

**HB**

**52**

# SENATE COMMITTEE REPORT

DATE: 3/6/03

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 4/10/03

State Affairs Committee considered CS FOR HOUSE BILL NO. 52(JUD)

## HB 52 SEX CRIME AND PORNOGRAPHY FORFEITURES

"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."

and recommends:

- be replaced with Senate CS 41352 (STA)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- 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  
 new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John J. Casper</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SCS CSHB 52 (STA)  
 () Publish Date: \_\_\_\_\_

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>						
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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 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

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SCS CSHB 52  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to distribution and forfeiture BRU Legal and Advocacy Services  
of property used in sexual offense 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

# Alaska State Legislature

*Session:*  
State Capitol  
Juneau, AK 99801  
Phone: (907) 465-2995  
Fax: (907) 465-6592



*Interim:*  
716 W 4<sup>th</sup> Avenue, Suite 300  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
Fax: (907) 269-0249

**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.

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.

# Alaska State Legislature

*Session:*  
State Capitol  
Juneau, AK 99801  
Phone: (907) 465-2995  
Fax: (907) 465-6592



*Interim:*  
716 W 4<sup>th</sup> Avenue, Suite 300  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
Fax: (907) 269-0249

## 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 – 11.41.470 including inchoate forms of those sexual offenses.

**Section 3.** 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.

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: HB 52  
 (H) Publish Date: 2/12/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act related to forfeiture of property BRU Legal and Advocacy Services  
used in sexual offense Component Public Defender Agency  
 Sponsor Rep. McGuire  
 Requester (H) 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 2/11/03 7:07 AM  
 Approved by: Mike Miller, Commissioner Date 2/11/2003  
 Agency Department of Administration

# FISCAL NOTE

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

Fiscal Note Number: 2  
 Bill Version: HB 52  
 (H) Publish Date: 2/12/03

Revision Date/Time (Note if correction): N/A Dept. Affected: Public Safety  
 Title An act relating to the forfeiture of property used BRU AST Detachment  
to possess or distribute child pornography... Component AST Detachment  
 Sponsor Representative McGuire  
 Requester House State Affairs 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>						
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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)

No fiscal impact to the department.

Prepared by: Lieutenant Matthew Leveque Phone 907 269-0390  
 Division: Alaska State Troopers Date/Time 2/11/03 8:09 AM  
 Approved by: William Tandeske, Commissioner Date 2/11/2003  
 Agency: Department of Public Safety

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

# House Bill 52

Hello,

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 HB#52. Give these  
sexual predators one less avenue  
to having access to our children  
"put ~~their~~ rights of our  
children first... <sup>no deep</sup> <sup>as</sup> well as thought  
making their  
lives safer & more secure  
~~thereby putting the needs~~  
~~of our child~~

Thank you



George P. Wuerch,  
Mayor

# Municipality of Anchorage

Anchorage Police Department

Walt Monegan, Chief



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,

William Miller  
Deputy Chief

## Journal Text



03-05-2003 House Journal 0403  
HB 52

The following, which had been read the second time and held in second reading to today's calendar (page 362), was again before the House:

03-05-2003 House Journal 0404  
CS FOR HOUSE BILL NO. 52 (JUD)

"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."

Amendment No. 1 was offered by Representative Berkowitz:

Page 1, line 1 (title amendment) and Page 2, lines 5 and 16:

Delete "property"  
Insert "instrumentality of a crime"

Page 2, line 5:

Delete "Property"  
Insert "Instrumentality of a crime"

Page 2, lines 9, 17, and 21:

Delete "property"  
Insert "instrumentality of a crime"

Page 2, line 9, following "means":

Delete through line 14.  
Insert "property, other 'han real property, that contributes directly and materially to the commission of a crime."

Representative Berkowitz moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative McGuire objected.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

CSHB 52 (JUD)  
Second Reading  
Amendment No. 1

YEAS: 11 NAYS: 27 EXCUSED: 1 ABSENT: 0 VACANT: 1

03-05-2003 House Journal 0405

Yeas: Berkowitz, Cissna, Crawford, Gara, Gruenberg, Guttenberg, Joule, Kapsner, Kerttula, Kookesh, Moses

Nays: Anderson, Chenault, Coghill, Croft, Dahlstrom, Fate, Foster, Gatto, Harris, Hawker, Heinze, Holm, Kohring, Kott, Lynn, Masek,

McGuire, Meyer, Morgan, Rokeberg, Samuels, Seaton, Stoltze, Weyhrauch, Williams, Wilson, Wolf

Excused: Whitaker

And so, Amendment No. 1 was not adopted.

Representative Coghill moved and asked unanimous consent that CSHB 52(JUD) be considered engrossed, advanced to third reading, and placed on final passage. There being no objection, it was so ordered.

CSHB 52(JUD) was read the third time.

The question being: "Shall CSHB 52(JUD) pass the House?" The roll was taken with the following result:

CSHB 52(JUD)  
Third Reading  
Final Passage

YEAS: 37 NAYS: 0 EXCUSED: 1 ABSENT: 1 VACANT: 1

Yeas: Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Fate, Foster, Gara, Gatto, Gruenberg, Guttenberg, Harris, Hawker, Heinze, Holm, Joule, Kapsner, Kerttula, Kohring, Kookesh, Kott, Lynn, Masek, McGuire, Meyer, Morgan, Rokeberg, Samuels, Seaton, Stoltze, Weyhrauch, Williams, Wilson, Wolf

Excused: Whitaker

Absent: Moses

And so, CSHB 52(JUD) passed the House and was referred to the Chief Clerk for engrossment.

Bill Root:  Display Bill Root



TO REPORT PROBLEMS WITH BASIS INQUIRY

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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Joseph Young  
Anchorage

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Kenai  
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Anchorage  
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Teena Calkin, Member  
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Lonnie Hatman, Member  
Fairbanks  
Pres. Farthest North Chapter

Jerry Nankervis, Member  
Juneau  
Pres. Capital City Chapter

Andrea Jacobson, Member  
Ketchikan  
Pres. First City Chapter

James See, Member  
Craig  
Pres. Prince of Wales Chapter

John Lucking, Jr., Member  
Unalaska  
Pres. Aleutian Islands Chapter

Jeff Odom, Member  
Wrangell  
Pres. Wrangell Chapter

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

**Subject:** [Fwd: HB 52 - Forfeiture of Property Used in Child Pornography]  
**Date:** Mon, 24 Mar 2003 10:57:35 -0900  
**From:** Gary Stevens <Senator\_Gary\_Stevens@Legis.state.ak.us>  
**Organization:** Alaska State Legislature  
**To:** Katrina Matheny <Katrina\_Matheny@legis.state.ak.us>

---

**Subject:** HB 52 - Forfeiture of Property Used in Child Pornography  
**Date:** Thu, 20 Mar 2003 10:57:22 -0900  
**From:** "Usera, Nancy Bear" <N.Usera@alaskausa.org>  
**To:** "Senator\_Gary\_Stevens@legis.state.ak.us" <Senator\_Gary\_Stevens@legis.state.ak.us>,  
"Senator\_John\_Cowdery@legis.state.ak.us" <Senator\_John\_Cowdery@legis.state.ak.us>

I note that HB 52 has been referred to your committee for review. Obviously, the intent of this legislation is both noble and appropriate. However, whenever the state moves to seize property used in the commission of a crime, there are complications that arise with respect to ownership. Computer and other audio/visual equipment is very frequently financed through a financial institution, finance company or retailer. The equipment collateralizes the loan. Until that financial obligation is paid in full, the financing entity has ownership interest in the property.

As I read the bill, I am not sure that these ownership interests are currently protected. Can you verify this before moving the bill out of committee?

Thank you for your consideration.

**Nancy Bear Usera**

Senior Vice President, Corporate Development  
Alaska USA Federal Credit Union  
P.O. Box 196613  
Anchorage, Alaska 99519-6613  
n.usera@alaskausa.org  
Phone: 907-786-2805 Fax: 907-929-6544