

ALASKA LEGISLATURE

1736

HOUSE and SENATE FINANCE COMMITTEE FILES, 1997-1998



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A handwritten signature in cursive script, appearing to read "Paul D.B.", written over a horizontal line.

Signature of Camera Operator

5/7/99  
Date

**SB**

**1**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 24, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/25/97

The FINANCE Committee considered:

CSSB 1(FIN) am

CS FOR SENATE BILL NO. 1(FIN) am

"NO FRILLS" PRISON ACT

"An Act relating to living and working conditions of prisoners in correctional facilities operated by the state, and authorizing the commissioner of corrections to negotiate with providers of detention and confinement services under contract to apply those conditions and limitations on services to persons held under authority of state law at facilities operated under contract or agreement; relating to services provided to prisoners; amending the definition of 'severely medically disabled' applicable to prisoners seeking special medical parole; amending provisions of the correctional industries program; and extending the termination date of the Correctional Industries Commission and the program."

recommends it be replaced

with the following committee substitute HCS CSSB 1 (Jud)

the same title  
 a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

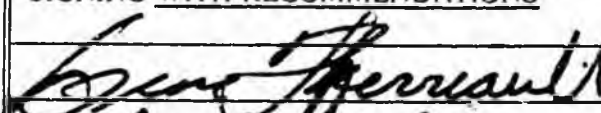
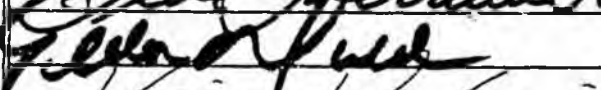



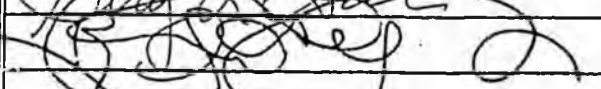

fiscal note(s) \_\_\_\_\_

fiscal note(s) Corrections 1/30/97

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

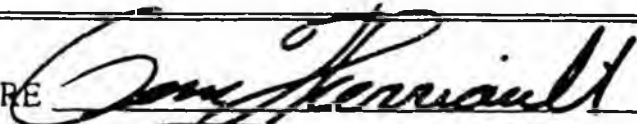
zero fiscal note(s) DPS, 1/30/97

Law, 1/30/97

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Therriault	X			
	Mulder	X			
	Kohring	X			
	DAVIS				X
	MOSES			X	
	DAVIS			X	
	Foster	.			

CO

CHAIR'S SIGNATURE

  
 Therriault

1997 LEGISLATIVE SESSION

Bill NO:

Bill Version: CS SB 1 (TUD)

(S) Publish Date: 1-30-97

Revision Date: January 28, 1997

Dept. Affected: Public Safety

Title: "No Frills" Prison Act

DPS Statewide Support

Component: Commissioner's Office

Sponsor: Senator Donley

Requestor: S. Judiciary

COMPONENT SERIAL NO. 0523

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES (	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (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-

Estimate of current year (FY 97) impact: \$ \_\_\_\_\_

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.)

No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner

Phone: 465-4322

Division: Commissioner's Office

Date: 1/24/97

Approved by Commissioner: *Ronald L. Otte*

Date: 1/24/97

Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

No. 3

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Bill. ersion: CS SB 1 (JUD)

(S) Publish Date: 1-30-97

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: ... relating to living and working conditions of BRU: Criminal Division  
prisoners in correctional facilities operated by the state ... Component: Criminal Division  
 Sponsor: Senator Donley  
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCFLLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 (FY97) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

To be known as the "Alaska No Frills Prison Act," this bill would amend Title 33, relating to probation, prisons and prisoners, to place specific limitations on the living and working conditions of prisoners in correctional facilities operated by the state, and negotiate for those same conditions and limitations in contract facilities. Further, the bill would require fees for utility services for prisoners. The bill would also amend the definition of "severely medically disabled" applicable to prisoners seeking special medical parole.

The purpose of the Alaska Correctional Industries Program would be amended to include vocational training, but would not require a vocational training program be established. The termination date for the Correctional Industries Commission and the program would be extended from 1999 to 2005 under this bill.

Passage of the Judiciary committee substitute will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson*  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho*  
 Agency: Department of Law

Phone: 465-5370  
 Date: 1/29/97  
 Date: 1/29/97

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# FISCAL NOTE

No. 2

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Bill Version: CSSB 1 (Jud)

(S) Publish Date: 1-30-97

Revision Date: 1/28/97  
 Title: "An act relating to living and working conditions of prisoners..."  
 Sponsor: Senator Donley  
 Requester: Judiciary Committee

Dept. Affected: Corrections  
 BRU: Institutions  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	20.0	20.0	20.0	20.0	20.0	20.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( 1005 )	20.0	20.0	20.0	20.0	20.0	20.0
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	20.0	20.0	20.0	20.0	20.0	20.0
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

Estimate of any current year (FY97) cost: \$ \_\_\_\_\_

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Under Section 4 of this bill, a new Sec. 33.30.17 would require the Commissioner to establish a monthly prisoner utility fee, not to exceed \$2, that will be collected from those prisoners who possess at least one major electrical appliance. The Department projects that the additional bookkeeping duties required by this section will result in extra staff time that will cost an estimated \$20,000 each fiscal year. The Department also projects that this cost could be offset by \$20,000 in program receipts generated by the utility fees.

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

Phone: 465-3307  
 Date: 1/28/97  
 Date: 1-28-97

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<u>Institution</u>	<u>TV</u>	<u>Cable</u>	<u>VCR</u>	<u>Books</u>	<u>Magazines</u>
6th Avenue	dayrooms	no	no	5	5
Anvil Mountain	dayrooms	yes (basic)*	no	no limit	no limit
Cook Inlet Pretrial	dayrooms	no	no	5	5
Fairbanks	dayrooms (basic)*	<del>##</del> yes (basic)*	no	5	5
Hiland Mountain	honor status	no	no	limit varies w/program	
Ketchikan	dayrooms	yes (basic)*	no	5	5
Lemon Creek day <sup>room</sup>	buy own	yes (prem)	no	10	
Matsu Pretrial	dayrooms	no	no	5	5
Palmer (medium)	honor status	no	yes	varies	varies
Palmer (minimum)	buy own	yes (prem)	yes	varies	varies
Spring Creek	yes buy own	yes (basic)*	no	10	10
Wildwood	yes buy own	yes (prem)	no	no limit	no limit
WW Pretrial	<del>##</del> dayrooms	no	no	5	5
YKCC (Bethel)	<del>##</del> Dayrooms	yes (basic)*	no	5	5

\* basic cable is used at these sites because broadcast tv is either unavailable or unable to penetrate the structure of the facility.

~~NB. One inmate at FCC has his own tv by court order.~~

# WHAT'S TOUGH ENOUGH

In response to the public's perception  
that prison life is too easy,  
new policies are designed  
to make life there  
as unpleasant as possible.

Alabama hasn't seen anything like it since the heyday of the 1960s civil rights movement: journalists and TV camera crews flying in from all parts of the world, spirited and sometimes angry public debate and well-known civil liberty groups filing lawsuits against the state itself.

But the center of Alabama's most recent cyclone is not the church in Montgomery where Martin Luther King Jr. exhorted his followers to give of themselves for the civil rights movement, nor is it Selma where those same followers confronted a violent and bloody local reaction.

Today the controversy in Alabama is about the men in uniforms moving along the state's highways and the chains that bind them: Alabama has reinstated the chain gang, one of the most powerful and some say brutal, symbols of the Southern past.

The man in charge of the program, Prison Commissioner Ron Jones, says it is all part of an effort to hold down prison costs.

"The tougher prison time gets, the more likely it is that you'll see the number of repeat prisoners decrease," says Jones, who has the solid backing of Alabama's Governor Feb James for his chain gang idea. "And as that number decreases, so will the enormous costs of running our prisons."

## CONSTITUTIONAL CHALLENGES

Although Jones' chain gangs have won the enmity of the Southern Poverty Law Center (SPLC) of Alabama, which has filed a class action suit to end them, one other state—Arizona—has also brought back chain gangs. And Florida is planning a similar effort next year.

Of course, the chain gang concept may prove to be short-lived if the lawsuit against it succeeds. Rhonda Brownstein, a staff attorney with the SPLC in Montgomery, said she expects the courts to prohibit such prison practices because they are a form of 'cruel and unusual punishment' that is unconstitutional under the Eighth Amendment.

Brownstein said the SPLC suit would also challenge, on the same cruel and unusual punishment basis, Alabama's practice of chaining to hitching posts prisoners who refuse to work. "They have just gone way overboard with all of this stuff. I think if we defeat them on it, it will provide a precedent for other states," she said.

But the legal challenges haven't stopped Jones' chain gangs, where prisoners are connected by lightweight leg irons in crews of five as they dig ditches and clean up the debris along the state's highways. There are currently some 800 repeat offenders working on such gangs, but Jones hopes to bring that number up to about 1,200 by the early part of next year.

Because the nation's prison population is growing rapidly, the chain gangs represent only the most recent, if still highly controversial, answer to holding down costs. They also represent a trend toward making life tougher for prisoners as one solution to recidivism.

## PRISON POPULATION BURGEONS

Just the sheer number of inmates seems to demand some sort of new approach. As of 1995, the number of people in the nation's prisons topped the 1 million mark, up from about 400,000 in 1984. At the same time, average state spending on "corrections" has more than tripled, from about \$6 billion in 1984 to just under \$20 billion today, constituting nearly 10 percent of the average state's spending in 1994.

And in some states, the growth rate of the prison population has far exceeded that of the general population. The number of

*Garry Boulard, a free-lance writer from New Orleans, writes regularly for the Los Angeles Times, the Christian Science Monitor and State Legislatures magazine.*

prisoners in Florida, for example, has more than doubled from 25,000 in 1984 to nearly 56,000 last year. Missouri's prisoners went from 8,300 a decade ago to more than 17,000 today, while New York's inmate numbers grew from over 30,000 a decade ago to nearly 67,000 today.

"Prisons are becoming one of the fastest growing budget items in the states today," said James Wooten, president of Safe Streets Alliance in Washington, a group that supports longer sentences for violent offenders and truth-in-sentencing initiatives. "But we are finding that the longer time a violent criminal serves in prison, the far less likely it is that that person will commit the same or a similar kind of crime again. That means, over time, you can reduce your prison costs because you won't be seeing as many repeat offenders."

## VIOLENCE BEGETS LONGER, TOUGHER TIME

Although many prison officials and civil libertarians dispute the beneficial effects of long sentences and harsher prison time for repeat offenders, a consensus among the states appears to be emerging: Make those guilty of violent crimes serve longer and tougher time while offering alternative solutions to other types of offenses.

New York may be a case in point. With a prison population of just under 67,000, New York has had one of the largest inmate growth rates in the nation, a 400 percent increase from 1974 when the state housed about 15,000 prisoners. The state's prison budget has also jumped from more than \$4 million annually to more than \$17 million today.

But this spring, Governor George Pataki proposed doing away with a series of 1973 laws enacted by then-Governor Nelson Rockefeller that mandated stiff prison sentences for drug offenders.

"Pataki's proposal was an absolute breakthrough for us," said Charles "Skip" Carriere, a spokesman for Assembly Speaker Sheldon Silver. "We had been trying for years to get sentencing reform through the Legislature, but because it was a conservative, tough-on-crime Republican who broached the idea, we finally reached an agreement."

Indeed, after Pataki's proposal was first aired, Robert Gangi, director of the Correctional Association of New York, told *The New York Times*, "It's another case of the Nixon-going-to-China syndrome. Pataki is considered a hard-liner, if you will, a hawk, on those issues. He's already proved his stripes by

increasingly, privatization is being seen as an alternative to the traditional publicly run prison, offering a possible way to accommodate current calls for incarceration while keeping prison costs down.

"Privatization is increasing by about 25 percent to 30 percent a year," said Charles Logan, a professor of sociology at the University of Connecticut, "even though it is still only a small percentage of the national total." The number of privately run prison facilities has jumped from less than five a decade ago to more than 30 today, according to a study by the Center for Law and Democracy in Washington, D.C. The inmates they house have increased from about 2,000 a decade ago to just under 50,000 today. That number is expected to rise to 65,000 by 1996.

"The private sector can do it less expensively because its motivation is entirely different," said Richard Crane, an attorney in Nashville, Tenn., and former counsel for the largest prison privatization firm in the country, Corrections Corporation of America.

Crane argues that because showing a profit is the only thing that matters to business, private prisons are more likely to be cost-efficient and able to do more with less money. That argument has proved so persuasive that Corrections Corporation now runs four prisons in Texas where it has entered into contracts with the state government promising to keep costs 10 percent below previous state-run prison budgets.

A recent study by the Tennessee General Assembly appears to support Crane's argument. Comparing two similar prisons in neighboring South Carolina, both built at the same time and each housing just over 1,000 inmates—one publicly run, the other private—the study concluded that the privately run prison cost \$150,000 less a year in operational costs than its public counterpart.

Privatized prisons have also won high marks from lawmakers and even prison advocacy groups for working with inmates to resolve conflicts and iron out complaints and problems before they lead to larger and sometimes deadly disputes.

Some experts believe that private management can also respond more effectively to the get-tough approach if that means keeping prisoners incarcerated for longer periods of time. "The longer you keep an inmate in prison, the

more expensive it gets," said Charles W. Thomas, director of the Private Corrections Department at the University of Florida. "So, in that sense, I think privately run prisons can respond in a more cost-effective manner to the get-tough movement."

Thomas also contends that, as the get-tough movement produces more prison facilities, private management may also be seen as a more viable alternative simply because "the private sector has a much smaller lag time between the awarding of a contract to build a new prison and actually opening it, than the public sector does. On average, private prisons are up and running in about 12 to 18 months, while it may take up to 36 months for the public sector to do it."

But Crane, among other privatization supporters, opposes much of the new prison reform legislation coming from the states. "It's a bad management device," he said. "If you take away things like TV and weights and smoking from an inmate, you've essentially taken everything away from him—and that means this person is going to be a whole lot harder to control."

Of course, not everyone agrees that private prisons are the best way to go, with or without a get-tough movement. Jim Schmitz with the American Federation of State, County and Municipal Employees faults private prisons for their "high employee turnover rates." Said Schmitz: "That is one of the pitfalls when all you do is think about the bottom line and saving money. You end up with a large number of underpaid employees in high-stress jobs who are frequently leaving. Because public employees get higher wages and benefits, they tend to stay with their jobs in prisons longer, which is less expensive overall."

Professor Logan, however, thinks private prisons can be both cost effective and tougher.

"The solution is to make things more strict, but not necessarily more harsh," he said. "If tougher prison time means less probation and parole, less discretionary release, all of which move in the direction of making the system more fair and consistent, then private prisons are a better way to go because one of the things they are most concerned about is having things run smoothly. They have proved that they can be tough, without inciting the prisoners to riot, which is a pretty important thing."

supporting the death penalty and other harsh sentences."

New York's new sentencing legislation, which passed both houses by overwhelming margins in June, redirects nonviolent, drug-addicted inmates to treatment programs. In the process, it will free up at least 3,000 prison beds annually, making it virtually certain now that violent offenders will be imprisoned.

In North Carolina, concerns about prison overcrowding and budget busting prompted the General Assembly last year to pass a measure by Representative Phil Baddour that balances the number of people sentenced to prison with the actual number of available prison bed spaces. Using a "felony punishment chart," judges under the new legislation determine, among other things, the seriousness of a convict's crime, his past criminal record and then how much prison space is available.

Now in North Carolina, violent and repeat offenders are automatically incarcerated, while first and second offenders who committed certain nonviolent felonies might be given suspended sentences if they complete such alternative punishment as boot camp, house arrest or intensive probation.

Baddour—ironically defeated in 1994 by an opponent who portrayed him as soft on crime—said his measure was an attempt to punish violent offenders while keeping an eye on rising prison costs. "Once you have the decision that first-degree murder is at the top and way down at the bottom is an infraction like jaywalking, with a lot of stuff in between, you can rank crimes according to their seriousness and then see how much prison space you have left," he said.

Similar presumptive sentencing rules, which are essentially devices to gain control over the nation's rapidly escalating prison popula-

tions, have been enacted in other states.

But Charles Logan, a professor of sociology at the University of Connecticut and author of *Private Prisons—Cons and Pros* thinks the states can afford to build more prisons and house inmates longer if they adopt what he called a "cost benefit analysis frame."

"There should be with prison policy an estimation of the costs and payoffs," Logan explained. "But that does not necessarily mean that you would have less use of prisons. It might mean instead that the states simply will become more cautious in using their prisons too broadly."

#### DIVERGENT VIEWS ON TOUGH TIME

There are, of course, widely divergent views on the wisdom of making prison life harder and longer, even for the most dangerous convicts. Many lawmakers, alarmed over what they see as rising crime rates in their own districts, believe prisons should be as brutal as possible. "The people who run the prisons want happy prisoners. I want prisoners to be so miserable that they won't even think of coming back," said Representative Mark McInnis of Mississippi, where lawmakers last year in a special session voted to prohibit inmates from possessing or using weight equipment, compact disc players and televisions among other items. Lawmakers also approved a measure requiring inmates to wear striped uniforms with the word "convict" showing clearly on their backs.

Others believe the "get-tough" prison reform approach is a smoke screen that only hides a bigger problem that the states simply cannot afford—more and more prisoners and prisons. "I think you have to wonder at some point where it is all going to end," said Jenni

Gainsborough, a spokeswoman for the National Prison Project of the American Civil Liberties Union, who believes states should concentrate more on alternatives to prison. "Do we just keep packing them in or do we try to find some sort of alternative? Surely, any rational person can see that the present trends simply can't continue."

Jim Gondoles, executive director of the American Correctional Association, thinks the only way to approach prison issues today is comprehensively, taking into consideration the seriousness of an inmate's crime and the probable effects of both increased punishment and tougher prison time and rehabilitation. "If you don't include other things in your approach, things like education and skills classes or even drug rehabilitation, then you're not taking a balanced approach and it is going to show in the results—prison violence, which is costly to the state, and a much higher rate of recidivism, which is also expensive," Gondoles said.

Tilman Bishop, a Colorado senator who introduced a bill taking away privileges from inmates who file frivolous lawsuits, thinks prisons will become more severe places because of a growing perception among the public that violence and crime are worse than before. "There is a concern that crime is out of control and that the people responsible for it come to prison and live the

1996

## Leader to Leader Meeting

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good life," said the Colorado Republican, v. ure was overwhelmingly approved by the legislature last spring. "It is now up to us as lawmakers to address those concerns and see what needs to be improved upon or taken away or just changed."

Legislatures in more than a dozen states including Arizona, Mississippi, Texas, California and Michigan have passed or introduced measures reducing prisoner access to weight lifting equipment, television and telephones. In this effort, though, the states may be taking their cue from federally managed prisons. According to a recent survey conducted by the Corrections Compendium, roughly 60 percent of all federal prisons have eliminated some prisoner privileges.

That survey, in fact, showed that state prison systems in Oregon, Texas, Kansas and Utah have even banned smoking in their facilities while California, Idaho, Michigan, Oklahoma and South Dakota have restricted smoking to designated areas of prison property.

And nearly all federal and state prisons are being affected this year by the loss of Pell grants for prisoners who want to take college classes. In 1994, more than 28,000 inmates received such grants nationally for programs in paralegal training and computer technology. This year, as part of President Clinton's Omnibus Crime Bill of 1994, that funding has dried up and most of the programs in the prisons have ended.

Even in Alabama, where the chain gangs would seem to offer the ultimate "get tough" solution, new policy is designed to make life as unpleasant as possible. "We work these men 12 hours a day, 60 hours a week and they have to do it," said Commissioner Jones. "And during that time they have none of the privileges enjoyed by the other prisoners—no television, no telephone, no basketball, no visitors."

Jones also thinks his get-tough approach could prove to be more economical. Already, through staff layoffs and scaled-down programs, Jones estimates that he's reduced the average costs per prisoner in Alabama from \$9,500 in 1994 to \$9,000 this year, which is substantially lower than the national per inmate cost of about \$16,000. "And I think we can get it down to about \$8,500 by 1996," he added.

But not all states want to duplicate Alabama's example. Prison officials worry what the effects of harder time might be from a management perspective. Even within Alabama there is opposition. "We are right now on the verge of a major riot," said Alabama Representative John Rogers. "And it isn't just the prisoners who are angry. The staff workers are also demoralized. They are being ordered to push and push, even though they know it could result in violence that will hurt them too."

Still others worry that state spending on prisons shows no end in sight. "We can continue to move in this direction, but, if we do, we have to realize it is going to cost more and more," said Professor Logan. "We have to be willing to make a large

commitment that we'll see any benefits from in a long time."

But in the absence of any other sure solutions, that commitment may prove easier to make than many imagine. "If anyone has a better approach to all of this than we do, I wish he'd come forward—because none of us has a perfect solution," said McInnis of Mississippi. "We're just trying to battle crime the best way we know how by showing that if you're going to commit a crime, you're going to have to pay for it. I don't know any other way to go about it."

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600 Maryland Ave., NW • Suite 100 W • Washington, DC 20024-2571 • Terri Gaffney 202-651-7110





Sheriff Gerald Hege and his paint job

## ROMPER ROOM FOR CON'S

**P**RISONERS INCARCERATED in Davidson County, North Carolina, don't think their jail looks pretty in pink. Nor are they too thrilled with the blue teddy bears crying white tears that are slapped onto the Pepto Bismol-colored walls.

But Sheriff Gerald Hege likes the nursery look. "There's kind of a humiliating aspect to it," he says. "It's hard to be macho in a pink cell with blue teddy bears." A murderer, one of the toughest guys Hege's seen, broke down laughing when he saw the change.

The sheriff says he got the idea for a dolled-up jail at sunset in the Grand Canyon. Ill with a kidney stone attack, he found the pink sky and rocks soothing. Of course, the strawberry jail cells are not particularly soothing for inmates. "After two or three days, it gets to you," Hege concedes.

But inmates would be hard pressed to cry into their coffee about it. They're not given coffee. Nor are they allowed cigarettes or television. The decor's the only thing soft about life at the Davidson jail. Prisoners wear black and white striped uniforms and work eight hours a day cleaning up highways, swamps and church graveyards.

At least they're not chained up. "I don't want them chained," says Hege. "They can't work as hard."

—Ellen Perlman

## Copayment System Reduces Sick Call Visits in Kansas

The Kansas Department of Corrections has a contract for medical services with a private provider at an annual cost of roughly \$16.6 million. So when it implemented a system of copayments for its inmates, the DOC didn't expect those copayments to offset the costs of the medical contract. But it did want to put individual inmates in a position of accountability and responsibility for their decisions to visit sick call.

In the year since the \$2 copayment for a visit to a primary care provider was implemented, the DOC has seen a significant reduction in the number of sick call visits it experiences each month.

"In fiscal year 1994, the Department experienced an average of 15,172 sick call visits every month," says Bill Miskell, public information officer for the Kansas DOC. "In the first month that we implemented

### Savings at a Glance...

**Idea:** Require inmate copayments for medical services.

**Result:** Inmates are held accountable for sick calls.

**Bottom line:** Sick call visits are reduced by 65 percent.

these fees, that number decreased to 5,003 sick call visits."

Although Miskell says that the major costs of medical care in the prison population are not related to sick call visits, they are a very time- and staff-consuming aspect of the operation.

"You're still going to have to treat cancer, AIDS, and other major conditions, but you do limit the number of people who are standing in line waiting to go to sick bay who really don't need to be there," he says. "When inmates only make \$5 a

month, they're going to be less likely to spend \$2 unless they have a real reason to go to sick call."

Miskell stresses, however, that no inmate is ever denied access to medical services because of an inability to pay. If an inmate initiates a visit to sick call but does not have the \$2 for the copayment, they are still able to see the health care provider and the charge is debited to their accounts. In addition, the DOC does not charge inmates when they are referred to sick call by a member of the correctional staff or medical personnel.

Kansas has an inmate population of 7,180 housed in nine facilities throughout the state. Eight of these institutions have medical facilities on-site. The one facility that houses offenders on work-release does not have a medical component and inmates are responsible for obtaining and paying for their own routine medical care.

## Copayment for Creature Comforts

In Arizona, inmates who want to watch television or listen to the radio must own their own equipment to do so — because the state no longer furnishes its institutions with these appliances. Now the Arizona Department of Corrections has received legislative approval to start charging inmates a fee to offset the utility costs for operating such appliances.

According to Public Information Officer Michael Arra, this latest fee imposition is a way to defray costs as well as to impose some responsibility on the inmates for paying their own way. Once the initiative is finalized, the DOC will begin to charge a flat fee of \$2 a month for all inmates who own electrical appliances, regardless of the number of appliances they own. Such appliances include television sets, radios, and cassette players, as well as oscillating fans and hair dryers. The fees will be deducted directly from inmate trustee accounts. The legislation that allows these fees to be imposed was enacted in 1995.

"We've done a number of things to convey the message to inmates that they have to learn to take responsibility for themselves as well as to convey the message to the public that we are a fiscally responsible corrections department," says Arra. "The public knows that the Arizona prison system is a place where there are few creature comforts for inmates and a place where inmates have to work and pay some of their own way."

Since October 1994, inmates in Arizona have been required to contribute to their own health care costs through a system of copayments. A self-initiated visit to a health care provider costs an inmate \$3.

According to Arra, the copayment was instituted for several reasons, including reducing inmate abuse of the health care delivery system, placing some ownership for medical care with the inmates themselves, and returning some funds to the general fund to reduce the increasing costs of inmate health care.

Arra notes that during the period from October 15, 1994, to June 30, 1995, Arizona collected \$105,700 in inmate medical copayments.

Arizona currently has about 22,000 offenders incarcerated in its system, the majority of whom have jobs either in prison support operations or in the Arizona correctional industries system.

Prison support jobs pay inmates between 10 cents and 50 cents an hour; prison industry jobs pay slightly more. Inmates who work for industries that are a joint venture with private enterprises are paid as much as minimum wage. These inmates are required, however, to give back 30 percent of their wages for room and board, restitution, family support and mandatory savings.

For more information, contact Michael Arra at 602/542-3133.

# IDEAS THAT WORK



On July 8, 1996, at the National Governors' Association Annual meeting, Wisconsin Gov. Tommy Thompson announced the release of *Ideas That Work*, a series of seven publications.

*Ideas That Work* began last year, when Governor Thompson asked the members of the National Governors' Association to submit programs (current programs or new reforms) that they felt worked in their home state. Subject areas included: Crime/Public Safety; Business/Environment; Self-Supportive (Welfare); Job Creation; Tax Policy; Infrastructure; and Education Reforms.

*Ideas That Work* has more than 500 ideas from around the country. The cost of a single publication is \$30, or \$180 for a complete volume set. *Ideas That Work* can be ordered at 1-301-498-3738.

**State revenues are perched on the edge of a steep and steady decline.**

- Do we apply a meat axe approach to cutting the bureaucracy?
- Do we initiate new taxes on Alaskans to sustain state spending at its current pace?
- Or do we initiate reasonable spending cuts now to avoid imposing new burdens on Alaska's citizens?

**If you have an idea for Common Sense For Alaska Newsletter, contact Kym Swift at (907) 276-7648**

## How to keep prison healthy

Inmates in Nevada are required to pay \$4 for initial "walk-in" appointments with institutional physicians, nurse practitioners, dentists, optometrists, or psychiatrists. After health care has been provided, charges are posted to the inmate's account and are reflected in monthly statements sent to the inmate. If an inmate does not have sufficient funds to cover the charges, his or her account is frozen until enough funds are submitted (through work programs) to cover the charge. The collection rate is approximately 52 percent.

Savings have resulted primarily from reduced demand for health care services. Since the program conception, there has been a 50 percent decrease in the demand for health care services by inmates statewide and a 76 percent decrease at the maximum-security prisons.

In Alaska last year, the Department of Corrections spent \$14,739,700 for "Inmate Health Care".

*Source: Managing Prison Health Care and Costs, National Institute of Justice, May 1995*

Money Watch is published quarterly by Common Sense For Alaska  
G. Kent Edwards, President • Kym Swift, Executive Director • Phone: (907) 276-7648

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# State to State

## MINNESOTA CRIME BILL ELIMINATES INMATE SMOKING, ESTABLISHES MEDICAL COPAYMENTS

Minnesota's 1996 Omnibus Crime Bill will eliminate smoking privileges for all but a few inmates, and inmates seeking health care will be assessed copayments for requested medical, dental and mental health services.

The bill establishes that effective August 1, 1997, no inmate in a state correctional facility may possess or use tobacco or a tobacco-related device. The only exceptions granted will be the use of tobacco by adults as part of "traditional Indian spiritual or cultural ceremony," according to *Hollins*, a department newsletter.

A number of DOCs have banned inmate smoking for various reasons, including safety and health-related concerns, with varying success. Some have said that banning smoking only creates a new form of contraband, citing prices of up to \$20 for a pack of cigarettes. Recently, Georgia Corrections Commissioner Wayne Garner returned smoking privileges to inmates, saying the ban had become an "absolute nightmare."

Charging inmates for health care services is another growing trend and one that is not free from controversy. Minnesota inmates will be charged \$3 for health care services each time services are initiated by the inmate. Officials in other states with copayments have asserted that some inmates tend to abuse available medical services and that the nominal fees reduce unnecessary visits, thereby reducing overall health care costs. Opponents have argued that many inmates are indigent and cannot afford the copayment, stressing the possibility that states will see higher health care costs down the road if inmates are discouraged from seeking preventive care.

## MARYLAND GOVERNOR SUSPENDS PRISON CONSTRUCTION, CUTS INMATE EDUCATION

The American Correctional Association reports that Gov. Parris Glendening of Maryland has decided to suspend funding for new prison construction despite a "substantial increase" in the state's inmate population in recent years. Glendening reportedly approved only the completion of the Western Correctional Institution, a 1,296-bed medium security facility near Cumberland scheduled to open this spring. The governor's budget plan calls for no new prison construction over the next five years, the ACA reports.

In another move to trim the state's budget, Glendening has ordered some educational programs at existing state prisons to be abolished, this according to a February 14 report in the *Washington Post*. The cuts will eliminate 49 teachers and one administrator who oversee high school equivalency exam preparation and vocational training courses.

Some members of the state's General Assembly have vowed to restore funds taken from penal education, as Gov. Glendening has indicated that he is open to change if lawmakers can recommend other budget cuts.

## VERMONT PRISON CONDITIONS CASE WINS IMPROVEMENTS

Following extensive investigations in 1993, lawyers from the American Civil Liberties Union's National Prison Project together with local attorney Mitchell Peart, filed suit against the State of Vermont, claiming that conditions in its prison deprived prisoners of basic constitutional rights to medical and mental health care and safe environmental conditions. The suit is now well-known for challenging a Vermont behavior modification program for sex offenders, which was the subject of a further filing last year that called for an end to the "physical and sexual abuse" of prisoners taking part in the program.

The ACLU reports that as a result of a settlement signed in Burlington on April 11 substantial improvements will be made over the next two years. Independent experts will be monitoring the prisons and making reports on the state's progress in providing prisoners with adequate medical and mental health care, fire safety and environmental safety. The reports will be made public.

"We believe the state is strongly motivated to do what is needed to address these problems and avoid future class action litigation," said National Prison Project attorney Margaret Winter. "We expect the prisoners to play an important role in reporting to the independent experts or day-to-day conditions in the facilities."

Within the sex offender treatment program, the state has called a halt to "simulated rapes and other abusive practices that were being carried out in the name of therapy," the Prison Project reports. Under the terms of the settlement, prisoners are free to sue again if the state ever resumes these practices.

## LOUISIANA INMATES BUILD "SAFE" WEIGHT TRAINING EQUIPMENT

Prison Enterprises of Louisiana has introduced new weight lifting equipment designed to prevent the possibility of free weights being used as weapons. The three pieces of equipment, which are being built by inmates, have no removable parts.

According to Donald McNeal, Assistant Warden at Louisiana's Dixon Correctional Institute, incidents of violence involving free weights have occurred in the past. "Inmates have struck one another with loose weights during arguments," he said. Richard Stadler, Secretary of the Louisiana Department of Public Safety & Corrections, feels the new weights will make a safer environment for both inmates and officers, and he has encouraged wardens to consider the new equipment for use in their institutions.

Source: "The P.E.N.," *The Prison Enterprises Newsletter*, Spring 1996

# ADOC NEWS RELEASE



## Arizona Department of Corrections

Michael Ara  
Public Information Officer

(602) 542-3133

1601 W. Jefferson St.  
Phoenix, Arizona 85007

December 27, 1994

### TONS OF WEIGHT EQUIPMENT DONATED

There are no more weights in Arizona's prisons and high schools and other organizations are the better for it.

The Arizona Department of Corrections has completed its goal of removing all weights and weight lifting equipment from all prisons around the state. Part of the process involved identifying organizations that would receive donations of the weights, which turned out to be the easiest part of the job. Response to the news that the Department would be donating the equipment away was great. Numerous high schools, middle schools, and non-profit organizations with athletic programs or strength and conditioning programs responded. Some of them include Mothers Against Gangs of Phoenix; the Eloy Boxing Club of Eloy; PREHAB of Arizona in Mesa; and Howenstine High School, which will use weights to train students for the Special Olympics.

The prisons making the donations and the schools or organizations receiving the weights are:

ASPC- Florence:

Mothers Against Gangs  
Florence Middle School  
Florence High School  
Camp Verde High School  
Youth Haven School  
Supai Middle School  
Eloy Boxing Club  
Santa Cruz Union High School

# IADC NEWS RELEASE



## Arizona Department of Corrections

Michael Arra  
Public Information Officer

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1001 W. Jefferson St.  
Phoenix, Arizona 85007

### Globe Unified School District

#### ASPC- Eyman:

Carl Hayden High School  
Florence Recreation Department  
Florence High School  
Coolidge Intermediate School  
McCray Junior High School  
PREHAB of Arizona

#### ASPC-Tucson:

Catalina High School  
Desert View High School  
Santa Rita High School  
John A. Valenzuela Youth Center  
Marana High School  
Sahuaro High School  
Howenstine High School

#### ASPC-Perryville:

Phoenix Union/Metro Tech  
Tolleson Union High School  
Peoria High School  
Avondale Jr. High School

#### ASP-Yuma:

Antelope High School- Wellton  
San Pasqual Valley High- Winterhaven

#### ASPC-Douglas:

Douglas Public Schools  
Bisbee Public Schools  
Tombstone Public Schools  
Elfrida Public Schools

#### ASPC-Winslow:

Winslow High School  
Verde Valley High School

#### ASP-Fort Grant:

Willcox High School  
Bonita School District

# ADOC NEWS RELEASE



## Arizona Department of Corrections

Michael Arra  
Public Information Officer

(602) 542-3133

1601 W. Jefferson St.  
Phoenix, Arizona 85007

ASPC-Safford:	Thatcher High School Pima High School Superior High School
ASPC-Phoenix:	Phoenix Day School for the Deaf Estrella Junior High School Arizona State Hospital Blue Ridge High School Camp Verde High School
ASP-Globe:	Miami High School Globe High School
SACRC-Tucson:	Tucson High School

The donated weight equipment's value was estimated to be in the hundreds of thousands of dollars. Weight equipment had been purchased over many years with money from the Department Athletic and Recreation Funds at each prison site.

It has been a long term objective of Corrections Director Sam Lewis to remove all weights from Arizona prisons, and a recent study determined they were the cause of approximately \$600,000 in medical services provided to inmates with weight lifting injuries last year. Weights also were frequently used by inmates to cause serious injury to other inmates in assaults, and for use in causing damage to state property during past prison disturbances.

Recipients of weight donations around the state have expressed overwhelming gratitude. From the Arizona Department of Corrections' perspective, the weights are now at places where they can do much more good than they ever could in the prisons.

# # #

For further information contact: Michael A. Arra, 542-3133

# Jailhouse CROCK

*Today's prison inmates are flooding the courts with suits designed to kill time, improve prison life—or just plain annoy the hell out of the rest of us.*

*He preferred chunky-style peanut butter. He got a sandwich made with creamy. So he sued....*

*He wanted to attend church service naked. The warden said no. So he sued....*

*His entire adult life he'd been dealing heavy drugs. Now people were forcing him to stop. So he sued....*

**T**HAT THE above lawsuits were filed at all seems absurd enough. What's truly mind-boggling to many observers is that these lawsuits are among the tens of thousands filed each year from inside prison.

And at guess-who's expense.

"This is one of the most under-recognized problems in criminal justice today," says James Gomez, who, as director of California's Department of Corrections, supervises the state's massive prison network. "These suits create an administrative logjam and drain the system of funds."

The number of suits has soared from a few hundred per year in the 1960s to some 50,000 in 1993 (the last year for which figures were available). Far from being just another of life's harmless outrages, the flurry of prison lawsuits has far-reaching side effects. Like a malignant cancer, the bogus actions crowd out other types of claims, forcing people with legitimate complaints to wait many extra months for their day in court. In the federal courts of Arizona and Iowa, prisoners account for 48 percent of all civil litigation; Missouri and Arkansas check

in at 46 and 42 percent, respectively. At one point in mid-1994, Illinois had over 1,200 ongoing cases.

Defending the suits requires an enormous withdrawal from already overburdened state treasuries. Former New York Attorney General Oliver Koppell once estimated that a fifth of his departmental budget went toward prisoners' lawsuits. This, in turn, has a direct bearing on the number of new cases that are plea-bargained or shelved entirely because the legwork to pursue them is not considered cost-effective. The upshot? "Dangerous thugs go back on the streets much sooner than they ought to," noted Koppell.

Once law-enforcement budgets are stretched to capacity, the money to fight jailhouse lawsuits must be siphoned out of general funds. When this happens, the pinch is felt everywhere. Florida's efforts to rebuild from Hurricane Andrew were hampered, at least in part, by the need to divert increasing sums to the processing of lawsuits brought by its inmates, according to Kim Tucker, a senior attorney who has overseen many of the cases on Florida's behalf.

The fact that many of the suits are dismissed or decided in the state's favor is beside the point. "For us and the taxpayers the cost is the simple fact of litigation—the actual running of the lawsuits through multiple years in court," says Tucker. "Even where we win, we lose." On average, each action ends up costing Florida taxpayers \$50,000.

"The things that really are important to the good citizens don't get done





because of some clown down at the prison who raped your sister, abused your daughter, robbed your store," says Arizona attorney general Grant Woods. "We thought we put them away to protect society, but they're still ruining things for everyone else."

**M**UCH of the litigation is generated by lifers or men on death row—cons who have little or nothing to lose by jamming court dockets with an endless stream of paperwork. (Inmates with a shot at parole are less likely to make waves for fear of being labeled troublemakers.) These convicts file suits simply to kill time or alleviate boredom. "[Filing lawsuits] gives them an opportunity to travel outside the prison system," says California's Gomez. "They may get to visit different cities, stay in hotels, do things they'd normally never have a chance to do. At the very least, they get to leave the grounds to attend court."

For others, glamour plays a role. If the case catches the eye of the media, reaches the appeals stage, or changes prison policy, the convict wins celebrity status. Sometimes a suit filed from prison ends up rewriting the law. The best-known examples are *Escobido* (where suspects won the right to have counsel present at questioning) and *Miranda* (the case that inspired the familiar litany of "rights" now read to someone upon arrest).

Granted, the legislation resulting from those cases is considered an important addition to civil rights. But too often the men at the heart of such cases become jailhouse legends whose crimes, and victims, tend to be forgotten.

Even when the results are less dramatic, the suit can pay huge chest-thumping dividends. For many cons, lawsuits constitute payback time, an opportunity to turn the tables on cops, guards, wardens and others who enjoy authority over them.

"They want to stick it to the system," says Nevada Attorney General Frankie Sue Del Papa, citing actions

that frivolously hinged on the shape of  
*Please turn to page 51*

#### WHAT THEY SUE FOR

- Special meats and shellfish
- Access to automobiles
- Premium mattresses
- Controlled substances
- Chunky-style peanut butter
- Male strippers and prostitutes
- Salad at lunch
- Better shoes and clothing

# JAILHOUSE

Continued from page 33

a birthday cake or the color of a pair of prison-issued long johns.

"We've had one inmate state publicly that his purpose was to break the State of Nevada." In 95 percent of the cases, these "frequent filers" get no damage awards for themselves, says Del Papa, "so that tells you something about their motives. It's recreational litigation."

According to a special report by ABC's *20/20*, the modern-day record for jailhouse litigation is held by Florida's Robert Procup, who has filed more than 300 nuisance lawsuits costing the state a total of some \$15 million. Procup, serving a life sentence for killing his business partner then cementing him into a storage cubicle, has sued because he didn't get a salad at lunch; because his shoes wore out; because he didn't have a TV in his room.

Of course, some convicts have a more pragmatic agenda: making their prison stays more comfortable by enhancing the "country-club" atmosphere that has taxpayers up in arms. A sampling of the top items on the cons' wish list:

*Expanded conjugal-visit privileges.* One prisoner successfully sued to have his trysts at a local hotel because he felt the accommodations provided by the prison were "not conducive to romance."

*Special meals, including costly shellfish and prime cuts of beef.* These suits typically are brought on the grounds that standard prison fare is either unhealthy, incompatible with a con's "special dietary needs" or against someone's religious beliefs.

*Access to automobiles.* An inmate with six months remaining on his sentence sued for the right to drive a car outside the prison compound twice a week. He said he feared that his driving skills had deteriorated markedly during his seven years in prison, and he didn't want to be a "public menace" once he got out. He won his case, provoking actions by other inmates suddenly concerned about their driving.

*Controlled substances.* Some inmates have had success demanding powerful prescription narcotics like Percodan and Demerol to treat a variety of dubious medical conditions. Says one bemused jailer, "We end up

handing them stuff for free that's better than what they had to steal on the street!"

And so it goes. Unhappy with being dubbed "the B.O. bandit" by the FBI, a bank robber sues the agency for defamation of character. A convicted child molester goes to court because prison officials wouldn't let him receive a publication glorifying sex between adults and children. Another con alleges brutality after a guard conks him with a flashlight; what the con neglects to mention in his complaint was that at the time of the incident, he had just stabbed the guard with an ice pick. An Indianapolis man sues to collect the life-insurance proceeds of the woman he was sent to jail for murdering.

"The audacity of some of these characters is amazing," says Sam Knott, a leading voice in the victims'-rights movement since his daughter was murdered in 1986. "They're turning hard time into play time, and we're letting them get away with it."

**T**HE OBVIOUS question is *why?* Why do we sit still for it? "The Constitution is on their side," explains eminent San Diego appeals court Judge Richard Huffman. "The right to bring suit for some perceived injustice supersedes almost every other consideration."

Several states that tried to plug the dike by stipulating that no prisoner be allowed to have more than two suits pending at one time saw their meager efforts run aground in the higher courts. When Florida sought relief from Robert Procup's nonstop litigating, the state's position was upheld in the lower court, then overturned on appeal.

Making matters worse, the normal constraints that work to mitigate this syndrome in society-at-large are absent in the prison environment. A private citizen who undertakes litigation has to pay filing fees, attorneys' per diems and other associated expenses. Most of us won't stay the course unless the issue is one of grave personal concern. Too, in most jurisdictions, a private citizen faces penalties for bringing frivolous litigation. At the very least, he will be compelled to pay court costs for the other side.

None of this is much of a factor in jail. For convicts, the filing process is as painless as signing an affidavit claiming insolvency. The state waives all fees—and even pays postage. For the same reasons, cons couldn't care less about losing cases. "With nothing

at stake," says Arizona's Woods, "they can go file their lawsuits and who knows, maybe they'll hit the jackpot."

As for legal expertise, the U.S. Supreme Court in 1977 ordered every state prison to provide inmates access to an up-to-date law library. As one attorney general laments, "Prisoners in this state have a better law library than I have in my office." Incoming prisoners are shown the ropes by seasoned cors who practically live their lives studying case law. The savvy old-timers circulate standardized legal forms, teaching novices to simply white out the name of the previous litigant and fill in their own name wherever applicable.

The result is a system turned on its ear. As one state attorney general puts it, "The worst of the worst in our society get special privileges across the board."

Recently, high-ranking officials of several states hardest hit by prison litigation formed a task force. Their activities show some early promise. Now, at least in a handful of jurisdictions, if the court decides that a suit is frivolous—as in the case of the inmate who tried to sue because he didn't get his dental floss—officials can dock the inmate's so-called good time. Nevada officials have come up with an "early intervention" approach where the courts take a preliminary peek at the case to determine if it's off the wall. Del Papa also is hopeful about new federal legislation, the Prison Litigation Reform Act, that was wending its way through Congress at press time. Sources in the Nevada attorney general's office said in early January that the legislation had passed the Senate and was temporarily stalled in the house. (The bill had been attached to budget legislation and thus got bogged down in the partisan give-and-take over the government's balancing act.) The legislation came out of several meetings Del Papa and some of her disgruntled colleagues have had with Utah Sen. Orrin Hatch and others sympathetic to the problem.

Meanwhile, things get curiously and curiously. Prison administrators are wringing their hands over a landmark June 1994 Supreme Court ruling that animal sacrifice is legal, so long as it's part of a religious ceremony. Presumably it's only a matter of time before prisoners start asking for live goats to kill, and the knives to kill them with.

At some point, concludes Sam Knott, "we as a society better say, this bull must stop."

—By Steve Salerno



# TEXAS DEPARTMENT OF CRIMINAL JUSTICE

P.O. Box 99 • Huntsville, Texas 77342-0099

Wayne Scott  
Executive Director

January 23, 1997

The Honorable Dave Donley  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Donley:

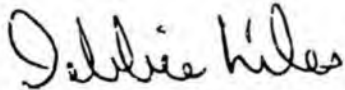
This letter is in response to your inquiry regarding our Tobacco Free Policy. Texas Department of Criminal Justice (TDCJ) went to a totally tobacco free policy which became effective March 1, 1995. This policy covers all property owned or leased by our department, with the exception of individual family dwellings, and is applicable to offenders and employees alike. I have included a copy of our Board Policy 02.02 for your review. Board Policy 02.02, "TDCJ Tobacco-Free Policy" was adopted November 18, 1994, by the Texas Board of Criminal Justice (TDCJ). The TBCJ is our governing board which is responsible for the overall management of our agency. Although adopted in November of 1994 the policy did not become effective until March 1, 1995.

In the months between the adoption and effective date of our tobacco-free policy, efforts were made to ensure the effective and orderly implementation of its provisions. Our agency initiated contact with the American Cancer Society (ACS), and sent several of our staff members through their "Fresh Start Program." The "Fresh Start Program" is a stop smoking initiative developed by the ACS to assist individuals in breaking the tobacco habit. TDCJ staff participating in the program became trainers, who in turn came back to our agency and presented "Fresh Start" to our employees who desired to participate. The Health Services Division of TDCJ presented the "Fresh Start Program" to our offender population.

In summary, our tobacco free policy has now been in existence for almost two years. We have not experienced any significant problems in association with the tobacco ban. TDCJ has encountered only isolated incidents of employees and offenders possessing "contraband" tobacco. However, we do believe the time between the adoption and the effective date in which the "Fresh Start Program" was presented, was extremely beneficial in assuring a smooth implementation.

I hope this overview of TDCJ's implementation of our tobacco free policy is helpful. We wish you the best of luck in administering your program should you choose to proceed with it. If there is any additional information you need please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Liles".

Debbie Liles  
Assistant Director for  
Management Support

DL/cs

**TABLE II: INMATE**

SYSTEM	CAN INMATES SMOKE IN FACILITIES? WITH WHAT RESTRICTIONS?
<b>U.S. SYSTEMS</b>	
ALABAMA	Yes, in designated smoking areas.
ALASKA	<i>No response</i>
ARIZONA	<i>No response</i>
ARKANSAS	Yes, in all facilities. Restricted in hospital & punitive segregation.
CALIFORNIA	No, not in any facility. In prison yards or other outdoor areas designated for smoking by each institution head.
COLORADO	Yes, in all facilities. Only in cells or rooms.
CONNECTICUT	Depends on facility. Only in specified designated areas. All smoking is prohibited at designated "smoke-free" facilities.
DELAWARE	No, not in any facility. Only designated outdoor areas.
DISTRICT OF COLUMBIA <i>Min-security facility</i>	No. Inmates cannot smoke inside any building or govt. vehicle.
<i>Max-security facility</i>	Yes. Must smoke in cells or designated smoking areas.
FLORIDA	Yes, in designated smoking areas.
GEORGIA	<i>No response</i>
HAWAII	Depends on facility. Restricted to open-air areas. No smoking in enclosed, air-conditioned buildings.
IDAHO	Depends on facility. 6 of 7 facilities have designated smoking/non-smoking areas. 1 is completely non-smoking.
ILLINOIS	Depends on facility. Permitted in all but Boot Camp Facilities. All facilities have restricted smoking areas. Smoke-free housing unit wings at some facilities.
INDIANA	Yes, in all facilities (except juvenile).
IOWA	Depends on facility. Only outside.

<sup>1</sup> Various legislators have expressed dissatisfaction with access to recreational equipment including weight lifting equipment.

TABLE II: INMATE

SYSTEM	CAN INMATES SMOKE IN FACILITIES? WITH WHAT RESTRICTIONS?
KANSAS	Depends on facility. Prohibited at reception & diagnostic unit & 3 facilities. Where smoking is allowed, it is restricted to inmate cellrooms. All correctional facilities will become smoke-free on 07/01/95. Facilities that now allow smoking are offering smoking cessation programs.
KENTUCKY	Depends on facility. Certain areas of certain institutions. New institutions will be smoke free for staff & inmates.
LOUISIANA	Yes, in all facilities. In dormitories allowed to smoke in the dayroom, but not in the bed area. Extended lock-down, admin. segregation & disciplinary detention inmates not allowed to smoke.
MAINE	No response
MARYLAND	Yes, in all facilities. Only in designated areas. Smoking policy is under review due to changes in regulation that impose statewide restrictions on smoking.
MASSACHUSETTS	Yes, in all facilities. All facilities allow smoking in the yard or designated site w/in the facility. Most living areas, program space & common areas are smoke free.
MICHIGAN	Depends on facility. Only 1 non-smoking facility. All other facilities have at least a few non-smoking cells, otherwise they may smoke in their cells.
MINNESOTA	Depends on facility. Restricted to individual cells or the recreation yard.
MISSISSIPPI	Yes, in all facilities. Only in designated areas.
MISSOURI	Yes, in all facilities. Only in immediate living area or outdoors.
MONTANA	No, not in any facility. All buildings smoke-free except for at least 1 designated smoking area in each.
NEBRASKA <i>Comm. Corr. Center Lincoln</i>	Yes. Inmates may smoke in a room occupied by 4 inmates who smoke. During all other times they must smoke outside the facility.
<i>Lincoln Corr. Center</i>	Yes. Only on the outside of the compound & inmate cells. No smoking w/in the facility buildings except by inmates in their cells. Segregation areas, except the Protective Custody Unit, are totally non-smoking.
<i>Hastings Corr. Center</i>	Yes. Outside & in assigned sleeping bays (3 of 4 bays allow smoking).
<i>Omaha Corr. Center</i>	Yes. Outside at all facilities. Inside smoking not allowed in State Buildings. The only exception to this is inmates may smoke in their own cell if the cell is a designated smoking cell.

Corrections COMPENDIUM, June 1995

**TABLE II: INMATE**

SYSTEM	CAN INMATES SMOKE IN FACILITIES? WITH WHAT RESTRICTIONS?
NEVADA	Yes, in all facilities except Nevada Medical Facility.
NEW HAMPSHIRE	Depends on facility. Inmates may smoke in cells only - not in common areas, education, visiting or dining room.
NEW JERSEY	Yes, in all facilities. In authorized smoking areas only.
NEW MEXICO	Yes, in all facilities. Areas are posted for non-smoking.
NEW YORK	Yes, in all facilities. In housing areas & outside.
NORTH CAROLINA	Depends on facility. Prohibited in dormitory area, medical area & kitchen areas.
NORTH DAKOTA	Yes, in all facilities. Only in living quarters (individual cells).
OHIO	Depends on facility. Some institutions are totally non-smoking, others have smoke restricted & permitted areas. Segregation areas are all non-smoking (disciplinary control, local control & admin. control).
OKLAHOMA	Yes, in all facilities. Only in designated areas.
OREGON	Depends on facility. Some facilities are non-smoking now, some are making the transition 04/01/95. All facilities will be smoke free by 10/01/95.
PENNSYLVANIA	Yes, in all facilities. Not in dining halls, most work areas, treatment areas & school. Most smoking is outside or in cells.
RHODE ISLAND	Yes, in all facilities. In cells & designated areas.
SOUTH CAROLINA	Depends on facility. Prohibited in Max units. In other facilities, prohibited in program service, food prep/ serving, recreation/gym, medical/dental, classrooms, libraries & chapels. Prohibited in meetings, counseling sessions & offices unless agreed upon by office occupants. Institution heads may designate non-smoking areas in dormitory areas.
SOUTH DAKOTA	Depends on facility. There are facilities that allow smoking in cells, facilities that allow smoking outdoors only & a facility & grounds that is entirely smoke-free.

**TABLE II: INMATE**

SYSTEM	CAN INMATES SMOKE IN FACILITIES? WITH WHAT RESTRICTIONS?
TENNESSEE	Yes, in all facilities. Of 20 facilities, 7 have designated non-smoking inmate housing units.
TEXAS	No, not in any facility. Effective 03/01/95, the use of tobacco products no longer allowed at any facility.
UTAH	No, not in any facility. None of the prison facilities allow smoking. If caught trying to illegally get tobacco into the facility, inmates are subject to disciplinary action.
VERMONT	Yes, in all facilities. Not inside the buildings.
VIRGINIA	Yes, in all facilities. In designated areas.
WASHINGTON	Yes, in all facilities (each is different). Smoking areas are clearly identified. Some facilities only allow smoking outside. Camps only allow smoking outside. No smoking in Intensive Management & segregation Units.
WEST VIRGINIA	Depends on facility. Restricted areas.
WISCONSIN	Depends on facility. Restricted to designated smoking areas only.
WYOMING	Depends on facility.
FEDERAL BUREAU OF PRISONS	All areas of BOP facilities & vehicles are no smoking unless specifically designated as smoking by Warden. Ordinarily, an outdoor area away from combustible materials is designated a smoking area. At all Low, Med, High, & Admin. institutions (except medical referral centers), Wardens identify outdoor smoking areas & may designate limited number of indoor smoking areas.
<b>CANADIAN SYSTEMS</b>	
ALBERTA	No response
B.C.	Yes, in all facilities. Limited to outdoors or in cells if adequate outdoor ventilation is available.
MANITOBA	Yes, in all facilities. Restricted to living location (cell only or outside. No smoking in eating, visiting, gym & all other common areas.

Corrections COMPENDIUM, June 1995

5 CONNECTIONAL CEN  
SEVEN DAY MENU

DATE: 9-24-95 Through 9-30-95

WEEK - 3

FRIED EGGS TURKEY HAM HASH BROWN POTATOES COLD CEREAL COFFEE or TEA MILK TOAST w/BUTTER FRESH FRUIT JELLY	2 oz. 100 8 oz. 108 4 oz. 200 2 oz. 100 8 oz. 121 2 oz. 171 1 oz. 02 1 pk. 50 1088	POTATO SOUP TURKEY SALAMI & CHEESE SANDWICH POTATO SALAD TOMATO /ONION /LETTUCE BEVERAGE CRACKERS	8 oz. 1 oz. 4 oz. 2 oz. 8 oz. 2 oz.	BEEF ROUND MASHED POTATOES NATURAL GRAVY GREEN BEANS SALAD BAR w/DRESSING BREAD & BUTTER PEACH COBBLER BEVERAGE	8 oz. 8 oz. 8 oz. 4 oz. 4 oz. 2 oz. 1 oz. 8 oz.	24
OMELETED BEEF BISCUITS HASH BROWN POTATOES HOT CEREAL COFFEE or TEA MILK FRESH FRUIT	8 oz. 180 2 oz. 010 4 oz. 200 2 oz. 204 8 oz. 121 1 oz. 02 1079	VEGETABLE SOUP TURKEY w/ KING BUTTERED NOODLES TOSS SALAD w/DRESSING BREAD & BUTTER OATMEAL COOKIES BEVERAGE CRACKERS	8 oz. 1 oz. 8/4 oz. 4 oz. 2 oz. 2 oz. 8 oz. 2 oz.	BEEF TACO BURRITO SPANISH RICE REFINED BEANS BREAD & BUTTER Chilled Plum BEVERAGE	2 oz. 1 oz. 8 oz. 4 oz. 2 oz. 1 oz. 8 oz.	25
SCRAMBLED EGGS BACON HASH BROWN POTATOES COLD CEREAL COFFEE or TEA MILK TOAST w/BUTTER FRESH FRUIT Juice JELLY	2 oz. 100 2 oz. 100 4 oz. 200 2 oz. 100 8 oz. 121 2 oz. 171 1 oz. 02 1 pk. 50 1104	CHICKEN NOOD SOUP SLOPPY JOE ON A BUN FRENCH FRIES TOSS SALAD w/DRESSING PEANUT BUTTER COOKIE BEVERAGE CRACKERS	8 oz. 1 oz. 4 oz. 4 oz. 2 oz. 8 oz. 2 oz.	BAKED FISH FILLET MACARONI & CHEESE Steamed Asparagus SALAD BAR w/DRESSING TARTAR SAUCE BREAD & BUTTER LEMON CREAM PIE BEVERAGE	8 oz. 4 oz. 4 oz. 4 oz. 1 pk. 2 oz. 1 oz. 8 oz.	26
PANCAKES SYRUP PORK SAUSAGE HOT CEREAL COFFEE or TEA MILK FRESH FRUIT	2 oz. 120 1.5 oz. 124 2 oz. 210 8 oz. 204 8 oz. 121 1 oz. 02 1104	PINTO BEAN SOUP CHEESEBURGER ON A BUN FRENCH FRIES TOMATO /ONION /LETTUCE SPINACH BEVERAGE CRACKERS	8 oz. 1 oz. 4 oz. 2 oz. 1 oz. 8 oz. 2 oz.	SPAGHETTI w/MEAT SAUCE BROCCOLI GARLIC BREAD SALAD BAR w/DRESSING CHEESE CAKE w/TOPPING BEVERAGE	1 oz. 4 oz. 2 oz. 4 oz. 1 oz. 8 oz.	27
OMELET BACON HASH BROWN POTATOES COLD CEREAL COFFEE or TEA MILK TOAST w/BUTTER FRESH FRUIT JELLY	8 oz. 200 8 oz. 100 4 oz. 200 2 oz. 100 8 oz. 121 2 oz. 171 1 oz. 02 1 pk. 50 1132	BEEF NOODLE SOUP CHILI HotDOG ON A BUN STEAMED RICE TOSS SALAD w/DRESSING WHITE CAKE BEVERAGE CRACKERS	8 oz. 8 oz. 1 oz. 4 oz. 4 oz. 1 oz. 8 oz. 2 oz.	BEEF VEGETABLE STEW BUTTERED POTIM BUTTERED CAULIFLOWER SALAD BAR w/DRESSING CORNBREAD & BUTTER CINNAMON ROLL BEVERAGE	8 oz. 4 oz. 4 oz. 4 oz. 1 oz. 1 oz. 8 oz.	28
FRENCH TOAST SYRUP TURKEY SAUSAGE HOT CEREAL COFFEE or TEA MILK FRESH FRUIT Juice	1.5 oz. 104 8 oz. 144 8 oz. 204 8 oz. 121 1 oz. 02 1051	CLAM CHOWDER Salmon Pattie/SUN OVEN BROWNED POTATOE TOMATO /ONION /LETTUCE TARTAR SAUCE CHOCOLATE CHIP COOKIE BEVERAGE CRACKERS	8 oz. 1 oz. 8 oz. 2 oz. 1 pk. 2 oz. 8 oz. 2 oz.	SOUTHERN STYLE CHICKEN MASHED POTATOES GRAVY CORN ON THE COB SALAD BAR w/DRESSING BREAD & BUTTER Blueberry Pie BEVERAGE	1 oz. 8 oz. 8 oz. 4 oz. 4 oz. 2 oz. 1 oz. 8 oz.	29
FRIED EGGS PORK SAUSAGE HASH BROWN POTATOES COLD CEREAL COFFEE or TEA MILK TOAST w/BUTTER FRESH FRUIT JELLY	2 oz. 100 2 oz. 210 4 oz. 200 2 oz. 100 8 oz. 121 2 oz. 171 1 oz. 02 1 pk. 50 1200	BEEF BARLEY SOUP BOLOGNA & CHEESE SANDWICH TOMATO /ONION /LETTUCE CARROT SALAD BEVERAGE CRACKERS	8 oz. 1 oz. 2 oz. 4 oz. 8 oz. 2 oz.	ROAST TURKEY MASHED POTATOES NATURAL PAN GRAVY Steamed Asparagus SALAD BAR w/DRESSING BREAD & BUTTER PUMPKIN PIE w/TOPPING BEVERAGE	8 oz. 8 oz. 8 oz. 4 oz. 4 oz. 2 oz. 1 oz. 8 oz.	30

STANDARD MENU

This menu is subject to change due to non-availability of product.

C.E. Adams  
FOOD STEWARD

[Signature]  
FOOD SERVICE SUPERVISOR



# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## Sectional Analysis

for

House CS for CS for SB 1 (Jud)

"The Alaska No Frills Prison Act"

**Section #1** - refers to Sections 4-6 of this act as the "Alaska No Frills Prison Act".

**Section #2** - provides intent language that conditions in Alaskan prisons not be substantially more favorable than what is required by the Alaska and United States constitutions unless the Commissioner of Corrections has reasonable grounds to believe that such conditions foster rehabilitative programs and rewards for good behavior.

**Section #3**- amends the definition of "severely medically disabled" inmates. Parole could granted in instances where:

the inmate suffers from a medical condition that substantially eliminates the physical ability of that inmate committing an offense similar for which the inmate was convicted or a "felony crime" against a person; and the inmate suffers from a medical condition that is likely to continue for the entire period of the parole; or the inmate is likely to die from the medical condition.

**Rationale:** expands the definition of "severely medically disabled" inmates to allow the Department of Corrections to parole certain inmates. Parole would only be granted under this clause if the inmate's physical ability to commit a violent felony or an offense similar to the offense for which the inmate was convicted is substantially eliminated. When the department began "furloughing" individuals under the existing "severely medically disabled" clause, only 5 or so individuals qualified for release. With this expanded definition, the department expects that a small number of additional prisoners could qualify as "severely medically disabled" saving the state a significant amount in medical costs. The parole of only one such prisoner could save the state as much as \$500,000.

**Section #4** - Requires the Commissioner to establish, maintain, operate, and control each correctional facility in a manner consistent with Section #5 of the bill. It also requires the Commissioner to determine who is responsible for medical costs when inmates are provided medical services. Also adds language requiring the commissioner to incorporate policies that will protect victims of crime in addition to other existing programs.

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MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee  
• Senate Community & Regional Affairs Committee

Produced in House

**Rationale:** defines the duties of the Commissioner with respect to section #5 of the bill which places limits on certain luxuries including; access to premium cable television, free weights and pornographic material. The section also requires the Commissioner to establish programs to better protect the rights of crime victims.

**Section #5 - mandates that the Commissioner shall:**

when providing food service, not exceed 90% of what the United States Army expends for food service to its enlisted personnel stationed in Alaska.

**Rationale:** gives the Department clear parameters when budgeting for food services costs. Currently, the Department of Corrections spends less on food service costs per capita than the United States Army. In 1995 the Department of Corrections spent \$4.71 per person on food service costs while \$5.91 was spent on per day food services costs at Elmendorf Air Force base.

This section also mandates that the Commissioner may not provide:

- a) living quarters in which the view into the quarters is obstructed; certain state facilities already in operation would be exempt from this provision. Additionally, any facility (built before the effective date of this legislation) acquired by the state in the future would also be exempt.
- b) access to equipment or facilities for publishing or broadcasting material whose content is not consistent with facility guidelines or discipline.
- c) access to premium cable television service.

This section also prohibits:

- a) possessing a tape cassette player or video cassette recorder, or a computer in individual living quarters.
- b) viewing of "R", "X", or "NC-17" rated movies.
- c) possessing printed or photographic material which;
  - 1) is defined by the Commissioner as obscene
  - 2) is detrimental to the security, good order and discipline of the institution
  - 3) could be reasonably be expected to aid in an escape or in the theft or in destruction of property
  - 4) describes procedures for brewing alcohol, or making of controlled substances, weapons or explosives
  - 5) facilitates criminal activity or a violation of institutional rules
- d) participating or receiving instruction in any activity, in the opinion of the commissioner, that would facilitate violent behavior.
- e) possessing equipment for use in the activities listed in (d).
- f) possessing free weights.
- g) possessing a coffee pot, hot plate, appliance, or heating element in their living quarters or more than three electrical appliances.
- h) possessing apparel or appearing in a state of dress that is not consistent with the guidelines of the facility.
- i) using a computer other than those approved by the institution, the use may only be part of an educational, vocational or employment program.
- j) using tobacco products.

The Commissioner determines whether the provisions of this section apply to half-way houses and correctional facilities not run by the state.

On January 1, 1998 the Commissioner may not allow televisions in a prisoner's cell if that prisoner has been classified as maximum custody.

The Commissioner may allow a prisoner classified as minimum or medium custody to possess a television in their individual living area as long as the prisoner:

- 1) is incapable of obtaining or has attained a high school diploma or general education development diploma.
- 2) is engaged in a educational, vocational training, or work program.
- 3) has satisfied all restitution orders or is on a regular and current payment schedule for all restitution orders entered by the court and, if applicable, engaged in court or department ordered counseling programs.
- 4) pays for the cost of providing the television and cable service.

**Rationale:** helps better implement the constitutional standards adopted in 1994 of "community condemnation" and "victim restitution" for penal administration by limiting certain "frills" and making court order restitution to victims.

This language also permits the Commissioner to allow television in personal living quarters as an incentive for good behavior. Television is a powerful incentive to motivate prisoners compliance with important rehabilitation programs. Under existing law, little can be done to force inmate compliance with court ordered restitution or rehabilitation programs. The potential removal of a very visible, powerful behavioral reward like television will increase inmate compliance with court orders.

This section also mandates that the Commissioner shall establish a fee for prisoners who use electrical appliances to help offset the costs of providing electrical utilities. Prisoners who are developmentally disabled, severely medically disabled, housed in a mental health or psychiatric unit or awaiting classification are exempt from this provision.

**Rationale:** conveys a message to the public that the department is fiscally responsible and makes inmates responsible for themselves.

**The Commissioner has two years to implement, following the effective date of this act, all provisions of this section.**

**Section #6** - allows a law enforcement agency to recoup medical costs for medical services provided to prisoners in their care. The agency may require inmates to compensate the agency for the cost or for a portion of the cost of medical services provided for any preexisting medical condition.

**Section #7** - states that it is the policy of the department to have prisoners be productively employed for as many hours each day as feasible.

**Rationale:** establishes a strong work ethic which will better prepare inmates for their post-institutional life. "Reformation" is one component of penal administration used to rehabilitate inmates. This section helps implement this principle by requesting that the department actively employ as many inmates as feasible.

**Section #8** - allows the Commissioner to limit access and use of legal materials and legal assistance in a correctional facility. The section further stipulates the court may not enter an order to gain relief from such limits without first finding the restrictions hinder the inmate from gaining meaningful access to the court for the purpose of challenging:

- a) the prisoner's sentence or conviction; or
- b) the conditions of the prisoner's confinement.

The court may also provide relief to these restrictions if a state court specifically determines that a provision of the state constitution necessarily requires a prisoner to have access to and use of the legal reference materials or legal assistance.

**Rationale:** places clear guidelines on when inmates may file lawsuits in an effort to curtail "recreational litigation". Numerous states have been facing astronomical increases in law suits filed by prisoners. No monetary damages are awarded in 95% of these suits.

**Section #9** - removes the prohibition against monitoring of phone calls in pre-trial facilities.

**Rationale:** better defines the circumstances in which the department may monitor telephone conversations of inmates. This section would help remove the abuse of telephone systems in pre-trial facilities.

**Section #10 & 11** - allows the department, at its discretion, to provide vocational training for inmates.

**Rationale:** provides vocational training opportunities to those individuals who lack necessary job skills.

**Section #12** - states that the Commissioner of Corrections is not required under this bill to establish or administer a vocational training program under correctional industries.

**Rationale:** removes liability from the department in situations where it is not possible to provide vocational training programs.

**Section #13** - gives the Commissioner the authority to collect fees for electrical services as referenced in Section #5 of the bill.

**Rationale:** conforms with the requirements set out in Section #5 of the bill regarding charges for utilities.

**Section #14** - extends the sunset date for the Correctional Industries Program from the year 1999 to the year 2005.

**Rationale:** allows the department to develop a stable and long range plan to provide more marketable products and work opportunities for inmates.

DD/jja



# SENATOR DAVE DONLEY

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## ALASKA STATE LEGISLATURE

Sponsor Statement  
for  
House CS for CS for SB 1 (Jud)  
"The Alaska No Frills Prison Act"

In 1994, voters overwhelmingly adopted the "Rights of Victims of Crime" state constitutional amendment. Before the adoption of that amendment, the state constitution required that prison administration be based on two factors; rehabilitation and protecting the public. The constitutional amendment added additional constitutional mandates to our state's prison system. Criminal administration is now based on five factors including: **protecting the public, community condemnation of the offender, the rights of the victims of crimes, restitution from the offender, and the principal of reformation.**

Last year a similar version of "The Alaska No-Frills Prison Act" passed the State Senate 14-4 and passed State House 26-11 on the last day of session. However the Senate did not take action to concur with changes made to the bill in the House and it did not become law.

Senate Bill 1 seeks to implement the requirements of the new state constitutional provisions in several ways.

Senate Bill 1 protects the public safety by prohibiting participation or instruction in martial arts or any other activity that would facilitate violent behavior. Such activities serve no rehabilitation purpose and can make a prisoner an even more serious danger.

Senate Bill 1 enhances rehabilitation opportunities for prisoners by increasing vocational training opportunities.

Senate Bill 1 helps fulfill the mandate of the new "community condemnation" constitutional language by removing or prohibiting certain luxuries from Alaskan prisons.

Some of the "luxuries" prohibited or removed under Senate Bill 1 include cassette tape players, VCRs and computers in inmate living quarters, premium cable television, and possession of pornographic material.

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MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee  
• Senate Community & Regional Affairs Committee

Produced in House

"Alaska No Frills Prison Act"

Sponsor Statement

Page 2

The legislation adds a new cost saving provision by directing the Department of Corrections to establish a fee for the use of electrical utilities. The bill also allows the department to recoup costs for certain health care services provided to prisoners.

Senate Bill 1 will reduce state costs for prisoner medical expenses by requiring inmates to reimburse the state for either the full or partial costs of treatment for any pre-existing medical condition. Also the term "severely medically disabled" is amended by Senate Bill 1 allowing the department greater flexibility in granting "special medical paroles". Parole would only be granted if the inmate's physical ability to commit an offense similar to the offense for which the inmate was convicted or an offense punishable by a felony is substantially eliminated. The parole of only one such prisoner could save the state as much as \$500,000.

The legislation incorporates standards regarding the possession of televisions in inmate's cells which clearly define the circumstances for possessing a television. Inmates who pay for their own television and cable service and are incapable of obtaining or have attained a high school or general education development diploma would still be allowed to possess a television in their living quarters as an incentive for:

- actively engaging in an educational, vocational training, or employment program;
- satisfying restitution orders or complying with a regular and current payment schedule for all restitution orders entered by court as part of the prisoner's sentence and, if applicable, actively engaging in court or department ordered rehabilitation programs.

The legislation removes the prohibition against monitoring phone calls of prisoners in pre-trial facilities, except for calls to their legal counsel. An additional provision mandates that prisoners shall be productively employed for as many hours each day as feasible.

The Department of Corrections has stated that a new prison is needed in Alaska to ease the overcrowding and accommodate Alaska's ever increasing prison population. Unfortunately, past governors and legislatures neglected to address the prison capacity problem. Now, more than ever, Alaskans understand that prison overcrowding is a serious problem. Most Alaskans would support the state building more correctional facilities if they didn't feel that prisons were currently too soft.

Senate Bill 1 is a balanced cost saving proposal in compliance with the Alaska Constitution's requirements for public safety, community condemnation, and rehabilitation.

DD/jja

**SB**

**1**

FINISH

WILLIT

# SENATE FINANCE COMMITTEE REPORT

DATE: 1/29/97

FURTHER:

DATE TURNED IN TO OFFICE: 2/5/97

Finance Committee considered SENATE BILL NO. 1

Relating to living and working conditions of prisoners in correctional facilities operated by the state, amend definition of 'severely medically disabled'; extend termination date of the Correctional Industries Commission, etc.

and recommends:

be replaced with \_\_\_\_\_ CS SB 1 ( 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>Reel E. Bell</i>	<input checked="" type="checkbox"/>	<i>Al Coker</i>		<input checked="" type="checkbox"/>	
<i>John R. Howell</i>	<input checked="" type="checkbox"/>				
<i>John Johnson</i>	<input checked="" type="checkbox"/>				
<i>W. Lee Dwyer</i>	<input checked="" type="checkbox"/>				
Co-Chair: <i>Bob King</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>Alance</i>	<input checked="" type="checkbox"/>	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal

Department	Date	Zero	Fiscal

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

Department                      Date    Zero    Fiscal

Department	Date	Zero	Fiscal
Public Safety	1/28/97	<input checked="" type="checkbox"/>	
LAW	1/29/97	<input checked="" type="checkbox"/>	
Corrections	1/28/97		20.0

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

No. 4

**STATE OF ALASKA**

**1997 LEGISLATIVE SESSION** REPORTED OUT OF  
SFC 2-5-97

**Bill NO:** CS SB 1 (JUD)  
**(S) Publish Date:** 1-30-97  
**Dept. Affected:** Public Safety

Revision Date: January 28, 1997  
 Title: "No Frills" Prison Act  
 Sponsor: Senator Donley  
 Requestor: S. Judiciary  
 Component: DPS Statewide Support  
Commissioner's Office  
 COMPONENT SERIAL NO. 0523

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-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-
Code      Revenue						

**FUNDING: (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-

Estimate of current year (FY 97) impact: \$ \_\_\_\_\_

**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.)**  
 No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner Phone: 465-4322  
 Division: Commissioner's Office Date: 1/24/97  
 Approved by Commissioner: *Ronald L. Otte* Date: 1/24/97  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

No. 13

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

REPORT  
CFC 2-5-97

Bill. ersion: CS SB 1 (JUD)

(S) Publish Date: 1-30-97

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: ... relating to living and working conditions of BRU: Criminal Division  
prisoners in correctional facilities operated by the state ... Component: Criminal Division  
 Sponsor: Senator Donley  
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085

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

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 (FY97) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

To be known as the "Alaska No Frills Prison Act," this bill would amend Title 33, relating to probation, prisons and prisoners, to place specific limitations on the living and working conditions of prisoners in correctional facilities operated by the state, and negotiate for those same conditions and limitations in contract facilities. Further, the bill would require fees for utility services for prisoners. The bill would also amend the definition of "severely medically disabled" applicable to prisoners seeking special medical parole.

The purpose of the Alaska Correctional Industries Program would be amended to include vocational training, but would not require a vocational training program be established. The termination date for the Correctional Industries Commission and the program would be extended from 1999 to 2005 under this bill.

Passage of the Judiciary committee substitute will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson*  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho*  
 Agency: Department of Law

Phone: 465-5370  
 Date: 1/29/97  
 Date: 1/29/97

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# FISCAL NOTE

No. 2

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

Bill Version: CSSB 1 (Jud)

(S) Publish Date: 1-30-97

Revision Date: 1/28/97  
 Title: "An act relating to living and working conditions of prisoners..."  
 Sponsor: Senator Donley  
 Requester: Judiciary Committee

Dept. Affected: Corrections  
 BRU: Institutions  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	20.0	20.0	20.0	20.0	20.0	20.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

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

CHANGE IN REVENUES (1005)	20.0	20.0	20.0	20.0	20.0	20.0
---------------------------	------	------	------	------	------	------

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	20.0	20.0	20.0	20.0	20.0	20.0
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

Estimate of any current year (FY97) cost: \$ \_\_\_\_\_

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Under Section 4 of this bill, a new Sec. 33.30.17 would require the Commissioner to establish a monthly prisoner utility fee, not to exceed \$2, that will be collected from those prisoners who possess at least one major electrical appliance. The Department projects that the additional bookkeeping duties required by this section will result in extra staff time that will cost an estimated \$20,000 each fiscal year. The Department also projects that this cost could be offset by \$20,000 in program receipts generated by the utility fees.

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

Phone: 465-3307  
 Date: 1/28/97  
 Date: 1-28-97

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Donley moved  
w/o objection  
Adopted

SENATE FINANCE  
COMMITTEE

Amendment Number: 1  
Bill Number: CSSB 1 (JUD)  
Sponsor: Donley Date: 2-4-17  
Logged In By: P. Sepulveda

AMENDMENT

OFFERED IN THE SENATE  
TO: CSSB 1 (JUD)

BY: DONLEY

1 Page 3, Line 25-28  
Delete: subsection

Insert: (A) living quarters for a prisoner into which the view is obstructed; however, the commissioner is not required to renovate a facility to comply with this subparagraph if the facility is being used as a correctional facility on the effective date of this act, or if the facility was already built before being acquired by the department;

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: CSSB 1(JUD)

SENATE FINANCE  
COMMITTEE

Amendment Number: 2  
Bill Number: CSSB 1(JUD)  
Sponsor: Donley Date: 2-4-97  
Logged In By: P. Sequeira

1 Page 1, line 11:

2 Delete "Sections 4 - 6"

3 Insert "Sections 5 - 7"

4 Page 1, line 12:

5 Delete "secs. 4 - 6"

6 Insert "secs. 5 - 7"

7 Page 2, following line 4:

8 Insert a new bill section to read:

9 "\* Sec. 3. AS 11.61.127(b) is amended to read:

10 (b) This section does not apply to persons providing plethysmograph assessments in  
11 the course of a sex offender treatment program that meets the minimum standards under  
12 AS 33.30.011(4) [AS 33.30.011(a)(5)]."

13

14 Renumber the following bill sections accordingly.

15 Page 3, lines 2 - 13:

16 Delete "provide necessary

17 (A) medical services for prisoners in correctional facilities or  
18 who are committed by a court to the custody of the commissioner, including  
19 examinations for communicable and infectious diseases;

20 (B) psychological or psychiatric treatment if a physician or  
21 other health care provider, exercising ordinary skill and care at the time of  
22 observation, concludes that

1 (i) a prisoner exhibits symptoms of a serious disease or  
2 injury that is curable or may be substantially alleviated; and

3 (ii) the potential for harm to the prisoner by reason of  
4 delay or denial of care is substantial;

5 (5)"

6 Insert "[PROVIDE NECESSARY

7 (A) MEDICAL SERVICES FOR PRISONERS IN  
8 CORRECTIONAL FACILITIES OR WHO ARE COMMITTED BY A  
9 COURT TO THE CUSTODY OF THE COMMISSIONER, INCLUDING  
10 EXAMINATIONS FOR COMMUNICABLE AND INFECTIOUS DISEASES;

11 (B) PSYCHOLOGICAL OR PSYCHIATRIC TREATMENT  
12 IF A PHYSICIAN OR OTHER HEALTH CARE PROVIDER, EXERCISING  
13 ORDINARY SKILL AND CARE AT THE TIME OF OBSERVATION,  
14 CONCLUDES THAT

15 (i) A PRISONER EXHIBITS SYMPTOMS OF A  
16 SERIOUS DISEASE OR INJURY THAT IS CURABLE OR MAY BE  
17 SUBSTANTIALLY ALLEVIATED; AND

18 (ii) THE POTENTIAL FOR HARM TO THE  
19 PRISONER BY REASON OF DELAY OR DENIAL OF CARE IS  
20 SUBSTANTIAL;

21 (5)]"

22 Page 3, line 15:

23 Delete "(6)"

24 Insert "(5) [(6)]"

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSSB 1(JUD)

BY SENATOR DONLEY

*Moved by Donley w/o objection  
Withdrawn*

- 1 Page 1, line 11:
- 2 Delete "Sections 4 - 6"
- 3 Insert "Sections 5 - 7"

- 4 Page 1, line 12:
- 5 Delete "secs. 4 - 6"
- 6 Insert "secs. 5 - 7"

- 7 Page 2, following line 4:
- 8 Insert a new bill section to read:
- 9 **\*\* Sec. 3.** AS 11.61.127(b) is amended to read:
- 10 (b) This section does not apply to persons providing plethysmograph
- 11 assessments in the course of a sex offender treatment program that meets the
- 12 minimum standards under AS 33.30.011(4) [AS 33.30.011(a)(5)]."

13

14 Renumber the following bill sections accordingly.

- 15 Page 3, lines 2 - 13:
- 16 Delete "provide necessary
- 17 (A) medical services for prisoners in correctional facilities or
- 18 who are committed by a court to the custody of the commissioner, including
- 19 examinations for communicable and infectious diseases;
- 20 (B) psychological or psychiatric treatment if a physician or
- 21 other health care provider, exercising ordinary skill and care at the time of
- 22 observation, concludes that

1 (i) a prisoner exhibits symptoms of a serious disease or  
2 injury that is curable or may be substantially alleviated; and

3 (ii) the potential for harm to the prisoner by reason of  
4 delay or denial of care is substantial;

5 (5)"

6 Insert "[PROVIDE NECESSARY

7 (A) MEDICAL SERVICES FOR PRISONERS IN  
8 CORRECTIONAL FACILITIES OR WHO ARE COMMITTED BY A  
9 COURT TO THE CUSTODY OF THE COMMISSIONER, INCLUDING  
10 EXAMINATIONS FOR COMMUNICABLE AND INFECTIOUS DISEASES;

11 (B) PSYCHOLOGICAL OR PSYCHIATRIC TREATMENT  
12 IF A PHYSICIAN OR OTHER HEALTH CARE PROVIDER, EXERCISING  
13 ORDINARY SKILL AND CARE AT THE TIME OF OBSERVATION,  
14 CONCLUDES THAT

15 (i) A PRISONER EXHIBITS SYMPTOMS OF A  
16 SERIOUS DISEASE OR INJURY THAT IS CURABLE OR MAY BE  
17 SUBSTANTIALLY ALLEVIATED; AND

18 (ii) THE POTENTIAL FOR HARM TO THE  
19 PRISONER BY REASON OF DELAY OR DENIAL OF CARE IS  
20 SUBSTANTIAL;

21 (5)]"

22 Page 3, line 15:

23 Delete "(6)"

24 Insert "(5) [(6)]"

Amendment SB 1 (Jud)

By Adams

*Moved by Adams  
objections heard - Phillip  
Failed*

Page 3: delete lines 20 -23, renumber following subsections

Page 6: delete lines 1-23.

SENATE FINANCE  
COMMITTEE

Amendment Number: 4

Bill Number: (SSB1/JUD)

Sponsor: Adams Date: 2-5-97

Logged In By: P. Sepulveda

**SB**

**3**

**HFIN**

**FILE**

of dissenting voices to be heard. The single issue triggered the decision, although differences with other members on managing the Tongass National Forest and extending the Ketchikan Pulp Co.'s timber contract are examples, said Pelican Mayor Mike Ohlson. He said the community first considered dropping out a year ago and the City Council unanimously approved the action in August. "This is not a spur-of-the-moment thing," he told the Juneau Empire in Tuesday's edition. "We've considered this for some time. We just don't feel that we're being represented by this thing." The Southeast Conference is a group of municipal and business leaders that works on issues of interest to the region.

**1 Juneau puts aside curfew plans**

JUNEAU — City officials have set aside plans for a youth curfew, saying they would need changes in state law before the proposal could work. The Juneau Assembly's human resources committee plans to recommend that the city begin lobbying the Legislature to allow curfew violations to be handled in state district courts. The district courts now handle juvenile offenses related to alcohol, tobacco, traffic, fish and game, and parks and recreation, said city attorney John Corso. Other juvenile offenses are handled by the state division of health and youth services, which does not have the resources to process curfew cases, Corso said. If the city convinces the Legislature to allow courts to handle the cases, Juneau could have a new curfew law in place next fall, said Cathy Munoz, the human resources committee chairwoman. Meanwhile, Juneau youths are still supposed to obey an existing curfew intended to keep them off the streets at night, "but it's a weak law because we can't issue a citation," Munoz said.

**2 Man's body found on island**

KETCHIKAN — Authorities are investigating the death of a man whose body was found last week on Prince of Wales Island. A group of hunters found the body, a white male,

## SPONSOR STATEMENT FOR SB 3

---

Currently, juvenile offenses other than traffic, tobacco, fish and game, parks and recreational facilities, or alcohol violations, are handled through municipal courts where these exist, or are not handled at all because of the Division of Family and Youth Services caseload.

SB 3 will put in place a uniform approach to handling curfew violations. It will enable those communities who so wish to put a curfew ordinance into effect, with the ability to prosecute.

SB 3 will help the City of Juneau, where plans for a youth curfew were set aside because the city had no avenue to prosecute offenders. This bill will relieve municipalities from the burden of prosecution and will allow for more effective and expeditious handling of these offenses. Municipalities where Youth Courts are currently in place will not be affected. They may continue their current process.

SB 3 will mandate that all juvenile curfew violations be handled in District Court. Alaska Delinquency Rules will not apply, and the minor accused of the offense will be charged, prosecuted, and sentenced in the district court in the same manner as an adult. When a minor is charged, prosecuted and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian will be present at all proceedings. When parents have to become involved with their children at these hearings, they will perhaps exert pressure and some of the gang activity will decrease. Juveniles, as well, will know their actions have direct, and serious, consequences.

The bill enables juveniles who are unable to pay the fine, or whose parents choose not to pay, to choose to participate in community work, which may be lower than the amount of the fine, but will have a more lasting impression on the individual who has to perform the work. "Community work" includes work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled.

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 7, 1997

FURTHER REFERRALS:

Date of Committee Action: 5/8/97

The FINANCE Committee considered:

CSSB 3(JUD)

CS FOR SENATE BILL NO. 3(JUD)

MINOR'S CURFEW VIOLATIONS

"An Act authorizing prosecution and trial in the district court of municipal curfew violations, and providing for punishment of minors upon conviction for violation of a curfew ordinance."

recommends it be replaced with the following committee substitute CS SB 3 (JUD)  the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Units)

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

fiscal note(s) DASS: AIC COURT  
DOA

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

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

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therriault</i>	Therriault			✓	
<i>Edmond Mulder</i>	Mulder	✓			
<i>Erin Martin</i>	Martin	✓			
<i>Viggo Kohring</i>	Kohring	X			
<i>John J. Davids</i>	J. Davids			X	
<i>Paul G. Moses</i>	MOSES	X			
<i>Gregory G. Davis</i>	G. Davis	X			
<i>John Kelle</i>	Kelle	✓			
<i>John Foster</i>	FOSTER	X			

CO-CHAIR'S SIGNATURE *Gene Therriault*  
Therriault

# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO: CSSB 3 (JUD)**

Revision Date: 03/19/97

Dept. Affected: Public Safety

Title: Prosecute Juvenile Municipal Curfew  
Violations In District Court

BRU: Alaska State Troopers

Component: Detachments

Sponsor: Sen. Pearce

Requestor: S. Finance

COMPONENT SERIAL NO. 0799

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

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b> Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

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

Estimate of current year (FY 97) impact: \$ \_\_\_\_\_

**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 would not have any significant fiscal impact on AST.

Prepared By: F/Sgt. Robert Gorder

Phone: 269-5511

Division: Alaska State Troopers

Date: 03/19/97

Approved by Commissioner: Ronald L. Otta

Date: 3/19/97

Agency: Department of Public Safety

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# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

BILL NO. CS SB3(JUD)

Revision Date: \_\_\_\_\_  
 Title: Prosecution in district court of municipal curfew violations.  
 Sponsor: Senator Pearce  
 Requestor: Senate (JUD)

Dept. Affected: Health and Social Services  
 BRU: Family and Youth Services  
 Component: Probation Services  
 COMPONENT SERIAL NO. 2134  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

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

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

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost:                     \$0.0                    

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

DFYS is not able to accurately project the fiscal impact of this bill on the division's detention beds. Changes to the juvenile code in recent years have given district courts authority to handle an increasing number of juvenile offenses, with minor consuming and smoking being two examples. District judges and magistrates in some jurisdictions have been issuing bench warrants for failure to appear and contempt citations for failure to pay fines, resulting in juveniles being detained for smoking infractions. We have no way to anticipate what the increase would be if municipal curfew violations were added. However, serious overcrowding already exists in DFYS detention facilities, and it seems unnecessary to increase detention admissions for such minor violations when there is inadequate space to house serious offenders.

Prepared by: L. Diane Worley, Director *[Signature]*  
 Division: Family & Youth Services  
 Approved by Commissioner: Karen Perdue, Commissioner *[Signature]*  
 Agency: Department of Health & Social Services

Phone: 465-3191  
 Date: 03/10/97  
 Date: 3/10/97

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SB 3

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: Minor's Curfew Violation Heard in District BRU: Trial Courts  
Court Component: \_\_\_\_\_  
 Sponsor: Sen. Pearce and Donley  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	24.3	24.3	24.3	24.3	24.3	24.3
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	24.3	24.3	24.3	24.3	24.3	24.3

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

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

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	24.3	24.3	24.3	24.3	24.3	24.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	24.3	24.3	24.3	24.3	24.3	24.3

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

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

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

Phone: 264-9228  
 Date: 02/20/97

Date: 02/20/97

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**Alaska Court System**  
**Fiscal Analysis**  
**SB 3**

SB 3 amends AS 47.12.030(b) to provide that if a minor is cited for violating a municipal ordinance which mandates a curfew, the minor shall be charged, prosecuted and sentenced in district court in the same manner as an adult.

It is anticipated that most municipalities will enact curfew ordinances. As drafted, SB 3 would allow municipalities to adopt criminal ordinances for which the penalty can be jail time, mandatory community service, or loss of a valuable license. Such ordinances would require the state to provide a jury trial. In addition, SB 3 would allow municipalities to require mandatory court appearances by juveniles. All citations which are contested will come before the court system, unless the municipality decides to pay for its own municipal hearing officer.

Based upon statistics generated during the first year of Anchorage's civil curfew system, which uses a municipal hearing officer rather than the court system, this note assumes that HB 474 will generate 3000 citations per year statewide. Noncontested citations may be paid directly to the municipalities; however, defendants may contest citations or enter guilty pleas at court. Thus, many persons subject to this section will come before a district judge and/or pay citations through the court's accounting system. This note assumes that no municipality will require a mandatory court appearance (probably an incorrect assumption), and that one-third of juvenile citations will be run through the court system; this is the rate at which the courts deal with other municipal citations. It should be kept in mind that the rate at which juveniles contest citations will depend on the size of fines set by the municipalities in their ordinances. This note also assumes that no municipality will criminalize curfew violations and require six-person jury trials. This last assumption is probably optimistic, in that some municipalities will likely criminalize repeat offenses or offenses by business owners who allow minors to remain on premises after curfew, if only to impose community service on the offenders.

Alaska Court System

Fiscal Analysis

SB 3

Personal Services

Positions

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, range 10A, PPT, 4 months, Anchorage/statewide	\$8,420	\$2,169	\$10,589
Committing Magistrate, range 22B, PPT, Anchorage/statewide, 1 1/2 months	7,268	1,872	9,138
Overtime for In-Court Clerks at range 12A for additional trials			4,800
			<u>4,800</u>
			<u>Estimated Total Cost</u>
			<u>\$24,327</u>

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SB 3

Revision Date: \_\_\_\_\_

Department Affected: Administration

Title: "An Act authorizing prosecution and trial in the district court of municipal curfew violations"

BRU: Public Defender Agency

Component: Public Defender Agency

Sponsor: Senator Pearce

Requestor: (S) HES

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	***	***	***	***	***	***
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES	***	***	***	***	***	***
----------------------	-----	-----	-----	-----	-----	-----

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

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	***	***	***	***	***	***
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY 97) cost: \$ -0-

POSITIONS:

FULL-TIME	***	***	***	***	***	***
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill changes jurisdiction for violation of a municipal curfew ordinance from juvenile court to district court where the child will be prosecuted and sentenced in the same manner as if an adult. Fiscal impact will vary depending upon what degree of crime the municipal curfew ordinance establishes and whether or not the potential punishment gives rise to the right to appointed counsel. Without accurate numbers regarding referrals to the district court, fiscal impact is impossible to quantify.

Prepared by: Barbara K. Brink, Director  
Division: Public Defender Agency

Phone: (907) 264-4414  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
Agency: Department of Administration

*Alison M. Elac*  
Date: 2/12/97

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APR 14 1997

# Municipality of Anchorage



Anchorage Assembly  
P.O. Box 196650  
Anchorage, Alaska 99519-6650

JOE MURDY

April 14, 1997

Senator Drue Pearce  
State Capitol Mallstop 3100  
Room 518  
Juneau, Alaska 99801-1182

Dear Senator Pearce:

We are writing to indicate our total support for approval of Senate Bill 3; related to the creation of a Statewide curfew law. As you are probably aware, Anchorage currently has a very effective curfew law in place. Anchorage Police Department statistics indicate that since our law went into effect, the number of juveniles arrested during curfew hours has decreased 32% | Burglaries are down 68%, assaults have decreased 68% and robbery and theft are down 57%. It is working!

Upon passage of this proposed legislation, DFYS and the McLaughlin Youth Center Intake will be given the latitude to refer those who violate the curfew law directly to our Anchorage Youth Court. The existing statute does not currently allow them that opportunity. The Anchorage Youth Court will then be able to process these cases and assign youthful offenders community work service and/or fines as appropriate for this offense.

Our youth court has proven very successful in making sure that juveniles receive swift and meaningful consequences for their inappropriate actions. Since the beginning of the Making a Difference program in 1996, over 350 trained youth volunteer judges, attorneys and juries have processed 338 cases successfully and will proudly tell you that 89% of those who go through youth court have not re-offended! Defendants have served over 8,000 hours of work in the community and earned over \$12,000 which has been paid back to victims.

Fellow Assemblymembers are joining myself as the Public Safety Chair, and Mark Begich as Chair of the Anchorage Assembly in thanking you for introducing this legislation. Please feel free to share this letter of support with others, and if any of the legislators have questions, please ask them to call me at 248-4143.

Sincerely,

*Joe Murdy*  
Joe Murdy  
Public Safety Chair

*Mark Begich*  
Mark Begich  
Assembly Chair

*Kevin Meyer*  
Kevin Meyer

First-It™ brand fax transmittal memo 7671		# of pages >
To: Sen. Pearce	From:	
Cc:		

STATE OFFICE  
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



January 16, 1997

RECEIVED  
JAN 24 1997

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Joseph E. Young  
Anchorage

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Juneau  
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Scott Chalin, Member  
Wrangell  
Pres. Wrangell Chapter

Leroy Mestas, Member  
Ketchikan  
Pres. First City Chapter

James See, Member  
Craig  
Pres. Prince of Wales Chapter

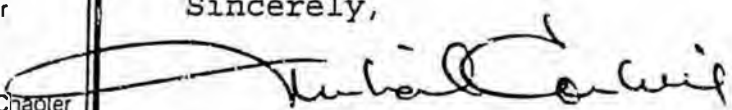
Senator Drue Pearce  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Senator Pearce,

On behalf of the Alaska Peace Officers Association, I would like to thank you for introducing Senate Bill 3 relating to district court prosecutions of municipal curfew violations. At a recent meeting of the APOA State Board, we decided unanimously to support this legislation. We believe that a uniform approach in dealing with juveniles at risk in status offenses such as curfew will be a preventive aid in keeping them from becoming involved in other more risky behaviors. It will further relieve municipalities from the burden of prosecution and will hopefully bring more immediate consequences than the courts currently supply to offending juveniles.

We encourage you to call on us when there are hearings on this bill, so that we may testify about the need for this legislation. If you need assistance as you shepherd this bill through the legislative process, please call me at 451-5316, or our business manager, Joseph Young at 277-0515.

Sincerely,

  
Michael Corkill  
APOA State President

3200 Hospital Drive, Room 202  
Juneau, AK 99801  
(907) 463-5845

January 22, 1997



RECEIVED  
JAN 30 1997

The Honorable Senator Drue Pearce  
Alaska State Legislature  
State Capitol (ms-3100)  
Juneau, AK 99801-1182

Dear Senator Pearce:

The Mayor's Task Force on Youth has performed a considerable amount of research on youth curfews over the last year. Curfews are typically municipal ordinances, which establish evening hours during which juveniles of certain ages are restricted from some activities. These activities generally include being on public property or in some private business establishments. The purposes of curfews include preventing crimes by or upon juveniles, supporting parental control of children's night activities and helping to assure that youth are rested and ready for the school classroom.

Violations by juveniles are usually processed through the juvenile justice system in the Superior Court and the Division of Family and Youth Services. This process is time-consuming and expensive to administer and is appropriate for those offenses in which treatment, in addition to discipline, is most effective. In the case of status offenses such as tobacco and alcohol possession and curfew violations, the juvenile justice system is too cumbersome and complex. It is more effective to handle these offenses in the District Court. Currently traffic tickets, fish and game violations, tobacco and alcohol possession and parks and recreation violations by juveniles are handled in the District Court. In order to process curfew violations in the same manner, the juvenile code must be changed.

Senate Bill 3, which you introduced, would make these changes. The Task Force supports your proposed legislation. If there are any questions, or we can provide additional information, we'd be happy to help.

Sincerely,

Ron Gleason

Co-Facilitator

Ernie Mueller

Facilitator of Curfew Subcommittee



**CITY/BOROUGH OF JUNEAU  
ALASKA'S CAPITAL CITY**

**OFFICE OF THE MAYOR**

**RECEIVED**

January 27, 1997

**JAN 30 1997**

The Honorable Drue Pearce  
Senator  
Alaska State Legislature  
State Capital, Room 518  
Juneau, AK 99801-1182

**RE: Senate Bill 3**

  
Dear Senator Pearce:

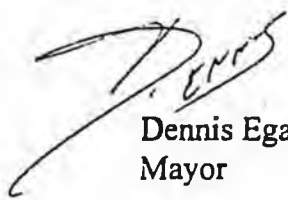
The City and Borough of Juneau Assembly considered implementing a new youth curfew ordinance last year. That proposal is very comprehensive, partly modeled after the ordinance currently in effect in Anchorage. The Juneau proposed ordinance includes monetary penalties and community work service for youth and penalties for parents of repeat offenders and businesses which permit youth to remain on the premises after the curfew hours. The ordinance also includes a broad base of exceptions, including employment, running approved errands and returning home after certain events, among others.

One of the difficulties in implementing our proposed ordinance is the limitation in AS 47.12 which generally requires that offenses committed by juveniles be treated through the juvenile justice system, which includes supervision by the Superior Court and the Division of Family and Youth Services. In Juneau's view, this system is not appropriate for curfew violations by youth. It is far more efficient and effective to treat these violations similar to traffic, parks and recreation, and fish and game violations, in the District Court in the same manner as adults.

Your Senate Bill 3 would make the changes necessary in the Juvenile Code to allow youth curfew violators to be adjudicated in the District Court. We also support community work service in addition to fines as an option available to the Court. The City and Borough of Juneau Assembly supports this important change. This will substantially reduce the costs of administration of these violations and help respond to them more rapidly.

We appreciate you introducing Senate Bill 3 and strongly support it. If there is anything that Juneau can do to help insure its passage, please contact me.

Sincerely,

  
Dennis Egan  
Mayor

**SB**

**3**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/10/97

FURTHER: REPORTED OUT OF  
3-25-97

DATE TURNED  
 IN TO OFFICE: 3-25-97

Finance Committee considered SENATE BILL NO. 3

"An Act authorizing prosecution and trial in the district court of municipal curfew violations."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous CS 533 (JUD)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical change
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Stan Paul</i>	✓	<i>Bill E. ...</i>	✓		
<i>Anthony</i>	✓	<i>Al Adams</i>	✓		
Co-Chair: <i>Deane</i>	✓	Co-Chair: _____			
Co-Chair: <i>Bob King</i>	✓	Co-Chair: _____			

**NEW FISCAL NOTE(S):**

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

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

Department Date Zero Fiscal

1. COURT	2/20		24.3
2. Admin	2/12		***
3. DPS	2/18	Ø	
4. DHS	2/12		***

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

FISCAL NOTE

No. 4  
Bill Version: SB3  
(S) Publish Date: 2/21/97

Revision Date: 3-25-97  
Title: Prosecution in district court of municipal curfew violations.  
Sponsor: Senator Pearce  
Requestor: Senate (HESS)

Dept. Affected: Health and Social Services  
BRU: Family and Youth Services  
Component: Probation Services  
COMPONENT SERIAL NO. 2134  
See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
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 (FY97) cost: \$0.0

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

DFYS is not able to accurately project the fiscal impact of this bill on the division's detention beds. Changes to the juvenile code in recent years have given districts court authority to handle an increasing number of juvenile offenses, with minor consuming and smoking being two examples. District judges and magistrates in some jurisdictions have been issuing bench warrants for failure to appear and contempt citations for failure to pay fines, resulting in juveniles being detained for smoking infractions. We have no way to anticipate what the increase would be if municipal curfew violations were added. However, serious overcrowding already exists in DFYS detention facilities, and it seems unnecessary to increase detention admissions for such minor violations when there is inadequate space to house serious offenders.

Prepared by: L. Diane Worley, Director Phone: 465-3191  
 Division: Family & Youth Services Date: 02/10/97  
 Approved by Commissioner: Ken Perdue, Commissioner Date: 2/12/97  
 Agency: Department of Health & Social Services

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# FISCAL NOTE

STATE OF ALASKA

1997 LEGISLATIVE SESSION

REPORT NO. 3-25-97

BILL NO:

N<sup>o</sup> 3

Bill Version: SB3

(S) Publish Date: 2/21/97

Revision Date: 02/17/97

Dept. Affected:

Public Safety

Title: Prosecute Juvenile Municipal Curfew

BRU:

Alaska State Troopers

Violations In District Court

Component:

Detachments

Sponsor: Sen. Pearce

Requestor: Senate HESS Committee

COMPONENT SERIAL NO. 0799

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-
--	-----	-----	-----	-----	-----	-----

## FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<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 97) impact: \$ \_\_\_\_\_

## 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 would not have any significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman

Phone: 269-5650

Division: Alaska State Troopers

Date: 02/17/97

Approved by Commissioner: Ronald L. Otte

Date: 2/18/97

Agency: Department of Public Safety

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STATE OF ALASKA  
1997 LEGISLATIVE SESSION

FISCAL NOTE

REPORT  
3-25-97

No. 2  
Bill Version: SB 3  
(S) Publish Date: 2/21/97

Revision Date: \_\_\_\_\_  
Title: "An Act authorizing prosecution and trial in the district court of municipal curfew violations"  
Sponsor: Senator Pearce  
Requestor: (S) HES

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	***	***	***	***	***	***
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES	***	***	***	***	***	***
----------------------	-----	-----	-----	-----	-----	-----

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	***	***	***	***	***	***
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY 97) cost: \$ -0-

POSITIONS:

FULL-TIME	***	***	***	***	***	***
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill changes jurisdiction for violation of a municipal curfew ordinance from juvenile court to district court where the child will be prosecuted and sentenced in the same manner as if an adult. Fiscal impact will vary depending upon what degree of crime the municipal curfew ordinance establishes and whether or not the potential punishment gives rise to the right to appointed counsel. Without accurate numbers regarding referrals to the district court, fiscal impact is impossible to quantify.

Prepared by: Barbara K. Brink, Director  
Division: Public Defender Agency

Phone: (907) 264-4414  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Alison M. Elger  
Date: 2/21/97

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# FISCAL NOTE

No. 1

Bill Version: SB3

(S) Publish Date: 2/21/97

## STATE OF ALASKA 1997 LEGISLATIVE SESSION

REPORT DATE  
3-25-97

Revision Date:

Title: Minor's Curfew Violation Heard in District Court

Dept. Affected: Alaska Court System

BRU: Trial Courts

Component:

Sponsor: Sen. Pearce and Donley

Requestor:

COMPONENT SERIAL NO. 768

### Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	24.3	24.3	24.3	24.3	24.3	24.3
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>24.3</b>	<b>24.3</b>	<b>24.3</b>	<b>24.3</b>	<b>24.3</b>	<b>24.3</b>

### CAPITAL EXPENDITURES

### CHANGE IN REVENUES ( )

### Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	24.3	24.3	24.3	24.3	24.3	24.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>24.3</b>	<b>24.3</b>	<b>24.3</b>	<b>24.3</b>	<b>24.3</b>	<b>24.3</b>

Estimate of any current year (FY 97) cost: None

### Positions

Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

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

See attached analysis.

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

Agency: Alaska Court System

Phone: 264-8228

Date: 02/20/97

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

Agency: Alaska Court System

Date: 02/20/97

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**Alaska Court System**  
**Fiscal Analysis**  
**SB 3**

SB 3 amends AS 47.12.030(b) to provide that if a minor is cited for violating a municipal ordinance which mandates a curfew, the minor shall be charged, prosecuted and sentenced in district court in the same manner as an adult.

It is anticipated that most municipalities will enact curfew ordinances. As drafted, SB 3 would allow municipalities to adopt criminal ordinances for which the penalty can be jail time, mandatory community service, or loss of a valuable license. Such ordinances would require the state to provide a jury trial. In addition, SB 3 would allow municipalities to require mandatory court appearances by juveniles. All citations which are contested will come before the court system, unless the municipality decides to pay for its own municipal hearing officer.

Based upon statistics generated during the first year of Anchorage's civil curfew system, which uses a municipal hearing officer rather than the court system, this note assumes that HB 474 will generate 3000 citations per year statewide. Noncontested citations may be paid directly to the municipalities; however, defendants may contest citations or enter guilty pleas at court. Thus, many persons subject to this section will come before a district judge and/or pay citations through the court's accounting system. This note assumes that no municipality will require a mandatory court appearance (probably an incorrect assumption), and that one-third of juvenile citations will be run through the court system; this is the rate at which the courts deal with other municipal citations. It should be kept in mind that the rate at which juveniles contest citations will depend on the size of fines set by the municipalities in their ordinances. This note also assumes that no municipality will criminalize curfew violations and require six-person jury trials. This last assumption is probably optimistic, in that some municipalities will likely criminalize repeat offenses or offenses by business owners who allow minors to remain on premises after curfew, if only to impose community service on the offenders.

Alaska Court System

Fiscal Analysis

SB 3

Personal Services

Positions

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, range 10A, PPT, 4 months, Anchorage/statewide	\$8,420	\$2,169	\$10,589
Committing Magistrate, range 22B, PPT, Anchorage/statewide, 1 1/2 months	7,266	1,872	9,138
Overtime for In-Court Clerks at range 12A for additional trials			<u>4,600</u>
Estimated Total Cost			<u><u>\$24,327</u></u>

CS SB 3 (JUD) amendment

Moved by Adams  
Per Adams  
by Adams

SENATE FINANCE  
COMMITTEE

Amendment Number: 1

Bill Number: CSSB 3 (JUD)

Sponsor: Adams Date: 3-25-97

Logged In By: By Secretary

delete page 1 and 2 and replace with:

Moved by Adams  
Vote. Please obj.  
Printed 4/2

1 "An Act relating to violations of municipal ordinances and regulations by juveniles, to civil  
2 penalties for violation of municipal ordinances by juveniles, and to the investigation and petition  
3 for adjudications of minors as delinquents."

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

5 \* Section 1. AS 29.25.070(b) is amended to read:

6 (b) The municipality or an aggrieved person may institute a civil action against a  
7 person, including a minor as provided in AS 47.12.280, who violates an ordinance. In  
8 addition to injunctive and compensatory relief, a civil penalty not to exceed \$250 [1,000]  
9 may be imposed for each violation. An action to enjoin a violation may be brought  
10 notwithstanding the availability of any other remedy. On application for injunctive relief  
11 and a finding of a violation or a threatened violation, the superior court shall grant the  
12 injunction. Each day that a violation of an ordinance continues constitutes a separate  
13 violation.

1 \* Sec. 2. AS 29.25.070 is amended by adding new subsections to read:

2 (e) The municipality shall provide written notice to the commissioner of health and  
3 social services or to the commissioner's designee of the commencement of a civil  
4 enforcement action for the violation of an ordinance under (b) of this section against a  
5 minor. Unless the commissioner and the municipality negotiate an agreement making  
6 other arrangements to satisfy the obligation imposed on the municipality by this subsection,  
7 the municipality may provide notice by mailing a copy of the citation or other document  
8 setting out the notice of the commencement of the civil enforcement action. This  
9 subsection applies to home rule and general law municipalities.

10 (f) In this section, "minor" means a person under 18 years of age.

11 \* Sec. 3. AS 47.12 is amended by adding a new section to read:

12 Sec. 47.12.280. CIVIL PENALTIES FOR VIOLATION OF MUNICIPAL  
13 ORDINANCES. (a) Except as otherwise provided in this section, the enforcement of a  
14 civil penalty under AS 29.25.070(b) against a minor for violation of a municipal ordinance  
15 shall be heard in the district court in the same manner as for similar allegations brought  
16 against an adult, except that the minor's parent, guardian, or legal custodian shall be  
17 present at all proceedings.

18 (b) Allegations against a minor for a civil penalty under a municipal ordinance may  
19 be assigned to a hearing officer for resolution, if provided for by municipal ordinance.

20 (c) An action for a civil penalty filed against a minor under this section does not  
21 give rise to the right to a trial by jury or to counsel appointed at public expense.

1 \* Sec. 4. AS 47.12.040(a) is amended to read:

2 (a) Whenever circumstances subject a minor to the jurisdiction of this chapter, the  
3 court shall

4 (1) provide, under procedures adopted by court rule, that, for a minor who  
5 is alleged to be a delinquent minor under AS 47.12.020, ~~the department or an entity~~  
6 ~~designated by the department~~ [A STATE AGENCY] shall make a preliminary inquiry  
7 to determine if any action is appropriate and may take appropriate action to adjust the  
8 matter without a court hearing; if, under this paragraph,

9 (A) ~~the department or an entity designated by the department~~  
10 [STATE AGENCY] makes a preliminary inquiry and takes appropriate action to  
11 adjust the matter without a court hearing, the minor may not be detained or taken  
12 into custody as a condition of the adjustment and, subject to AS 47.12.060, the  
13 matter shall be closed [BY THE AGENCY] if the minor successfully completes all  
14 that is required of the minor by the ~~department or the entity designated by the~~  
15 ~~department~~ [AGENCY] in the adjustment; in a municipality or municipalities in  
16 which a youth court has been established under AS 47.12.400 ~~or in an area in~~  
17 ~~which another community program or review panel has been designated by the~~  
18 ~~department~~, adjustment of the matter under this paragraph may include referral  
19 to the youth court ~~or other designated program or panel;~~

20 (B) the agency concludes that the matter may not be adjusted without  
21 a court hearing, the ~~department~~ [AGENCY] may file a petition under (2) of this

1 subsection setting out the facts; or

2 (2) appoint a competent person or agency to make a preliminary inquiry  
3 and report for the information of the court to determine whether the interests of the public  
4 or of the minor require that further action be taken; if, under this paragraph, the court  
5 appoints a person or ~~an~~ agency to make a preliminary inquiry and to report to it, then  
6 upon the receipt of the report, the court may informally adjust the matter without a  
7 hearing, or it may authorize the ~~department~~ [PERSON HAVING KNOWLEDGE OF  
8 THE FACTS OF THE CASE] to file with the court a petition setting out the facts; if the  
9 court informally adjusts the matter, the minor may not be detained or taken into the  
10 custody of the court as a condition of the adjustment, and the matter shall be closed by the  
11 court upon adjustment.

12 \* Sec. ~~4~~<sup>5</sup> AS 47.12.060 is amended to read:

13 (a) The provisions of this section apply to a minor who is alleged to be a  
14 delinquent minor under AS 47.12.020 and for whom ~~the department or an entity~~  
15 ~~designated by the department~~ [AN AGENCY] has, under applicable court rule, made  
16 a preliminary inquiry before taking appropriate action as authorized by AS 47.12.040(a).  
17 Following the preliminary inquiry, unless ~~the department or an entity designated by the~~  
18 ~~department~~ [AN AGENCY] determines that the matter should be dismissed, the  
19 ~~department or the entity designated by the department~~ [AGENCY] may take informal  
20 action to adjust the matter.

21 (b) When the ~~department or the entity designated by the department~~

1 [AGENCY] decides that an informal adjustment of a matter should be made, that informal  
2 adjustment may not be made without the agreement or consent of the minor and the  
3 minor's parents or guardians to the terms and conditions of the adjustment. An informal  
4 action to adjust a matter is not successfully completed unless, among other factors that the  
5 department or the entity designated by the department [AGENCY] considers, as to the  
6 victim of the act of the minor that is the basis of the delinquency allegation, the minor pays  
7 restitution in the amount set by the department or the entity designated by the  
8 department [AGENCY] or agrees as a term or condition set by the department or the  
9 entity designated by the department [AGENCY] to pay the restitution.