division is organized under the Department of Military and Veterans Affairs. Among other things, SB ___ defines establishes duties of the Division, changes AS 26.23 relevant to homeland security and outbreaks of disease, and combines two divisions in the Department of Military and Veterans Affairs (Division of Emergency Services and Division of Homeland Security) into a single division, the “Division of Homeland Security and Emergency Management.”

Sectional Analysis:

- Section 1 of the bill states a purpose of furthering the consolidation of DMVA's Division of Emergency Services and its Division of Homeland Security into a single division, the Division of Homeland Security and Emergency Management.
- Sections 2, 3, 4, and 9 authorize and direct DMVA to exercise its existing statutory authority for “homeland security” as well as for existing “civil defense” purposes. The civil defense chapter, AS 26.20, was enacted in 1951 during the cold war, and including “homeland security” updates this chapter to reflect current focus. The overall scope of AS 26.20 is not significantly expanded, since “civil defense” presently is defined to include “the protection and defense of the civilian population by the organized efforts of the residents of the state other than those in the military service.” AS 26.20.200(1).
- Section 4 authorizes DMVA not only to prepare homeland security plans, but to implement them, and to coordinate state agencies in the state agencies in the preparation and implementation of the plans (including conducting exercises to implement homeland security plans). Coordination and implementation functions are necessary for departments' plans to be consistent, comprehensive, and integrated with plans and programs of the federal Department of Homeland Security.

- Section 4 also authorizes DMVA to advise the governor and the legislature on homeland security and civil defense and to coordinate state agencies in providing recommendations to the governor for response to changes in the threat level.
- Section 4 also authorizes DMVA, in coordination with DPS and DOT&PF, to establish checkpoints for the inspection of persons and vehicles using state roads, state property, or state facilities at times of a high (orange) or severe (red) threat level. This provides express statutory authority in the homeland security statutes for actions taken when the threat level was increased in December 2003.
- At the request of other departments, section 4 repeals existing statutory authority authorizing DMVA to “assume direct operational control” and to “give directions to state and local law enforcement officers and agencies” in certain circumstances. In the event the governor delegates additional authority to DMVA in a disaster or homeland security emergency, section 4 authorizes DMVA to exercise such additional authority as may be delegated by the governor.
- Section 5 establishes in statute the homeland security duties of the Division of Homeland Security and Emergency Management, duties the Division of Homeland Security has undertaken since it was established in January 2003 by Administrative Order No. 203.
- Section 7 authorizes the governor to declare an emergency and exercise existing powers under AS 26.20 in the event of a “credible threat of imminent attack” rather than having to wait for an actual attack. (Similarly, section 17 authorizes the governor to declare a disaster in the event of an attack or outbreak of disease, or a credible, imminent threat of an attack or outbreak.) Section 7 also adds to the governor’s powers in the event of a declared homeland security emergency to include certain powers already available in the event of a declared disaster, so the governor can exercise these powers without having to declare a “disaster” exists.
- Section 8 defines “credible threat of imminent attack,” which triggers the governor’s emergency powers. It requires certification by the commissioner of DMVA, in consultation with the commissioner of DPS, that a threat has a high probability of occurring in the near future, based on specific reliable information. Section 8 also authorizes the legislature to terminate a declared homeland security emergency at any time by law, as is presently the case with respect to declared disaster emergencies under AS 26.23.025(c).
- Section 13 defines the terms “attack” (meaning “the use of weapons, explosives, chemicals, biological or biochemical agents, or other instruments with the potential for major force or impact, with apparent intent and apparent

capability to inflict widespread or severe injury to persons or property”) and “homeland security” (meaning “the detection, prevention, preemption, and deterrence of, protection from, and response to, attacks targeted at territory, population, or infrastructure in this state”).

- Section 14 is a cleanup provision, authorizing the governor to allocate or redistribute medicine and other supplies in the event of a disaster, which adds to the governor’s existing authority to allocate or redistribute food, water, fuel and clothing in the event of a disaster.
- Section 15 adds a cross-reference to existing statutory disaster planning and response duties of the renamed Division of Homeland Security and Emergency Management.
- Section 16 states the relationship of AS 26.20 (homeland security and civil defense) and AS 26.23 (disasters). The governor may find it necessary to declare a disaster emergency under AS 26.23 in the event of an attack or an imminent threat of an attack. If the governor does so, this section makes it clear statutes in AS 26.23 shall govern if a conflict arises between statutes in AS 26.20 and statutes in AS 26.23.
- Section 17 authorizes the governor to declare a disaster and exercise the governors’ disaster management powers in the event of an attack or imminent threat of attack or in the event of an outbreak of disease or an imminent threat of an outbreak of disease, requiring certification of the threat from the commissioner of DMVA or the commissioner of DHSS respectively.
- Sections 2, 4, 6, 9, 11, and 18 repeal several existing statutory provisions that DMVA considers obsolete and that could be viewed as giving the government unnecessary and potentially overreaching powers. These include existing provisions (1) authorizing the establishment of local organizations for civil defense, with authority to issue orders and adopt regulations; (2) giving civil defense orders and regulations adopted by the governor, DMVA, local districts, and other authorized agencies the “effect of law”; (3) automatically suspending conflicting laws, ordinances or regulations; (4) directing the federal government and local law enforcement to enforce civil defense orders and regulations; (5) requiring a loyalty oath from civil defense personnel; and (6) prohibiting civil defense organizations from participating in any form of political activity.

AMENDMENT

OFFERED IN THE SENATE
HEALTH, EDUCATION, AND
SOCIAL SERVICES COMMITTEE

BY _____

TO: SB 385

Page 3, line 18

Following "coordinate"

Insert "with"

Page 6, lines 6-10:

Delete "(14) when the governor orders state action in response to a high or severe threat of attack, at the direction of the governor and in coordination with the Department of Public Safety, establish and operate checkpoints for the reasonable inspection of persons and vehicles for weapons or explosives, using state roads, state property, or state facilities"

Page 10, line 19:

Following "designee"

Insert "of the adjutant general, in consultation with the commissioner of public safety or a designee of the commissioner of public safety,"

Page 10, following line 19:

Insert a new bill section to read:

*Sec. 9. AS 26.20.100 is amended to read:

Sec. 26.20.100. Traffic control. In coordination with the department of public safety and the department of transportation and public facilities, the
[THE] department may

(1) formulate and execute plans and regulations for the control of traffic for the rapid and safe movement of evacuation over public highways and streets of people, troops, or vehicles and materials for homeland security and civil defense [NATIONAL DEFENSE OR FOR USE IN A DEFENSE INDUSTRY, AND MAY COORDINATE THE ACTIVITIES OR AGENCIES OF THE STATE AND OF THE DISTRICTS CONCERNED WITH PUBLIC HIGHWAYS AND STREETS, IN A MANNER THAT WILL BEST CARRY OUT THOSE PLANS]; and

(2) establish and operate checkpoints along private or public roadways serving critical property or facilities in the state, at the direction of the governor when the governor determines that a sufficiently high threat of attack exists to warrant such action. The checkpoints established under this subsection may be in conjunction with closure of the roadway under AS 19.10.100. Operation of a checkpoint shall be limited to enforcement of the roadway closure or reasonable inspection of persons and vehicles for weapons, explosives, chemicals, biological or biochemical agents, or other

instruments capable of causing widespread of severe injury to persons or
property.

Renumber the following bill sections accordingly.

Page 14, line 5:

Delete "firearms,"

Insert "[FIREARMS,]

Page 15, line 26

Delete "26.26.100,"

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 04/05/04

FURTHER: Finance

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

DATE TURNED
IN TO OFFICE: 4.08.04

Health, Education and Social Services Committee considered SENATE BILL NO. 385

SB 385 SECURITY;DIV. HOMELAND SECURITY/EMER. MGT

"An Act relating to homeland security, to civil defense, to emergencies and to disasters, including disasters in the event of attacks, outbreaks of disease, or threats of attack or outbreak of disease; establishing the Alaska division of homeland security and emergency management in the Department of Military and Veterans' Affairs and relating to the functions of that division and that department; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 385 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
<input type="checkbox"/> Same Title
<input type="checkbox"/> New Title
House Bill:
<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#
MVA	4/05		✓		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>Bettye Davis</i>			✓	
<i>Gary Wilkins</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

SENATE COMMITTEE REPORT

DATE: 04/02/04

FURTHER: Judiciary

DATE TURNED
IN TO OFFICE: 4.16.04

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 385(JUD)

HB 385 AWARDING CHILD CUSTODY

"An Act relating to awarding child custody; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS fr HB 385 (JUD)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ACS	2/25			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>Betty Davis</i>	X			
<i>[Signature]</i>	 			
CHAIR: <i>[Signature]</i>	✓			

THE
FOLLOWING
DOCUMENT(S)
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Alaska State Legislature

Please enter into the record my testimony to the

Senate HESS

committee name

Committee on

HB 385

, dated

4-16-04

bill # / subject

public hearing date

Senators,

My name is Ronda Blough, I live in Kenai, Alaska. I am the mother of 3 children and step-mother of 2 children. I have been divorced and am now remarried with a combined family of 7. I give you this background information so it will be easier to understand why I am writing you.

My basic issue is with the initial custody placement of children where by precedence the mother generally gets the benefit of the doubt as to who can provide the best home for the child resulting in the standard 70/30 split of custody. Very rarely in disputed cases does the father get to even be considered as a candidate for equal custody in disputed cases, therefore attorneys generally will not advise them to even try, no matter how good of a person the father is.

The system points to the poor mother left at home to raise the children with no income or help, however in society today that is rarely the case. Women are dominant in the workforce today and divorced or not usually are pursuing a career in the midst of raising a family, just as the men are. Women want equality in every, and more power to them, but in this area there are some that would like a double standard. Both parents deserve the right to equal time with the child if that is what either parent wants.

Instituting an opportunity for both parents to be equally be involved in a child's life as a matter of precedence at the inception of a divorce or separation would promote a more peaceable and cooperative relationship with regards to the children. As it is now women have this sense of empowerment, if they are so inclined, simply because precedence has dictated policy. The legal system needs to have the tools necessary to ensure that the parents have an equal opportunity to parent a child. The only reference in any of the custody statutes that mention anything equal is the temporary custody Sec. 25.20.070.

I know that there are other issues that this affects, but the fact is that there are changes needed in a lot of areas. The placement and best interest of the child should be considered before anything else. A child will only be a child for so long, the other issues surrounding this revision will always be there and be able to be dealt with at some point in time, but the ability to have the much desired influence and involvement in a child's life by either parent will not, and should not in any way harm that ever-so-important time in life. A case can always be argued if there is a prevailing problem, and many are, like ours. Parents do not as far as I know go to court to fight for less custody and they do not fight over custody if they can agree. What is there to fight over when shared custody starts at equal.

SHES HB385 4-16-04 R. Blough testimony PAGE 2 of 2

The following should be added to HB 385, under Section 1. AS 25.20.060, and below (a)

AS 25.20.060

(c) The court **shall primarily provide for equal access to both parents** if shared custody is determined by the court to be in the best interest of the child, **unless the presumption under AS 25.24.150(g) is present.** An award of shared custody shall assure that the child has frequent and continuing contact with each parent to the maximum extent possible.

The language is consistent with that of Section 2 HB 385 and Sec. 25.20.070 referring to temporary custody. At some point in time it was considered to be in the best interest of the child to be with both parents equally for the interim. There is no reason for that not to be considered primarily in the best interest of the child when initially determining permanent custody of a child.

The additional language is of course pointing towards the obvious need to protect the welfare of the child if that need in fact exists.

This would give parents the option, should they want it, to be as involved in their child's every day life as much as possible, while establishing grounds for cooperation between the parents immediately as opposed to one parent having "control" over the other and mis-using their custody award to cause harm to the relationship between the child and the other parent

This bill speaks a lot for the establishment or re-establishment of custody on behalf of offenders of violent crimes, but it does not give either parent the benefit of having equal custody if there are no grounds to establish that the parents are otherwise not qualified.

Please feel free to call me at any time to discuss this issue and I will be happy to persuade you should you have any doubts as to the necessity of this revision.

Thank you,

Ronda A. Blough

Signed:

Ronda Blough

Testifier

Self

Representing (optional)

PO Box 1630 Kenai, AK 99611

Address

Phone number