

HB

132

CS FOR HOUSE BILL NO. 132()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES STOLTZE, McGuire, Anderson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain crimes committed against the elderly; and providing for an**
2 **effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **INTENT; FINDINGS.** (a) It is the intent of the legislature to further the important
7 state interest of deterring and punishing persons who commit crimes against the elderly.

8 (b) The legislature finds that

9 (1) the number of the elderly is rapidly growing in this state and will double,
10 or possibly triple, by 2018;

11 (2) the elderly are particularly vulnerable to crimes against the person under
12 AS 11.41;

13 (3) the elderly suffer more physical and emotional harm from these crimes
14 than do younger victims;

1 (4) theft and fraud are serious problems in this state, and certain types of
2 schemes that defraud, such as telemarketing fraud, are specifically targeted at the elderly;

3 (5) the elderly are often on fixed incomes with a limited financial ability to
4 recover from fraud, leaving them vulnerable to larger fiscal effects of schemes, such as loss of
5 a home or inability to pay creditors; and

6 (6) being a crime victim can have a devastating emotional impact on the
7 elderly in the state.

8 * Sec. 2. AS 11 is amended by adding a new chapter to read:

9 **Chapter 32. Enhanced Penalties.**

10 **Sec. 11.32.100. Penalties for crimes against the elderly.** (a) If a person
11 commits a crime specified in (b) of this section with reckless disregard that the victim
12 was 65 years of age or older at the time of the crime, the crime and the penalty for
13 conviction of that crime are increased so that a crime that would otherwise be a

14 (1) class B misdemeanor is a class A misdemeanor;

15 (2) class A misdemeanor is a class C felony;

16 (3) class C felony is a class B felony;

17 (4) class B felony is a class A felony.

18 (b) The provisions of (a) of this section apply to the following crimes:

19 (1) a misdemeanor violation of AS 11.41;

20 (2) theft in violation of AS 11.46.100 - 11.46.210;

21 (3) fraudulent use of an access device in violation of AS 11.46.285;

22 (4) obtaining an access device or identification document by fraudulent
23 means in violation of AS 11.46.290;

24 (5) burglary in violation of AS 11.46.300 - AS 11.46.310;

25 (6) forgery in violation of AS 11.46.500 - 11.46.510;

26 (7) obtaining a signature by deception in violation of AS 11.46.540;

27 (8) criminal impersonation in violation of AS 11.46.565 - 11.46.570;

28 (9) scheme to defraud in violation of AS 11.46.600;

29 (10) misapplication of property in violation of AS 11.46.620;

30 (11) misrepresentation of use of a propelled vehicle in violation of
31 AS 11.46.720;

1 (12) criminal use of a computer in violation of AS 11.46.740.

2 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 APPLICABILITY. The changes made in sec. 2 of this Act apply to offenses
5 committed on or after the effective date of this Act.

6 * Sec. 4. This Act takes effect July 1, 2005.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

Commercial and Fair Business Section
P.O. BOX 110300
123 4TH ST., DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2539

March 1, 2005

Sectional Analysis of HB 132 (Crimes Against Seniors)

(Prepared by the Department of Law, March 1, 2005)

HB 132 would increase the penalties for certain offenses committed against persons 65 or older.

Sec. 1: Intent and findings. Section 1 sets out the intent and findings.

Sec. 2: Increase in penalty for certain crimes against seniors. Section 2 adds a new section to the chapter that provides that for certain listed crimes, the seriousness of the offense is raised one level if the offender committed the offense with reckless disregard that the victim was a person 65 years of age or older. For example, assault in the fourth degree, normally a class A misdemeanor, would be a class C felony if the offender acted with reckless disregard that the victim was 65 years of age or older.

Sec. 3: Applicability. Section 3 makes the changes set out in sec. 2 applicable to offenses committed on or after July 1, 2005.

Sec. 4: Effective date. Section 4 sets out an effective date of July 1, 2005.



February 23, 2005

The Honorable Lesil McGuire, Chair
House Judiciary Committee
Alaska State Capitol, Room 118
Juneau, Alaska 99801-1182

RE: HB 132 (Stoltze)--Support

Dear Chair McGuire:

On behalf of the AARP members in Alaska, we ask that you and your colleagues on the House Judiciary Committee support HB 132, authored by Representative Bill Stoltze and co-sponsored by you.

The intent of HB 132 is to increase the penalties for some crimes committed against a victim over 65 years of age. This includes crimes like burglary as well as fraud and identity theft. Crime can have more severe consequences for older people than for younger persons, including injuries that may need medical attention. Although violent crime receives the most media attention, fraud and identity theft are becoming increasingly more serious and more prevalent and older people are often the targets. The loss of even modest amounts of money may be devastating to a retired victim living on a low, fixed income.

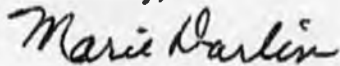
Older people experience the lowest rates of violent crime among all age groups. However, the fear of crime adversely affects the behavior of many older people, and national surveys show that older people protect themselves by leaving their homes less often than younger persons. According to AARP's research, one-third of people age 50 and older avoid going out at night because they are concerned about crime.

We believe HB 132 may have some impact to deter those who prey on older victims, whether through violent crime, property crime, or fraud and identify theft. Any lessening of crime among older persons will help restore their freedom and help prevent them from becoming prisoners in their own homes.

Should you have any questions about our position, please feel free to contact me or Patrick Luby (907-762-3314), AARP Alaska Advocacy Director.

Thank you for your consideration.

Sincerely,



Marie Darlin, Coordinator
Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Representative Tom Anderson
Representative Nancy Dahlstrom
Representative John Coghill
Representative Pete Kott
Representative Les Gara
Representative Max Gruenberg
Representative Bill Stoltze

Rep. Tom Anderson
Rep. Nancy Dahlstrom
Rep. John Coghill
Rep. Pete Kott
Rep. Les Gara
Rep. Max Gruenberg
Rep. Bill Stoltze

ALASKA STATE LEGISLATURE

Vice Chair:
House Finance Committee

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



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

Interim:
PO Box 464
Chugak, AK 99567

REPRESENTATIVE BILL STOLTZE

Representative_Bill_Stoltze@legis.state.ak.us

House Bill 132

Crimes Against Elderly

"An Act relating to sentencing for certain crimes committed against the elderly; and providing for an effective date."

The population of older citizens in Alaska is growing rapidly, as are the crimes that affect them. The physical, emotional, and financial impact of crimes against the person, and theft and related crimes, on the elderly can be devastating. House Bill 132 would increase the penalty one level for certain crimes against a person and for theft and related crimes, if the perpetrator acted with reckless disregard that the victim was an older citizen.

The provisions of HB 132:

- Increase the penalties for crimes against the elderly one level. For example, assault in the fourth degree, a class A misdemeanor, would be a class C felony if the assault was committed to a person 65 years of age or older.

I ask for your consideration and support of HB 132 to better protect the older citizens of our state.

DISTRICT 16

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

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 132
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An act relating to sentencing for certain crimes
committed against the elderly, and providing ..." RDU Institutional Facilities
 Sponsor Representatives Stoltze, McGuire Component Institution Director's Office
 Requester Judiciary, Finance Component No. 524

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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	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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The legislation raises criminal penalties for crimes committed in violation of AS 11.41 and AS 11.46 when the victim was 65 years of age or older at the time of the crime. There is no statewide data readily available to indicate the number of victims in Alaska who were 65 years of age or older at the time the crime was committed in the offense categories covered by the legislation. It is presumed that because the legislation does increase the penalties for crimes committed in violation of AS 11.41 and AS 11.46, the passage of the legislation will have some fiscal impact on the department, but due to the lack of available statistical information, the department is unable to determine whether the impact will be significant or insignificant. Therefore, the fiscal impact to the Department of Corrections is indeterminate.

Prepared by: Sharleen Griffin, Acting Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Deputy Commissioner
 Agency: Department of Corrections

Phone 465-4641
 Date/Time 2/22/05 9:53 AM
 Date 2/22/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 132
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to sentencing for RDU Legal and Advocacy Services
certain crimes against elderly... Component Public Defender Agency
 Sponsor Reps. Stoltze, McGuire
 Requester House Judiciary Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	140.9	140.9	140.9	140.9	140.9	140.9
Travel	4.8	4.8	4.8	4.8	4.8	4.8
Contractual	35.9	35.9	35.9	35.9	35.9	35.9
Supplies	2.7	2.7	2.7	2.7	2.7	2.7
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	191.0	185.0	185.0	185.0	185.0	185.0

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	191.0	185.0	185.0	185.0	185.0	185.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	191.0	185.0	185.0	185.0	185.0	185.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill seeks to enhance penalties for numerous crimes against a person 65 years or older. From the 2002 census, it indicates people over 65 comprise 6% of Alaska's population. There are more than 25 crimes listed for enhancement if a victim is 65 or older. The Agency was appointed in over 6600 (6% of 6606 = 396 crimes against elderly) of these crimes in 2004, with over 73% (4851) of them involving misdemeanor crimes that would become felonies. Felonies are much more costly to defend than misdemeanors. American Bar Association national standards provide that an attorney should not handle more than 400 misdemeanor cases a year, or 150 felonies a year. This shift from misdemeanor to felony will increase the Agency workload by one full-time position, factoring in support staff. The additional operating costs to address this increased workload are based on a full-time attorney and support staff in Bethel, where the highest number of these cases exist.

Prepared by: Linda K. Wilson, Deputy Director
 Division: Public Defender Agency
 Approved by: Michael Tibbles, Deputy Commissioner
 Agency: Department of Administration

Phone (907)334-4416
 Date/Time 2/22/05 9:58 AM
 Date 2/22/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB132-LAW-CDCO-2-20
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to sentencing for certain crimes
committed against the elderly..." RDU CRIMINAL
 Sponsor Representative Stolze Component CDCO
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would enhance penalties for persons convicted of committing certain crimes against the person, or a theft or related financial crime, against a person 65 years of age or older. The bill raises the level of these offenses if the defendant was reckless in regard to the victim being 65 years of age or older. The Department of Law does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Kathryn Daughhettee, Director Phone 465-5427
 Division Administrative Services Date/Time 2/22/05 4:10 PM
 Approved by: K. Daughhettee for Matt Nordstrand, Acting Attorney General Date 2/22/2005
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB132-DPS-AST-2-22-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title An Act relating to sentencing for certain crimes RDU Alaska State Troopers
committed against the elderly Component AST Detachments
 Sponsor Representatives Stoltze, McGuire
 Requester _____ Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill adds a new penalty section for crimes committed against the elderly. The new section outlines an increase in criminal classifications (B misdemeanor is a class A misdemeanor, etc.) which apply to a number of specific Title 11 offenses listed in the bill when the victim was 65 years of age or older at the time of the crime.

No fiscal impact on the Department of Public Safety is anticipated.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223
 Division Alaska State Troopers Date/Time 2/22/05 5:34 PM
 Approved by: Commissioner William Tandeske Date 2/22/2005
 Agency Department of Public Safety