

**HB**

**52**

# Alaska State Legislature

*Session:*  
State Capitol  
Juneau, AK 99801  
Phone: (907) 465-2995  
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*Interim:*  
716 W 4<sup>th</sup> Avenue, Suite 300  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
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## Representative Lesil McGuire

Chair, Judiciary Committee

### MEMORANDUM

To: Sen. Ralph Seekins, Chair –Senate Judiciary Committee

From: Rep. Lesil McGuire

Date: April 8<sup>th</sup>, 2003

Re: Request for hearing of HB 52 “Computer forfeiture for sex crimes”

I would appreciate it if you would consider scheduling my bill, Senate Committee Substitute for CSHB 52 (STA) “An Act relating to the forfeiture of property used to possess or distribute child pornography” before your committee at your earliest possible convenience. As a note this bill will come to you with a conceptual amendment offered by Sen. Dyson and a concurrent resolution offering a title change as a result of his amendments offered in the Senate State Affairs Committee

Attached you will find a the most recent available version of the bill, my sponsor statement, a sectional analysis, fiscal notes, letters of support, and a copy of compelling personal testimony that was offered in both the House State Affairs and Judiciary Committees.

Per a conversation between my staff member, Heath Hilyard, and your staff member Brian Hove it appears that you may have the ability to hear this bill during the week of April 21<sup>st</sup>. I would certainly appreciate such consideration.

I appreciate your consideration.

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## Representative Lesil McGuire

Chair, Judiciary Committee

### SCS CSHB 52 (STA)

"An Act relating to the crime of distribution of child pornography and to the forfeiture of property used to possess or distribute child pornography, to commit indecent viewing or photography, to commit a sex offense, or to solicit the commission of, attempt to commit, or conspire to commit possession or distribution of child pornography, indecent viewing or photography, or a sexual offense."

### Sponsor Statement

This most recent version of HB 52 is an amalgamation of the original version and Sen. Dyson's SB 96 "An Act relating to Child Pornography." The inclusion of Sen. Dyson's bill was done at his request and assistance during the April 10<sup>th</sup> Senate State Affairs Committee hearing. The inclusion of this language strengthens HB 52 by expanding Alaska's child pornography statutes to include businesses that provide billing services to Internet child pornography distributors. This sends a clear message that Alaska is not open for business to Internet pedophiles or those unscrupulous profiteers who provide ancillary business services that perpetuate such criminal enterprises.

While providing instant access to useful and valuable information for business and academic research, the expansion of the Internet and corresponding development of computer technology have also created an environment in which new types of criminal enterprise are flourishing. Perhaps the most pernicious and predatory are the ever-increasing crimes against children.

It is becoming far more common for pedophiles to seek new victims through on-line chatrooms and email and for child pornography profiteers to use these technologies as a means to distribute their materials. HB 52 will provide the state courts and law enforcement agencies another tool to combat these sexual predators by giving the courts additional punitive sentencing options and, in turn, awarding forfeited computer technology back to law enforcement agencies for ongoing monitoring operations.

HB 52 will make it possible for law enforcement to stay on top of this rapidly changing industry without spending more government dollars. Advances in technology seem to happen on an almost daily basis, and new technology can frequently outperform previous models. This creates greater restrictions for police detection and monitoring operations thus leaving them at a disadvantage. In order for law enforcement to effectively combat computer crime, they must have access to the necessary hardware.

There are forfeiture laws in place across the country and at the federal level. Several other states already have similar laws on the books relating to the forfeiture of computers used in sex crimes. The use of computers in the commission of sex crimes is a national problem, and Alaska can look toward other states' laws in this area to draw realistic conclusions about the likely impact here in our own state.

HB 52 will amend AS 11.41 and AS 11.61, respectively, by adding the necessary statutory language for the forfeiture of hardware used either in a sexual offense or in indecent viewing or photography or child pornography and adding language that includes "billing collection, or other ancillary services for or otherwise supporting these activities."

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**Representative Lesil McGuire**  
Chair, Judiciary Committee

## House Bill 52

**“An Act relating to the forfeiture of property used to possess or distribute child pornography”**

### Sponsor Statement and Sectional Analysis

While providing instant access to useful and valuable information for business and academic research, the expansion of the Internet and corresponding development of computer technology have also created an environment in which new types of criminal enterprise are flourishing. Perhaps the most pernicious and predatory are the ever-increasing crimes against children.

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HB 52 will amend AS 11.41 and AS 11.61, respectively, by adding the necessary statutory language for the forfeiture of hardware used either in a sexual offense or in indecent viewing or photography or child pornography.

# Sponsor Statement

## SB 96

### "An Act relating to Child Pornography"

*Updated: March 27, 2003*

*Contact: Senator Fred Dyson's office at (907) 465-2199*

SB 96 is preventative and not targeted at any known activity in Alaska. It is meant to ensure that we do not have a legal climate that would attract business that provide billing services on behalf of "fee-based" child porn web sites.

It is physically possible for any person with a computer and average computer skills can create a website and show any picture they want to post on that site; from anywhere there is a telephone connection; at almost no cost. Unscrupulous opportunists, who do not care about children, post degrading pictures of them and skim profits by luring pedophiles to make credit card purchases of viewing time. It takes much less capital to put up an illegal and exploitive site than it does to create the billing scheme.

SB 96 bans ancillary services for "fee-based" child porn sites by making such activity a class B felony allowing up to \$100,000 fine and 10 years in prison. It is already a felony to put child pornography on the web in Alaska, but unless we enact this bill, it would be legitimate to provide billing services for the owners of these sites that might be based in an off-shore boat or another country or even quietly and illegally right here under our noses. Our current law invites "unholy alliances" between pornography providers and what can appear to be a legitimate business.

Recently the State of Michigan discovered six of these companies and issued cease and desist orders on them; BillCards, CardBilling, Ccbill, LancelotSecurity, iBill, and Trust-Bill. All of these companies are still functioning from other locations. If you have any doubts, take the time to do some internet searches on them and, just looking at titles, you will see we are up against. SB 96 needs to be enacted without delay to preclude this damaging practice in Alaska.

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## Representative Lesil McGuire

Chair, Judiciary Committee

### HB 52 – Sectional Analysis

**Section 1.** Provides legislative intent that in cases where the owner of the forfeited property is innocent of the crime, their property is returned to them following existing procedure and as the courts deem reasonable.

**Section 2.** Adds a new section that authorizes forfeiture of property, specifically electronic equipment as defined in the section, used to aid in the commission of a sexual offense under AS 11.41.410 – 11.41.458 including inchoate forms of those sexual offenses.

**Section 3.** Amends AS 11.61.125(d) to expand the definition of distribution of child pornography to include “providing billing collection, or other ancillary services for or otherwise supporting these activities.”

**Section 4.** Adds a new section that authorizes forfeiture of property, specifically electronic equipment as defined in the section, used to aid in the commission of indecent photography or child pornography under AS 11.61.123 – 11.61.127 including inchoate forms of those offenses.

**Section 5.** Applies changes to the definition of distribution on or after the effective date of this Act.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: SCS CSHB 52  
 (S) Publish Date: 4/16/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to distribution and forfeiture of property used in sexual offense BRU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Rep. McGuire  
 Requester (S) STA Component No. 1631

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 (FY2003) cost: 0.0

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)

This bill would have some effect on Agency operations, simply because if the state requests forfeiture, it will make the sentencing more complicated in some cases. However, we do not anticipate much of an impact.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416  
 Division Public Defender Agency Date/Time 4/10/03 11:17 AM  
 Approved by: Mike Miller, Commissioner Date 4/10/2003  
 Agency Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: SCS CSHB 52 (STA)  
 (S) Publish Date: 4/16/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title An Act relating to the crime of BRU Alaska State Troopers  
distribution of child.... Component AST Detachments  
 Sponsor Representative McGuire  
 Requester Senate Judiciary Component No. 2325

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 ( )</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 (FY2003) cost: 0.0  
 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)*  
 This bill folds SB 96 into HB 52. Neither original bill had any fiscal impact, nor does this Senate CS.

Prepared by: Lieutenant Matthew Leveque Phone 907 269-0390  
 Division Alaska State Troopers Date/Time 4/16/03 10:01 AM  
 Approved by: William Tandeske, Commissioner Date \_\_\_\_\_  
 Agency Department of Public Safety



George P. Wuerch,  
Mayor

# Municipality of Anchorage

Anchorage Police Department

Walt Monegan, Chief

Anchorage



2002

February 6, 2003

Representative Lesil McGuire, Chair  
House Judiciary Committee  
716 W. 4<sup>th</sup> Avenue, Suite 300  
Anchorage, AK 99501-2133

Dear Representative McGuire:

This letter is written in support of HB 52, *An Act relating to the forfeiture of property used to possess or distribute child pornography, to commit indecent viewing or photography, to commit a sex offense, or to solicit the commission of, attempt to commit, or conspire to commit possession or distribution of child pornography, indecent viewing or photography, or a sexual offense.*

Law enforcement agencies are often required to return equipment used in these crimes to the perpetrator or to another person whom the perpetrator has designated. Many of these items have been specially designed or adapted for no other purpose than to commit specific criminal acts. This equipment is generally costly and sometimes hard to obtain.

We feel it is necessary and appropriate to deprive those convicted of sexual crimes of the means to commit them again or allow others to use them for the same purpose. We therefore offer our support for House Bill 52. Thank you for bringing this legislation forward.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Miller".

William Miller  
Deputy Chief

## ALASKA PEACE OFFICERS ASSOCIATION

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

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Anchorage**Board of Directors**Leo Brandlen, President  
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Pres. Aleutian Islands ChapterJeff Odom, Member  
Wrangell  
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March 17, 2003

Representative Lesil McGuire  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative McGuire;

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for co-introducing House Bill No. 52, an act relating to sex crime and pornography forfeiture.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

As you are aware, those convicted of child pornography, and other sexual offenses, all too often possess state of the art computers, video and photographic equipment. Far better equipment than most law enforcement agencies utilize while attempting to identify and arrest suspects of these particular types of crime. Your proposed forfeiture of such equipment could greatly aid local and state law enforcement in their further pursuit of these sexual offenders. We believe that this proposed legislation will be of benefit to both the citizens and law enforcement of Alaska.

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

# House Bill 52

Stello,

My name is Janet Brown. I'm co-founder of a group called P.O.P. I'm a mom whose life has been affected by a sexual predator. My daughter was raped by her father... my husband.

During the investigation there was a variety of electronic evidence...

- 1) Video tapes of children while they slept showing their private areas
- 2) Video tapes of an unconscious victim being sexually assaulted & raped
- 3) A voyeur type video taken in my home of a family member taking a shower
- 4) Audio cassettes of a sexual assault
- 5) Pictures of unknown females... no faces just body parts
- 6) Scanned pictures with enlarged body parts & reprinted over 160 times

This evidence was documented back 20 years.

the Computer & Video Camera  
ALONG WITH A 35mm CAMERA played  
A big part in fulfilling this predators  
fantasies. To return these items  
to him upon <sup>his</sup> release from jail would  
surely be a catastrophe. Being in  
denial that he has a problem &  
with access to these items will  
definitely guarantee a new victim.  
The return of any of these (condemned)  
ITEMS needs to be denied.

So I'm asking you for my  
daughter and any future victims to  
support H.B.#52. Give these  
Sexual Predators one less avenue  
to having access to our children  
"Put ~~their~~ rights of our  
children first. ... <sup>no deep as well as thought</sup> making their  
lives safer & more secure  
~~thereby putting the needs~~  
of our child.

Thank you