

HB

343

SENATE COMMITTEE REPORT

DATE: 3/22/06

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 343(JUD) am

HB 343 HARASSMENT

"An Act creating the crimes of harassment in the first and second degree, amending the crime of stalking, and adding a definition of 'medical professional' to the assault and harassment statutes."

and recommends:

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

CS Senate Bill:	
<input 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 # _____


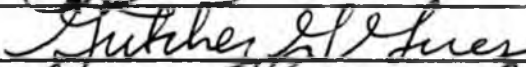
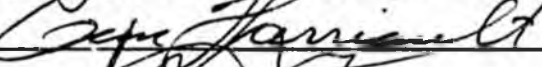



NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	X			
	X			
	X			
	X			
				
CHAIR: 	✓			

Alaska State Legislature

Chairman

Military & Veterans' Affairs Committee

Member

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism
Committee

Education Committee

Joint Armed Services Committee

Finance Subcommittees

Labor & Workforce Development

Community & Economic Development

Military & Veterans' Affairs



A Communication From

REPRESENTATIVE BOB LYNN

District 31 Anchorage

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"Bob Lynn's Alaska Blog" AlaskaDistrict31.blogspot.com

Session:

Alaska State Capitol
Juneau, AK 99801-1182

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SPONSOR STATEMENT for HB 343(JUD) am

"An Act creating the crimes of harassment in the first and second degree, amending the crime of stalking, and adding a definition of 'medical professional' to the assault and harassment statutes."

Released: March 23, 2006

Assaulting any person with human or animal bodily fluids – such as feces, urine, semen, saliva or blood – is beyond disgusting, and it's an assault that raises the specter of infectious disease, and should clearly be a more egregious crime than mere harassment. Obviously, correctional officers, law enforcement, and first responders are at greatest risk.

Currently, most assaults with bodily fluids or feces can be charged only as a class B misdemeanor. The potential penalty for such an outrageous attack is no different than that imposed for shoplifting lip gloss, or writing a bad check for 25 bucks.

HB343(JUD) am creates the crime of harassment in the first degree for anyone who subjects another person to offensive physical contact with human or animal bodily "blood, mucus, saliva, semen, urine, vomitus or feces," and classifies that crime as a class A misdemeanor. The bill also redesignates the existing crime of harassment as harassment in the second degree.

HB343(JUD) am also provides a minimum term of imprisonment of 60 days for persons convicted of harassment in the first degree when bodily fluids are directed at certain specified public safety officers and emergency responders.

Inmate assault by bodily fluids or feces is being increasingly recognized across the nation. Twenty-six states have now enacted laws to help address the problem. In fact, 19 states classify these assaults as a felony. Alaska should at least increase this crime from a class B misdemeanor to a class A misdemeanor and provide for a minimum sentence of 60 days when the offensive behavior is directed at correctional officers, law enforcement and first responders.

In summary, HB343 (JUD) am is aimed at better protecting everyone, especially the protectors and responders on the front line of public safety in Alaska. Your favorable consideration of this bill is respectfully requested.

Alaska State Legislature



Chairman
Military & Veterans' Affairs Committee

Member
Labor and Commerce Committee
State Affairs Committee
Economic Development, Trade & Tourism
Committee
Education Committee
Joint Armed Services Committee

Finance Subcommittees
Labor & Workforce Development
Community & Economic Development
Military & Veterans' Affairs

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

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Changes from the original HB 343 to the current version CSHB 343 (JUD) am: Harassment/Assault/Stalking Released: March 23, 2006

On Feb. 13, 2006, the House Judiciary Committee passed a committee substitute, changing the title of the original bill, HB 343, "An Act relating to harassment," to CSHB 343(JUD), "An Act relating to harassment and assault."

An amendment was also passed in the House Judiciary committee to include the term, "medical professional" to the protected classes of workers in Section 4 on page 3 of the bill.

Also, a new Section 5 was added to define "medical professional" to mean a person who is an anesthesiologist, dentist, dental hygienist, health aide, nurse aide, nurse practitioner, mental health counselor, physician, physician assistant, chiropractor, psychiatrist, osteopath, psychologist, psychological associate, radiologist, surgeon, or x-ray technician, or who holds a substantially similar position.

On March 17, 2006, the House passed an amendment changing the title of HB 343(JUD) am from "An Act relating to harassment and assault" to "An Act creating the crimes of harassment in the first and second degree, amending the crime of stalking, and adding a definition of 'medical professional' to the assault and harassment statutes."

On March 20, 2006, the House passed an amendment changing Sec. 2, deleting "bodily fluids or feces" and inserting "blood, mucus, saliva, semen, urine, vomitus or feces." HB 343(JUD) am passed 35-0.

Alaska State Legislature

Chairman

Military & Veterans' Affairs Committee

Member

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism
Committee

Education Committee

Joint Armed Services Committee

Finance Subcommittees

Labor & Workforce Development

Community & Economic Development

Military & Veterans' Affairs



A Communication From

REPRESENTATIVE BOB LYNN

District 31 Anchorage

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"Bob Lynn's Alaska Blog" AlaskaDistrict31.blogspot.com

Session:

Alaska State Capitol
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Sectional Analysis for CSHB 343 (JUD) am: Harassment/Assault/Stalking

Released: March 23, 2006

Michael Sica, staff for Rep. Bob Lynn

- Section. 1** Makes conforming change to the creation of harassment in the first degree in Section 2 of the bill and to the redesignation of the current crime of harassment to harassment in the second degree in Section 3 of the bill.
- Section. 2** Adds a new section creating the crime of harassment in the first degree for harassing or annoying another person by subjecting them to offensive physical contact with human or animal blood, mucus, saliva, semen, urine, vomitus, or feces. Harassment in the first degree would be a class A misdemeanor.
- Section. 3** Redesignates the current crime of harassment as harassment in the second degree. Harassment in the second degree would be a class B misdemeanor.
- Section. 4** Provides that a defendant convicted of assault in the fourth degree or harassment in the first degree and who knowingly directed the conduct at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder or medical professional who was engaged in the performance of official duties at the time of the assault be subject to a 60-day minimum term of imprisonment.
- Section. 5** Adds a new paragraph to read "medical professional" means a person who is an anesthesiologist, dentist, dental hygienist, health aide, nurse aide, nurse practitioner, mental health counselor, physician, physician assistant, chiropractor, psychiatrist, osteopath, psychologist, psychological associate, radiologist, surgeon, or x-ray technician, or who holds a substantially similar position.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB343 (JUD) am
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title: "An Act relating to harassment." RDU: Administrative Services & Support
 Component: Office of the Commissioner
 Sponsor: Representative Lynn
 Requester: Senate Component No.: 694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
Miscellaneous
TOTAL OPERATING

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	.	.	.	.	.	.
Part-time	.	.	.	.	.	.
Temporary	.	.	.	.	.	.

ANALYSIS: (Attach a separate page if necessary)

The legislation bifurcates the crime of harassment into first and second degree offenses; amends AS 12.55.135(d) to require a minimum term of imprisonment of 60 days if sentenced for violating harassment in the first degree by a person who knowingly directed the conduct constituting the offense at a peace officer, fire fighter, correctional employee, emergency or medical professional. In Alaska's correctional facilities, it is estimated that 135 to 150 incidents involving conduct that could be prosecuted under AS 11.61.118, harassment in the first degree occur each year. Information is not available at this time regarding the number of possible incidents that may occur involving other uniformed peace officers, fire fighters, medical professionals, etc. The department is unable to determine with any accuracy the number of potential cases each year that may be prosecuted, convicted and then sentenced under AS 12.55.135(d). (continued on page 2)

Prepared by: Sharleen Griffin, Director Phone: (907) 465-3339
 Division: Administrative Services Date/Time: 3/22/06 1:13 PM
 Approved by: Portia C.K. Parker, Deputy Commissioner Date: 3/22/2006
 Agency: Department of Corrections

FISCAL NOTE

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

BILL NO. CS HB343 (JUD) am

ANALYSIS CONTINUATION

The department did survey other states to determine the impact of increased penalties on behavior covered by the legislation. Many states reported back that increasing the penalties for behavior covered under AS 11.61.118 did have a deterrent effect, therefore reducing the number of incidents. Because it is unknown how many possible incidents may be prosecuted and sentenced each year the potential financial impact to the department is too speculative to support a fiscal note at this time.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB343-LAW-CJL-2-27
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to harassment and assault." RDU CRIMINAL
 Component Criminal Justice Litigation
 Sponsor Representative Lynn
 Requester House Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill bifurcates the crime of harassment into first and second degree offenses. Harassment in the first degree is expanded to further define offensive physical contact as subjecting another person to contact with human or animal bodily fluids or feces.

The Department of Law does not anticipate many prosecutions under this legislation will occur and estimates that there will be no fiscal impact as a result.

Prepared by: Kathryn Daughhete, Director
 Division: Administrative Services Division
 Approved by: Kathryn Daughhete for David Márquez, Attorney General
 Agency: Department of Law

Phone 465-3673
 Date/Time 2/27/06 9:15 AM
 Date 2/27/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB258-Courts-2-16-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Sexual Assault by Persons With HIV/Aids RDU Alaska Court System
 Component Trial Courts
 Sponsor Representative Lynn
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 258.

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 2/16/06 3:30 PM
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 2/16/2006
 Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB343-DPS-AST-1-24-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to harassment." RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Representative Lynn
 Requester House Judiciary Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include in-lieu unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) 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 creates a new section in AS 11.61 bifurcating the crime of harassment to harassment in the first and second degrees. This allows for an increase in penalties for a person who would throw human or animal bodily fluids - such as feces, urine, semen, spit, blood - at law enforcement and correctional officers, firefighters, and emergency responders.

Passage of this legislation will have no fiscal impact on the Department of Public Safety. Even though there is a potential increase in the number of arrests for violations, the increase can be absorbed by the current assets of the department.

Prepared by: Lieutenant James Helgoe Phone 907-269-4532
 Division Alaska State Troopers Date/Time 1/24/06 11:01 AM
 Approved by: Commissioner William Tandeske Date 1/24/2006
 Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB343 (JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): 2/27/06 12:00 a.m. Dept. Affected: Administration
 Title An act relating to harassment RDU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Representative Lynn, Wilson, Anderson
 Requester (H)Finance Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill alters the crime of harassment and the sentencing related to the conviction of harassment. This bill will not have a fiscal impact upon the Public Defender Agency.

Prepared by: Quinlan Steiner, Director Phone 334-4414
 Division Public Defender Agency Date/Time 2/27/06 12:00 AM
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/27/2006
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB 343(JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): 2/27/06 11:31 a.m. Dept. Affected: Administration
 Title An Act relating to harassment and assault. RDU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Rep. Lynn
 Requester House Judiciary Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation creates the crime of Harassment in the First Degree as a Class A Misdemeanor in a new section AS 11.61.118; amends the former harassment statute (AS 11.61.120) to create the crime of Harassment in the Second Degree, a Class B Misdemeanor; amends AS 12.55.135(d) to establish minimum sentences for defendants who are convicted of Harassment in the First Degree against a peace officer, fire fighter, correctional employee, EMT, paramedic, ambulance attendant or other medical professional; and amends the Stalking in the First Degree under AS 11.41.260(a) such that a person commits this crime if he/she has been previously convicted of Harassment of either degree against the same victim. This legislation should have a de minimum fiscal effect on OPA.

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
 Division Office of Public Advocacy Date/Time 2/27/06/11:31 a.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/27/2006
 Agency Administration



ALASKA CORRECTIONAL OFFICERS ASSOCIATION

"Walking Alaska's toughest beat"

Alaska Correctional Officers want protection from bodily fluid assaults

**Prepared by: Alaska Correctional Officers Association
January 18, 2006**

No one should have to go to work expecting to get spit in the face or have excrement thrown at them. This is degrading and dangerous, and coupled with insufficient legal recourse, it can demoralize even the most professional and best trained Correctional Officer. Too often inmate assault by bodily fluids is considered "just part of the job."

Alaska's Correctional Officers, along with other Peace Officers, Fire Fighters, Youth Counselors, Emergency Medical Technicians, Paramedics, Ambulance Attendants and other emergency responders, deserve a greater level of protection against this offensive behavior. We need support from legislators who can create tougher laws to protect the front-line officers and responders who help ensure the public safety of Alaskans.

At the Fairbanks Correctional Center, just one of 12 institutions statewide, there have been several employees assaulted with bodily fluids in the past several months. Inmates have spit in the face of officers, tried to smear them with feces and in one case sprayed a female employee with a mixture of semen, urine and saliva. During these assaults, the attackers have laughed in

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our faces, challenged us to respond, and claimed to have serious infectious diseases. The physical attack is tough enough but the mental anguish is even harder to endure.

With the growing threat of infectious diseases -- no matter how unlikely the odds of transmission -- there's always the fear of catching a lethal virus and spreading it to family, friends and co-workers. We view these bodily fluid attacks as not only vile but potentially life-threatening. So it can be tremendously demoralizing when a busy district attorney considers it a low priority, and may not even file charges, because most of these cases can only be prosecuted as a Class B misdemeanor under current statutes.

Tougher laws with stiffer sentences will have a deterrent effect because most of these assaults are committed by younger prisoners doing short terms and know they will be released soon. The long-term prisoners usually follow institutional rules. They consider the facility their home so they obey and respect officers because they want little disruption in their lives.

Correctional Officers are trained to deal professionally with such disgusting and demeaning behavior. However, we need our leaders to protect us from the threat and danger of assault by bodily fluids. We are asking that you join the growing trend across the country to create tougher laws, and consider the example of many States that now classify inmate assault by bodily fluids a felony offense. Please help deter such dangerous and offensive behavior that should not be considered "just part of the job."

David L. Colang



ALASKA CORRECTIONAL OFFICERS ASSOCIATION

"Walking Alaska's toughest beat"

Wednesday, Jan. 18, 2006

Interview with Daniel Colang, Board President Alaska Correctional Officers Association

Below is a transcript of an interview by Michael Sica, legislative aide for Rep. Bob Lynn, with ACOA President Daniel Colang, who is also a Sergeant and Shift Supervisor at the Fairbanks Correctional Center

QUESTION: When an inmate spits in your face or throws bodily fluids on you, isn't that just part of the job?

COLANG: We've been trained to deal professionally with such disgusting and offensive behavior. However, it's degrading, demeaning and dangerous, and it has a very negative effect on our officers. It's a growing problem that needs to be recognized. When someone is assaulted with bodily fluids, and there is little legal follow-up, it can really kill morale.

QUESTION: Do you think this problem can affect the recruiting and retaining of correctional officers?

COLANG: Yes. Who takes a job expecting to get spit on or have bodily fluids thrown at them. The work we do is tough enough. Having excrement thrown in your face shouldn't be part of anyone's job description. Sure, it can affect whether good people want to work here or stay here.

QUESTION: How will a measure such as HB 343, which increases the crime of harassment by bodily fluids from a class B misdemeanor to a class A misdemeanor, make a difference with long-term inmates, who could care less about such charges?

COLANG: The issue of assault by bodily fluids has not been a problem with the long-term inmates. That's a myth. The lifers give us the least problem. The prison is their home so the less trouble for us, the better their life will be. The biggest problem is the young kids, new to the system, who are in for the short term. They want to make a quick name for themselves before they get back out on the streets. Any penalty, and the stiffer the better, will have a deterrent effect on them.

QUESTION: This bill also covers animal fluids. When is that an issue?

COLANG: Probably at the Point McKenzie Correctional Farm.

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Website: www.acoa.us

QUESTION: What about busy District Attorneys who consider a misdemeanor a low priority? Are you concerned they may not have time to prosecute some bodily fluids assault cases?

COLANG: We recently had a DA prosecute a case right here in Fairbanks. A hostile detainee spit right in the face of one of my officers on a Thursday, the offender was arraigned, pleaded no contest and sentenced to 10 days on Friday. It was a small measure of justice. I think this new bill (HB 343) is another step in the right direction to get the protection and justice we deserve.

QUESTION: Can this bill adversely affect the ability of a correctional facility to deal with its problems in-house?

COLANG: The current law doesn't, so I don't see how HB 343 would. In fact, being a tougher crime with a stiffer sentence will give the facility a stronger tool to protect us all. Meanwhile, the facility managers can still use whatever in-house methods they feel are necessary.

QUESTION: Some people believe bodily fluid attacks are rare or non-existent within correctional centers?

COLANG: It happens much more than you think; you just don't hear about it outside the prison system. It's an area where we could certainly use more P.R. At the Fairbanks Center, at least three of my co-workers have been recently assaulted by inmates with bodily fluids. And we're just one of 14 facilities statewide. Even if it's just once or twice a month, that's once or twice too much. It is so demeaning. I'd rather be punched in my face than to be spit on.

QUESTION: Do you consider mentally ill inmates responsible for these type of attacks?

COLANG: With them, it's playing with feces and it can be spread. But it's the ones who know better that I'm talking about, the sane but irresponsible ones who should be punished. The majority of the time it's done to degrade and intimidate, and put officers in fear or danger, and it's done by people who know exactly what they're doing.

QUESTION: So, do you believe stronger measures such as HB 343 can help?

COLANG: Absolutely! If we can get something better on the books, it would be a big morale booster. And you'd be surprised how fast this will spread throughout the prison. The word will get out quickly if someone gets tagged with extra time. It will definitely be a deterrent.

Public Safety Employees Association, Inc.
"Representing Alaska's Finest"

HB 343 Position Paper

The members of the Public Safety Employees Association whole heartedly support the passage of House Bill 343. No one should be subjected to the dangers of having body fluids and / or excrement thrown at while performing their job. Any attempt to increase the penalty for this type of behavior is over due.

Alaska's Police Officers as well as other first responders are subject to this type of disgusting behavior on a regular basis. This type of assault is not just disgusting it is potentially life threatening. All too often the perpetrator of this type of behavior leads a life style which places them in a high risk category for AIDS / HIV. The effects of having bodily fluids thrown in one face may not be know for years, leaving one in doubt of ones health for decades.

The Public Safety Employees Association represents Alaska State Troopers and Court Service Officers, Municipal Police Officers, Airport Police and Fire Officers as well many other ancillary personnel across the State. Our members have to deal with this type of offender from the moment of arrest to the day that they are incarcerated. The risk that our members take from this type of behavior is a daily occurrence.

The members of the Public Safety Employees Association would like to thank the sponsor of this bill as well as the members of the house for their support. Any increase in the penalty for this abusive behavior will help protect our members while they protect the public.



Kodiak Police Department
Office of the Chief of Police
217 Lower Mill Bay Road
Kodiak, Alaska 99615
907-486-8000 (Voice)
907-486-8026 (Fax)

February 15, 2006

Representative Bob Lynn
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Lynn:

I am writing on behalf of the women and men of the Kodiak Police Department in support of HB 343. This is a much needed bill to help protect the men and women who are at the greatest risk for this type of harassment.

On January 29th of this year, a prisoner who was being booked into our jail spit in the face of one of my officers. This prisoner was later found to be infected with the Hepatitis virus. Now this officer and his family face uncertainty for the next several months while he undergoes medical testing to see if he has contracted Hepatitis.

I agree with the comments made in your sponsor statement for HB 343 which describes the act of intentionally exposing another to your body fluids as an egregious crime which demands harsher penalties. If enacted HB 343 would make this a crime of Harassment in the First Degree, a class A misdemeanor offense carrying a maximum fine amount of up to \$5,000, and a maximum jail term of up to one year.

Assaulting another with your body fluids, is a despicable act and demands the maximum penalties the law will allow. HB 343 is a step in the right direction to protect Alaska's protectors. I urge you and your colleagues to pass HB 343 with the consequences as tough as possible.

Sincerely,

KODIAK POLICE DEPARTMENT


Charles T. C. Kamat
Chief of Police

pbs/cik



Alaska Association of Chiefs of Police

January 24, 2006

Representative Bob Lynn
State Capitol, Room 415
Juneau, AK 99801-1182

Dear Representative Lynn,

Reference: House Bill 343

I would like to take this opportunity to provide my unequivocal support of this House Bill.

The act of someone throwing bodily fluids at any individual is not only repulsive, but should have a penalty attached to it which will deter the activity, or at least punish the offender more appropriately than what is currently allowed under State Law.

Peace Officers are constrained in their actions by their Oath of office to Serve and Protect. No employee should ever be expected to accept this kind of an assault as part of their job duties. The current penalty for this type of offense leaves little justice for the victim.

The reckless conduct of endangering an officer with bodily fluids, such as urine, semen, spit, fecal material or blood, constitutes a real health risk which often is not something that can be immediately diagnosed. This uncertainty causes mental anguish for the victim and his/her family. This can have an effect on the Officer's family unit, his morale, and for the employer can effect retention of employees.

With this type of behavior on the rise, it is imperative that some teeth be added to the law. This bill takes a positive step in that direction.

I would like to commend you for introducing this legislation. If I can be of further assistance to you in getting this bill passed please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Clemons".

Chief Thomas Clemons
President
Alaska Association of Chiefs of Police

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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 Pres. Port of Valdez Chapter

January 26, 2005

Representative Bob Lynn
 House of Representatives
 State Capitol
 Juneau AK 99801-1182

Dear Representative Lynn:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing House Bill 343, relating to harassment.

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

This legislation addresses the increasing dangers of exposure to bodily fluids by members of law enforcement, emergency services, and corrections. Personnel working in these fields are extremely concerned about the dangers of infectious diseases and take many precautions to protect themselves as well as members of the public. Being spit upon or having feces or urine thrown at you whether you are enforcing the law, aiding someone in need, or monitoring those incarcerated is demeaning and offensive as well as potentially dangerous. Treating such offensive physical contact as a crime shows support for the personnel victimized by this behavior and holds those responsible accountable for their actions.

Thank you for addressing this issue. 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,

Angella Long
 State President

ORIGINAL
 IN
 MAIL



FAIRBANKS POLICE DEPARTMENT

911 Cushman Street
Fairbanks, AK 99701-4616
Phone: (907) 450-6500
Fax: (907) 452-1588
Email: fpd@ci.fairbanks.ak.us



January 25, 2006

Representative Bob Lynn
716 W. 4th Avenue
Anchorage, AK 99501-2133

Dear Representative Lynn

Just a short note to let you know that I'm both highly appreciative- and supportive- of your efforts regarding **HB343**, which proposes more realistic levels of punishment for Peace Officers, Firefighters, and Correctional Officers who are assaulted with bodily fluids.

As your position-paper states, these type of assaults are both degrading, as well as potentially deadly. Being spit upon, having blood or feces flung at you, etc. should never be considered "just part of our job," those offenders who commit such acts of violence should be punished at the felony level.

On behalf of the forty-two sworn police officers of the Fairbanks Police Department, we thank you for your advocacy on our behalf

Sincerely,

A handwritten signature in black ink that reads "Daniel P. Hoffman".

Daniel P. Hoffman, Chief
Fairbanks Police Department

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

VIOLENT CRIMES COMPENSATION BOARD

FRANK H. MURKOWSKI, GOVERNOR

PO BOX 110230
JUNEAU ALASKA 99811-0230
PHONE (907) 465-3040
TOLL FREE 1-800-764-3040
FAX (907) 465-2379

February 27, 2006

The Honorable Representative Lynn
State Capitol, Room 415
Juneau, AK 99801-1182

Re HR 343
An act relating to harassment and assault

Dear Representative Lynn

The Violent Crimes Compensation Board supports HB 343 and agrees with its provisions. In its wisdom, the Legislature included threats to do bodily harm as one of the violent crimes the Board can consider compensating under Alaskan law. The Board would be happy to consider and accept claims from any additional violent crime victims arising from the passage of this bill.

Please contact Board Administrator, Susan Browne, at 465-5525 if we can provide any additional information. The Board wishes to thank the bill sponsor(s) for their hard work on behalf of Alaska crime victims.

Respectfully,

Susan A. Browne
for
Erad Godfrey
Chair

Comparison of Current Law to CSHB343
“An Act relating to harassment and assault.”

UNDER CURRENT LAW

If a person commits the crime of harassment and the offensive physical contact is contact with human or animal bodily fluids or feces:

Against anyone: It would probably be prosecuted as Harassment, a class B misdemeanor, which carries a sentence of zero days to 90 days.

Against certain specified classes of workers, such as law enforcement officers, emergency responders, and medical professionals: It would probably be prosecuted as Harassment, a class B misdemeanor, which carries a sentence of zero days to 90 days.

UNDER CSHB 343

If a person commits the crime of harassment and the offensive physical contact is contact with human or animal bodily fluids or feces:

Against anyone: It would probably be prosecuted as Harassment in the first degree, a class A misdemeanor, which carries a sentence of zero days to one year.

Against certain specified classes of workers, such as law enforcement officers, emergency responders, and medical professionals: It would probably be prosecuted as Harassment in the first degree, a class A misdemeanor, which carries a sentence of 60 days to one year.

(Information based on Current Alaska Statutes and discussions with the Alaska Department of Law and Legislative Affairs Agency Legal and Research Services)

INFECTIONIOUS DISEASES				
Scott Remley Dental Education and Consulting Institute				
Disease	Agent	Route of Transmission	Incubation Period	Potential Complications
Acquired Immune Deficiency Syndrome (AIDS)	Suspected Retro Virus	Suspected direct contact, possibly blood	12 months or over	Death
Chicken Pox	Virus	Saliva, blood, droplets	10-21 days	Conjunctivitis, Shingles, Encephalitis
Common Cold	Virus	Saliva, blood, droplets	48-72 hours	Temporary disability
Gonorrhea	Bacteria	Sexual contact	1-7 days	Arthritis, female sterility, infant blindness
Hepatitis A	Virus	Oral, fecal	2-7 weeks	Disability
Hepatitis B	Virus	Saliva, blood, droplets	6 weeks - 6 months	Chronic disability, carrier mode, death
Hepatitis (Non-A, Non-B)	Virus	Saliva, blood, droplets	6 weeks - 5 months	Chronic disability, death
Hepatitis Delta	"Piggy back" virus	Blood, other routes under investigation	Not Known	Death, chronic carrier
Herpetic Conjunctivitis	Virus	Saliva, blood, droplets	6 - 10 weeks	Potential blindness
Herpes Simplex II	Virus	Sexual contact, possible saliva, blood	Up to 2 weeks, also latent	Painful lesions, disability, death in children
Herpetic Whitlow	Virus	Saliva, blood, droplets	2 - 12 days, also latent	Extreme pain, disability
Infectious Mononucleosis	Virus	Saliva, blood, droplets	4 - 7 weeks	Temporary disability
Influenza	Virus	Saliva, droplets	1 - 3 days	Death
Legionellosis	Bacteria	Respiratory	2 - 10 days	Death
Measles (German)	Virus	Saliva, nasal, droplets	9 - 11 days	Congenital defects, infant death
Measles (Rubeola)	Virus	Saliva, nasal, droplets	9 - 11 days	Temporary disability, encephalitis
Mumps (men)	Virus	Respiratory	14 - 25 days	Temporary disability, sterility
Pneumonia	Bacteria, Virus	Respiratory, blood, droplets	Varies with organism	Death
Staphylococcus Infections	Bacteria	Saliva, droplets, nosocomial	4 - 10 days	Skin lesions, osteomyelitis, death
Streptococcus Infections	Bacteria	Saliva, blood, droplets	1 - 3 days	Rheumatic heart, kidney problems, death
Syphilis	Bacteria	Sexual contact, congenital	2 - 12 weeks	Central nervous damage, death
Tetanus	Bacteria	Open wound	7 - 10 days	Disability, death
Tuberculosis	Bacteria	Saliva, droplets	Up to 6 months, also latent	Disability, death

CF Productions

Last Modified on: 03/19/2003 18:59:53

LEGISLATIVE RESEARCH REPORT

MAY 26, 2005



REPORT NUMBER 05.273

CRIMINAL STATUTES REGARDING PRISONER ASSAULT WITH BODILY FLUIDS

PREPARED FOR REPRESENTATIVE BOB LYNN

BY ROGER WITHINGTON, LEGISLATIVE ANALYST

You wished to know how many states expressly make it a crime for prison inmates to assault law enforcement or correctional facilities staff with bodily fluids. You also wanted to know how each state classifies the crime.

We identified 26 states that expressly make it a crime for prison inmates to assault law enforcement or correctional facilities staff with bodily fluids.¹ Of these 26 states, 19 have a specific statute that makes it a crime for prison inmates to assault law enforcement or correctional facilities staff with bodily fluids, while the remaining seven states make it a crime in a subsection of a statute that defines the crime of assault, or in a subsection of a statute that defines all assaults that inmates can perpetrate against law enforcement or correctional facilities staff. Of the 22 states that classified this crime, 19 classify it as a felony. The states that classify such assault as a felony offense are Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Missouri, Nevada, New York, Oregon, Pennsylvania, South Carolina, and Texas.

The statutory language that criminalizes assault with bodily fluids is somewhat similar from state to state. As example, the Arizona law states the following:

A prisoner commits prisoner assault with bodily fluids if the prisoner throws or projects any bodily fluid at or onto a correctional facility employee or private prison security officer who the prisoner knows or reasonably should know is an employee of a correctional facility or is a private prison security officer. For the purposes of this section, "bodily fluids" means saliva, blood, seminal fluid, urine or feces.

¹We could not locate a current 50 state compilation of laws concerning assaults by prisoners with bodily fluids. We constructed our list of applicable laws by searching the electronic statutes of selected states and the database of state statutes available from the Lexis Group (<http://www.lexis.com/research>). Some statutes may have fallen outside of our search criteria and as a result will not appear on our list.

The Texas law states

A person commits an offense if the person, while imprisoned or confined in a correctional or detention facility and with intent to harass, alarm, or annoy another person, causes the other person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal

Table 1 provides the statutory citation and the offense classification for each the 26 states that expressly make it a crime for prison inmates to assault law enforcement or correctional facilities staff with bodily fluids

Table 1: Criminalization of Assault with Bodily Fluids on Law Enforcement or Correctional Facilities Staff, by State

State	Statutory Citation	Offense Severity	Offense Class
Arizona	ARS 13-1212	Felony	Class 6
Arkansas	ACA 5-13-211	Felony	Class D
California	CPA 4501 1	Felony	Not Specified
Colorado	CRS 18-13-203	Felony	Class 3, 4 or 6
Delaware	DCA 1254	Felony	Class B or D
Florida	FS 784 078	Felony	Class 3
Georgia	OCGA 16-5-60	Felony	Not Specified
Idaho	IC 18-915B	Felony	Not Specified
Illinois	720 ILCS 5/12 4	Felony	Class 2
Indiana	ICA 35-42-2-6	Felony	Class A to D
Iowa	IC 708 3B	Felony	Class D
Kentucky	KRS 508 025	Felony	Class D
Louisiana	LSA-RS 14 43 5	Not Specified	
Maryland	ACM 3-205	Misdemeanor	Not Specified
Minnesota	MS 565 092	Misdemeanor	Class A
Missouri	MC 609 2231	Felony	Not Specified
Montana	MCA 45-5-214	Not Specified	
Nevada	NRSA 212 189	Felony	Class B
New Jersey	NJSA 2C 12-13	Not Specified	
New York	Penal Law 240 32	Felony	Class E
Oregon	ORS 163 165	Felony	Class C
Pennsylvania	PCSA 2703 1	Felony	Class 3
Rhode Island	GLRI 11-5-8 1	Not Specified	
South Carolina	CLSC 24-13-470	Felony	Not Specified
South Dakota	SDCL 22-18-26 1	Misdemeanor	Class 1
Texas	VTCA 22 11	Felony	Class 3

Sources: Matthew Bender & Company, Inc., a member of the LexisNexis Group (<http://www.lexis.com/research>), and the electronic statutes of selected states

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

Bodily fluids assault could earn inmates extra time

■ **NASTY:** Lawmaker proposes increased penalty for those who fling urine, other substances.

By **ANNE SUTTON**
The Associated Press

JUNEAU — It's been eight years, but prison guard Mae Barney said she still shudders at the memory of her bizarre encounter with an inmate.

It began when she noticed a spot of moisture on her pant leg after completing a security check at the Fairbanks Correctional Center. Barney and a co-worker who reported a similar occurrence thought an inmate may have surreptitiously sprayed them with the window cleaner prisoners use to clean their rooms.

Although she figured the substance was harmless, Barney wanted to find out who was spraying her and write up a report.

So she took note when an inmate ran up behind her clutching a saline bottle in his fist. Although he moved on saying he was headed for the hobby shop, Barney later went through his room and found a saline bottle there.

"I dumped (the contents) into a cup. It wasn't saline. It was thick and nasty and I didn't know what it was," Barney said.

She had the medical office run a test and more than a month later, the results came back. The substance was a mixture of semen, urine and spit.

Correction officers say the practice is called "gassing" in prison slang. They say similar incidents of angry inmates spitting, or flinging urine or excrement at prison guards, police officers and other first responders pose an increasing threat to their safety.

In Alaska, gassing is currently considered harassment, a class B misdemeanor that's punishable by a maximum of 90 days in jail. But at least 26 other states consider it to be a more serious crime. Now a bill that would increase the jail time by making it a class A misdemeanor is before the Legislature.

Bill sponsor, Rep. Bob Lynn, R-Anchorage, told the House Judiciary Committee on Friday the bill is designed to protect everyone, especially those on the front lines.

"These egregious acts are increasing. The number of serious infectious diseases is likewise going up," he said. "It creates a double jeopardy for anyone who comes into contact with the unsavory characters who are committing these disgusting acts."

Under his measure, an attack against law enforcement or correctional staff or emergency responders could be prosecuted as an assault with a maximum of one year in jail and a mandatory sentence of at least 60 days.

The bill also would cover assault with bodily fluids against a member of the public but would not carry a mandatory sentence.

Correctional officers, state troopers and chiefs of police spoke in support of the bill at the hearing.

Rep. Peggy Wilson, R-Wrangell, a former emergency room nurse, said she would like to see the stiffer penalties apply when hospital medical staff are attacked in a similar fashion.

"We can also get a disease that can end our lives," she said.

Rep. Les Gara, D-Anchorage, said he was worried the provisions concerning the general public could have unintended consequences and asked if saliva could be exempted from the list of bodily fluids.

"I'm uncomfortable we could be making a kid who spits on another kid a criminal," he said.

But fellow Anchorage Democrat Max Gruenberg said such behavior was putting other children at risk and he supported the bill the way it was written.

Prison guard Mae Barney, in an interview before the hearing, said she has thought many times about the inmate with the saline bottle and about what she should have done to protect herself.

She said as a result of the incident the inmate was segregated from other prisoners and lost some of the good time he had earned, but he was never prosecuted.

She believes tougher penalties would be a deterrent for others like him.

"For them it's like, 'What are you going to do, put me in jail?'" she said. "And now we can say, 'We'll keep you in longer.' It will make a difference."

The bill is House Bill 343.



■ **ONLINE:**
For complete legislative coverage and tools for participating in the process, go to www.adn.com/legislature

Hold it right there, gasser!

Among the new laws proposed in Juneau as the Legislature begins its session is a measure that would make spitting in a peace officer's face, or throwing urine on them, a misdemeanor punishable by 60 days in jail. Other unseemly assaults are also covered by the proposed law, which is sponsored by state representative Bob Lynn, a South Anchorage Republican.

Lynn said Alaska correctional officers came to him looking for a way to head off this form of assault, which is more common behind bars than on the streets. "Currently, the penalty for a prisoner who throws a bodily fluid at a guard - and you'll have to use your imagination on what bodily fluids are - is the same as for shoplifting a Pet Rock at Wal-Mart," said Lynn.

Online prison slang dictionaries call this practice "gassing" and media reports from Outside indicate that it can go far beyond the occasional loogie in the eye. Inmates have been known to save fecal matter and/or urine in a cup or article of clothing and then douse guards with it if they approach the inmate's cell.

The Alaska Department of Corrections doesn't keep track of gassing incidents, spokesman Richard Schmitz said, but they are aware of the problem. The Alaska Correctional Officers Association, the union representing prison guards, supports Lynn's bill. ACOA issued a press release January 9 that said correctional officers "no more want to be spit on at their job than another person would at their job."

A report prepared by Lynn's office found at least 26 states make gassing a crime and 19 states classify it as a felony. The report also shows four states rewrote their anti-gassing laws since 1999. South Dakota included "emesis" - that's Latin for "puke" - in its list of offensive bodily substances.

Lynn's bill, if passed, would create a new Class A misdemeanor under Alaska's harassment statutes. It would apply to anyone "gassing" any corrections officer, police officer or emergency responder in the line of duty.

Told that Minnesota, the state that brought you Walter Mondale, allows gassers to be sentenced up to five years, Lynn said he now wants to make his bill even tougher. "We're going with advice that we got from the legal-eagles around (the capitol), but if I can find a way to amend it in committee, I will."

- *Scott Christiansen*



ENQUIRER LOCAL NEWS COVERAGE

Saturday, January 17, 1998

LCI inmate guilty in urine attack

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BY KYM LIEBLER
 The Cincinnati Enquirer

LEBANON - A Lebanon Correctional Institution (LCI) inmate Friday became the first Ohio prisoner convicted under a new state law that prohibits throwing bodily substances inside prisons.

A Warren County Common Pleas Court jury deliberated 90 minutes before finding Thomas Blackmon, 48, guilty of harassment by an inmate for squirting urine on LCI supervisor Richard Huggins June 30.

Mr. Blackmon received the maximum sentence, one year. The law was adopted June 11 after corrections officers complained inmates used body fluids against them.

In September, Mr. Blackmon was the first inmate in Ohio charged with the offense.

"I think a lot of prison administrators around the state are paying close attention to this case," said Assistant County Prosecutor Jim Beaton. "It was a test case."

Mr. Blackmon will serve his year after he serves 40-65 years for his role in the 1993 uprising at Southern Ohio Correctional Facility in Lucasville.

"No reaction," Mr. Blackmon said after hearing the verdict. "I'm already doing 40 to 65 years. So what it means is that instead of being 112 when I get out, I'll be 113."

Mr. Huggins, now inspector of institutions at LCI, was relieved. "I hope this sends a message to all inmates that corrections staff are not fair game," Mr. Huggins said.

The jury was apparently unswayed by testimony from Mr. Blackmon and four inmates from the L cell block, the most heavily secured section at LCI.

The inmates, all of whom were convicted in the Lucasville incident, testified the liquid Mr. Blackmon squirted on Mr. Huggins was a concoction of sour milk and eggs, not urine. They said the mixture is used to keep mice and rats from cells.

Paul Boggs, a chemist with the Ohio State Highway Patrol, testified the liquid was urine.

Mr. Blackmon took the stand and said he squirted Mr. Huggins so he could be transferred to another cell. He was unhappy because his cell's toilet was clogged and he was forced to use a bedpan.

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The Daily Star

Print Story

11/08/05

Man pleads guilty to throwing blood on prison officer

By Patricia Breakey

Delhi News Bureau

Story text size

2 -10 +1 +2

DELHI — A Hancock man pleaded guilty in Delaware County Court on Monday to first-degree promoting prison contraband and aggravated harassment of an employee by an inmate.

Steven J. Caiati, 28, of Hancock agreed to a plea bargain on the two charges, which didn't include other outstanding charges pending against him.

Delaware County District Attorney Richard Northrup said Caiati took a plastic razor apart and used the blade to cut himself June 29.

He was being held in jail on first-degree criminal contempt charges.

Caiati admitted using a razor blade to slit one of his wrists and throwing blood on Sgt. John Lehmann, a corrections officer.

"Instead of shaving with the razor, I took the blade out of it and cut my wrist," Caiati said. "After I cut my wrist, they decided to try to help me."

Caiati indicated that he flipped his wrist and added that he did it "to make my blood go up so they would stay back."

Delaware County Judge Carl Becker sentenced Caiati to two to four years in prison on each count, to run concurrently, and issued an order of protection on Lehmann's behalf. "I would, in all likelihood, have sentenced you to more if this had gone to trial," Becker said. "This is the most dangerous activity that an inmate can take part in. Throwing blood or other bodily fluids is something corrections officers fear more than a physical confrontation."

In other court cases:

- Sherrie L. White, 48, of Hancock pleaded innocent to two counts of driving while intoxicated and failure to keep right. The charges stem from an incident in Deposit on June 12.

White was released on her own recognizance, and her trial was scheduled to begin March 27.

- William T. Brybag, 20, of Fleischmanns pleaded innocent to two counts of third-degree criminal sale of a controlled substance. The charges stem from an incident in Fleischmanns on July 26 in which Brybag allegedly sold cocaine.

Brybag was returned to jail on \$10,000 bail. His trial is scheduled for March 27.

- Scott Mattice, 29, of Grand Gorge pleaded innocent to two counts of driving while intoxicated, resisting arrest, reckless driving, leaving the scene of a property damage accident, moving from

Man pleads guilty to throwing blood on prison officer

Page 2 of 2

lane unsafely, no seat belt and uninspected vehicle. The charges stem from an incident in Stamford on Aug. 5.

Mattice was released on his own recognizance. His trial is scheduled for March 27.

News

Inmate convicted of throwing feces at officer

By SARA BONISTEEL
Star-Gazette

ELMIRA -- A Chemung County Court jury on Thursday found a 21-year-old inmate at Southport Correctional Facility guilty of intentionally throwing feces on a correction officer. Conceptualization Gibbs, 21, was found guilty of one count of felonious aggravated harassment of a correctional employee by an inmate, according to Chemung County District Attorney John Trice.

In December 1999, Gibbs threw feces at Correction Officer William Painter, Trice said. Another correction officer and an inmate were also hit.

"Honestly, I can say for the first time in my career that I sincerely believe the jury convicted an innocent man," said Richard W. Rich Jr., Gibb's public defender. "He's not guilty as far as I'm concerned."

The defense contended that Gibbs did not intentionally hit the officer, and the physical evidence proved that, Rich said.

"The physical evidence is quite clear that he threw on another inmate and a small amount of splash landed on the correction officer," Rich said.

Gibbs, who will be sentenced April 2, was charged under the 1996 state law that makes it a felony for an inmate to throw bodily fluids -- blood, urine, feces and semen -- at prison staff. It is not illegal for an inmate to throw feces at another inmate.

The Chemung County district attorney's office prosecuted the state's first successful conviction of an inmate under the law in 1998.

Roger Stokes, a then 38-year-old inmate at Southport Correctional Facility, was convicted of squirting a mixture of feces and urine on Virginia Livermore, a prison counselor, in 1997.

"Since it became a felony, it's slowed down a lot, but it's still happening," said John Winant, chief steward of the Southport Correctional Facility.

"We were becoming victimized by the inmates," he said. "We had no power as far as control of the situation."

Winant said with the rising incidences of diseases such as tuberculosis and hepatitis B in prisons, the deterrent also protects prison employees' health.

Gibbs faces three to five years in prison in addition to the three- to nine-year sentence he is already serving for a second-degree robbery conviction in 1995.

But Thursday's conviction may not be the end of Gibbs' legal troubles.

"There may be assault charges coming out of what he (allegedly) did during trial," Trice said.

After the jury left court Wednesday, Gibbs got into a scuffle in a room adjoining the courtroom and allegedly assaulted the two correction officers escorting him back to the correctional facility, Trice said.

"Mr. Gibbs alleged earlier that one of the officers threatened him, and he refused to return to the facility under their transport," Rich said.

One of the unidentified officers was taken to the hospital, where he was treated for his injuries and released, Winant said.

State police are investigating the charges, Trice said.

Rich said he plans to appeal the jury's decision.

boston.com

THIS STORY HAS BEEN FORMATTED FOR EASY PRINTING

Prison guards seek protection from fluids

Associated Press

May 4, 2005

MONTPELIER, Vt. --Vermont prisons do a good job at keeping knives and other weapons away from inmates. What they can't take away from offenders are their own bodily fluids.

Urinating in a corrections guard's ice tea and throwing feces at the officers are the types of offenses that guards and prison administrators alike say should be punished more severely in Vermont.

The House Judiciary Committee is discussing whether to make such acts a specific crime after prosecutors said the best they can do is charge an inmate with disorderly conduct, a misdemeanor with a sentence of 60 days.

"For the officers working to have this happen to them in front of potentially 49 other inmates and staff, it demoralizes them on the spot," said Dominic Damato, administrative supervisor at the Southern State Correctional Facility in Springfield.

Assault with bodily fluids poses a health risk for the employees because of the potential for spreading diseases such as hepatitis or AIDS, Damato said. It also makes retention of prison guards a difficult task, he said.

Dave Bellini, a 27-year Corrections employee, said being hit with bodily fluids is worse than being punched. "I've been spit at. It's degrading. It's humiliating," he said.

Corrections staff can discipline inmates who misbehave, such as putting them in segregation, denying privileges and not recommending them for parole, said John Perry, planning director for the Corrections Department. But many inmates who do this sort of thing are in segregation, and sanctions have little or no impact.

Corrections Commissioner Rob Hofmann said the department is looking at new ways of disciplining inmates for unacceptable behavior, including the possibility of feeding them a "nutrition loaf" instead of the traditional meal. The loaf would provide all the nutrition required without the flavor. "It would encourage them to change their behavior," Hofmann said.

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<http://www.burlingtonfreepress.com> ■

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New York's Pataki Promises Action on Inmate "Anti-Thrower" Bill

Gov. George Pataki, in his first address before members of AFSCME Council 82, promised action this year on a union-sponsored bill to crack down on inmates who toss bodily fluids on corrections officers.

Speaking at Council 82's annual political action conference on February 28 in Albany, Pataki proposed a new crime, "aggravated assault upon an employee of a correction facility or a parole officer," which would subject the thrower to a Class D felony.

Inmates sentenced under the terms of the legislation would have to serve the time consecutively - after their existing sentence.

In 1995 alone, there were 218 reported incidents of inmates throwing bodily fluids at COs in New York's prison system.

"Inmates, I'm told, call it defecation education," Pataki told the union activists at the Council 82 conference. "I call it a felony, and one that should be punishable by consecutive time."

Pataki's words were greeted with a standing ovation from the assembled union leaders. Eliot Seide, Council 82 administrator, said the union will now work to reconcile differences between the Pataki proposal and a similar bill offered by the Democrats in the Assembly. "This legislation is long overdue," said Seide. "This is the year to get it done."

Seide also pointed out that, once a bill becomes law, the union must carefully monitor its application by district attorneys, since some county prosecutors have been remiss in prosecuting prison crimes to the full extent of the statute. Therefore, prohibitions against plea bargaining will be an important part of the legislative negotiations.

Prisons crack down on 'dashing'

BY TRACI SHURLEY

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State prison inmates who use their own bodily fluids to harass guards risk facing a punishment more severe than losing exercise or library privileges; they could end up behind bars for additional years.

That's the message prison officials hope to send with the first-ever conviction this week of a state prison inmate charged with two felony counts for throwing urine and feces at a guard twice in October 2003.

Izard County Circuit Judge Tim Weaver sentenced Grady Newingham, an inmate already serving a 15-year sentence for a rape conviction, to two more years in prison for two counts of aggravated assault on a correctional facility employee.

He was charged under a law that makes it a class D felony to throw blood, urine, feces or seminal fluid at a guard. It was first passed by the Arkansas Legislature in 1997 and the wording of the statute was refined during the 2003 legislative session to make it less vague, prison system officials said. "It is a real problem," Dina Tyler, an Arkansas Department of Correction spokesman said of the practice guards refer to as "dashing." "We think that by being able to prosecute it, it will drop the incident rate because an inmate might think twice if they know they can get more time."

Besides the health implications of having potentially contaminated fluids thrown at guards, it makes their already tough jobs even more uncomfortable, she said. With a turnover rate of almost 33 percent, Arkansas prison officials face a constant struggle to keep qualified staff because of low pay and stressful work conditions. The starting salary for a correctional officer is just over \$23,000 a year. "Their job is already hard enough, and this makes it even more difficult," Tyler said of the department's personnel. "No one wants this done to them, and there needs to be a penalty to it beyond just a disciplinary [infraction], and that's what we have done."

The two incidents that led to the charges against the 24-year-old Newingham happened on Oct. 10 and Oct. 29, 2003, at the North Central Unit in Calico Rock.

Both times, Newingham used a cup to dip urine and, the second time, urine mixed with feces, out of his cell toilet. Then, he flung what was in the cup through the bars of his cell, hitting a guard, Tyler said.

Prison officials believe Newingham might have been trying to get a move to the Tucker Maximum Security Unit in Jefferson County as punishment. Instead of a move to Tucker, he was sent to the Varner SuperMax Unit near Grady in November 2003. He remains there and, according to his records, hasn't thrown any bodily fluids at a guard

since, Tyler said.

Maj. Shawn Smith of the Pulaski County jail said his facility is aware of the felony statute, and administrators there have used it to gain convictions. "It certainly is a deterrent to some people... They may not have realized it was a felony and once they do, they don't do it again," he said.

Though the prison department didn't use the "dashing" law — Ark. Code 5-13-211 — for the first time until 2003, officials say they doubt Newingham's case will be the last.

In 2005, prison officials plan to ask legislators to allow Correction Department attorneys to act as prosecutors in cases against inmates charged for crimes committed inside a correctional institution.

That way, Tyler said, crimes against guards and other inmates can be handled without burdening already busy local prosecuting attorneys.

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