

HB

348

ALASKA STATE LEGISLATURE

Chair:

House Finance Subcommittees for:
Department of Public Safety
Department of Law

Member:

House Finance Committee
Legislative Council



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928

Interim:
PO Box 464
Chugiak, AK 99567

REPRESENTATIVE BILL STOLTZE

Representative_Bill_Stoltze@legis.state.ak.us

MEMORANDUM-

TO: Senator Ralph Seekins, Chairman
Senate Judiciary Committee

FROM: Representative Bill Stoltze

DATE: March 03, 2004

SUBJECT: Hearing Request

A handwritten signature in black ink, appearing to read "Bill Stoltze", written over the printed name in the "FROM:" field.

I respectfully request a hearing be scheduled for House Bill 348, relating to notice to crime victims, as soon as possible.

Thank you for your consideration.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

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REPRESENTATIVE BILL STOLTZE

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Sponsor Statement

CS House Bill 348 (JUD)

“An Act relating to the rights of certain victims of crime to receive information about the office of victims’ rights.”

When a person is the victim of a crime, it is often difficult to know who to talk to for help. It is instances where the victim didn't know there were advocates to assist them through the process that prompted the drafting of House Bill 348. The legislation requires police and prosecutors to notify victims about the Alaska Office Of Victims' Rights.

The Alaska Office Of Victims' Rights (OVR) was created by the legislature in 2002 to protect and advance the rights of crime victims and to investigate complaints that their rights under the constitution and laws of the state have been denied to them in their dealings with criminal justice adult and juvenile agencies of the state.

Experience has taught us that too often victims learn about the OVR only after a case has worked its way through the system rather than at the beginning of that process when OVR lawyers and support staff can be more vigilant and effective advocates of victims' rights as a case unfolds. HB 348 requires police and prosecutors to provide a printed brochure about the OVR to victims of felony and other serious crimes up front -- upon first contact and without request by the victim. OVR will absorb the cost of the brochures.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 348(JUD)
 (H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: An Act relating to the rights of victims BRU: Legal and Advocacy Services
 Component: Office of Public Advocacy
 Sponsor: Representatives Stoltze, Dahlstrom, Samuels & McGuire
 Requester: (H) Judiciary Component No. 43

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

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

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

Estimate of any current year (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 should have no fiscal impact on the operations of the Office of Public Advocacy.

Prepared by: Josh Fink, Director Phone 907-269-3501
 Division: Office of Public Advocacy Date/Time 1/26/04 1:14 p.m.
 Approved by: Mike Miller, Commissioner Date _____
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 348(JUD)
 (H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to the rights of victims BRU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Representatives Stoltze, Dahlstrom, Samuels & McGuire
 Requester (H) Judiciary Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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 should have no fiscal impact on the operations of the Public Defender Agency.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division Public Defender Agency Date/Time 1/24/04 10:42 a.m.
 Approved by: Mike Miller, Commissioner Date _____
 Agency Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 348(JUD)
 (H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the rights of certain victims RDU Criminal
of crime...." Component CDCO
 Sponsor Representatives Stoltze, Dahlstrom, Samuels, McGuire, Gruenberg
 Requester House Judiciary Component No. _____

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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 amends AS 12.61 by adding to the victims' rights statute the right to be notified and receive information about the office of victims' rights from the law enforcement officer initially investigating the crime and from the prosecuting attorney assigned to the offense - such information to minimally include the address, telephone number, and Internet address of the office of victims' rights. The right to be notified applies only to victims of felonies and to victims of class A misdemeanors if the class A misdemeanor is a crime involving domestic violence or a crime against a person under AS 11.41.

If the Office of Victims' Rights furnish a brochure or other written material to be disbursed to victims that would fulfill the minimal informational requirements, at no cost to the Department of Law, passage of this bill will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
 Division Administrative Services Date/Time 1/23/04 4:24 PM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 1/23/2004
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 348 (JUD)
 (H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title "An Act relating to the rights of BRU _____
certain victims of crime..." Component _____
 Sponsor Representatives Stoltze, Dahlstrom, Samuels, McGuire, Wilson _____
 Requester House Judiciary Committee Component No. _____

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2004) cost: 0.0
 Check 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)

The amendments and letter of intent adopted by the House Judiciary Committee will have no fiscal impact on state spending.

Prepared by: House Judiciary Committee Phone 465-4990
 Division _____ Date/Time 2/11/04 11:50 AM
 Approved by: Representative Lesil McGuire Date 2/11/2004
 Agency Chair, House Judiciary Committee

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSHB 348(JUD)
 (H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Act Relating to certain Victim's Rights RDU Alaska State Troopers
 Component Alaska State Trooper Detachments
 Sponsor Rep. Stoltze
 Requester (H) Judiciary Component No. 799

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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 amends AS 12.61 and will require that Law Enforcement Officers and District Attorney's offices notify victim's of the Office of Victim's Rights. The information will minimally include the address, telephone number, and internet address of the Office of Victim's Rights. The right applies only to victims of felonies and to victims of class A misdemeanors if the class A misdemeanor is a crime involving domestic violence or crimes against a person under AS 11.41.

 It is the intent that the Office of Victim's Rights will produce the materials that would be distributed by law enforcement officers. Passage of this bill will have no foreseeable fiscal impact on the Department of Public Safety.

Prepared by: Lt. Al Storey Phone 269-4532
 Division Alaska State Troopers Date/Time 2/11/04 8:40 AM
 Approved by: Commissioner William Tandeske Date 2/11/2004
 Agency Department of Public Safety

THE
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STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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



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Pres. Wrangell Chapter

February 9, 2004

Representative Bill Stoltze
House of Representatives
State Capitol
Juneau AK 99801-1182

Dear Representative Stoltze,

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for co-introducing HB 348, an act relating to the rights of certain victims of crime to receive information about the office of victims' rights.

This proposed legislation will require oral and written notification to victims of felonies and class A misdemeanors, by law enforcement, advising the victim about the office of victims' rights. This legislation should be of great benefit to the citizens and law enforcement in Alaska. We thank you for addressing this issue.

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

Sincerely,

Leo J. Brandlen
State President

Dear Representatives:

I am writing this letter of support for House Bill 348 as an Alaskan citizen whose family utilized the services of 'The Office of Victims' Rights' (OVR). My family suffered a horrendous crime which was compounded by emergency services failure to deliver aid as they were expected to. The OVR was there to aid my family in a manner that no other government or nonprofit organization could. Incidentally, I sit on the state's Violent Crime Compensation Board (VCCB) and I have observed numerous occasions where other crime victims in Alaska have had the need for the OVR when there is no other office that can serve their needs. Since sitting on the VCCB I have witnessed the aftermath of violent crimes and the toll it takes physically, emotionally, psychologically and financially on the victims of it. There are a certain percentage of crime victims in Alaska in which the OVR is uniquely structured to assist, provided that these victims are aware of the OVR's existence and function.

Typically, when people are victims of crime they are reluctantly introduced into the criminal justice system. The criminal justice system is an adversarial process that pits one side against another. The victim of a crime is automatically expected to operate as an aid to the state in this adversarial scenario. In the process of aiding the state the victim's rights are often forgotten and even sometimes disregarded by the zealous pursuit of justice. Conversely, a crime victim may find that there is a presence of apathy or indifference towards his or her plight by the justice professionals, which in turn leads to a mediocre pursuit of justice or a lackluster attempt at a conviction of the perpetrator(s). Although these are opposite outcomes within the criminal justice system by victims of crime, both of these instances are what The Office of Victims' Rights was created for.

The OVR clearly serves an essential function for victims of crime in this state. I know this personally as my mother (an attempted homicide victim) feels deeply indebted to the creators of the office as well as the office staff. She has stated on many occasions that, "they (the OVR) are a Godsend" and they have been "invaluable" to her in the endeavor thrust upon her in an attempt to right flaws in the emergency response system in Anchorage, which became apparent at her expense. Although my family would have likely learned of the OVR no matter how little publicity the office garnered, most other victims cannot say the same.

Because of the nature of what the OVR does there may be apprehension by some in the law enforcement community to inform victims of the OVR's existence or its function. This may be predictable when one considers that the OVR can and does at times serve as an oversight entity, regarding victims rights, of those very same law enforcement agencies expected to notify victims about the OVR. In essence, when law enforcement and judicial officials encounter victims and notify them about the OVR, they are empowering those victims with guidance towards a resource that can ensure that those same law enforcement and judicial officials, are honoring their rights.

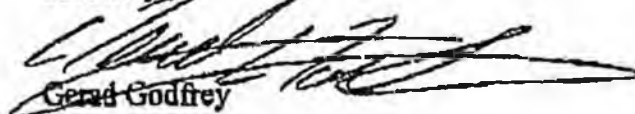
On multiple occasions since I have served on the VCCB we have inquired whether certain claimants were aware of the existence of the OVR. On those occasions it appeared to the board that the OVR may have been able to assist them with certain needs that were unable to. Crime victims are often informed about The Violent Crimes Compensation Board because we are a benign entity regarding a checks and balances function with law enforcement/judicial entities. Unfortunately, the OVR may be

publicized less because it serves a function that is not as innocuous toward the law enforcement/judicial entities. This, of course, is by design and was the OVR creators' intent. If publicizing the OVR came as easy for justice professionals as it does for publicizing the VCCB it would likely mean the OVR is not serving its function or that victims' rights are never being overlooked. I contend that neither statements are true and that, in fact, the OVR is serving its function so well that it is necessary to legislate the "informing of the OVR's existence" to victims. Simply stated, the function of the OVR requires that, occasionally, they will be forced to intercede with justice professionals on the behalf of crime victims and it will likely not sit well with those justice professionals at times. Thus, it can be anticipated that there is a lack of enthusiasm on the part of justice professionals to advise some victims about the OVR. This is why I believe HB 348 is necessary. The only way to consistently ensure that victims of crime are informed of the resources that the state has placed there for them is to statutorily compel the justice professionals to disclose this information.

Being an unintended participant in the justice system can be difficult enough when one is aware of his or her rights, please consider how much more difficult it can be without knowing your rights. The 22nd legislature created the Office of Victims Rights. Undoubtedly, they wanted victims of crime to know it existed, who better to tell them about it than their first contacts with the justice system, that being the law enforcement official followed by the prosecutor's office.

Please support HB 348 for the sake of crime victims in the state of Alaska.

Sincerely,



Gerald Godfrey

2/2/04

January 22, 2004

ATTENTION: VANESSA TONDINI

Representative Lesli McGuire, Chairperson
House Judiciary Committee
Alaska Legislature

RE: HB 348

Dear Represent McGuire:

Please make every effort for HB 348 to pass. Alaska needs it. Our 17 year old daughter was hit by a drunk driver in March 2003. The drunk driver was on probation for her **SECOND CONVICTION** and she left the scene of the accident. Our daughter was injured in the accident. So what kind of jailtime did this repeat offender end up with? A total of eight months. She was also fined, got lifetime license revocation, and ordered to pay restitution. As far as I am concerned, these three details of her sentence deserve minimal time addressing. If a drunk driver wants to drive they will do whatever it takes to drive. Statistics speak for themselves in that regard. This letter is being sent to support HB 348 which requires notification to the victim of the Office of Victims Rights. We were unaware of their office. Alaska needs to have a law that requires victims are told this office exists.

Our daughter was driving home from a basketball game in broad daylight when a repeat offender drunk driver ran a stop sign and sideswiped the car. The drunk driver left the scene. Fortunately, our daughter's injuries were not serious however she is expected to have longterm neck/back trouble. We had no idea what emotional turmoil this crime was going to cause our family and would have been grateful to have the Office of Victims Rights assist us through this crisis and help us through the whole ugly process. This process included arguing with the Kenai District Attorney to push for more jailtime.

Incarceration is the only way to keep drunk drivers out of society. *Within the last year in Kenai there was another felony DWI case with no injuries and the man received TWO YEARS JAILTIME. How does that compare to three felony convictions getting EIGHT MONTHS?* Everyone we have talked to about this sentence is amazed about the low jailtime.

I want it to be perfectly clear that my husband and I were not standing by doing nothing. We had several conversations with District Attorney Dwayne McConnell's office about their plea bargaining. We were told this amount of jailtime would probably be what would be given if it went to trial anyway - your daughter wasn't seriously injured. We asked if we could get a different judge and were told no, the time limit had passed for that request. So how were we supposed to know you have a time limit?

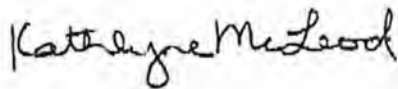
Page Two

The Office of Victims Rights would have known all of this info and helped us. I feel very strongly that with their involvement the sentence given to the repeat offender would have definitely included more jail time. This is the main objection I have: three felonies and you get a total of eight months incarceration? To elaborate on the "not seriously injured" statement, the State Trooper who responded to the scene stated that our daughter saved herself serious injury if not death by punching the gas pedal when she saw the truck heading for her. That split second probably saved our daughter's life because the pickup didn't hit the driver's door, it impacted the passenger area. Here's where I'll insert a few "what ifs": what if there were other people sitting in the back seat that were injured/killed OR what if there was a baby in a carseat in the backseat of the car? Comments similar to these were made to the DA's office when the "not seriously injured" line came up. How dare a District Attorney's Office treat a triple felony case in such a way?

We had never been through anything like this before and it was overwhelming to deal with the system and then end up with a triple felon walking out of jail in just eight months. The emotions we went through were extreme - when your loved one is in a near death experience it's an emotional rollercoaster. We were so glad our daughter wasn't killed and thought we were focusing on the right thing by pressuring the DA's office. I still think we did the right thing.

If the Office of Victims Rights was helping us I feel totally convinced this felon would still be in jail where she belongs. Why doesn't the general public know about the Office of Victims Rights? Now I would strongly urge the passage of HB 348 so that the people of Alaska know about the Office of Victims Rights. Other horrible situations like this don't have to happen for other Alaskans.. Thank you for your consideration.

Sincerely,



Kathlyne McLeod
2625 VIP Drive
Kenai AK 99611
907.283.5775

Cc: Office of Victims Rights
Representative Kelly Wolf