

ALASKA LEGISLATURE

1330

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

1 address. Except when otherwise specifically provided by the Alaska Rules of Civil
2 Procedure or statute, pleadings need not be verified or accompanied by affidavit. The
3 signature of an attorney or party constitutes a certificate by the signer that the signer has
4 read the pleading, motion, or other paper; that to the best of the signer's knowledge,
5 information, and belief formed after reasonable inquiry it is well grounded in fact and
6 is warranted by existing law or a good faith argument of the extension, modification, or
7 reversal of existing law; and that it is not interposed for any improper purpose, including
8 to harass or to cause unnecessary delay or needless increase in the cost of litigation. If
9 a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed
10 promptly after the omission is called to the attention of the pleader or movant. If it is
11 alleged or appears that a pleading, motion, or other paper is signed in violation of this
12 section, the court, upon motion or upon its own initiative, may set the matter for hearing.
13 If the court determines that a pleading, motion, or other paper is signed in violation of
14 this section, the court shall impose upon the person who signed it, a represented party,
15 or both, an appropriate sanction that may include an order to pay to the other party the
16 amount of the reasonable expenses incurred because of the filing of the pleading, motion,
17 or other paper, including costs and attorney fees, and monetary sanctions not to exceed
18 \$10,000.

19 * Sec. 18. AS 08.64.326(a)(12); AS 08.68.270(10); AS 09.55.536, 09.55.548, 09.55.560(2),
20 and 09.55.560(3) are repealed.

21 * Sec. 19. Rule 68, Alaska Rules of Civil Procedure, is amended by adding a new subsection
22 to read:

23 (d) The provisions of this rule do not apply to a claim subject to arbitration
24 under AS 09.55.535.

25 * Sec. 20. AS 09.30.065, as amended by sec. 10 of this Act, has the effect of amending Rule
26 68, Alaska Rules of Civil Procedure, by changing the provisions governing offers of judgment
27 and by providing that the rule does not apply to an offer in a civil action in which there are two
28 or more defendants, unless all defendants join in the offer.

29 * Sec. 21. Rule 72.1, Alaska Rules of Civil Procedure, is repealed.

30 * Sec. 22. AS 09.55.535(i), enacted in sec. 12 of this Act, has the effect of amending Rule
31 601, Alaska Rules of Evidence, by prohibiting the use of an arbitrator as a witness in a
32 subsequent trial.

1 * Sec. 23. AS 09.55.535(i), enacted in sec. 12 of this Act, has the effect of amending Rule
2 82(b), Alaska Rules of Civil Procedure, by allowing the award of reasonable attorney fees in
3 certain actions.

4 * Sec. 24. AS 09.68.125, as enacted in sec. 17 of this Act, has the effect of amending Rule
5 95, Alaska Rules of Civil Procedure, by requiring imposition of sanctions for certain failures to
6 sign pleadings, motions, or other papers.

7 * Sec. 25. SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
8 application of a provision of this Act to any person or circumstance is held invalid, the
9 remainder of this Act and the application to other persons shall not be affected.

10 * Sec. 26. APPLICABILITY. This Act applies to all causes of action accruing on or after
11 the effective date of this Act.

12 * Sec. 27. This Act takes effect only if, on or before December 31, 1999, the director of the
13 division of insurance certifies to the lieutenant governor and to the revisor of statutes that the
14 liability insurance rates filed with the division of insurance have been reduced by at least 10
15 percent from those rates filed on January 1, 1995. In this section, "liability insurance" has the
16 meaning given in AS 21.12.070(a)(2).

17 * Sec. 28. If the condition described in sec. 27 of this Act is fulfilled, this Act takes effect
18 30 days after the date of the certification described in sec. 27 of this Act.

4/10/96

Copy given to
Larry. Hold for
direction from him.

sh

copy of letter dated 1/11, not sent
given to Larry also

4/20/96

11:45 am

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 158 (FIN)

Revision Date: 04/10/96

Dept. Affected: Alaska Court System

Title: Tort Reform

BRU: Trial Courts

Component: _____

Sponsor: Rep. Porter

Requestor: _____

COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL	852.0	852.0	852.0	852.0	852.0	852.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	862.0	862.0	862.0	862.0	862.0	862.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	862.0	862.0	862.0	862.0	862.0	862.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	862.0	862.0	862.0	862.0	862.0	862.0

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel

Agency: Alaska Court System

Phone: 264-8228

Date: 04/10/96

Approved by: Arthur H. Snowden, II, Administrative Director

Agency: Alaska Court System

Date: 04/10/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System
Fiscal Analysis
SCS CSHB 158 (FIN)

SCS CSHB 158 (FIN) am proposes numerous changes to that portion of the civil justice system which deals with personal injury and property damage. These changes are primarily intended to redistribute costs and risks associated with personal injury and property damage.

The Alaska Court System provides the primary forum in this state for the resolution of tort claims. The fiscal impact of the majority of these changes will be neutral or is impossible to reasonably predict. However, several of the proposed changes will have the effect of increasing the costs to the state of administering the tort system.

Section 10 modifies the amount at which prejudgment interest is accrued by changing it from a fixed rate to a floating rate. This complicates the process of calculating interest owed, something which is done by the court system. Such calculations are performed over 10,000 times per year, so even small increases in time spent per case can have a major impact on clerical staff. This fiscal note reflects costs to automate this process and thus keep clerical time increases to a minimum.

Section 11 requires all tort claims of \$100,000 or less to be submitted to non-binding arbitration. A total of 1,422 tort claims were filed in superior and district court in FY 95. An estimated 1,067 would be subject to mandatory arbitration. Arbitrators in Anchorage who are attorneys or former judges typically charge \$150 - \$175 per hour for their services. Arbitrators specializing in tort arbitration advise that this process can be expected to last two to five days (including time for drafting a decision, making decisions on allowable discovery, etc.), for a charge of \$2400 to \$7000. The supreme court will adopt rules requiring parties to pay the costs of arbitration. However, the state will still incur substantial costs from this process because if arbitration is mandatory, the state will be required to pay the costs for those plaintiffs and defendants who are legally indigent. This fiscal note assumes that the average arbitration will cost \$4000, and that 20 percent of litigants will be indigent. Note that 95 percent of all tort cases already settle before trial, and thus arbitration will not appreciably reduce court costs for those cases. The cases which go to trial are those in which after full discovery, the parties still can not agree on the value a jury will put on a claim. Those cases are unlikely to settle as a result of an arbitrator's opinion rendered early in the process. Thus, this section will probably not reduce the state's costs of running the civil justice system.

Section 16 essentially codifies Civil Rule 11, with one significant difference. CR 11 gives a judge the discretion to impose sanctions in any civil case (not just tort cases)

Alaska Court System
Fiscal Analysis
SCS CSHB 158 (FIN)

in which a party has engaged in improper practice. Section 17, on the other hand, would require a judge to impose sanctions in such cases. The federal courts imposed a similar requirement from 1983 to 1993. They experienced a tremendous increase in the number of requests for hearings and sanctions, as attorneys used this as a tool to gain advantage in litigation. As a result of this increase, the federal courts went back to a system almost identical to CR 11. This note assumes that the federal experience will be repeated in Alaska, and that additional judicial time will be spent in a significant percentage of the 24,000 civil cases filed per year.

SCS CSHB 158 (FIN) am can be expected to save some judicial costs by reducing the motion practice currently engaged in on issues which were not clearly resolved the last time tort laws were amended. The amount of savings is speculative, and this note assumes that it is offset by the longer trials and increased appeals that will result until the supreme court resolves issues created by the procedural and substantive changes made by SCS CSHB 158 (FIN). In this regard, note that several of the pro-tort reform attorneys who testified in favor of HB 292 during the 18th Legislature conceded that that bill would result in increased litigation for a period of years, until all the legal issues were resolved by appeals to the supreme court. One of these attorneys estimated the period of increased litigation at five to seven years.

Alaska Court System
Fiscal Analysis
SCS CSHB 158 (FIN)

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Additional judicial time necessitated by Section 17 to impose sanctions			\$10,000

Contractual Services

Cost of mandatory arbitration for indigent parties. This fiscal note assumes that 20% of the litigants (2 litigants per case) in the 1,067 cases subject to mandatory arbitration will be indigent and that arbitration will cost \$2,000 per litigant.

\$852,000

Modification of Statewide Court Information Processing System to provide automatic updating of prejudgment interest rates. This expenditure will reduce the personnel costs of entering interest rate information. This is a one-time cost.

5,000

Total Contractual Cost 857,000

Estimated Total Cost \$867,000

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 158 (FIN)

Revision Date: 04/10/96 Dept. Affected: Alaska Court System
 Title: Tort Reform BRU: Trial Courts
 Component: _____
 Sponsor: Rep. Porter
 Requestor: _____ COMPONENT SERIAL NO. 768

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TRAVEL						
CONTRACTUAL	852.0	852.0	852.0	852.0	852.0	852.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	862.0	862.0	862.0	862.0	862.0	862.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	862.0	862.0	862.0	862.0	862.0	862.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	862.0	862.0	862.0	862.0	862.0	862.0

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228
 Agency: Alaska Court System Date: 04/10/96
 Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 04/10/96
 Agency: Alaska Court System

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Alaska Court System
Fiscal Analysis
SCS CSHB 158 (FIN)

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Alaska Court System
Fiscal Analysis
SCS CSHB 158 (FIN)

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Alaska Court System
Fiscal Analysis
SCS CSHB 158 (FIN)

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Additional judicial time necessitated by Section 17 to impose sanctions			\$10,000

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5,000

Total Contractual Cost 857,000

Estimated Total Cost \$867,000

FISCAL NOTE

Work Draft 4/23/96 Version D

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCSCSHB 158(RLS)

Revision Date: <u>4/25/96</u>	Dept. Affected: <u>Department of Law</u>
Title: <u>"...relating to civil actions; amending Rule 13(e), 68, and 82(b), Alaska Rules of Civil Procedure..."</u>	BRU: <u>Criminal Division, Civil Division</u>
Sponsor: <u>Representative Porter</u>	Component: <u>Criminal Division, General Legal Services</u>
Requester: <u>Senate Rules Committee</u>	COMPONENT SERIAL NO. <u>2085,2087</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	288.1	288.1	288.1	288.1	288.1	288.1
TRAVEL	12.5	12.5	12.5	12.5	12.5	12.5
CONTRACTUAL	110.0	110.0	110.0	110.0	110.0	110.0
SUPPLIES	8.1	8.1	8.1	8.1	8.1	8.1
EQUIPMENT	28.0	2.6	2.6	2.6	2.6	2.6
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	446.7	421.3	421.3	421.3	421.3	421.3

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF	268.5	252.8	252.8	252.8	252.8	252.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other - Interagency Receipts	178.2	168.5	168.5	168.5	168.5	168.5
TOTAL	446.7	421.3	421.3	421.3	421.3	421.3

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

In its earlier fiscal note comments, the Department of Law advised that HB 158 provides for far-reaching changes in state law that are intended to bring about reforms in a manner in which the state's civil justice system handles personal injury claims. At the time, we advised that the impact on the department's defense of personal injury claims would probably be negligible. However, since our last review the bill has been substantially altered, which will cause a substantial fiscal impact for the department. Of particular concern is new Section 21 as it appears in Version D of the Senate Rules Committee Work Draft, dated 4/23/96.

This section creates several new causes of action similar to but broader than common-law abuse of process, and makes some such causes of action compulsory claims and counterclaims in the underlying lawsuit. Claims against the opposing attorney would be filed in a separate, parallel suit. As drafted, this provision would have substantial fiscal impacts on the Department of Law, not because it would authorize claims against the state that would have merit, but rather by encouraging a large number of unfounded claims that would increase.

Prepared by: <u>Richard I. Pegues, Director</u>	Phone: <u>465-3672</u>
Division: <u>Administrative Services Division</u>	Date: <u>4/25/96</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u>	Date: <u>4/25/96</u>
Agency: <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCSCSHB 158 (RLS)

ANALYSIS CONTINUATION:

litigation costs.

The department handles a disproportionate volume of pro se litigation, much of it initiated by prisoners. We estimate that in excess of 1000 pro se cases are pending at this time, in addition to several tens of thousands of pro se collection matters. We anticipate that many pro se litigants would assert that state filings and defenses violated this provision, would assert new claims on this basis in the main action, and would also file parallel suits against the state attorneys. This would complicate and increase the cost of handling litigation, and in some instances would force the state to hire private counsel to defend the state attorneys in the spin-off litigation. While the state could counterclaim on its own behalf under the provisions of Section 21, many of these litigants are judgment proof.

Section 21 would also complicate other litigation and increase state expenses. For example, we anticipate that the federal government would attempt to use these new causes of action as a defensive tool in suits the state has filed or will file against the United States or federal officials, and would seek to have the spin-off claims adjudicated by sympathetic federal judges. At a minimum, the state's legal costs would increase. (The increased defensive burden would fall solely on the state, since the United States is immune to liability under this provision, not having waived its sovereign immunity). Another potential source of expense would be suits by private citizens against troopers or other state employees. The Department of Law currently defends these suits under provisions of the collective bargaining agreements, but does not provide free representation for countersuits; these are left to the employee to bring through private counsel after the case is over. By making some such suits compulsory counterclaims in the main action, Section 21 could force the state to assert some claims of this type on the employee's behalf or, alternatively, lead the employee to hire private counsel to participate in the main action. Either eventuality would add complication and expense.

Overall, the Department estimates that Section 21 would increase the cost of litigation by about five percent in the civil division, and increase the cost of prisoners' rights litigation in the criminal division by about 12.5 percent. Based on the current number of equivalent positions handling civil litigation, this will result in an increase of two attorney positions in the civil division, one-half of an attorney position in the criminal division.

The department's weighted cost for an Attorney IV (journey-level trial attorney) is \$133,500 per year, excluding new position equipment. This cost includes clerical support, communications, space, supplies, data processing, and all other normal overhead expenses. It does not include direct, out-of-pocket case costs such as experts, court reporters, and case travel. Thus, the department's in-house staff cost would be \$267,000 for the civil division (\$133,500 in general funds and \$133,500 in interagency receipts), and \$66,800 in general funds for the criminal division. Additionally, due to conflicts, \$60,000 in outside counsel costs will probably be incurred by the civil division (half GF and half IAR), and \$15,000 in outside counsel GF costs will be incurred by the criminal division. Likewise, \$10,000 will be needed by the civil division for case travel (half GF and half IAR), and \$2,500 GF will be needed for case travel costs in the criminal division.

Finally, new positions include two PFT Attorney IVs and one PFT legal secretary in the civil division, and one PPT Attorney IV in the criminal division. Please also note that although no clerical support position is being added in the criminal division, proportionate support position funding is included in the standard attorney cost schedule to reduce clerics' support vacancy so that the new part-time attorney's clerical burden can be handled.

Amendments

~~1-15~~
16

(2) & (7) not offered
Phoned legal 4:50pm.

4/4/96
Withdrawn

9-LS0328\R.4

Ford
4/1/96
not offered

A M E N D M E N T

OFFERED IN THE SENATE
TO: SCS CSHB 158(JUD)

SENATE FINANCE
COMMITTEE
Amendment Number: 2
Bill Number: SCS (Jud)
Sponsor: _____ Date: 4/2/96
Logged In By: _____

- 1 Page 11, line 19:
- 2 Delete "09.55.548,"

4-4-96
SR

9-LS0328R.9

4/9/96 Ford
4/1/96

NOT OFFERED
PM

A M E N D M E N T

SENATE FINANCE
COMMITTEE

Amendment Number: 7

Bill Number: _____

Sponsor: _____ Date: 4/2/96

Logged In By: _____

OFFERED IN THE SENATE
TO: SCS CSHB 158(JUD)

- 1 Page 5, lines 28 - 31:
- 2 Delete all material.

- 3 Renumber the following bill sections accordingly.

- 4 Page 11, line 25:
- 5 Delete "sec. 10"
- 6 Insert "sec. 9"

- 7 Page 11, line 30:
- 8 Delete "sec. 12"
- 9 Insert "sec. 11"

- 10 Page 12, line 1:
- 11 Delete "sec. 12"
- 12 Insert "sec. 11"

- 13 Page 12, line 4:
- 14 Delete "sec. 17"
- 15 Insert "sec. 16"

- 16 Page 12, line 17:
- 17 Delete "sec. 27"
- 18 Insert "sec. 26"

- 1 Page 12, line 18:
- 2 Delete "sec. 27"
- 3 Insert "sec. 26"

FISCAL NOTE

No. 5
 Version: CSHB 158 (FIN)
 (H) Publish Date: 3/22/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: 03/20/95 Dept. Affected: Alaska Court System
 Title: Tort Reform BRU: Trial Courts
 Components: _____
 Sponsor: Rep. Porter
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	3.1	3.1	3.1	3.1	3.1	3.1
TRAVEL						
CONTRACTUAL	7.9	7.9	7.9	7.9	7.9	7.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	11.0	11.0	11.0	11.0	11.0	11.0

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	11.0	11.0	11.0	11.0	11.0	11.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	11.0	11.0	11.0	11.0	11.0	11.0

POSITIONS

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CC* Phone: 264-8228
 Agency: Alaska Court System Date: 03/20/95

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CC* Date: 03/20/95
 Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System
Fiscal Analysis
CSHB 158 (FIN)

CSHB 158 (Fin) proposes numerous changes to that portion of the civil justice system which deals with personal injury and property damage. These changes are primarily intended to redistribute costs and risks associated with personal injury and property damage.

The Alaska Court System provides the primary forum in this state for the resolution of tort claims. The fiscal impact of the majority of these changes will be neutral or is impossible to reasonably predict. However, at least one of the proposed changes will have the effect of increasing the costs to the state of administering the tort system.

CSHB 158 (Fin) repeals and reenacts AS 09.17.070, relating to collateral benefits. This amendment essentially provides that the amount which a defendant owes to a plaintiff will be reduced by whatever insurance benefits or other benefits the plaintiff has already received as compensation. Implementation will require extra trial time, in order for the jury to hear testimony regarding the types of coverage which might be involved, the amounts paid, and determining which payments may be offset. The current statute relating to collateral benefits is substantially less complex. Moreover, at the present time only the judge hears the testimony, and then only if the jury has returned a verdict for the plaintiff. The proposed system is thus less efficient and results in longer trials and more jury costs.

CSHB 158 (Fin) can be expected to save some judicial costs by reducing the motion practice currently engaged in on issues which were not clearly resolved the last time tort laws were amended. The amount of savings is speculative, and this note assumes that it is offset by the longer trials and increased appeals that will result until the supreme court resolves issues created by the procedural and substantive changes made by CSHB 158 (Fin). In this regard, note that several of the pro-tort reform attorneys who testified in favor of HB 292 last session conceded that that bill would result in increased litigation for a period of years, until all the legal issues were resolved by appeals to the supreme court. One of these attorneys estimated the period of increased litigation at five to seven years.

This fiscal note makes the following assumptions:

In superior court in FY 94, there were 875 tort cases filed. Approximately 38 tort trials were held, with approximately 50 percent returning a verdict for plaintiff; there were approximately 47 tort cases decided by summary judgment, with all returning a verdict for the defendant; and there were approximately 38 default judgments entered, with all entered for the plaintiff. Determining collateral benefits will average one-half day of court time, including jury time. Time spent is discounted by two-thirds in default cases.

In district court in FY 94, there were 532 tort cases filed (other than small claims). Approximately 21 tort trials were held; approximately 26 tort cases were decided by summary judgment; and approximately 21 default judgments were entered. Because of the lower dollar value of cases, not as much time will be invested by litigants in determining collateral benefits; it is assumed that one-half as much court time will be used. District court jury costs are also less, because half as many jurors are used.

Alaska Court System

Fiscal Analysis

CSHB 158 (FIN)

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
<u>Personal Services</u>			
Pro Tem Judge, fully vested, Anchorage permanent part-time, 1 month	\$2,013	\$1,074	\$3,087
<u>Contractual Services</u>			
Jury Fees			7,925
Superior Court-			
38 - 1/2 day length collateral benefit hearings with 13 jurors at \$12.50 a half day (from trials)		6,175	
District Court-			
20 - 1/2 day length collateral benefit hearings with 7 jurors at \$12.50 a half day (from trials)		1,750	
			<hr/>
	Estimated Total Cost		<u>\$11,012</u>

FISCAL NOTE

No 4

Bill version: CS HB 158 (JUD)

(H) Publish Date: 3/8/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
Title: Civil Liability

Department: Commerce and Economic Development
BRU: Insurance
Component: Operations

Sponsor: REPS. PORTER, Toohey
Requestor: Representative Porter

COMPONENT SERIAL NO. #354

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES	
--------------------	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0.0

POSITIONS						
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: Joan Brown, Administrative Officer *[Signature]* Phone: 465-2597
Division: Insurance Date: 2/8/95
Approved by Commissioner: William L. Hensley *[Signature]* Date: 3/9/95
Agency: Commerce and Economic Development

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 3
Bill Version: CS HB 158 (JUD)
(H) Publish Date: 3/8/95

Revision Date: _____
Title: "An Act relating to civil actions: amending Alaska Rules of Civil Procedure 49, 68, and 95....."
Sponsor: Porter and Toohey
Requestor: _____

Department Affected: Administration
BRU: Risk Management
Component: Risk Management
COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

State agency civil liability claims exposure and the amount Risk Management will ultimately pay in liability loss settlements will be reduced by this legislation.

The extent of such savings is difficult to forecast, due to the uncertainty that any of the limitations in the type of claims that may be filed or amounts of damages that can be awarded will actually be realized in future liability claims that may be filed against the State arising from accidents that have not yet occurred.

Risk Management loss funding is collected solely through interagency receipts of premiums assessed each State agency.

In future years, Risk Management's liability premium assessments will reflect the reductions actually realized by this legislation as our premium charges are developed from actual claims expenses incurred.

Prepared by: J. Brad Thompson, Director
Division: Risk Management

Phone: 465-5723
Date: _____

Approved by Commissioner: Mark Rover
Agency: Department of Administration

Date: 2/10/95

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FISCAL NOTE

NO. 2

Bill Version: CS HB 158 (JUD)

(H) Publish Date: 3/8/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to civil actions: amending Alaska Rules BRU: Legal Services
of Civil Procedure 49 and 68..." Component: Operations
 Sponsor: Representative Porter
 Requester: Representative Porter COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends Title 9, the Alaska Code of Civil Procedure, to provide various changes that are intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The bill seeks to reduce costs associated with the civil justice system, and the bill seeks to create a more equitable distribution of the cost of risk of injury. The bill does this by changing the existing balance between claimants and defendants, and their respective, competing economic interests, by limiting the time in which certain claims can be filed, and by setting and reducing claims limits. As a result, the existing balance is tilted away from claimants and toward defendants. Consequently, the state's claims exposure and the amount it ultimately pays per case might be reduced in large claims. However, because the total number of claims would probably not be reduced, the impact on the department's defense of personal injury claims will be negligible..

Richard I. Peques

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/13/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/13/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 158 (FIN)am
(ct rls pfl'd) (efd fld)

Revision Date: <u>2/3/96</u>	Dept. Affected: <u>Department of Law</u>
Title: <u>"...relating to civil actions; amending Alaska Rule of Civil Procedure 95."</u>	BRU: <u>Civil Division</u>
Sponsor: <u>Representative Porter</u>	Component: <u>General Legal Services</u>
Requester: <u>Representative Porter</u>	COMPONENT SERIAL NO. <u>2087</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The amended version of CSHB 158 (FIN) amends Title 9, the Alaska Code of Civil Procedure, to provide far-reaching changes that are intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The bill seeks to reduce costs associated with the civil justice system, and the bill seeks to change the distribution of the cost of risk of injury. The bill does this by changing the existing balance between claimants and defendants, and their respective, competing economic interests, by limiting the time in which certain claims can be filed, and by setting and reducing claims limits. As a result, the existing balance is tilted sharply away from claimants and toward defendants. Consequently, the state's claims exposure and the amount it ultimately pays per case might be reduced in large claims. However, because the total number of claims would probably not be significantly reduced, the impact on the department's defense of personal injury claims will be negligible.

Richard I. Peques

Prepared by: <u>Richard I. Peques, Director</u>	Phone: <u>465-3672</u>
Division: <u>Administrative Services Division</u>	Date: <u>2/3/96</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u>	Date: <u>2/3/96</u>
Agency: <u>Department of Law</u>	

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LEGAL SERVICES

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

MAR 25 1996

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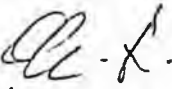
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 25, 1996

SUBJECT: Civil actions - (SCS CSHB 158(JUD))

TO: Senator Rick Halford
Attn: Larry Stevens

FROM: Michael F. Ford 
Legislative Counsel

The attached amendment 9-LS0328/R.3 corrects a drafting error made when the Senate Judiciary CS was produced. The repeal of AS 09.55.548 was in the House version because of sec. 10 of CSHB 158(FIN) am (ct rls pfd)(efd fld). That section was deleted in the Senate Judiciary CS and therefore the repeal of AS 09.55.548 should also have been removed from the Senate CS.

Please contact me if you have further questions.

MFF:glc:klb
96-182.glc

Attachment

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 158 (JUD)

Revision Date: 03/12/96 Dept. Affected: Alaska Court : em
 Title: Tort Reform BRU: Trial Courts
 Component: _____
 Sponsor: Rep. Porter
 Requestor: _____ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES				5.0	10.0	10.0
TRAVEL						
CONTRACTUAL				431.0	852.0	852.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	436.0	862.0	862.0

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

CHANGE IN REVENUES (
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	436.0	862.0	862.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	436.0	862.0	862.0

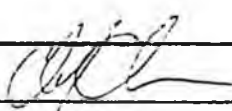

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 284-8228
 Agency: Alaska Court System Date: 03/12/96
 Approved by: Arthur H. Snowden, II, Administrative Director  Date: 03/12/96
 Agency: Alaska Court System

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Alaska Court System
Fiscal Analysis
SCS CSHB 158 (JUD)

SCS CSHB 158 (JUD) am proposes numerous changes to that portion of the civil justice system which deals with personal injury and property damage. These changes are primarily intended to redistribute costs and risks associated with personal injury and property damage.

The Alaska Court System provides the primary forum in this state for the resolution of tort claims. The fiscal impact of the majority of these changes will be neutral or is impossible to reasonably predict. However, several of the proposed changes will have the effect of increasing the costs to the state of administering the tort system.

Section 11 modifies the amount at which prejudgment interest is accrued by changing it from a fixed rate to a floating rate. This complicates the process of calculating interest owed, something which is done by the court system. Such calculations are performed over 10,000 times per year, so even small increases in time spent per case can have a major impact on clerical staff. This fiscal note reflects costs to automate this process and thus keep clerical time increases to a minimum.

Section 12 requires all tort claims of \$100,000 or less to be submitted to non-binding arbitration. A total of 1,422 tort claims were filed in superior and district court in FY 95. An estimated 1,067 would be subject to mandatory arbitration. Arbitrators in Anchorage who are attorneys or former judges typically charge \$150 - \$175 per hour for their services. Arbitrators specializing in tort arbitration advise that this process can be expected to last two to five days (including time for drafting a decision, making decisions on allowable discovery, etc.), for a charge of \$2400 to \$7000. The supreme court will adopt rules requiring parties to pay the costs of arbitration. However, the state will still incur substantial costs from this process because if arbitration is mandatory, the state will be required to pay the costs for those plaintiffs and defendants who are legally indigent. This fiscal note assumes that the average arbitration will cost \$4000, and that 20 percent of litigants will be indigent. Note that 95 percent of all tort cases already settle before trial, and thus arbitration will not appreciably reduce court costs for those cases. The cases which go to trial are those in which after full discovery, the parties still can not agree on the value a jury will put on a claim. Those cases are unlikely to settle as a result of an arbitrator's opinion rendered early in the process. Thus, this section will probably not reduce the state's costs of running the civil justice system.

Section 17 essentially codifies Civil Rule 11, with one significant difference. CR 11 gives a judge the discretion to impose sanctions in any civil case (not just tort cases)

Alaska Court System
Fiscal Analysis
SCS CSHB 158 (JUD)

in which a party has engaged in improper practice. Section 17, on the other hand, would require a judge to impose sanctions in such cases. The federal courts imposed a similar requirement from 1983 to 1993. They experienced a tremendous increase in the number of requests for hearings and sanctions, as attorneys used this as a tool to gain advantage in litigation. As a result of this increase, the federal courts went back to a system almost identical to CR 11. This note assumes that the federal experience will be repeated in Alaska, and that additional judicial time will be spent in a significant percentage of the 24,000 civil cases filed per year.

SCS CSHB 158 (JUD) can be expected to save some judicial costs by reducing the motion practice currently engaged in on issues which were not clearly resolved the last time tort laws were amended. The amount of savings is speculative, and this note assumes that it is offset by the longer trials and increased appeals that will result until the supreme court resolves issues created by the procedural and substantive changes made by SCS CSHB 158 (JUD). In this regard, note that several of the pro-tort reform attorneys who testified in favor of HB 292 during the 18th Legislature conceded that that bill would result in increased litigation for a period of years, until all the legal issues were resolved by appeals to the supreme court. One of these attorneys estimated the period of increased litigation at five to seven years.

Alaska Court System
Fiscal Analysis
SCS CSHB 158 (JUD)

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Additional judicial time necessitated by Section 17 to impose sanctions			\$10,000

Contractual Services

Cost of mandatory arbitration for indigent parties. This fiscal note assumes that 20% of the litigants (2 litigants per case) in the 1,067 cases subject to mandatory arbitration will be indigent and that arbitration will cost \$2,000 per litigant.

\$852,000

Modification of Statewide Court Information Processing System to provide automatic updating of prejudgment interest rates. This expenditure will reduce the personnel costs of entering interest rate information. This is a one-time cost.

5,000

Total Contractual Cost 857,000

Estimated Total Cost \$867,000



Alaska Office

4000 Old Seward Highway, Suite 201
Anchorage, Alaska 99503-6068(907) 563-5414
(907) 562-7804 FAX/MILL

By Fax with Hard Copy to Follow

April 19, 1994

Ms. Barbara Thurston
State of Alaska
Department of Commerce & Economic Development
Division of Insurance
PO Box 110805
Juneau, AK 99621-0805

Dear Ms. Thurston:

I am responding to your fax request for information received here on Friday, April 15, 1994. I understand that your inquiry is related to the current proposal in the legislature for a change in the statute of limitations. The maturation of our computer system and database over time did not allow me to obtain the information for you with a simple computer sort. Nevertheless, your inquiry piqued my curiosity and I have taken the time to manually extract the data that you have asked for. I hope you find it helpful.

From the time of its inception in 1976 as MICA to the present day as NORCAL, this company has had 21 suits arising out of the death of a minor. As you might expect, all of those cases were brought within the 2 year period, since the 2 year statute of limitations is applicable to a claim by the estate. In fact, 5 of the suits were brought within the year after the death and 16 more were brought in the second year. Six of the 21 cases were closed within a year of being filed; 2 with a payment and 4 without payment. Seven cases were closed within the second year of being filed; 2 with payment and 3 without payment. Five cases were closed in the third year after filing; 4 with payment and 1 without payment. Finally, 2 of the suits were closed within the fourth year after filing, both without payment. One of the cases remains open at the present time. That suit was filed within 2 years of the injury and we are now in the third year since it was filed. Nineteen of the death cases involved newborns in the first 8 months of life. The other 2 decedents were 18 months and 2 years old.

We have 44 suits involving injury of a minor. Six of them were brought within the first year after injury; 32 were brought within the 12-24 month post-injury period. Two more were brought in the third year after injury. Two were brought in the fifth year after injury and the remaining 2 were brought in the sixth year post-injury.

Eight of the 44 suits are pending as of this date. The other 36 are closed. Six were closed within a year after filing, with 3 involving payment and 3 closed without payment. Eleven were settled within 2 years of filing; 4 involved payment and 7 closed without payment. Twelve cases closed within the third year following the initiation of suit; 9 of them involved payment and 3 did not. Seven cases closed within the fourth year after suit was filed; 1 involved payment and 6 closed without payment.

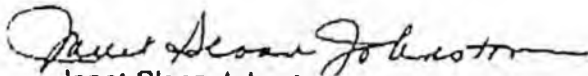
Twenty-four of these cases involved minors between newborns and under 8 months. Twelve of the minors were between the ages of 6 months and 12 years. Six children between the ages of 12 and 14 at the time of injury brought suit. Six more were injured when they were between ages 15 and 18.

My research confirmed my recollection as shared with you in our telephone conversation last week: there has never been a suit brought involving injury to a minor later than 6 years from the date of injury. Particularly when injury to the child is severe, I think there is a very compelling reason for suit to be brought within the first 2 years post-injury. While the child's claim may remain open for many years, the parent's claims for loss of consortium, emotional distress or the financial impact on the family that results from the birth of, for example, a brain damaged infant, are all claims that must be asserted within the first 2 years. Typically cases of severe injuries to minors are brought together with claims on behalf of their parents within the 2 year statute applicable to the parents.

I limited my research to actual suits. I did not go into claims asserted against our hospitals and physicians. There are a number of claims that have been asserted and either settled or rejected outside of litigation. I think the numbers there, were I to research them, would closely track what I have found in researching the suits.

I hope this information is helpful to you. Please do call if you have any questions.

Sincerely,



Janet Sloan Johnston
Branch Unit Manager, Claims

[sj/ks



ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662 • FAX (907) 561-2063

April 2, 1996

Senator Mike Miller
Alaska State Legislature (MS 3100)
State Capitol
Juneau, AK 99801-1182

RE: HB 158 tort reform

Dear Senator Miller:

Attached is information about the rarity of late filing of claims of medical injury to infants and small children.

The data comes from the two largest insurers of physicians in Alaska, namely Norcal Mutual Insurance Company and Medical Insurance Exchange of California.

These data support our contention that it would be useful put language into HB 158 concerning claims of injury to infants and young children that a claim must be filed *within* two years of the alleged injurious event or until age eight, whichever date comes later.

Sincerely,

Rodman Wilson, MD
Acting Executive Director

MIEC

Medical Insurance Exchange of California

6250 Claremont Avenue • Oakland, CA 94618 • Telephone: (800)227-4527

FAX MESSAGE

DATE: April 1, 1996

No. of Pages Including this page: 1

Our FAX Number is: (510)654-4634

TO: Rodman Wilson, MD

FROM: Ron Neupauer

COMPANY: Alaska State Medical Association

Re: **Statute of Repose legislation**

Dear Doctor Wilson:

To answer the question you posed during this morning's telephone conversation I reviewed claims reported by MIEC's obstetrician and pediatrician policyholders over the last ten years.

Of 747 claims and suits reported by policyholders in these two specialties, only 14 (1.9%) resulted from medical incidents which occurred eight or more years prior to the date the claim was filed against the doctor.

Please let me know if you require any additional information about this.

Ron

Cordova District Fishermen United

Celebrating 61 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 / Telephone (907) 424-3447 / Fax (907) 424-3430

DATE: April 3, 1996
TO: Honorable Senate Finance Committee Members
FROM: Dorne Hawxhurst, CDFU Executive Director
SUBJECT: House Bill 158-Tort Reform

Thank you for the opportunity to comment today on House Bill 158, a bill that Cordova District Fishermen United is strongly opposed to in its present form. On this page is the testimony we were prepared to deliver verbally this morning before the committee was interrupted and required to postpone its hearing. Please include it in the record, together with our prior comments about House Bill 158 that follows on the next two pages. Thank you for your consideration.

Punitive damages, by definition, should be of such an amount as to meaningfully punish a wrongdoer. For example, when the Exxon Corporation was found by an Alaskan jury to have been reckless in its behavior leading up to the 1989 oil spill disaster, that jury realized that any amount less than \$5 billion—the average equivalent of one year of profit for Exxon—would not be enough to punish a corporation of that size or actually teach the corporation a lesson. Had House Bill 158 been law prior to Exxon's reckless behavior, the corporation may not have been punished an amount in excess of approximately \$1 billion. One billion dollars is a lot to you and me. One billion dollars is "a drop in the bucket" to Exxon according to its former CEO.

With House Bill 158, your message to companies which act recklessly in Alaska is, "go ahead and cut corners." Reckless behavior becomes the cost-effective alternative to responsible behavior.

House Bill 158 is bad for business. House Bill 158 is bad for Alaska.

Thank you again for the opportunity to testify



Cordova District Fishermen United

Celebrating 60 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 / Telephone (907) 424-3447 / Fax (907) 424-3430

October 17, 1995

The Honorable Robin A. Taylor
550 West 7th Avenue, Suite 600
Anchorage, Alaska 99501

Reference: House Bill 158, Tort Reform

Dear Senator Taylor:

It is my honor to write to you on behalf of Cordova District Fishermen United (CDFU). CDFU is the oldest fishing organization in Alaska. Our members include permit holders and crew participating in commercial fisheries in and around Prince William Sound and the Copper River. CDFU's mission is to preserve and perpetuate the fishing industry in Alaska and to promote safety at sea. Our recent experience with the tragedy/crisis of the *Exxon Valdez* oil spill compels us to write to you on the proposed tort reform bill, an issue critical to fishermen and to other working Alaskans.

The 1989 Exxon oil spill, the largest environmental disaster in American history, devastated Prince William Sound, and for a period of time ruined the lives and livelihoods of the people working to earn a living from the waters of the Sound. Some of those people recovered economically; some did not.

Not surprisingly, the fishermen of Prince William Sound and others filed suit against Exxon. It seems to me that that is what our courts are for, to protect the rights of American people from those who would otherwise freely take those rights away. Fortunately, the system worked in our case, and the fishermen (as well as Native subsistence resource users) were awarded their provable economic losses.

In addition, a conscientious jury of Alaskans decided that the Exxon Corporation recklessly allowed a known alcoholic to pilot a huge oil tanker through the clean waters of Prince William Sound. As an expression of societal disapproval, and as a deterrent to others who might be similarly reckless, the jury awarded substantial punitive damages to a mandatory "punitive damages class," composed of every Alaskan with provable losses caused by the spill, including fish processors, cannery workers, landowners, Native corporations, area businesses and oiled municipalities. If it survives the rigors of the appeal process, the award will be equitably shared among all these parties, who number well over 10,000 individuals and businesses.

Based on this experience, CDFU comments on two parts of the proposed tort reform bill that are particularly dangerous and offensive: the cap on noneconomic damages and the cap on punitive damages. Judge Holland allowed no noneconomic damages in the Exxon Case. Our compensatory damages award was based only on past provable receipts (and only through the 1993 fishing season). PWS continues to suffer ongoing damages that are depressing our fishing resources. It isn't over just because the trial ended. In truth, the real-life damages were much greater. For example, nothing was given for the cost to individuals and families of losing their property and their fishing vessels, for the emotional and financial cost of depression and family strife, and for the cost of sudden unexpected unemployment, all of which were very real and very common losses stemming from the oil spill.

Because of this experience, the fishermen and their families have learned first-hand what "noneconomic" losses are. Our experience is that they can be as great or much greater, in terms of real loss, than simple monetary damages might be. They are subjective because they are so tied to the experience of being human. But, that is

The Honorable Robin A. Taylor
October 16, 1995
page 2

no reason to arbitrarily limit or deny them to people. In fact, that is the very reason that determination of those kinds of damages must be left to juries of Alaskans to decide. For example, depending on its assets and resources, a \$10,000 monetary loss might be easily absorbed by some families. For other families it could set off a chain reaction leading to loss of a home and loss of hard-earned opportunities and dreams. That very real difference should be determined and accounted for on a case-by-case basis.

Surely there is no better example than the *Exxon Valdez* oil spill of why it would be criminal to cap punitive damages. Punitive damages exist to punish reckless and intentional wrongdoers and to prevent similar bad behavior in the future. It should go without saying that, to be effective, the punishment has to be felt by the bad guy. As Judge Holland ruled in the *Exxon Valdez* case:

A dollar amount which would seriously impact a small company might not even merit a footnote in annual report of one of the largest corporations in the world. If all companies, no matter how large or small, were assessed the same punishment for the same misconduct, the largest companies could afford to continue to misbehave.

If Alaska's legislators arbitrarily limit the amount of punitive damages available, they will not only have weakened the punishment available, they will actually have made some forms of bad behavior cost-effective. Absent the \$5 billion punitive damages award, the Prince William Sound Oil Spill may not have even appeared as a footnote on Exxon's financial statements. The \$5 billion punitive award represented just one year's net profits. One year after the Spill, in April of 1990, Exxon's chairman Mr. Rawl reassured Exxon's shareholders that, even taking into account the expense of the spill, "total shareholder return has averaged 23% compared to 20% of all S&P 500 companies. Exxon has remained financially strong, one of only 14 US-based industrial companies to merit a AAA credit rating." Thus, had damages been capped in the Exxon case, it would have been fair to say that the legislature had granted Exxon a license to despoil Alaska with relative impunity.

CDFU represents a group of hard-working Alaskans who are willing to accept a great deal of day-to-day risk to make a living in Alaska's commercial fisheries. We do not expect "something for nothing," nor do we support legislation that would accomplish that. However, we have had first-hand experience of suffering traumatic losses at the hands of a large, powerful, and wealthy wrongdoer. Based on that experience, we urge the Alaska legislature not to artificially limit damages available in court. Noneconomic damages allow jurors to evaluate the real-life losses that a person or family might have suffered through no fault of their own as the result of someone else's carelessness or worse. Limiting those damages forces the innocent victim to absorb the cost of another person's reckless behavior. It rewards the reckless person by allowing them to avoid paying the true cost of the injuries they cause.

Punitive damages are the only real hammer we have to stop people who would recklessly or intentionally hurt Alaskans for the sake of the "bottom line." If the legislature limits those tools, it does so only to the benefit of careless, reckless or intentional wrongdoers, and at the expense of ordinary Alaskans. In this era of increased emphasis on personal responsibility, it would be truly ironic if we enacted new laws that would allow those who recklessly harm others to evade responsibility for their actions.

For these reasons, we strongly urge the legislature to reject HB 158.

Sincerely,
CORDOVA DISTRICT FISHERMEN UNITED

Dorne Hawxhurst, Executive Director

ALASKA STATE
HOSPITAL & NURSING HOME
ASSOCIATION

April 2, 1996

Senator Rick Halford, Co-Chair
Senator Steve Frank, Co-Chair
Finance Committee
Alaska State Senate
Capitol Building
Juneau AK 99801

Re: Support Amendments
CSHB 158, Tort Reform

Dear Members of the Finance Committee:

Community hospitals and nursing homes from across the state join with other health care organizations, architects, engineers and the business community in asking the Senate Finance Committee to amend and pass and HB 158, the 1996 Comprehensive Liability (Tort) Reform Bill.

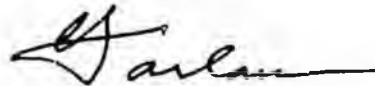
CSHB 158 addresses one of the most important issues confronting the Legislature this session. The cost of health care.

We would like the opportunity to work with you and your committee in revising CSHB 158. The Senate Judiciary Committee removed the section on "non-economic damages" and "collateral sources" which seriously weakens HB 158. The Judiciary Committee requirement (Section 27) to have liability premiums reduced by 10% by the end of 1999 is both unrealistic as it is unworkable.

We do not disagree with the language requiring physicians to have liability insurance (Section 15) but feel the requirement of \$2.5 million insurance coverage per incident is too costly.

Attached is our "statement" on the need for liability reform.

Sincerely,



Harlan R. Knudson
President/CEO

Encl: (1)

ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

STATEMENT

SUPPORT - CSHB 158. COMPREHENSIVE LIABILITY REFORM

February, 1996

Community hospitals and nursing homes from across the state join with other health care organizations, architects, engineers and the business community in asking the Legislature to pass and the Governor to sign CSHB 158, the 1996 Comprehensive Liability Reform Bill.

CSHB 158 addresses one of the most important issues confronting the Legislature this session. The cost of health care.

It will not be possible to control costs within our healthcare system, if we do not control the costs related to the inefficiency of the liability system. Tillinghast, a consulting actuarial firm reported in 1992 that only 43% of tort costs of some \$132 billion nationwide went to the injured party. The remaining 57% went to the cost of litigation. (Administrative costs, 24%; defense costs 18% and plaintiff costs 15%.)

Medical liability costs include the cost of insurance, defensive medicine and the costs borne by the manufacturers of medicines and medical supplies.

Section 24, on page 14, line 29, of CSHB 158 is very to Alaska hospitals. Hospitals have become the deep pocket when uninsured or under-insured physicians are sued. An Alaska Supreme Court decision (Jackson v Power) holds hospitals liable for emergency room physician actions, even though the hospital or it's personnel did nothing wrong.

CSHB 158 is needed to help control health care costs and assure access to health services throughout Alaska.

For More Information Contact:

Harlan Knudson, President, ASHNEA
907-586-1790

ALASKA STATE HOSPITAL AND NURSING HOME ASSOCIATION
BACKGROUND - SUPPORT CSHB 158
1996 COMPREHENSIVE LIABILITY REFORM

1. IMPACT ON THE COST OF HEALTH CARE

A. Alaska Medical Malpractice Insurance Premium Costs

1982 - \$ 2,276,000
1992 - \$13,371,000

B. Comparison Liability Insurance Premiums Alaska Physicians & California Physician Where Components of CSHB 158 are the Law:

<u>Specialty</u>	<u>California</u>	<u>Alaska</u>
Anesthesia	\$10,000	\$26,500
Family Practice		
Minor Surgery	\$ 7,000	\$16,000
Major Surgery	\$19,000	\$26,500
Ob/Gyn	\$31,500	\$64,500

C. Cost of Defensive Medicine - Those procedures and tests ordered because of a perceived malpractice risk, and those procedures and tests not received by patients because of the perceived liability risk to the provider (i.e. provide gynecology but no obstetrics). A sample:

53% of 2.4 million skull x-rays ordered in emergency rooms across the country are reported not necessary. Estimated cost per x-ray \$140 x 1.27 million = \$178 million annual cost.

2. IMPACT ON ACCESS TO HEALTH CARE

Alaska's small rural communities continue to face the challenge of recruiting and retaining physicians, particularly family physicians wishing to provide obstetrical care. The cost of liability insurance is a factor in that recruitment process.

3. FAIRNESS WITHIN THE LEGAL SYSTEM

Liability claims of \$100,000 are not pursued because the cost of litigation would be more for the plaintiff than the award. There is no alternate process to resolve disputes. Why should it cost \$570,000 to return \$430,000 to an injured party?

INFORMATION ON THE ALASKA MEDICAL INDEMNITY CORPORATION (MICA)

MICA was created by the Alaska Legislature in 1975 to provide medical liability insurance for Alaska's physicians and hospitals. From 1975 to 1992 there 1258 cases were recorded. 172 claims were settled in the amount of \$25,878,228. \$9,772,447 was paid out in litigation expense. MICA was sold in 1990 because of potential federal tax liability that would have bankrupted the company.

More Information: Harlan Knudson, ASHNEA President, 907-586-1790.
4/95

Tort Reform Comparison

HB 158

Produced by House Judiciary, March 11, 1996

Section	Senate CS SHB-158 (OLD)	CSHB-158 (FINAL)
Statute of Repose.	15 years. Describes a time period within which any civil action must be filed with the court system.	8 years.
Certain Statutory Liabilities in two years.	Same.	The existing two year limit for actions involving libel, slander, assault, battery, seduction, or false imprisonment remains the same. This section removes unclear and conflicting language in statute.
Limitation on Actions Involving Injury to Personal Property.	Same.	Requires that a person commence a civil action for personal injury, death, or property damage within two years of the time the person knows, or should have known of the injury death or damage.
Noneconomic Damages.	Deleted.	Extends the definition for noneconomic losses to include claims for wrongful death. Limits damages to \$300,000 or \$500,000 for certain specified injuries. Provides an exception for damages awarded against a person committing or attempting to commit a felony.
Definition of Punitive Damages.	Same.	Clear and convincing evidence of outrageous conduct, including accidents with malice and bad motives, or reckless indifference to the interests of another person.
Award of Punitive Damages.	Same.	Three times the amount of noneconomic and economic damages awarded or \$300,000, whichever is greater.
Security for Periodic Payments.	Court requires security to be posted for any entity or person..	The State, self insured municipalities, or an authorized insurer are exempted from this section.
Inflation Adjustments for Periodic Payments.	Same.	Clarifies the method for increases in future periodic payments to cover inflation.
Collateral Benefits.	Deleted.	Jury is told what compensation the plaintiff has received for their injury from other sources; such as existing insurance policies or another defendant. Additionally, this section does not apply to federally funded programs which must seek repayment under federal law; or death benefits under a life insurance policy; or under workers compensation.
Apportionment of Fault.	Fault is allocated to only the parties named in the lawsuit.	Apportion fault to every person who is at fault for a party's injuries, rather than just those named in the lawsuit.
Offers of Judgment.	This section does not apply to multiple defendants unless all defendants join in the offer.	States that if a party makes an offer within 5% of the judgment and the offeree declines it, the offeree must pay the offeror the costs and attorney fees incurred from the lawsuit.
Prejudgment Interest Defined.	Interest is set at 3% above the interest rate set by the U.S. Bureau of Public Debt for 5 year treasury notes in effect on the day on which the judgment is entered.	Interest is set at 3% above the 12th Federal Reserve District Discount Rate in effect on January 2nd of the year in which the judgment or decree is entered

Prejudgment Interest.	Deleted.	Interest may not be awarded on future economic and noneconomic damages, or punitive damages.
Civil Liability of Hospitals for Nonemployees.	Same, except health care provider must carry \$2.5 million in liability insurance.	Provides that a hospital is not liable for civil damages resulting from an act or omission by a health care provider who is not an employee or actual agent of the hospital. The hospital must provide notice that the health care provider is an independent contractor and the notice of limited liability.
Damages Resulting from the Commission of Crimes.	Equivalent.	Provides that a person committing, attempting to commit, or fleeing from the commission of a felony whose action substantially contributed to the person's injury or death, is prohibited from recovering damages. Further, a personal representative of a deceased person who was in the act of committing that felony may not recover damages.
Signing of Pleadings, Motions; Sanctions.	Deleted. Same	Court shall impose sanctions upon frivolous or unwarranted pleadings upon the person who signed them. Sanctions include paying the other party for attorney's fees and a fine not to exceed \$10,000.
Mandatory Arbitration.	Mandates arbitration for all claims that do not exceed \$100,000 in damages. Offers of judgment are not subject to arbitration.	Arbitration not mandated.
Expert Witness Qualifications.	Section pertains to all expert witness qualifications.	Section only pertains to medical expert witness qualifications.
Mandatory Insurance Rate Rollback.	Act takes effect only if, on or before December 31, 1999, the liability insurance rates filed with the Division of Insurance have been reduced by at least 10% from those rates filed on January 1, 1995.	Act takes effect upon passage.
Definitions of Professional Negligence and Services in malpractice actions.	Broadly defines professionals to include all professional services.	Defines professionals only with regard to a health care provider.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 158- (FIN)am
(ct rls pflid) (efd fld)

Revision Date: 2/3/96 Dept. Affected: Department of Law
 Title: "...relating to civil actions; amending Alaska Rule BRU: Civil Division
of Civil Procedure 95." Component: General Legal Services
 Sponsor: Representative Porter
 Requester: Representative Porter COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The amended version of CSHB 158 (FIN) amends Title 9, the Alaska Code of Civil Procedure, to provide far-reaching changes that are intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The bill seeks to reduce costs associated with the civil justice system, and the bill seeks to change the distribution of the cost of risk of injury. The bill does this by changing the existing balance between claimants and defendants, and their respective, competing economic interests, by limiting the time in which certain claims can be filed, and by setting and reducing claims limits. As a result, the existing balance is tilted sharply away from claimants and toward defendants. Consequently, the state's claims exposure and the amount it ultimately pays per case might be reduced in large claims. However, because the total number of claims would probably not be significantly reduced, the impact on the department's defense of personal injury claims will be negligible.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/3/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/3/96
 Agency: Department of Law

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Alaska State Legislature

SENATE

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3701

March 7, 1996

MEMO TO FILE

ATTENTION: Nancy, Rhonda, Heidi
Senate Secretary's Office

BILL/RES. NO.: CS FOR HOUSE BILL NO. 158(FIN) am(ct rls
pfd)(efd fld) "An Act relating to civil actions; amending Alaska Rule of
Civil Procedure 95."

This bill/resolution has not yet received a do pass recommendation.

Leave this note in the file.

Thank you.

SENATE COMMITTEE REPORT

DATE: 3/8/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 3/14/96

The Labor & Commerce Committee considered CS FOR HB158(FIN) am(ct rls pld)(efd fld)
 Relating to civil actions; amending Alaska Rule of Civil Procedure 95.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous 5 CS CS HR 158 (jud)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		Mike Miller			✓
		John Ferguson			✓
		J. E. Saco	✓		
CHAIR: <u>Twin Kelly</u>		<u>Pass House Version</u>			AAA

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
✓ DOL	3/1/96	✓	
Commerce	3/1/96		.8
DOA	3/4/96	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE COMMITTEE REPORT

DATE: 5/1/95

FURTHER: L&C
Finance

DATE TURNED INTO OFFICE: 3/1/96

Judiciary Committee considered CS FOR HOUSE BILL NO. 158(FIN) am(ct rls pld)(efd fld)

Civil actions; amending Alaska Rule of Civil Procedure 95.

FISCAL FN
FORTHCOMING

FN+OFN

and recommends:

be replaced with SCS CS HB 158 (JUS)

adopt previous CS _____

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		Linda Green			✓
		Mike Miller			✓
		Al Adams	②	X	UNCONSTIT - AT - Prob
CHAIR:		Chris [unclear]			✓

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

SCS	Dept. Law (Civil)	3/1/96	✓	
SCS	Insurance (Disurance)	3/1/96		.8
SCS	Admin (Risk Mgt)	3/4/96	✓	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

BILL: HB 158 SHORT TITLE: CIVIL LIABILITY
BILL VERSION: CSHB 158(FIN) AM(CT RLS PFLD)(EFD FLD)
SPONSOR(S): REPRESENTATIVE(S) PORTER, TOOHEY, MULDER, OGAN

CURRENT STATUS: (S) FIN

STATUS DATE: 03/18/96

TITLE: "AN ACT RELATING TO CIVIL ACTIONS; AMENDING ALASKA RULE OF CIVIL PROCEDURE 95."

02/06/95	253	(H)	READ THE FIRST TIME - REFERRAL(S)
02/06/95	253	(H)	JUDICIARY, FINANCE
03/08/95	635	(H)	JUD RPT CS(JUD) 4DP 2DNP
03/08/95	635	(H)	DP: VEZEY, GREEN, TOOHEY, BUNDE
03/08/95	635	(H)	DNP: FINKELSTEIN, B.DAVIS
03/08/95	635	(H)	FISCAL NOTE (COURT)
03/08/95	635	(H)	3 ZERO FISCAL NOTES (LAW, ADM, DCED)
03/09/95	691	(H)	COSPONSOR(S): MULDER
03/20/95	824	(H)	COSPONSOR(S): ROKEBERG
03/22/95	841	(H)	FIN RPT CS(FIN) 2DP 4NR 3AM
03/22/95	842	(H)	DP: MULDER, MARTIN
03/22/95	842	(H)	NR: HANLEY, PARNELL, THERRIAULT, FOSTER
03/22/95	842	(H)	AM: GRUSSENDORF, BROWN, NAVARRE
03/22/95	842	(H)	FISCAL NOTE (COURT)
03/22/95	842	(H)	3 ZERO FNS (LAW, ADM, DCED) 3/8/95
03/27/95	936	(H)	RULES TO CALENDAR 3/27/95
03/27/95	936	(H)	READ THE SECOND TIME
03/27/95	936	(H)	FIN CS ADOPTED UNAN CONSENT
03/27/95	936	(H)	AM NO 1 WITHDRAWN
03/27/95	937	(H)	AM NO 2 ADOPTED UNAN CONSENT
03/27/95	938	(H)	AM NO 3 FAILED Y17 N19 E4
03/27/95	939	(H)	AM NO 4 FAILED Y17 N19 E4
03/27/95	940	(H)	AM NO 5 FAILED Y16 N20 E4
03/27/95	941	(H)	AM NO 6 FAILED Y18 N18 E4
03/27/95	942	(H)	AM NO 7 FAILED Y18 N18 E4
03/27/95	944	(H)	AM NO 8 FAILED Y18 N18 E4
03/27/95	944	(H)	AM NO 9 ADOPTED UNAN CONSENT
03/27/95	945	(H)	AM NO 10 FAILED Y17 N19 E4
03/27/95	946	(H)	HELD IN SECOND READING TO 3/28 CALENDAR
03/28/95	955	(H)	AM NO 11 FAILED Y14 N19 E4 A3
03/28/95	956	(H)	AM NO 12 WITHDRAWN
03/28/95	957	(H)	RETURN TO RLS COMMITTEE
04/24/95	1468	(H)	RULES TO CALENDAR 4/24/95
04/24/95	1468	(H)	IN SECOND READING
04/24/95	1469	(H)	AM NO 13 OFFERED
04/24/95	1469	(H)	AM TO AM 13 ADOPTED UNAN CONSENT
04/24/95	1470	(H)	AM NO 13 AS AMENDED ADOPTED UNAN CONSENT
04/24/95	1470	(H)	AM NOS 14 & 15 NOT OFFERED
04/24/95	1470	(H)	AM NO 16 FAILED Y18 N20 E1 A1
04/24/95	1471	(H)	AM NO 17 FAILED Y18 N21 A1
04/24/95	1472	(H)	AM NO 18 ADOPTED UNAN CONSENT
04/24/95	1473	(H)	AM NO 19 ADOPTED Y21 N19
04/24/95	1473	(H)	AM NO 20 OFFERED
04/24/95	1474	(H)	AM NO 1 TO AM 20 FAILED Y20 N20
04/24/95	1475	(H)	AM NO 2 TO AM 20 FAILED Y20 N20
04/24/95	1475	(H)	AM NO 20 FAILED Y18 N22
04/24/95	1476	(H)	AM NO 21 ADOPTED UNAN CONSENT
04/24/95	1476	(H)	AM NO 22 OFFERED
04/24/95	1477	(H)	DIVISION OF AM 22 ADOPTED UNAN CONSENT

04/24/95	1477	(H)	AM NO 22, PT 1 FAILED Y18 N22
04/24/95	1478	(H)	AM NO 22, PT 2 FAILED Y19 N21
04/24/95	1479	(H)	AM NO 23 FAILED Y20 N20
04/24/95	1480	(H)	AM NO 24 FAILED Y18 N22
04/24/95	1481	(H)	AM NO 25 NOT OFFERED
04/24/95	1481	(H)	AM NO 26 FAILED Y19 N21
04/24/95	1482	(H)	AM NO 27 ADOPTED UNAN CONSENT
04/24/95	1483	(H)	AM NO 28 ADOPTED UNAN CONSENT
04/24/95	1483	(H)	AM NO 29 ADOPTED UNAN CONSENT
04/24/95	1483	(H)	AM NO 30 OFFERED
04/24/95	1485	(H)	HELD IN SECOND READING TO 4/25 CAL
04/25/95	1502	(H)	IN SECOND READING
04/25/95	1502	(H)	AM NO 30 FAILED Y17 N22 E1
04/25/95	1503	(H)	AM NO 31 WITHDRAWN
04/25/95	1503	(H)	AM NO 32 FAILED Y17 N22 E1
04/25/95	1504	(H)	AM NO 33 FAILED Y17 N22 E1
04/25/95	1505	(H)	AM NO 34 FAILED Y17 N22 E1
04/25/95	1505	(H)	AM NO 35 FAILED Y17 N22 E1
04/25/95	1506	(H)	AM NO 36 FAILED Y17 N22 E1
04/25/95	1507	(H)	AM NO 37 ADOPTED UNAN CONSENT
04/25/95	1508	(H)	AM NO 38 FAILED Y17 N22 E1
04/25/95	1508	(H)	AM NO 39 ADOPTED UNAN CONSENT
04/25/95	1509	(H)	AM NO 40 OFFERED
04/25/95	1509	(H)	AM TO AM 40 ADOPTED UNAN CONSENT
04/25/95	1509	(H)	AM NO 40 ADOPTED UNAN CONSENT
04/25/95	1510	(H)	AM NO 41 FAILED Y15 N24 E1
04/25/95	1510	(H)	AM NO 42 OFFERED
04/25/95	1511	(H)	AM TO AM 42 ADOPTED UNAN CONSENT
04/25/95	1511	(H)	AM NO 42 AS AMENDED FLD Y12 N27 E1
04/25/95	1512	(H)	AM NO 43 FAILED Y16 N23 E1
04/25/95	1512	(H)	AM NO 44 OFFERED
04/25/95	1513	(H)	AM 1 TO AM 44 UNAN CONSENT
04/25/95	1513	(H)	AM 2 TO AM 44 PASSED Y34 N5 E1
04/25/95	1514	(H)	AM NO 44 AS AMENDED ADOPTED UNAN CONSENT
04/25/95	1514	(H)	HELD IN SECOND READING TO 4/26 CALENDAR
04/26/95	1529	(H)	IN SECOND READING
04/26/95	1529	(H)	AM NO 45 FAILED Y16 N22 E1 A1
04/26/95	1530	(H)	AM NO 46, 47, 48 NOT OFFERED
04/26/95	1530	(H)	AM NO 49 FAILED Y17 N21 E1 A1
04/26/95	1531	(H)	AM 50 THRU 56 NOT OFFERED
04/26/95	1531	(H)	AM NO 57 FAILED Y17 N21 E1 A1
04/26/95	1532	(H)	AM NO 58 FAILED Y18 N21 E1
04/26/95	1533	(H)	AM NO 59 FAILED Y16 N22 E1 A1
04/26/95	1534	(H)	AM NO 60 NOT OFFERED
04/26/95	1534	(H)	AM NO 61 FAILED Y16 N22 E1 A1
04/26/95	1536	(H)	AM NO 62 FAILED Y16 N22 E1 A1
04/26/95	1536	(H)	AM NO 63 FAILED Y17 N22 E1
04/26/95	1537	(H)	AM NO 64 FAILED Y19 N20 E1
04/26/95	1538	(H)	AM NO 65 ADOPTED UNAN CONSENT
04/26/95	1539	(H)	ADVANCED TO THIRD READING 4/27 CALENDAR
04/26/95	1559	(H)	COSPONSOR(S): OGAN
04/27/95	1599	(H)	READ THE THIRD TIME CSHB 158(FIN)AM
04/27/95	1599	(H)	RETURN TO SECOND FOR AM 66 UNAN CONSENT
04/27/95	1599	(H)	AM NO 66 ADOPTED UNAN CONSENT
04/27/95	1599	(H)	AUTOMATICALLY IN THIRD READING
04/27/95	1600	(H)	PASSED Y24 N15 E1
04/27/95	1601	(H)	CT RULE/CIV PRO 49 FLD Y23 N16 E1
04/27/95	1601	(H)	CT RULE/CIV PRO 68 FLD Y23 N16 E1
04/27/95	1602	(H)	CT RULE/CIV PRO 95 PASSED Y28 N11 E1
04/27/95	1603	(H)	CT RULE/CIV PRO 702 FLD Y23 N16 E1

04/27/95	1604	(H)	EFFECTIVE DATE FAILED Y23 N16 E1
04/27/95	1604	(H)	NAVARRE NOTICE OF RECONSIDERATION
04/28/95	1640	(H)	HOLD TO 5/1 CAL FLD Y13 N25 E2
04/28/95	1640	(H)	RECON TAKEN UP - IN THIRD READING
04/28/95	1641	(H)	PASSED ON RECONSIDERATION Y23 N15 E2
04/28/95	1642	(H)	CT RULE/CIV PRO 49 FLD Y23 N15 E2
04/28/95	1643	(H)	CT RULE/CIV PRO 68 FLD Y23 N15 E2
04/28/95	1644	(H)	CT RULE/CIV PRO 95 FLD Y26 N12 E2
04/28/95	1644	(H)	CT RULE/CIV PRO 702 FLD Y23 N15 E2
04/28/95	1645	(H)	EFFECTIVE DATE FAILED Y23 N15 E2
04/28/95	1646	(H)	RESCIND PREVIOUS ACTION/FLG CT RULE 95
04/28/95	1647	(H)	PASSED Y31 N7 E2
04/28/95	1647	(H)	CT RULE/CIV PRO 95 PD Y33 N5 E2
04/28/95	1651	(H)	TRANSMITTED TO (S)
04/29/95	1681	(H)	COSPONSOR REMOVED: ROKEBERG
05/01/95	1376	(S)	READ THE FIRST TIME - REFERRAL(S)
05/01/95	1376	(S)	JUD, FIN
05/16/95	1899	(S)	L&C REFERRAL ADDED, L&C PRECEDES FIN
03/08/96	2656	(S)	JUD RPT SCS 2DNP 2AM (TITLE CHG)
03/08/96	2657	(S)	FISCAL NOTE TO SCS (DCED)
03/08/96	2657	(S)	FISCAL NOTE TO SCS FORTHCOMING (COURT)
03/08/96	2657	(S)	ZERO FISCAL NOTES TO SCS (LAW, ADM)
03/18/96	2773	(S)	L&C RPT 1NR 3 AM (JUD)SCS
03/18/96	2773	(S)	PREVIOUS FN (DCED)
03/18/96	2773	(S)	PREVIOUS ZERO FN (LABOR, ADM)
03/18/96	2773	(S)	REFERRED TO FINANCE
03/18/96	2773	(S)	REFERRED TO FINANCE

Updated by 11/19/96

1996 update
Note # 5

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 158 (FIN) AM

Revision Date: 02/05/96

Dept. Affected: Alaska Court System

Title: Tort Reform

BRU: Trial Courts

Sponsor: Rep. Porter

Component: _____

Requestor: _____

COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	3.0	3.0	3.0	3.0	3.0	3.0
TRAVEL						
CONTRACTUAL	7.9	7.9	7.9	7.9	7.9	7.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	11.0	11.0	11.0	11.0	11.0	11.0

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	11.0	11.0	11.0	11.0	11.0	11.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	11.0	11.0	11.0	11.0	11.0	11.0

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel
 Agency: Alaska Court System

Phone: 264-8228
 Date: 02/06/96

Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Date: 02/06/96

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Alaska Court System
Fiscal Analysis
CSHB 158 (FIN) AM

CSHB 158 (Fin) am proposes numerous changes to that portion of the civil justice system which deals with personal injury and property damage. These changes are primarily intended to redistribute costs and risks associated with personal injury and property damage.

The Alaska Court System provides the primary forum in this state for the resolution of tort claims. The fiscal impact of the majority of these changes will be neutral or is impossible to reasonably predict. However, at least one of the proposed changes will have the effect of increasing the costs to the state of administering the tort system.

CSHB 158 (Fin) am repeals and reenacts AS 09.17.070, relating to collateral benefits. This amendment essentially provides that the amount which a defendant owes to a plaintiff will be reduced by whatever insurance benefits or other benefits the plaintiff has already received as compensation. Implementation will require extra trial time, in order for the jury to hear testimony regarding the types of coverage which might be involved, the amounts paid, and determining which payments may be offset. The current statute relating to collateral benefits is substantially less complex. Moreover, at the present time only the judge hears the testimony, and then only if the jury has returned a verdict for the plaintiff. The proposed system is thus less efficient and results in longer trials and more jury costs.

CSHB 158 (Fin) am can be expected to save some judicial costs by reducing the motion practice currently engaged in on issues which were not clearly resolved the last time tort laws were amended. The amount of savings is speculative, and this note assumes that it is offset by the longer trials and increased appeals that will result until the supreme court resolves issues created by the procedural and substantive changes made by CSHB 158 (Fin) am. In this regard, note that several of the pro-tort reform attorneys who testified in favor of HB 292 last session conceded that that bill would result in increased litigation for a period of years, until all the legal issues were resolved by appeals to the supreme court. One of these attorneys estimated the period of increased litigation at five to seven years.

This fiscal note makes the following assumptions:

In superior court in FY 94, there were 875 tort cases filed. Approximately 38 tort trials were held, with approximately 50 percent returning a verdict for plaintiff; there were approximately 47 tort cases decided by summary judgment, with all returning a verdict for the defendant; and there were approximately 38 default judgments entered, with all entered for the plaintiff. Determining collateral benefits will average one-half day of court time, including jury time. Time spent is discounted by two-thirds in default cases.

In district court in FY 94, there were 532 tort cases filed (other than small claims). Approximately 21 tort trials were held; approximately 26 tort cases were decided by summary judgment; and approximately 21 default judgments were entered. Because of the lower dollar value of cases, not as much time will be invested by litigants in determining collateral benefits; it is assumed that one-half as much court time will be used. District court jury costs are also less, because half as many jurors are used.

Alaska Court System

Fiscal Analysis

CSHB 158 (FIN) AM

Personal Services

Position

Salary

Benefits

Total

Pro Tem Judge, fully vested, Anchorage, PPT, 1 month

\$2,013

\$1,028

\$3,041

Contractual Services

Jury Fees

7,925

Superior Court-

38 - 1/2 day length collateral benefit hearings with 13 jurors at \$12.50 a half day (from trials)

6,175

District Court-

20 - 1/2 day length collateral benefit hearings with 7 jurors at \$12.50 a half day (from trials)

1,750

Estimated Total Cost

\$10,966

1996 update
Note #2

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 158 (FIN)am
(ct rls pfid) (efd fld)

Revision Date: 2/3/96 Dept. Affected: Department of Law
 Title: "...relating to civil actions; amending Alaska Rule of Civil Procedure 95." BRU: Civil Division
 Sponsor: Representative Porter Component: General Legal Services
 Requester: Representative Porter COMPONENT SERIAL NO. 2087

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The amended version of CSHB 158 (FIN) amends Title 9, the Alaska Code of Civil Procedure, to provide far-reaching changes that are intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The bill seeks to reduce costs associated with the civil justice system, and the bill seeks to change the distribution of the cost of risk of injury. The bill does this by changing the existing balance between claimants and defendants, and their respective, competing economic interests, by limiting the time in which certain claims can be filed, and by setting and reducing claims limits. As a result, the existing balance is tilted sharply away from claimants and toward defendants. Consequently, the state's claims exposure and the amount it ultimately pays per case might be reduced in large claims. However, because the total number of claims would probably not be significantly reduced, the impact on the department's defense of personal injury claims will be negligible.

Richard I. Peques

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/3/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/3/96
 Agency: Department of Law

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BILL: HB 158 SHORT TITLE: CIVIL LIABILITY
BILL VERSION: CSHB 158(FIN) AM(CT RLS PFLD)(EFD FLD)
SPONSOR(S): REPRESENTATIVE(S) PORTER, TOOHEY, MULDER, OGAN

CURRENT STATUS: (S) FIN

STATUS DATE: 03/18/96

TITLE: "AN ACT RELATING TO CIVIL ACTIONS; AMENDING ALASKA RULE OF CIVIL PROCEDURE 95."

02/06/95	253	(H)	READ THE FIRST TIME - REFERRAL(S)
02/06/95	253	(H)	JUDICIARY, FINANCE
03/08/95	635	(H)	JUD RPT CS(JUD) 4DP 2DNP
03/08/95	635	(H)	DP: VEZEY, GREEN, TOOHEY, BUNDE
03/08/95	635	(H)	DNP: FINKELSTEIN, B.DAVIS
03/08/95	635	(H)	FISCAL NOTE (COURT)
03/08/95	635	(H)	3 ZERO FISCAL NOTES (LAW, ADM, DCED)
03/09/95	691	(H)	COSPONSOR(S): MULDER
03/20/95	824	(H)	COSPONSOR(S): ROKEBERG
03/22/95	841	(H)	FIN RPT CS(FIN) 2DP 4NR 3AM
03/22/95	842	(H)	DP: MULDER, MARTIN
03/22/95	842	(H)	NR: HANLEY, PARNELL, THERRIAULT, FOSTER
03/22/95	842	(H)	AM: GRUSSENDORF, BROWN, NAVARRE
03/22/95	842	(H)	FISCAL NOTE (COURT)
03/22/95	842	(H)	3 ZERO FNS (LAW, ADM, DCED) 3/8/95
03/27/95	936	(H)	RULES TO CALENDAR 3/27/95
03/27/95	936	(H)	READ THE SECOND TIME
03/27/95	936	(H)	FIN CS ADOPTED UNAN CONSENT
03/27/95	936	(H)	AM NO 1 WITHDRAWN
03/27/95	937	(H)	AM NO 2 ADOPTED UNAN CONSENT
03/27/95	938	(H)	AM NO 3 FAILED Y17 N19 E4
03/27/95	939	(H)	AM NO 4 FAILED Y17 N19 E4
03/27/95	940	(H)	AM NO 5 FAILED Y16 N20 E4
03/27/95	941	(H)	AM NO 6 FAILED Y18 N18 E4
03/27/95	942	(H)	AM NO 7 FAILED Y18 N18 E4
03/27/95	944	(H)	AM NO 8 FAILED Y18 N18 E4
03/27/95	944	(H)	AM NO 9 ADOPTED UNAN CONSENT
03/27/95	945	(H)	AM NO 10 FAILED Y17 N19 E4
03/27/95	946	(H)	HELD IN SECOND READING TO 3/28 CALENDAR
03/28/95	955	(H)	AM NO 11 FAILED Y14 N19 E4 A3
03/28/95	956	(H)	AM NO 12 WITHDRAWN
03/28/95	957	(H)	RETURN TO RLS COMMITTEE
04/24/95	1468	(H)	RULES TO CALENDAR 4/24/95
04/24/95	1468	(H)	IN SECOND READING
04/24/95	1469	(H)	AM NO 13 OFFERED
04/24/95	1469	(H)	AM TO AM 13 ADOPTED UNAN CONSENT
04/24/95	1470	(H)	AM NO 13 AS AMENDED ADOPTED UNAN CONSENT
04/24/95	1470	(H)	AM NOS 14 & 15 NOT OFFERED
04/24/95	1470	(H)	AM NO 16 FAILED Y18 N20 E1 A1
04/24/95	1471	(H)	AM NO 17 FAILED Y18 N21 A1
04/24/95	1472	(H)	AM NO 18 ADOPTED UNAN CONSENT
04/24/95	1473	(H)	AM NO 19 ADOPTED Y21 N19
04/24/95	1473	(H)	AM NO 20 OFFERED
04/24/95	1474	(H)	AM NO 1 TO AM 20 FAILED Y20 N20
04/24/95	1475	(H)	AM NO 2 TO AM 20 FAILED Y20 N20
04/24/95	1475	(H)	AM NO 20 FAILED Y18 N22
04/24/95	1476	(H)	AM NO 21 ADOPTED UNAN CONSENT
04/24/95	1476	(H)	AM NO 22 OFFERED
04/24/95	1477	(H)	DIVISION OF AM 22 ADOPTED UNAN CONSENT

04/24/95	1477	(H)	AM NO 22, PT 1 FAILED Y18 N22
04/24/95	1478	(H)	AM NO 22, PT 2 FAILED Y19 N21
04/24/95	1479	(H)	AM NO 23 FAILED Y20 N20
04/24/95	1480	(H)	AM NO 24 FAILED Y18 N22
04/24/95	1481	(H)	AM NO 25 NOT OFFERED
04/24/95	1481	(H)	AM NO 26 FAILED Y19 N21
04/24/95	1482	(H)	AM NO 27 ADOPTED UNAN CONSENT
04/24/95	1483	(H)	AM NO 28 ADOPTED UNAN CONSENT
04/24/95	1483	(H)	AM NO 29 ADOPTED UNAN CONSENT
04/24/95	1483	(H)	AM NO 30 OFFERED
04/24/95	1485	(H)	HELD IN SECOND READING TO 4/25 CAL.
04/25/95	1502	(H)	IN SECOND READING
04/25/95	1502	(H)	AM NO 30 FAILED Y17 N22 E1
04/25/95	1503	(H)	AM NO 31 WITHDRAWN
04/25/95	1503	(H)	AM NO 32 FAILED Y17 N22 E1
04/25/95	1504	(H)	AM NO 33 FAILED Y17 N22 E1
04/25/95	1505	(H)	AM NO 34 FAILED Y17 N22 E1
04/25/95	1505	(H)	AM NO 35 FAILED Y17 N22 E1
04/25/95	1506	(H)	AM NO 36 FAILED Y17 N22 E1
04/25/95	1507	(H)	AM NO 37 ADOPTED UNAN CONSENT
04/25/95	1508	(H)	AM NO 38 FAILED Y17 N22 E1
04/25/95	1508	(H)	AM NO 39 ADOPTED UNAN CONSENT
04/25/95	1509	(H)	AM NO 40 OFFERED
04/25/95	1509	(H)	AM TO AM 40 ADOPTED UNAN CONSENT
04/25/95	1509	(H)	AM NO 40 ADOPTED UNAN CONSENT
04/25/95	1510	(H)	AM NO 41 FAILED Y15 N24 E1
04/25/95	1510	(H)	AM NO 42 OFFERED
04/25/95	1511	(H)	AM TO AM 42 ADOPTED UNAN CONSENT
04/25/95	1511	(H)	AM NO 42 AS AMENDED FLD Y12 N27 E1
04/25/95	1512	(H)	AM NO 43 FAILED Y16 N23 E1
04/25/95	1512	(H)	AM NO 44 OFFERED
04/25/95	1513	(H)	AM 1 TO AM 44 UNAN CONSENT
04/25/95	1513	(H)	AM 2 TO AM 44 PASSED Y34 N5 E1
04/25/95	1514	(H)	AM NO 44 AS AMENDED ADOPTED UNAN CONSENT
04/25/95	1514	(H)	HELD IN SECOND READING TO 4/26 CALENDAR
04/26/95	1529	(H)	IN SECOND READING
04/26/95	1529	(H)	AM NO 45 FAILED Y16 N22 E1 A1
04/26/95	1530	(H)	AM NO 46, 47, 48 NOT OFFERED
04/26/95	1530	(H)	AM NO 49 FAILED Y17 N21 E1 A1
04/26/95	1531	(H)	AM 50 THRU 56 NOT OFFERED
04/26/95	1531	(H)	AM NO 57 FAILED Y17 N21 E1 A1
04/26/95	1532	(H)	AM NO 58 FAILED Y18 N21 E1
04/26/95	1533	(H)	AM NO 59 FAILED Y16 N22 E1 A1
04/26/95	1534	(H)	AM NO 60 NOT OFFERED
04/26/95	1534	(H)	AM NO 61 FAILED Y16 N22 E1 A1
04/26/95	1536	(H)	AM NO 62 FAILED Y16 N22 E1 A1
04/26/95	1536	(H)	AM NO 63 FAILED Y17 N22 E1
04/26/95	1537	(H)	AM NO 64 FAILED Y19 N20 E1
04/26/95	1538	(H)	AM NO 65 ADOPTED UNAN CONSENT
04/26/95	1539	(H)	ADVANCED TO THIRD READING 4/27 CALENDAR
04/26/95	1559	(H)	COSPONSOR(S): OGAN
04/27/95	1599	(H)	READ THE THIRD TIME CSHB 158(FIN)AM
04/27/95	1599	(H)	RETURN TO SECOND FOR AM 66 UNAN CONSENT
04/27/95	1599	(H)	AM NO 66 ADOPTED UNAN CONSENT
04/27/95	1599	(H)	AUTOMATICALLY IN THIRD READING
04/27/95	1600	(H)	PASSED Y24 N15 E1
04/27/95	1601	(H)	CT RULE/CIV PRO 49 FLD Y23 N16 E1
04/27/95	1601	(H)	CT RULE/CIV PRO 68 FLD Y23 N16 E1
04/27/95	1602	(H)	CT RULE/CIV PRO 95 PASSED Y28 N11 E1
04/27/95	1603	(H)	CT RULE/CIV PRO 702 FLD Y23 N16 E1

04/27/95	1604	(H)	EFFECTIVE DATE FAILED Y23 N16 E1
04/27/95	1604	(H)	NAVARRE NOTICE OF RECONSIDERATION
04/28/95	1640	(H)	HOLD TO 5/1 CAL FLD Y13 N25 E2
04/28/95	1640	(H)	RECON TAKEN UP - IN THIRD READING
04/28/95	1641	(H)	PASSED ON RECONSIDERATION Y23 N15 E2
04/28/95	1642	(H)	CT RULE/CIV PRO 49 FLD Y23 N15 E2
04/28/95	1643	(H)	CT RULE/CIV PRO 68 FLD Y23 N15 E2
04/28/95	1644	(H)	CT RULE/CIV PRO 95 FLD Y26 N12 E2
04/28/95	1644	(H)	CT RULE/CIV PRO 702 FLD Y23 N15 E2
04/28/95	1645	(H)	EFFECTIVE DATE FAILED Y23 N15 E2
04/28/95	1646	(H)	RESCIND PREVIOUS ACTION/FLG CT RULE 95
04/28/95	1647	(H)	PASSED Y31 N7 E2
04/28/95	1647	(H)	CT RULE/CIV PRO 95 PD Y33 N5 E2
04/28/95	1651	(H)	TRANSMITTED TO (S)
04/29/95	1681	(H)	COSPONSOR REMOVED: ROKEBERG
05/01/95	1376	(S)	READ THE FIRST TIME - REFERRAL(S)
05/01/95	1376	(S)	JUD, FIN
05/16/95	1899	(S)	L&C REFERRAL ADDED, L&C PRECEDES FIN
03/08/96	2656	(S)	JUD RPT SCS 2DNP 2AM (TITLE CHG)
03/08/96	2657	(S)	FISCAL NOTE TO SCS (DCED)
03/08/96	2657	(S)	FISCAL NOTE TO SCS FORTHCOMING (COURT)
03/08/96	2657	(S)	ZERO FISCAL NOTES TO SCS (LAW, ADM)
03/18/96	2773	(S)	L&C RPT 1NR 3 AM (JUD)SCS
03/18/96	2773	(S)	PREVIOUS FN (DCED)
03/18/96	2773	(S)	PREVIOUS ZERO FN (LABOR, ADM)
03/18/96	2773	(S)	REFERRED TO FINANCE
03/18/96	2773	(S)	REFERRED TO FINANCE

1995 update of note

Updated for 1996

(5/2/95) by [signature]

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB 158 (FIN)am
(ct rls pld) (efd fld)

Revision Date: 5/2/95 Dept. Affected: Department of Law
 Title: "...relating to civil actions; amending Alaska Rule BRU: Legal Services
of Civil Procedure 95." Component: Operations
 Sponsor: Representative Porter
 Requester: Representative Porter COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The amended version of CSHB 158 (FIN) amends Title 9, the Alaska Code of Civil Procedure, to provide far-reaching changes that are intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The bill seeks to reduce costs associated with the civil justice system, and the bill seeks to change the distribution of the cost of risk of injury. The bill does this by changing the existing balance between claimants and defendants, and their respective, competing economic interests, by limiting the time in which certain claims can be filed, and by setting and reducing claims limits. As a result, the existing balance is tilted sharply away from claimants and toward defendants. Consequently, the state's claims exposure and the amount it ultimately pays per case might be reduced in large claims. However, because the total number of claims would probably not be significantly reduced, the impact on the department's defense of personal injury claims will be negligible..

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 5/2/95
 Date: 5/2/95

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HB

159

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 29, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/26/95

The FINANCE Committee considered:

HB 159

HOUSE BILL NO. 159

DWI LAWS/ MINOR IN POSSESSION LAWS

"An Act allowing a person under age 21 to be arrested by a peace officer without a warrant for illegal possession, consumption, or control of alcohol; relating to the offenses of driving with a revoked license, driving while intoxicated, or failure to submit to a chemical test of breath or blood; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 159 (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____
Administration

fiscal note(s) DPS 3/29/95, AKCT Sys 3/29/95
Corrections 3/29/95; Law 3/29/95

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Richard Foster</i>	FOSTER			X	
<i>Mark Hanley</i>	Hanley			X	
<i>John Martin</i>	Martin	✓			
<i>Sean Pannell</i>	Pannell			X	
<i>Vic Kohring</i>	Kohring			X	
<i>Bernard Grussendorf</i>	Grussendorf			X	
<i>Tom Brown</i>	Brown			✓	
<i>Mike Nawara</i>	Nawara			✓	
<i>Kate Kelly</i>	Kelly			✓	
<i>Gene Thurnhuth</i>	Thurnhuth	X			

CO

CHAIR'S SIGNATURE

Mark Hanley
 Hanley

Richard Foster
 FOSTER

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 4
() Version: CSRB 1991 (201)
(H) Publish Date: 3/29/95

Revision Date: _____ Dept. Affected: Public Safety
Title: DWI Laws/minors in possession BRU: Alaska State Troopers
Component: Detachments
Sponsor: Representative Porter
Requestor: (H) Judiciary COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	59.4	59.4	59.4	59.4	59.4	59.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	59.4	59.4	59.4	59.4	59.4	59.4
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	59.4	59.4	59.4	59.4	59.4	59.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	59.4	59.4	59.4	59.4	59.4	59.4

Estimate of current year (FY 95) impact: \$ -0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 02/13/95
Approved by Commissioner: W. Ronald P. Otte Date: 2-16-95
Agency: Ronald L. Otte, Dept. of Public Safety

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Budget Section
Div. of Admin. Services
Dept. of Public Safety
2/16/95

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ANALYSIS
HB 159

This legislation will allow for the arrest of minors for violations of liquor laws, establishes Class C felonies for third time offenders of Driving While Intoxicated (DWI) or Breath Test Refusal and for Driving With License Revoked (DWLR) if the license was revoked as a result of a felony DWI or Breath Test Refusal Conviction. This fiscal note is intended to provide sufficient State Trooper clerical support time to meet the increased demands resulting from this bill.

Section 1 of the bill allowing for the warrantless arrest of minors for alcohol violations addresses the impact of recent court interpretations that ruled that law enforcement officers must obtain an arrest warrant before an arrest of this type can be made. This statute change will allow the police to continue past practices in enforcement of the alcohol laws as they pertain to minors. Therefore this change will have no financial impact.

Sections 5, 7 and 10 relating to the establishment of Class C felonies for third time DWI, Breath Test Refusal and or certain DWLR convictions will financially impact the Alaska State Troopers.

Although precise statistics can not be made available within the time frame necessary for this fiscal note response, approximately 400 DWI arrests per year are believed to be made for third time offenders. Of these, 380 go to grand jury and approximately one-third, or 127 of the grand jury cases involve the State Troopers.

The assumptions upon which this fiscal note are based are discussed below:

1) It is estimated that approximately 127 cases of this type per year will be investigated by the Alaska State Troopers.

2) Felony cases require evidentiary hearings and grand jury hearings that are not required had the cases been misdemeanors. Virtually all DWI arrests take place on swing or grave yard shifts, but all evidentiary and grand jury hearings take place during the day, causing Trooper time to be either overtime and/or on call out.

3) Felony cases average the following additional effort:

- 4 to 8 hours for grand jury and/or hearings
- 2 to 3 hours of clerical support time (transcriptions, etc.)
- 10 to 20% of felonies go to trial - 16 to 24 hours

This bill contains a provision that would create a felony offense of Driving with a Revoked License (DWRL), if the revocation was for a felony conviction of DWI. While a statistical analysis at this time is not available, it is possible that in the future this provision of the bill could have a fiscal impact on the Alaska State Troopers.

Currently, Troopers arrest about 2,000 persons per year for DWLR and related offenses. If a significant number of these became felony offenses, increased trooper costs for grand jury and other related activities could impact the Division in the future. These costs are not included in this fiscal note since no firm basis exists on which to make a projection.

Costs other than personal services are not material and are not included in this fiscal note.

**Division of Alaska State Troopers
Analysis
House Bill 159**

	FY96	FY97	FY98	FY99	FY00	FY01
Personal Services:						
A) Grand Jury/ Hearings 127 cases x 6 hour average x \$46.75 (*)	35,624					
B) Clerical Support 127 cases x 2.5 hour average x \$18.98 (*)	6,026					
C) Trials 19 cases x 20 hour average x \$46.75 (*)	17,765					
TOTAL PERSONAL SERVICES	59,415	59.4	59.4	59.4	59.4	59.4

*1 - Overtime hourly cost for a State Trooper, Range 76, Step D/E - (See PACS Scenario #1, PCN 1371.)

*2 - Hourly cost for an Administrative Clerk II, Range 8, Step A - (See PACS Scenario #1, PCN 1444.)

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB 159 (H.D.)

Revision Date: _____
 Title: "An Act classifying certain offenses... driving while intoxicated... failure to submit to chemical test... as felonies..."
 Sponsor: Representative Porter
 Requestor: _____

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	221.5	221.5	221.5	221.5	221.5	221.5
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	30.0	30.0	30.0	30.0	30.0	30.0
SUPPLIES	10.0	10.0	10.0	10.0	10.0	10.0
EQUIPMENT	30.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	297.5	267.5	267.5	267.5	267.5	267.5

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	297.5	267.5	267.5	267.5	267.5	267.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	297.5	267.5	267.5	267.5	267.5	267.5

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME	4.0	4.0	4.0	4.0	4.0	4.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

Prepared by: John B. Salemi, Director
 Division: Public Defender Agency

Phone: (907) 264-4412
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 4/3/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB 159 (JUD)

ANALYSIS: (continued)

This bill makes substantial changes in state law regarding alcoholic beverages, DWI, DWLS, and Refusal to Submit to a Chemical Test. The committee substitute amends the original bill regarding treatment of DWLS offenders. In discussions with the Department of Law, it has been determined that these changes will not affect the fiscal impact as originally determined. See Department of Law fiscal note dated February 16, 1995, and PD fiscal note dated March 9, 1995.

The most significant section of this bill increases the penalty for a third or subsequent DWI conviction from a Class A misdemeanor to a Class C felony. Upon conviction the sentencing court will be required to impose a minimum sentence of 360 days in jail and a fine of not less than \$1,000. The sentence cannot be suspended, nor is a suspended imposition of sentence permitted. This is a significant difference from the current structure and penalty range for third and subsequent DWI convictions. Currently a third conviction results in a 60-day period of imprisonment (minimum). A fourth conviction carries 120-day minimum and a fifth conviction a minimum of 240 days in jail.

A separate provision creates the same felony penalty structure if the individual is convicted of a third or subsequent "refusal" in connection with a DWI arrest.

The final provision of significance is that which makes it a Class C felony for a person to drive a motor vehicle while their license was suspended or revoked if said revocation was for a felony conviction for DWI or Refusal.

The Department of Law has indicated in their fiscal note that during the last three years "an average of 330 defendants have been convicted of three or more DWI/Refusal violations within five years. Based upon the department's DWI/Refusal conviction rate, approximately 400 additional felony level DWI/Refusal cases will be referred to the department for prosecution." The prosecution indicates it will need three felony-level lawyers and two secretaries to handle the increased workload.

The vast majority of these cases will involve Public Defender representation. Individuals who are convicted of third or subsequent driving offenses involving alcohol typically are either not employed or in very difficult financial straits. The Public Defender therefore estimates that more than 80 percent of these prosecutions will become Public Defender cases.

The Public Defender Agency will react to this legislation by placing felony-level lawyers (Attorney III) in Anchorage and in Palmer. Because these are felony level matters, a Legal Secretary I position will be established in each location as support.

FISCAL ANALYSIS

	<u>Anchorage Attorney III</u>	<u>Anchorage Legal Secty I</u>	<u>Palmer Attorney III</u>	<u>Palmer Legal Secty I</u>	<u>TOTAL</u>
Personal Services	72.8	36.7	75.3	36.7	221.5
Travel	3.0	0.0	3.0	0.0	6.0
Contractual	9.0	6.0	9.0	6.0	30.0
Supplies	3.0	2.0	3.0	2.0	10.0
Equipment	<u>6.5</u>	<u>8.5</u>	<u>6.5</u>	<u>8.5</u>	<u>30.0</u>
TOTAL	94.3	53.2	96.8	53.2	297.5

04/04/95

Position Information Inquiry/Update

09:34:30

Position: 02-02#074	Project: 0	Salary Costs: 24,756.00
Component: 02-65-07-01-00-00	Region:	Benefits Costs: 11,905.03
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 36,661.03

 Actuals not available (Status: UNKNOWN) | Retirement Code: A

00/00/00	Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
0	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 2 Schedule: 2A (actual:)
	Bargaining Unit: GG Range: 10 (actual:)
	Location Code: EBA Place: ANCHORAGE
	Job Class Code: P1145 Title: LEGAL SECRETARY I _____
	Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 _____ for 0.0 months & rate of 0.00 _____ for 0.0 months
 Hourly Rate: 0.00 _____ for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

04/04/95

Position Information Inquiry/Update

09:33:59

Position: 02-02#066	Project: 0	Salary Costs: 53,304.00
Component: 02-65-07-01-00-00	Region:	Benefits Costs: 19,542.68
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 72,846.68

 Actuals not available (Status: UNKNOWN) | Retirement Code: A

00/00/00	Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
0	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 0 Schedule: AA (actual:)
	Bargaining Unit: XE Range: 22 (actual:)
	Location Code: EBA Place: ANCHORAGE
	Job Class Code: P7144 Title: ATTORNEY III
	Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
 Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

POSITION INFORMATION HAS BEEN UPDATED

04/04/95

Position Information Inquiry/Update

09:36:15

Position: 02-02#074	Project: 0	Salary Costs: 24,756.00
Component: 02-65-07-01-00-00	Region:	Benefits Costs: 11,905.03
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 36,661.03

 Actuals not available (Status: UNKNOWN) | Retirement Code: A

00/00/00	Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
0	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 2 Schedule: 2A (actual:)
	Bargaining Unit: GG Range: 10 (actual:)
	Location Code: ECF Place: PALMER
	Job Class Code: P1145 Title: LEGAL SECRETARY I _____
	Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
 Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

04/04/95

Position Information Inquiry/Update

09:37:02

Position: 02-02#066	Project: 0	Salary Costs: 55,260.00
Component: 02-65-07-01-00-00	Region:	Benefits Costs: 20,072.55
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 75,332.55

 Actuals not available (Status: UNKNOWN) | Retirement Code: A

00/00/00	Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
0	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 0 Schedule: BB (actual:)
	Bargaining Unit: XE Range: 22 (actual:)
	Location Code: ECF Place: PALMER
	Job Class Code: P7144 Title: ATTORNEY III _____
	Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 ___ for ___0.0 months & rate of 0.00 ___ for ___0.0 months
 Hourly Rate: 0.00 ___ for ___0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

FISCAL NOTE

No. 1
 Bill Version: CSHB 159 (JWD)
 (H) Publish Date: 3/29/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: ...classifying certain offenses...driving while BRU: Prosecution
intoxicated...failure to submit to a chemical test...as felonies... Component: Third Judicial District
 Sponsor: Representative Porter
 Requester: Representative Porter COMPONENT SERIAL NO. 0087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	218.5	218.5	218.5	218.5	218.5	218.5
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	28.2	28.2	28.2	28.2	28.2	28.2
SUPPLIES	11.4	11.4	11.4	11.4	11.4	11.4
EQUIPMENT	30.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	294.1	264.1	264.1	264.1	264.1	264.1

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	294.1	264.1	264.1	264.1	264.1	264.1
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	294.1	264.1	264.1	264.1	264.1	264.1

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	4.0	4.0	4.0	4.0	4.0	4.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill makes several changes in state laws regarding alcoholic beverages, driving while intoxicated, driving while license suspended, and refusal to submit to a chemical test.

First, the bill amends AS 12.25.030(b) to make it clear that a peace officer may arrest a person under 21 years of age without a warrant when the peace officer has reasonable cause to believe that the person knowingly possessed, consumed or controlled alcoholic beverages in violation of AS 04.16.050. This provision overrules a recent court decision, and restores past practice. Therefore, this change will not have a fiscal impact.

Second, the bill increases the penalty for a third or subsequent driving while intoxicated conviction from a class A misdemeanor to a class C felony, except that only convictions occurring within five years preceding the date of the present offense may be included. A court would be required to impose a minimum term of

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/16/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/16/95
 Agency: Department of Law

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

ANALYSIS CONTINUATION:

imprisonment of 120 days for a third conviction and 240 days for a fourth or subsequent conviction. A minimum fine of \$5,000 would be imposed for a third or subsequent conviction. A court would not be permitted to suspend execution of sentence or grant probation except on the condition that a person serve the minimum sentence of imprisonment. And, a court would not be permitted to suspend imposition of sentence.

Currently, a third conviction results in a minimum sentence of sixty days imprisonment and a fine of not less than \$1,000. A fourth conviction results in a minimum period of imprisonment of 120 days and a fine of not less than \$2,000. A fifth conviction results in a minimum of 240 days imprisonment and a fine of not less than \$3,000. And a sixth conviction results in not less than 360 days of imprisonment and a fine of not less than \$4,000. The crime of driving while intoxicated, whatever the number of offenses, is a class A misdemeanor under existing law, and the counting of offenses for purposes of increasing the sentence covers a ten year span. Consequently, the existing penalties would remain in place for repeat offenders if the third or subsequent offense occurred between the sixth and the tenth year after the first offense.

Third, the bill raises the penalty for a third or subsequent refusal to submit to a chemical test from a class A misdemeanor to a class C felony, under the identical circumstances (three or more convictions within five years), and imposes identical minimum sentences.

Finally, the bill would also make it a class C felony if a person drives a motor vehicle while their license was revoked as a result of a felony conviction for driving while intoxicated or refusal to submit to a chemical test. Under current law, driving while a license is suspended or revoked is a class A misdemeanor. We note that the felony DWLS provision is triggered by a prior felony. The state's presumptive sentencing laws require a sentence of two years of imprisonment upon a second felony conviction.

During the past three years an average of 330 defendants have been convicted of three or more DWI/Refusal violations within five years. Based upon the department's DWI/Refusal conviction rate, approximately 400 additional felony level DWI/Refusal cases will be referred to the department for prosecution. Of this number, about 380 cases will be taken to the grand jury for indictment. The department currently handles about 4,000 felonies annually. Thus, raising this large a number of misdemeanor offenses to felony offenses represents a substantial increase in our workload, because of the additional effort required to process a felony case. This includes grand jury proceedings, motion practice, pre-sentence reports, 12-person juries, and sentencing hearings. None of these additional processes are required for the prosecution of misdemeanors. We also note, that although these cases are to be processed as felonies, the minimum sentence provisions are still those that attend misdemeanor offenses. Moreover, the increase in jail time (nearly 80% or 260 of 330 convictions are for third-time offenders) is bound to result in tougher defenses and more defendants going to trial, rather than pleading guilty. This will be of particular concern to felony defendants because of the consequences of presumptive sentencing.

Therefore, because of the large increase in felony processing, the department will have to add two Attorney III positions, one each in Anchorage, and Palmer where the largest number of offenses occur. Additionally, because of the higher level of activity one Legal Secretary I position will have to be added at both Anchorage and Palmer.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 159

ANALYSIS CONTINUATION:

FISCAL ANALYSIS

Component Location Job Title	Third Jud. District (0087)				TOTAL
	Anchorage Attorney III	Anchorage Leg. Sec. I	Palmer Atty III	Palmer Leg. Sec. I	
Personal Services	71.7	36.1	74.1	36.6	218.5
Travel	3.0	0.0	3.0	0.0	6.0
Contractual	8.6	6.0	7.6	6.0	28.2
Supplies	3.3	2.4	3.3	2.4	11.4
Equipment	<u>6.5</u>	<u>8.5</u>	<u>6.5</u>	<u>8.5</u>	<u>30.0</u>
Total	93.1	53.0	94.5	53.5	294.1

01/24/95

14:59:24.3

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 1

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

DRU NAME: PROSECUTION

Page 1 of 5

UNIT	UNCLASSIFIED	JOB CLASS TITLE	Y	LOCATION NAME	R U S	R&S	HOS	SALARY	PREM	DENES	PER.SERV.	G. F.	
	PCH		S		C U		BUDG		PAY		COSTS	AMOUNT	
4010		ATTORNEY III		F ANCHORAGE	A	XE	AA	22A	12	53304	0	18305	71609.90

** JUSTIFICATION:

Is position will be needed to handle an increased felony load when the penalty for driving while intoxicated (or refusing to take a chemical test) for the fourth or more times is raised from a class A misdemeanor to a class C felony.

TRAVEL COSTS	3000.00
CONTRACTUAL COSTS	6600.00
SUPPLIES COSTS	3300.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00

TOTAL COSTS 93009.90 71609.90

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 71609.90

TOTAL FUNDING 71609.90

4011		LEGAL SECRETARY I		F ANCHORAGE	A	GG	2A	10A	12	24756	0	11367	36123.02
------	--	-------------------	--	-------------	---	----	----	-----	----	-------	---	-------	----------

** JUSTIFICATION:

Is position will be needed to handle an increased felony load when the penalty for driving while intoxicated (or refusing to take a chemical test) for the fourth or more times is raised from a class A misdemeanor to a class C felony.

TRAVEL COSTS	0.00
CONTRACTUAL COSTS	6000.00
SUPPLIES COSTS	2400.00
EQUIPMENT COSTS	8500.00
OTHER COSTS	0.00

TOTAL COSTS 53023.82 36123.02

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 36123.02

TOTAL FUNDING 36123.02

** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	2	TOTAL PERSONAL SERVICES	107013.00
PART TIME/SEASONAL NEW POSITIONS	0		
NON PERMANENT NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	146113.00
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT: 2

FUNDING DATA: G.F. & G.F. MATCH: 107013.00

OTHER FUNDS: 0.00

TOTAL FUNDING: 107013.00

02/14/95

09:46:00.0

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 1

DEPARTMENT OF LAW

SCENARIO: 2

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

BRU NAME: PROSECUTION

Page 5 of 6

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S HOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
18056		ATTORNEY III		F DILLINGHAM	A XE III	22A 6	33900	0	9723	43623.54	

*** JUSTIFICATION:

Substantial increases in the penalties for commercial fishing violations will result in more vigorous enforcement by defendants and will increase the number of claims significantly.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	5000.00	
SUPPLIES COSTS	1200.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	59023.54	43623.54

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	43623.54
TOTAL FUNDING	43623.54

18059		ATTORNEY III		F ANCHORAGE	A XE AA	22A 12	53304	0	18385	71689.98	
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*** JUSTIFICATION:

This position will be needed to handle an increased felony workload if state criminal mischief laws are amended to also include the penalty for joyriding from a class A misdemeanor to a class C felony.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	8600.00	
SUPPLIES COSTS	3300.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	93089.98	71689.98

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	71689.98
TOTAL FUNDING	71689.98

18060		ATTORNEY III		F PALMER	A XE DD	22A 12	55260	0	18873	74133.41	
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*** JUSTIFICATION:

This position will be required to handle the additional legal actions required to prosecute third-time DWI/refusal prosecutions as felonies rather than misdemeanors. This includes securing grand jury indictments and overcoming a tougher defense due to the substantially increased penalties.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	7600.00	
SUPPLIES COSTS	3300.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	94533.41	74133.41

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	74133.41
TOTAL FUNDING	74133.41

037068		LEGAL SECRETARY I		F PALMER	A GG	2A 10A 12	25140	0	11463	36603.52	
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*** JUSTIFICATION:

This position will be required to handle the additional legal actions required to prosecute third-time DWI/refusal prosecutions as felonies rather than misdemeanors. This includes securing grand jury

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	6000.00	
SUPPLIES COSTS	2400.00	
EQUIPMENT COSTS	8500.00	

02/14/95

09:46:01.3

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW

SCENARIO: 2

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

DRU NAME: PROSECUTION

UNIT	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R C	D U	S R	N S	MOS BUDG	SALARY	PREM PAY	BENEF	PEN.SERV. COSTS	G. F. AMOUNT
------	---------------	-----------------	--------	---------------	--------	--------	--------	--------	-------------	--------	-------------	-------	--------------------	-----------------

Judgments and overcoming a tougher defense due to the substantially increased penalties.

OTHER COSTS	0.00	
TOTAL COSTS	53503.52	36603.52

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	36603.52
TOTAL FUNDING	36603.52

*** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	3
PART TIME/SEASONAL NEW POSITIONS	1
NON PERMANENT NEW POSITIONS	0
OTHER.....	0
	=====

TOTAL PERSONAL SERVICES	226050.45
TOTAL COSTS INC. ASSOC COSTS	300950.45

NUMBER OF NEW POSITIONS IN COMPONENT:

4

FUNDING DATA: G.F. & G.F. MATCH	226050.45
OTHER FUNDS:	0.00
TOTAL FUNDING:	226050.45

FISCAL NOTE

No. 2
 Bill Version: CSHB 153 (JWD)
 (H) Publish Date: 3/29/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act possession and consumption of alcohol BRU: Statewide programs
 and DWI _____ Component: CC Dir.'s office/CRCs
 Sponsor: Rep. Porter
 Requester: Rep. Porter COMPONENT SERIAL NO. 1382

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	243.9	253.0	259.5	269.2	273.3	283.6
TRAVEL						
CONTRACTUAL	836.8	836.8	836.8	836.8	836.8	836.8
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,080.7	1,089.8	1,096.3	1,106.0	1,110.1	1,120.4

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,080.7	1,089.8	1,096.3	1,106.0	1,110.1	1,120.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	1,080.7	1,089.8	1,096.3	1,106.0	1,110.1	1,120.4

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would make a third or subsequent conviction of DWI or refusal to submit to a chemical test under AS 28.33.031 a class C felony and sets minimum sentences. It also makes DWRL based on conviction under the new Class C felony sections a class C felony. The minimum sentence under this bill exceeds the current minimum only for the third and fourth offenses.

261 people will be convicted of a third offense annually and will be sentenced to an additional 60 days imprisonment. They will serve 40 of these days after statutory goodtime. 53 offenders will be convicted of a fourth offense and will serve an additional 80 days.

261 X 40 = 10,440 additional prisoner days
 53 X 80 = 4,240 additional prisoner days

CONTINUED ON NEXT PAGE:

Prepared by: Jerry Shriner
 Division: Commissioner's Office
 Approved by Commissioner: Margaret M. Pugh
 Agency: Department of Corrections

Phone: 465-4640
 Date: 2/15/95
 Date: 2/15/95

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FISCAL NOTE

HB 159

2/14/95

page 2

This totals 14,680 bed days or 41 additional beds on an annual basis. With rare exception this class of prisoners would be housed in a treatment facility or CRC.

The average cost of a CRC bed is \$57 per day or \$20,805 per year.

$$14,680 \times \$57 = \$836.8 \text{ thousand.}$$

If fifth and subsequent convictions resulted in more than the minimum sentence or if the minimum sentence is greater than the average sentence under the current sentencing practices, there would be additional costs. At this time sufficient data is not available to address this issue.

Recent experience shows that after the second offense covered by this bill, the ability to collect either from the individual or to attach their permanent fund to offset these costs falls precipitously and no program receipts are expected.

As a felony, each conviction would require a pre-sentence investigation and report prepared by a probation officer, as well as additional time in court. The department's standard for this process is 18 hours per pre-sentence report. 330 individuals would be convicted of a felony under this bill, even though some would not receive a longer sentence.

$$330 \text{ PSIs} \times 18 \text{ hours} = 5,940 \text{ total hours.}$$

Allowing for vacation and sick leave we can expect a probation officer position to devote 1,875 hours to pre-sentence investigations annually.

$$5,940 / 1,875 = 3.2 \text{ position equivalents.}$$

Four probation officer positions and one clerical person have been included to support the required investigation and report function and a one time cost for equipment at \$5,000 per staff person has been included.

FISCAL NOTE

No. 3
 Bill version: CSHB 159 (JUD)
 (H) Publish Date: 3/29/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act relating to DWI laws BRU: Trial Courts
 Components: _____
 Sponsor: Reps. Porter, Bunde
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	59.6	59.6	59.6	59.6	59.6	59.6
TRAVEL						
CONTRACTUAL	68.0	68.0	68.0	68.0	68.0	68.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	3.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	131.6	128.6	128.6	128.6	128.6	128.6

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	131.5	128.6	128.6	128.6	128.6	129.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	131.5	128.6	128.6	128.6	128.6	129.6

POSITIONS

FULL-TIME						
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY	1.0	1.0	1.0	1.0	1.0	1.0

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228
 Agency: Alaska Court System Date: 02/22/95

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 02/22/95
 Agency: Alaska Court System

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Alaska Court System
Fiscal Analysis
HB 159

HB 159 increases the classification of a third or subsequent conviction for driving while intoxicated or refusing to submit to a chemical test from a class A misdemeanor to a class C felony, if the offenses occurred within a five year period. A person would receive a minimum 120 days in jail for a third conviction within a five year period, and a minimum 240 days in jail for a fourth or subsequent conviction within a five year period.

The bill also allows a person under the age of 21 to be arrested without a warrant for the illegal possession, consumption or control of alcoholic beverages.

At the present time, approximately 380 persons are charged each year with a third or subsequent DWI or refusal within a five year period. Handling these as felony cases rather than misdemeanor cases will substantially increase the court costs associated with the offenses. An average third or subsequent misdemeanor DWI trial can be expected to last one day and is tried before a six member jury. A felony DWI trial can be expected to average 3 days in length and will be tried before a 12 member jury. The extra trial time results from the more serious consequences of a felony conviction; attorneys for both sides spend more time on matters such as jury selection, examination of witnesses, and motion practice.

Because of the more serious consequences of a felony conviction, the trial rates can be expected to increase substantially. Because there is no prosecutorial discretion with respect to charge or recommended sentence as there is in most other felony cases, the trial rate for this crime will very likely be higher than it is for more serious felonies. This note assumes that the trial rate will increase from approximately five percent to approximately 15 percent.

Unlike misdemeanor cases, felony cases require presentment to a grand jury. HB 159 will increase the number of cases presented to grand juries each year approximately 14 percent, with a corresponding increase in juror costs.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 4
(H) Version: CSHB 159 (JUD)
(H) Publish Date: 3/29/95

Revision Date: _____ Dept. Affected: Public Safety
Title: DWI Laws/minors in possession BRU: Alaska State Troopers
Component: Detachments
Sponsor: Representative Porter
Requestor: (H) Judiciary COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	59.4	59.4	59.4	59.4	59.4	59.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	59.4	59.4	59.4	59.4	59.4	59.4
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	59.4	59.4	59.4	59.4	59.4	59.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	59.4	59.4	59.4	59.4	59.4	59.4

Estimate of current year (FY 95) impact: \$ -0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)
See attached analysis.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 02/13/95
Approved by Commissioner: Ronald L. Otte Date: 2-16-95
Agency: Ronald L. Otte, Dept. of Public Safety

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Budget Section
Div. of Admin. Services
Dept. of Public Safety
2/16/95

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ANALYSIS
HB 159

This legislation will allow for the arrest of minors for violations of liquor laws, establishes Class C felonies for third time offenders of Driving While Intoxicated (DWI) or Breath Test Refusal and for Driving With License Revoked (DWLR) if the license was revoked as a result of a felony DWI or Breath Test Refusal Conviction. This fiscal note is intended to provide sufficient State Trooper clerical support time to meet the increased demands resulting from this bill.

Section 1 of the bill allowing for the warrantless arrest of minors for alcohol violations addresses the impact of recent court interpretations that ruled that law enforcement officers must obtain an arrest warrant before an arrest of this type can be made. This statute change will allow the police to continue past practices in enforcement of the alcohol laws as they pertain to minors. Therefore this change will have no financial impact.

Sections 5, 7 and 10 relating to the establishment of Class C felonies for third time DWI, Breath Test Refusal and or certain DWLR convictions will financially impact the Alaska State Troopers.

Although precise statistics can not be made available within the time frame necessary for this fiscal note response, approximately 400 DWI arrests per year are believed to be made for third time offenders. Of these, 380 go to grand jury and approximately one-third, or 127 of the grand jury cases involve the State Troopers.

The assumptions upon which this fiscal note are based are discussed below:

1) It is estimated that approximately 127 cases of this type per year will be investigated by the Alaska State Troopers.

2) Felony cases require evidentiary hearings and grand jury hearings that are not required had the cases been misdemeanors. Virtually all DWI arrests take place on swing or grave yard shifts, but all evidentiary and grand jury hearings take place during the day, causing Trooper time to be either overtime and/or on call out.

3) Felony cases average the following additional effort:

4 to 8 hours for grand jury and/or hearings

2 to 3 hours of clerical support time (transcriptions, etc.)

10 to 20% of felonies go to trial - 16 to 24 hours

This bill contains a provision that would create a felony offense of Driving with a Revoked License (DWRL), if the revocation was for a felony conviction of DWI. While a statistical analysis at this time is not available, it is possible that in the future this provision of the bill could have a fiscal impact on the Alaska State Troopers.

Currently, Troopers arrest about 2,000 persons per year for DWLR and related offenses. If a significant number of these became felony offenses, increased trooper costs for grand jury and other related activities could impact the Division in the future. These costs are not included in this fiscal note since no firm basis exists on which to make a projection.

Costs other than personal services are not material and are not included in this fiscal note.

wp ref: SSSA4.AST

**Division of Alaska State Troopers
Analysis
House Bill 159**

	FY96	FY97	FY98	FY99	FY00	FY01
<u>Personal Services:</u>						
A) Grand Jury/Hearings 127 cases x 6 hour average x \$46.75 (*1)	35,624					
B) Clerical Support 127 cases x 2.5 hour average x \$18.98 (*2)	6,026					
C) Trials 19 cases x 20 hour average x \$46.75 (*1)	17,765					
TOTAL PERSONAL SERVICES	59,415	59.4	59.4	59.4	59.4	59.4

*1 - Overtime hourly cost for a State Trooper, Range 76, Step D/E - (See PACS Scenario #1, PCN 1371.)

*2 - Hourly cost for an Administrative Clerk II, Range B, Step A - (See PACS Scenario #1, PCN 1444.)

Alaska State Legislature

Representative Brian S. Porter

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DISTRICT 20

Sponsor Statement for CSHB 159 DWI LAWS

It's a crime drunk driving remains a misdemeanor in our state no matter how many times a person is convicted. At some point - a repeat conviction should become a felony.

CSHB 159 *DWI/minor in Possession* provides the criminal justice system with the tools needed to combat this crime: (1) allows a peace officer, in any municipality, to arrest without a warrant minors who drink alcohol; (2) renders drunk driving a felony on the third offense within a five year period with a minimum sentence of 120 days with a \$5,000 fine upon conviction; (3) grants prosecution the ability to convict prior offenses of lower BAC levels than is provided for in current statute.

CSHB 159 allows the court the option of ordering a person to take Antibes or a similar drug as a condition of parole or probation. Secondly, this bill requires a person convicted of a felony DWI to be evaluated by an alcohol screening agency before the person is sentenced. Thirdly, the court is to impose any suspended jail time on a person convicted of felony DWI who fails to complete the alcohol treatment ordered by the court.

The most frequent violent crime in the country is drunk driving. A study published by the Alaska Department of Transportation and Public Facilities stated alcohol was a factor in 982 Accidents statewide in 1993. In the same year, 49 Alaskans died in 37 alcohol or drug related accidents.

Repeat offenders account for a disproportionate number of fatal accidents, in spite of licenses suspended and jail time served. In fatal accidents in which the driver is drunk, people with a prior conviction for drunk driving are almost five times more likely to be involved than those with no record, according to the National Highway Transportation Safety Administration.

Driving is a privilege not a right. CSHB 159 gives Alaska one of the toughest drunk driving statutes in the nation. CSHB 159 will send a clear message that Alaskans will no longer tolerate persons who drive drunk.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 14, 1995

SUBJECT: Sectional Summary of HB 159.

TO: Representative Brian Porter

FROM: Michael F. Ford *M.F.F.*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Allows a person under age 21 to be arrested by a peace officer, without a warrant, for illegal possession, consumption, or control of an alcoholic beverage.

Section 2. Allows a court to include the cost of an ignition interlock device as a part of a fine imposed for convictions of driving while intoxicated or refusal to take a breath test.

Section 3. Technical amendment.

Section 4. Makes certain driving with a revoked license offenses a class C felony and imposes certain license sanctions.

Section 5. Technical amendment.

Section 6. Amends the definition of "previous conviction" for purposes of determining the penalty applicable to a driving while intoxicated or refusal to take a breath test conviction.

Section 7. Makes a third driving while intoxicated conviction a class C felony, if it is the person's third or greater conviction within five years. Imposes a minimum fine, minimum jail time, and prohibits probation or suspended imposition of sentence unless the minimum imprisonment is served. Requires revocation of the offender's driver's license, allows imposition of certain probation or parole conditions and allows forfeiture of the motor vehicle or aircraft used in the offense.