

SB

20

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
APR 28 2005
SENATE FINANCE COMMITTEE

DATE RETURNED: 4/27/05

FURTHER:

DATE TURNED IN TO OFFICE: 27 April 2005

Finance Committee considered SENATE BILL NO. 20

SB 20 OFFENSES AGAINST UNBORN CHILDREN

"An Act relating to offenses against unborn children."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SB 20 (JUD)
- attached amendment(s) not 2nd JUD
- adopt Letter of Intent by _____ "R" Version mittee
passed
- further referral to _____

CS Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

US FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DPS	2/28/05			✓	#1
Admin.	3/1/05		*		#2
Corr.	3/1/05			✓	#3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
COCHAIR: <u>Gary Weller</u>				
COCHAIR: <u>Lynn Green</u>				

APR 28 2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSSB 20(STA)
(S) Publish Date: 3/16/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: "An act relating to offenses against unborn children" RDU: Institutional Facilities
Component: Institution Director's Office
Sponsor: Senator Dyson
Requester: State Affairs, Judiciary 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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
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)
Due to the extremely small number of criminal cases that may be impacted by the proposed changes in the bill, passage of this legislation is not expected to have a significant fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Acting Director Phone: 465-4641
Division: Administrative Services Date/Time: 3/1/05 10:59 AM
Approved by: Portia C K Parker, Deputy Commissioner Date: 3/1/2005
Agency: Department of Corrections

FISCAL NOTE



STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 20(STA)
(S) Publish Date: 3/16/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An act relating to offenses RDU: Legal and Advocacy Services
against unborn children. Component: Public Defender Agency
Sponsor: Sen. Dyson
Requester: Senate State Affairs 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	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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	*	*	*	*	*	*

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 will have a fiscal impact on the operations of the Agency, but it is impossible to determine with any accuracy what that impact will be. Creating numerous felony offenses for death or harm done to an unborn child, mostly at the felony level, will increase the caseload and workload of the Agency. Making it a felony to knowingly cause serious physical injury to an unborn child that is subsequently born alive would certainly have a fiscal impact if it includes children born after inadequate prenatal care. It is impossible however to predict with any accuracy how many new cases this legislation would generate if enacted, therefore an indeterminate fiscal note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)334-4416
Division: Public Defender Agency Date/Time: 3/1/05 7:56 AM
Approved by: Mike Tibbles, Deputy Commissioner Date: 3/1/2005
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 20(STA)
(S) Publish Date: 3/16/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title An Act relating to offenses against unborn children RDU Alaska State Troopers
children Component AST Detachments
Sponsor Senator Dyson
Requester Senate State Affairs 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)
 Passage of this bill will have no fiscal impact on the Department of Public Safety.

 Provisions of this bill create new sections in AS 11 for the murder of an unborn child, manslaughter of an unborn child, criminally negligent homicide of an unborn child, and assault of an unborn child in the first and second degree. It also creates a definition for "unborn child", and outlines penalties for convictions of these offenses.

Prepared by: Lieutenant Todd Sharp Phone: 907-269-4532
 Division: Alaska State Troopers Date/Time: 2/28/05 11:26 AM
 Approved by: Commissioner William Tandeske Date: 2/28/2005
 Agency: Department of Public Safety



SENATOR FRED DYSON

SPONSOR STATEMENT

SB 20—*"An Act relating to offenses against unborn children."*

In recent years, several high-profile cases from across the nation have highlighted the need for laws protecting unborn victims of criminal violence. Perhaps, most notably, the tragic deaths of Laci and Conner Peterson have focused much-needed attention on this critically important issue. Currently, thirty states provide some degree of protection for unborn victims of violence. Many legal challenges have been brought against state unborn victims laws, based on Roe and other constitutional arguments, but state and federal courts have rejected all such challenges.

Recently, a publicized case in Michigan has the citizens of the state closely evaluating Michigan laws and the related ethical implications. A 16 year old, who was entitled to get a legal abortion, had her boyfriend beat her stomach with a miniature baseball bat over the course of three weeks until she miscarried the baby. A similar scenario is playing out in the State of Texas.

SB 20 amends the Alaska Criminal Code to afford protection to an unborn child at a level that is reasonably equivalent to protection afforded to live born persons in comparable circumstances. Nothing in this law shall apply to legal abortion or to usual and customary medical practice related to pregnancy. This bill also defines "unborn child" within the criminal statutes.

In 2004, the U.S. Congress passed the Unborn Victims of Violence Act, and President Bush subsequently signed the bill into law. This federal law recognizes that when a person attacks a pregnant woman, and injures or kills her unborn child, the attacker has harmed two victims. It is narrowly drafted in that it only applies when death or injury of an unborn child is the result of a federal crime. The federal act does not supersede state unborn victim laws, nor does it impose such a state law on a state, like Alaska, that has not yet acted.

Pregnant women who have been harmed by violence, and their families, know that there are two victims -- the mother and the unborn child -- and that both victims should be protected by law. Pregnant women are already protected by Alaska Criminal Code. SB 20 affords similar protection to unborn victims.

Updated 3/17/05

Section 1: A new section:

- 11.41.150 Defines Murder of an unborn child that contains the elements of criminal code applicable to First and Second Degree murder. Murder of an unborn child is established as an unclassified felony.
- 11.41.160 Defines Manslaughter of an unborn child and establishes it as a Class A felony.
- 11.41.170 Defines Criminally negligent homicide of an unborn child and establishes it as a Class B felony.
- 11.41.180 Exempts the applicability of this Section to legal abortion and medical treatment related to pregnancy.

Section 2: A new section:

- 11.41.280 Defines Assault of an unborn child in the first degree and establishes it as a Class A felony.
- 11.41.282 Defines Assault of an unborn child in the second degree and defines it as a Class B felony.
- 11.41.289 Exempts the applicability of this Section to legal abortion and medical treatment related to pregnancy.

Section 3: Amends AS 11.81.250(a) to include "Murder of an unborn child" in the list of other serious crimes that are considered unclassified for purposes of sentencing.

Section 4: Amends AS 11.81.250(b) to include "Murder of an unborn child" in the list of other serious unclassified crimes that is exempted from being classified in the section that defines them.

Section 5: Defines "unborn child" to mean a member of the species Homo sapiens, at any stage of development, who is carried in the womb.

Section 6: Amends 12.55.035(b) to include "Murder of an unborn child" in the list of other unclassified crimes for purposes of setting a guideline for fines.

Section 7: Amends 12.55.125(a) to include "Murder of an unborn child" as defined in AS 11.41.150(a)(1) with murder in the first degree for purposes of determining the imprisonment guideline for sentencing.

Section 8: Amends 12.55.125(b) to include "Murder of an unborn child" as defined in AS 11.41.150(a)(2)-(4) with murder in the second degree for purposes of determining the imprisonment guideline for sentencing.

Definitions

A person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

A person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

A person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

A person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

"extreme indifference" Undefined and used only for second degree murder and first degree assault, both times in reference to the value of human life.

"serious physical injury" means (A) physical injury caused by an act performed under circumstances that create a substantial risk of death; or (B) physical injury that causes serious and protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a body member or organ, or that unlawfully terminates a pregnancy.

"dangerous instrument" means any deadly weapon or anything that, under the circumstances in which it is used, attempted to be used, or threatened to be used, is capable of causing death or serious physical injury;

SENATE COMMITTEE REPORT

DATE RETURNED: 4/20/05

FURTHER: Rules

DATE TURNED
IN TO OFFICE: 4/26/05

Judiciary Committee considered SENATE BILL NO. 20

SB 20 OFFENSES AGAINST UNBORN CHILDREN

"An Act relating to offenses against unborn children."

and recommends:

- be replaced with _____ CS SB 20 (2d JUD)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DPS	2/28/05			✓	1
ADM	3/1/05		✓		2
COR	3/1/05			✓	3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

	Do PASS	Do NOT PASS	No REC	AMEND
French				X
Gress				X
Therriault	X			
Huggins	X			
Seekins CHAIR	✓			

SENATE COMMITTEE REPORT

DATE: 3/16/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/19/05

Judiciary Committee considered SENATE BILL NO. 20

SB 20 OFFENSES AGAINST UNBORN CHILDREN

"An Act relating to offenses against unborn children."

and recommends:

- be replaced with _____ CS SB 20 (YUP)
- 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 Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DPS	2/28/05			✓	1
ADM	3/1/05		✓		2
COR	3/1/05			✓	3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

Therriault
Huggins
Gress

Seekins

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Therriault</i>	✓			
<i>Huggins</i>	✓			
<i>Gress</i>			✗	
CHAIR: <i>Seekins</i>	✓			

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/11/05

FURTHER: Judiciary

Date of 5-Day Notice: 2/24/2005
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/16/2005

State Affairs Committee considered SENATE BILL NO. 20

SB 20 OFFENSES AGAINST UNBORN CHILDREN

"An Act relating to offenses against unborn children."

and recommends:

- be replaced with _____ CS SB20 (STH)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DPS	2/28/05			✓	1
ADM	3/1/05		✓		2
COR	3/1/05			✓	3

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Bettye D...</i>			X	
<i>K. J. S...</i>				✓
<i>Thomas N. W...</i>				✓
<i>[Signature]</i>				✓
CHAIR: <i>[Signature]</i>				X

Handwritten notes on the left margin:
 Use
 Bill
 Referral
 House
 Staff