

**ALASKA LEGISLATURE**

**1339**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996**



REPRESENTATIVE CON BUNDE  
CO-CHAIR HEALTH, EDUCATION  
& SOCIAL SERVICES  
VICE-CHAIR RULES

**Alaska State Legislature  
House of Representatives**

*DURING SESSION:*  
STATE CAPITOL, ROOM 108  
JUNEAU, ALASKA 99801-1182  
1 (907) 465-4843

*DURING INTERIM:*  
716 WEST 4th AVENUE  
ANCHORAGE, ALASKA 99501-2133  
1 (907) 258-8168

**SPONSOR STATEMENT  
CSHB 38 (JUD)**

HB 38 provides a definite term of imprisonment of 40-99 years for a specific group of offenders who have two separate prior class A or unclassified felony convictions.

Under this proposed legislation, discretionary parole and good time sentence reductions are not available to offenders who are sentenced to a definite term of 40 to 99 yrs. However, HB 38 allows those sentenced to a definite term of 40 to 99 yrs to ask the court for a reduction in sentence after they have served the greater of one half of the definite term or; 30 years.

This proposed legislation gives prosecutors some discretion in the decision to pursue third strike sentencing. This will avoid unjust results in certain cases where the evidence may be weak. This provision will also allow the prosecutor some flexibility to proceed with the normal presumptive sentencing provisions when necessary.

There are a costs involved in keeping a person incarcerated for an extended period of time. However, this legislation is crafted to keep cost to a minimum. The threat of strong punishments can shape behavior and deter crime. Some persistent offenders may find they want to move to a state without a three strikes statute or they may decide the third strike is not worth the rest of their life, and change their behavior. Persistent offenders are taking up costly time in our judicial system by committing similar crimes again and again.

It is time to close the revolving door too many repeat offenders depend upon. This proposed legislation will help make our state a safer place. I urge your positive consideration of this legislation.

*Be placed*

# FISCAL NOTE

No. 6  
Bill version: CSHB 201 (JUD)  
(H) Publish Date: 4/12/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: Prisoner Litigation and Appeals  
Sponsor: House Rules by request of the Governor  
Requestor: \_\_\_\_\_

Dept. Affected: Alaska Court System  
BRU: Trial Courts  
Components: \_\_\_\_\_  
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						
TRAVEL						
CONTRACTUAL	0.8					
SUPPLIES	0.2					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	<b>1.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>1.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

### POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

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

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

Prepared by: C. S. Christensen III, Staff Counsel *CHC* Phone: 264-8228  
Agency: Alaska Court System Date: 03/24/95

Approved by: Arthur H. Snowden, II, Administrative Director *AS CHC* Date: 03/24/95  
Agency: Alaska Court System

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

This legislation will require revision of numerous rules of court. It is anticipated that the rules will be drafted by the court's rules attorney and will be circulated to all Bar members for review and comment.

Contractual

Postage costs for mailing the revised rules to 2,600 Bar members 832

Supplies

Printing supplies: copier paper, envelopes per page copier maintenance charges, etc. 152

Total Estimated Cost \$1,014

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX 110300 - STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3423  
FAX: (907) 465-4043

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
310 K STREET, SUITE 308  
ANCHORAGE, ALASKA 99501-2054  
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DEPARTMENT OF LAW

CRIMINAL DIVISION  
April 11, 1995

The Hon. Mark Hanley  
Chair, House Finance Committee  
Alaska State Legislature  
Juneau, AK 99801

Re: HB 201 (Frivolous Prisoner Litigation)

Dear Representative Hanley:

This is to request that you calendar HB 201, reducing frivolous prisoner litigation for hearing on April 19, 1995, if possible. This bill has already been heard by the House State Affairs and House Judiciary committees.


This bill is designed to reduce the number of frivolous suits filed by prisoners that are preventing the state and the court from giving adequate attention to legitimate lawsuits. The bill focuses on three different types of litigation misused by some prisoners: civil actions in the trial court, sentence appeals, and post-conviction relief applications. This proposed legislation is intended to ensure that offenders focus their attention on their rehabilitation and reformation, rather than on endless "recreational" litigation. It is also intended to promote the finality of judgments of conviction, preserve the sanctity of jury verdicts, and minimize the litigation of stale claims.

If you have any questions about the bills or require any further information, please do not hesitate to contact me.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:

  
Laurie H. Otto  
Deputy Attorney General

MOK:jf

f

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February 27, 1995

**HB 200**

HOUSE BILL NO. 200 by Representatives Mulder by request and Foster, entitled:

"An Act reassigning responsibility for the custody of persons pending their arraignments, commitment to the custody of the commissioner of corrections, or admission to a state correctional facility, and authorizing the commissioner of corrections to employ guards for emergencies on the same basis as the commissioner of public safety, as partially exempt service employees; and providing for an effective date."

was read the first time and referred to the Judiciary and Finance Committees.

**HB 201**

HOUSE BILL NO. 201 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to prisoner litigation, post-conviction relief, sentence appeals, amending Alaska Administrative Rule 10, Alaska Rules of Appellate Procedure 204, 208, 209, 215, 521, 603, and 604, and Alaska Rules of Criminal Procedure 11, 33, 35, and 35.1; and providing for an effective date."

was read the first time and referred to the State Affairs, Judiciary and Finance Committees.

The following fiscal notes apply:

- Zero fiscal notes (2), Dept. of Administration, 2/27/95
- Zero fiscal note, Dept. of Corrections, 2/27/95
- Zero fiscal note, Dept. of Law, 2/27/95
- Zero fiscal note, Dept. of Public Safety, 2/27/95

→  
TRANSMITTAL  
LETTER

The Governor's transmittal letter, dated February 27, 1995, appears below:

"Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that addresses many of the problems arising from

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**HB 201**

prisoner litigation, sentence appeals, and frivolous or extremely tardy post-conviction relief motions. This bill is intended to ensure that offenders focus their attention on their rehabilitation and reformation, rather than on endless "recreational" litigation.

The bill also is intended to promote the finality of convictions, preserve the sanctity of jury verdicts, minimize the litigation of stale claims, and prevent the unjustified dismissal of a criminal case when reprosecution is not possible. Frivolous litigation filed by prisoners misallocates resources of the judiciary, the Department of Law, the Public Defender's Office, the Office of Public Advocacy, the Department of Corrections, and the public.

Sections 1-5, 13-15, 17, 20-21, and 31 relate to prisoner litigation. These sections are designed to reduce the number of frivolous suits filed by prisoners that involve the state, its employees, and former employees. This prisoner litigation is preventing the state and the court from giving adequate attention to legitimate lawsuits.

Sections 1, 15, and 17 of the bill require prisoners to pay filing fees for civil proceedings according to their ability to pay. Section 1 authorizes the court to summarily dismiss suits or appeals filed by prisoners who pay less than full filing fees when those suits or appeals are frivolous or malicious or fail to state a claim upon which relief can be granted. Sections 2-5 amend the exemptions statutes so that the state can collect judgments entered against prisoner litigants.

Section 13 authorizes prisoners to appeal administrative disciplinary decisions when their fundamental constitutional rights were violated. Section 20 authorizes courts to stay the imposition of sanctions arising from a disciplinary decision only if the court finds, among other factors, that the prisoner faces irreparable harm if the stay is not granted and the prisoner is likely to succeed on the merits of the appeal.

Sections 7, 8, 11, 12, 18, 22, 27, and 28 relate to sentence appeals. In fiscal year 1994, the court of appeals published opinions from 13 sentence appeals. Twelve of those sentences were upheld by the court of appeals. The court summarily ruled on another 93 sentence appeals in this same time period. Only eight of those were reversed. Thus, over 90 percent of all sentence appeals (97 of 106) have resulted in the

**HB 201**

sentence being affirmed by the court of appeals. This bill limits appeals from the 90 percent of cases in which the lower court's sentences are routinely upheld. Sections 18 and 22 prevent defendants from appealing sentences or portions of sentences that they agreed to as part of a plea agreement with the state. For example, a defendant who agrees to a sentence of up to three years should not be heard to complain if the court imposes a sentence of that length or less. Similarly, secs. 27 and 28 prevent a court from modifying or reducing a sentence that was imposed in accordance with a sentencing agreement. Sections 7 and 11 restrict defendants convicted of felonies from appealing as excessive any sentence of two years or less, while secs. 8 and 12 restrict defendants convicted of misdemeanors from appealing as excessive a sentence of 120 days or less.

Most of the remaining sections of this bill set limits on the ability of prisoners to challenge their convictions years after they have already pursued normal appellate procedures and lost. After a prisoner loses on direct appeal, current law allows the prisoner to pursue a second or third round of challenges in state court. These challenges are referred to as "post-conviction relief" proceedings. If the prisoner loses these rounds, the prisoner can start yet another round of challenges in federal court. This bill seeks to reduce the number of third and subsequent rounds of challenges currently allowed under state law. This would limit most prisoners to one direct appeal and one set of post-conviction relief proceedings in the state court system and one set of post-conviction relief proceedings in the federal system.

Section 9 creates a new chapter in the code of criminal procedure to govern post-conviction relief procedures for persons convicted of criminal offenses. This chapter delineates the scope of permissible post-conviction relief claims by prohibiting claims based on the erroneous admission of evidence, illegal searches and seizures, and the excessiveness of a sentence.

In addition, sec. 9 imposes a maximum time limit from the entry of a conviction for filing an application for post-conviction relief to challenge a judgment of conviction. This section also imposes a one-year limit from the entry of an administrative decision by the Parole Board or Department of Corrections for filing an application for post-conviction relief to challenge a decision involving parole or time accounting. Section 26 imposes a 180-day limit for the filing of a

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motion for a new trial based on newly discovered evidence, while sec. 19 limits the authority of the appellate court to accept late appeals and petitions for hearing in cases involving criminal offenders.

Current law allows a defendant to try to withdraw a plea of guilty or no contest after entering the plea or even after being sentenced if the defendant so chooses. Section 25 requires a defendant who wants to withdraw a plea after having been sentenced to file an application for post-conviction relief. Section 26 eliminates the ability of trial judges to grant a new trial on the ground that the jury's verdict is contrary to the weight of the evidence.

Sections 6 and 16 prohibit appellate courts from releasing convicted defendants on bail until all of the defendant's convictions are vacated. Section 10 limits indigent offenders' right to an appointed attorney to timely applications for post-conviction relief; appointed counsel will no longer be available for appeals from the denial of post-conviction relief.

The bill includes changes to the Alaska Administrative Rules of Court, the Rules of Appellate Procedure, and the Rules of Criminal Procedure, which are necessary to make the rules conform to the proposed statutory changes. Section 32 also amends Criminal Rule 35.1(g) to allow the court in post-conviction relief proceedings to authorize the applicant to participate telephonically or by video conferencing, as an alternative to transporting the applicant to court for the hearing. Finally, secs. 22 and 23 require a court to impose the sentence contemplated by a plea agreement or allow either party to withdraw from the agreement; this is a change from existing law, which allows the court to impose the sentence contemplated in the agreement or impose a sentence more favorable to the defendant. There is no reason that the state should be prohibited from withdrawing from an agreement that the court believes is inappropriate, as defendants are permitted to do.

Urging your favorable action on this bill.

Urging your favorable action on this bill.

Sincerely,

/s/

Tony Knowles  
Governor

**VICTIMS****for Justice**

April 4, 1995

Honorable Tony Knowles  
Governor  
State of Alaska  
State Capital Building  
Juneau, AK 99801

Dear Gov. Knowles:

Victims for Justice (VFJ) would like to take the time to thank you for introducing HB 201 and HB 202.

HB 201 will hopefully reduce the river of frivolous lawsuits filed by prisoners, as well as streamlining the appellate process. By doing so, the system will become more efficient and far more friendly to the victims of crime, who more often than not do not have the time to learn how the various systems within our judicial process work. "Justice delayed is justice denied" is a complaint that VFJ is very familiar with. Mostly, the delays in a case are due to the overworked court system, and by eliminating many of the frivolous lawsuits, we will be able to deliver justice to both the victims and the community at large in a more timely fashion.

HB 202, dealing with parental responsibility for both actions of their children, and restitution, is long overdue. Unless we as a society force both juveniles to accept responsibility for their actions, and parents to face their responsibility as parents, we will have a very difficult time of stemming the evergrowing tide of juvenile crime. This bill will give the latitude to judges to make the parents stand up and take notice of what their children are doing. It will force parents to learn not only the nitty gritty details of their kids activities, but also to possibly shoulder some of the financial burden.

It is often said that you cannot legislate morality, and that if parents don't care about their kids, then there is nothing that government can do that will make them. Although this may be partially true, we as citizens owe it to the victims of crime to try and educate the parents of juvenile criminals what the impact that their child has had on the community.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph Samuels".

Ralph Samuels  
Victims for Justice

# The crime bill

## Good ideas, but more are needed

Crime hits us all. Maybe our car has been stolen. Maybe we know somebody whose home has been broken into, who lives with a family member who has been assaulted — or lives without a family member who's been murdered.

We pay more property tax for police protection, or worry more when we drive to the store after dark for a gallon of milk. Nobody's family escapes completely.

The ones doing the thieving, the drug dealing and the murdering come from families, too. The crime bill that Gov. Tony Knowles delivered to the legislature this past Monday acknowledges that crime is a family problem.

The governor has a long list of valuable ideas for demanding more responsibility from juvenile criminals and their families. He's trying to do it inexpensively, without stuffing more bodies into our overcrowded prisons. He's off to a good start, but he could offer more ideas for helping stop youth crime before it starts.

The governor's bill uses driver's licenses as an inexpensive weapon against juvenile crime. Teens who carry weapons illegally would be subject to losing their license for a time, as would teens who drink and drive.

Most teens do treasure the freedom that a driver's license brings, and the threat of losing it will likely deter many kids who may otherwise have been tempted to drink. But is there good reason to believe that somebody who packs a gun illegally is going to be stopped from driving because he or she doesn't have the proper piece of paper? In fact, it seems likely that a lot of the kids carrying weapons are the same ones stealing cars.

Along with providing more severe penalties for gang activities, the bill would allow courts to require parents to attend hearings for their children and to be responsible for restitution for harm caused by their children.

Good. Let's get these parents involved. If some of them had been to more school conferences and hockey games, chances are they wouldn't need to be in court now. There's nothing like a threat to the pocketbook to catch the attention of parents who lack personal or civic responsibility.

Still, if parents must pay restitution for harm done by their children, how do children learn that they are responsible for their own actions? The law must not be used as an opportunity for vengeful adolescents to hurt their parents.

The bill follows the Federal Gun-Free Schools Act to require school districts to expel for one year a student who brings a gun to school. Almost anything is worth doing to keep kids with guns from roaming the halls at school, but they'll have lots of free time to fill somewhere (maybe in your neighborhood?). The bill doesn't say what we'll do with these kids after they've been expelled.

The governor's bill also addresses adults who drink and drive. People with drunken-driving convictions in other states — even where definitions of DWI differ — would have their convictions count toward Alaska mandatory minimum sentences for repeat DWI convictions.

One provision that many taxpayers will no doubt cheer would cut down on "trivial and recreational" litigation by inmates. Alaska now has four state attorneys working full-time with prisoner litigation — and the case load has grown by 40 percent in the past two years.

Charging nominal filing fees to deter nuisance suits is a good idea, but we must be careful to let prisoners air legitimate grievances in court. Our justice system is not perfect.

Gov. Knowles' bill is a good start to dealing with Alaska's growing crime problem even though a vital element — prevention — is missing. Wouldn't it be great if we could figure out what kids and their families need before they start bringing weapons to school? If we could provide children with alternatives to gangs?

If you support the governor's plan, or parts of it, or have ideas of your own, don't hold back. Now's the time to let your legislators know what you think.

CHRISTINE S. SCHLEUSS  
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March 31, 1995

FAX - 465-3834

House Judiciary Committee  
Alaska State House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

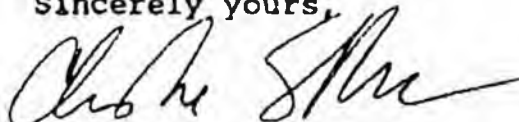
Re: HB-201

Dear Representatives:

Enclosed please find a position paper prepared by the Criminal Defense section of the Alaska Action Trust regarding HB-201. I understand this bill is being teleconferenced on April 3, 1995. I would much appreciate it if you would examine this position paper and consider it and my testimony on Monday in evaluating what amendments should be made to this bill before it is passed out of committee.

Thank you very much for your consideration.

Sincerely yours,

  
Christine S. Schleuss

CSS:8766\1a  
Enclosure



## Alaska Action Trust

1111 11th Ave. • Anchorage, Alaska 99510  
Office: 540 L Street, Suite 206 • Anchorage AK 99501  
1907) 258-4040 • FAX 1907) 276-7185

March 31, 1995

The Criminal Defense Section of the Alaska Action Trust presents this position paper in response to HB 201, a bill introduced in the Alaska Legislature at the request of the Governor. The Trust opposes some sections of the bill and urges revision of them. Moreover, this bill must not be viewed in a legislative vacuum. Two bills to legalize the death penalty are now pending. If capital punishment resumes and this bill is in effect, many innocent people will be executed. By eliminating a meaningful right to post-conviction correction of trial and appellate mistakes, this bill will grease the wheels on death row. More than a thousand capital convictions have been thrown out in this century alone. Even with present procedures, dozens of demonstrably innocent citizens have been mistakenly executed, only to be vindicated when it was too late. If both this bill and the death penalty pass, Alaska will have the dubious distinction of running the most efficient railroad in the country.

A primary objection to the section eliminating the few existing rights to sentence modifications is that it will have a particularly adverse effect on Native Alaskans. The sections to which we object are discussed in the order in which they appear in HB 201.

Section 1. The sub-sections limiting exemptions from filing fees require an unreasonable amount of paperwork from indigent offenders in order for them to prove they are indeed indigent. People who may have very little education and who may speak English as a second language will be required to file lengthy affidavits discussing their finances in detail. To provide full and fair access to the courts, judges will have to appoint attorneys just to assist those seeking a filing fee exemption. Otherwise, indigent offenders will unconstitutionally be denied access to the courts. These sub-sections should be deleted. They would create far more problems than they purport to solve.

Sections 7 and 8. A person sentenced to imprisonment between 45 days (the current limit for sentence appeals) and two years (the proposed limit) should be entitled to appeal a sentence as excessive. The Alaska Supreme Court has said that a first felony offender convicted of an un-aggravated property crime should be sentenced to probation plus restitution. Leuch v. State, 633 P.2d 1006 (Alaska 1981). Often those offenders can be rehabili-

tated without the state undergoing the unnecessary expense of incarceration. Victims can more quickly be paid for their loss by a working not incarcerated offender. If a trial court erroneously sentences such an offender to prison, he or she should be able to appeal, even if his or her sentence is less than two years. The risk of an increased sentence on a cross-appeal by the state is adequate deterrence to prevent frivolous appeals.

Two years is a very long time to any of us, and one judge's decision to imprison for such a period should be reviewable. If money judgements are appealable in America, then surely lengthy losses of freedom ought to be.

Section 9. The limitations on post-conviction relief in proposed new A.S. 12.72.020 should not be implemented. To clearly set out the scope of post-conviction relief, the proposals of A.S. 12.72.010 are a good idea. However the limits of 020 are not. They eliminate the right to relief from unjust conviction for those who were unfairly convicted because their lawyers were ineffective by failing to object to illegal evidence improperly admitted at trial, by failing to raise issues of merit on appeal or by failing to raise them for a period of time after conviction. Citizens who were convicted in violation of statutory or constitutional law should not be penalized when, through no fault of their own, they had bad lawyers. That would be the unjust result of this proposed statute.

Section 19. This section penalizes a defendant who has a bad lawyer who fails to file his appeal in a timely fashion. That is very unfair. In a case where it was the lawyer's fault that the appeal was not timely filed, the court should have discretion to relax the deadline for filing the appeal.

Section 26. A judge should be entitled to grant a new trial to a defendant where the jury verdict was against the weight of the evidence. What a judge would be doing in such a case is correcting an unconstitutional conviction of an innocent person. The trial judge's evaluation would be subject to appeal by the state and could be reversed if erroneous by an appellate court.

Sections 27 and 28. These sections are the most unfairly damaging sections of the entire bill. The limit of 60 days in which to file a modification of sentence means that virtually no one will have a sentence modification, including individuals who could affirmatively prove that they have successfully rehabilitated themselves into productive, noncriminal members of society in less time than seemed necessary when they were originally sentenced.

It is the consensus of criminal defense lawyers who have looked at this bill that these section modifications will have

greatest impact on rural native Alaskans because they are the individuals who most often under present law qualify for sentence modifications. It is frequently the case that after sentencing, often during the year or two that individuals are released on bail pending appeal, offenders from rural bush communities are, after careful thought by the community, accepted back into the community and back with their families. The individuals who are eligible for sentence modifications are those who are not subject to presumptive sentencing. They are the least serious, non-repeat offenders. Often, after four months, or after an unsuccessful appeal, they come back to court and show rehabilitation to merit a sentence reduction. It is not uncommon for the local district attorney's office to non-oppose these motions.

Under the proposed changes to Criminal Rule 35(a) and (b), people who file appeals could no longer file for sentence modifications. People who rehabilitate themselves within 120 days of the convictions could no longer have their sentences modified. Under the proposed changes those who need not be incarcerated for as long as was originally thought will not have adequate time after sentencing to prove their changed behavior.

It is a good idea to limit each offender to one, and only one, 35(b) motion to modify sentence. However, it should be made clear that the sentencing court has discretion to grant this motion for the traditional purposes, including affirmative proof of rehabilitation, formerly available under Criminal Rule 35(a). This purpose could be set out in legislative history or legislative purpose provisions. Most important, it is a bad idea to so restrict the time for filing the motion that it becomes meaningless.

If the purpose is to eliminate frivolous litigation, this proposed change will have the opposite effect. Offenders cut off from their one chance for a reduced sentence, will resort to other, more complicated and time-consuming procedures such as claims that their convictions and/or sentences were illegal.

For these reasons, section 28 should be adopted, but with the following important change in (b)(1) eliminating the 60 day time limitation:

(b)(1) may modify or reduce a sentence;

The legislature should carefully review the proposed bill and delete those provisions which unnecessarily restrict access to the courts of indigent and/or rehabilitated offenders.

is governed by the narrower prerequisites of Criminal Rule 35(b). *Mitchell v. State*, Op. No. 894, 767 P2d 203 (Alaska App. 1989).

#### V. Time Limits

Where motion to modify sentence was filed two years after sentence was imposed, trial court did not abuse discretion in refusing to relax rule imposing 60-day limitation on such motions. *Taylor v. State*, Op. No. 1436, 564 P2d 1219 (Alaska 1977).

Where defendant's counsel had a bona fide belief that a motion for reduction or modification of sentence had been timely filed, defendant had requested such a motion and tried to learn if it had been filed, within prescribed period, and defendant was imprisoned in institution that could not afford him treatment for alcoholism, to fail to relax the 60-day limit of Criminal Rule 35(a) pursuant to Rule 53 would work an injustice. *Wheeler v. State*, Op. No. 3046, 566 P2d 1013 (Alaska 1977).

Superior Court is without authority to modify sentence absent a timely motion under this rule. *Szerattics v. State*, Op. No. 1525, 572 P2d 63 (Alaska 1977).

The filing of a supplemental application for correction of sentence did not terminate the running of the time for filing an appeal from the denial of the original application for correction of sentence. *Abraham v. State*, Op. No. 1747, 585 P2d 526 (Alaska 1978).

By relaxing the rules to permit a late sentence appeal because it was unclear whether counsel for defendant had failed him in not making a timely appeal, the court did not relax Rule 35(a) so as to allow defendant to take advantage of that rule in a manner which would not be available to an ordinary criminal defendant who appeals in a timely fashion. *Davis v. State*, Op. No. 2101, 612 P2d 49 (Alaska 1980).

The time limitations in this rule are subject to the trial court's power to relax rules in the interest of justice. *Mitchell v. State*, Op. No. 894, 767 P2d 203 (Alaska App. 1989).

A motion to modify a sentence which is not brought within the 120-day time limitation prescribed in Criminal Rule 35(a) is governed by the narrower prerequisites of Criminal Rule 35(b). *Mitchell v. State*, Op. No. 894, 767 P2d 203 (Alaska App. 1989).

Where defendant was convicted of two driving offenses and his sentence for each offense included revocation of his driver's license for 10 years, the sentences to run concurrently, modification of the sentence to make the revocations concurrent if defendant were to have no jailable traffic violations during the first 10 years was error, since its effect would be to defer modification of the originally imposed sentence for 20 years; deferring modification for a 10-year period is plainly violative of the 120-day time limit for sentence reductions imposed under this rule. *Rollefson v. Municipality of Anchorage*, Op. No. 983, 782 P2d 305 (Alaska App. 1989).

Where request for reduction of sentence came almost three years after defendant's conviction was affirmed on appeal, and there was nothing in the record to suggest that he intended to make the request within 120-days permitted by the rule or was somehow frustrated by his attorney or the court system in taking action, the trial court did not err in refusing to relax the 120-day time limit. *S.B. v. State*, Op. No. 997, 785 P2d 900 (Alaska App. 1989).

If a defendant intends to bring a motion within the 120-day period but negligently calculates the time, or if defense counsel refuses to bring the motion or discourages defendant from bringing the motion, it might be an abuse of discretion to refuse to relax the 120-day time limit of this rule. *Cook v. State*, Op. No. 1052, 792 P2d 682 (Alaska App. 1990).

Although a convicted sex offender's motion to reduce sentence would have failed if made within the 120-day time limit of this rule because his completion of an institutional sex-offender program, upon which the motion was based, did not occur until after the time limit, the trial court did not err in refusing to relax the time limit. *Cook v. State*, Op. No. 1052, 792 P2d 682 (Alaska App. 1990).

### Rule 35.1. Post-conviction Procedure.

(a) **Scope.** Any person who has been convicted of, or sentenced for, a crime and who claims:

(1) that the conviction or the sentence was in violation of the constitution of the United States or the constitution or laws of Alaska;

(2) that the court was without jurisdiction to impose sentence;

(3) that the sentence imposed exceeded the maximum authorized by law, or is otherwise not in accordance with the sentence authorized by law;

(4) that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(5) that his sentence has expired, that probation, parole or conditional release have been unlawfully revoked, or that the person is otherwise unlawfully held in custody or other restraint;

(6) that the conviction or sentence is otherwise subject to collateral attack upon any ground or alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding, or remedy; or

(7) that there has been a significant change in law, whether substantive or procedural, applied in the process leading to applicant's conviction or sentence, when sufficient reasons exist to allow retroactive application of the changed legal standards; may institute a proceeding under this rule to secure relief.

(b) **Not a Substitute for Remedies in Trial Court — Replaces All Other Remedies for Challenging the Validity of a Sentence.** This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction. It is intended to provide a standard procedure for accomplishing the objectives of all of the constitutional, statutory or common law writs.

(c) **Commencement of Proceedings — Filing Service.** A proceeding is commenced by filing an application with the clerk of the court in which the conviction occurred. Application forms will be furnished by the clerk of court. An application may be filed at any time. The clerk shall open a new file for the application, promptly bring it to the attention of the court and give a copy to the district attorney.

(d) **Application — Contents.** The application shall (1) identify the proceedings in which the applicant was convicted, (2) state the date shown in the clerk's certificate of distribution on the judgment complained of, (3) state the sentence complained of and the date of sentencing, (4) specifically set forth the grounds upon which the application is based, and (5) clearly state the relief desired. Facts within the personal knowledge of the applicant shall be set forth separately from other allegations of facts and shall be under oath. Affidavits, records, or other evidence supporting its allegations shall be attached to the application or the application shall recite why they are not attached. The application shall identify all previous proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from the conviction or sentence. Argument, citations and discussion of authorities are unnecessary. Applications which are incomplete shall be returned to the applicant for completion.

(e) **Indigent Applicant.** If the applicant is indigent, filing fees, transcript and other court costs shall be borne by the state. Where the court determines that the application shall not be summarily disposed of on the pleadings and record pursuant to subdivision (f) of this rule, but that the issues raised by the application require an evidentiary hearing, counsel shall be appointed to assist indigent applicants.

(f) **Pleadings and Judgment on Pleadings.**

(1) Within 30 days after the filing of the application, or within such further time as the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. At any time prior to entry of judgment the court may grant leave to withdraw the application. The court may make appropriate orders for amendment of the application or any pleading or motion, for pleading over, for filing further pleadings or motions, or for extending the time of the filing of any pleading. In considering the application the court shall consider substance and disregard defects of form. If the application is not accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application.

(2) When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to post-conviction

relief and no purpose would be served by any further proceedings, it may indicate to the parties its intention to dismiss the application and its reasons for so doing. The applicant shall be given an opportunity to reply to the proposed dismissal. In light of the reply, or on default thereof, the court may order the application dismissed or grant leave to file an amended application or direct that the proceedings otherwise continue. Disposition on the pleadings and record shall not be made when a material issue of fact exists.

(3) The court may grant a motion by either party for summary disposition of the application when it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

(g) **Hearing — Evidence — Order.** The application shall be heard in, and before any judge of, the court in which the conviction took place. An electronic recording of the proceeding shall be made. All rules and statutes applicable in civil proceedings, including pre-trial and discovery procedures are available to the parties. The court may receive proof by affidavits, depositions, oral testimony, or other evidence. The court may order the applicant brought before it for the hearing. If the court finds in favor of the applicant, it shall enter an appropriate order with respect to the conviction or sentence in the former proceedings, and any supplementary orders as to re-arrestment, retrial, custody, bail, discharge, correction of sentence, or other matters that may be necessary and proper. The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. The order made by the court is a final judgment.

(h) **Waiver of or Failure to Assert Claims.** All grounds for relief available to an applicant under this rule must be raised in the original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

(Added by SCO 822, effective August 1, 1987; amended by SCO 1153 effective July 15, 1994)

Annotations

Cases

I. In General

**HB**

**2022**

**HFIN**

**FILE**

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 12, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/21/95

The FINANCE Committee considered:

HB 202

HOUSE BILL NO. 202

JUVENILE DELINQUENCY PROCEEDINGS

"An Act relating to the participation and accountability of parents and guardians and the enforcement of restitution orders entered in juvenile delinquency proceedings; relating to claims on permanent fund dividends for certain court-ordered treatment in juvenile delinquency proceedings; changing Alaska Supreme Court Delinquency Rules 3(b) and 8(b); and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 202 (Hes) [ ] the same title [X] 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) \_\_\_\_\_

[X] fiscal note(s) the Courts # 8 4/12/95

[ ] zero fiscal note(s) \_\_\_\_\_

(7) ~~X~~ zero fiscal note(s) (2) DOA #1, 2/27/95  
Rev #7 2/27/95  
(3) HESS #3, #4 #5 2/27/95  
LAW #6 2/27/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Mark Hanley</i>	Hanley	X			
<i>Glenn Mulder</i>	Mulder	X			
<i>Terry Martin</i>	Martin	X			
<i>John Kohring</i>	Kohring	X			
<i>Bruce Grossendorf</i>	Grossendorf	X			
<i>John Navarre</i>	Navarre	✓			
<i>John Brown</i>	Brown	X			
<i>John Kelly</i>	Kelly	X			
<i>John Theriault</i>	Theriault	X			
<i>Richard Foster</i>	Foster	X			

CO CHAIR'S SIGNATURE *Mark Hanley* *Richard Foster*  
 Hanley Foster

FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 1  
Bill Version: HB 301  
(H) Publish Date: 2/17/95

Revision Date: \_\_\_\_\_  
Title: "An Act relating to parental and guardian participation and accountability and the enforcement of..."  
Sponsor: Governor  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy  
COMPONENT SERIAL NO. 43

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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	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						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact.

Prepared by: Brant McGee  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: 2-17-95

Approved by Commissioner: Mark Bover  
Agency: Department of Administration

Date: 2-17-95

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FISCAL NOTE

NC. 2  
 Bill Version: HB 100  
 (H) Publish Date: 2/17/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: An Act relating to the participation and accountability of parents and the enforcement of restitution orders entered in juvenile proceedings  
 Sponsor: \_\_\_\_\_  
 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						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE:

(Thousands of Dollars)

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: John B. Salemi Director *[Signature]*  
 Division: Public Defender Agency

Phone: (907) 264-4412  
 Date: 2-17-95

Approved by Commissioner: Mark Bover *[Signature]*  
 Agency: Department of Administration

Date: 2-17-95

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Bill Version: \_\_\_\_\_  
(H) Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Parental and Guardian participation & accountability  
and enforcement of restitution in Juvenile Proceedings  
Sponsor: Governor  
Requestor: Governor

Dept. Affected: Health and Social Services  
BRU: Family and Youth Services  
Component: Southeastern Region  
COMPONENT SERIAL NO. 258  
See also (SN#): 254,255

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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

CHANGES IN REVENUES

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

**ANALYSIS:** (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

Prepared by: Kathy Tibbles, Acting Director  
Division: Family & Youth Services  
Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Phone: 465-3191  
Date: 02/17/95  
Date: 2/17/95

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. \_\_\_\_\_  
Bill Version: HB 000  
(H) Publish Date: 02/17/95

Revision Date: \_\_\_\_\_  
Title: Parental and Guardian participation & accountability  
and enforcement of restitution in Juvenile Proceedings  
Sponsor: Governor  
Requestor: Governor

Dept. Affected: Health and Social Services  
BRU: Family and Youth Services  
Component: Northern Region  
COMPONENT SERIAL NO. 355  
See also (SN#): 254.258

Expenditures/Revenues:		(Thousands of Dollars)				
OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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

CHANGES IN REVENUES

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

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

Prepared by: Kathy Tibbles, Acting Director  
Division: Family & Youth Services  
Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Phone: 465-3191  
Date: 02/17/95  
Date: 2/17/95

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. \_\_\_\_\_  
Bill Version: HB 101  
(H) Publish Date: 2/27/95

Revision Date: \_\_\_\_\_  
Title: Parental and Guardian participation & accountability  
and enforcement of restitution in Juvenile Proceedings  
Sponsor: Governor  
Requestor: Governor

Dept. Affected: Health and Social Services  
BRU: Family and Youth Services  
Component: Southcentral Region  
COMPONENT SERIAL NO. 254  
See also (SN#): 255,258

Expenditures/Revenues:		(Thousands of Dollars)				
OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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						
CHANGES IN REVENUES						

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

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

Prepared by: Kathy Tibbles, Acting Director  
Division: Family & Youth Services  
Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Phone: 465-3191  
Date: 02/17/95  
Date: 2/17/95

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# FISCAL NOTE (

No. 6  
 Bill version: #3 000  
 (H) Publish Date: 2/27/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: ...relating to the participation and accountability BRU: Legal Services  
of parents and guardians in juvenile delinquency proceedings... Component: Operations  
 Sponsor: Rules by Request of the Governor  
 Requester: Office of the Governor/OMB 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						
<b>TOTAL OPERATING</b>	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 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						
<b>TOTAL</b>	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 the statutes governing orders in delinquency proceedings to authorize the court to require that parents or guardians of juvenile offenders personally participate in treatment when appropriate, to require attendance of these persons at hearings that concern their children, and to require that parents be responsible for payment of restitution for harm caused by their children. The bill also specifies that the recipient of such a restitution order may enforce payment under the civil code as if the order were a civil judgment. Although the bill will require that the department's attorneys prepare summonses for parents and guardians to attend juvenile proceedings, this additional work is more a matter of organization than added cost. Currently, some parents voluntarily attend these proceedings and some do not. Parents who ignore a summons or fail to participate in court-ordered treatment would be subject to a contempt citation; the department may be called upon to initiate contempt proceedings in these circumstances. At this point in time, we do not anticipate a substantial additional burden handling contempt actions because of the sanctions the court could impose against a parent or guardian who ignored a court order.

Prepared by: Richard I. Peoues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/17/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/17/95  
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. \_\_\_\_\_  
Bill version: HB 201  
(H) Public Date: 2/27/95

Revision Date: \_\_\_\_\_  
Title: Juvenile Delinquency Proceedings  
Sponsor: \_\_\_\_\_  
Requestor: Governor

Department Affected: Revenue  
BRU: Child Support Enforcement Division  
Component: Child Support Division  
COMPONENT SERIAL NO. 111

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
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: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Glenda Straube  
Division: Child Support Enforcement Division  
Approved by Commissioner: Deborah Voot, Deputy  
Agency: Department of Revenue

Phone: 269-6801  
Date: February 17, 1995  
465-2302  
Date: February 17, 1995

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# FISCAL NOTE

## STATE OF ALASKA 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to participation and BRU: Trial Courts  
accountability of parents and guardians... Components: \_\_\_\_\_  
 Sponsor: House Rules by request of Governor  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 788

### EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	5.0	5.0	5.0	5.0	5.0	5.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	5.0	5.0	5.0	5.0	5.0	5.0

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

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

### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5.0	5.0	5.0	5.0	5.0	5.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	5.0	5.0	5.0	5.0	5.0	5.0

### POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 95) cost: 3 None

### ANALYSIS: (Attach a separate page if necessary)

See attached fiscal note.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228  
 Agency: Alaska Court System Date: 04/10/95  
 Approved by: Arthur H. Snowden, II, Administrative Director *AS*  
 Agency: Alaska Court System Date: 04/10/95

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

Alaska Court SystemFiscal AnalysisHB 202Personal Services

Overtime for clerical staff

\$5,000

During FY 94, 1,113 delinquency petitions were filed statewide. This legislation will require serving a summons on each parent in every delinquency case. Thus, 2,226 additional summonses must be issued. Also notices of all subsequent hearings will have to be sent to the parents. This legislation will also authorize issuance of writs of execution to enforce restitution orders against both parents and the child. In order to issue these writs, clerical staff will have to set up new (non-confidential) case files, answer questions from victims about execution procedure, research files, accept payments, and disburse payments to victims. This fiscal note does not include funding for an expected increase in length in disposition hearings to address issues of parental treatment and restitution orders.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 27, 1995

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to parental participation and accountability, and the enforcement of restitution orders, in juvenile delinquency proceedings. This bill amends the statutes governing orders in delinquency proceedings to authorize the court to require that parents or guardians of juvenile offenders personally participate in treatment when appropriate, to require attendance of those persons at hearings that concern their children, and to require that parents be responsible for payment of restitution for harm caused by their children. The bill also specifies that the recipient of such a restitution order may enforce payment under the civil code, AS 09.35, as if the order were a civil judgment.

This bill is intended to increase the effectiveness of the juvenile justice system by increasing parental or guardian involvement and responsibility. Juvenile courts currently lack authority to compel parents or guardians to engage in treatment even though the parent's or guardian's behavior may be associated with the juvenile's delinquent behavior. The bill not only requires parental or guardian participation in treatment, but also contains a provision that makes the parent or guardian responsible for covering the cost of that treatment, either through using insurance or other such resource, or paying for the treatment. Under certain circumstances, if the Department of Health and Social Services pays for the treatment, that department may claim the parent's or guardian's permanent fund dividend in reimbursement. It is intended that the provisions in this bill will be enforceable by the contempt powers of the court under AS 09.50.

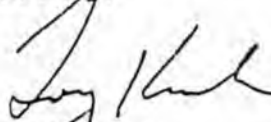
The provision in sec. 4 of the bill, which will allow enforcement of a restitution order under the civil code, parallels a provision that already exists in AS 12.55.051 of the criminal code for restitution orders entered in adult cases. This will simplify the process

The Honorable Gail Phillips  
February 27, 1995  
Page 2

for collection under such a restitution order. A victim of a crime perpetrated by a juvenile will be able to seek recovery under a restitution order even after the juvenile reaches age 18 and the juvenile court typically would no longer have jurisdiction over that person.

I urge your favorable action on this bill.

Sincerely,



Tony Knowles  
Governor

**HB**

**2022**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/1/96

DATE TURNED INTO OFFICE: 5/05/96

The Finance Committee considered CS FOR HOUSE BILL NO. 202(HES)

Relating to the participation and accountability of parents and guardians and the enforcement of restitution orders entered in juvenile delinquency proceedings; efd.

REPORTED OUT OF  
SFC 5/05/96

and recommends:

be replaced with S CS CS HB 202 ( FIN )

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
<i>Daniel Donley</i>	✓	<i>[Handwritten signatures]</i>			
<i>Kate E. [unclear]</i>	✓				
<i>[Handwritten signature]</i>	✓				
Co-Chair: <i>[Handwritten signature]</i>		Co-Chair:			
Co-Chair: <i>Rich Halford</i>	✓	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date    Zero    Fiscal

Alaska Court System	5/2/96		5.0

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 202 (JUD)

Revision Date: 05/02/96  
Title: An Act relating to participation and accountability of parents and guardians...  
Sponsor: House Rules by request of Governor  
Requestor: \_\_\_\_\_

Dept. Affected: Alaska Court System  
BRU: Trial Courts  
Component: \_\_\_\_\_  
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	5.0	5.0	5.0	5.0	5.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	5.0	5.0	5.0	5.0	5.0	5.0

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

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

**Fund Source**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5.0	5.0	5.0	5.0	5.0	5.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	5.0	5.0	5.0	5.0	5.0	5.0

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

**Positions**

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

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

Phone: 264-8228  
Date: 05/02/96

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

Date: 05/02/96

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Alaska Court System  
Fiscal Analysis  
SCS CSHB 202 (JUD)

Personal Services

Overtime for clerical staff

\$5,000

During FY 95, 1,385 delinquency petitions were filed statewide. This legislation will require serving a summons on each parent in every delinquency case. Thus, 2,770 additional summonses must be issued. Also notices of all subsequent hearings will have to be sent to the parents. This legislation will also authorize issuance of writs of execution to enforce restitution orders against both parents and the child. In order to issue these writs, clerical staff will have to set up new (non-confidential) case files, answer questions from victims about execution procedure, research files, accept payments, and disburse payments to victims. This fiscal note does not include funding for an expected increase in length in disposition hearings to address issues of parental treatment and restitution orders.

*moved Donley  
w/o objection  
adopted*  
9-GH0029/F.1  
Finley  
5/4/96

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 202(JUD)

1 Page 7, following line 6:

2 Insert a new bill section to read:

3 **\*\* Sec. 7. REVISOR'S INSTRUCTIONS.** In the event SCS CSSSHB 387 (JUD), passed  
4 by the Nineteenth Alaska State Legislature, becomes law, the following instructions  
5 apply. AS 47.10.079, enacted by sec. 2 of this Act, and AS 47.10.086, enacted by sec. 4 of  
6 this Act, shall be placed in AS 47.12, and cross-references to those sections shall be  
7 conformed to the renumbering. In AS 47.10.079, enacted by sec. 2 of this Act, the  
8 references to AS 47.10.010(a)(1) and AS 47.10.080(b) shall be changed to AS 47.12.020 and  
9 AS 47.12.120, respectively. The amendment made to AS 47.10.080(b) by sec. 3 of this Act  
10 shall be treated as an amendment to AS 47.12.120. In AS 47.10.086, enacted by sec. 4 of  
11 this Act, the references to AS 47.10.080 shall be changed to AS 47.12.120."

12 Renumber the following bill sections accordingly.

13 Page 7, line 10, following "1 - 4":

14 Insert "and 7"

moved Donley  
w/o objection  
adopted  
ind. recs. F/N  
9-GH0029\F

SENATE CS FOR CS FOR HOUSE BILL NO. 202(JUD)<sup>FIN</sup>

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/1/96  
Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the participation and accountability of parents and  
2 guardians and the enforcement of restitution orders entered in juvenile  
3 delinquency proceedings; relating to claims on permanent fund dividends for  
4 certain court-ordered treatment in juvenile delinquency proceedings; and  
5 amending Alaska Delinquency Rules 3(b) and 8(b); and providing for an  
6 effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 43.23 is amended by adding a new section to read:

9 Sec. 43.23.066. CLAIMS ON REIMBURSEMENT FOR COURT-ORDERED  
10 TREATMENT. (a) AS 09.38 does not apply to permanent fund dividends taken under  
11 AS 47.10.079(c). Notwithstanding AS 09.35, execution on a dividend claimed under  
12 AS 47.10.079(c) is accomplished by delivering a certified claim to the department  
13 containing the following information:

1 (1) the name and social security number of the individual whose  
2 dividend is being claimed;

3 (2) the amount the individual owes on the reimbursement claim; and

4 (3) a statement that

5 (A) the Department of Health and Social Services has notified  
6 the individual that future permanent fund dividends of the individual will be  
7 taken to satisfy the reimbursement claim;

8 (B) the individual was notified of the right to request a hearing  
9 and allowed 30 days after the date of the notice described in (A) of this  
10 paragraph to request the Department of Health and Social Services to hold a  
11 hearing on the reimbursement claim;

12 (C) the reimbursement claim has not been contested, or, if  
13 contested, that the issue has been resolved in favor of the Department of Health  
14 and Social Services; and

15 (D) if the reimbursement claim has been contested and resolved  
16 in favor of the Department of Health and Social Services, no appeal is pending,  
17 the time limit for filing an appeal has expired, or the appeal has been resolved  
18 in favor of the Department of Health and Social Services.

19 (b) The Department of Health and Social Services shall notify the individual  
20 if a dividend is claimed under (a) of this section. The notice shall be sent to the  
21 address provided in the individual's permanent fund dividend application and must  
22 provide the following information:

23 (1) the amount of the reimbursement claim;

24 (2) notice that the permanent fund dividend, or that portion of the  
25 permanent fund dividend that does not exceed the amount of the reimbursement claim,  
26 shall be paid to the Department of Health and Social Services; and

27 (3) notification that the individual has a right to request a hearing and  
28 has 30 days after the date the notice is mailed in which to file with the Department of  
29 Health and Social Services an objection to the dividend claim if a mistake has been  
30 made.

31 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual

1 under (b)(3) of this section.

2 \* **Sec. 2.** AS 47.10 is amended by adding a new section to read:

3 Sec. 47.10.079. PARENTAL OR GUARDIAN ACCOUNTABILITY AND  
4 PARTICIPATION. (a) The parent or guardian of a minor who is alleged to be a  
5 delinquent under AS 47.10.010(a)(1) or found to be a delinquent under  
6 AS 47.10.080(b) shall attend each hearing held during the delinquency proceedings  
7 unless the court excuses the parent or guardian from attendance for good cause.

8 (b) If a minor is found to be a delinquent under AS 47.10.080(b), the court  
9 may order that the minor's parent or guardian

10 (1) personally participate in treatment reasonably available in the  
11 parent's or guardian's location as specified in a plan set out in the court order;

12 (2) notify the department if the minor violates a term or condition of  
13 the court order; and

14 (3) comply with any other conditions set out in the court order.

15 (c) If a court orders a minor's parent or guardian to participate in treatment  
16 under (b) of this section, the court also shall order the parent or guardian to use any  
17 available insurance or another resource to cover the treatment, or to pay for the  
18 treatment if other coverage is unavailable. If the court determines that the parent or  
19 guardian is unable to pay for the treatment due to indigence and the department pays  
20 for the treatment, the department may seek reimbursement only from the indigent  
21 parent or guardian's permanent fund dividend.

22 (d) The permanent fund dividend of an indigent parent or guardian  
23 participating in treatment ordered under (b) of this section may be taken under  
24 AS 43.23.065(b)(6) and 43.23.066 to satisfy the balance due on a reimbursement claim  
25 by the department under (c) of this section.

26 (e) If a parent or guardian fails to attend a hearing as required in (a) of this  
27 section, the court shall hold the hearing without the attendance of the parent or  
28 guardian.

29 \* **Sec. 3.** AS 47.10.080(b) is amended to read:

30 (b) If the court finds that the minor is delinquent, it shall

31 (1) order the minor committed to the department for a period of time

1 not to exceed two years or in any event extend past the day the minor becomes 19,  
2 except that the department may petition for and the court may grant in a hearing (A)  
3 two-year extensions of commitment that do not extend beyond the child's 19th  
4 birthday if the extension is in the best interests of the minor and the public; and (B)  
5 an additional one-year period of supervision past age 19 if continued supervision is in  
6 the best interests of the person and the person consents to it; the department shall place  
7 the minor in the juvenile facility that the department considers appropriate and that  
8 may include a juvenile correctional school, juvenile work camp, treatment facility,  
9 detention home, or detention facility; the minor may be released from placement or  
10 detention and placed on probation on order of the court and may also be released by  
11 the department, in its discretion, under AS 47.10.200;

12 (2) order the minor placed on probation, to be supervised by the  
13 department, and released to the minor's parents, guardian, or a suitable person; if the  
14 court orders the minor placed on probation, it may specify the terms and conditions  
15 of probation; the probation may be for a period of time, not to exceed two years and  
16 in no event extend past the day the minor becomes 19, except that the department may  
17 petition for and the court may grant in a hearing

18 (A) two-year extensions of supervision that do not extend  
19 beyond the child's 19th birthday if the extension is in the best interests of the  
20 minor and the public; and

21 (B) an additional one-year period of supervision past age 19 if  
22 the continued supervision is in the best interests of the person and the person  
23 consents to it;

24 (3) order the minor committed to the department and placed on  
25 probation, to be supervised by the department, and released to the minor's parents,  
26 guardian, other suitable person, or suitable nondetention setting such as a family home,  
27 group care facility, or child care facility, whichever the department considers  
28 appropriate to implement the treatment plan of the predisposition report; if the court  
29 orders the minor placed on probation, it may specify the terms and conditions of  
30 probation; the department may transfer the minor, in the minor's best interests, from  
31 one of the probationary placement settings listed in this paragraph to another, and the

1 minor, the minor's parents or guardian, and the minor's attorney are entitled to  
2 reasonable notice of the transfer; the probation may be for a period of time, not to  
3 exceed two years and in no event extend past the day the minor becomes 19, except  
4 that the department may petition for and the court may grant in a hearing

5 (A) two-year extensions of commitment that do not extend  
6 beyond the child's 19th birthday if the extension is in the best interests of the  
7 minor and the public; and

8 (B) an additional one-year period of supervision past age 19 if  
9 the continued supervision is in the best interests of the person and the person  
10 consents to it;

11 (4) order the minor and the minor's parent to make suitable  
12 restitution in lieu of or in addition to the court's order under (1), (2), or (3) of this  
13 subsection; under this paragraph,

14 (A) except as provided in (B) of this paragraph, the court  
15 may not refuse to make an order of restitution [UNDER THIS PARAGRAPH]  
16 to benefit the victim of the act of the minor that is the basis of the delinquency  
17 adjudication; and

18 (B) the court may not order payment of restitution by the  
19 parent of a minor who is a runaway or missing minor for an act of the  
20 minor that was committed by the minor after the parent has made a  
21 report to a law enforcement agency, as authorized by AS 47.10.141(a), that  
22 the minor has run away or is missing; for purposes of this subparagraph,  
23 "runaway or missing minor" means a minor who a parent reasonably  
24 believes is absent from the minor's residence for the purpose of evading  
25 the parent or who is otherwise missing from the minor's usual place of  
26 abode without the consent of the parent;

27 (5) order the minor committed to the department for placement in an  
28 adventure based education program established under AS 47.21.020 with conditions  
29 the court considers appropriate concerning release upon satisfactory completion of the  
30 program or commitment under (1) of this subsection if the program is not satisfactorily  
31 completed; [OR]

1 (6) in addition to an order under (1) - (5) of this subsection, if the  
2 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or  
3 11.71.040(a)(4), order the minor to perform 50 hours of community service; for  
4 purposes of this paragraph, "community service" includes work

5 (A) defined as community service under AS 33.30.901; or

6 (B) that, on the recommendation of the city council or  
7 traditional village council, would benefit persons within the city or village who  
8 are elderly or disabled; or

9 (7) in addition to an order under (1) - (6) of this subsection, order  
10 the minor's parent or guardian to comply with orders made under AS 47.10.079,  
11 including participation in treatment under AS 47.10.079(b)(1).

12 \* Sec. 4. AS 47.10 is amended by adding a new section to read:

13 Sec. 47.10.086. ENFORCEMENT OF RESTITUTION. A person who is a  
14 recipient of a restitution order involving a minor found delinquent under AS 47.10.080  
15 may enforce an order for restitution under AS 47.10.080 against the minor and the  
16 minor's parent under AS 09.35 as if the order were a civil judgment enforceable by  
17 execution. This section does not limit the authority of the court to otherwise enforce  
18 orders of payment for restitution. An order of restitution enforced under this section  
19 does not limit under other law the civil liability of the minor or the minor's parent as  
20 a result of the delinquent conduct.

21 \* Sec. 5. Rule 3(b), Alaska Delinquency Rules, is amended to read:

22 (b) PRESENCE OF JUVENILE AND OTHER PARTIES. The presence of  
23 the juvenile is required unless the juvenile:

24 (1) waives the right to be present and the juvenile's presence is excused  
25 by the court; or

26 (2) engages in conduct which justifies exclusion from the courtroom.

27 The presence of the parent or guardian is required [PREFERRED, BUT NOT  
28 REQUIRED] unless excused by the court for good cause [SO ORDERS].

29 \* Sec. 6. Rule 8(b), Alaska Delinquency Rules, is amended to read:

30 (b) SUMMONS. Upon the filing of a petition for adjudication, the court shall  
31 set a time for the arraignment on petition and shall, if the juvenile is not in custody,

1 issue a summons to be served with the petition compelling the attendance of the  
2 juvenile. The court shall [MAY] issue a summons compelling the attendance of the  
3 juvenile's parents or guardian at the hearing. If the summons and petition are not  
4 contained in one document, the petition must be attached to and incorporated by  
5 reference into the summons. The summons must contain a statement advising the  
6 parties of their right to counsel.

7 \* Sec. 7. Sections 5 and 6 of this Act take effect only if those sections receive the two-  
8 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of  
9 Alaska.

10 \* Sec. 8. Sections 1 - 4 of this Act take effect only if secs. 5 and 6 of this Act take effect.

11 \* Sec. 9. If this Act takes effect, it takes effect immediately under AS 01.10.070(c).

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/1/96

DATE TURNED INTO OFFICE: 5/05/96

The Finance Committee considered CS FOR HOUSE BILL NO. 202(HES)

Relating to the participation and accountability of parents and guardians and the enforcement of restitution orders entered in juvenile delinquency proceedings; efd.

REPORTED OUT OF  
SFC \_\_\_\_\_

and recommends:

- be replaced with S CS CS HB 202 (FIN)
- 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
<i>Daniel Donley</i>	✓	<i>[Handwritten signature]</i>	✓		
<i>Kyle E. [unclear]</i>	✓				
<i>[Handwritten signature]</i>	✓				
Co-Chair: <i>[Handwritten signature]</i>		Co-Chair:			
Co-Chair: <i>Rich Halford</i>	✓	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
Alaska Court System	5/2/96		5.0

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

Letter of Intent

TO: CSHB202 (HES)

BY REP. NICHOLIA + *Porter*

It is the intent of the Legislature to recognize that eligible Native American parents may receive rehabilitation services from the Indian Health Service or tribal contractor under the Indian Self-Determination Act. It is intended that in implementing this legislation persons eligible for services under the Indian Health Care Improvement Act be allowed to receive services from Indian Health Service and tribal service providers to the greatest extent possible.

ADOPTED BY THE HOUSE: May 2, 1995

BILL: HB 202 SHORT TITLE: JUVENILE DELINQUENCY PROCEEDINGS  
BILL VERSION: CSHB 202(HES)  
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

CURRENT STATUS: (S) FIN

STATUS DATE: 05/01/96

HEARING: (S) JUD MAY 01 01:30 PM BELTZ ROOM 211

TELECONFERENCE

TITLE: "AN ACT RELATING TO THE PARTICIPATION AND ACCOUNTABILITY OF PARENTS AND GUARDIANS AND THE ENFORCEMENT OF RESTITUTION ORDERS ENTERED IN JUVENILE DELINQUENCY PROCEEDINGS; RELATING TO CLAIMS ON PERMANENT FUND DIVIDENDS FOR CERTAIN COURT-ORDERED TREATMENT IN JUVENILE DELINQUENCY PROCEEDINGS; AND AMENDING ALASKA DELINQUENCY RULES 3(B) AND 8(B); AND PROVIDING FOR AN EFFECTIVE DATE."

02/27/95	492	(H)	READ THE FIRST TIME - REFERRAL(S)
02/27/95	492	(H)	HES, JUDICIARY, FINANCE
02/27/95	492	(H)	2 ZERO FISCAL NOTES (ADM)
02/27/95	492	(H)	3 ZERO FISCAL NOTES (HES)
02/27/95	492	(H)	2 ZERO FISCAL NOTES (LAW, REV)
02/27/95	492	(H)	GOVERNOR'S TRANSMITTAL LETTER
04/03/95	1005	(H)	HES RPT CS(HES) NT 3DP 2NR
04/03/95	1005	(H)	DP: G.DAVIS, TOOHEY, ROBINSON
04/03/95	1005	(H)	NR: BUNDE, BRICE
04/03/95	1005	(H)	5 ZERO FNS (3-HES, 2-ADM) 2/27/95
04/03/95	1005	(H)	2 ZERO FNS (REV, LAW) 2/27/95
04/12/95	1280	(H)	JUD RPT CS(HES) NT 5DP
04/12/95	1281	(H)	DP: PORTER, GREEN, TOOHEY, FINKELSTEIN
04/12/95	1281	(H)	DP: B.DAVIS
04/12/95	1281	(H)	FISCAL NOTE (COURT)
04/12/95	1281	(H)	2 ZERO FISCAL NOTES (REV, LAW) 2/27/95
04/12/95	1281	(H)	5 ZERO FNS (3-HES, 2-ADM) 2/27/95
04/22/95	1444	(H)	FIN RPT CS(HES) NT 10 DP
04/22/95	1445	(H)	DP: HANLEY, MULDER, MARTIN, KOHRING
04/22/95	1445	(H)	DP: GRUSSENDORF, NAVARRE, BROWN, KELLY
04/22/95	1445	(H)	DP: THERRIAULT, FOSTER
04/22/95	1445	(H)	FISCAL NOTE (COURT) 4/12/95
04/22/95	1445	(H)	5 ZERO FNS (2-ADM, 3-HES) 2/27/95
04/22/95	1445	(H)	2 ZERO FNS (REV, LAW) 2/27/95
05/01/95	1704	(H)	RULES TO CALENDAR 5/01/95
05/01/95	1704	(H)	READ THE SECOND TIME
05/01/95	1704	(H)	HES CS ADOPTED UNAN CONSENT
05/01/95	1705	(H)	ADVANCED TO THIRD READING UNAN CONSENT
05/01/95	1705	(H)	READ THE THIRD TIME CSHB 202(HES)
05/01/95	1705	(H)	RETURN TO 2ND FOR AM 1 FLD Y14 N26
05/01/95	1705	(H)	PASSED Y38 N2
05/01/95	1706	(H)	COURT RULE(S) SAME AS PASSAGE
05/01/95	1706	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/01/95	1706	(H)	DAVIES NOTICE OF RECONSIDERATION
05/02/95	1793	(H)	RECON TAKEN UP - IN THIRD READING
05/02/95	1794	(H)	RETURN TO 2ND FOR AM 1 FLD Y12 N26 A2
05/02/95	1795	(H)	PASSED ON RECONSIDERATION Y39 N1
05/02/95	1795	(H)	COURT RULE(S) SAME AS PASSAGE
05/02/95	1795	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/02/95	1795	(H)	LETTER OF INTENT UNAN CONSENT
05/02/95	1800	(H)	TRANSMITTED TO (S)
05/03/95	1470	(S)	READ THE FIRST TIME - REFERRAL(S)
05/03/95	1470	(S)	HES, JUD, FIN

05/09/95	1712	(S)	HES REFERRAL WAIVED	
05/01/96		(S)	JUD RPT SCS 4DP 1NR	SAME TITLE
05/01/96		(S)	FISCAL NOTE INFORMATION	FORTHCOMING
05/01/96		(S)	REFERRED TO FINANCE	

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO. SCSCSHB202**

Revision Date: _____	Dept. Affected: <u>Health and Social Services</u>
Title: <u>Parental and Guardian participation &amp; Accountability and enforcement of restitution/Juv Proceed.</u>	BRU: <u>Family and Youth Services</u>
Sponsor: <u>House (Rules)</u>	Component: <u>DFYS Central Office</u>
Requestor: <u>Senate (FIN)</u>	COMPONENT SERIAL NO. <u>259</u>
	See also (SN#): _____

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

CHANGES IN REVENUES ( )						
-------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**POSITIONS:**

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

<p><i>5/3/96</i></p>	<p>Prepared by: <u>L. Diane Worley, Director</u> <i>L. Diane Worley</i></p> <p>Division: <u>Div. of Family &amp; Youth Services</u></p> <p>Approved by Com: <u>Karen Perdue, Commissioner</u> <i>Karen Perdue</i></p> <p>Agency: <u>Department of Health &amp; Social Services</u></p>	<p>Phone: <u>465-3191</u></p> <p>Date: <u>05/03/96</u></p> <p>Date: <u>5/3/96</u></p>
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# SENATE COMMITTEE REPORT

DATE: 5/9/95

FURTHER: Finance

DATE TURNED INTO OFFICE: 5-1-96

Judiciary Committee considered CS FOR HOUSE BILL NO. 202(HES)

Participation and accountability of parents and guardians and the enforcement of restitution orders entered in juvenile delinquency proceedings; amending Alaska Delinquency Rules 3(b) and 8(b); efd.

and recommends:

- be replaced with 5 CS CS HB 202 (JUD)
- 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
<i>J. Ellis</i>	<input checked="" type="checkbox"/>	<i>John Doe</i>			
<i>Joe Coles</i>	<input checked="" type="checkbox"/>				
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
<b>CHAIR:</b> <i>John C. Taylor</i>	<input checked="" type="checkbox"/>				

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

<del>Health Services</del>	<del>5/1/95</del>			

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

<del>Current System</del>	4/1/95			5:0
<del>Lawrence</del>	2/17/95			✓
<del>Legal Services</del>	4/1/95			✓
<del>Finance &amp; Health Services</del>	2/1/95			✓
<del>Public Def</del>	4/1/95			✓
<del>Public Advocacy</del>	2/1/95			✓

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill



**HB**

**204**

**HFIN**

**FILE**

# LEGAL SERVICES

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

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

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

## MEMORANDUM

February 26, 1996

**SUBJECT:** Driving offenses by minors - (CSHB 204(FIN))

**TO:** Representative Mark Hanley  
Attn: Michelle Toohey

**FROM:** Michael F. Ford: 222  
Legislative Counsel

The CS adopted by the finance committee for HB 204 contains several issues that I wanted to bring to your attention. As this bill was not reviewed by our office prior to action by the finance committee, we were unable to bring these matters to the attention of the committee until now.

1. Title questions - The bill's title refers to "vehicle" on page 1, lines 2 and 4. This should be changed to refer to a "motor vehicle, aircraft, or watercraft" to reflect the substantive provisions in sections 5 and 6. Also, on page 1, line 4, after "alcohol" a reference to refusal to submit to a chemical breath test should be added. Also, the use of the term "vehicle" in sec. 5 should be changed to "motor vehicle, aircraft, or watercraft."
2. References to municipal ordinances - Several provisions of law contained in HB 204 were amended last session. Therefore the language in HB 204 as amended by the finance committee was not existing law. Specifically, in Chapter 9, SLA 1995 language was added to provisions of law contained in secs. 1, 2, 3, and 4 of HB 204 to refer to a violation of "a municipal ordinance with substantially similar elements" in addition to the listed offenses. Because of the changes made in AS 28.15.183(a) last session, the insertion of a reference to AS 28.35.280 and 28.35.285 on page 2, line 5, of the finance CS raises a question regarding the application of a violation of a municipal ordinance with substantially similar elements. References to municipal ordinances should probably be included for all listed offenses, in order to be consistent with existing law. This problem also appears in secs. 2, 3, and 4 of CSHB 204(FIN).
3. Differences in affected age groups - The affected age group in sec. 6 is 13 to 21 years old. The affected age group in existing law (as in sec. 1 of CSHB 204(FIN)) is age 14 to 21. While this is not a legal problem it is a difference that I wanted to point out to the committee.

Representative Mark Hanley

February 26, 1996

Page 2

4. Incorrect citation - In sec. 28.35.285(b), there is a required notice for a person "cited for violating (a) of this section". This should probably be change to read "cited for violating this section" because there is nothing in (a) to violate.

5. Jurisdiction of offenses - Take a look at 47.10.010(b). It is not clear whether AS 28.35.080, 28.35.085, and 28.35.909 are "traffic offenses." Do you want them heard in district court or juvenile court?

6. Effective date - Sec. 11 of CSHB 204(FIN) contains a contingent effective date provision. We recommend this be changed to require that the A.G. notify the Revisor of Statutes and the Lieutenant Governor if the contingency occurs and second that the language be changed to clearly provide for a final decision by either the Alaska Court of Appeals or the Alaska Supreme Court. Also the effective date seems to contemplate that only community work service will trigger the right to counsel and a jury, whereas the \$1,000 fine imposed under AS 28.35.280, 28.35.285 and 28.35.290 would seem more likely to trigger the right to counsel and a jury. A decision based on the amount of the fine, however, would not trigger sec. 11. Finally, we would recommend that another bill section be added to provide that the bill take effect after a specified time period (30 days?) after the contingency occurs.

Please contact me if you have further questions.

MFF:glc:klb

96-118.glc

# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 28, 1995

FURTHER REFERRALS:

Date of Committee Action: 2/22/96

The FINANCE Committee considered:

HB 204

HOUSE BILL NO. 204

NO DRINK BEFORE DRIVING IF UNDER 21

"An Act relating to the administrative revocation of a minor's license to drive; creating criminal offenses of minor operating a vehicle after consuming alcohol, a minor's refusal to submit to chemical test, and driving during the 24 hours after being cited for minor operating a vehicle after consuming alcohol; establishing penalties for these offenses; and relating to implied consent to certain testing if operating a motor vehicle, aircraft, or watercraft."

recommends it be replaced with the following committee substitute CS HB 204 (Fin)  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) Court

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) (2) DOT

zero fiscal note(s) \_\_\_\_\_

(2) DPS (1) LAW

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Mark Hanley</i>	Hanley	<input checked="" type="checkbox"/>			
<i>Glen Mulder</i>	Mulder	<input checked="" type="checkbox"/>			
<i>Stan Brown</i>	Brown	<input checked="" type="checkbox"/>			
<i>Mike Navarre</i>	Navarre	<input checked="" type="checkbox"/>			
<i>Paul Parnell</i>	Parnell	<input checked="" type="checkbox"/>			
<i>Vic Kohring</i>	Kohring	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE

*Mark Hanley*  
Hanley

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 204

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the administrative revocation of a  
 minor's license to drive..."  
 Sponsors: Rules Committee by Request of Governor  
 Requestor: (H) FIN

Dept. Affected: Administration  
 BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 COMPONENT SERIAL NO. 43

**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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0

**FUND SOURCE:** (Thousands of Dollars)

102 Federal Receipts						
103 GF Match						
104 GF						
105 GF/Program Receipts						
107 GF/Mental Health						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ -0-

**POSITIONS:**

FULL-TIME					
PART-TIME					
TEMPORARY					

**ANALYSIS:** (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy.

Prepared by: Brant McGee, Public Advocate  
 Division: Office of Public Advocacy

Phone: 274-1684  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover *N. Bover*  
 Agency: Department of Administration

Date: 2/22/96

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 204

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the administrative revocation of a  
 minor's license to drive..."  
 Sponsor: Rules Committee by Request of Governor  
 Requestor: (H) FIN

Dept. Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 96) cost: \$ -0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

There is no fiscal impact to the Public Defender Agency.

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

Phone: 264-4400  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer *MR Boyer*  
 Agency: Department of Administration

Date: 2/16/96

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 204

Revision Date: 2/21/96 Dept. Affected: Department of Law  
 Title: "...administrative revocation of a minor's license  
to drive...operating a motor vehicle after consuming alcohol..." BRU: Criminal Division  
 Sponsor: House Rules on Request of the Governor Component: Criminal Division  
 Requester: House Finance Committee COMPONENT SERIAL NO. 2085

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)

This bill amends AS 28 to establish a "zero tolerance level" for minors who consume alcohol and then operate a motor vehicle, aircraft, or watercraft by creating three new criminal violations: "minor operating a vehicle after consuming alcohol", "minor's refusal to submit to a chemical test", and "driving within the 24 hours after being cited for minor operating a vehicle after consuming alcohol." These new offenses would be infractions and would not result in jail time being imposed. However, the penalty would be a fine of not more than \$1,000, an order that the minor perform community work service, or a combination of the two. The bill also provides that a minor convicted of these violations will also be subject to administrative revocation of the minor's driver's license under the state's "use it, lose it" statutes. The bill will not have a fiscal impact for the Department of Law because infractions are presented in district court by the arresting officer, which does not require the presence or assistance of a prosecutor.

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: 2/21/96  
 Date: 2/21/96

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# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO: HB 204**

Revision Date: February 21, 1996 Dept. Affected: Public Safety  
 Title: An Act relating to alcohol related driving offenses of minors... BRU: Motor Vehicles  
 Sponsor: Rules Component: Driver Services  
 Requestor: H. Finance COMPONENT SERIAL NO. 0500

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

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING</b>						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL EXPENDITURES</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
Revenue Code						

**FUNDING: (Thousands of Dollars)**

*002 Federal Receipts	-0-	-0-	-0-	-0-	-0-	-0-
*003 GE Match	-0-	-0-	-0-	-0-	-0-	-0-
*004 GE	-0-	-0-	-0-	-0-	-0-	-0-
*005 GE/Program Receipts	-0-	-0-	-0-	-0-	-0-	-0-
*006 GE/MHTIA	-0-	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

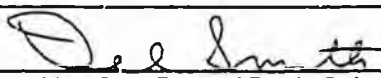
Estimate of current year (FY 96) impact: \$ -0-

**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.)**

This bill will not impact the programs of the Division of Motor Vehicles. Current law requires DMV to administratively revoke the driver's license for the offense of minor in possession or consumption of alcohol.

Prepared By: Juanita M. Hensley Phone: 465-2650  
 Division: Motor Vehicles Date: 2/21/96  
 Approved by Commissioner:  Date: 2/20/96  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO: HB 204**

Revision Date: February 21, 1996 Dept. Affected: Public Safety  
 Title: An Act relating to alcohol related driving offenses of minors... BRU: Alaska State Troopers  
 Sponsor: Rules Component: Detachments  
 Requestor: H. Finance COMPONENT SERIAL NO. 0799

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

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING</b>						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL EXPENDITURES</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts	-0-	-0-	-0-	-0-	-0-	-0-
1003 GF Match	-0-	-0-	-0-	-0-	-0-	-0-
1004 GF	-0-	-0-	-0-	-0-	-0-	-0-
1005 GF/Program Receipts	-0-	-0-	-0-	-0-	-0-	-0-
1006 GF/MHTIA	-0-	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>


Estimate of current year (FY 96) 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.)**

This bill will not impact the programs of the Alaska State Troopers. Currently troopers are enforcing the alcohol laws as they pertain to minors including serving revocation notices to drivers.

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: 2/21/96  
 Approved by Commissioner:  Date: 2/21/96  
 Agency: Ronald L. Otte, Dept. of Public Safety

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0031  
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Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

HB 204

February 27, 1995

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to minors operating vehicles after consuming alcohol. Despite our best efforts to date, the number of drunk drivers continues to rise in Alaska. The state needs new tools to respond to the problem of drunk driving.

An important step in making our roads and other avenues of transportation safe is to focus on high-risk drivers and let the police take them off the road before tragedy strikes. Two particularly high-risk groups of drivers are those who operate commercial motor vehicles and minors. The legislature addressed commercial motor vehicle operators in 1992, passing stringent laws that keep commercial drivers off the roads when they are under the influence of alcohol. The time has come to do the same with underage drivers, who generally are not allowed under the law to possess or consume any alcohol.

This bill establishes a "zero tolerance level" for minors who consume alcohol and then operate a motor vehicle, aircraft, or watercraft. It does this by creating three new criminal violations: "minor operating a vehicle after consuming alcohol," "minor's refusal to submit to a chemical test," and "driving within the 24 hours after being cited for minor operating a vehicle after consuming alcohol."

These new offenses are only infractions and cannot result in jail time being imposed. Instead, the penalty is a fine of not more than \$1,000, an order that the minor perform community work service, or a combination of the two. An important feature of the proposed new law is that the minor can be taken off the road and to a police station or other location for the administration of a chemical test to determine the presence of

The Honorable Gail Phillips  
February 27, 1995  
Page 2

alcohol in the minor's blood or breath. If the minor refuses to take the test, that is a separate infraction, much like the misdemeanor crime of refusal we have for driving-while-intoxicated cases.

This bill's amendments to AS 28.15.183 and 28.15.184 would make the minor's driver's license or permit, privilege to drive, or privilege to obtain a license subject to administrative revocation under those "use it, lose it" statutes.

Under the bill, a minor who is cited for driving after consuming alcohol is prohibited from operating a motor vehicle, aircraft, or watercraft during the 24 hours after the citation is issued. This will help ensure that the minor stays off the road or other avenues of transportation while under the influence of alcohol.

I urge your favorable action on this bill.

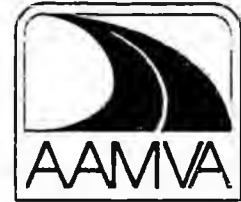
Sincerely,



Tony Knowles  
Governor

HB 204

# AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS



## MEMORANDUM

TO: Drivers License Contacts

FROM: Michael R. Calvin, Director of Driver Services

DATE: February 1, 1996

SUBJECT: National Highway System Legislation

MRC

As I'm sure you are aware, President Clinton signed the National Highway System bill in November, 1995. This legislation impacts drivers license administration in a number of ways. Attached are two overviews of the NHS legislation.

States are required to enact .02% BAC legislation for persons under 21 years of age. States failing to pass legislation will have 5% of their highway construction funds withheld beginning October 1, 1998. The penalty increases to 10% in 1999 and each year thereafter.

When drafting .02% legislation, please be sure to include language to prohibit expungement of these BAC/DWI convictions for commercial drivers.

Another pertinent section of the legislation exempts replacement snow plow drivers from CDL requirements when the regular operator is unable to operate the equipment or in snow emergency situations.

Please feel free to contact Sheila Prior or me if you have questions or need additional information.

MRC/sp  
Attachment

cc: W. Marshall Rickert, Executive Vice President  
Phil Forjan, FHWA  
Regional Directors

## **THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995**

The National Highway System Designation Act of 1995 (P.L. 104-59) was signed by President Clinton on November 28, 1995. Summarized below are the major provisions of the legislation.

### **THE NATIONAL HIGHWAY SYSTEM**

#### **System Designation**

Designates the National Highway System (NHS) developed by the Department of Transportation (DOT) in cooperation with the States, local officials and metropolitan planning organizations (MPOs). The DOT proposed the system to Congress on December 9, 1993, as required by the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. The system approved by Congress reflects modifications agreed upon by the DOT and Congress as of November 13, 1995. The total mileage is 160,955 miles and includes the Interstate System as well as other roads important to the Nation's economy, defense and mobility.

The ISTEA called for Congress to establish the system by law and set a deadline of September 30, 1995. Until the system was designated, the law prevented future NHS and Interstate Maintenance (IM) funds from being released to the States. With the enactment of the NHS legislation, the \$5.4 billion of FY 1996 funds that have been withheld since October 1 can be distributed to the States.

#### **Future Modifications**

The NHS is a dynamic system that can change in response to future travel and trade demands. The NHS legislation permits the Secretary to approve most of the modifications to the system (except connections to major intermodal terminals, see below), without congressional approval. The State must cooperate with local and regional officials in proposing the modifications. In metropolitan areas the local and regional officials shall act through the metropolitan planning organization.

#### **Connections to Major Intermodal Terminals**

Within 180 days of enactment, the Secretary must send to Congress proposed NHS connections to major intermodal facilities, e.g., ports, airports, rail terminals, etc. There will be a one-time congressional approval of the intermodal connections. In the future, the Secretary may modify the connections proposed by the States in cooperation with MPOs and local and regional officials. Until approved by Congress, the Secretary may approve projects using NHS funds on connections to intermodal terminals that meet the Secretary's criteria.

### **SAFETY**

#### **National Maximum Speed Limit**

Repeals the law which required that the States, as a condition of receiving Federal-aid

highway assistance, adhere to a national maximum speed limit. The provision will take effect 10 days after enactment. An exception to the 10-day period is provided if the legislature of a State is not in session on the date of the bill's enactment and the Governor declares, before the end of the 10-day period, that the legislature is not in session and the State prefers an applicability date for the repeal of the national maximum speed limit law that is after the date on which the legislature will convene. If this occurs, then the Federal repeal is applicable to the State on the 60th day following the date on which the legislature next convenes.

The Secretary must submit a report to Congress by September 30, 1997, of the record of each State that raised its speed limit above the current maximums. The human and economic costs, as well as any benefits, should be included in the study.

#### **Motorcycle Helmets**

Repeals the law which penalized States that did not enact motorcycle helmet requirements. The penalty was a forced transfer of funds from Federal-aid highway construction programs to safety programs.

#### **Zero-tolerance for Blood Alcohol Content in Minors**

Requires that the States enact and enforce a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle to be driving while intoxicated or driving under the influence of alcohol. States failing to meet this requirement will have 5% of their highway construction funds withheld beginning October 1, 1998. The penalty is increased to 10% on October 1, 1999, and on October 1 of each fiscal year thereafter.

#### **National Driver Register**

Extends the \$2.55 million authorization of this NHTSA safety program for another year.

### **MOTOR CARRIER PROVISIONS**

#### **Commercial Motor Vehicle Safety Pilot Program**

Establishes a pilot program to exempt vehicles and drivers of vehicles between 10,000 and 26,000 pounds from the Federal Motor Carrier Safety Regulations. The program will begin within 270 days after enactment.

Applicants must meet specific requirements to participate, i.e., have a satisfactory safety rating or meet criteria established by the Secretary. Vehicles transporting more than 15 passengers or hazardous materials are not eligible for the program. Through monitoring and reporting of safety related data, the Secretary shall determine continued participation in the program.

Within 3 years of enactment, the Secretary must conduct a zero-based review to determine the need, costs and benefits of the regulations to determine whether they should apply to this group of vehicles and their drivers. After the review is completed the

Secretary shall grant such exemptions or modify or repeal existing regulations as appropriate.

**Exemptions from Hours-of-Service Regulations and Commercial Driver's License (CDL) Regulations**

Provides exemptions from the hours-of-service regulations for specific industry groups including: transporters of agricultural commodities and farm supplies; ground water well drilling rigs; utility service vehicles; and construction equipment and materials.

Exempts replacement drivers of snow plows from CDL requirements when the normal operator is unable to operate the snow plow or if a snow emergency requires additional operators. The Secretary is required to conduct a regulatory review of these exemptions to determine the impact of such exemptions on public safety.

**Winter Home Heating Oil Delivery State Flexibility Pilot Program**

Directs the Secretary to implement a one-season pilot program of up to five States to permit the States to exempt the hours-of-service regulations for drivers of intrastate home heating oil deliveries that occur within 100 air miles of a central terminal or distribution point. The pilot program is limited to the winter heating season following November 1, 1996.

The program requires the States to meet several safety and enforcement criteria. The Secretary may suspend a State's participation if a State has not complied with the criteria. After the program is completed, the Secretary is to review the results to determine whether to amend the regulations to provide flexibility to motor carriers delivering home heating oil during winter periods.

**MITIGATION OF SECTION 1003(c)**

Section 1003(c) of ISTEA required that, in accord with the Budget Enforcement Act of 1990, authorizations from the highway account of the Trust Fund for FY 1992-96 be held to \$98.6 billion. Authorizations in that period exceeded the limit by \$2.55 billion. This meant that FY 1996 authorizations had to be cut 12.54% across-the-board to hold total funding to the \$98.6 billion maximum allowed. The NHS legislation contains two provisions to partially mitigate the effects of this cut.

**Funding Restoration**

Provides \$291.5 million (\$266.5 million authorized from specified rescissions and reductions plus \$25 million transferred from Congestion Pricing funds) in FY 1996 and \$180 million (\$155 million authorized from specified rescissions and reductions plus \$25 million transferred from Congestion Pricing funds) in FY 1997 to be distributed to the States by percentages specified in the NHS legislation.

The above amounts are derived from various rescissions, reductions and transfers, including:

- selected demonstration project funds,
- a portion of the FHWA Administrative funds,
- Magnetic Levitation prototype development funds for FYs 96 and 97
- high-speed ground transportation technology demo funds for FY 97,
- part of the FHWA Section 402 safety funds,
- part of the FY 97 NHTSA highway safety program funds, and
- unobligated Congestion Pricing Pilot Program funds and FY 96 and 97 authorizations for the program.

The funding restoration amounts may be used for any project eligible under Chapter 1 of Title 23. They are available for 4 fiscal years and are subject to the obligation limitation. They are not subject to administrative takedowns.

Urbanized areas over 200,000 population are guaranteed a certain share of the funding restoration amounts received by a State.

States may spend up to 1/2 percent of the funding restoration amounts on metropolitan planning and up to 1-1/2 percent for State planning and research.

#### **State Unobligated Balance Flexibility**

Allows States to designate part of their unobligated balances that existed on September 30, 1995 for use on projects of their choice that are eligible under Chapter 1 of Title 23.

First, the Secretary will determine, as soon as possible, the amount of unobligated balance that each State may designate for flexible use. That amount will equal --  
 the amount of the reduction of each State's FY 1996 funds as a result of Section 1003(c) minus restoration funding the State receives under the NHS legislation.

Second, the States will notify the Secretary, within 30 days of enactment (or as soon as possible), which unobligated program funds it will use flexibly. Within 45 days of enactment (or as soon as possible), the Secretary must make the funds available for flexible use.

The funds under this section are available for projects under Chapter 1 of Title 23, will be available for the same period for which such amounts were originally made available, and will be subject to the obligation limitation.

**Restrictions --**

- Unobligated balances of STP funds attributed to areas over 200,000 may be used flexibly only if the MPO for a particular area certifies in writing.
- Transportation Enhancement and CMAQ funds may not be used flexibly unless the State has exhausted all flexibility and transferability provided under Title 23 and this section and still does not have sufficient funds available for a project.
- No more than 1/3 of Interstate Construction unobligated balances may be used flexibly.

**INNOVATIVE FINANCING**

**State Infrastructure Bank (SIB) Pilot Program**

Allows up to 10 States or multi-State entities to establish transportation infrastructure banks; the DOT will establish procedures for choosing the participants in the program. The infrastructure banks may be used to make project loans, enhance credit, subsidize interest rates, and provide other assistance for eligible highway and transit capital projects. The funds from the bank may not be used as a grant. The recipients of the assistance can be public and private entities.

No new Federal-aid funds are provided to capitalize the banks. States entering into cooperative agreements with the Secretary to establish infrastructure banks could contribute up to 10% of several categories of their Federal-aid highway and Federal transit funds to capitalize the bank. Funds attributable to urbanized areas over 200,000 could only be used with permission of the MPO for the area. States must match 25% (lower for sliding scale States) of the Federal contribution with funds from non-Federal sources. Federal-aid funds are considered obligated when contributed to the bank.

By March 1, 1997 the Secretary must have reviewed the financial condition of each transportation infrastructure bank and report to Congress with an evaluation of the pilot program.

**Eligibility of Bond and Other Debt Instrument Financing for Reimbursement as Construction Expenses**

Allows States to use Federal-aid funds for bond principal, interest costs, issuance costs, and insurance on Title 23-eligible projects. Although these costs are eligible for Federal participation, such eligibility does not constitute a Federal commitment or guarantee on the part of the United States to provide for payments of principal and interest.

**Limitation on Advance Construction**

Permits the States to advance construct projects provided the project is on the State's transportation improvement program (STIP). This eliminates the requirements that 1) future year authorizations had to be in place in order to advance construct, and 2) the total of advance construct projects could not exceed a cumulative dollar limit.

**Toll Roads -- Federal Share for Highways, Bridges, and Tunnels**

Sets the Federal share for toll projects at a maximum 80 percent of eligible costs. Before this change, the Federal share for toll projects varied from 50 percent to 80 percent based on activity and system designation.

#### **Toll Roads – Loan Program**

Allows Federal-aid loans to non-tolled projects with dedicated revenue streams and permits interest rates at or below market rates, as needed to make the project feasible. Repaid funds can now be used to credit enhance similar projects.

#### **Donations of Funds, Materials, or Services for Federally Assisted Projects**

Allows private funds, materials, or services to be donated to a specific Federal-aid project and permits the State to apply the value to the State's matching share. Before this change, States could receive credit only for donations of private property incorporated into a Federal project, or for State and local funds.

### **MANDATES/REQUIREMENTS**

In addition to the safety mandates discussed above, the NHS legislation removes and adds other mandates to the program.

#### **Removal of Mandates**

##### **Suspension of Management Systems**

The States may choose not to implement in whole or in part any of the management systems required under ISTEA. The Secretary may not impose the 10% penalty on funds if the State elects this option.

The Comptroller General, in cooperation with the States, is required to report to Congress by October 1, 1996 recommending to what extent the management systems should be implemented.

##### **Asphalt Pavement Containing Recycled Rubber**

Eliminates the penalty and requirements related to the State use of crumb rubber.

##### **Metric System**

Establishes that no State be required to erect or modify any highway signs to the metric system. Also, until September 30, 2000, any metric activity by the States related to Federal-aid highway projects is optional.

#### **Additional Mandates**

##### **Quality Improvement**

Requires States to conduct an analysis of the life-cycle costs of each usable segment of the NHS costing \$25 million or more.

**Value Engineering**

Requires States to carry out value engineering analysis for any project on the NHS costing \$25 million or more.

**OTHER PROVISIONS****Scenic Byways**

A State may exclude from a State-designated scenic byway any segment of highway that is determined not to possess the scenic criteria for which the byway is designated. This is a codification of the DOT's interpretation of current law.

**Motorist Call Boxes**

Signs identifying free motorist aid call boxes and their sponsorship by corporations or other organizations are allowed on call boxes and call box posts in highway right-of-way. Signs are limited in size, limited to one per every 5 miles, and 20% must be in areas outside of urbanized areas.

**Transportation Enhancements**

Streamlining measures -- As an alternative to waiting for reimbursement of funds, States now have the flexibility to obtain a Federal advance of funds for transportation enhancement activities, provided that the State has a project selection process that involves other public agencies and citizens who have expertise related to transportation enhancements.

Environmental compliance -- Directs the Secretary to develop, to the extent appropriate, categorical exclusions for transportation enhancements. Directs the Secretary to work with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers to develop a nationwide programmatic agreement for the process for reviewing the effects that transportation enhancement activities have on historic properties.

Applicability of the Uniform Act to Conservation Organizations -- Provides rules for how to treat land acquisitions made by non-profit conservation organizations where the land is subsequently incorporated into a transportation enhancement activity. In general, the conservation organization would be treated as a private property owner, except when acting as an agent of a State government or when acquisition has prior Federal approval.

**Transportation Conformity**

Clarifies that the transportation conformity requirements of Title 23 and the Clean Air Act Amendments of 1990 (CAAA) apply only to areas designated as "nonattainment," and to areas that are redesignated to attainment and must submit a maintenance plan under the CAAA. A conformity analysis only needs to be done for specific transportation related pollutants for which an area is designated nonattainment.

**Congestion Mitigation and Air Quality Improvement (CMAQ) Program**

Freezes the amount of CMAQ funds apportioned to each State to FY 1994 levels. Funds may be used in areas designated as nonattainment, or in maintenance areas that were formerly nonattainment areas under the Clean Air Act. In addition, States now have the ability to receive credit against their share of project costs through donations.

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One Hundred Fourth Congress

of the

United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Wednesday,

the fourth day of January, one thousand nine hundred and ninety-five

An Act

To amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

[Italic-&gt;] Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [&lt;-Italic]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'National Highway System Designation Act of 1995'.

(b) TABLE OF CONTENTS-

Sec. 1. Short title; table of contents.

Sec. 2. Secretary defined.

## TITLE I--NATIONAL HIGHWAY SYSTEM

Sec. 101. National highway system designation.

## TITLE II--TRANSPORTATION FUNDING FLEXIBILITY

Sec. 201. Findings and purposes.

Sec. 202. Funding restoration.

Sec. 203. Rescissions.

Sec. 204. State unobligated balance flexibility.

Sec. 205. Relief from mandates.

Sec. 206. Definitions.

## TITLE III--MISCELLANEOUS HIGHWAY PROVISIONS

Sec. 301. Traffic monitoring, management, and control on NHS.

Sec. 302. Transferability of apportionments.

Sec. 303. Quality improvement.

Sec. 304. Design criteria for the national highway system.

Sec. 305. Applicability of transportation conformity requirements.

Sec. 306. Motorist call boxes.

Sec. 307. Quality through competition.

Sec. 308. Limitation on advance construction.

Sec. 309. Preventive maintenance.

Sec. 310. Federal share.

Sec. 311. Eligibility of bond and other debt instrument financing for reimbursement as construction expenses.

Sec. 312. Vehicle weight and longer combination vehicles exemptions.

Sec. 313. Toll roads.

Sec. 314. Scenic byways.

Sec. 315. Applicability of certain requirements to third party sellers.

Sec. 316. Streamlining for transportation enhancement projects.

Sec. 317. Metropolitan planning for highway projects.

Sec. 318. Non-Federal share for certain toll bridge projects.

Sec. 319. Congestion mitigation and air quality improvement program.

Sec. 320. Operation of motor vehicles by intoxicated minors.

Sec. 321. Utilization of the private sector for surveying and mapping services.

Sec. 322. Donations of funds, materials, or services for federally assisted projects.

Sec. 323. Discovery and admission as evidence of certain reports and surveys.

Sec. 324. Alcohol-impaired driving countermeasures.

Sec. 325. References to Committee on Transportation and Infrastructure.

Sec. 326. Public transit vehicles exemption.

Sec. 327. Use of recycled paving material.

Sec. 328. Roadside barrier technology.

Sec. 329. Corrections to miscellaneous authorizations.

Sec. 330. Corrections to high cost bridge projects.

Sec. 331. Corrections to congestion relief projects.

- Sec. 332. High priority corridors.
- Sec. 333. Corrections to rural access projects.
- Sec. 334. Corrections to urban access and mobility projects.
- Sec. 335. Corrections to innovative projects.
- Sec. 336. Corrections to intermodal projects.
- Sec. 337. National recreational trails.
- Sec. 338. Intelligent transportation systems.
- Sec. 339. Eligibility.
- Sec. 340. Miscellaneous corrections to Surface Transportation and Uniform Relocation Assistance Act of 1987.
- Sec. 341. Accessibility of over-the-road buses to individuals with disabilities.
- Sec. 342. Alcohol and controlled substances testing.
- Sec. 343. National driver register.
- Sec. 344. Commercial motor vehicle safety pilot program.
- Sec. 345. Exemptions from requirements relating to commercial motor vehicles and their operators.
- Sec. 346. Winter home heating oil delivery State flexibility program.
- Sec. 347. Safety report.
- Sec. 348. Moratorium on certain emissions testing requirements.
- Sec. 349. Roads on Federal lands.
- Sec. 350. State infrastructure bank pilot program.
- Sec. 351. Railroad-highway grade crossing safety.
- Sec. 352. Collection of bridge tolls.
- Sec. 353. Traffic control.
- Sec. 354. Public use of rest areas.
- Sec. 355. Safety belt use law requirements for New Hampshire and Maine.
- Sec. 356. Orange County, California, toll roads.
- Sec. 357. Compilation of title 23, United States Code.
- Sec. 358. Safety research initiatives.
- Sec. 359. Miscellaneous studies.

#### TITLE IV--WOODROW WILSON MEMORIAL BRIDGE

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Purposes.
- Sec. 404. Definitions.
- Sec. 405. Establishment of authority.
- Sec. 406. Government of authority.
- Sec. 407. Ownership of bridge.
- Sec. 408. Project planning.
- Sec. 409. Additional powers and responsibilities of authority.
- Sec. 410. Funding.
- Sec. 411. Availability of prior authorizations.
- SEC. 2. SECRETARY DEFINED.

In this Act, the term 'Secretary' means the Secretary of Transportation.

#### TITLE I--NATIONAL HIGHWAY SYSTEM

##### SEC. 101. NATIONAL HIGHWAY SYSTEM DESIGNATION.

(a) IN GENERAL- Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

^ (5) DESIGNATION OF NHS- The National Highway System as submitted by the Secretary of Transportation on the map entitled 'Official Submission, National Highway System, Federal Highway Administration', and dated November 13, 1995, is hereby designated within the United States, including the District of Columbia and the Commonwealth of Puerto Rico.

^ (6) MODIFICATIONS TO NHS-

^ (A) IN GENERAL- Subject to paragraph (7), the Secretary may make modifications to the National Highway System that are proposed by a State or that are proposed by the State and revised by the Secretary if the Secretary determines that each of the modifications--

^ (i) meets the criteria established for the National Highway System under this title; and

^ (ii) enhances the national transportation characteristics of the National Highway System.

^ (B) COOPERATION- In proposing modifications under this

Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard; or'.

(c) EFFECT OF LIMITATION ON APPORTIONMENT- Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, the amendments made by subsection (a) shall not affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943).

(a) IN GENERAL- Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

Sec. 161. Operation of motor vehicles by intoxicated minors

(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE-

(1) FISCAL YEAR 1999- The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5)(B) of section 104(b) on October 1, 1998, if the State does not meet the requirement of paragraph (3) on that date.

(2) THEREAFTER- The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5)(B) of section 104(b) on October 1, 1999, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.

(3) REQUIREMENT- A State meets the requirement of this paragraph if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE-

(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS-

(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2000- Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2000, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2000- No funds withheld under this section from apportionment to any State after September 30, 2000, shall be available for apportionment to the State.

(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE- If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirement of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirement, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS- Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned. Sums not obligated at the end of that period shall lapse.

(4) EFFECT OF NONCOMPLIANCE- If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirement of subsection (a)(3), the funds shall lapse.'

(b) CONFORMING AMENDMENT- The analysis of such chapter is amended by adding at the end the following:

161. Operation of motor vehicles by intoxicated minors.'

Section 306 of title 23, United States Code, is amended--

(1) by inserting (a) IN GENERAL- ' before 'In'; and



## National Transportation Safety Board

Washington, D.C. 20594

March 29, 1995

Office of the Chairman

Honorable Tony Knowles  
Governor  
State of Alaska  
P. O. Box 110001  
Juneau, Alaska 99811

Dear Governor Knowles:

It is my understanding that you have proposed legislation making it illegal for any minor to operate a vehicle after consuming alcohol. I am pleased that you are addressing the problem of alcohol-involved crashes among young drivers. Let me share with you the findings and recommendations of the National Transportation Safety Board regarding young drivers.

Young drivers are over-represented in traffic crashes and deaths. In 1990, drivers aged 15-20 years comprised only 7.1 percent of licensed drivers, but accounted for 14.9 percent of all driver fatalities. Further, while young drivers do only 20 percent of their driving at night, over half the crash fatalities of adolescent drivers occur during nighttime hours. First-year drivers (primarily ages 16 and 17) have twice the average number of crashes and, on a miles-driven basis, four times the number of crashes involving more experienced drivers.

After analyzing a large body of research involving young driver highway accidents and actions to prevent crashes by young drivers, the Safety Board has called for a major reassessment by the states to reduce crashes among drivers under 21. Nearly 20 years ago, safety researchers identified two major factors that contribute to the high fatality rate among youth: their lack of driving experience and their tendency to engage in risk-taking behavior. When alcohol is added to this already dangerous situation, the traffic risks are greatly enhanced.

The Safety Board's experience shows that the most effective deterrents are tough and fair laws as well as energetic enforcement combined with intensive and targeted education campaigns. Therefore, the Safety Board recommended adoption of a series of state legislative and policy actions that can be effective in reducing automobile crashes involving young drivers. Among these is the enactment of a comprehensive law that prohibits drivers under the age of 21 from driving with any measurable blood alcohol concentration.

Many States permit drivers under age 21 to drive legally with alcohol in their system, as long as their BAC does not exceed the State's adult legal limit (usually 0.10 percent). One study concludes, "Although young people drink and drive less often than people of other age groups, the young who do choose to drink and drive

are at significantly higher risk of fatal crash than other age groups of drinking drivers." The Safety Board believes that underage drivers with any measurable alcohol should not drive.

To combat the underage drinking-driving problem, by the end of last year, 30 States had enacted laws to prohibit vehicle operation by underage drivers with a BAC level lower than the BAC level specified for drivers over 21.

A law lowering the BAC for underage drivers has been found to be effective in reducing nighttime fatal crashes among teenagers in Maine, even though only 40 to 50 percent of teenagers knew about the law. A study of the Maryland 0.02 percent BAC law found statistically significant reductions (a minimum 11 percent reduction) in alcohol-related crashes in the affected age group. When combined with a public information and education campaign, the Maryland law resulted in a nearly 50 percent reduction in underage alcohol-related crashes over a 2-year period, 1989-1990.

Laws reducing the legal BAC for youth can be strengthened by imposing administrative license revocation when they are arrested with any measurable BAC. State laws should be enacted to administratively suspend or revoke the driver's license of an alcohol-positive driver who is under the age of 21. Further, enforcement and public information efforts should accompany implementation of these laws. Often, when impaired driving law sanctions are implemented through the judicial process, penalties are imposed very slowly or not at all, especially where juvenile courts have jurisdiction. A substantial body of research supports the effectiveness of both administrative adjudication and license revocation in reducing crashes among drivers of all ages. The driver's license is an important possession for a young person, and it is reasonable to expect a significant benefit from revoking the license of underage drivers caught driving with any measurable BAC.

The Uniform Vehicle Code published by the National Committee on Uniform Traffic Laws and Ordinances contains a model law, Section 6-208, that provides guidance in drafting license revocation legislation for persons under 21 (copy enclosed). However, the Safety Board supports a zero alcohol tolerance for young drivers rather than the 0.02 percent level contained in Section 6-208. States that have laws with a BAC of 0.00 or 0.02 percent for young drivers are significantly more effective in reducing youth fatalities than are States that have laws with higher BACs (0.04, 0.05 or 0.06 percent). States that have zero tolerance laws for underage drivers appear to be more effective in reducing youth fatalities than States with a 0.02 percent BAC law for young drivers.

Our young people are this nation's most valuable resource. Too many of them are being killed and injured in highway crashes. We need to act forcefully now to reduce this loss and to continue the gains that were made during the early 1980's. Thus, the Safety Board strongly supports legislation lowering the allowable blood alcohol limit for drivers under age 21.

The National Transportation Safety Board is an independent Federal agency charged by Congress to investigate transportation accidents, determine their probable cause and make recommendations to prevent their recurrence. The Safety Board also conducts special studies of significant transportation safety problems. The recommendations that arise from our investigations and safety studies are our most important product.

Enclosed is a copy of the Safety Board's recommendation letter to the States. Please do not hesitate to contact me if you would like further information about these recommendations, or if there is any other way that the National Transportation Safety Board can be of assistance to you.

Sincerely,



Jim Hall  
Chairman

Enclosures

cc: Attorney General Bruce Botelho



**National  
Transportation  
Safety Board**

**Safety Information**

Washington, D.C. 20594

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TESTIMONY OF

STEVE BLACKISTONE

NATIONAL TRANSPORTATION SAFETY BOARD

BEFORE THE

FLORIDA SENATE CRIMINAL JUSTICE COMMITTEE

ON

LOW BLOOD ALCOHOL LIMITS FOR UNDERAGE DRIVERS

FEBRUARY 21, 1995

Good afternoon Chairman Burt and members of the Committee. It is a pleasure to be in Tallahassee today to talk with you about the problem of young drivers in traffic crashes and our recent recommendations for reducing these crashes. I am here on behalf of Safety Board Chairman Jim Hall, who is in Washington today addressing the national summit on drunk driving called by Secretary of Transportation Federico Pena.

The National Transportation Safety Board is an independent Federal agency that investigates transportation accidents and makes recommendations to prevent their recurrence. For example, the Board recently adopted its report on the circus train derailment in Lakeland, and next month will complete its investigation of the Intercession City grade crossing accident. The Safety Board also conducts special studies of significant transportation safety problems. The recommendations that arise from our investigations and safety studies are our most important product. In our 27 year history, more than 80 percent of our recommendations have been adopted by the organizations and government bodies in a position to effect improvements in transportation safety.

Today, I want to talk about some of our most important recommendations: those that address the tragedy of our young people killed in highway crashes.

No high school graduation season passes without reports of car crashes involving recent graduates and alcohol. Unfortunately, these accidents occur throughout the year as well, and alcohol consumption is frequently a factor. In 1993, traffic accidents accounted for 40 percent of all deaths of persons aged 15 to 20. This was the leading cause of death in that group. And, 40 percent of these deaths were alcohol related. These accidents tragically demonstrate the easy access that teenagers have to alcohol and the lethal consequences of teenage alcohol use when combined with driving. And, they point up the need to take action to deal with these problems.

Teen age drinking and driving is dangerous even where a relatively low alcohol levels are involved. For example, on May 12, 1989, four teens (ages 16 and 17) in Montgomery County, Maryland, attended a high school graduation party at which kegs of beer were available. None of the four had been invited to the party, but all four had paid for admission. No adult continuously supervised the party and police had responded to a complaint about the party. One of the four was the designated driver who was to be alcohol-free. According to police, after leaving the party, the designated driver was speeding on a wet country road, lost control of the vehicle, and hit an on-coming car. Two passengers were killed while the driver and another passenger were seriously injured. The designated driver had a 0.05 percent BAC, below the 0.08 percent level in effect for teenagers at the time in Maryland.

Young drivers are over-represented in traffic crashes and deaths. In 1992, almost 7200 16- to 20-year old drivers were involved in fatal crashes nationwide.

That is more than 16 percent of all fatalities that occurred on our nation's highways. But, this age group comprised only about 7 percent of all licensed drivers. Further, while young drivers do only 20 percent of their driving at night, over half the crash fatalities of adolescent drivers occur during nighttime hours. First-year drivers (primarily ages 16 and 17) have twice the average number of crashes and, on a miles-driven basis, four times the number of crashes involving more experienced drivers. As high as these numbers seem, there has been a significant reduction in both youth alcohol-related fatal crashes and alcohol-related fatalities.

According to the Insurance Institute for Highway Safety (IIHS), 53 percent of the teenage drivers who died in highway crashes in 1980 had a blood alcohol concentration (BAC) of 0.10 percent or higher. By 1987, the 53-percent figure had dropped to 28 percent, a reduction of nearly half. However, by 1989, the percentage of fatally injured teenage drivers with a BAC of 0.10 or higher had increased to 33 percent. This figure has remained relatively constant since then. Clearly, then, underage drinking and driving plays a major role in youth traffic crashes and fatalities.

The reduction in alcohol related fatal crashes involving teenage drivers during the 1980's has been attributed to raising the legal minimum age for the sale of alcohol to 21 in all States. By the early 1980's, overwhelming evidence emerged that laws enacted in the early 1970's to lower the drinking age had resulted in a sharp increase in alcohol-related traffic fatalities among youth. In those States that subsequently reinstated the 21 drinking age in the late 1970's, reductions in these fatalities were realized.

The National Highway Traffic Safety Administration (NHTSA) has estimated that the age 21 laws have saved more than 12,000 lives since States started raising the minimum drinking age. While the minimum drinking age law changes did not stop teenage drinking and driving, they made it more difficult for those under 21, and especially those under 18, to obtain alcohol. However, the recent increases in the percentage of alcohol-related fatal crashes among drivers under 21 indicate a need for new efforts to reduce alcohol-related crashes of drivers in this age group.

These figures led the Safety Board to review young driver (under age 21) licensing, and underage drinking and driving research, and State laws. After analyzing a large body of research involving young driver highway accidents and actions to prevent crashes by young drivers, the Safety Board called for a major reassessment by the states of ways to reduce crashes among drivers under 21. As a result of this analysis, a series of new recommendations was issued.

These recommendations call on Florida and all States to tighten and vigorously enforce their underage drinking and driving laws in order to reduce highway crashes and fatalities. Although no State allows the sale of alcohol to persons under age 21,

the Safety Board found that many States, including Florida, still allow a driver under age 21 to legally drive with a substantial amount of alcohol in his or her system as long as their BAC does not exceed the State's adult legal limit.

Nearly 20 years ago, safety researchers identified two major factors that contribute to the high fatality rate among youth: their lack of driving experience and their tendency to engage in risk-taking behavior. When alcohol is added to this already dangerous situation, the traffic risks are greatly enhanced.

Research has shown that young drivers are particularly susceptible to impairment by small amounts of alcohol. For example, male drivers aged 16 to 20 have six times the driver fatality risk in single vehicle crashes at BACs from 0.01 to 0.04 percent compared to male drivers age 25 and older at these low levels. Further, although young people drink and drive less often than older adults, the young people who do choose to drink and drive are at significantly higher risk of fatal crash than other age groups of drinking drivers. Approximately one-third of the 15 to 20 year old drinking drivers in fatal crashes had BACs between 0.01 and 0.09 percent.

Any level of alcohol in the blood system impairs perception and performance. The Safety Board believes that to save lives, "zero" BAC is the only acceptable level that should be tolerated for drivers under 21. Drivers under the legal drinking age should not be permitted to drive with any amount of alcohol in their system, and a recommendation embodying this principle was issued to Florida.

There has been a remarkable movement in the states to adopt a lower BAC standard for drivers under the legal drinking age. There are now 30 States that have laws to prohibit vehicle operation by underage drivers with a BAC level lower than that specified for drivers over 21. And, half of these laws have been enacted just in the last two years.

We are beginning to see concrete results from these new laws. An analysis of the first four states to reduce the legal blood alcohol limits for young drivers revealed a 34 percent reduction in nighttime fatal crashes among the affected drivers. This reduction was substantially greater than occurred among adults in those states, or among youth in four nearby comparison states.

A new study from Boston University confirms the previous findings that zero tolerance laws save lives. That study evaluated the experience of the 12 states that have had laws for at least a year, and found that lowering the BAC limit for young drivers does significantly reduce single vehicle nighttime fatal crashes.

Let me take a moment to share with you the experiences of just two states. First, in the case of Maryland's law [0.02 percent for those under 21] a study found statistically significant reductions (a minimum of 11 percent) in alcohol-related

crashes. When combined with a targeted public information and education campaign, the Maryland law resulted in a nearly 50 percent reduction in underage alcohol-related crashes over a two-year period.

Second, in Maine, a law lowering the BAC to 0.02 percent for drivers under 21 has been found to be effective in reducing nighttime fatal crashes among teenagers, even though only 40 to 50 percent of teenagers knew about the law.

Most State laws appear to place responsibility for underage drinking on the seller of alcohol, but not on the underage purchasers who also should be responsible for their actions. State laws, including Florida's, misplace responsibility, send a mixed message to youth, and impede enforcement. Florida's law prohibits the sale of alcoholic beverages to persons under age 21, but does not prohibit the purchase or attempted purchase by minors. Neither does it prohibit public consumption by minors. With such deficiencies, it is no surprise that alcohol is readily available to minors and that, as a consequence, alcohol-related crashes involving drivers under age 21 continue to occur. To maximize the lives saved from the establishment of a minimum drinking age, it is essential to reduce alcohol availability, improve State minimum drinking age laws and enforce these laws.

The Safety Board believes that States should enact comprehensive laws to prohibit the attempt by minors to purchase alcohol or the purchase of alcohol by minors, the public possession of alcohol by minors, public consumption of alcohol by minors, and the misrepresentation of age and use of false identification by minors to purchase alcohol. I urge you to review Florida's statute and consider adding prohibitions on the purchase, attempt to purchase, and public consumption of alcohol by persons under age 21.

In conclusion, highway crashes among young drivers, including alcohol-related crashes, will remain a serious and persistent problem unless concrete and comprehensive steps are taken. To reduce these crashes, the Safety Board believes an effective combination of tough, fair laws, vigorous enforcement, and intensive and targeted educational campaigns is needed. Thus, as a result of its study, the National Transportation Safety Board recommended that Florida take several actions. The most important are:

- ▶ Vigorously enforce the minimum drinking age laws [to achieve a significant reduction in the rate of alcohol purchase by underage persons.]
- ▶ Vigorously enforce youth drinking and driving laws [to increase the percentage of alcohol-impaired young drivers who are arrested.]
- ▶ Take driver license action against underage purchasers.

- ▶ Enact laws that prohibit drivers under the age of 21 from driving with any measurable blood alcohol concentration (any level above 0.00 BAC), to include provisions for administrative license revocation.

The National Transportation Safety Board hopes that you will take these recommendations, and the experience of other states, seriously as you act on the pending legislation to strengthen Florida's underage drinking laws.

Our young people are this nation's most valuable resource. Too many of them are being killed and injured in highway crashes. We need to act forcefully now to reduce this loss and to continue the gains that were made during the early 1980's. Thus, the Safety Board strongly supports legislation lowering the allowable blood alcohol limit for drivers under age 21 to zero.

Thank you again for inviting the Safety Board to testify about this important problem, and I would be happy to answer any questions that you may have.

# FACT SHEET

September 1994

## STATE LEGISLATIVE

### *Zero-Tolerance Laws To Reduce Alcohol-Impaired Driving By Youth*

The U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) encourages States to enact zero tolerance laws designed to reduce drinking and driving among younger drivers. Such laws should:

- Establish that any measurable amount (.02 maximum) of alcohol in the blood, breath, or urine of a driver under age 21 would be an "illegal per se" offense; and,
- Provide for immediate driver license suspension periods for those under age 21 who exceed the applicable blood alcohol concentration (BAC) limit.

All 50 States and the District of Columbia now have laws that prohibit the purchase and public possession of alcoholic beverages by those under the age of 21. Therefore, it would seem reasonable to expect drivers under the age of 21 to have no alcohol in their systems, and the appropriate BAC for these drivers would be zero. However, NHTSA recognizes that, given the present level of technology of alcohol breath testing devices, it is difficult for law enforcement officers to detect extremely low amounts of alcohol in the body. It is for this reason that the agency generally supports States that have laws establishing a BAC level of 0.02, at which it is illegal for those under the age of 21 to operate a motor vehicle.

Younger drivers place a high value on their drivers' licenses, and the threat of license revocation has proved to be an especially effective sanction for this age group.

#### Key Facts

- More than 40 percent of all deaths of 15 to 20 year olds result from motor vehicle crashes. In 1993, 40 percent of the 5,905 traffic fatalities of 15 to 20 year olds were alcohol-related. The percentage translated to 2,364 traffic fatalities in this age group that were alcohol-related last year.
- In 1993, 24 percent of 15 to 20 year old drivers involved in fatal crashes had some alcohol in their blood. The alcohol involvement rate for young drivers, based on the total licensed driver population, is about twice that of the over 21 age driver.
- NHTSA estimates that 816 lives were saved in 1993 by minimum drinking age laws. Since 1975, it is estimated that almost 13,968 lives have been saved in the affected ages by these laws. However, young people under age 21 are still greatly over-represented in alcohol-related crashes and fatalities.
- Driver license revocation or suspension has proven to be an effective deterrent in reducing crashes and the reoccurrence of alcohol-related driver offenses in the general population. Some State licensing officials believe sanctions have an even greater effect on younger drivers, since they value their drivers' licenses so highly.

U.S.  
Department of  
Transportation



National  
Highway  
Traffic Safety  
Administration

## States with Special Laws for Youth

Twenty-nine States and the District of Columbia have lower BAC limits for underage drivers: Arizona, Arkansas, California, Georgia, Idaho, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. These BAC limits vary from 0.00 to 0.07 percent. Arizona, Arkansas, California, the District of Columbia, Idaho, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, Ohio, Oregon, Tennessee, Utah, Virginia, Washington, and West Virginia provide zero tolerance for everyone below 21. To correspond to age 21 alcohol purchase laws, NHTSA supports the use of age 21 as an appropriate threshold for lower BAC limits and longer suspension periods.

## How The Laws Work

Typically, zero tolerance laws provide that any amount of alcohol in the body of a driver under age 21 (generally measured as 0.02 percent BAC or greater) is an offense for which the driver's license may be suspended for a period varying from 10 days to three months. These laws should allow a police officer to require a breath test from any driver under the age of

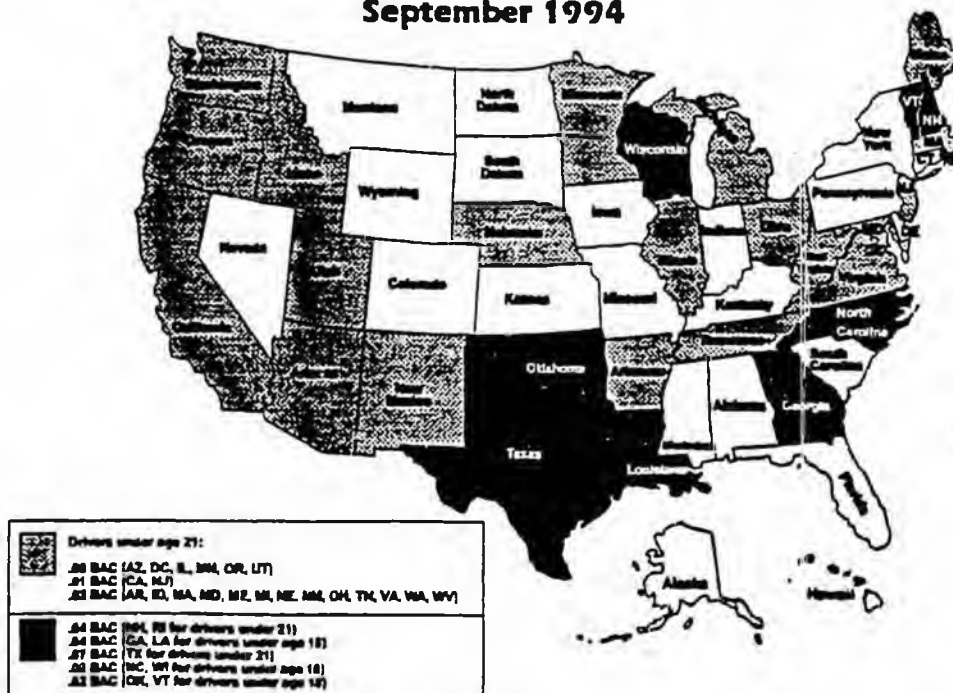
21, if the officer has probable cause to believe that the individual has been drinking (and should not require that the officer have probable cause to suspect actual impairment). Refusal to take such a test should result in license suspension under implied consent or administrative license revocation (ALR) laws. In the 37 States and the District of Columbia with ALR laws, providing a sample that is positive for alcohol should result in license suspension under that law. Currently, States vary in whether the special BAC level for underage drivers is included in their ALR laws.

Other States, such as Delaware, have taken the approach of extending the period of license suspension and increasing other penalties for underage youth without changing the BAC definition of an offense. Many States have extended the period of license suspension and also changed the BAC definition.

## Cost Benefit Estimates

A NHTSA evaluation of the 0.02 law in Maryland showed an 11 percent decrease in the number of drivers under age 21 involved in crashes who, police report, "had been drinking." A study of four other States (Maine, New Mexico, North Carolina, and Wisconsin) revealed a 34 percent decline in adolescent night fatal crashes during

## States with Lower BAC Levels for Youthful DWI Offenders September 1994



### **Cost Benefit Estimates** *(continued)*

the post-law years compared to only a 7 percent decrease in adult night fatal crashes. A more recent study of 12 States with lower limits showed a 16 percent decrease in single vehicle nighttime fatal crashes for drivers targeted by the laws while these crashes rose one percent among drivers of the same ages in comparison States where the laws were not changed.

Making any amount of alcohol in the body of an underage person an offense can make the enforcement effort easier. If the officer has any reason to suspect that the individual has been drinking, he or she can demand a breath test and take action to arrest the underage driver. Passive sensors, which can detect low BACs, permit the police to identify individuals with small amounts of alcohol in their bodies. This has the potential to reduce enforcement and adjudication time and expense, particularly if handled in an administrative process.

### **Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991**

ISTEA provides incentive grants to States that achieve at least five of the following six criteria:

- An expedited administrative procedure for suspending the license of drunk drivers;
- A law setting a 0.10 blood alcohol concentration as evidence of driving while intoxicated (after three years, it must drop to 0.08);
- A statewide sobriety checkpoint program;
- A self-sustaining drunk driving prevention program;

- A program to prevent drivers under age 21 from obtaining alcoholic beverages; and
- A mandatory sentence of 48 consecutive hours in jail or not less than 10 days of community service for any person convicted of DWI more than once in any five year period.

States can also earn supplemental grants, one of which is based on adopting a 0.02 blood alcohol concentration limit for drivers under age 21.

### **Additional Sources of Information**

A number of reports have supported legislation of this type:

Lower BAC Limits For Youth: Evaluation of the Maryland .02 Law. NHTSA Report Number DOT HS 807 860, March 1992. (Technical Summary. DOT HS 807 859, March 1992.)

"Reduced BAC Limits for Young People (Impact on Night Fatal Crashes)", Alcohol, Drugs, and Driving. R. Hingson, et al., Vol. 7 No. 2, pp 117-127.

"Lower Legal Blood Alcohol Limits for Young Drivers" R. Hingson, et al, 73rd Meeting, Transportation Research Board, January 1994.

***These reports and additional information are available through your State Office of Highway Safety, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Traffic Safety Programs, NTS-21, 400 Seventh St., S.W., Washington, D.C. 20590, (202) 366-9588.***