

HB

41

SENATE COMMITTEE REPORT

DATE: 4/15/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 2/14/06

Judiciary Committee considered CS FOR HOUSE BILL NO. 41(FIN)

HB 41 ASSAULT ON SCHOOL EMPLOYEES/BUS DRIVERS

"An Act relating to minimum periods of imprisonment for the crime of assault in the fourth degree committed against an employee of an elementary, junior high, or secondary school or certain contractors of school districts who were engaged in the performance of school duties at the time of the assault."

and recommends:

- be replaced with S CS CSHB41 (JUD)
- 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 checked="" type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Index	Zem	Ver
ADM	1/28/06			✓	
LAW	1/30/06			✓	
DPS	1/30/06			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Index	Zem	Ver

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS				
French				X
Gross			✓	
Huggins		X		
CHAIR:		✓		

French
Gross
Huggins
Seekins

24-LS1635A
Luckhaupt
2/3/06

**SENATE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

BY

Introduced:

Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning House Bill No. 41, relating to certain sentences for assault in the**
3 **fourth degree.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of**
6 **Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding**
7 **changes to the title of a bill, are suspended in consideration of House Bill No. 41, relating to**
8 **certain sentences for assault in the fourth degree.**

24-LS0307C
Luckhaupt
2/15/06

CS FOR HOUSE BILL NO. 41()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred.**

**Sponsor(s): REPRESENTATIVES LYNN AND MCGUIRE, Anderson, Wilson, Ramras, Foster, Holm,
Chenault, Gatto**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to minimum periods of imprisonment for the crime of assault in the
2 fourth degree committed on school grounds, on a school bus, at a school-sponsored
3 event, or at certain school district administration offices."

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

5 * Section 1. AS 12.55.135(d) is amended to read:

6 (d) A defendant convicted of assault in the fourth degree who knowingly
7 directed the conduct constituting the offense at

8 (1) a uniformed or otherwise clearly identified peace officer, fire
9 fighter, correctional employee, emergency medical technician, paramedic, ambulance
10 attendant, or other emergency responder who was engaged in the performance of
11 official duties at the time of the assault shall be sentenced to a minimum term of
12 imprisonment of

13 (A) [(1)] 60 days if the defendant violated AS 11.41.230(a)(1)

14 or (2);

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(B) [(2)] 30 days if the defendant violated AS 11.41.230(a)(3);

(2) a person who was on school grounds during school hours or during a school function or a school-sponsored event, on a school bus, at a school-sponsored event, or in the administrative offices of a school district, if students are educated at that office, shall be sentenced to a minimum term of imprisonment of 60 days if the defendant violated AS 11.41.230(a)(1) or (2); in this paragraph,

(A) "school bus" has the meaning given in AS 11.71.900;

(B) "school district" has the meaning given in AS 47.07.063;

(C) "school grounds" has the meaning given in AS 11.71.900.

24-LS0307I
Luckhaupt
2/3/06

SENATE CS FOR CS FOR HOUSE BILL NO. 41()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES LYNN AND MCGUIRE, Anderson, Wilson, Ramras, Foster, Holm, Chenault

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to minimum periods of imprisonment for the crime of assault in the**
2 **fourth degree committed on school grounds, on a school bus, at a school-sponsored**
3 **event, or at certain school district administration offices."**

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

5 *** Section 1. AS 12.55.135(d) is amended to read:**

6 (d) A defendant convicted of assault in the fourth degree who knowingly
7 directed the conduct constituting the offense at

8 (1) a uniformed or otherwise clearly identified peace officer, fire
9 fighter, correctional employee, emergency medical technician, paramedic, ambulance
10 attendant, or other emergency responder who was engaged in the performance of
11 official duties at the time of the assault shall be sentenced to a minimum term of
12 imprisonment of

13 (A) [(1)] 60 days if the defendant violated AS 11.41.230(a)(1)

14 or (2);

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~~(B)~~ [(2)] 30 days if the defendant violated AS 11.41.230(a)(3);

(2) a person who was on school grounds, on a school bus, at a school-sponsored event, or in the administrative offices of a school district, if students are educated at that office, shall be sentenced to a minimum term of imprisonment of 60 days if the defendant violated AS 11.41.230(a)(1) or (2); the court may impose a term of imprisonment of less than 60 days if the defendant establishes by a preponderance of the evidence that a mitigating factor listed in AS 12.55.155(d) applies; in this paragraph,

(A) "school bus" has the meaning given in AS 11.71.900;

(B) "school district" has the meaning given in

AS 47.07.063;

(C) "school grounds" has the meaning given in

AS 11.71.900.

Alaska State Legislature

Chair

Military and Veterans Affairs Committee

Member

Education Committee

State Affairs Committee

Labor and Commerce Committee

Joint Armed Services Committee

Econ Dev, Int'l Trade & Tourism

Finance Subcommittees



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

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Representative_Bob_Lynn@legis.state.ak.us

SPONSOR STATEMENT HB 41

State Statute provides for specific terms of imprisonment for crimes committed against certain public employees, such as peace officers, firefighters, etc., in the performance of their official duties. School employees who, each day, work with our most precious resource, our children, deserve the same level of respect and protection under the law.

This bill revises sentencing guidelines so that an individual convicted as an adult of assault on a school employee during, or because of, the performance of official duties, will receive a *mandatory* minimum term of imprisonment. This would be similar to that imposed upon an individual who assaults a peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendance or other emergency responder engaged in the performance of official duties at the time of the offense.

Schools must be safe for teachers and other school employees, as well as for children. This bill adds a giant step toward that safety. Your support of HB 41 is requested.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 41 (FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An Act relating to minimum periods of RDU Institutional Facilities
imprisonment for the crimes against school employees." Component Institution Director's Office
 Sponsor Representative Lynn
 Requester Senate Judicial Component No. 524

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	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						
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CHANGE IN REVENUES ()						
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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 (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	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Due to the small number of potential cases, the Department of Corrections does not anticipate a significant fiscal impact from the passage of this legislation.

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

Phone (907) 465-3339
 Date/Time 2/7/06 11:41 AM
 Date 2/7/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB41(Fin)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to minimum sentence RDU Legal and Advocacy Services
for assault on school employee... Component Public Defender Agency
 Sponsor Reps. Lynn & McGuire
 Requester _____ 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	0.0	0.0	0.0	0.0	0.0	0.0
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	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 bill would require a mandatory minimum sentence for an assault in the fourth degree committed against school employees and contractors. It is expected that this bill will not have a significant fiscal impact upon the Public Defender Agency.

Prepared by: Quinlan Steiner, Director Phone 907.334.4414
 Division: Public Defender Agency Date/Time 1/28/06 5:00 p.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date _____
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB41-LAW-CJL-1-30-
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to minimum periods of imprison- RDU CRIMINAL
ment for the crime of assault in the fourth degree..." Component Criminal Justice Litigation
 Sponsor Representatives Lynn and McGuire
 Requester Senate Judiciary 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 amends AS 12.55.135 (Sentencing for misdemeanors) by amending subsection d so that a 60 day sentence would be imposed for assault in the fourth degree if the assault is committed against an employee of an elementary, junior high, or secondary school while the employee was engaged in the performance of school duties while on school ground, on a school bus, at a school-sponsored event, or in the administrative offices of a school district at the time of the assault. Most assaults in schools are committed by juveniles, and there aren't enough cases to result in a fiscal impact on the Department of Law as a result of passage of this legislation.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 1/30/06 1:49 PM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 1/30/2006
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB41CS(FIN)-DPS-AST-1-30
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to minimum periods of imprisonment for the crime of assault..." RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Representative Lynn
 Requester Senate Judiciary Committee Component No. 2325

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 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impact to the Department of Public Safety. State troopers and local law enforcement officials already handle violations for the crime of assault, so this statute will not increase the numbers they deal with and should instead act as a deterrent. This bill will add a minimum term of 60 days imprisonment for convictions of assault in the fourth degree against school employees.

Prepared by: Lieutenant James Helgøe
 Division: Alaska State Troopers
 Approved by: Commissioner William Tandeske
 Agency: Department of Public Safety

Phone 907-269-4532
 Date/Time 1/30/06 2:17 PM
 Date 1/30/2006

Sec. 12.55.135. Sentences of imprisonment for misdemeanors.

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year.

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence committed in violation of the provisions of an order issued or filed under AS 12.30.027 or AS 18.66.100 - 18.66.180 and not subject to sentencing under (g) of this section shall be sentenced to a minimum term of imprisonment of 20 days.

(d) A defendant convicted of assault in the fourth degree who knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the assault shall be sentenced to a minimum term of imprisonment of

(1) 60 days if the defendant violated AS 11.41.230(a)(1) or (2);

(2) 30 days if the defendant violated AS 11.41.230(a)(3).

Sec. 12.55.155. Factors in aggravation and mitigation.

(a) If a defendant is convicted of an offense and is subject to sentencing under AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), or (i) and

(1) the presumptive term is four years or less, the court may decrease the presumptive term by an amount as great as the presumptive term for factors in mitigation or may increase the presumptive term up to the maximum term of imprisonment for factors in aggravation;

(2) the presumptive term of imprisonment is more than four years, the court may decrease the presumptive term by an amount as great as 50 percent of the presumptive term for factors in mitigation or may increase the presumptive term up to the maximum term of imprisonment for factors in aggravation.

(b) Sentence increments and decrements under this section shall be based on the totality of the aggravating and mitigating factors set out in (c) and (d) of this section.

(c) The following factors shall be considered by the sentencing court and may aggravate the presumptive terms set out in AS 12.55.125:

(1) a person, other than an accomplice, sustained physical injury as a direct result of the defendant's conduct;

(2) the defendant's conduct during the commission of the offense manifested deliberate cruelty to another person;

(3) the defendant was the leader of a group of three or more persons who participated in the offense;

(4) the defendant employed a dangerous instrument in furtherance of the offense,

(5) the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill health, or extreme youth or was for any other reason substantially incapable of exercising normal physical or mental powers of resistance;

(6) the defendant's conduct created a risk of imminent physical injury to three or more persons, other than accomplices;

(7) a prior felony conviction considered for the purpose of invoking the presumptive terms of this chapter was of a more serious class of offense than the present offense;

(8) the defendant's prior criminal history includes conduct involving aggravated or repeated instances of assaultive behavior;

(9) the defendant knew that the offense involved more than one victim;

(10) the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(11) the defendant committed the offense pursuant to an agreement that the defendant either pay or be paid for the commission of the offense, and the pecuniary incentive was beyond that inherent in the offense itself;

(12) the defendant was on release under AS 12.30.020 or 12.30.040 for another felony charge or conviction or for a misdemeanor charge or conviction having assault as a necessary element;

(13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, correctional employee, fire fighter, emergency medical technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties;

(14) the defendant was a member of an organized group of five or more persons, and the offense was committed to further the criminal objectives of the group;

(15) the defendant has three or more prior felony convictions;

(16) the defendant's criminal conduct was designed to obtain substantial pecuniary gain and the risk of prosecution and punishment for the conduct is slight;

(17) the offense was one of a continuing series of criminal offenses committed in furtherance of illegal business activities from which the defendant derives a major portion of the defendant's income;

(18) the offense was a felony

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit comprised of those living together in the same dwelling as the defendant;

(B) specified in AS 11.41.410 - 11.41.458 and the defendant has engaged in the same or other conduct prohibited by a provision of AS 11.41.410 - 11.41.460 involving the same or another victim; or

(C) specified in AS 11.41 that is a crime involving domestic violence and was committed in the physical presence or hearing of a child under 16 years of age who was, at the time of the offense, living within the residence of the victim, the residence of the perpetrator, or the residence where the crime involving domestic violence occurred;

(19) the defendant's prior criminal history includes an adjudication as a delinquent for conduct that would have been a felony if committed by an adult;

(20) the defendant was on furlough under AS 33.30 or on parole or probation for another felony charge or conviction that would be considered a prior felony conviction under AS 12.55.145(a)(1)(B);

(21) the defendant has a criminal history of repeated instances of conduct violative of criminal laws, whether punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced under this section;

(22) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin;

(23) the defendant is convicted of an offense specified in AS 11.71 and

(A) the offense involved the delivery of a controlled substance under circumstances manifesting an intent to distribute the substance as part of a commercial enterprise; or

(B) at the time of the conduct resulting in the conviction, the defendant was caring for or assisting in the care of a child under 10 years of age;

(24) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the transportation of controlled substances into the state;

(25) the defendant is convicted of an offense specified in AS 11.71 and the offense involved large quantities of a controlled substance;

(26) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance that had been adulterated with a toxic substance;

(27) the defendant, being 18 years of age or older,

(A) is legally accountable under AS 11.16.110(2) for the conduct of a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant; or

(B) is aided or abetted in planning or committing the offense by a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant;

(28) the victim of the offense is a person who provided testimony or evidence related to a prior offense committed by the defendant;

(29) the defendant committed the offense for the benefit of, at the direction of, or in association with a criminal street gang;

(30) the defendant is convicted of an offense specified in AS 11.41.410 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to the victim in furtherance of the offense with the intent to make the victim incapacitated; in this paragraph, "incapacitated" has the meaning given in AS 11.41.470.

(d) The following factors shall be considered by the sentencing court and may mitigate the presumptive terms set out in AS 12.55.125:

(1) the offense was principally accomplished by another person, and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim;

(2) the defendant, although an accomplice, played only a minor role in the commission of the offense;

(3) the defendant committed the offense under some degree of duress, coercion, threat, or compulsion insufficient to constitute a complete defense, but which significantly affected the defendant's conduct;

(4) the conduct of a youthful defendant was substantially influenced by another person more mature than the defendant;

(5) the conduct of an aged defendant was substantially a product of physical or mental infirmities resulting from the defendant's age;

(6) in a conviction for assault under AS 11.41.200 - 11.41.220, the defendant acted with serious provocation from the victim;

(7) except in the case of a crime defined by AS 11.41.410 - 11.41.470, the victim provoked the crime to a significant degree;

(8) *[Repealed, Sec. 42 ch 143 SLA 1982].*

(9) the conduct constituting the offense was among the least serious conduct included in the definition of the offense;

(10) before the defendant knew that the criminal conduct had been discovered, the defendant fully compensated or made a good faith effort to fully compensate the victim of the defendant's criminal conduct for any damage or injury sustained;

(11) the defendant was motivated to commit the offense solely by an overwhelming compulsion to provide for emergency necessities for the defendant's immediate family;

(12) the defendant assisted authorities to detect, apprehend, or prosecute other persons who committed an offense;

(13) the facts surrounding the commission of the offense and any previous offenses by the defendant establish that the harm caused by the defendant's conduct is consistently minor and inconsistent with the imposition of a substantial period of imprisonment;

(14) the defendant is convicted of an offense specified in AS 11.71 and the offense involved small quantities of a controlled substance;

(15) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance, other than a schedule IA

controlled substance, to a personal acquaintance who is 19 years of age or older for no profit;

(16) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the possession of a small amount of a controlled substance for personal use in the defendant's home;

(17) in a conviction for assault or attempted assault or for homicide or attempted homicide, the defendant acted in response to domestic violence perpetrated by the victim against the defendant and the domestic violence consisted of aggravated or repeated instances of assaultive behavior.

Sec. 11.41.230. Assault in the fourth degree.

(a) A person commits the crime of assault in the fourth degree if

(1) that person recklessly causes physical injury to another person;

(2) with criminal negligence that person causes physical injury to another person by means of a dangerous instrument; or

(3) by words or other conduct that person recklessly places another person in fear of imminent physical injury.

(b) Assault in the fourth degree is a class A misdemeanor.

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

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" AlaskaDistrict31.blogspot.com

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Phone: (907) 269-0205
Fax: (907) 269-0207

SPONSOR STATEMENT **CSHB 41(FIN)**

State Statute provides for specific terms of imprisonment for crimes committed against certain public employees, such as peace officers, firefighters, etc., in the performance of their official duties. School employees who work everyday with our most precious resource, our children, deserve the same level of respect and protection under the law.

This bill revises sentencing guidelines so that an individual convicted as an adult of assault on a school employee while on school grounds, on a school bus, at a school-sponsored event, or in the administrative office of a school district, will receive a *mandatory* minimum term of imprisonment. This would be similar to that imposed upon an individual who assaults a peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendance or other emergency responder engaged in the performance of official duties at the time of the offense.

Schools must be safe for teachers, other school employees, certain contract employees engaged in the performance of school duties, as well as for children. This bill adds a giant step toward that safety and sends a message to anyone who might consider assaulting a school employee. Your support of CSHB 41 is requested.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number 5
 Bill Version: CSHB 41(FIN)
 (H) Publish Date: 4/6/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: an Act relating to assault on school employees RDU: Alaska State Troopers
 Component: AST Detachments
 Sponsor: Representative Lynn
 Requester: House Judiciary 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 legislation has no fiscal impact to the Department of Public Safety. State troopers and local law enforcement already handle violations for the crime of assault, so this statute will not increase the numbers we deal with and should instead act as a deterrent. Violence in our schools is a major problem in our nation. This bill will strengthen law enforcement's ability to deal with crimes that are directed at employees of schools. It will add a minimum term of 60 days imprisonment for convictions of assault in the fourth degree against school employees.

Prepared by: Lieutenant Todd Sharp Phone 269-4532
 Division: Alaska State Troopers Date/Time 1/19/05 11:33 AM
 Approved by: Commissioner William Tandeske Date 1/19/2005
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 41(JUD)
 (H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to minimum periods of imprisonment for the crime of assault in the fourth degree..." RDU CRIMINAL
 Component Criminal Justice Litigation
 Sponsor Rep Lynn and Rep. McGuire
 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 amends AS 12.55.135(d) by adding a new subsection that imposes a 30 day sentence for assault in the fourth degree if the assault is committed against an employee of an elementary, junior high, or secondary school while the employee was engaged in the performance of school duties. Most assaults in schools are committed by juveniles, and there aren't enough cases to result in a fiscal impact on the Department of Law as a result of passage of this legislation.

Prepared by: Kathryn Daughhelee, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 1/14/05 4:10 PM
 Approved by: Kathryn Daughhelee for Gregg D. Renkes, Attorney General Date 1/14/2005
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 41(JUD)
(H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
Title: An act relating to minimum periods of RDU: ESS
imprisonment for the crime of assault in the fourth degree Component: Exec Administration
Sponsor: Rep Lynn & Rep McGuire
Requester: Judiciary Component No.: 2736

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: 00

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)

There is no financial impact related to this legislation with the Department of Education & Early Development. Rather this legislation extends imprisonment to those who would assault an educator while performing duties at the time of the assault.

Prepared by: Eddy Jeans, Director Phone: 465-8679
Division: School Finance Date/Time: 1/18/05 3:31 PM
Approved by: Karen Rehfeld, Deputy Commissioner Date: 1/18/2005
Agency: Education & Early Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 41(JUD)
(H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: An Act relating to minimum periods RDU: Institutional Facilities
of imprisonment for assault crime against school employees Component: Institution Director's Office
Sponsor: Representatives Lynn and McGuire
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	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 potential cases, the Department of Corrections does not anticipate a fiscal impact from the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director Phone 465-4641
Division: Administrative Services Date/Time 1/20/05 12:57 PM
Approved by: Portia Parker, Deputy Commissioner Date 1/20/2005
Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 41(JUD)
 (H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to minimum sentence RDU Legal and Advocacy Services
for assault on school employee... Component Public Defender Agency
 Sponsor Reps. Lynn & 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	0.0	0.0	0.0	0.0	0.0	0.0
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 require a mandatory minimum sentence for an assault in the fourth degree committed against any school employee. The Public Defender Agency believes this bill will have a minimal fiscal impact on the operations of the Agency.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
 Division: Public Defender Agency Date/Time 1/14/05 9:26 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 1/14/2005
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB41
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An Act relating to minimum periods of RDU Institutional Facilities
imprisonment for the crimes against school employees. Component Institution Director's Office
 Sponsor Representative Lynn
 Requester Senate Judicial Component No. 524

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	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						
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CHANGE IN REVENUES ()						
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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 (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	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Due to the extremely small number of potential cases, the Department of Corrections does not anticipate a fiscal impact from the passage of this legislation.

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

Phone (907) 465-3339
 Date/Time 1/31/06 8:15 AM
 Date 1/31/2006

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ECS StateNotes

Safety/ Crime/ Violence

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Teachers: Protections/Limits on Liability

March 1998

ECS Information Clearinghouse

State	Legislation	Limits on teacher action	Assaults against teachers	Other rights of teachers and school employees
AL	HB 470/SB 367; enacted 7-95 S 79 (Acts 94-794); enacted 5-94	Teachers granted immunity, as long as their actions are within the boundaries of local board policy	Warrant of arrest issued against anyone assaulting teacher; offender prosecuted Felony offense	Legal support provided by board; exempt from child-abuse charges when acting within parameters of written board policies; immunity when reporting suspected drug abuse
AR	HB 1422; enacted 4-95		Must be reported by principals to the appropriate local law enforcement agency	
FL	96-293; became law 5-96 without governor's signature		Reclassification of offenses for person committing assault on an elected official or employee of a school district, private school, state-supported school or state university. Any student found to have committed assault on a school employee (as above) – a violation of 784.081, Florida Statutes – shall be expelled and placed in an	Child who attacks school employee to be expelled and placed in an alternative school setting for at least one year

			alternative setting for a minimum of 1 year.	
BA	20-2-1000; enacted 4-95	Teacher free from threat of civil damages when disciplining student, "except for acts or omissions of willful or wanton misconduct"		Legal fees (if teacher/defendant found innocent) paid by plaintiff; county or local board to provide legal support for educator, except in cases when educator violated board policy
IA	Safe Schools Bill; enacted 5-94 HF 2383; enacted 6-94	Teachers may use "reasonable force" to maintain order	Students who commit a violent act against a school employee are to be automatically suspended School board may choose to expel student	Those prosecuting teachers for use of excessive force must present "clear and convincing" evidence of abuse, rather than a "preponderance" of evidence Schools authorized to share information regarding students who wish to transfer school; employees are given leave for injuries incurred during a violent episode at school
IN	enacted 5-95			Legislation allows suspensions once limited to five days to be increased to ten days; Teachers can keep students from their areas of supervision for up to five days; Monies collected from fines to be used to purchase metal detectors and other safety equipment; Schools may enact dress codes
IN	SB 73; enacted 3-96		Punished by school principal by means of up to 120 days of community service or by assigning juvenile court counseling conducted in the presence of a representative of the school corporation; fines assessed for crimes committed with weapons	
MD	HB 298; enacted 1-96		School staff may "take reasonable action necessary to prevent violence"	County board will compensate staff member for medical expenses incurred while breaking up violence; County board will provide legal counsel for staff member who has taken "reasonable action necessary to prevent violence"
MI	PA 158; enacted 6-94		Any person who assaults another person with less than the intent to commit murder or to inflict great bodily harm, with a gun,	A parent of a minor is guilty of a misdemeanor if he or she has custody of the minor, the minor is found in possession of a weapon in a weapon-free school zone, and

			<p>revolver, pistol, knife, iron bar, club, brass knuckles or other dangerous weapon in a weapon-free school zone is guilty of a felony punishable by one or more of the following: 1. Imprisonment for not more than four years 2. community service for not more than 150 hours 3. fine of not more than \$6,000</p>	<p>the parent is aware that the minor would violate the firearms act or acts to further the violation;</p> <p>The misdemeanor is punishable by one or more of the following: 1. a fine of not more than \$2,000 2. community service for not more than 100 hours 3. probation;</p> <p>Anyone in possession of a weapon in a weapon-free school zone is guilty of a misdemeanor punishable by one or more of the following: 1. imprisonment for not more than 93 days 2. community service of not more than 100 hours 3. fine of not more than \$2,000</p>
NC	HB 496; enacted 6-95			Offense for assaulting a school bus driver
NC				<p>Amends GS 115c-391 to:</p> <p>1. permit expulsion of student 14 years or older who had been adjudicated delinquent for committing offense that would be felony if committed by adult</p> <p>2. require suspension of 365 days for any student who brings firearm onto school property</p>
NH	HB 1286; enacted 6-96		Automatic expulsion for student who assaults teacher	
NV	<p>392.465; enacted 6-94</p> <p>AB 370; enacted 6-94</p> <p>AB 385; enacted 6-95</p>	<p>Corporal punishment prohibited in public schools, when defined as the intentional infliction of physical pain or physical restraint as a disciplinary technique for pupils</p>	<p>Unlawful to threaten or attack teachers within a school building or on school property, in school transportation vehicles and places where pupils or school employees are involved in school-sponsored activities</p> <p>Requires the expulsion or suspension from school of certain pupils committing an</p>	<p>Teachers may use reasonable force to maintain order;</p> <p>School employee may defend himself if attacked by pupil</p> <p>Provides an additional penalty for felonies committed on school property; prohibits probation for any person convicted of using a firearm to commit a crime; makes various changes relating to criminal gangs to provisions governing education, parole and proceedings in juvenile court; removes the limitation on the civil liability of parents from the delinquent acts of a minor</p>

			assault on an employee of the school	
NY	<p>S 1410; proposed 3-96, pending as of 7-22-96</p> <p>SB 5157; proposed 3-96, pending as of 7-22-96</p> <p>SB 5160; proposed 3-96, pending as of 7-22-96</p>		<p>Would make assaults on teachers and other school employees felonies</p>	<p>Would give educational workers the same protections currently afforded police officers and firefighters</p> <p>Would allow teachers to suspend students for up to five days; would improve instructional mandates for the education of at-risk students; teachers would be authorized to unilaterally identify offensive student behavior, determine guilt, and dispense punishment;</p> <p>Would mandate districts to establish separate schools or set aside norms for instruction of disruptive students, and dictate when students must be assigned to these segregated settings</p> <p>School employees granted criminal and civil immunity when reporting suspected incidents of violence;</p> <p>District may not take retaliatory action against the employee for reporting such incidents;</p> <p>The employee may sue the director for taking retaliatory action</p>
OR	<p>HB 2487A; enacted 7-95</p>		<p>A school superintendent may ask that a student's driving privileges be revoked for bringing a weapon to school, assault, harassment, menacing, use of threat or intimidation</p>	<p>Public schools allowed more latitude in student suspension and discipline;</p> <p>Teachers may include considerations of attendance when deciding upon grades;</p> <p>Students who bring weapons to school may be expelled for one calendar year</p>
TX	<p>Compact for Safe Schools; active 6-94</p> <p>380.1312, effective 7-96</p>	<p>Teachers allowed reasonable physical force to maintain control</p>	<p>Students who perpetrate violent acts removed from the regular school program</p>	
UT	<p>SB 230; enacted 6-94</p>			<p>Schools notified when pupil is adjudicated for a violent offense;</p>

				<p>school districts must notify principals who must pass on information to teachers on a need-to-know basis;</p> <p>Board of education must decide upon process of dissemination of information;</p> <p>Leaders must be notified when a student is discovered on school property or at a school-sponsored event with a dangerous weapon</p>
VA	<p>22.1-279.1.1; enacted 3-95</p> <p>Notice of Juvenile Arrest; enacted 5-95</p> <p>HB 1041; proposed 1-96, pending as of 7-22-96</p> <p>SB 472</p>	<p>Teachers forbidden to exercise corporal punishment, except when needed to maintain order</p>		<p>Requires the intake officer to notify the division superintendent whenever a juvenile is arrested and charged with a delinquent act involving death, weapons, drugs, assaults, woundings, arson, or burglary</p> <p>Codifies a Virginia Supreme Court decision by granting immunity from civil damages to public school teachers when acting in good faith within their scope of employment while supervising, caring for or disciplining students, unless the acts or omission were the result of gross negligence or willful misconduct</p> <p>Same wording as above, ends at "employment"</p>

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January 2005

Anchorage School District
POSITION STATEMENT HB 41

W) 907-742-4322 (F) 907-742-4417
Wiget_Larry@asd.k12.ak.us

TO: HOUSE JUDICIARY COMMITTEE

FROM: CAROL COMEAU, SUPERINTENDENT *Carol Comeau*
TIM STEELE, PRESIDENT, ANCHORAGE SCHOOL BOARD

CONTACT: LARRY WIGET, DIRECTOR, GOVERNMENT RELATIONS

SUBJECT: HB 41: AN ACT RELATING TO MINIMUM PERIODS OF
IMPRISONMENT FOR THE CRIME OF ASSAULT

The Anchorage School District supports HB 41 (b 24-LS0307\A) and encourages the Legislature to expand the minimum periods of imprisonment provision in the bill to include all employees of a school district who are engaged in the performance of school duties at the time of the assault.

We want all of our employees to feel safe while they are on duty at work, whether in a school, an administrative support facility, or at any other work location or school sponsored activity.

This past spring, a mother (Cassandra West) who hit a Fairview Elementary School teacher three times the previous fall outside his classroom was sentenced to 120 days in jail and 10 years probation, the maximum probation for misdemeanor assault. According to court records, the individual had previous convictions for drug, larceny and false reporting offenses and a history of losing her temper. It was a serious incident and we were pleased with the severe sentence. We applaud the efforts of Municipal Prosecutor Bruce Roberts and Assistant Municipal Prosecutor Richard Felton, as well as the officers of the Anchorage Police Department for taking such a strong stand against this individual for what she did to the teacher.

State statute provides for specific terms of imprisonment for crimes committed against certain public employees, such as peace officers, fire fighters, etc., in the performance of their official duties. Our school employees, who work each day with our most precious resource, our children, deserve the same level of respect and protection under the law. In addition, assault on a school employee during performance of official duties may place students at risk, and any assault because of official duties can have a significant indirect impact on students and school communities.

The Anchorage School Board and Administration urge the Alaska Legislature to revise Alaska criminal code or sentencing guidelines so that a non-student adult convicted of an assault on a school employee during or because of the performance of official duties will receive a mandatory minimum term of imprisonment similar to

that imposed upon an adult who assaults a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendance or other emergency responder engaged in the performance of official duties at the time of the offense.

- 2005 Anchorage School Board Legislative Priority

cc: Anchorage School Board
Assembly Members
Mayor Mark Begich
Walt Monegan, Chief of Police, APD
Audi Holloway, Deputy Chief, APD
Captain Ross Plummer, APD
Lt. Gardner Cobb, APD
Bruce Roberts, MOA Prosecutor
Guy Okada, Anchorage Principal Association
Rich Kronberg, Anchorage Education Association
Val Woods, Totem Association of Educational Personnel
William Meers, Public Employees Local 71
Ray Grey, Teamsters Local 959
Tim Morgan, Teamster 959 & Food Service Association (Student Nutrition)
Duane Moran, Anchorage Council of Education

Alaska Council of School Administrators

Resolution 04-4

ASSAULT OF SCHOOL EMPLOYEES

WHEREAS, State statute provides for specific terms of imprisonment for crimes committed against certain public employees, peace officers, firefighters, etc. in the performance of their official duties; and

WHEREAS, school employees deserve the same level of respect and protection under the law; now

THEREFORE IT IS RESOLVED that the Alaska Council of School Administrators urges that Alaska's criminal code or sentencing guidelines be revised so that an adult convicted of assault on a school employee during or because of the performance of official duties will receive a mandatory minimum term of imprisonment similar to that imposed upon an adult who assaults a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant or other emergency responder engaged in the performance of official duties at the time of the offense.

Adopted by the Alaska Council of School Administrators (AASA, AAESP, AASSP and ALASBO) October and December 2004.



NEA-ALASKA

Affiliated with the National Education Association

January 19, 2005

Representative Bob Lynn
State Capitol, Room 415
Juneau AK 99801

Dear Representative Lynn:

Parents have always sent their children to school feeling their children are in the safest place they could be away from home. Because of the acts of violence in public schools around the country and in our state in recent years, the safety of a child or a school employee in the school environment has increasingly been questioned.

Safe schools and classrooms are absolutely essential for student success. In 2000, the legislature passed HB 253, sponsored by then Representative Fred Dyson, requiring school disciplinary and safety programs. We commend that effort. We believe more must be done.

One of the issues addressed at past Delegate Assemblies has been to continue the NEA-Alaska position that *NEA-Alaska shall seek legislation making the consequences of an assault of an educational employee the same as though the assault were to occur on a police officer.* Your introduction of House Bill (HB 41) accomplishes this task and is appreciated by the members of NEA-Alaska. **We are in support of HB 41.**

NEA-Alaska looks forward to HB 41 being heard in the committee process and will be ready to testify in support of this legislation.

Sincerely,

Bill Bjork, President



FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

(907) 452-2000 520 Fifth Avenue Fairbanks, AK 99701-4756 www.northstar.k12.ak.us

January 18, 2005

The Honorable John Coghill, Jr.
The Honorable Bob Lynn
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801

Dear Representatives Coghill & Lynn:

On behalf of the Fairbanks North Star Borough School District, I would like to express my support for HB 41 – Assault on School Employees.

This measure could deter people from seeking out district employees during working hours and/or the performance of school duties, allowing employees to concentrate on our main objective - the education of our children.

If there is any other information you desire or if you have questions, please do not hesitate to contact my office.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Ann E. Shortt', is written over the typed name.

Ann E. Shortt, Ed. D.
Superintendent of Schools
/plh

Enclosure

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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January 14, 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 HB 41, an act relating to the crime of assault.

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

Your proposed bill calls for more stringent consequences for those who would assault a school employee while in the performance of their official school duties. We believe this to be appropriate as children often view the aggression and must also deal with the aftermath of fear and uncertainty. There is no room for violence or intimidation in any school.

We 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



Tuesday, January 31, 2006

The online edition of the Frontiersman does not contain the entire content of our print version.

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Parent who assaulted school secretary fined

January 31, 2006

MARY AMES\Frontiersman reporter

PALMER - A Palmer District Court judge on Thursday sentenced a Pioneer Peak Elementary parent who assaulted the school secretary last May to pay a \$500 fine and apologize, and imposed a suspended prison term.

Sammie Jo Wilson, 35, was charged with fourth-degree assault after she grabbed Toni Hartley by the hair, bent Hartley over at the waist and punched her head repeatedly about 2 p.m. May 6, according to Alaska State Troopers.

Wilson came to the school to pick up a student, but refused to show any identification, according to the report.

When Hartley requested identification in accordance with school district policy, Wilson responded that the request was crazy, that her ID was in the car and that she wanted the teacher in charge, the report said.

The student had been sick all day, but the phone numbers the school had for a parent contact were not working, Hartley said Friday.

"She was very defensive coming in the door," Hartley said. "I told her we needed to get new phone numbers and she said she didn't have time. There were younger children in the lobby waiting to leave school and she was profane, saying this was "f----- crazy."

Wilson went back toward her car and Hartley went to get the child from the nurse's office, the report said. The child had followed Wilson out into the parking lot, though, and Hartley went back out, put her arm around the child and started to walk her back into the school, stating she needed to positively identify Wilson before she could let the student leave with her, according to troopers.

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Another parent at the school was driving away at the time, but saw the assault in her rear-view mirror and stopped, the report said.

Wendy Sant told troopers she saw Wilson grab Hartley and punch her multiple times, the report said. Sant said she ran over to stop the confrontation.

It all happened so fast, Hartley said, that at first she didn't know she was injured.

"I realized I was hurt when I went back into school and people were staring at me," she said. "I had blood on my face. I had reached back to get her to let go and damaged my ulna nerve. I still have a dead spot in my hand and arm."

Wilson, who switched from a public defender to Anchorage attorney Wayne Anthony Ross for her defense in October, pleaded no contest to the assault charge and received a \$500 fine, which was fully suspended, and a 30-day suspended jail sentence, according to court records.

Wilson was also ordered to deliver a letter of apology by Feb. 14, must stay away from Hartley and may not enter Pioneer Peak Elementary School property, records show.

"She made a statement to the court that 'things got out of control,' Hartley said. "She never said. 'I got out of control.' And she had violated the restraining order by coming to school the Monday, Tuesday and Wednesday following this incident."

Wilson told the troopers that "she basically lost control," and had five kids home sick, according to troopers.

Hartley read a statement in court to Wilson.

Your actions and words were witnessed by those parents in the lobby at kindergarten pick up time," Hartley wrote in part of her statement. "Your stepdaughter witnessed your horrific attack, and words, in total silence. I'm sad that she has now left her school and friends and has that picture of your attack on me that day forever locked away in her mind. The emotional and physical effects from your assault include doctor visits, hepatitis shots, physical therapy, and still I have nerve damage that the doctor says will take up to two years to heal before I regain full feeling in my arm and hand. These medical bills have amounted to \$11,000. These doctor visits took time away from my family, my job and missed sports activities with my kids."

Dan Molina, the school's principal, said he has never seen an incident like this happen before, and that because of this incident, Alaska passed a new law making an assault

on school grounds an automatic felony.

"Toni is a wonderful employee," Molina said. "She is the perfect front office employee - pleasant, efficient and always concerned for the safety of the students."

In general, safe schools are a priority, according to Kim Floyd, spokeswoman for the Mat-Su Borough School District.

"We work with students on anti-bullying," Floyd said. "Adults are models for our children and we expect them to display appropriate behavior. This is rare. We have wonderful parents. One individual crossed the line, and we support prosecution. We have front-office staff to make sure people who come in have a right to be there. We work hard toward maintaining a safe learning environment."

Contact Mary Ames at 352-2284 or mary.ames@frontiersman.com.

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Parent who assaulted school secretary fined

January 31, 2006

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Defense up next in murder trial

January 31, 2006

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January 31, 2006

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