

SB

22

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

VIOLENT CRIMES COMPENSATION BOARD

APR 28 2003

FRANK H. MURKOWSKI, GOVERNOR

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April 23, 2003

Dear Senator Seekins:

I am writing this letter, as the chair of the Violent Crimes Compensation Board (VCCB), in an attempt to make the position of the board known to legislators regarding Senate Bill 22. The board has strong reservations about the passage of this bill. Senate Bill 22 would create an "end-around" for specific individuals by not holding them to the same standard that all other victims are held to. This is why the VCCB fears the passage of this bill, because it creates a "special victims' class".

It is important to note that the board maintains no particular reservations about the special classification of minors in this bill. The board recognizes that minors are typically viewed by government as lacking the capacity to grant consent to most major decisions in life while still statutorily a minor. The board is also aware of the fact that the juvenile justice system applies the law differently to minors based on the anticipated common lack of maturity and lack of good judgment by minors. Regarding minors; the board will view them, as it has historically, as their own protected category for the same essential reasons that the justice system and government in general currently do. However, that line of thinking does not transcend into adulthood unless dealing with someone who is developmentally incapacitated or diminished. When an individual is recognized by government as being an adult, that individual is also recognized by the VCCB as being an adult.

The Board is very sympathetic to the plight of all victims that come before it. Concerning sexual assault victims, the Board is ever aware that they are often put on trial instead of those who violate them. At times, sexual assault victims are subjected to humiliating questions and implications in front of the general public. This is unfortunate, yet more importantly, unjust. In turn, there has been a strong movement by support groups of sexual assault victims to right those wrongs. Senate Bill 22 appears to be an effort to overcompensate for the injustices that have, at times, been cast upon sexual assault victims throughout the criminal justice process. However, the Violent Crimes Compensation Board is not the criminal justice process. The criminal justice process is an "*adversarial process*" while the violent crimes compensation process is an "*advocacy process*". It bears great importance to observe the distinction between the two entities.

This bill warrants the VCCB mentioning, that neither the current Board nor previous Board, to include staff members, can recall an instance of a claim being denied on the grounds that SB22 intends to negate. The VCCB hears all claims that come before it with numerous statutory restraints of both a technical and discretionary nature. There is a vast amount of time and resources invested into each claim that is considered. Those claims that are denied are typically devoted more time than those approved, just to ensure

that they were justifiable claim denials and to minimize exhausting the VCCB resources on claims that the Board may overturn at a later date. If a claimant feels unjustly denied a claim, then there exists a process of redress. However, there is no recourse for someone who is denied a claim based on ineligibility as set forth by statute. Senate Bill 22 would create an exemption for one specific classification of victim.

As current statute dictates, claimants are still accountable for their own actions regarding provocation as well as illegal conduct. If Senate Bill 22 were to pass, then it would mean only some claimants are still accountable for their own actions and illegal conduct while others get a free pass. It simply is unfair to approve a bill that grants these concessions unevenly or in a discriminatory manner.

The essence of Senate Bill 22 is based on the belief that a victim of one violent crime suffers more than any others. Who are we, or anyone else for that matter, to say that the victim of one violent crime was suffering more or less than the victim of another violent crime? All individuals process traumas in a manner that is somewhat unique unto themselves; therefore, there is no guaranteed script to quantify the suffering and hardships of victims.

From an emotional standpoint this bill would appear to be a shoe-in for approval. It would also appear to be a politically correct move to approve this bill. Despite this perception, the Violent Crimes Compensation Board believes that the converse is true. This may seem to be a vote for sexual assault victims but in reality it is a vote against all other victims of violent crimes.

Please consider the following story:

Mike and Amy ventured into a notoriously dangerous part of Anchorage with the intent to obtain some crack cocaine. Once in that part of town they began drinking until highly intoxicated. They came across a group of thugs who offered them drugs if they returned with them to their home. They proceeded with the thugs to their home. Amy became very belligerent and began calling those thugs numerous names and made threats directly towards them. Mike and Amy used all the drugs offered to them by the group of thugs and became even more impaired. Amy continued to insult the thugs and stated that she would have Mike beat them up. At that point the thugs beat Mike nearly to death and tortured him. Mike was left for dead near a creek and suffered permanent disfigurement as well as mild brain damage. Amy was sexually assaulted and then eventually set free.

This story is entirely fictitious as far as the VCCB knows; however, it is an entirely plausible scenario that undoubtedly has happened before, if not in Alaska. With the passage of Senate Bill 22 the VCCB would be compelled (forced by SB22), to grant a

claim to Amy but would be unable to grant Mike a claim because he would still be ineligible, unlike Amy. This simply would not be fair or logical.

It is unfortunate that the Board must contest any measure that may lend itself to a victim gaining closure and recovery in a more expedient manner. However, the Board's position is entirely necessary to maintain the fairness and integrity, throughout the claims' evaluation process, to all other victims of all other violent crimes. If this bill were to pass, it would essentially victimize all other victims of violent crimes that were not sexual assaults. This would happen by disallowing other victims the same concessions granted to sexual assault victims because their own victimization, no matter how heinous, was not of an obvious sexual nature.

The passage of this bill would require the Violent Crimes Compensation Board members to face a difficult moral question of fair and equitable treatment of people (claimants), all of whom have suffered far too much prior to requesting the Board's consideration for claims. The Violent Crimes Compensation Board requests that you please do not vote to enact Senate Bill 22.

The Violent Crimes Compensation Board thanks you for your consideration on this matter.

Respectfully,

Susan H. Brown
for

Gerard G. Godfrey
Chair

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Memorandum

Date: April 11, 2003

To: Senator Ralph Seekins
Chair, Senate Judiciary Committee

From: Senator Gretchen Guess

A handwritten signature in cursive script that reads "Gretchen P. Guess".

Re: Hearing Request

Please consider this a formal request for a hearing of Senate Bill 22, "*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.*"

SB 22 will ensure compensation is not denied based on considerations of provocation, the use of alcohol or drugs, or the prior social history of the victim. It retains the current language for compensation criteria for all other crimes.

If you have any questions regarding SB 22 please feel free to contact me or my aide Maridon Boario at 2435.

Thank you very much for your consideration.

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Sponsor Statement SB 22

"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."

When the state established Victims' Compensation Board over 20 years ago, it ensured the victim's role in the crime would be considered. For example, if someone started a bar brawl and was hurt, their case could be denied by the Victims' Compensation Board.

The unintended consequence of this language was child abuse and sexual assault victims could be denied funding if the board found them to have contributed to the circumstances of the crime. For example, a victim of sexual assault could be denied because they were drinking the night of their sexual assault.

Implying a victim of sexual assault somehow deserved or played a role in being victimized is in direct opposition to what we believe as a community – a victim of child abuse or sexual assault has not done anything to bring the crime on him or herself.

Toward fixing this unintended consequence, the language of this bill does the following.

- Ensures compensation is not denied based on considerations of provocation, the use of alcohol or drugs, or the prior social history of the victim.
- Retains the current language for compensation criteria for all other crimes.

The victim's compensation board is funded 60 percent by state government and 40 percent by federal government. The 60 percent from the state government comes from garnishing felon's permanent fund dividend checks. Given the nature of the funding mechanism, the fiscal note from the Department of Public Safety will be zero.

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Sectional Analysis SB 22

"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."

Section 1: Amends AS 18.67.080 (Awarding Compensation) (c) by adding language prohibiting the consideration of provocation, the use of alcohol or drugs, or the prior social history of the victim, in the case of sexual assault or sexual abuse of a minor.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB22
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title An act limiting the factors that may be considered BRU Violent Crimes Comp. Board
in making a crime victims' compensation award in Component Violent Crimes Comp. Board
Sponsors Senators Guess
Requester Senate State Affairs Committee Component No. 163

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						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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	*	*	*	*	*	*

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)

*Indeterminate fiscal note

Prepared by: Susan L. Browne Phone (907) 465-5525
Division Violent Crimes Compensation Board Date/Time 4/10/03 3:27 PM
Approved by: William Tandeske, Commissioner Date 4/10/2003
Agency Department of Public Safety

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TUNDRA WOMEN'S COALITION

WORKING TOGETHER TOWARD A BRIGHTER FUTURE



APR 21 2003

Senator Ralph Seekins
Room 125
State Capitol
Juneau, AK 99801-1182

April 14, 2003

Senator Seekins,

As the chairperson of the Senate Judiciary Committee, I would like to take this opportunity to ask for your support with Senate Bill 22, which is currently being reviewed by your committee. Thank you for your continued support.

Sincerely,

Zachary J. Fansler
Legal Advocate, Tundra Women's Coalition

Post-It® Fax Note	7671	Date	4/14/03	# of pages	1
To	Senator Ralph Seekins	From	Zach Fansler		
Co./Dept.	State Capital	Co.	Tundra Women's Coalition		
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