

SB

135

<TARGET><BILL>SB 135</BILL><SUBJECT>SB
135</SUBJECT><COMM>HFIN27</COMM></TARGET>

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HCS CSSB135(FIN)
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) HCS CSSB135(FIN)-ACS-TRC-04-12-2012 Dept. Affected Alaska Court System
 Title Rights of Crime Victims; Continuances; Appt of Counsel Appropriation Trial Courts
 Allocation _____
 Sponsor Senator French
 Requester _____ OMB Component Number 768

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version.

Prepared by Nancy Meade, General Counsel
 Division Alaska Court System
 Approved by Nancy Meade for Christine Johnson, Administrative Director
Alaska Court System

Phone 907-463-4736
 Date/Time 4/12/2012 12:00 P.M.
 Date 4/12/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HCS CSSB135(FIN)

Analysis

HCS CSSB 135(FIN) provides that a victim has the right to be notified when certain motions may substantially delay the prosecution of a case. Sections 7 and 8 of the bill amend Criminal Rule 45 to require the judge to consider the interests of the crime victim, if known, when deciding whether to grant a motion to continue. These revisions will be implemented by the judges without fiscal impact on the court system.

Section 3 of HCS CSSB 135(FIN) amends the statute concerning how the determination of a defendant's indigency is made when the defendant requests a public defender (court-appointed counsel). The revision to AS 18.85.120(b) directs the court to require the defendant to certify under oath, subject to the penalties for perjury, material factors relative to the person's financial resources and ability to pay.

In addition, section 6 of the bill amends the Criminal Rule concerning eligibility for public counsel (Crim. Rule 39.1) by specifying that the defendant is subject to the penalties for perjury when the defendant provides information to the court about his or her financial status.

The court will implement this legislation with no financial impact, and therefore submits a zero fiscal note.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSB135 (House CS)
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) CSSB135(House CS)-LEG-OVR-4-12-12 Dept. Affected Legislature
 Title "Relating to the rights of crime victims; relating to the duties of prosecuting attorneys; amending Rule 45" Appropriation Legislative Council
 Allocation Office of Victims Rights
 Sponsor Sens French, Dyson, Wielechowski, Coghill, Olson...
 Requester House Finance OMB Component Number 2769

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services	0.0							
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

updated for House CS Version

Prepared by Jessica Geary, Finance Manager
 Division Legislative Affairs Agency
 Approved by Pamela Varni, Executive Director
Legislative Affairs Agency

Phone 465-6626
 Date/Time 4/12/12 12:35pm
 Date 4/12/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSSB135 (House CS)

Analysis

House CS for CS SB135 allows for the Victims' Advocate to receive step increases on the salary schedule set out in AS 39.27.011(a). By unlocking the position from step A the Legislative Affairs Agency would follow standard personnel policies regarding initial step placement and increases.

There is currently one full-time position in the Office of Victims' Rights that is being used as a part-time position. Any increase would be absorbed within the current budget for FY13. With a new Victims Rights Advocate coming on board in the next month any necessary merit increases for FY14 would be handled in the Office of Victims' Rights section of the FY14 Proposed Budget to Legislative Council.

FISCAL NOTE

STATE OF ALASKA cost # codes
 2012 LEGISLATIVE SESSION

Bill Version HCSSB135(FIN)
 Fiscal Note Number _____
 Publish Date _____

Identifier (file name) HCSSB135-DOC-OC-04-12-12 Dept. Affected DOC
 Title "An Act relating to the rights of crime victims; relating to the duties of prosecuting attorneys..." Appropriation Administration and Support
 Allocation Office of the Commissioner
 Sponsor Senators French
 Requester House Finance Committee OMB Component Number 694

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Reflects changes made in House Finance

Prepared by Leslie Houston, Director
 Division Department of Corrections - Administrative Services
 Approved by Joseph D. Schmidt, Commissioner
Department of Corrections

Phone 907-465-3339
 Date/Time 4/12/12 12:15 PM
 Date 4/12/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HCSSB135(FIN)

Analysis

SB 135 requires prosecutors and judges to consider a victim's right to a timely disposition of their case when deciding whether to allow continuances. This legislation also ensures the victims are notified of any requests or motions that could substantially delay prosecution of their case.

SB 135 amends existing statute to require a person requesting court appointed counsel to certify under oath, and in writing or by other record, material factors relative to the person's financial resources. This person would be subject to penalties of perjury if information provided was false or if financial information was not disclosed.

SB 135 amends Court Rule 39.1 to allow for the defendant to sign a sworn statement, subject to penalties of perjury.

SB 135 modifies the selection process of the victims' advocate under AS 24.65.040. The victims' advocate, at the conclusion of their 5 year term could be reappointed, but only if they submit to the selection committee an application for reappointment.

Passage of this legislation poses no fiscal impact on DOC.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSB135
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) SB135CS(FIN)-DOA-PDA-4-12-12 Dept. Affected Administration
 Title Continuances in Criminal Trials Appropriation Legal and Advocacy Services
 Allocation Public Defender Agency
 Sponsor Senator French
 Requester House Finance OMB Component Number 1631

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required;
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Language added to bill defining "substantial delay."

Prepared by Quinlan Steiner
 Division Public Defender Agency
 Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 907-334-4414
 Date/Time 4/12/12 12:00 PM
 Date 4/12/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSSB135

Analysis

This bill amends AS 12.61.010(a) by requiring that the victim of a crime be notified of any request for a continuance or pending motions that may substantially delay the prosecution, and inform the court of the victim's position on these motions. This bill amends Rule 45 (d)(2) of the Alaska Rules of Criminal Procedure by adding language that requires the court to grant continuances only after consideration of the crime victim as provided in a new subsection (h) that his bill would also add to Rule 45. The new subsection (h) requires the court to consider the victim's position on motions to continue.

Courts currently consider the impact of delay on a victim's rights under the state constitution and the Agency does not anticipate a fiscal impact. The Agency, therefore submits a zero fiscal note.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSB135
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) SB135CS(FIN)-DOA-OPA-4-12-12 Dept. Affected Administration
 Title Continuances in Criminal Trials; Victims Appropriation Legal and Advocacy Services
 Allocation Office of Public Advocacy
 Sponsor Senator French
 Requester House Finance OMB Component Number 43

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Language added changing the title of the bill, language regarding the victim's advocate, and public defender appointment.

Prepared by Richard Allen, Director
 Division Office of Public Advocacy
 Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 907-269-3504
 Date/Time 4/12/12 1:52 PM
 Date 4/12/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSSB135

Analysis

This bill amends AS 12.61.010(a) by requiring that the victim of a crime be notified of any request for a continuance or pending motions that may substantially delay the prosecution, and inform the court of the victim's position on these motions. This bill amends Rule 45 (d)(2) of the Alaska Rules of Criminal Procedure by adding language that requires the court to grant continuances only after consideration of the crime victim as provided in a new subsection (h) that his bill would also add to Rule 45. The new subsection (h) requires the court to consider the victim's position on motions to continue.

The bill also outlines procedures for Public Defender appointment and adds provisions relating to the victim's advocate.

Courts currently consider the impact of delay on a victim's rights under the state constitution. The Office of Public Advocacy does not anticipate a fiscal impact and therefore submits a zero impact fiscal note.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSB 135(JUD)
 Fiscal Note Number 4
 (S) Publish Date 3/5/12

Identifier (file name) CSSB 135(JUD) Dept. Affected Law
 Title Continuances in Criminal Trials; Victims Appropriation Criminal
 Allocation Criminal Justice Litigation
 Sponsor Senator French
 Requester Senate Finance Committee OMB Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	***	***	***	***	***	***	***

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		***	***	***	***	***	***	***

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

The previous fiscal note requested \$144.4 in General Funds for one new PFT position. The assumptions in the analysis are not sufficient to justify the need for an additional position.

Prepared by Darwin Peterson, Staff
 Division Senate Finance Committee
 Approved by Senator Hoffman, Co-Chair
Senator Stedman, Co-Chair

Phone 907-495-3873
 Date/Time 3/3/12 2:38PM
 Date 3/3/2012

FISCAL NOTE #4

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. CSSB 135(JUD)

Analysis

A large, empty rectangular box with a thin black border, occupying the central portion of the page. It is intended for the analysis of the bill.

HOUSE CS FOR CS FOR SENATE BILL NO. 135(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS FRENCH, Dyson, Wielechowski, Coghill, Olson, Kookesh, Giessel, Meyer, Ellis, Menard, Paskvan, Egan, McGuire, Stedman, Thomas, Stevens

REPRESENTATIVE Petersen

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the rights of crime victims; relating to the duties of prosecuting**
 2 **attorneys; relating to the victims' advocate and to the term of office of the victims'**
 3 **advocate; relating to the appointment of counsel for persons accused of crimes;**
 4 **amending Rules 39.1 and 45, Alaska Rules of Criminal Procedure; and providing for an**
 5 **effective date."**

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

7 *** Section 1.** AS 12.61.010(a) is amended to read:

8 (a) Victims of crimes have the following rights:

9 (1) the right to be present during any proceeding in

10 (A) the prosecution and sentencing of a defendant if the
 11 defendant has the right to be present, including being present during testimony
 12 even if the victim is likely to be called as a witness;

13 (B) the adjudication of a minor as provided under
 14 AS 47.12.110;

1 (2) the right to be notified by the appropriate law enforcement agency
2 or the prosecuting attorney of any request for a continuance that may substantially
3 delay the prosecution and of the date of trial, sentencing, including a proceeding
4 before a three-judge panel under AS 12.55.175, an appeal, and any hearing in which
5 the defendant's release from custody is considered;

6 (3) the right to be notified that a sentencing hearing or a court
7 proceeding to which the victim has been subpoenaed will not occur as scheduled;

8 (4) the right to receive protection from harm and threats of harm
9 arising out of cooperation with law enforcement and prosecution efforts and to be
10 provided with information as to the protection available;

11 (5) the right to be notified of the procedure to be followed to apply for
12 and receive any compensation under AS 18.67;

13 (6) at the request of the prosecution or a law enforcement agency, the
14 right to cooperate with the criminal justice process without loss of pay and other
15 employee benefits except as authorized by AS 12.61.017 and without interference in
16 any form by the employer of the victim of crime;

17 (7) the right to obtain access to immediate medical assistance and not
18 to be detained for an unreasonable length of time by a law enforcement agency before
19 having medical assistance administered; however, an employee of the law
20 enforcement agency may, if necessary, accompany the person to a medical facility to
21 question the person about the criminal incident if the questioning does not hinder the
22 administration of medical assistance;

23 (8) the right to make a written or oral statement for use in preparation
24 of the presentence report of a felony defendant;

25 (9) the right to appear personally at the defendant's sentencing hearing
26 to present a written statement and to give sworn testimony or an unsworn oral
27 presentation;

28 (10) the right to be informed by the prosecuting attorney, at any time
29 after the defendant's conviction, about the complete record of the defendant's
30 convictions;

31 (11) the right to notice under AS 12.47.095 concerning the status of the

1 defendant found not guilty by reason of insanity;

2 (12) the right to notice under AS 33.16.087 of a hearing concerning
3 special medical parole of the defendant;

4 (13) the right to notice under AS 33.16.120 of a hearing to consider or
5 review discretionary parole of the defendant;

6 (14) the right to notice under AS 33.30.013 of the release or escape of
7 the defendant; and

8 (15) the right to be notified orally and in writing of and receive
9 information about the office of victims' rights from the law enforcement officer
10 initially investigating the crime and from the prosecuting attorney assigned to the
11 offense; at a minimum, the information provided must include the address, telephone
12 number, and Internet address of the office of victims' rights; this paragraph

13 (A) applies only to victims of felonies and to victims of class A
14 misdemeanors if the class A misdemeanor is a crime involving domestic
15 violence or a crime against a person under AS 11.41; if the victim is an
16 unemancipated minor, the law enforcement officer and the prosecuting
17 attorney shall also provide the notice required by this paragraph to the parent
18 or guardian of the minor;

19 (B) is satisfied if, at the time of initial contact with the crime
20 victim, the investigating officer and prosecuting attorney each give each crime
21 victim a brochure or other written material prepared by the office of victims'
22 rights and provided to law enforcement agencies for that purpose.

23 * **Sec. 2.** AS 12.61.015(a) is amended to read:

24 (a) If a victim of a felony or a crime involving domestic violence requests, the
25 prosecuting attorney shall make a reasonable effort to

26 (1) confer with the person against whom the offense has been
27 perpetrated about that person's testimony before the defendant's trial;

28 (2) in a manner reasonably calculated to give prompt actual notice,
29 notify the victim

30 (A) of the defendant's conviction and the crimes of which the
31 defendant was convicted;

1 (B) of the victim's right in a case that is a felony to make a
 2 written or oral statement for use in preparation of the defendant's presentence
 3 report, and of the victim's right to appear personally at the defendant's
 4 sentencing hearing to present a written statement and to give sworn testimony
 5 or an unsworn oral presentation;

6 (C) of the address and telephone number of the office that will
 7 prepare the presentence report; and

8 (D) of the time and place of the sentencing proceeding;

9 (3) notify the victim in writing of the final disposition of the case
 10 within 30 days after final disposition of the case;

11 (4) confer with the victim of a crime involving domestic violence
 12 concerning a proposed plea agreement before entering into an agreement;

13 **(5) inform the victim of a pending motion that may substantially**
 14 **delay the prosecution and inform the court of the victim's position on the motion;**
 15 **in this paragraph, a "substantial delay" is**

16 **(A) for a misdemeanor, a delay of one month or longer;**

17 **(B) for a felony, a delay of two months or longer; and**

18 **(C) for an appeal, a delay of six months or longer.**

19 * **Sec. 3.** AS 18.85.120(b) is amended to read:

20 (b) In determining whether a person is indigent and in determining the extent
 21 of the person's inability to pay, the court shall consider such factors as income,
 22 property owned, outstanding obligations, and the number and ages of dependents.
 23 Release on bail does not preclude a finding that a person is indigent. In each case, the
 24 person, subject to the penalties for perjury, shall certify under oath, and in writing or
 25 by other record, material factors relative to the person's **financial resources and**
 26 ability to pay that the court prescribes.

27 * **Sec. 4.** AS 24.65.040 is amended to read:

28 **Sec. 24.65.040. Term of office.** (a) The term of office of the victims' advocate
 29 is five years. A victims' advocate may be reappointed but may not serve for more than
 30 three terms. **To be eligible for reappointment at the conclusion of each five-year**
 31 **term of service, a victims' advocate seeking reappointment must submit to the**

victims' advocate selection committee an application for reappointment.

(b) If the term of a victims' advocate expires without the appointment of a successor under this chapter or [, THE INCUMBENT VICTIMS' ADVOCATE MAY CONTINUE IN OFFICE UNTIL A SUCCESSOR IS APPOINTED. IF] the victims' advocate dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the person appointed as acting victims' advocate under AS 24.65.070(a) serves until a new victims' advocate is appointed for a full term.

* Sec. 5. AS 24.65.060 is amended to read:

Sec. 24.65.060. Compensation. The victims' advocate is entitled to receive an annual salary of [EQUAL TO STEP A,] Range 26 [,] on the salary schedule set out in AS 39.27.011(a) for Juneau.

* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 39.1(e), Alaska Rules of Criminal Procedure, is amended to read:

(e) **Determining Eligibility.** The court or its designee shall determine whether a defendant is eligible for court-appointed counsel by placing the defendant under oath and asking about the defendant's financial status, or by requiring the defendant to complete a signed sworn financial statement, subject to penalties for perjury. A defendant who requests appointed counsel must execute a general waiver authorizing the release of financial information to the court as required by AS 18.85.120.

* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 45(d)(2), Alaska Rules of Criminal Procedure, is amended to read:

(2) The period of delay resulting from an adjournment or continuance granted at the timely request or with the consent of the defendant and the defendant's counsel. The court shall grant such a continuance only if it is satisfied that the postponement is in the interest of justice, taking into account the public interest in the prompt disposition of criminal offenses, and after consideration of the interests of the crime victim, if known, as provided in (h) of this rule. A defendant without

1 counsel shall not be deemed to have consented to a continuance unless the defendant
2 has been advised by the court of the right to a speedy trial under this rule and of the
3 effect of consent.

4 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 DIRECT COURT RULE AMENDMENT. Rule 45, Alaska Rules of Criminal
7 Procedure, is amended by adding a new subsection to read:

8 (h) **Victim's Interest in Ruling on Motion to Continue.** Before ruling on a
9 motion for a continuance in a case involving a victim, as defined in AS 12.55.185, the
10 court shall consider the victim's position, if known, on the motion to continue and the
11 effect of a continuance on the victim.

12 * **Sec. 9.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced:
Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning Senate Bill No. 135, relating to the rights of crime victims;**
3 **relating to the duties of prosecuting attorneys; and amending Rule 45, Alaska Rules of**
4 **Criminal Procedure.**

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

6 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
7 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
8 changes to the title of a bill, are suspended in consideration of Senate Bill No. 135, relating to
9 the rights of crime victims; relating to the duties of prosecuting attorneys; and amending Rule
10 45, Alaska Rules of Criminal Procedure.

Alaska State Legislature
HOUSE FINANCE COMMITTEE

Agenda
9:00 AM

Thursday, April 12, 2012

SB 19-PASSENGER VEHICLE RENTAL TAX
CS WORKDRAFT FIN 27-LS0157\B
NEW FISCAL NOTE (REV) zero
NEW FISCAL NOTE (ADM) \$

SB 135-CONTINUANCES IN CRIMINAL TRIALS; VICTIMS
CS WORKDRAFT FIN 27-LS0966\B
NEW FISCAL NOTE (CRT) ZERO
NEW FISCAL NOTE (LEG) ZERO
NEW FISCAL NOTE (ADM) ZERO REPLACES #5
NEW FISCAL NOTE (COR) ZERO replaces #3
NEW FISCAL NOTE (ADM) ZERO REPLACES #2

SB 23-FILM PRODUCTION TAX CREDIT/AUDITS
UPDATED NEW FISCAL NOTE (LEG) ZERO
UPDATED NEW FISCAL NOTE (DCCED) ZERO
UPDATED NEW FISCAL NOTE (REV) ZERO

SCR 24-COMMISSION ON 100TH ANNIV. OF LEGISLATURE

Testifiers on Teleconference:

Terrence Cole, History Professor, UAF

Claus Naske , History Professor ,Texas

Professor Stephen Haycox , UAA

Senator Hollis French


Capitol Room 417
465-3892
465-6595 fax



MEMORANDUM

Date: March 14, 2012

To: Representative Bill Stoltze, Co-Chairman
Representative Bill Thomas, Co-Chairman
House Finance Committee

From: Senator Hollis French 

RE: Hearing Request

I respectfully request a hearing on SB 135 – Continuances in Criminal Cases; Victims.

Included in this packet is a copy of the most recent version of the bill (version M), a sponsor statement, sectional analysis, explanation of changes, fiscal notes, and back up documentation. No audio/visual equipment will be necessary for a bill hearing.

The following individuals will be available to testify:

- Susan Sullivan, Executive Director, Victims for Justice
- Victor Kester, Executive Director, Office of Victims' Rights
- Nancy Haag, Executive Director, Standing Together Against Rape
- Lisa Mariotti, Policy Director, AK Network on Domestic Violence & Sexual Assault
- Karen Foster, mother of Bonnie Craig and Founder of Alaska Citizens for Justice

If you have any questions about this legislation, please contact Lila Hobbs in my office at 465-3892.

I appreciate your consideration.

Alaska State Legislature



Senator Hollis French

SPONSOR STATEMENT

SB 135 – Continuances in Criminal Cases

Article I, section 24 of our constitution is entitled “Rights of Crime Victims.” The amendment passed by an overwhelming majority when it was placed before Alaskan voters in 1994. Included in its eight specific provisions is the promise that crime victims will have “the right to timely disposition of the case following the arrest of the accused.”

In the eighteen years since the amendment passed, the promise of a timely disposition of the case has often not been kept. Moreover, the breaches of that promise frequently occur in the most serious of cases. Delays in the trial of a case, known as continuances, can go on for years.

SB 135 requires prosecutors and judges to consider a victim’s right to a timely disposition of their case when deciding whether to allow continuances. This legislation will also ensure that victims are notified of any requests or motions that could substantially delay speedy prosecution of their case.

Repeated delays prevent victims from reaching emotional, physical, and financial closure from the trauma that they suffered as a result of the crime perpetrated against them. Delays in prosecution can also affect the availability of witnesses, a victim’s ability to recall important details, and it can create other impediments to a successful trial.

Currently, Alaska is one of 27 states with constitutional provisions to protect a victim's rights; however, there is no statute in place to implement it. With this important piece of legislation, Alaska will join 15 other states that have enacted a statutory provision recognizing this crucial right.

SB 135 will guarantee a victim's right to a timely resolution in the court system. I urge your support of this legislation.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSB 135(JUD)
 Fiscal Note Number 5
 (S) Publish Date 3/5/12

Identifier (file name) SB135-DOA-PDA-1-23-12 Dept. Affected Administration
 Title Continuances in Criminal Trials; Victims Appropriation Legal and Advocacy Services
 Allocation Public Defender Agency
 Sponsor Senator French
 Requester Senate Judiciary OMB Component Number 1631

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	****	****	****	****	****	****	****

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		****	****	****	****	****	****	****

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required;
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by Quinlan Steiner, Public Defender
 Division Public Defender Agency
 Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 907 334-4414
 Date/Time 1/20/12 12:25 PM
 Date 1/23/2012

FISCAL NOTE #5

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSSB 135(JUD)

Analysis

This bill amends AS 12.61.010(a) by requiring that the victim of a crime be notified of any request for a continuance or pending motions that may substantially delay the prosecution, and inform the court of the victim's position on these motions. This bill amends Rule 45 (d)(2) of the Alaska Rules of Criminal Procedure by adding language that requires the court to grant continuances only after consideration of the crime victim as provided in a new subsection (h) that his bill would also add to Rule 45. The new subsection (h) requires the court to consider the victim's position on motions to continue.

Courts currently consider the impact of delay on a victim's rights under the state constitution. The compulsory language in the amendment to Rule 45 may have the collateral effect of causing additional hearings and delay if the victim cannot be located. This will be impacted by how courts interpret "substantial delay."

Although this bill may increase hearings and delay, the Public Defender Agency cannot reliably predict whether this will, therefore the fiscal impact cannot be accurately determined.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSB 135(JUD)
 Fiscal Note Number 3
 (S) Publish Date 2/13/12

Identifier (file name) SB135-DOC-OC-02-09-12 Dept. Affected DOC
 Title "An Act relating to the rights of crime victims; relating to the duties of prosecuting attorneys..." Appropriation Administration and Support
 Allocation Office of the Commissioner
 Sponsor Senators French and Dyson
 Requester Senate Judiciary OMB Component Number 694

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required;
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

This is the original version of the bill.

Prepared by Leslie Houston, Director
 Division Department of Corrections - Administrative Services
 Approved by Joseph D. Schmidt, Commissioner
Department of Corrections

Phone 907-465-3339
 Date/Time 02/09/12 10:00AM
 Date 2/9/2012

FISCAL NOTE #3

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSSB 135(JUD)

Analysis

This legislation requires prosecutors and judges to consider a victim's right to a timely disposition of their case when deciding whether to allow continuances. This legislation also ensures the victims are notified of any requests or motions that could substantially delay prosecution of their case. Passage of this legislation poses no fiscal impact on DOC.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSB135(JUD)
 Fiscal Note Number 2
 (S) Publish Date 2/13/12

Identifier (file name) SB135-DOA-OPA-1-27-12 Dept. Affected Administration
 Title Continuances in Criminal Trials; Victims Appropriation Legal and Advocacy Services
 Allocation Office of Public Advocacy
 Sponsor Senators French and Dyson
 Requester Senate Judiciary OMB Component Number 43

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services	***	***	***	***	***	***	***	***
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	***	***	***	***	***	***	***	***

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		***	***	***	***	***	***	***

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version

Prepared by Richard Allen, Director
 Division Office of Public Advocacy
 Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 907-269-3504
 Date/Time 01/27/2012 9:15 a.m.
 Date 1/27/2012

FISCAL NOTE #2

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSSB 135(JUD)

Analysis

This bill amends AS 12.61.010(a) by requiring that the victim of a crime be notified of any request for a continuance or pending motions that may substantially delay the prosecution, and inform the court of the victim's position on these motions. This bill amends Rule 45 (d)(2) of the Alaska Rules of Criminal Procedure by adding language that requires the court to grant continuances only after consideration of the crime victim as provided in a new subsection (h) that this bill would also add to Rule 45. The new subsection (h) requires the court to consider the victim's position on motions to continue.

Courts currently consider the impact of delay on a victim's rights under the state constitution. The Office of Public Advocacy believes that the victim's concerns are already considered by parties in trial cases as a result of constitutional requirements concerning crime victims. The compulsory language in the amendment to Rule 45 may have the collateral effect of causing additional hearings and delay if the victim cannot be located. This will be impacted by how the courts interpret "substantial delay."

Although this bill may increase hearings and delay, the Office of Public Advocacy (OPA) cannot reliably predict whether this will occur or what the fiscal impact will be. Therefore, the Agency submits an indeterminate fiscal note.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

December 14, 2011

SUBJECT: Sectional Analysis of 27-LS0966\A

TO: Senator Hollis French
Attn: Lila Hobbs

FROM: Doug Gardner
Director

You requested a sectional analysis of the above referenced bill. Preliminarily, please note that a sectional analysis should not be considered an authoritative interpretation of a bill -- the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it relates to a particular set of circumstances, please advise.

Overview of the Bill

As an overview, the bill has the primary purpose of amending statute and court rule to provide a right to victims of crime defined by AS 12.55.185, to notice from the prosecuting attorney of any request for a continuance that will substantially delay trial. The bill also provides that the prosecuting attorney must inform the court of the victim's position on the motion. The bill requires that prior to ruling on the motion, the court must consider the victim's position on a motion to continue that may substantially delay the prosecution. The bill provides that the court must consider the effect such a continuance will have on the victim. With that overview, a brief sectional analysis follows.

Section one of the bill amends AS 12.61.010(a)(2), by adding a provision to the enumerated rights of crime victims providing that a victim has a right to be notified by the appropriate law enforcement agency, or the prosecuting attorney, of any request for a continuance that may substantially delay the prosecution

Section two of the bill amends AS 12.61.015(a), the duties of a prosecuting attorney, to include the duty to inform the victim, as defined in AS 12.55.185, of a pending motion that may substantially delay the prosecution, and inform the court of the victim's position on the motion.

Section three of the bill amends Criminal Rule 45(d)(2), which is the criminal rule that provides the court with the authority to grant a continuance in a criminal case. This section adds a provision that requires that a court, when considering a motion to grant a continuance, may do so only after considering the victim's interest in a ruling by the court

Senator Hollis French
December 14, 2011
Page 2

on the motion to continue. This section references the new section of Criminal Rule 45 added in section four of the bill.

Section four of the bill amends Criminal Rule 45, by adding a new section (h), entitled "Victim's Interest on Ruling on Motion to Continue." Section (h) provides that before ruling on a motion to continue in a case involving a victim of crime as defined in AS 12.55.185, that the court must consider the victim's position on the motion to continue, and the effect that a continuance will have on the victim.

DDG:ljw
11-458.ljw

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Joe Paskvan
Senator John Coghill

Senate Judiciary Committee

MEMORANDUM

Summary of Changes SB 135, Version M

- Section 2, lines 12-15 – incorporates a definition of “substantially delay”
- Section 3, line 24 – removes the word “only”
- Section 3, line 25 – “if known” was added to provide for instances where the victim cannot be contacted or does not wish to participate
- Section 4, line 4 – “if known” was added again to account for the aforementioned circumstances



**STATE OF ALASKA
OFFICE OF VICTIMS' RIGHTS**

January 17, 2012

The Honorable Hollis French, Senator
State of Alaska Senate
Chair, Judiciary Committee
Alaska State Legislature
State Capital
Juneau, Alaska 99801

Re: Senate Bill 135, Continuances in Criminal Trials; Victims

Dear Senator French:

I write in support of Senate Bill 135, Continuances in Criminal Trials; Victims.

The proposed legislation strengthens notification standards for informing crime victims of any request for a continuance that may substantially delay the prosecution, the date of trial, sentencing, an appeal, and any hearing which the defendant's release from custody is considered.

The amendments to Alaska Criminal Rule 45 strengthen a crime victim's right to address the court, and for the court to consider the crime victim's perspective, before issuing an order based on a motion for continuance.

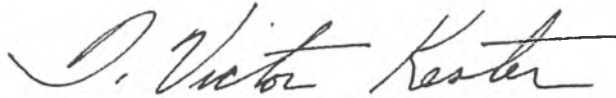
Both components to the proposed legislation fortify a crime victim's statutory rights and Alaska Constitutional rights to be "treated with dignity, respect, and fairness" and "to timely disposition of the case..." (Alaska Constitution, Article 1, Section 24). The proposed legislation also stands to amplify the crime victim's voice before the court and other criminal justice agencies regarding delay in the criminal justice process.

I believe strongly that the administration of justice is improved when a crime victim's voice is heard and considered within the Alaska criminal justice system.

In sum, the proposed legislation wisely aligns with the Alaska Constitutional rights of a crime victim - especially with regard to the timely disposition of a criminal case.

I stand ready to testify in support of this legislation.

Respectfully submitted,

A handwritten signature in cursive script that reads "D. Victor Kester". The signature is written in dark ink and is positioned above the printed name.

D. Victor Kester
Executive Director



January 24, 2012

The Honorable Hollis French, Senator
Chair, Senate Judiciary Committee
Alaska State Legislature, State Capitol
Juneau, Alaska 99801

RE: Senate Bill 135, Continuances in Criminal Trials; Victims

Dear Senator French:

On behalf of the Board of Directors of Victims for Justice, I am writing to support Senate Bill 135.

Time and time again, we see continuances provided to defendants in criminal cases for reasons that seem insufficient and sometimes disingenuous, with absolutely no consideration given to the challenges this presents to victims in the case.

We have supported victims of violent crimes, and the surviving family members of homicide victims, in cases where so many continuances have been granted that they caused the trial to be delayed more than a decade. This length of delay can work to the benefit of the defendant, when witnesses die or leave the state, memories fade, prosecutors change over and over and it becomes difficult or impossible to win a conviction. And these delays work to the serious disadvantage of victims who only want to see justice done, and to society in general.

We have known victims to travel hundreds or thousands of miles, and incur great expense and inconvenience so that they may exercise their right to attend a trial or hearing, only to have the trial or hearing continued with absolutely no consideration given as to how this impacts the victim.

We recognize that courts want to extend the benefit of the doubt to defendants, who, after all, are the ones whose liberty is at stake. However, we feel the courts often fail to take into consideration the rights afforded by our state Constitution to victims in these situations. Senate Bill 135 puts the victim in the picture, and supports the judge who considers the victim when deciding whether to grant a continuance.

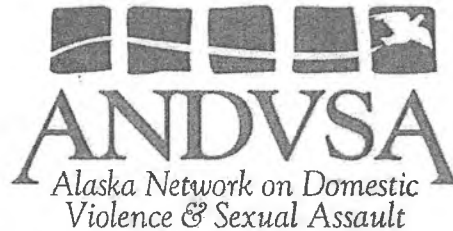
This bill is a very modest change to existing statutes and court rules. It simply describes a means to implement the requirements of our state Constitution and statutes with regard to victims. However, in a very important way, this bill brings balance to our justice system.

The Board of Directors of Victims for Justice strongly support SB 135.

Regards,

Susan Sullivan
Executive Director

Main Office
130 Seward St #214
Juneau, Alaska 99801
Phone: (907) 586-3650
Fax: (907) 463-4493
www.andvsa.org



Pro Bono Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907)747-7547

January 25, 2012

Honorable Senator Hollis French
State Capitol, Room 417
Juneau, Alaska 99801

Re: Senate Bill 135, Right to a Timely Disposition

Dear Senator French:

Thank you so much for introducing this very important bill. The Alaska Network on Domestic Violence and Sexual Assault strongly supports Senate Bill 135. It is our understanding that this bill will provide a victim of crime, including domestic violence and sexual assault crime victims, a notice from law enforcement or prosecution when there will be a request for a continuance that would substantially delay a prosecution. All too often in Alaska victims have been disappointed in the process, procedure and outcome of their case. This bill will provide for consideration of the victim's wishes, the impact that continual delays will have on a victim of crime, and provide the victim with information of what to expect or what not to expect, in the nearer future.

Our eighteen member victim service agencies throughout the state witness daily the impact these delays have on the people they serve. Time and time again, our advocates appear in court with victims of both domestic violence and sexual assault, only to have their courage and hopes dashed by yet another delay. It has become a 'tactic' which, when employed, disheartens the victim, decreases their sense of safety and decreases their faith in the criminal justice system and the State of Alaska. Hopefully, this bill will strike a balance between the Constitutional right to a speedy trial for both defendants and victims.

Sincerely,

Peggy Brown
Executive Director

cc: Lisa Mariotti, Policy Director

Member Programs

Anchorage AWAIC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE Fairbanks IAC Homer SPHH
Juneau AWARE Kenai LeeShore Center Ketchikan WISH Kodiak KWRCC Kotzebue MFCC Nome BSWG
Seward SeaView Community Services Sitka SAFV Unalaska USAFV Valdez AVV



Standing
Together
Against
Rape

Crisis Intervention | Advocacy | Education | Prevention

January 20, 2012

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801

Re: Senate Bill 135, Continuances in Criminal Cases

Dear Senator French:

Standing Together Against Rape (STAR) strongly supports any bill that affords a victim of crime the opportunity to have their voice and concerns heard by the justice system. Senate Bill 135 appears to strengthen "the right to a timely disposition of the case following the arrest of the accused" as stated in the Alaska Constitution.

Crime victims, in particular, victims of sexual assault feel a tremendous amount of anxiety when contemplating facing the person who assaulted them in court. The anxiety builds, creating sleepless nights and increased reliance on coping skills. The day arrives, and the trial is continued. This pattern can be repeated over and over and over again. If the offender is incarcerated the victim is afraid they will be released. If the offender is not incarcerated the victim feels they must continue watching over their shoulder at the market, the department store, the movies, etc. The ability of the victim to move about freely may be inhibited.

While I believe it is not the intent of prosecution to re-victimize crime victims, repeated continuances often do. At the same time STAR recognizes the need for the prosecution to put forth a strong case, to increase the possibility of conviction, to hear defense requests and to lessen the likelihood of appeal. Hopefully this bill will allow for a balance to be struck between the two.

Respectfully submitted,

Standing Together Against Rape
Nancy A Haag, MSW
Executive Director

STAR's mission is to provide quality crisis intervention, education and advocacy services to victims of sexual assault, sexual abuse, their families and our community.

1057 W. Fireweed Lane
Suite 230
Anchorage, Alaska 99503

Office Line 907.276.7279
Fax 907.278.9983
Web www.staralaska.com

24-Hour Crisis Line 907.276.7273
Relay Friendly
Toll Free 800.478.8999

Dear Lawmakers,

I am writing to encourage your support for Senator Hollis French's SB 135 dealing with a victim's constitutional right to "timely disposition of their case."

As many of you may recall, my daughter, Bonnie Craig, was murdered in September 1994. Her killer, Kenneth Dion was finally sentenced October 31st, 2011. For 17 years our family, friends and the community waited for justice. Our constitutional right to "timely disposition of our case" was violated again and again. I vowed, when thrown into this horror story, that I would make sure the things that went wrong in our case would be changed for others.

Protecting a victim's right to "timely disposition" is the most important change that needs to come out of this incredible tragedy. It was the most egregious violation that our family had to endure, and that violation was at the hands of the State of Alaska, not the criminal. I need your help to ensure all future victims will have their constitutional rights protected in Alaska. Let's balance the scales of justice and honor the victim's right to "timely disposition."

Do not be mistaken. It is not okay to think: "At least the criminal is behind bars and can't hurt anyone else." The pain inflicted on the victims is inexcusable and the prosecution of the case against the defendant weakens daily. Delays are a tactical advantage for defense attorneys to accommodate defense attorneys, rarely the defendant.

Kenneth Dion was identified November 2006. From the time he was identified our family was basically placed under a "gag order." Nothing could be said to the press, our friends, or the community. Our incredible grief - the wounds being ripped wide open, bringing us back to the day we were notified of Bonnie's death - were to be muzzled, and kept deep within us. We weren't allowed to share the news, our private trauma, our personal hell, for four months. As a family, we tried to continue our life as if nothing was happening, pretending this incredible burden and stress didn't exist. It was tearing us apart, eating at the very core of our existence, like a cancer. It destroyed relationships and financially ruined me. It affected our health and my parenting abilities. It could, and can, destroy a whole family.

Finally, May 1st, 2007 the news was released. Although we talked with the press and could finally share the information with friends, the gag was, once again, placed on our family members to avoid all contact with media. The threat of a "change of

venue" is not something a victim's family can take lightly. Until a jury is selected, avoiding any media coverage is critical. Our jury was selected more than 4 years later. During that time it became abundantly clear that the defense attorney and the defendant hold all the power and they call all the shots. Victims can only sit back and wait without complaining.

I know that you will never be able to even imagine the pain and suffering a parent, a sister and brothers goes through while awaiting a trial. Our pain and stress and fear was multiplied ten-fold with the memories of Joshua Wade being acquitted. We knew things could go wrong, evidence could get lost, a technicality could cause a mistrial, investigators and witnesses could die or be lost. We know memories fade. We know each day something could come up that could make it impossible to prosecute the man who brutally raped and murdered Bonnie. Our life is in a limbo, teetering on insanity. It is beyond comprehension. Yet, we try to continue our life with a new kind of normalcy.

Our first trial date was set for September, 2008. Please keep in mind that the killer was identified November, 2006. I wept when Judge Patrick McKay set the date. It was like having your guts ripped out of your body. He justified it by saying it would give both the prosecution and the defense plenty of time to prepare and that there would be absolutely no reason for any continuance. He vowed that he wanted to make sure both sides would be prepared, so we were going to have pretrial conferences to avoid any surprises or complications from arising. And we did. By the time we got to trial we had 45 pre-trial conferences, status and motion hearings. The judges, both Judge McKay and Judge Jack Smith were trying to make sure the defense was getting all they needed and getting ready for trial. They both failed. If the defense asks for anything, the judge, in fear of an appeal, will always grant the defense more time, even if it meant losing Pat Gullufson, our prosecutor of 3 years who had to retire for medical reasons. (July 15, 2010 a new prosecutor, Paul Miovas, took the case over. He successfully handled the case in less than 10 months.)

More than once, Lee De Grazia, the first public defender, misled the Judge. We all knew it and yet he never called her on it. One month before the trial was to start she claimed she fired her "DNA Expert" and would need more time. We all sat there amazed and wondering if she was lying. Had she even hired one yet? She doesn't need to answer to anyone. There was no accountability. She made a mockery of the whole system. When the case was finally handed over to Office of Public Advocacy defense attorney Andrew Lambert (03/23/09) he told Judge McKay that De Grazia had done virtually nothing on the case and the judge

responded, "I was afraid of that" 18 months had been wasted on a totally incompetent defense attorney.

Make no mistake, the delays are not about affording the defendant a fair trial, nor protecting the defendant's rights. They are for the benefit of, more times than not, the defense attorney's schedule and needs. The litigation of a case is dictated by the personal life of the defense attorney. Timely disposition is about case management and having efficient and effective counsel. It is about prioritizing cases that have been lingering on for the benefit of the defense attorney's schedules. You can't imagine how disheartening it is to hear your case is going to be delayed, yet again, for 4-5 months because the defense attorney wants to go on their second, one month vacation of the year and he needs about a week to do a divorce case for a buddy of his and he is going to visit some schools for his daughter. Why can't co-counsel take over?

If a builder is building a home he can't tell the client he is going away for a month on vacation and will need 3-4 more months. In just about any profession a project must be completed before those involved can decide to take time off.

If you were diagnosed with cancer and the doctor goes for vacation for a month you have the opportunity to use another doctor. Victims have no choice, but to sit and wait. Prosecutors can't request that we use another defense attorney or that co-counsel handle the scheduled hearing, nor can the judge tell a defense attorney they will need to hold off on their vacation.

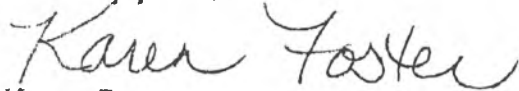
Below, I have listed each trial date that was set. I can never describe the sickening feeling a family feels when you are told, once again, that the trial date will be changed. You feel like you are going to vomit. Again, it's like your guts are being ripped out of you. In many cases I was on the verge of tears, knowing we would be given no consideration. And, it is always incredulous reasoning, something that you think may require an extra week or two, delays the trial by 4 months or more.

Preparing for each pretrial hearing is mentally exhausting. You have difficulty functioning and sleeping in fear of what the defense is going to do each time. The tension and anxiety are overwhelming. Getting to court is difficult. We had 45 pretrial hearings. Please consider what that does to families. As a victim, you can't plan life too far in advance; you can't start to rebuild your life.

Refusal to deal with "timely disposition" is a refusal to address the inefficiencies in our justice system, and allowing the "justice system" to re-victimize the victims. Please, support Senator French's SB 135 to honor victim's constitutional right to

"timely disposition of their case." Show the victims the respect they deserve and stop the re-victimization of the victims.

Sincerely yours,



Karen Foster

November, 2006	Defendant Identified	
September 15, 2008	First Trial Date	4 month delay
January 5th, 2009	Second Trial Date	4 month delay
May 11, 2009	Third Trial Date	4 month delay
April 19, 2010	Fourth Trial Date	One year delay
August 30, 2010	Fifth Trial Date	4 month delay
February 7th, 2011	Sixth Trial Date	6 month delay
May 10th, 2011	Went to Trial, jury finally selected.	

Lila Hobbs

From: karen.dynamic@gci.net on behalf of Karen Foster <karen.dynamic@gci.net>
Sent: Friday, January 27, 2012 7:38 AM
To: Lila Hobbs
Subject: Today's Hearing

The earlier email I sent had the wrong date for the new defense attorney. It should have been 2009 Can you please change it. Thanks,

Karen

State of Alaska v. Kenneth Dion

November, 2006	Kenneth Dion Identified	
September 15, 2008	First Trial Date	4 month delay
January 5th, 2009	Second Trial Date	4 month delay
May 11, 2009	Third Trial Date	4 month delay
March 23, 2010	New Defense attorney assigned	
April 19, 2010	Fourth Trial Date	One year delay
July 15, 2010	New Prosecutor assigned	
August 30, 2010	Fifth Trial Date	4 month delay
February 7th, 2011	Sixth Trial Date	6 month delay
May 10th, 2011	Went to Trial, Jury finally selected.	
June 15th, 2011	Dion convicted	
October 31st, 2011	Dion sentenced to 124 years	



Alaska Association of Chiefs of Police

February 10, 2012

Senator Hollis FRENCH
Mailstop: 3100 Room 417
State Capitol,
Juneau AK 99801-1182

RE: SB 135, An Act relating to the rights of crime victims; relating to the duties of prosecuting attorneys; and amending Rule 45, Alaska Rules of Criminal Procedure

Dear Senator French,

The Alaska Association of Chiefs of Police, Inc. (AACOP) represents Criminal Justice executives across Alaska; from Anchorage to Annette Island, Barrow to Bethel and Kotzebue to Ketchikan. Our 120 Members direct local, state and federal criminal justice agencies. We collaborate and work together toward one goal: making our state and communities safer.

AACOP leadership recently met to evaluate the impact on public safety of pending legislation before the 27th Alaska Legislature. One of the bills evaluated was SB 135, *An Act relating to the rights of crime victims; relating to the duties of prosecuting attorneys; and amending Rule 45, Alaska Rules of Criminal Procedure*. **We are writing to express our unreserved support for this bill as it is currently drafted.**

If you have need of testimony from any of our members as the bill proceeds through the committee process, please do not hesitate to contact us.

Respectfully,

Chief Tom Ciemons,
President, AACOP
(907) 224-3338



February 10, 2012

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Wrangell Chapter
Wrangell

Senator Hollis French
Alaska State Senate
State Capitol
Juneau AK 99801-1182

Dear Senator French:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing Senate Bill 135, an act relating to the rights of crime victims; relating to the duties of prosecuting attorneys; and amending Rule 45, Alaska Rules of Criminal Procedure.

The APOA State Board of Directors recently reviewed this proposed legislation and decided to unanimously support this bill.

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,

John Lucking, Jr.
State President

PO Box 240106
Anchorage AK 99524

t 907 277 0515
f 907 272 5355

Making A Difference In The Last Frontier



Senator Hollis French


Capitol Room 417
465-3892
465-6595 fax



MEMORANDUM

Date: March 14, 2012

To: Representative Bill Stoltze, Co-Chairman
Representative Bill Thomas, Co-Chairman
House Finance Committee

From: Senator Hollis French 

RE: Hearing Request

I respectfully request a hearing on SB 135 – Continuances in Criminal Cases; Victims.

Included in this packet is a copy of the most recent version of the bill (version M), a sponsor statement, sectional analysis, explanation of changes, fiscal notes, and back up documentation. No audio/visual equipment will be necessary for a bill hearing.

The following individuals will be available to testify:

- Susan Sullivan, Executive Director, Victims for Justice
- Victor Kester, Executive Director, Office of Victims' Rights
- Nancy Haag, Executive Director, Standing Together Against Rape
- Lisa Mariotti, Policy Director, AK Network on Domestic Violence & Sexual Assault
- Karen Foster, mother of Bonnie Craig and Founder of Alaska Citizens for Justice

If you have any questions about this legislation, please contact Lila Hobbs in my office at 465-3892.

I appreciate your consideration.