

**SB**

**201**

<TARGET><BILL>SB 201</BILL><SUBJECT>SB  
201</SUBJECT><COMM>HRLS28</COMM></TARGET>



# ALASKA STATE LEGISLATURE

## SESSION

State Capitol, Rm. 30  
Juneau, Alaska 99801-1182  
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(907) 465-3922 Fax  
(877) 463-3873 Toll Free  
Senator.Bert.Stedman@akleg.gov



## INTERIM

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**SENATOR BERT K. STEDMAN**

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## MEMORANDUM

**TO:** Representative Craig Johnson, Chair  
House Rules Committee

**FROM:** Senator Bert Stedman

**DATE:** April 14, 2014

**SUBJECT:** SB 201 explanation of changes

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SB 201 version A repealed AS 11.46.350(b) and (c). The Senate Judiciary Committee Substitute version U only repeals AS 11.46.350(c).

### District Q

*Ketchikan • Sitka • Wrangell • Haines • Metlkatla • Craig  
Klawock • Hoonah • Kake • Thorne Bay • Angoon • Saxman • Hydaburg • Coffman Cove • Naukati • Hollis  
Klukwan • Hyder • Pelican • Kasaan • Port Alexander • Port Protection • Edna Bay • Whale Pass • Elfin Cove • Point Baker • Meyers Chuck*

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**SENATOR BERT K. STEDMAN**

## Sponsor Statement

### **CSSB 201(JUD) - Criminal Trespass on Private Property**

Current state law gives a person who enters or remains on unimproved or apparently unused land the privilege to do so unless notice against trespass is given. There are two ways notice against trespass can be given: 1) if the landowner or an authorized representative personally communicates to the person that trespass is prohibited; or 2) if "no trespass" signs are posted. AS 11.46.350(c) specifies the requirements for posting "no trespass" signs which are:

- It must be printed in English
- It must be at least 144 square inches in size;
- It must contain the name and address of the landlord or an authorized representative;
- It must be posted at every roadway or access point to the property;
- In the case of an island, it must be posted on the perimeter of each cardinal point of the island;
- Furthermore, the sign must state what specific activities are prohibited such as "no hunting", "no fishing", or "no digging."

Senate Bill 201 would repeal AS 11.46.350(c) from statute, thereby removing the excessive requirements for posting numerous no trespassing signs in order to protect access to private property. If we don't do this, intentional trespassers will continue to use this section of statute as a legal defense to enter and remain on private land. All they have to do is find an access point that isn't posted.

Many Alaskans own private property in remote locations with severe weather. No trespassing signs can be blown down, removed by vandals, or covered by snow. The lack of visible signage at every access point to your property should not be a legitimate excuse for trespassers. It should be the responsibility of the individual to find out beforehand if the property they want to use is public or private.

This won't result in a flood of criminal trespass charges against the average citizen who is out for a hike and wanders across someone's private land. In the 1987 case of Johnson vs. State, the court established a pre-requisite for conviction for the offense of criminal trespass. The state is obligated to prove beyond a reasonable doubt that the defendant knowingly remained on the premises after personally being ordered to leave. Finally, this won't change the legal right of a person to use private property in an emergency. AS 11.46.340 provides an affirmative defense against prosecution if someone enters and uses private property in the case of immediate and dire need.

District Q

Ketchikan • Sitka • Wrangell • Haines • Metlakatla • Craig  
Klawock • Hoonah • Kake • Thorne Bay • Angoon • Saxman • Hydaburg • Coffman Cove • Naukati • Hollis  
Klukwan • Hyder • Pelican • Kasaan • Port Alexander • Port Protection • Edna Bay • Whale Pass • Elfin Cove • Point Baker • Meyers Chuck

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
Fiscal Note Number: 1  
(S) Publish Date: 3/31/14

Identifier: SB201-DOA-OPA-03-14-2014  
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
Sponsor: STEDMAN  
Requester: Senate Judiciary

Department: Department of Administration  
Appropriation: Legal and Advocacy Services  
Allocation: Office of Public Advocacy  
OMB Component Number: 43

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 (separate supplemental appropriation required)  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 (separate capital appropriation required)  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.
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Prepared By: <u>Richard Allen, Director</u>	Phone: <u>(907)269-3504</u>
Division: <u>Office of Public Advocacy</u>	Date: <u>03/14/2014 11:15 PM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/14/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 201(JUD)

**Analysis**

This legislation repeals AS 11.46.350(b) and (c). Those provisions prescribe a limited privilege for trespassing upon private property under certain circumstances and also prescribe methods of notice and posting by landowners which negate that limited privilege.

By repealing those provisions, SB201 would strengthen the criminal trespass law at AS 11.46.300-.330 and eliminate potential or possible defenses to a charge of criminal trespass based upon (b) and (c). The bill would impact the general public, landowners, prosecutors and defendants charged with criminal trespass.

This bill would not likely have any material impact upon OPA operations, administration or budget and therefore, OPA submits a zero fiscal note.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
Fiscal Note Number: 2  
(S) Publish Date: 3/31/14

Identifier: SB201-DOA-PDA-03-14-14  
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
Sponsor: STEDMAN  
Requester: Senate Judiciary

Department: Department of Administration  
Appropriation: Legal and Advocacy Services  
Allocation: Public Defender Agency  
OMB Component Number: 1631

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	***	0.0	***	***	***	***	***

**Fund Source (Operating Only)**

None							
<b>Total</b>	***	0.0	***	***	***	***	***

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 (separate supplemental appropriation required)  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 (separate capital appropriation required)  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version

Prepared By: <u>Quinlan Steiner, Public Defender</u>	Phone: <u>(907)334-4414</u>
Division: <u>Public Defender Agency</u>	Date: <u>03/14/2014 11:53 AM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/14/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS #2

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 201(JUD)

**Analysis**

SB201 repeals the privilege given to parties who trespass on unimproved and unused land with no criminal intention and without notice against trespass.

Repealing this privilege may result in increased charges for trespass. The Public Defender Agency cannot reliably predict the number of new cases this may generate. The agency, therefore, submits a n indeterminate fiscal note.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
Fiscal Note Number: 3  
(S) Publish Date: 3/31/14

Identifier: SB201-DOC-OC-03-14-14  
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
Sponsor: STEDMAN  
Requester: Senate Judiciary

Department: Department of Corrections  
Appropriation: Administration and Support  
Allocation: Office of the Commissioner  
OMB Component Number: 694

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

This is the original version of the bill.

Prepared By:	April Wilkerson, Director	Phone:	(907)465-3460
Division:	Administrative Services - Department of Corrections	Date:	03/14/2014 04:00 PM
Approved By:	Leslie Houston, Deputy Commissioner	Date:	03/14/14
Agency:	Department of Corrections		

FISCAL NOTE ANALYSIS #3

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 201(JUD)

**Analysis**

This bill repeals the sections of law which allow a person to enter and remain on apparently unused and unimproved land unless they have notice that they are trespassing. This removes the property owner's responsibility to provide notice of trespass in a reasonably conspicuous manner. It also makes any action of entering and remaining on property without the privilege to do so criminal trespass.

Criminal trespass in the second degree is a class B misdemeanor and is punishable by a term of imprisonment of not more than 90 days. At this time it is not known how many individuals would be incarcerated as a result of this legislation. However, the Department could see a fiscal impact of \$0 (no days served) to \$14,280.30 (90 days served) for each class B misdemeanor conviction under this legislation. The Department will continue to monitor the future impacts of this legislation.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
Fiscal Note Number: 4  
(S) Publish Date: 3/31/14

Identifier: SB201-DPS-AWT-03-14-14  
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
Sponsor: STEDMAN  
Requester: Senate Judiciary

Department: Department of Public Safety  
Appropriation: Alaska State Troopers  
Allocation: Alaska Wildlife Troopers  
OMB Component Number: 2746

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By: <u>Captain Burke Waldron</u>	Phone: <u>(907)761-7139</u>
Division: <u>Alaska Wildlife Troopers</u>	Date: <u>03/14/2014 03:30 PM</u>
Approved By: <u>Gary Folger, Commissioner</u>	Date: <u>03/14/14</u>
Agency: <u>Department of Public Safety</u>	

FISCAL NOTE ANALYSIS #4

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 201(JUD)

**Analysis**

This bill proposes to repeal subsections (b) and (c) from AS 11.46.350 relating to the definition of terms used in burglary and criminal trespass laws; essentially removing the exception (privilege) that allows a person to remain on private property that is unimproved and apparently unused land unless notice is given. This specifically relates to criminal trespass in the second degree under AS 11.46.330.

Criminal trespass in the second degree has a default culpable mental state of "knowingly" per AS 11.81.610. The definitions contained in AS 11.46.350(b) and (c) give parameters of what constitutes "knowingly" for the purposes of trespassing onto private property that is unimproved and apparently unused. If (b) and (c) are removed, "knowingly" will default to the definition given in AS 11.81.900 which is more ambiguous than the necessary conduct described in (b) and (c).

Though it is anticipated that the Alaska Wildlife Troopers may spend more time investigating reported trespass cases on unimproved land trying to establish whether the conduct would constitute "knowingly" trespassed, this is part of the normal job duties of a trooper and would therefore not result in a fiscal impact. Consequently, a zero fiscal note is being submitted.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
Fiscal Note Number: 5  
(S) Publish Date: 3/31/14

Identifier: SB201-DPS-DET-03-14-14  
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
Sponsor: STEDMAN  
Requester: Senate Judiciary

Department: Department of Public Safety  
Appropriation: Alaska State Troopers  
Allocation: Alaska State Trooper Detachments  
OMB Component Number: 2325

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By: Lt. Rodney Dial	Phone: (907)247-4480
Division: Alaska State Troopers	Date: 03/14/2014 01:30 PM
Approved By: Gary Folger, Commissioner	Date: 03/14/14
Agency: Department of Public Safety	

FISCAL NOTE ANALYSIS #5

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 201(JUD)

**Analysis**

This bill proposes to repeal subsections (b) and (c) from AS 11.46.350 relating to the definition of terms used in burglary and criminal trespass laws; essentially removing the exception (privilege) that allows a person to remain on private property that is unimproved and apparently unused land unless notice is given. This specifically relates to criminal trespass in the second degree under AS 11.46.330.

Criminal trespass in the second degree has a default culpable mental state of "knowingly" per AS 11.81.610. The definitions contained in AS 11.46.350(b) and (c) give parameters of what constitutes "knowingly" for the purposes of trespassing onto private property that is unimproved and apparently unused. If (b) and (c) are removed, "knowingly" will default to the definition given in AS 11.81.900 which is more ambiguous than the necessary conduct described in (b) and (c).

Though it is anticipated that the Alaska State Troopers may spend more time investigating reported trespass cases on unimproved land trying to establish whether the conduct would constitute "knowingly" trespassed, this is part of the normal job duties of a trooper and would therefore not result in a fiscal impact. Consequently, a zero fiscal note is being submitted.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
Fiscal Note Number: 6  
(S) Publish Date: 3/31/14

Identifier: SB201-LAW-CRIM-03-14-14  
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
Sponsor: STEDMAN  
Requester: (S) JUDICIARY

Department: Department of Law  
Appropriation: Criminal Division  
Allocation: Criminal Justice Litigation  
OMB Component Number: 2202

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	***	FY 2015	***	***	***	***	***
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	***	<b>0.0</b>	***	***	***	***	***

**Fund Source (Operating Only)**

None							
<b>Total</b>	***	<b>0.0</b>	***	***	***	***	***

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Estimated CAPITAL (FY2015) cost:** 0.0 (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial version, not applicable.

Prepared By: <u>Loretta Withington, Division Operations Manager</u>	Phone: <u>(907)465-5427</u>
Division: <u>Department of Law</u>	Date: <u>03/14/2014 05:00 PM</u>
Approved By: <u>Michael C. Geraghty, Attorney General</u>	Date: <u>03/14/14</u>
Agency: <u>Department of Law</u>	

FISCAL NOTE ANALYSIS #6

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 201(JUD)

**Analysis**

This bill repeals two portions of the definition of "enters or remains unlawful," an element to the crimes of criminal trespass. AS 11.46.350(b) provides that a person who enters upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so lawfully unless notice against trespass is personally communicated to him by the owner of such land or other authorized person, or unless such notice is given by posting in a conspicuous manner.

"This provision is designed to expressly exclude from the scope of the offense of criminal trespass, a person who enters upon unimproved and apparently unused land when there is no indication of apparent prohibition against such intrusion. The innocence of a typical trespass where an individual hiker walks without consent upon the unfenced, unposted land of another, and its frequency in a state dominated by wilderness and public land interspersed with private land, prompts the conclusion that such a minimal intrusion upon the land of another should not be a criminal offense unless reasonable notice is given the trespasser not to enter or remain on such property."

Tentative Draft III page 3, Criminal Code Revision Committee page 54, Representative Terry Gardner, Chair.

This deletion will increase the number of entries onto premises which will be illegal. AS 11.46.350(c) repeals language which set standards of signage for notification against trespass. The number of entries onto land which will become illegal with these sections being repealed is indeterminate and hence the increased cost for prosecuting this new illegal conduct is unknown.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
Fiscal Note Number: 7  
(S) Publish Date: 4/8/14

Identifier: SB201CS(JUD)-DOA-PDA-03-29-14  
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
Sponsor: STEDMAN  
Requester: Senate Judiciary

Department: Department of Administration  
Appropriation: Legal and Advocacy Services  
Allocation: Public Defender Agency  
OMB Component Number: 1631

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Updated for committee substitute.

Prepared By: <u>Quinlan Steiner, Public Defender</u>	Phone: <u>(907)334-4414</u>
Division: <u>Public Defender Agency</u>	Date: <u>03/29/2014 03:20 PM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/29/14</u>
Agency: <u>Department of Administration</u>	

**FISCAL NOTE ANALYSIS #7**

**STATE OF ALASKA  
2014 LEGISLATIVE SESSION**

**BILL NO. CSSB 201(JUD)**

**Analysis**

SB201 eliminates the specific language articulating the ways notice against trespass must be given by property owners.

The Public Defender Agency does not anticipate a fiscal impact from this legislation and therefore submits a zero fiscal note.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
 Fiscal Note Number: 8  
 (S) Publish Date: 4/8/14

Identifier: SB201CS(JUD)-DOC-OC-03-29-14  
 Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
 Sponsor: STEDMAN  
 Requester: Senate Judiciary

Department: Department of Corrections  
 Appropriation: Administration and Support  
 Allocation: Office of the Commissioner  
 OMB Component Number: 694

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**  
 If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

This fiscal note reflects changes made in Senate Judiciary.

Prepared By: <u>April Wilkerson, Director</u>	Phone: <u>(907)465-3460</u>
Division: <u>Administrative Services - Department of Corrections</u>	Date: <u>03/29/2014 08:00 AM</u>
Approved By: <u>Leslie Houston, Deputy Commissioner</u>	Date: <u>03/29/14</u>
Agency: <u>Department of Corrections</u>	

FISCAL NOTE ANALYSIS #8

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 201(JUD)

**Analysis**

This bill repeals the section of law which outlines detailed requirements for posting notice of trespass. Under this legislation, a property owner would only be required to give notice of trespass in person or by posting a notice in a reasonably conspicuous manner under the circumstances.

Criminal trespass in the second degree is a class B misdemeanor and is punishable by a term of imprisonment of not more than 90 days. The Department could see a fiscal impact of \$0 (no days served) to \$14,280.30 (90 days served) for each class B misdemeanor conviction under this legislation.

At this time the department does not have information to quantify the number of potential offenders this legislation would create and will continue to monitor for future impacts. The Department of Corrections anticipates minimal to no fiscal impact at this time.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 201(JUD)  
Fiscal Note Number: 9  
(S) Publish Date: 4/8/14

Identifier: SB201CS(JUD)-LAW-CRIM-04-07-14  
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY  
Sponsor: STEDMAN  
Requester: (S) FINANCE

Department: Department of Law  
Appropriation: Criminal Division  
Allocation: Criminal Justice Litigation  
OMB Component Number: 2202

**Expenditures/Revenues**

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

(Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?  No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Fiscal note changed from indeterminate to zero, and analysis changed to reflect that the committee substitute does not repeal AS 11.46.350(b), which requires notice against trespass by posting or actual communications.

Prepared By: Loretta Withington, Division Operations Manager  
Division: Department of Law  
Approved By: Michael C. Geraghty, Attorney General  
Agency: Department of Law

Phone: (907)465-5427  
Date: 03/31/2014 10:20 AM  
Date: 04/07/14

FISCAL NOTE ANALYSIS #9

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 201(JUD)

**Analysis**

This bill repeals AS 11.46.350(c), which describes the manner in which a person must post his property under the criminal trespass prohibition. Current law requires that notice be a minimum size and be placed at each place of access to the property known to the owner.

If the bill is enacted owners would still be required to post their property in a reasonably conspicuous manner or personally deliver notice. The number of entries that will be illegal under this change is not known; however the Department of Law does not anticipate a fiscal impact.

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# State: Snares legal despite lack of landowner permission

By ZAZ HOLLANDER

zhollander@adn.com November 29, 2013

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Land leaseholders Mark Loomis and Nicolene Jordan posted a no trespassing sign at an access point near Colony High School after they discovered snares on the land. Authorities say setting traps or snares on private land isn't illegal unless access points are posted with signs. November 2013.

PHOTO BY MARK LOOMIS

- Related Links:
- [Link](#)The Alaska Statute pertaining to criminal trespass
- [Link](#)The ADFG Alaska Trapping Regulations

WASILLA -- Nearly 40 snares baited with moose heads turned up earlier this month on land Nicolene Jordan leases for a gravel pit near Colony High School.

Jordan and her husband, Mark Loomis, say they didn't give anyone permission to trap on the land outside Palmer.

Nor did property owner Ralph Kircher, who now lives in Washington state but spent most of his 77 years on the 160-acre family homestead.

The name on a permit posted at the snares was John Cyr – a longtime Alaska State Trooper who works wildlife cases out of Palmer.

Jordan filed a complaint Nov. 16 with the Department of Public Safety's Office of Professional Standards. That same weekend, the couple got a visit from troopers Sgt. Mark Agnew, following up on the complaint.

The verdict: Cyr and his trapping partner did nothing illegal, troopers said this week. That's because their access point wasn't posted with signs warning against trespass.

"If the land's not posted, it may be trespassing in your mind but it's not criminal trespassing by Alaska statute," said Alaska Wildlife Trooper Capt. Burke Waldron, who supervises Agnew and Cyr.

Cyr did not return calls for comment.

But his trapping partner, Rick Ellis, did.

Ellis, former president of the Alaska Frontier Trappers Association, said he and Cyr trapped that same area – an old potato field next to Colony High School -- last year because there was no sign posted at the access area off the road.

A 60-year-old disabled veteran, Ellis said he looks for trapping sites he can access easily.

This year, Ellis said, he'd set the snares for fox and coyote but the pair hadn't started trapping yet.

The only illegal thing that happened in mid-November, Ellis said Wednesday, was that Loomis pulled his snares, which he still doesn't have back.

"My rights as a trapper were violated when the husband removed my equipment," he said. "If anybody broke the laws, they did. Not me."

He said he hadn't decided yet whether to press charges.

#### **LANDOWNERS: BE WARNED**

Property owners may not realize it, but Alaska statutes on criminal trespass put a significant burden on them to provide notice, Waldron said.

"The trespassing law is very specific on what constitutes 'posting,' " he said.

As defined by state law, signs warning against trespass must measure at least a square foot, be posted at each road and known access point, and include the property owner's name and address plus anyone else's who can OK access.

No sign marked the place where the trapper walked onto the Kircher land, everybody involved agrees.

But there were signs on another part of the property near the new Trunk Road traffic roundabout, Jordan said.

"If you have 'No Trespassing' signs on the front of the property and he comes in the back, how can it be legal?" she asked.

Jordan, who owns Central Gravel Products, called the state's interpretation a "loophole" and said Cyr should have known the land was private.

The logs piled at the edge of the field showed somebody didn't want people entering there, she said. Cyr also lives nearby and knows about the gravel pit because she's sold gravel to him.

"He knows full well what's going on on that property," Jordan said. "Those snares were set all the way to the face of the bank where we dig gravel."

Ellis, Cyr's partner, said the lack of signs at the access made all the difference.

"Lacking the presence of any signs, anybody can go anywhere they want," he said. "They can trap, they can hunt, they can do whatever."

He also said that the pair stopped once it became clear the property owner and leaseholders didn't like the snares.

"No harm, no foul," he said. "Nobody broke any laws."

A sign now marks the access point at the potato field near the high school.

### **ETHICAL VIOLATION?**

Authorities say Cyr didn't violate criminal trespass or state game laws. The permit posted at the snares says the moose heads were legally obtained from the Alaska Department of Fish and Game.

But he apparently disregarded state guidelines for ethical trapping practices. The guidelines -- recommendations rather than enforceable laws -- urge trappers to get landowner permission before trapping on private land.

Property owner Kircher said Cyr never asked his permission before setting snares.

"I was never contacted and I would never allow that," he said. "My dad used to trap in the '30s so I understand the Alaska tradition, but for a guy that works for the (troopers) that doesn't seem right."

Kircher said a trapper could easily find who owns his land through the Mat-Su Borough and then contact him.

The Alaska Department of Fish and Game's Alaska Trapping Regulation booklet tells trappers it's their "responsibility as a conscientious trapper" to check with a private landowner first. The booklet's back page also includes the "Code of Ethics" from the Alaska Trappers Association.

Number four: Get landowner permission before trapping on private land.

"The trooper should have that (booklet) because that's the regulations he's supposed to be enforcing," said Keith Bayha, a Glacier View trapper who sits on the association's state and Southcentral boards of directors. "He should know that. He probably also knows it's not criminal trespass if it's not posted."

### **'NOT THAT UNUSUAL'**

Trapping in Alaska remains a popular industry and hobby. Fish and Game sold more than 35,900 resident trapping licenses for the 2011-2012 season and 97 non-resident licenses, though not all licensees ended up trapping, an agency spokesman said. It's said there are about a thousand serious trappers in Alaska.

A Fish and Game spokesman said all the agency can do is encourage trappers to set snares and traps responsibly.

"It's their responsibility to check with landowners before they trap," Fish and Game spokesman Ken Marsh said. "But beyond that, those aren't our laws. We do hunting and fishing laws. As far as trespass laws, the state troopers would be enforcing those."

It's not uncommon for wildlife troopers around the state to field complaints about hunters and trappers on private property, Waldron said. The Palmer office alone has received three complaints, including the Cyr matter, since trapping season opened Nov. 10, he said.

Bayha, a retired biologist, said many trappers work hard to maintain positive relations with the public. He sets his traps miles from any road and posts signs to warn trail users.

People who set traps or snares on private land should -- but don't always -- take the time to find out who owns it, Bayha said.

"That can be found out if they work at it hard enough but it takes time and energy," he said. "For most trappers, time is everything."

Ellis, asked about the ethics of trapping without permission on private land, said the code was structured after Lower 48 states, where notification is a legal requirement. Alaska, with huge amounts of unposted property, is different.

"A lot of what would apply in the Lower 48 doesn't apply up here," he said. "If (Jordan) had made it known she didn't want me on there, then certainly I would have honored that. But otherwise it's fair game."

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