

ALASKA LEGISLATURE

1810

HOUSE and SENATE FINANCE COMMITTEE FILES, 1997-1998

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 2
Bill Version: CS 955B 203 (HES)
(S) Publish Date: 4-14-98

Revision Date: 7-Apr-98 Dept. Affected: EDUCATION
Title: "An Act related to phonemic awareness" BRU: Teaching and Learning Support
Component: Quality Schools
Sponsor: Senator Taylor
Requester: Senate HES COMPONENT SERIAL NO. 2147

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES	150.0	150.0	150.0	150.0	150.0	150.0
TRAVEL	15.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	50.0	50.0	50.0	50.0	50.0	-50.0
SUPPLIES	15.0	15.0	15.0	15.0	15.0	15.0
EQUIPMENT	9.0	9.0	9.0	9.0	9.0	9.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	239.0	239.0	239.0	239.0	239.0	239.0
CAPITAL EXPENDITURES	0	0	0	0	0	0

CHANGES IN REVENUES						
----------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	239.0	239.0	239.0	239.0	239.0	239.0
1005 GF/Program Receipts						
Other:						
TOTAL	239.0	239.0	239.0	239.0	239.0	239.0

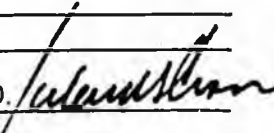
Estimate of current year (FY98) cost: \$ \$0

POSITIONS:

FULL-TIME	2				
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

Department Costs - This estimate represents costs for the department to implement the provisions in this bill. It does not reflect costs that will be required for school districts to implement the bill. The department has prepared a separate fiscal note to outline the fiscal impacts to school districts.

Prepared by: Barbara Thompson, Director Phone: 465-8727
Division: Teaching and Learning Support Date: 4/10/98
Approved by Commissioner: Shirley J. Holloway, Ph.D.  Date: 4/10/98
Agency: Department of Education

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

For further distribution information call the Governor's Legislative Office

Additional Analysis

This legislation seeks to ensure that all public school elementary students receive adequate language arts education, requires school districts to adopt a balanced approach to language arts instruction, and encourages elementary schools to begin preparing students for the high school graduation examination.

Mandatory testing of all students in second and third grades is required annually using a nationally normed test. Testing in the first grade is optional. Additional, individual diagnostic testing is required for students who test in the lowest 25% of the nationally normed test. For elementary schools in which a student in a grade tests at or below the 25th percentile rank, an alternative instructional program in language arts shall be established.

The Department of Education shall provide the names of one group administered and one individually administered nationally normed test. Providing multiple test options would result in data that could not be compared across districts throughout the state.

This request will fund staff necessary to:

- Provide technical assistance and training for teachers and school staff related to the administration of tests, helping our young children to be successful readers and the development of an alternative instructional program in language arts.
- Identify and disseminate information and models on promising practices and alternative instructional language arts program development. The teaching of phonics is embedded in these activities.
- Compile, analyze and report on school and statewide test data, as related to all requirements of CSSSSB 203(HES).

It must be noted there are significant costs to school districts to implement the provisions of CSSSSB 203(HES), in addition to the department costs in this fiscal note. Without additional funding, school districts will face an unfunded mandate to provide two new levels of testing for students in grades 1, 2, and 3, and to establish an alternative instructional program in language arts for any student testing at or below the 25th percentile rank.

Personal Services -- \$150.0

This will provide funding for a full-time Education Specialist II, Range 21, to provide training and technical assistance to teaching staff in school districts across the state. This position will be responsible for researching and disseminating model programs representing a balanced approach to reading and will assist in helping schools develop alternative instructional programs in language arts.

This will also provide funding for a full-time Research Analyst III to compile and analyze statewide testing data and prepare statistical reports and information for schools and for public dissemination.

Travel - \$15.0

This funding will allow department staff to provide direct training and technical assistance to school districts in matters relating to alternative instructional programs in language arts using a balanced approach.

Contractual - \$50.0

This will provide contractual costs related to researching and disseminating information and model language arts instructional programs, and general costs for phone, fax, copier and printing.

Supplies - \$15.0

These funds will be used to purchase office supplies and educational materials, as needed to compile, analyze, and report on testing data.

Equipment - \$9.0

These funds will be used to purchase the necessary computer and office equipment for the new staff positions and ongoing upgrade and replacement costs.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

.o. 3
Bill Version: CS SSSB 203 (HES)
(S) Publish Date: 4-14-98

Revision Date: 7-Apr-98 Dept. Affected: EDUCATION
Title: "An Act related to phonemic awareness" BPU: Teaching and Learning Support
Component: Quality Schools
Sponsor: Senator Taylor
Requester: Senate HES COMPONENT SERIAL NO. 2147

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	*	*	*	*	*	*
MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*

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

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
Other:						
TOTAL	*	*	*	*	*	*

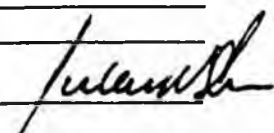
Estimate of current year (FY98) cost: \$ \$0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

School District Costs- There will be significant costs to the school districts in Alaska to conduct two new levels of testing related to students in grades 1, 2, and 3 and to establish an alternative instructional program in language arts. Statewide costs for districts to implement the testing provisions of this bill range from \$996.3 to \$4,353.0. Costs related to establishing an alternative instructional program in language arts for each district cannot be estimated at this time. Without additional funding for school districts to implement the provisions of CSSSSB 203(HES), this will be an unfunded mandate. The total school district costs across the state cannot be determined at this time and is represented by an asterisk.

Prepared by: Barbara Thompson, Director Phone: 465-8727
Division: Teaching and Learning Support Date: 4/10/98
Approved by Commissioner: Shirley J. Holloway, Ph.D.  Date: 4/10/98
Agency: Department of Education

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

For further distribution information call the Governor's Legislative Office

Additional Analysis

This legislation seeks to ensure that all public school elementary students receive adequate language arts education, requires school districts to adopt a balanced approach to language arts instruction, and encourages elementary schools to begin preparing students for the high school graduation examination. Mandatory testing of all students in second and third grades is required annually using a nationally normed test. Testing in the first grade is optional. Additional, individual diagnostic testing is required for students who test in the lowest 25% of the nationally normed test. For elementary schools in which a student in a grade tests at or below the 25th percentile rank, an alternative instructional program in language arts shall be established.

The Department of Education shall provide the names of one group administered and one individually administered nationally normed test. Providing multiple test options would result in data that could not be compared across districts throughout the state.

There are significant costs to school districts to implement the provisions of CSSSSB 203(HES). Without additional funding, school districts will face an unfunded mandate to provide two new levels of testing for students in grades 1, 2, and 3, and to establish an alternative instructional program in language arts for any student testing at or below the 25th percentile rank.

The Department estimates the costs to school districts to implement the provision of CSSSSB 203(HES) to range from \$996.3 to \$4,353.0. These estimates are based on the following assumptions:

- 10,000 children in each of the following grades: 1st, 2nd, and 3rd
- Costs reflect testing all children in all grades. While the bill mandates annual testing of 2nd and 3rd grade students only, school districts may choose to test all 1st grade students.
- Costs reflect testing all students, in all three grades using group-administered tests and individualized tests for the annual testing, using qualified personnel. School districts may use either method, according to this bill.
- Costs reflect conducting individualized tests for 25% of students in grades 1, 2, and 3, who score at or below the 25th percentile rank, using qualified personnel. This number would conservatively total 7,500.

If all school districts used a group administered test for the initial annual testing and used an individualized test for 25% of the students who scored at or below the 25th percentile rank, the cost is estimated to be \$996.3.

If all school districts used an individualized test for the initial annual testing and used an individualized test for 25% of the students who scored at or below the 25th percentile rank, the cost is \$4,353.0.

Estimated costs for the establishment of alternative instructional programs in language arts have not been included in this fiscal note, as insufficient information is available.

SB

2009

HFIN

FILE

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 3, 1998

Honorable Jerry Ward
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

Re: SB 209 -- relating to the task force on
Privatization

Dear Senator Ward:

It has come to our attention that SB 209 has passed the Senate, and is now in the House with a committee referral to the House Finance Committee. SB 209 is very similar to a bill from last session, HCS CSSB 68 (STA) ("SB 68"). SB 68 was vetoed last year by the governor. Because SB 209 raises similar concerns to those raised in SB 68, we are advising you of those concerns.

As you know, SB 209 creates a legislative Task Force on Privatization ("task force"). The task force would have 13 members appointed by the governor, the speaker of the house, and the president of the senate. Its members would be drawn from the state house of representatives, the state senate, the public, and unions representing state employees.

This particular task force would have the duty to review and evaluate the privatization efforts in other states, review state contracting policies and procedures, identify the functions that could appropriately be privatized, and solicit public comment. The bill would be effective immediately upon enactment and its statutory provisions would be repealed on December 1, 1998.

Following enactment of the bill, the task force would take on some fairly complex matters. The bill would require that the task force issue its findings and recommendations in a report to the governor and the legislature by November 15, 1998. The report would address contracting policies and procedures necessary to accomplish its recommendations.

This bill raises a concern regarding the form of the legislation. Although reviews such as this are within the purview of the legislature, the usual mechanism to establish a

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO

- 1031 WEST 4TH AVENUE SUITE 200
ANCHORAGE ALASKA 99501-1204
PHONE (907) 269-5100
FAX (907) 276-3697
- KEY BANK BUILDING
100 CUSHMAN ST SUITE 400
FAIRBANKS ALASKA 99701-4679
PHONE (907) 451-2811
FAX (907) 451-2946
- P.O. BOX 110300-DIAMOND COURT-01
JUNEAU, ALASKA 99811-0300
PHONE (907) 465-3600
FAX (907) 465-6735

legislative task force is by resolution, not by bill, with membership consisting exclusively of legislators and legislative appointees. Also, the bill mandates the type of representation of two of the governor's three appointments on the proposed 13-person task force, limiting meaningful participation by the Administration.

This bill raises a constitutional issue under the doctrine of the separation of powers because it provides for the appointment of the task force's members by the governor and the presiding officers of the legislature and the participation of members of the legislature in its deliberations. We view this as a significant legal issue because the bill provides that the recommendations of the task force will be relied upon in reaching significant decisions on privatization.

This bill raises another significant point for your consideration. The bill provides that the task force may administer an oath to witnesses appearing before it. The authority to administer oaths to witnesses is one that legislative bodies have long held under AS 24.25.060, though seldom exercised. However, under AS 24.25.060, the authority is limited to the senate president, the speaker of the house, and committee chairmen. The bill extends this power to a temporary task force which, while within the legislature's power to confer, seems unnecessary. Furthermore, inadvertent factual mistakes in testimony under oath could subject witnesses to charges of perjury.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL



By: Sarah J. Felix
Assistant Attorney General

BMB:SJF:jn

cc: Representative Mark Hanley
Co-chair, House Finance Committee

Representative Gene Therriault
Co-chair, House Finance Committee

Pat Pourchot, Legislative Director
Office of the Governor

Chrystal Smith, Legal Administrator
Deborah E. Behr, Assistant Attorney General
Department of Law



Alaska State Legislature

Senate

JERRY WARD

1000 W. 4th Ave.
Anchorage, AK 99501-2110
Phone: (907) 264-3000
Fax: (907) 264-3000

1000 W. 4th Ave., Ste. 2110
Anchorage, AK 99501-2110
Phone: (907) 264-3000
Fax: (907) 264-3000

15 Main Street, Suite 100
Kenai, AK 99540
Phone: (907) 264-3000
Fax: (907) 264-3000

Memorandum

To: Representative Gene Therriault
Co-Chair House Finance

From: Senator Jerry Ward *JW*

Re: SB 209

Date: February 2, 1998

Please Schedule SB 209, "An Act relating to the Task Force on Privatization," at your earliest convenience. This legislation is the same bill that the Governor vetoed last session condensed into a one-year time frame.

Thank you for your consideration of this matter.

LEGAL SERVICES

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

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

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

MEMORANDUM

April 17, 1997

SUBJECT: Task Force on Privatization (CSSB 68(FIN))

TO: Senator Jerry Ward
Attn: Craig Johnson

FROM: Tamara B. Cook
Director

The Task Force on Privatization is established in the legislative branch and consists of members appointed by the president of the senate, speaker of the house, and governor. You have asked whether the appointment authority granted to the governor violates the separation of powers doctrine. While the question is not entirely free from doubt, I do not believe that a court is likely to find a violation of the separation of powers doctrine.

The court has recognized that the separation of powers doctrine applies in Alaska and that appointment of executive officers is an executive function. (Bradner v. Hammond, 553 P.2d 1 (Alaska 1976)) However, the power to appoint to office is not exclusively an executive function, at least not so exclusively an executive function that it may not be exercised by the legislature or by the courts as an incident to the discharge of functions properly within their respective spheres. (16 C.J.S. 216) Furthermore, the ordinary constitutional distributive clause providing for the complete separation of governmental powers has generally been held insufficient to vest the appointing power solely in the executive. Creation of a commission with some members appointed by the legislature and some by the governor has been held in other states not to violate the separation of powers doctrine when the commission is performing legislative and executive functions as a cooperative venture. (16 C.J.S. 135)

The Task Force on Privatization is charged with studying the issue of privatizing governmental functions, a topic of interest to both the legislative and executive branches. The Task Force is strictly advisory. It cannot exercise any legislative power, despite its location in the legislative branch of government. Generally, in order to rise to the level of a constitutional question, a conflict between the executive and legislative branches must be clear. (16 C.J.S. 217) Because the Task Force is advisory only and because it is involved in studying a matter of concern to both branches of government, I do not see the clear conflict between the branches necessary to create a separation of powers violation.

TBC:lmb
97-060.lmb

Alaska State Legislature

Senate

JERRY WARD



State Capital
June AK 99801-1162
Ph (907) 465-4941
F (907) 465-3766

704 North Ave., Ste. 450
Anchorage, AK 99501-2133
Phone (907) 258-8183
Fax (907) 258-0820

145 Main Street Loop
Kenai, AK 99611
Phone (907) 283-7996
Fax (907) 283-3075

Sponsor Statement Senate Bill 209

"An Act relating to the Task Force on Privatization;
and providing for an effective date"

Privatization is the fundamental political and economic reassessment of the role of government and the private sector in the modern state. It is a variety of management techniques and activities encouraging more involvement of the private sector in providing government services. Markets are efficient only when they are competitive, however, efficiency should not be government's only goal. Government must balance the pursuit of efficiency with effectiveness, while maintaining the confidence of the people it represents.

SB 209 was introduced to establish a task force that will review functions of state government that could easily be transferred to the private sector. The task force will have members from the public, legislative and executive branches of government.

In this time of decreased revenue the State of Alaska needs an all encompassing evaluation of governmental services and their delivery. Forty-eight other states, including Alaska, have streamlined some governmental services through a number of methods including outsourcing and privatization. When enacted, this bill will evaluate which services could be provided more efficiently by the private sector as well as highlight those services that are better provided by the government. The report will provide a road map for reducing the size and cost of state government, without reducing service, while providing options for the future.

SB 209 will also look into the State's contracting procedures to make sure Alaskans are getting the most out of every contracting dollar spent.

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 2, 1998

FURTHER REFERRALS:

Date of Committee Action: 2/17/98

The FINANCE Committee considered:

SB 209

SENATE BILL NO. 209

TASK FORCE ON PRIVATIZATION

“An Act relating to the Task Force on Privatization; and providing for an effective date.”

recommends it be replaced with the following committee substitute _____ 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) Gov. 1/21/98
LAA 1/21/98

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Theriault</i>	Theriault	X			
<i>Mark Hanley</i>	Hanley	X			
<i>Colin Mulder</i>	Mulder	X			
<i>Terry Martin</i>	Martin	X			
<i>Michael Kohring</i>	Kohring	X			
<i>Henry Davis</i>	Davis	X			

CHAIR'S SIGNATURE *Gene Theriault* *Mark Hanley*
 co-chair

FISCAL NOT

STATE OF ALASKA
1998 LEGISLATIVE SESSION

NO. No. 1
BILL Bill Version: SB 209
PUBL (S) Publish Date: 1-21-98

Revision Date: _____
Title: "An Act relating to the Task Force on Privatization; and providing for an effective date."
Sponsor: Senator Ward
Requestor: Senate State Affairs

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Council & Subcommittees

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	22.1	0.0	0	0	0	0
CONTRACTUAL	3.2	0.0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.3	0.0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	25.3	0.0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	25.3	0.0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

SB209 establishes a 13 member Task Force on Privatization consisting of 3 members appointed by the Governor, 4 public members appointed by the presiding officers of the Alaska State Legislature, and 6 Legislators. This task force will review and report to the Legislature and the Governor regarding the feasibility of privatization of some government functions. The report is due November 15, 1998.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
 Division: Administrative Services Date: 1/19/98

Approved By: Pamela A. Varni, Executive Director *Pamela A. Varni*
 Agency: Legislative Affairs Agency Date: 1/19/98

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).

CONTINUATION OF FISCAL NOTE: SB 209

Travel

Travel costs for the Governor's appointees will be paid for by the Office of the Governor. FY98 travel costs for Legislators and public members will be absorbed within existing budgets. This fiscal note contains FY99 travel funding for Legislators and public members appointed by the Presiding Officers.

If the task force begins work in FY98 they are expected to travel once in FY98, and three times in FY99 to hold meetings. Any other meetings of the task force will be conducted by teleconference.

For the purposes of this fiscal note, the public members of the task force appointed by the presiding officers are assumed to be 1 from Fairbanks, 2 from Anchorage and 1 from Ketchikan. The Legislators are assumed to be 3 from Anchorage, 1 from Fairbanks, 1 from Ketchikan, and 1 from Juneau. Two days of per diem are calculated for each meeting. 1 Staff person from Anchorage will attend the meetings.

	<u>Per Diem:</u>	<u>Travel</u>	
<u>2 Anchorage Meetings</u>			
Anchorage - 2 public members/3 Legislators/1 Staff	-	-	
Fairbanks - 2 public members/1 Legislator	1,278	1,110	
Ketchikan - 1 public member/1 Legislator	852	1,240	
Juneau - 1 Legislator	426	470	
<u>1 Fairbanks Meeting</u>			
Anchorage - 2 public members/3 Legislators/1 Staff	2,172	2,220	
Fairbanks - 2 public members/1 Legislator	-	-	
Ketchikan - 1 public member/1 Legislator	724	1,560	
Juneau - 1 Legislator	362	655	
<u>1 Juneau Meeting</u>			
Anchorage - 2 public members/3 Legislators/1 Staff	2,016	2,820	
Fairbanks - 2 public members/1 Legislator	1,008	1,965	
Ketchikan - 1 public member/1 Legislator	672	580	
Juneau - 1 Legislator	-	-	
Total FY99 Travel	9,510	12,620	TOTAL 22,130

Contractual

	Phones \$100/month	Postage \$50/month	Advertisizing \$750/meeting	TOTAL
FY99	600	300	2,250	3,150

Teleconference charges and expenses for printing the report will be absorbed by the Agency.

FISCAL NOTE

No. 2

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: SB 209

(S) Publish Date: 1-21-98

Revision Date (Note if correction) _____

Dept. Affected All departments

Title An Act relating to the Task Force
on Privatization.

BRU _____

Sponsor Sen. Ward

Component _____

Requester Senate State Affairs Committee

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 (Specify Type)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY98) cost: *****

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

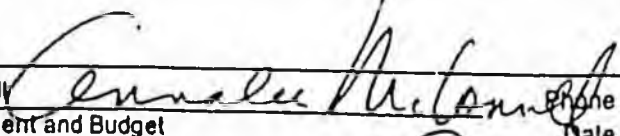
This bill would establish a Task Force on Privatization, which would, among other tasks, "identify functions of our state government that could economically and appropriately be privatized, if any."

Most of the state's labor agreements include provisions which require the state to conduct feasibility studies determining potential costs and benefits before any decisions are made on contracting out work currently performed by state employees. Therefore, before any decisions are made on implementation of the Task Force's recommendations to privatize state functions covered by these labor agreements, the feasibility studies required by the labor agreements would need to be conducted.

Prior feasibility studies of this type have cost from approximately \$20,000 to \$50,000 per study. However, because the need for feasibility studies will depend on the recommendations of the Task Force, these costs, and the departments affected, cannot be estimated now. This is why asterisks are shown on this fiscal note.

In addition to feasibility studies, the labor agreements require other procedures to be followed before contracting out of work can be done.

Prepared by Annalee McConnell



Phone 465-4676

Division Office of Management and Budget

Date 1/13/98

Approved by Commissioner Jim Ayers, Chief of Staff

Date _____

Agency Office of the Governor

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

For further distribution information, call the Governor's Legislative Office

SB

2009

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 1/21/98

FURTHER: 1/26/98

DATE TURNED IN TO OFFICE: 1/26/98

Finance Committee considered SENATE BILL NO. 209

"An Act relating to the Task Force on Privatization; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- 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 title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Reed E. Kelly</i>	✓	<i>Lee Adams</i>	✓		
<i>John Sargent</i>	✓				
Co-Chair: <i>DeMarco</i>	✓	Co-Chair:			
Co-Chair: <i>Sam Allyn</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

LAA	1/19/98		25.3
OMB	1/13/98		**

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

1/26/98

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 209 |

Revision Date (Note if correction) _____ Dept. Affected All departments
 Title An Act relating to the Task Force BRU _____
on Privatization. Component _____
 Sponsor Sen. Ward
 Requester Senate State Affairs Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE (Thousands of Dollars)

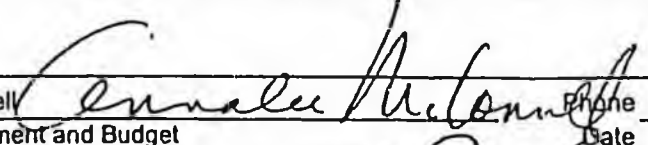
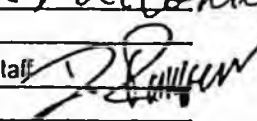
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill would establish a Task Force on Privatization, which would, among other tasks, "identify functions of our state government that could economically and appropriately be privatized, if any."
 Most of the state's labor agreements include provisions which require the state to conduct feasibility studies determining potential costs and benefits before any decisions are made on contracting out work currently performed by state employees. Therefore, before any decisions are made on implementation of the Task Force's recommendations to privatize state functions covered by these labor agreements, the feasibility studies required by the labor agreements would need to be conducted.
 Prior feasibility studies of this type have cost from approximately \$20,000 to \$50,000 per study. However, because the need for feasibility studies will depend on the recommendations of the Task Force, these costs, and the departments affected, cannot be estimated now. This is why asterisks are shown on this fiscal note.
 In addition to feasibility studies, the labor agreements require other procedures to be followed before contracting out of work can be done.

Prepared by Annalee McConnell  Phone 465-4676
 Division Office of Management and Budget Date 1/13/98
 Approved by Commissioner Jim Ayers, Chief of Staff  Date _____
 Agency Office of the Governor

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

1/26/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

NO. _____
BILL VERSION: SB 209
PUBLISH DATE: _____

Revision Date: _____
 Title: "An Act relating to the Task Force on Privatization; and providing for an effective date."
 Sponsor: Senator Ward
 Requestor: Senate State Affairs

Department / Affected: Legislative Affairs Agency
 BRU: Legislative Council
 Component: Council & Subcommittees

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	22.1	0.0	0	0	0	0
CONTRACTUAL	3.2	0.0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.3	0.0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
----------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	25.3	0.0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	25.3	0.0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

SB209 establishes a 13 member Task Force on Privatization consisting of 3 members appointed by the Governor, 4 public members appointed by the presiding officers of the Alaska State Legislature, and 6 Legislators. This task force will review and report to the Legislature and the Governor regarding the feasibility of privatization of some government functions. The report is due November 15, 1998.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
 Division: Administrative Services Date: 1/19/98

Approved By: Pamela A. Varni, Executive Director *Pamela Varni*
 Agency: Legislative Affairs Agency Date: 1/19/98

CONTINUATION OF FISCAL NOTE: SB 209

Travel

Travel costs for the Governor's appointees will be paid for by the Office of the Governor. FY98 travel costs for Legislators and public members will be absorbed within existing budgets. This fiscal note contains FY99 travel funding for Legislators and public members appointed by the Presiding Officers.

If the task force begins work in FY98 they are expected to travel once in FY98, and three times in FY99 to hold meetings. Any other meetings of the task force will be conducted by teleconference.

For the purposes of this fiscal note, the public members of the task force appointed by the presiding officers are assumed to be 1 from Fairbanks, 2 from Anchorage and 1 from Ketchikan. The Legislators are assumed to be 3 from Anchorage, 1 from Fairbanks, 1 from Ketchikan, and 1 from Juneau. Two days of per diem are calculated for each meeting. 1 Staff person from Anchorage will attend the meetings.

	<u>Per Diem</u>	<u>Travel</u>	
<u>2 Anchorage Meetings</u>			
Anchorage - 2 public members/3 Legislators/1 Staff	-	-	
Fairbanks - 2 public members/1 Legislator	1,278	1,110	
Ketchikan - 1 public member/1 Legislator	852	1,240	
Juneau - 1 Legislator	426	470	
<u>1 Fairbanks Meeting</u>			
Anchorage - 2 public members/3 Legislators/1 Staff	2,172	2,220	
Fairbanks - 2 public members/1 Legislator	-	-	
Ketchikan - 1 public member/1 Legislator	724	1,560	
Juneau - 1 Legislator	362	655	
<u>1 Juneau Meeting</u>			
Anchorage - 2 public members/3 Legislators/1 Staff	2,016	2,820	
Fairbanks - 2 public members/1 Legislator	1,008	1,965	
Ketchikan - 1 public member/1 Legislator	672	580	
Juneau - 1 Legislator	-	-	
Total FY99 Travel	9,510	12,620	TOTAL 22,130

Contractual

	Phones \$100/month	Postage \$50/month	Advertisng \$750/meeting	TOTAL
FY99	600	300	2,250	3,150

Teleconference charges and expenses for printing the report will be absorbed by the Agency.

SENATE BILL NO. 209

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATOR WARD

Introduced: 1/12/98

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Task Force on Privatization; and providing for an
2 effective date."

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

4 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that

5 (1) the annual cost of state government is exceeding the annual revenue of the
6 state;

7 (2) there may be functions of state government that could be performed more
8 efficiently by individuals or businesses in the private sector;

9 (3) other states are considering privatization of some of their governmental
10 functions;

11 (4) more information is needed before the legislature can determine whether
12 privatization is a feasible alternative for this state to pursue in controlling its fiscal problems.

13 (b) The legislature intends to consider all reasonable methods to deal with the state
14 revenue shortfall and control excess growth in government.

1 * Sec. 2. TASK FORCE ON PRIVATIZATION ESTABLISHED. (a) There is established
2 in the legislative branch the Task Force on Privatization consisting of

3 (1) three members appointed by the governor; one shall be a public member
4 selected from a list of nominees submitted by labor organizations that represent state
5 employees primarily engaged in building or other trades, and one shall be a public member
6 selected from a list of nominees submitted by labor organizations that represent state
7 employees that are not primarily engaged in building or other trades;

8 (2) three members of the senate appointed by the president of the senate; two
9 shall be members of the majority, and one shall be a member of the minority;

10 (3) three members of the house of representatives appointed by the speaker of
11 the house; two shall be members of the majority, and one shall be a member of the minority;

12 (4) two public members appointed by the president of the senate; and

13 (5) two public members appointed by the speaker of the house.

14 (b) The president of the senate shall select a member from among those appointed to
15 the task force by the president of the senate to serve as co-chair of the task force. The
16 speaker of the house of representatives shall select a member from among those appointed to
17 the task force by the speaker of the house of representatives to serve as co-chair of the task
18 force.

19 * Sec. 3. COMPENSATION OF PUBLIC MEMBERS. The public members of the Task
20 Force on Privatization are not eligible for compensation but are entitled to per diem and travel
21 expenses authorized for boards and commissions under AS 39.20.180.

22 * Sec. 4. MEETINGS; OATH. (a) The Task Force on Privatization shall meet as
23 frequently as the task force determines necessary to perform its work and may meet during
24 the interim as well as during legislative sessions. The task force may meet and vote by
25 teleconference.

26 (b) A co-chair of the task force may administer an oath to a witness appearing before
27 the task force.

28 * Sec. 5. DUTIES. The Task Force on Privatization shall

29 (1) review and evaluate the policies and recommendations of the other states
30 that are studying or have implemented recommendations to privatize any of their governmental
31 functions;

1 (2) review state contracting policy and procedures, including competitive
2 bidding procedures;

3 (3) identify functions of our state government that could economically and
4 appropriately be privatized, if any;

5 (4) solicit public comment about its subjects of consideration; and

6 (5) submit a written report of its findings and recommendations to the governor
7 and the legislature by November 15, 1998, concerning privatization of government functions
8 of state agencies; the report must suggest legislation that may be needed to accomplish the
9 recommendations.

10 * Sec. 6. This Act is repealed on December 1, 1998.

11 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

SB

216

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/22/98

FURTHER: REPORTED OUT OF
 SSC 4/27/98

DATE TURNED
 IN TO OFFICE: 4/27/98

Finance Committee considered SENATE BILL NO. 216

"An Act providing for the civil commitment of sexually violent predators."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SB 216 (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 title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Red E. Hill</i>	7	<i>John Ingram</i>	✓		
<i>Sean P. Gannon</i>	7				
Co-Chair:		Co-Chair: <i>Deane</i>	✓		
Co-Chair:		Co-Chair: <i>John Ingram</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Admin/OPA	4/22/98		110.0
★ Admin/PDA	4/23/98		305.9
Corrections/ALL	4/22/98		174.7
★ Law/OSPA	4/23/98		479.9
HESS/RPI	4/22/98		726.5
Court	4/22/98		84.2

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. No. 1
Bill Version: CSSB 216(JUD)
(S) Publish Date: 4/22/98

Revision Date: _____
Title: "An Act providing for the civil commitment of sexually violent predators."
Sponsor: Senator Halford
Requestor: (S) JUD

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL	8.0	8.0	8.0	8.0	8.0	8.0
CONTRACTUAL	102.0	72.0	72.0	72.0	72.0	72.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	110.0	80.0	80.0	80.0	80.0	80.0

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

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

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	110.0	80.0	80.0	80.0	80.0	80.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL						

Estimate of any current year (FY 98) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Though previous versions of this bill make the Office of Public Advocacy (OPA) responsible for providing representation to respondents in these civil commitment cases, CSSB 216(JUD) Work Draft F seems to make the Public Defender responsible for such services. This fiscal note is predicated on the assumption that the Public Defender will provide representation in 80% of such cases and the Office of Public Advocacy, because of inevitable conflicts of interest, will provide representation in 20% of such cases. Based on the Department of Law's projection of five cases per year this means that OPA would provide representation in but one case each year. Because OPA will have represented the child victims in many of these cases, this fiscal note assumes that such cases will be handled by OPA contract attorneys.

All agencies involved in these cases, as well as the courts, will perceive them as the equivalent of murder cases because of the high stakes involved. Litigation of these petitions will be seen as the second step on the road to a life sentence for many offenders.

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

Phone: 269-3500
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Administration

Date: 4/16/98

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

No. 3

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: CSSB216(FIN)

(S) Publish Date: 4/22/98

Revision Date (Note if correction) _____ Dept. Affected Corrections
 Title An Act providing for the civil commitment of BRU Administration and Operations
sexually violent predators Component ALL
 Sponsor Senator Halford
 Requester Senate Judiciary Committee Component Serial No. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	154.7	154.7	154.7	154.7	154.7	154.7
Travel	8.0	8.0	8.0	8.0	8.0	8.0
Contractual	1.5	1.5	1.5	1.5	1.5	1.5
Supplies	1.5	1.5	1.5	1.5	1.5	1.5
Equipment	9.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	174.7	165.7	165.7	165.7	165.7	165.7

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	174.7	165.7	165.7	165.7	165.7	165.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	174.7	165.7	165.7	165.7	165.7	165.7

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 1 of CSSB 216 (FIN) requires the Department of Corrections to pre-screen offenders who might meet the criteria for a sexually violent predator. The DOC will be the first agency in most cases to assess potentially sexually violent predators and will provide its findings and related records to the Dept. of Health and Social Services. This will require 3 new full time positions; One (1) Mental Health Clinician III, one (1) Admin Clerk III, and one (1) Admin Clerk II. After the screening process, offenders who appear to meet the definition of a Sexually Violent Predator will be referred to the Dept. of Health and Social Services for a thorough referral examination.

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

Phone 465-3307
 Date 4/21/98
 Date 4/21/98

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

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL No. 2 ****CORRECTED****
 Bill Version: CSSB 216 (JUD)
 (S) Publish. Date: 4/23/98

4/21/98

Revision Date: _____
 Title: "An Act providing for the civil commitment of sexually violent predators"
 Sponsor: Senator Halford
 Requestor: S (JUD)

Department Affected: Administration
 BRU: Legal and Advocacy Services
 Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	162.9	235.9	296.7	333.6	355.2	355.2
TRAVEL	6.0	9.5	13.0	13.5	14.5	14.5
CONTRACTUAL	113.7	83.6	104.5	109.6	112.8	112.8
SUPPLIES	3.8	5.7	7.6	8.5	9.0	9.0
EQUIPMENT	19.5	6.5	6.5	6.5	6.5	2.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	305.9	341.2	428.3	471.7	498.0	493.5

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

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

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	305.9	341.2	428.3	471.7	498.0	493.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	305.9	341.2	428.3	471.7	498.0	493.5

Estimate of any current year (FY 98) cost: \$ -0-

POSITIONS:

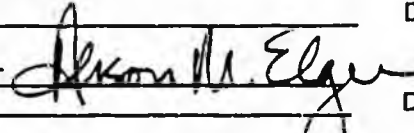
FULL-TIME	3	4	5	6	6	6
PART-TIME					1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Boyer 
 Agency: Department of Administration

Date: 4/22/98

DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSB 216 (JUD)

#2

1998 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill represents a major shift in criminal justice philosophy. Instead of punishing people for crimes they have committed, for the first time in Alaska, the state would be incarcerating people based on a prediction that they might commit crimes in the future. Last summer, the United States Supreme Court in Kansas v. Hendricks, 117 S.Ct. 2072 (June 23, 1997), decided that similar legislation did not violate "substantive due process." However, Hendricks was a close (5-4) decision. If the bill passes and is challenged, the Alaska Supreme Court may find the dissenting opinions in Hendricks persuasive.

The premise of the bill is that there is a "small but extremely dangerous group of sexually violent predators" that are likely to commit sex offenses on strangers or targeted victims. The courts may find that the sciences of psychology and psychiatry do not have sufficient knowledge or expertise to identify who belongs in this group and who does not. A Task Force Report of the American Psychiatric Association recently came out against these commitment laws. The task force found that involuntary civil commitment of dangerous sex offenders who have completed prison terms distorts the traditional civil commitment process, inappropriately uses scarce resources allocated for mental health services, and constitutes an abuse of the primary purpose of the mental health system, treating those with mental illness. Thus, the experts on whose opinions the "sexually violent predator" finding must rest are unwilling and, by their own admission, unable to make the predictions called for in the bill.

Although the current version of the bill narrows definitions somewhat, the bill still casts a broad net. To be committed, a person must have been convicted as an adult or a juvenile of a "sexually violent offense" (or have been charged with one and found incompetent or not responsible due to a mental illness.) "Sexually violent offenses" include a broad range of crimes. For example, an attempt to have "sexual contact" is a "sexually violent offense." Although a person would also have to be found "substantially likely" to commit sexual offenses in the future, this element may not be all that difficult to prove, even beyond a reasonable doubt.

SEXUAL PREDATOR COMMITMENT CASES

There is a potential lifetime of involuntary commitment at stake in these cases. PDA expects that the civil commitment proceedings will be time-consuming and expensive. They will be the functional equivalent of murder cases.

The proceedings are quite complicated. First, a probable cause hearing has to be held within 72 hours after a sexual predator petition is filed. If probable cause is found, an evaluation by a mental health professional would be done. A trial will be scheduled to take place 60 days later but may be continued for good cause. The trials will be expensive and difficult. Experienced attorneys will need to handle these cases. The cases will involve difficult predictions of future dangerousness based on opinions of expert psychiatrists, psychologists, and other mental health professionals. A great deal of litigation support (paralegal, investigative, and secretarial) will be needed because the cases involve determinations based on the life history of the person on trial.

1998 LEGISLATIVE SESSION

At trial, the burden is proof beyond a reasonable doubt, the same standard as in a criminal trial. The cases would have most of the features of a complex criminal trial, including jury selection, opening and closing arguments, direct and cross-examination of witnesses, and argument on the admissibility of evidence. If a person is committed, he or she would have the right to appeal to the Alaska Court of Appeals or Alaska Supreme Court. A person committed would also have a right to petition for release. These could be filed multiple times, although the court would not have to hear frivolous petitions. It is also quite possible that persons committed will file applications for post-conviction relief trying to overturn the original convictions on which the commitment was based.

Effective, experienced representation would have to be provided at all levels of these complex proceedings in order to assure the courts that the legislation complies with substantive and procedural due process guaranteed by the constitution.

FISCAL IMPACT

This bill will have a substantial fiscal impact on the Public Defender Agency (PDA). Under the bill a person whose commitment is sought will have a right to court appointed counsel at all stages of the proceedings.

Because the bill is aimed at persons being released from jail or institutional confinement, virtually all of the people will be eligible for court-appointed counsel. (Also, a private attorney would want a large up-front payment before starting one of these cases.) We estimate that there will be conflicts of interest in about 20% of the cases. The Office of Public Advocacy (OPA) will be appointed to those cases.

The Department of Corrections estimates that 160 persons will be released each year who have committed sexually violent offenses. The Department of Law (DOL) estimates that petitions will be filed in only 5 of these cases per year. (PDA has doubts about this estimate. Many of the released prisoners will have committed serious offenses. The public will certainly press for commitment in many cases -- it may well be that more than 5 petitions per year are filed.) Based on DOL's estimate, in the first year PDA would be appointed to 4 cases, while OPA would be appointed to 1.

In order to handle the 4 trials in the first year, PDA would need 1 Attorney IV, 1 Paralegal, and 1 Secretary in FY99. This team would be based in Anchorage. In FY00 PDA would need to add an additional Attorney III. This lawyer would handle appeals from commitment trials, annual review hearings, and probable cause hearings, as well as help the Attorney IV in the trial work. In FY01, PDA would need to add an Attorney II to the team. In FY02, another Legal Secretary will need to be added to handle the increased scheduling and litigation support. In FY03 we would need a half-time paralegal to cope with the increase in petitions for release from commitment and appellate work.

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSB 216 (JUD)

#2

1998 LEGISLATIVE SESSION

Finally, PDA expects extensive litigation concerning whether a person committed under this bill can be placed in an institution outside the State of Alaska. In a recent case, Brandon v. State Department of Corrections, 938 P.2d 1029 (Alaska 1997), the Alaska Supreme Court decided that a prisoner's rehabilitation could be affected by transfer to a jail outside the state. It is even more likely that a person who is civilly committed would have a right to placement inside the state if treatment would be adversely affected.

FISCAL NOTE

Bill Version: CSSB 216 (JUD)
 (S) Publish Date: 4/23/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affected Law
 Title An Act providing for the civil commitment of BRU Criminal Division
sexually violent predators. Component OSPA
 Sponsor Senator Halford
 Requester Senate Judiciary Committee Component Serial No. 2203

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	300.5	357.1	413.7	470.3	507.4	507.4
Travel	5.9	6.1	6.3	6.4	6.6	6.6
Contractual	142.6	107.0	119.3	127.7	130.9	130.9
Supplies	4.9	5.8	6.7	7.6	8.2	8.2
Equipment	26.0	6.5	0.0	13.0	6.5	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	479.9	482.5	546.0	625.0	659.6	653.1

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

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

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	479.9	482.5	546.0	625.0	659.6	653.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	479.9	482.5	546.0	625.0	659.6	653.1

Estimate of any current year (FY98) cost: _____

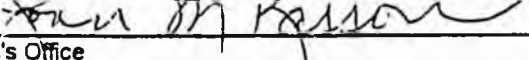
POSITIONS

POSITIONS	4	5	5	6	6	6
Full-time						
Part-time				1	2	2
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSSB 216 (JUD) Work Draft B provides a method for the civil commitment of sexually violent predators upon completion of their criminal sentence. The Department of Law would have the responsibility of seeking civil commitment through the courts.

The Department of Corrections estimates that approximately 160 sex offenders would likely be released each year. The Department of Law anticipates filing for civil commitment on approximately 2 to 3 percent in light of the narrow definition of "sexual predator" contained in this work draft. For the purposes of this fiscal analysis, the department assumes that it would seek civil commitment for 4 to 5 offenders a year. Further, all cases would go to trial, and 4 individuals would actually be committed.

Prepared by Joan M. Kasson 
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date 4/21/98
 Date 4/21/98

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

For further distribution information, call the Governor's Legislative Office

The bill further provides each committed individual an opportunity to petition for release and the Department of Health and Social Services must conduct an examination of the person's mental condition annually. These petitions could result in a jury trial, if the court finds there is probable cause that the person's condition has so changed that they are safe to be released. The Department of Law assumes that in the first two years, all committed individuals would petition for release. Over time, the number of petitions requiring a hearing would decrease relative to the total population of committed sexually violent predators, as the bill further provides for denial of a petition without a hearing when it is a second or subsequent petition for release and a previous petition had been found to be frivolous or new facts are not presented showing the person's condition had so changed since the last petition that the person was safe to be a large. The number of petitions is assumed to level off at 10 to 12 per year.

Offenders committed under this bill would have the right to appeal the court's decision. The department again assumes that initially, all individuals committed would appeal their commitments and orders denying release. But as case law is established, the number of appeals would diminish relative to the growing population of committed individuals, to approximately 8 appeals per year.

TRIAL UNIT

In order to obtain an order for civil commitment of a sexually violent predator, the Department of Law would file a petition with the Superior Court. Upon the determination by the court, after a hearing that probable cause exists to believe the person named in the petition is a sexually violent predator, the case would proceed to trial. The court, or a unanimous jury, must find, beyond a reasonable doubt, that the person is a sexually violent predator.

Prosecution of these cases would involve a similar level of work to prosecuting a complex felony criminal case.

First, incoming cases must be screened by the department. It is likely that Corrections and Health and Social Services will take a conservative approach on the cases they refer to the Attorney General, and refer more than the Department of Law can successfully pursue. Each case must be examined, and a decision made on whether civil commitment will be sought.

Once a petition is filed, the next step will be the probable cause hearing. Ordinarily, this hearing is used by the defense as a discovery mechanism to hear from the state's witnesses and see the state's evidence in order to later rebut. The department assumes the same will be true in the civil commitment proceedings. The hearing will likely last an average of two days, and involve a week of preparation. Discovery, depositions, other pre-trial preparations and the

trial itself are assumed to require an average of two and one-half weeks per case of attorney time.

From the probable cause hearing through trial, approximately one month of attorney time will be required. One attorney is assumed to take five cases to trial per year, a caseload of half-time litigation in civil commitment, and in addition, participate in the on-going screening process of many more cases.

Paraprofessional resources would also be necessary for witness coordination, investigation, and records coordination. To prove some elements of these cases, the department may have to find the investigating officers and victims of the offense the person was convicted for criminally. The original case may be several years old. As with the attorneys, each case is assumed to take approximately one month of a paraprofessional's time.

Typically, each case would require the services of at least one expert witness. To the extent it could, the department would rely on experts employed by the State of Alaska, however, they may not be viewed as sufficiently objective, and outside experts would be retained. The experts would need time to review the background of the offender, their institutional record, and psychological history. The cost per case for experts is assumed to be \$5.0, for all cases except the first one or two.

The first case in which civil commitment is sought will involve constitutional challenges. These cases are particularly expensive and experts will be needed to uphold the legislature's findings. The department assumes expert costs in the first case will reach \$50.0.

Other direct case costs include witness travel and per diem at \$1.0 per case, and deposition and court reporter costs at \$1.0 per case.

As discussed in the previous section, this fiscal analysis assumes 5 cases per year will go to trial. One attorney and one paraprofessional position will be able to handle all the cases the first year, FY99. The department's standard cost schedule for FY98/99 is \$133,500 per full-time equivalent attorney, and \$88,500 per FTE paraprofessional. The cost schedule includes all normal overheads including copies, telecommunication, leases, and clerical support at a rate of one clerical position for each three professional positions. One-time new equipment costs are not included in the schedule, and are added separately in this fiscal analysis for all positions, including clerical support positions.

In the second year, the first 4 committed individuals will be subject to annual review, and may petition for release. The annual review process will require less time than the original commitment process. The department assumes that one

half-time attorney will be able to handle 4 of these cases per year. Each year, one more half-time attorney will be needed as the number of civilly committed individuals grows, until year 5, when petitions are assumed to level off.

Paraprofessional resources are added at a rate of one for every two attorneys. And expert witness costs are assumed to be less than at trial, but still necessary, and are included at a rate of \$1.0 per case.

APPELLATE UNIT

In the first two years particularly, as discussed in the previous section, every civilly committed offender is assumed to appeal the commitment orders and denials of petitions for release. This will be 4 appeals in year 1, and 4 in year 2. After the first two years, the appellate caseload is assumed to decline relative to the total population of committed individuals. The department believes that between those newly committed each year, and those already committed, one attorney will have a half-time caseload. One attorney is added in FY99 with associated support costs.

There will be no expert fees in the appeals process, but transcripts costs are included at a rate of \$1.0 per case.

Prisoners tend to be very litigious, and the department expects the same for those civilly committed. As the population of those civilly committed grows, the department would anticipate lawsuits over their right to treatment, failure to treat, conditions, etc. The appellate attorney will also handle these lawsuits.

The attached spreadsheet graphically illustrates the costs of both the Trial and Appellate units over the six year fiscal note period, and the caseload assumptions.

All positions are assumed to be located in Anchorage as that is where most of the offenders Corrections indicates are likely to be referred to the Attorney General for commitment are located. The Anchorage Criminal Division offices have no space available to put the new positions associated with this bill, and more space would need to be leased. As a practical matter, the space would need to be leased all at once, and not incrementally over the six year period of the fiscal note. To anticipate this need, the percentage of the attorney and paraprofessional rates that represent lease costs are moved into FY99 (\$3,730 per half-attorney position, \$3,186 per half-paraprofessional). To avoid double counting, the \$14,400, which would be included as a base cost subsequent years, is reduced each year by the amount of lease overhead included in each new position's rate, until lease costs are fully recovered through the rate in FY03.

		FTE	COST	FY99	FY00	FY01	FY02	FY03	FY04
<u>Trial Unit</u>	# Cases to trial			5	5	5	5	5	5
	# Cases to petition				4	8	10	10	10
Yr 1	Attorney	1	133.5	133.5	133.5	133.5	133.5	133.5	133.5
	Paraprofessional	1	88.5	88.5	88.5	88.5	88.5	88.5	88.5
	Legal Secretary	1							
Yr 2	Attorney	0.5	133.5		66.8	66.8	66.8	66.8	66.8
Yr 3	Attorney	0.5	133.5			66.8	66.8	66.8	66.8
Yr 4	Attorney	0.5	133.5				66.8	66.8	66.8
	Legal Secretary	1					0.0	0.0	0.0
Yr 5	Paraprofessional	0.5	88.5					44.2	44.2
	One-time equipment purchases			19.5	6.5		13.0	6.5	0.0
	All lease costs to FY99; base adjusted for rate recovery			14.4	10.6	6.9	3.2	0.0	0.0
Per Case costs									
Yr 1	Expert fees first case to trial		50.0	50.0					
Yrs 1-6	Expert fees per trial		5.0	20.0	25.0	25.0	25.0	25.0	25.0
	Witness travel & subsistence		1.0	5.0	5.0	5.0	5.0	5.0	5.0
	Depositions/court reporter		1.0	5.0	5.0	5.0	5.0	5.0	5.0
Yrs 2-6	Expert Fees per petition		1.0	0.0	4.0	3.0	10.0	10.0	10.0
<u>Appellate Unit</u>	# cases appealed			4	4	7	8	8	8
Yr 1	Attorney	1	133.5	133.5	133.5	133.5	133.5	133.5	133.5
	One-time equipment purchases			6.5					
Per Case costs									
Yrs 1-6	Transcriptions		1.0	4.0	4.0	7.0	8.0	8.0	8.0
TOTAL COSTS				479.9	482.5	546.0	625.0	659.6	653.1
<u>Trial Unit</u>	PFT attorney			1.0	1.5	2	2	2	2
	PPT attorney						1	1	1
	PFT paraprofessional			1	1	1	1	1	1
	PPT paraprofessional							1	1
	PFT legal secretary			1	1	1	2	2	2
<u>Appellate Unit</u>	PFT attorney			1	1	1	1	1	1
TOTAL PFT				4	5	5	6	6	6
TOTAL PPT							1	2	2

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 5
Version: CS 9B216(Sud)
(S) Publish Date: 4/22/98

REPORTED OUT OF
9/27/98

Revision Date: _____ Dept. Affected: Health and Social Services
Title: Commitment of Sexually Violent Predators BRU: Institutions and Administration
Component: Alaska Psychiatric Institute
Sponsor: Halford, Green, Donnelly COMPONENT SERIAL NO. 311
Requestor: Senate (JUD) See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES	48.0	49.4	233.7	240.7	248.0	255.4
TRAVEL	4.5	4.6	8.8	9.0	9.3	9.6
CONTRACTUAL	619.0	1,239.1	1,845.6	2,442.1	3,043.7	3,645.2
SUPPLIES	5.0	5.2	10.3	10.6	10.9	11.3
EQUIPMENT	10.0		5.0	5.0		
LAND & STRUCTURES						
GRANTS, CLAIMS	40.0	140.2	243.4	349.7	459.2	572.0
MISCELLANEOUS						
TOTAL OPERATING	726.5	1,438.5	2,346.8	3,057.2	3,771.0	4,493.4

CAPITAL EXPENDITURES			Placeholder			
----------------------	--	--	-------------	--	--	--

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY99	FY00	FY01	FY02	FY03	FY04
1002 Federal Receipts						
1003 GF Match						
1004 GF	726.5	1,438.5	2,346.8	3,057.2	3,771.0	4,493.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	726.5	1,438.5	2,346.8	3,057.2	3,771.0	4,493.4

POSITIONS:

POSITIONS	FY99	FY00	FY01	FY02	FY03	FY04
FULL-TIME	1	1	2	2	2	2
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Fiscal Assumptions:

1. This fiscal note assumes DHSS/API staff will provide 20 evaluations yearly, resulting in only 4 commitments yearly; under these assumptions, then, the number of persons committed to DHSS' custody as a sexually violent predator will increase by a total of 4 each year, so that the number of predators in DHSS custody by the end of the first year (FY99) is 4, 8 by the end of FY00, 12 in FY01, etc.. This increment in the number of predators in DHSS' custody significantly increases DHSS costs in a very short time, because the same new 20 evaluations must be performed each year, but the required annual review evaluations of predators already committed to DHSS custody increases the workload until, effectively it is clear that the annual reviews of persons previously committed as sexually violent predators, combined with evaluations of prisoners soon to be released for a determination as to whether they meet the commitment criteria as a predator, will require full-time professional staff to maintain the program of initial screening referrals, evaluations, and annual reviews required by this bill.

Prepared by: Randall Burns, Director API
Division: Mental Health and DD

Phone: 907-269-7103
Date: 04/14/98

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

ANALYSIS (cont.):

2. This fiscal notes assumes that a person determined after trial to be a sexually violent predator will not be treated and cared for at Alaska Psychiatric Institute; therefore, the treatment and twenty-four hour care required by this bill for all persons committed to DHSS custody as sexually violent predators will be contracted out. At present, there appears to be one facility in Florida that provides such treatment; the present cost for this service is \$400.00 per day. $\$400 \times 365 \text{ days} \times 4 \text{ persons}$ totals \$579,200. While first year start up delays may not see this total cost achieved in FY99, this will be the annual cost once the program is up and running; an inflation factor of 3% has been added beginning in FY00. It should be further noted that these costs multiply by a factor of four each year, as persons newly determined to meet commitment criteria are identified and sent for treatment. The State will, through a competitive RFP process, attempt to get the lowest per day cost available to treat and care for this difficult, risk-intensive population of individuals.

It should be noted, however, that even if DHSS contracts out for the treatment and care of committed predators, that the screening referrals, evaluations, and annual reviews will have to be done by the State and in-state, as will any hearings related to any petitions for release filed by committed predators. All the screenings, evaluations, trials, reviews, and hearings anticipated by this legislation will take significant time and may well require at some point in the not-too-distant future that the State invest in the purchase and renovation or construction of a facility, in order to house and care for those inmates and predators attending to the various evaluations and legal processes required by this bill, even if the State always contracts out the treatment portion of this business.

In the short run, however, and despite DHSS' unwillingness to house at API those persons found to be sexually violent predators, this bill will require, prior to an actual commitment determination, that when a court determines that there is probable cause to believe that an inmate is a sexually violent predator, that the inmate be transferred to API's forensic unit for the purpose of an evaluation by API staff. The person will be housed on API's forensic unit during the approximately four weeks required for the evaluation and then up until the person has gone to trial and a determination has been made as to whether the inmate is to be committed to DHSS as a sexually violent predator (a process that, at minimum, will take at least three months). Once a formal determination as to commitment status is made at trial, the person found to be a sexually violent predator will be transferred to the facility with whom DHSS has contracted to treat and care for these persons.

It is our view that API will be able to provide space for this service for a maximum of two fiscal years. At that point, both because of long-standing API 2000 Project plans and the significant number of inmates and predators involved in either evaluations or annual reviews and the attendant legal proceedings, API will no longer have sufficient beds to house the inmates and predators impacted by this bill.

3. At least initially, during the first two fiscal years, this fiscal notes assumes the use existing API psychiatrists and psychologists for the performance of the screening referrals, formal evaluations, and commitment reviews; we have, from the outset, added one administrative assistant to handle the significant paper work, scheduling complexities, and tracking required by this bill. However, beginning in FY01, we believe that the screening, evaluation, and review activities in this bill will require the employment of a full-time forensic psychiatrist or psychologist. The staffing cost assumptions are based on current State of Alaska salaries; costs are inflated 3% each year.

4. The fiscal note assumes that travel associated with inmate or predator screening referrals, evaluations, and annual reviews should be contained in the Grants line of the budget. Travel costs in the Grants line includes in-state costs for API staff to travel from API to various DOC facilities for the first referral screening of identified inmates by API staff (\$20.0), as well as for the cost of escorted travel when transferring a committed predator to the treatment facility (round-trip costs of \$2.0 per person). The cost of travel to API by inmates, where the court has found that probable cause exists to believe that an inmate may be a sexually violent predator and must be transferred to API for evaluation would be borne by DOC. Following commitment as a predator, and upon time for that predator's annual review, the cost of transporting the predator, with escorts, from their place of treatment back to Anchorage must also be factored in (round-trip costs of \$2.0 per person).

ANALYSIS (cont.):

5. This fiscal note assumes, in accordance with Sec. 47.30.822 of CSSB 216, that DHSS must pay costs relating to the evaluation of persons previously committed to its custody as a sexual, violent predator. Therefore, this fiscal note includes funds to pay for the cost of evaluations and testimony for experts hired by the defense in annual reviews and petition for release cases (cost estimates are based on 4 annual evaluations per year, beginning in FY00, at \$200 per hour for 30 hours, as well as 5 hours for hearing preparation and testimony at \$300 per hour; as well as 4 petition for release hearings that would involve a similar number of hours for evaluation, preparation and testimony for such a hearing). The costs of these review evaluations will increase by an increment of four each year, as the predator population increases.

6. This fiscal note assumes that API will have access to forensic experts for consultative purposes, assuming \$250 per hour for up to 10 hours per month ($\$250 \text{ per hour} \times 10 \text{ hours} \times 12 \text{ months}$, equals \$30.0)

7. In addition, separate from travel costs, there exists inmate and predator transportation costs, to pay for the cost of hiring security transport for the inmates and predators who must appear in court for probable cause hearings, commitment trials, review hearings, etc. API does not presently provide security escorts, as all transportation for its forensic patients are arranged by DOC, the State Troopers, or Anchorage Police Department. Although civilly committed, predators will require significant safeguards to ensure public safety and to avoid the possibility of escapes. Therefore, a transport service will have to be developed and budgeted for in DOC or Public Safety to defray the costs of transport.

8. This fiscal note assumes, beginning in FY01, that the DHSS will approach the Legislature with a capital request to provide the housing necessary to hold those inmates and predators being evaluated. Within four years of passage of this legislation, the State will be confronted with the annual 20 evaluations of inmates who may meet commitment criteria as a sexually violent predator, plus the 16 annual reviews and no doubt at least 10 petition for release hearings and reviews, each of which will require housing in Anchorage for a minimum of 90 days, but more likely 120 or more days, meaning that the State must have access to at least a 30 to 40 bed facility to hold these persons.

Whether the State should opt to construct a facility, or attempt to contract for the beds, is a policy question for future consideration, but there is little doubt such a facility or the beds will be required within only a few years of passage of this legislation. DHSS has placed the word "Placeholder" in the capital expenditure line, to direct the present Legislature to the fact that a decision point lies ahead, and that a large capital expense is one option at that time. If the cost of housing inmates and predators is handled by contracting out this service, only the cost of housing the inmates held for evaluation would constitute an additional cost, since the \$400 a day treatment cost anticipated above for an entire year could be split between the treatment facility and the facility providing housing while the predator is receiving his or her annual review or release hearing.

FISCAL NOTE

No. 6

Bill Version: CSSB216(JUD)

(S) Publish Date: 4/22/98

STATE OF ALASKA 1998 LEGISLATIVE SESSION

Revision Date:

Title:

An Act providing for the civil commit-
ment of sexually violent predators

Dept. Affected:

Alaska Court System

ERU:

Trial Courts

Component:

Sponsor:

Senator Halford

Requestor:

Senate Judiciary

COMPONENT SERIAL NO.

788

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	57.9	64.7	73.9	73.9	73.9	73.9
TRAVEL						
CONTRACTUAL	26.3	26.3	26.3	26.3	26.3	26.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	84.2	91.0	100.2	100.2	100.2	100.2

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

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

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	84.2	91.0	100.2	100.2	100.2	100.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	84.2	91.0	100.2	100.2	100.2	100.2

Estimate of any current year (FY 98) cost: \$

None

Positions

Full-Time						
Part-Time	3	3	3	3	3	3
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by:

Doug Wooliver, Administrative Attorney

Agency:

Alaska Court System

Phone:

264-8285

Date:

04/16/98

Approved by:

Stephanie J. Cole, Administrative Director

Agency:

Alaska Court System

Date:

04/16/98

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

04:45 PM

Rev 1/98

Page 1 of 4

This bill establishes procedures governing the civil commitment of "sexually violent predators". The court first becomes involved in the process when it receives a petition filed by the Department of Law seeking to have a sex offender committed. Upon receipt of the petition the court is required to schedule a hearing within 72 hours to determine whether there is probable cause to believe that the person is a sexually violent predator.

Because the consequences of a determination that a person is a sexually violent predator are severe, it is anticipated that each stage of the process, including the initial probable cause hearing, will be vigorously defended.

If the court determines there is probable cause to believe that the person is a sexually violent predator, the person is taken into custody for the purposes of evaluation. If the results of the evaluation indicate that the person is a sexually violent predator the court is to schedule a trial to be held within 60 days. The trial date can be continued upon the motion of either party or the court.

Because there is no opportunity to plead to a reduced charge (as in criminal cases), it is anticipated that all persons evaluated as sexually violent predators will exercise their right to a jury trial and their right to procure their own experts to conduct evaluations and testify on their behalf. These cases are anticipated to be complex with competing expert testimony regarding the person's mental state and likely future behavior.

If a person alleged to be a sexually violent predator has been found incompetent to stand trial for the underlying sexual offense, the court is to hear evidence to determine whether the person committed the act or acts charged. At the hearing the person is entitled to all the rights available to a defendant in a criminal trial other than the right to a jury trial and the right not to be tried while incompetent. This hearing will be the equivalent of a bench trial and is expected to require the same judicial resources.

After hearing evidence relating to whether the incompetent person committed the act or acts charged, the court is to make specific findings of fact as to whether the person committed the alleged act or acts, the extent to which the person's incompetence affected the outcome of the hearing, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the state's case. If the court finds beyond a reasonable doubt that the person committed the alleged act or acts it may proceed to determine whether the person should be committed. The person has a right to appeal a decision made under this section.

If a sex offender (competent or incompetent) is found by either the court or a jury to be a sexually violent predator, the court is to consider whether less restrictive alternatives to confinement would adequately protect the public. If no alternatives are found, the court is to order the person committed until such time as he or she is safe to be at large.

A person committed as a sexually violent predator has the right to an annual examination of his or her mental condition. He or she also has the right to petition the court for release. It is anticipated that every person in confinement will petition the court each year for release.

There are two ways to petition the court for release: 1) If the Commissioner of the Department of Health and Social Services determines that the person is safe to be at large, he or she will authorize the person to petition the court for release. 2) If the commissioner does not so authorize, the person may petition the court on his or her own.

If the commissioner authorizes the person to petition the court for release, the court shall order a hearing to be held within 45 days of receipt of the petition. The hearing is to be before a jury upon the motion of either the state or the person. The state has the right to obtain its own experts and to have them examine the person. It is estimated that most or all of these hearings will be before a jury.

If a person files a petition for release without authorization from the commissioner, the court is to hold a show cause hearing to determine whether facts exist that warrant a hearing on whether the person is now safe to be at large. The petitioner has the right to be represented by counsel at the hearing but not the right to be present.

If the court finds that probable cause exists that the person is now safe to be at large, it shall set a hearing on the issue. At the hearing, the person is entitled to be present and represented by counsel. He or she is also entitled to all the rights afforded him or her at the initial commitment proceeding. Both the state and the person have the right to retain their own experts and to request a trial by jury. It is anticipated that all cases will be tried before a jury and that the hearings will consume the same judicial resources as the initial civil commitment trial.

If a person has previously filed a petition for release without the approval of the commissioner and the court found, either upon initial review of the petition or following a hearing, that the petition was frivolous or that the petitioner was not safe to be released, the court is to deny any subsequent petition unless it contains new facts upon which the court could find that the person has so changed that a hearing is warranted.

This note is based on the following estimates provided by the Department of Law:

- 1) 5 civil commitment petitions filed per year.
- 2) 5 civil commitment jury trials per year resulting in 4 civil commitments per year.
- 3) 4 petitions for release that result in show cause hearings in FY 2000
8 petitions for release that result in show cause hearings in FY 2001
10 petitions for release that result in show cause hearings in FY 2002 and each year thereafter.
- 4) 4 appeals filed in FY 99 and FY 2000
7 appeals (including appeals from denials of petitions for release) filed in FY 2001.
8 appeals filed in FY 2002 and each year thereafter.

This note assumes that both the number of petitions for release and the number of appeals filed each year will stabilize after FY 2002. It also assumes that once a person is committed, the commissioner will not (at least by FY 2004) authorize a person to petition the court for release and, additionally, that the court will not (at least by FY 2004) find probable cause that a person is safe to be at large. Because of this, this note does not include any estimated expenses resulting from trials regarding the release of a petitioner. If any of these conservative estimates turn out to be in error, or if the number of civil commitment petitions filed with the court each year should increase, the court may return to the legislature for additional funding. Finally, this note does not reflect the costs associated with the additional 4 to 8 appeals the Supreme Court will hear each year. However, if the number of appeals should increase, the court may return to the legislature for additional funding.

Alaska Court System

Fiscal Analysis

CSSR 218 (JUD) Work Draft E, dated 4/13/98

SB216#6

FY 99 5 new commitments (with probable cause hearings @ 2 days each & jury trials @ 15 days each)Personal Services

	Salary	Benefits	Total
Superior Court Judge Pro Tem, Anchorage, PPT, 4.25 months	\$ 20,719	\$ 10,099	\$ 30,818
In-Court Clerk, 12A, Anchorage, PPT 4.25 months	10,247	2,222	12,469
Law Clerk, 13D, Anchorage, PPT, 4.25 months	12,036	2,609	14,645
Total Personal Services			\$ 57,932

Contractual Services

Jury fees for 14 person jury for 15 days at \$25 a day for 5 trials	26,250
FY 99 Total Cost	84,182

FY 00 5 new commitments (with probable cause hearings @ 2 days each & jury trials @ 15 days each) & 4 petitions to release (with probable cause hearings @ 2 days each)Personal Services

	Salary	Benefits	Total
Superior Court Judge Pro Tem, Anchorage, PPT, 4.75 months	\$ 23,156	\$ 11,287	\$ 34,443
In-Court Clerk, 12A, Anchorage, PPT 4.75 months	11,452	2,483	13,935
Law Clerk, 13D, Anchorage, PPT, 4.75 months	13,452	2,918	16,368
Total Personal Services			\$ 64,746

Contractual Services

Jury fees for 14 person jury for 15 days at \$25 a day for 5 trials	26,250
FY 00 Total Cost	90,996

FY 01 - FY 04 8 new commitments (with probable cause hearings @ 2 days each & jury trials @ 15 days each) & 8 (10 in FY 02-04) petitions to release (with probable cause hearings @ 2 days each)Personal Services

	Salary	Benefits	Total
Superior Court Judge Pro Tem, Anchorage, PPT, 5.25 months	\$ 25,594	\$ 12,475	\$ 38,069
In-Court Clerk, 12A, Anchorage, PPT 5.25 months	12,658	3,929	16,587
Law Clerk, 13D, Anchorage, PPT, 5.25 months	14,868	4,409	19,277
Total Personal Services			\$ 73,933

Contractual Services

Jury fees for 14 person jury for 15 days at \$25 a day for 5 trials	26,250
FY 01 - FY 04 Total Cost	100,183

SB

218

HFIN

FILE



Official Business

Alaska State Legislature

Senate

Sponsor Statement CS SB 218 (FIN)

"An Act relating to the crimes of murder, manslaughter, and criminally negligent homicide; to homicides of children and relating to the crime of interference with custody of a child or incompetent person."

All too often, when a child is killed, even when the killer is convicted, they do not receive punishment commensurate with the severity of their actions. Tragically, this has especially been the case when very young children are killed. I believe these children, who are the most vulnerable members of our society, are owed far more than our criminal justice system has afforded them. CS SB 218 (FIN) makes the following changes to our criminal statutes:

- *amends current law by adding a new form of first degree murder when the death of a child results from the commission or attempted commission of kidnapping, or of a sexual offense,*
- *expands the list of offenses constituting felony murder to include sexual abuse of a minor in the first and second degrees,*
- *elevates criminally negligent homicide from a class C to a class B felony,*
- *establishes a twenty year mandatory minimum sentence for a person convicted of a murder of a child under the age of sixteen,*
- *increases the mandatory minimum sentence (from five to seven years) for manslaughter, when the victim is a child under the age of sixteen,*
- *establishes a new sentencing provision, which allows for a term of unsuspended imprisonment that exceeds the presumptive term, for certain felony offenses if the victim is a child under the age of 16,*
- *establishes the crime of custodial interference in the first degree if a person violates AS 11.41.330 and causes a child or incompetent person to be removed or kept outside the state.*

Children deserve a responsible level of care when they are entrusted to an adult. CS SB 218 (FIN) will help accomplish both the goals of deterrence and establishing a punishment more fitting the crime. Passage of this bill will correct serious deficiencies in our legal system. I urge your support.

**RICK
HALFORD**

State Capitol
Juneau, Alaska
99801-1182
Phone (907) 465-4958

P.O. Box 670190
Chugiak, Alaska 99567
Phone (907) 694-4958

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 376-4958

LEGAL SERVICES

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

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

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

MEMORANDUM

April 29, 1998

SUBJECT: Sectional Summary of CSSB 218(FIN). (Work Order No. 20-LS1322/L)

TO: Senator Rick Halford
Attn: Bill Stoltz

FROM: Gerald P. Luckhaupt *Jag*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill (1) amends AS 11.41.100(a)(2) by simplifying the language and expanding the range of conduct proscribed by this particular form of first degree murder of children under 16 years of age; and (2) also amends AS 11.41.100(a) by adding a new form of first degree murder which consists of making certain felony murders^{1/} of children; these murders are currently, for the most part, proscribed under the felony murder provisions of AS 11.41.110(a)(3) as second degree murder.

Section 2 of the bill amends AS 11.41.110(a)(3) by making a conforming change to AS 11.41.110(a)(3) (p. 2, lines 16 - 17) to the recodification of certain felony murders of children as first degree murder and by expanding the application of the felony murder rule of AS 11.41.110(a)(3) to sexual abuse of a minor in the first and second degrees.

Section 3 of the bill increases the penalty for criminally negligent homicide from a class C felony to a class B felony.

Section 4 of the bill amends AS 11.41.320(a) by providing that a person commits the crime of interference with child custody if the person causes the victim to be kept out of state in addition to removing the victim from the state as provided under existing law.

Section 5 of the bill amends AS 12.55.125(b) by requiring a 20 year mandatory minimum sentence for a person convicted of murder in the second degree of a child under the age of 16 and the court finds by clear and convincing evidence that the person was the legal

^{1/}When the death of a child results from the commission or attempted commission of a sexual offense or kidnapping of the child.

Senator Rick Halford

April 29, 1998

Page 2

guardian of the child or occupied a position of authority in relation to the child or caused the death of the child during commission of an offense under AS 11.41.200 - 11.41.530.

Section 6 of the bill established a presumptive sentence of seven years for a first felony offender convicted of manslaughter in the death of a child under 16 years of age.

Section 7 of the bill amends AS 12.55.125(k) by instructing courts that a first felony offender convicted of criminally negligent homicide of a child under 16 years of age may be sentenced to a term of imprisonment that is greater than the presumptive term for a second or third felony offender.

Section 8 of the bill provides that the bill only applies to offenses committed after the effective date of the bill.

GPL:jdr
98-279.jdr

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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



Business Manager

Joseph E. Young
Anchorage

Board of Directors

John Charbonneau, President
Anchorage

Robin Lown, Vice President
Juneau

Michael Corkill, Past President
Anchorage

Charles Kopp, Member
Kenai
Pres. Kenai Chapter

Leo Brandlen, Member
Anchorage
Pres. Anchorage Chapter

Jella Long, Member
Palmer
Pres. Mat-Su Chapter

Michael Judd, Member
Fairbanks
Pres. Farthest North Chapter

George Cole, Member
Juneau
Pres. Capitol City Chapter

Helga King, Member
Wrangell
Pres. Wrangell Chapter

Leroy Mestas, Member
Ketchikan
Pres. First City Chapter

Robert Claus, Member
Craig
Pres. Prince of Wales Chapter

John Lucking, Jr., Member
Unalaska
Pres. Aleutian Islands Chapter

Senator Rick Halford
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

February 11, 1998

Dear Senator Halford,

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing SB 218 relating to the crime of murder and to the murder of children.

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 218. We feel that this legislation will eliminate convoluted language currently in AS 11 41.100. 100(a) and will provide easier prosecution for offenders violating this section of the Alaska Statutes.

We have spoken at length with law enforcement officers who investigate such crimes and have received much positive reaction to the intent of this bill. They feel that this legislation will assist them in their investigations.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

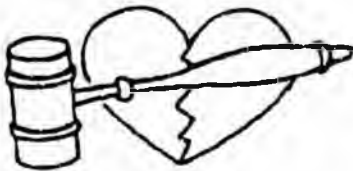
Once again, thank you for sponsoring this legislation.

Sincerely,

John Charbonneau
State President
Alaska Peace Officers Association

FEB 14 1998

VICTIMS



for Justice 619 East Fifth Avenue • Anchorage, AK 99501
(907) 278-0977 • Fax: (907) 258-0740

February 4, 1998

Senator Rick Halford
State Capitol
Juneau, AK 99801-1182

Dear Senator Halford:

Victims for Justice (VFJ) strongly supports the proposed Senate Bill 218, "an Act relating to the crime of murder and to murder of children."

The senseless death of a child is one of the greatest of all tragedies. It is time to ensure that those who would harm our children are dealt with in the strongest possible terms. The age of the victim should not deter or weaken this message.

Crimes of violence that jeopardize not only our personal safety, but destroy the tranquillity of our families, cannot be minimized or trivialized. If the most vulnerable of our society, our children, are murdered, those who are responsible must be held fully accountable. Those who value life so cheaply are entitled to no special consideration.

Sincerely,

Janice Lienhart
Janice Lienhart
Executive Director

Cathy Satterfield
Cathy Satterfield
Administrative Director

Author: ruawaic@aonline.com (Administration) at CC2MHS1
Date: 1/26/98 4:58 PM
Priority: Normal
TO: Senator Rick Halford at LAA_TRANS
Subject: LSB218
January 23, 1998

Senator Rick Halford
State Capitol
Juneau, AK 99801-1182

RE: SB218

Dear Senator Halford:

Thank you so much for sponsoring SB218, "An Act relating to the crime of murder and to murder of children." AWAIC provides shelter to children made homeless by domestic violence. In fact, at any given time, about sixty percent of our clients are children. As a long-time children's advocate, I certainly agree with your statement that children are the most vulnerable members of our society. They certainly deserve more protection than our society has afforded them. Your bill moves the system in the right direction. I appreciate your taking this initiative and will do whatever I can to provide support. Please let me know what I can do to be helpful.

Sincerely,

Jan MacClarence
Executive Director

c: Sen. Robin L. Taylor
Sen. Drue Pearce
Sen. Mike Miller
Sen. Sean Parnell
Sen. Johnny Ellis
Lauree Hugonen, Alaska Network on Domestic Violence and Sexual
Assault

#1

no lobby
Adopted

AMENDMENT

OFFERED IN THE HOUSE
TO HCS for CS for SB 218(JUD)

BY

Page 3, line 27 before "legal"

INSERT: "natural parent, step parent, adopted parent."

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 1, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/5/98

The FINANCE Committee considered:

CSSB 218(FIN)

CS FOR SENATE BILL NO. 218(FIN)

CRIMES OF MURDER & CHILD MURDERS

"An Act relating to the crimes of murder, manslaughter, and criminally negligent homicide; relating to homicides of children; and relating to the crime of interference with custody of a child or incompetent person."

recommends it be replaced with the following committee substitute HCS CSSB 218(FIN) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) Senate DOA, 2/12/98

zero fiscal note(s) _____

zero fiscal note(s) ^{Senate} DOC, 2/12/98
DOL, 2/12/98

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therriault</i>	Therriault	X			
<i>Eden Mulder</i>	Mulder	X			
<i>Walter Kohring</i>	Kohring	X			
<i>James Martin</i>	Martin	X			
<i>John Davies</i>	Davies	X			
<i>Ben Grussendorf</i>	Grussendorf	X			
<i>David E. Moses</i>	Moses	X			
<i>Pat Kelly</i>	Kelly	✓			

CHAIR'S SIGNATURE

CO-CHAIR

Gene Therriault
Therriault

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: CSSB 218 (JUD)
(S) Publish Date: 2-12-98

Revision Date: _____
Title: "An Act relating to the crime of murder of children..."
Sponsor: Senator Halford
Requestor: (S) JUD

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 98) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill would increase the severity of child homicides. Some non-intentional homicides that are currently charged as criminally negligent homicide, manslaughter, and second degree murder could be charged as first or second degree murder under this legislation. Felony murders involving sex offenses would be raised from second degree to first degree murder. Penalties would be increased as well. This bill is similar to provisions included in the Governor's Child Protection Bill.

The Public Defender Agency (PDA) does not believe that this bill would necessarily result in more criminal cases being filed. However, the seriousness of the offenses will obviously be increased. PDA is not able to say exactly what fiscal impact this bill, standing alone, would have, but it is sure to increase the amount of time attorneys and staff will have to spend on child homicide cases. It will also increase the amount PDA will need to expend on expert witnesses and other litigation support.

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

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 2/3/98

DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

FISCAL NOTI

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 2
Bill Version: CSSB 218 (JUD)
(S) Publish Date: 2-12-98

Revision Date (Note if correction) _____ Dept. Affected Corrections
Title An Act relating to the crime of murder and to BRU Administration and Operations
muder of children Component ALL
Sponsor Senator Halford, Green, Donley
Requester Senate Judiciary Component Serial No. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No Fiscal Impact

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

Phone 465-3307
Date 2/4/98
Date 2/4/98

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

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

No. 3
 Bill Version: CSSB 218 (JUD)
 (S) Publish Date: 2-12-98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affected Law
 Title An Act relating to the crime of murder and to BRU Criminal Division
murder of children. Component 1st-4th Jud Dist; OSPA
 Sponsor Senator Halford
 Requester Senate Judiciary Committee Component Senal No 2198-99/2261/79/01/03

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 SB 218 increases the penalties for those people who kill children. These changes will have no fiscal impact on the Department of Law. The department already aggressively pursues criminal cases involving the murder of a child. Enactment of this legislation will increase the penalties for those charged, but will not increase the department's workload.

Prepared by Juan M. Kasson Phone 465-5370
 Division Attorney General's Office Date 2/2/98
 Approved by Commissioner Bruce M Botelho, Attorney General Date 2/2/98
 Agency Department of Law

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

SB

218

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/11/98

FURTHER: 4/1/98 2/31/98

DATE TURNED
IN TO OFFICE: 1 April 98

Finance Committee considered **SENATE BILL NO. 218**

"An Act relating to the crime of murder and to murder of children."

and recommends:

be replaced with CS SB 218 (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 title
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Read & Pass</i>	<input checked="" type="checkbox"/>				
<i>Sean P. Farrell</i>	<input checked="" type="checkbox"/>				
<i>Joe Pedana</i>	<input checked="" type="checkbox"/>				
<i>John Logus</i>	<input checked="" type="checkbox"/>				
<i>Debra Dile</i>	<input checked="" type="checkbox"/>				
Co-Chair: <i>James</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>Bob</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
DOL, Criminal Div	2/2/98	<input checked="" type="checkbox"/>	
DOC, Admin. Operat.	2/4/98	<input checked="" type="checkbox"/>	
DOA, Public Defender	2/3/98		*

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

5/31/98 233

FISCAL NOTE No. 3

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: CSSB 218 (JUD)
(S) Publish Date: 2-12-98

Revision Date (Note if correction) _____ Dept. Affected Law
 Title An Act relating to the crime of murder and to BRU Criminal Division
murder of children. Component 1st-4th Jud Dist; OSPA
 Sponsor Senator Halford
 Requester Senate Judiciary Committee Component Serial No. 2198-99/2261/79/01/03

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (

FUND SOURCE (Thousands of Dollars)

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 Gf						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 SB 218 increases the penalties for those people who kill children. These changes will have no fiscal impact on the Department of Law. The department already aggressively pursues criminal cases involving the murder of a child. Enactment of this legislation will increase the penalties for those charged, but will not increase the department's workload.

Prepared by Bruce M. Kasson Phone 465-5370
 Division Attorney General's Office Date 2/2/98
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 2/2/98
 Agency Department of Law

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTI

No. 2
 Bill Version: CSB 218 (JUD)
 (S) Publish Date: 2-12-98

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affected Corrections
 Title An Act relating to the crime of murder and to BRU Administration and Operations
muder of children Component ALL
 Sponsor Senator Halford, Green, Donley
 Requester Senate Judiciary Component Serial No. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No Fiscal Impact

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

Phone 465-3307
 Date 2/4/98
 Date 2/4/98

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

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: CSSB 218 (JUD)
(S) Publish Date: 2-12-98

Revision Date: _____
Title: "An Act relating to the crime of murder of children..."
Sponsor: Senator Halford
Requestor: (S) JUD

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 98) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill would increase the severity of child homicides. Some non-intentional homicides that are currently charged as criminally negligent homicide, manslaughter, and second degree murder could be charged as first or second degree murder under this legislation. Felony murders involving sex offenses would be raised from second degree to first degree murder. Penalties would be increased as well. This bill is similar to provisions included in the Governor's Child Protection Bill.

The Public Defender Agency (PDA) does not believe that this bill would necessarily result in more criminal cases being filed. However, the seriousness of the offenses will obviously be increased. PDA is not able to say exactly what fiscal impact this bill, standing alone, would have, but it is sure to increase the amount of time attorneys and staff will have to spend on child homicide cases. It will also increase the amount PDA will need to expend on expert witnesses and other litigation support.

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

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 2/3/98

DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

OFFERED IN THE SENATE

TO: CSSB 218(JUD)

1 Page 1, line 2:

2 Delete "and"

3 Insert "; relating"

4 Following "children":

5 Insert "; and relating to the crime of interference with custody of a child
6 or incompetent person"

7 Page 3, following line 10:

8 Insert a new bill section to read:

9 "** Sec. 4. AS 11.41.320(a) is amended to read:

10 (a) A person commits the crime of custodial interference in the first degree
11 if the person violates AS 11.41.330 and causes the child or incompetent person
12 [VICTIM] to be

13 (1) removed from the state; or

14 (2) kept outside the state."

15 Renumber the following bill sections accordingly.

SB

219

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 1/30/98

FURTHER: REPORTED OUT OF
4/22/98

DATE TURNED

IN TO OFFICE: 23 April 98

Finance Committee considered SENATE BILL NO. 219

"An Act relating to establishing an office of crime victims' advocacy; and amending Rule 16, Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence."

and recommends:

be replaced with _____ CS _____ SB 219 _____ (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 title

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Kell F. Kelly</i>	<i>✓</i>	<i>Colan</i>	<i>X</i>		
<i>Sean Rainell</i>	<i>X</i>	<i>John Logans</i>	<i>✓</i>		
<i>W. J. Doherty</i>	<i>X</i>				
Co-Chair: <i>Glance</i>	<i>✓</i>	Co-Chair:			
Co-Chair: <i>Scott May</i>	<i>✓</i>	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

LAA	4/22/98		508.6
Forthcoming fiscal notes Dept Revenue Dept Corrections			

APPROPRIATION -- no fiscal note

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Public Safety	1/21/98	<i>✓</i>	
Law	1/29/98		*

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

4/22/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

NO. _____
BILL VERSION: CS SB219(FIN)
PUBLISH DATE: _____

Revision Date: _____
Title: "An Act relating to establishing an office of
crime victims' rights; and amending Rule 16, Alaska...
Sponsor: Senator Halford
Requestor: Senate Finance

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Council & Subcommittees

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	429.6	429.6	429.6	429.6	429.6	429.6
TRAVEL	4.2	4.2	4.2	4.2	4.2	4.2
CONTRACTUAL	28.6	28.6	28.6	28.6	28.6	28.6
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	44.2	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	508.6	464.4	464.4	464.4	464.4	464.4

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE	1050	508.6	464.4	464.4	464.4	464.4
TOTAL		508.6	464.4	464.4	464.4	464.4

POSITIONS:

FULL-TIME	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary) CSSB 219(JUD) establishes an Office of Victims' Rights in the Legislative Branch of Government. The Victims' Advocate will be appointed for 5 years and be compensated at Range 26A. For the purposes of this fiscal note, staff for the Victims' Advocate will be 2 attorney's, 1 paralegal, and 3 clerical personnel. Office Space will be acquired and furniture and equipment will be purchased to set up the office. If the office were staffed with 1 attorney, 1 paralegal, and 1 clerical position the cost for the initial year would be \$337.7 and \$307.5 thereafter. LAA will process payroll, provide accounting and teleconference assistance and DP support at no cost to the Office of Victims' Rights.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 4/22/98

Approved By: Pamela A. Varni, Executive Director *Pamela Varni*
Agency: Legislative Affairs Agency Date: 4/22/98

CONTINUATION OF FISCAL NOTE: CSSB 219(JUD)

	Monthly Salary	#	Annual Salary	Benefits	Health Insurance	Total
Victims Advo 26A	5815	1	69780	88348	5700	94048
2 Attorney's 23A	4889	2	117336	148559	11400	159959
1 Paralegal 16A	3031	1	36372	46051	5700	51751
1 Secretary 14A	2640	1	31680	40110	5700	45810
1 Secretary 12A	2324	1	27888	35309	5700	41009
1 Secretary 10A	2059	1	24708	31283	5700	36983
						429,560
						429,560

Travel

It is anticipated that the victims' advocate will make 3 trips to attend in state meetings and 1 trip to meet with victims' rights organizations in other states.

	Travel	Per Diem		
3 trips in state	1110	1629	2739	
1 trip out of st	780	680	1460	
			4199	4,199

Contractual

It is anticipated that the Office of the Victims' Rights will install phones, incur phone bills, and use postage and need maintenance on their copier machine.

Phones	3600	
Postage	3000	
Copier Maintenance	600	
Membership Dues	500	
Subscriptions	500	
Office Space 1,000 Sq. Ft.	20400	
	28600	28,600

Supplies

It is anticipated that the Office of the Victims' Rights will need office supplies.

Office Supplies	2,000	2,000
-----------------	-------	-------

Equipment

It is anticipated that the Office of Victims' Rights will need equipment.

7 Phones	3500	
1 Fax Machine	650	
3 Executive Desks	4500	
4 Secretarial Desks	4000	
7 Chairs	1400	
7 File Cabinets	2800	
7 Computers	14000	
3 Printers	5400	
1 Copy Machine	8000	
	44250	44,250

Grand Total 508,609