

ALASKA LEGISLATURE

2024

HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000

175

HB

368

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/29/00

REPORTED OUT OF
SFC 4/30/00

FURTHER:

DATE TURNED
IN TO OFFICE: 30 April 00

Finance Committee considered

CS FOR HOUSE BILL NO. 368(JUD) am

RELEASE OF CRIMINAL DEFENDANT

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous S CS CS HB 368 (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>[Signature]</i>	✓	<i>[Signature]</i>		X	
<i>[Signature]</i>	✓				
<i>[Signature]</i>	X				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Admin	4/29/00		*

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Corrections	4/29/00		*
Law	4/29/00	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 4/29/00

BILL NO. SCS CSHB 368(JUD)

Revision Date: _____
Title: "An Act relating to release of persons before trial..."
Sponsor: Rules Committee
Requestor: Sen Fin

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
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 00) cost: \$ _____ *

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

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

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Bob Poe
Agency: Department of Administration

Date: 4/29/00

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

FISCAL NOTE

STATE OF ALASKA

BILL NO. _____

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

The main fiscal concern the Public Defender Agency has concerning this bill involves Performance Bonds. If Performance Bonds are routinely required, Public Defender Agency attorneys will need to do significantly more work in the many bail hearings the attorneys cover every day in felony and misdemeanor cases.

Although some judges have imposed Performance Bonds in addition to other conditions of release, the Alaska Court of Appeals recently made it clear that they were unenforceable. Because of Performance Bonds have not been enforceable, most judges have not used them. So, there is little current fiscal impact due to Performance Bonds.

The current version of this bill would allow for Performance Bonds. But, surprisingly, the bill does not appear to provide for an enforcement mechanism. Therefore, the fiscal impact is unclear.

The other provision that will have some fiscal impact is the new misdemeanor of Violating Conditions of Release. We know there will be some fiscal impact, but cannot determine exactly what it will be.

Although we are submitting an indeterminate fiscal note, the Public Defender Agency's current budget is under quite a bit of strain. If the Performance Bond and Violating Conditions of Release provisions cause significant additional work, we will require additional funding in the future.

FISCAL NOTE

Bill version: HB 368

(H) Publish Date: 2/11/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 4/30/00

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to release of persons before BRU Administration and Operations
trial and before sentencing or service of sentence; relating... Component All
 Sponsor Rules Committee
 Requester Governor Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation creates the new crime of "violation of condition of release." The Dept. of Corrections believes this new crime will have a small impact on the number of offenders in DOC custody and therefore is submitting an indeterminate fiscal note. Under current law, if offenders violate their conditions of release they cannot be arrested unless a new crime is committed. This presents a problem for law enforcement and public safety. If passed, this legislation would allow for an immediate arrest and return to custody of violators and a decrease in the risk to the public safety. Under current law the offender would eventually be returned to custody. This is simply a more efficient method of removing an offender from the community immediately upon violation as opposed to waiting for the offender to be brought before the Court. If an offender is convicted of this new crime, they will most likely receive a concurrent sentence. A small fraction may receive sentences in addition to their original conviction resulting in a small cost to DOC.

Prepared by: Candy Brower, Legislative Liaison
 Division Commissioner's Office
 Approved by Commissioner Margaret M. Pugh
 Agency Dept. of Corrections

Phone 465-3307
 Date/Time 2/9/00 10:05 AM
 Date 2/8/00

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

COMMITTEE COPY For further distribution information, call the Governor's Legislative Office
 (Rev 10/99) 2000Inform.xls/OMB

FISCAL NOTE
 REPORTED OUT OF
 SFC 4/30/00

Bill Version: HB 368
 (H) Publish Date: 2/11/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "... relating to release of persons before trial BRU Criminal Division
 and ... to the offense of violation of conditions of release ..."
 Component 1st-4th Judicial Districts; Criminal
 Sponsor Rules Committee Appeals/Special Litigation
 Requester Governor Component No. 2198-99;2201/03/61/79

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill adopts stronger enforcement measures to encourage persons released before trial, imposition of sentence, or service of sentence to abide by conditions of release. One of the enforcement measures included in the bill is the creation of a new crime. The bill provides that it is a class A misdemeanor for a person to violate release conditions if the person is charged with a felony, and a class B misdemeanor to violate conditions for a person charged with a misdemeanor. Currently, although it is a crime to wilfully fail to appear as ordered by the court, there are few options for: violation of other release conditions except incarcerating the person.

The bill also clarifies the law as it relates to performance bonds, and the forfeiture of the posted security on violation of conditions of release; provides that the court may find a third-party custodian in contempt for failure to report immediately a defendant's violations of conditions of release; and clarifies the court may order a person begin their

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date/Time 2/9/00, 10:07 AM
 Approved by Commissioner Bob M. Betts *Bob M. Betts* Attorney General
 Agency Department of Law Date 2/9/00

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

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

COMMITTEE COPY

FISCAL NOTE

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

BILL NO.

ANALYSIS CONTINUATION

sentence at a later date than when the sentence is imposed.

The Department of Law does not anticipate a fiscal impact from passage of this legislation. The department already appears in court when conditions of release are violated to try and get the person's release revoked by the court, and passage of this bill will not increase the time commitment already required.

SECTIONAL ANALYSIS - CSHB 368 (JUD)am

Pretrial Release

The purpose of CSHB 368 (JUD) is to give the criminal justice system more tools to allow a person charged with a crime to be released before trial, or pending sentence or appeal, and at the same time protect the public and ensure that the person will appear for trial or other procedures.

When a court releases a defendant on condition that the defendant abide by certain conditions, it is important to the safety of the public and the victim that the defendant honor the conditions.

Sections 1, 2, and 4: One important tool for pretrial release is putting the defendant in the custody of a third party. The custodian is charged with the responsibility of making sure that the defendant abides by conditions the court has imposed; the custodian must report to the courts or the police if the defendant violates conditions. It is a responsibility that most custodians take very seriously. Some, however, do not. The bill specifies that a custodian must promise to immediately notify the police or court if the defendant has violated conditions, or face the possibility of being found in contempt.

Section 3: Currently, if a defendant is released before trial on certain conditions, violation of the condition results in the possibility that the defendant may be put back in jail for the original charge. The defendant will be given credit for time served against any sentence imposed on the original charge; there aren't additional consequences for the violation that would discourage the defendant from violating conditions. The bill adopts a misdemeanor offense for a person who violates release conditions - a class A misdemeanor if the person is charged with a felony, and a class B misdemeanor if the person is charged with a misdemeanor. Both the Municipality of Anchorage and the City and Borough of Juneau have similar ordinances, and have found them to be very useful tools in encouraging defendants to abide by conditions of release.

Section 4: The bill specifically allows courts to impose performance bonds; performance bonds allow a court to require a defendant to post a bond which will be forfeited if the defendant does not abide by conditions of release. Judges in some parts of the state have been imposing performance bonds for many years; these are very useful in encouraging people to honor their conditions. On February 18, 2000, however, the Court of Appeals decided that the bail statutes do not allow for imposition of performance bonds. (*Lonis v. State*, Op. No. 1661, February 18, 2000.) This bill specifically provides specific statutory authorization of performance bonds. Defendants have a monetary reason, in addition to other reasons, to honor release conditions if a performance bond is imposed.

Sections 5, 6 and 8: Amends the bail statutes and the court rule for forfeiture of security by requiring forfeiture of security if the defendant violates a condition of release that prohibits contact with a victim or witness. It allows the court to forfeit security if the person violates other conditions. It provides that a person may ask the court to set aside the forfeiture if the failure to appear or abide by conditions, not including a condition not

to contact a victim or witness, was due to circumstances beyond the control of the defendant. The forfeiture may be set aside for violation of a condition not to contact a victim or witness if the contact was not knowing or intentional.

Section 7: Clarifies the law to specifically allow courts to order defendants to begin service of a sentence date in the future. This is important in managing prison populations.

Sections 9 and 10: These adopt applicability and effective date clauses.

HB 368

TONY KNOWLES
GOVERNOR
governor@alaska.gov

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

PO Box 1100
Juneau, Alaska 99801
(907) 586-3000
Fax (907) 586-3002
www.governor.ak.gov

February 10, 2000

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

Dear Speaker Porter:

I am transmitting a bill that will protect the public by adopting stronger enforcement measures to encourage persons to abide by their conditions of release before trial, imposition of sentence, or service of sentence. Specifically, the bill addresses four areas explained in more detail below:

- Establishing the crime of violating conditions of release;
- Authorizing courts to order performance bonds;
- Charging contempt of court for third-party custodian's failure to report condition violations;
- Authorizing delayed reporting date for jail time.

Violating Conditions of Release. In criminal cases, an accused has a constitutional right to be released on bail before trial. Persons who have been found guilty of a crime may be released before sentence is imposed or before ordered to serve a sentence. When releasing a person, the court may impose both general conditions, such as requiring that the accused violate no laws, and conditions specific to the particular case or defendant, such as forbidding an accused in a domestic violence case from contacting the victim. The safety of the victim often depends on the enforcement of release conditions. Currently, although it is a crime to willfully fail to appear as ordered by the court, there are few options for violation of other release conditions, except incarcerating the person. The bill provides that it is a class A misdemeanor for a person to violate release conditions if the person is charged with a felony, and a class B misdemeanor to violate conditions for a person charged with a misdemeanor.

Transmittal Letter

The Honorable Brian Porter
February 10, 2000
Page 2

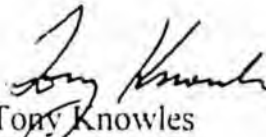
Performance Bonds. The bill clarifies the law by specifically authorizing the court to order the accused to post a performance bond, and requires that the court forfeit the security if the person violates a condition of no contact with the victim or witness in a proceeding. The court may forfeit the security if the accused violates other conditions. The standard for forfeiture of security in Rule 41(f), Alaska Rules of Criminal Procedure, is amended to require that security be forfeited unless the defendant could not comply due to circumstances beyond the control of the defendant. An example of such circumstances includes weather conditions that prevent airplane transportation, if there is no alternative way to travel to court.

Third Party Custodians. Courts often release a defendant to the custody of a third party, either an individual or an organization. Custodians are required to report to the court or the police if the defendant violates release conditions, but often do not. The bill provides that a third-party custodian can be found in contempt for failing to report immediately a defendant's violations of conditions of release ordered by the court, and requires the court to inform the custodian of the possible consequences of ignoring the duty to report.

Delayed Reporting Date. The bill specifically gives the court the authority to order a person sentenced to a period of incarceration to begin serving the sentence at a date sometime after it was imposed. With overcrowded correctional facilities, this is useful to help avoid "bottlenecks" in admissions by proper scheduling.

I urge your prompt and favorable consideration of this measure.

Sincerely,


Tony Knowles
Governor

SENATE FINANCE COMMITTEE

SIGN-IN

HB 368-RELEASE OF CRIMINAL DEFENDANTS

NAME: Danie Carpenter Subject/Bill No: HB 368
Co./Dept./Title: Law Phone: 3428
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

HB

372

HFIN

FILE

Key points about House Bill 372

(some are in direct response to department of law objections)

- HB 372 – is post conviction, it does not interfere with the adjudication process
- HB 372 is crafted to be permissive, without being proscriptive
- The gate into and out the provisions of HB 372 is guarded by judicial review
- HB 372 is good for lower income folks because it gives them the another option to pay by other than monetary means
- HB 372 is victim-friendly, offender allowed and judicially scrutinized.
- HB 372 applies to non-violent offenders only, the penalties for crimes against persons can not be negotiated.
- Crimes that may be considered for community sentencing by a judge are the same cases in which the judge may suspend the sentence or consider other lesser punishments.
- Page 1 line 9-10 specify that whatever sentence is produced by negotiation much also comply with sentencing guidelines we already have in place – we are not undoing presumptive or mandatory sentencing.
- In section 3, HB 372 is adding one additionally mitigating factor to the 17 existing ones that may be considered by a court in mitigating the form the sentence takes.
- Because we have attempted to be non-proscriptive, some crimes that would be available to negotiate are technically impractical to do so: indecent exposure for example.
- Instead of detailing a multi-page laundry list of do's and don'ts it seems best to say: "No negotiation for violent person to person crime or instances of domestic conflict (defined as one household member victimizing another), all others *may* be considered by the court and the victim or his/her community.

HOUSE COMMITTEE REPORT

Date Referred to Committee: March 30, 2000

FURTHER REFERRALS:

Date of Committee Action: 4-6-00

The FINANCE Committee considered:

HB 372

HOUSE BILL NO. 372

COMMUNITY BASED SENTENCING

"An Act relating to criminal sentencing and restitution."

recommends it be replaced with the following committee substitute

CS HB 372 (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) CRIMINALS 3/30/00

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Ben Therrault</i>	Therrault	X			
<i>Ben Bundy</i>	Bundy	✓			
<i>Alister Man</i>	Alister Man			X	
<i>J. Davis</i>	J. Davis	✓			
<i>Amessant</i>	Amessant	X			
<i>J. Moses</i>	J. Moses	X			
<i>J. Davis</i>	J. Davis	X			
<i>Williams</i>	Williams	X			
<i>Justin</i>	Justin	X			
<i>Sail Phillips</i>	Phillips	✓			

CHAIR'S SIGNATURE

Ben Therrault

THERRAULT

FISCAL NOTE

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction)		Dept. Affected	Department of Corrections
Title	An Act relating to criminal sentencing and restitution.	BRU	Administration and Operations
Sponsor	Rep. Dyson	Component	All
Requester	House Judiciary Committee	Component No.	#0694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation would allow victims and offenders or communities and offenders to negotiate an agreed sentence for an offense and allow for restitution to be made by means other than money. This bill would not include offenses against a person. An agreed sentence could be less than the presumptive sentence for a felony because reaching such an agreement will be a mitigating factor under AS 12.55.155(d).

It is difficult to predict what kind of a fiscal impact this would have on the Department of Corrections. We have no way of knowing how often this would occur and what the outcome would be. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by:	Candy Brower, Legislative Liaison	Phone	465-3307
Division	Commissioner's Office	Date/Time	3/2/00 5:02 PM
Approved by	Commissioner Margaret M. Pugh <i>Margaret M. Pugh</i>	Date	3-2-00
Agency	Dept. of Corrections		

FISCAL NOTE

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)		Dept. Affected	Department of Corrections
Title	An Act relating to criminal sentencing and	BRU	Administration and Operations
restitution.		Component	All
Sponsor	Rep. Dyson		
Requester	House Judiciary Committee	Component No.	#0694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: 0.0

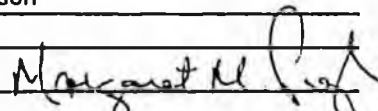
POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation would allow victims and offenders or communities and offenders to negotiate an agreed sentence for an offense and allow for restitution to be made by means other than money. This bill would not include offenses against a person. An agreed sentence could be less than the presumptive sentence for a felony because reaching such an agreement will be a mitigating factor under AS 12.55.155(d).

It is difficult to predict what kind of a fiscal impact this would have on the Department of Corrections. We have no way of knowing how often this would occur and what the outcome would be. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by:	Candy Brower, Legislative Liaison	Phone	465-3307
Division	Commissioner's Office	Date/Time	3/2/00 5:02 PM
Approved by	Commissioner Margaret M. Pugh 	Date	3-2-00
Agency	Dept. of Corrections		

COMMITTEE COPY 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 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to criminal sentencing and BRU Administration and Operations
restitution. Component All
 Sponsor Rep. Dyson
 Requester House Judiciary Committee Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation would allow victims and offenders or communities and offenders to negotiate an agreed sentence for an offense and allow for restitution to be made by means other than money. This bill would not include offenses against a person. An agreed sentence could be less than the presumptive sentence for a felony because reaching such an agreement will be a mitigating factor under AS 12.55.155(d).

It is difficult to predict what kind of a fiscal impact this would have on the Department of Corrections. We have no way of knowing how often this would occur and what the outcome would be. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by: Candy Brower, Legislative Liaison Phone 465-3307
 Division Commissioner's Office Date/Time 3/2/00 5:02 PM
 Approved by Commissioner Margaret M. Pugh Date 3-2-00
 Agency Dept. of Corrections

COMMITTEE COPY PREPARED 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 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction)		Dept. Affected	Department of Corrections
Title	An Act relating to criminal sentencing and restitution.	BRU	Administration and Operations
Sponsor	Rep. Dyson	Component	All
Requester	House Judiciary Committee	Component No.	#0694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: 0.0

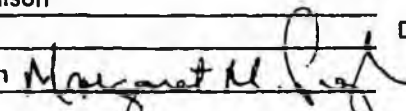
POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation would allow victims and offenders or communities and offenders to negotiate an agreed sentence for an offense and allow for restitution to be made by means other than money. This bill would not include offenses against a person. An agreed sentence could be less than the presumptive sentence for a felony because reaching such an agreement will be a mitigating factor under AS 12.55.155(d).

It is difficult to predict what kind of a fiscal impact this would have on the Department of Corrections. We have no way of knowing how often this would occur and what the outcome would be. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by:	Candy Brower, Legislative Liaison	Phone	465-3307
Division	Commissioner's Office	Date/Time	3/2/00 5:02 PM
Approved by	Commissioner Margaret M. Pugh 	Date	3-2-00
Agency	Dept. of Corrections		

4-6-00
R. Theriault

AMENDMENT # 1

OFFERED IN THE HOUSE

TO: CSHB 372(JUD)
Version "K"

Page 1, line 4:

After "A court,"

Insert "may permit the victim and the offender to submit a sentence for the court's review based upon a negotiated agreement between the victim and the offender, or between the offender and the community if there is no victim. The court, "

Page 1, line 6:

After "AS 11.41"

Insert ", AS 11.46.400,"

6660

CS FOR HOUSE BILL NO. 372(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered: 3/30/00
Referred: Finance**

Sponsor(s): REPRESENTATIVE DYSON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to criminal sentencing and restitution."**

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

3 *** Section 1. AS 12.55 is amended by adding a new section to read:**

4 **Sec. 12.55.011. Victim and community involvement in sentencing.** A court,
5 when considering and imposing sentence under this chapter for an offense other than
6 a violation of AS 11.41 or a crime involving domestic violence, may, with the consent
7 of the victim and the offender, impose a sentence that has been determined by a
8 negotiated agreement between the offender and the victim, or between the offender and
9 the community if there is no victim, if that sentence otherwise complies with this
10 chapter and accomplishes the goals of restoration of the victim and the community and
11 rehabilitation of the offender. Before accepting a negotiated agreement, the court shall
12 determine that the victim has not been intimidated or coerced in reaching the
13 agreement.

[IN this section community should be defined by the court]

14 *** Sec. 2. AS 12.55.045 is amended by adding a new subsection to read:**

15 **(h) In imposing restitution under this section, the court may require the**

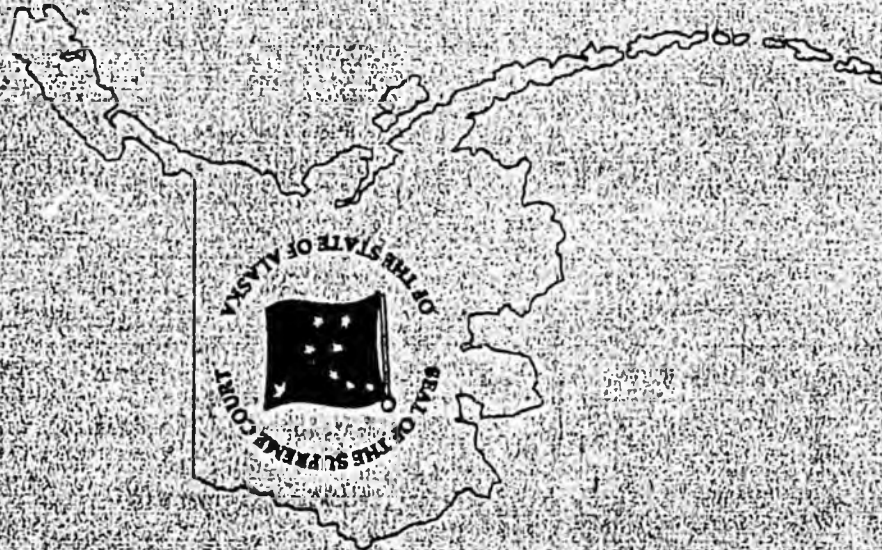
[adopted]

1 defendant to make restitution by means other than the payment of money if the
2 restitution has been determined under a negotiated agreement for a sentence under
3 AS 12.55.011.

4 * Sec. 3. AS 12.55.155(d) is amended by adding a new paragraph to read:

5 (18) the defendant and the victim, or the defendant and the community
6 if there is no victim, have negotiated an agreement for a sentence under AS 12.55.011.

A MESSAGE BY
CHIEF JUSTICE WARREN W. MATTHEWS
TO THE SECOND SESSION OF THE
TWENTY-FIRST ALASKA LEGISLATURE
MARCH 8, 2000



THE STATE OF THE JUDICIARY

IMPLEMENTATION OF LEGISLATION


Although each branch of government has core areas where it must act independently, there are also many areas of shared responsibility. These take many and varied forms. What I propose to do now is list a number of activities the court system took last year in response to legislative initiatives.

→ Mediation and Alternative Dispute Resolution

In 1997 you enacted legislation to encourage broader use of mediation. The Alaska Court System agrees with this goal. I will briefly describe the mediation programs which are now underway.

- The Third District has established a child custody and visitation mediation program. This is funded through a federal grant. The court provides trained mediators to low-income parents in order to help them resolve contested child custody or visitation issues. The program is in place in Anchorage, Fairbanks and Kenai, and is scheduled to begin soon in Southeast Alaska. So far our statistics show that 82 cases have been referred and that complete or partial agreements have been reached in about 70% of these cases.
- There are mediation programs for child-in-need-of-aid cases in Anchorage, Bethel, Fairbanks, Kenai, and Kotzebue. These are also

funded by a federal grant. Two months ago we provided 32 hours of specialized mediation training to 15 contract mediators. Two weeks ago the programs opened for business. We are anticipating a heavy demand for this service and we will be tracking referrals and resolutions.

- In Juneau, Presiding Judge Larry Weeks reports that the judges continue to order the mediation of many domestic relations cases by private mediators. A high percentage of mediated cases are partially or wholly resolved. 
- The Anchorage district court recently began a project using trained volunteer mediators to mediate small claims cases. The mediators make themselves available one day a week to any person who has a small claims trial scheduled.
- Also in Anchorage, a nonprofit corporation, the Resolution Center, is conducting a juvenile mediation program based upon principles of restorative justice. Under this program, when a youth is accused of a crime, Department of Health and Social Services intake officers evaluate the case to see whether it is appropriate for referral. If it is, and if the offender and the victim both agree to participate, a team of volunteer mediators conducts a meeting between the offender and the victim. At the

meeting, the victim relates the effects of the crime and the offender is expected to take responsibility for his or her actions. The victim and the offender often negotiate a sentence, which can include the payment of money, community work service and, necessarily, an apology. This program seems to be working well. It handled 104 cases in 1999.

⇒ Offenders paid over \$10,000 in restitution and the recidivism rate of offenders is said to be low.

- Also on the subject of mediation, the supreme court amended the rules of professional conduct governing lawyers. They must now inform their clients about mediation and alternative dispute resolution in any matter involving or expected to involve litigation. The court also facilitates private mediation by maintaining a directory of mediators on its home page.

Child Protection, Support and Custody

In 1998 the legislature made important changes in the child protection statutes. To reflect these changes, the supreme court has revised the rules governing child protection proceedings. We also added new provisions to ensure that these cases proceed expeditiously.

LOOKING TO THE FUTURE


Speaking to you 28 years ago, Chief Justice Boney remarked that Abraham Lincoln would feel very much at home in most of the courts in America, since they really haven't changed very much since he practiced law in the 1840's in Illinois. In many respects that is still true in Alaska and in the other states. I find it comforting in a way, because common law trials are well designed to achieve justice. But it is also worthwhile to reflect on a trend that might signal an important shift in the way courts do business.




I'm speaking of the restorative justice and therapeutic court movements. Nationally the best known therapeutic court is the drug court, although the same model has been applied to other types of chronic destructive behavior. In the therapeutic court a single judge is assigned a certain class of cases and the judge uses the threat of sanctions to compel compliance with a long term treatment plan. Nationwide some remarkable successes have been reported in drug courts. Recidivism is said to be greatly reduced. In the therapeutic court the judge retains active control over cases for a long period of time, and many hearings are scheduled to ensure that defendants are complying with rehabilitation plans. Thus therapeutic courts are labor intensive and expensive. But advocates say the added costs are much less, viewed overall, than the costs of recidivism experienced in the present system.

In Alaska, the only therapeutic court is the mental health court conducted in the Anchorage district court. This project focuses on misdemeanor offenders who suffer from mental disabilities. These people have historically cycled through the district court following arrests for disorderly conduct or trespassing. In the mental health court, treatment is ordered and monitored closely, as an alternative to incarceration. The project was started in 1998 as a collaboration between the court system, the Department of Corrections, and a number of law enforcement and social service agencies. The program is funded in part by a grant from the Alaska Mental Health Trust. To date, the mental health court has handled the cases of 139 people. Positive results have been achieved. For example, one evaluation studied 36 mental health court participants. In the year prior to their participation, these individuals spent collectively 3,062 days in jail. In the year of their participation in mental health court, jail days were reduced to 585. Alaska Psychiatric Institution days were similarly reduced. Much credit for the initiative that led to the establishment of the mental health court should go to District Court Judge Stephanie Rhoades. We hope to see the program continue, and we also hope that the model can be used outside of Anchorage.

We have recently completed a study of the feasibility of a drug court for Anchorage. This was found to be feasible and a federal grant to begin operating such a project has been applied for.



The term restorative justice refers to an approach to criminal sentencing that is intended to be therapeutic not only for the offender, but also for the victim and the community. The goals of restorative justice are sometimes described as accountability and rehabilitation for offenders, restitution and healing for victims, and for the community. In each case a plan involving punishment, rehabilitation, restitution, apology, and often absolution is agreed to by all concerned, and then implementation of the plan is closely supervised. In Alaska, one adaptation of restorative justice is the use of sentencing circles. These have been used most systematically by Mike Jackson, our magistrate in Kake. He convenes sentencing circles that use restorative justice principles and local customs and traditions. Magistrate Jackson has convened 20 circles to date, usually involving misdemeanor assault and alcohol-related crimes. He reports that the process has worked well in most cases and that some offenders have turned their lives around after years of problems.



We are encouraging therapeutic court and restorative justice initiatives. We will monitor the results. Only time will tell whether these movements become important permanent elements of the administration of justice in Alaska.

But I should add that the youth court movement is a specific example of restorative justice, and it seems to be well on its way to becoming a permanent feature of our justice system. The Anchorage and Fairbanks youth courts are well established.

Anchorage handled more than 400 cases last year and Fairbanks more than 100. Youth court defendants have performed many thousands of hours of community service. The recidivism rate in both programs is low, only around 10%. Youth courts are underway or in the process of development in many other communities. We continue to support the youth courts and applaud the efforts of the many volunteers who participate in their operation.

CONCLUSION

This concludes the substance of my report to you. It has been detailed, perhaps overly so, but I do not want this mass of detail to obscure the central point. The justice system in Alaska is functioning well. Cases are being promptly tried before judges who are fair and highly competent. Our non-judicial employees are doing an excellent job and their morale is good. Innovative initiatives to improve the system are underway, and we encourage them.

The Alaska Legislature has always supported the goal of providing the state with an outstanding justice system. We in the judiciary are also committed to that goal, and with your help we will continue to strive to achieve it.

On a personal note, I would like to observe that this year marks the end of my term as chief justice. This is the sixth time that I have given a State of the Judiciary

INNOVATIVE JUSTICE



MARC LESTER / Anchorage Daily News

"I had to see the place where he died," Arlene Soxie, a health aide from Unalakleet, told Anchorage police detective Joe Hoffbeck during a memorial visit to the Anchorage motel where her 30-year-old son was killed last November. Henry Onglowasruk, diagnosed

as a teenager with schizophrenia, kept his appointments at the mental health court, but he exhibited such bizarre and occasionally violent behavior that his caseworker couldn't find a program or group home willing to accept him.

By SHEILA TOOMEY
Daily News reporter

The woman in the near empty courtroom wore handcuffs and the faded red of the psychiatric unit at Hiland Mountain prison. She was round and pretty and the red went well with her coal black hair.

Anchorage judges find new ways to slow the revolving door of defendants

Her diagnosis was "persistent psychosis," which means even strong medicine won't subdue all her symptoms. And sometimes she drinks too much. She was back in court because she attacked a therapist at the treatment center she was sent to after an earlier arrest.

"I really would like to find out why I do this" the woman told Judge Stephanie Rhoades.

She sounded puzzled, plaintive. "Me, myself, I don't have a good reason why I attack people," she said. "It's voices but it's not voices ... I don't want to have this," she said.

"Whatever it is."

A stranger to court procedure might not

See Page A-4, DISTRICT COURT



BOB HALLINEN / Anchorage Daily News

District Judge Stephanie Rhoades tells a mentally ill defendant that it is a simple choice: Follow a few rules or go back to jail. Rhoades said the mental health court is the highest use of her judicial power to inch a chronic defendant toward a lawful, healthier life.

Support

DISTRICT COURT: Judges tap new ways to solve old problems

Continued from Page A-1

have noticed that the judge and the defendant spoke directly to each other and at length. Her lawyer remained silent at her side. That's not the way it usually works.

□
In another courtroom on another day, a young man told Judge James Wanamaker that once he was able to drink all the time and still maintain a respectable life. He was a party animal in college, he said, but "I was a functional person, a hard-working guy."

No more. Thanks to his drinking, he had been arrested again, this time for malicious destruction of property.

"I really was trying hard," he said. He was polite and well spoken. He was in his 20s but the accelerated aging of the chronic boozier already showed in his face.

After an earlier arrest, the man signed on to Wanamaker's experimental naltrexone program. Naltrexone is a drug that kills the craving for alcohol in most people who take it as part of a sobriety program. It doesn't work with everyone and often not the first time.

Wanamaker could have sent the young man to jail for a couple of months and closed the case. He had broken the rules of his probation. But the judge knew relapse is part of recovery. He left the man in jail over the New Year's weekend, away from temptation. In another week, judge and defendant would talk again and work out new rehab plans.

□
In yet another courtroom,



common.

But District Court has always been a revolving door. So what has changed? Attitude, it seems. The current crop of judges is relatively new and less willing to accept doing business as usual.

With its big volume and scant prestige, District Court hasn't always attracted the best and the brightest. It was often a dead-end job; misdemeanor judges rarely got appointed to a higher court.

Seven of the nine current judges have been on the job for less than 10 years. Six of them were appointed by Gov. Wally Hickel between 1991 and 1994. Hickel said recently that he used a special standard for his District Court appointments. "That court deals with human problems, with families," he said. "I didn't care what the resume said. I wanted people who cared about people."

Whatever the reason, judges like Rhoades, Wanamaker and Ashman, with support from presiding Judge John Lohff and encouragement from the municipal prosecutor's office are crossing lines that judges rarely cross, using the power of the bench to convince and coerce recidivists into lawful lives.

SMALL STEPS

Rhoades, a former prosecutor named to the bench in 1992, runs the only officially supported and the most successful experiment to date.

The idea is simple: Identify defendants whose criminal behavior seems to be a result of mental illness. Put them on long-term bail or probation and supervise them closely as they take



District Judge Peter Ast defendants.



But the judge knew relapse is part of recovery. He left the man in jail over the New Year's weekend, away from temptation. In another week, judge and defendant would talk again and work out new rehab plans.

□ In yet another courtroom, a group of people who rarely get to talk in court were invited to help Judge Peter Ashman fashion a sentence for a North Slope equipment operator, a hard-working father of five convicted of 15 alcohol-related crimes over a dozen years. Increasingly harsh punishment had not convinced him to change his behavior.

After much debate, the circle of family members, law enforcement officers, and people from victim groups concluded the defendant should be encouraged to continue his rehabilitation and spend only a minimum amount of time in jail.

The circle sentencing, an experiment by Ashman, took six hours over three days. People argue that the system can't spend so much time on a routine misdemeanor, the judge said later. "What takes so much time is processing the same people over and over again."

□ Once dismissed as "mondo misdemeanor," a place where meatball justice is doled out in five-minute servings to people who haven't done anything too awful, Anchorage District Court today is edgy and creative, almost visionary as courts go.

Rhoades' mental health court is one of only three in the country.

A few judges in other states are offering naltrexone to alcoholics as an alternative to more jail time, but the idea of judges expanding into areas usually reserved for social workers is not universally popular. Wana-maker and the municipal prosecutor's office got his program going with a minimum of official support.

Ashman's circle sentencing was an exploratory effort at therapeutic or restorative justice, something that is talked about in professional journals a lot more than it's used.

The blossoming of innovation at Fourth Avenue and K Street is the result of a handful of judges who are frustrated at seeing the same people show up in their courtrooms year after year charged with one petty crime after another. They say they think there must be a more effective way to deal with them.

These persistent customers are almost always "but for" cases: But for alcohol, but for drugs, but for mental illness, they would not be trespassing, destroying property, vandalizing some stranger's car or getting in fights with other people like themselves.

For these defendants, "it's clear the traditional approach doesn't work," Rhoades said.

Last year, the nine district judges handled 22,768 cases — drunken driving, domestic violence, minor assaults, trespassing, vandalism, shoplifting and small civil claims. The longest sentence possible for any single charge is a year. A few days or a few weeks are more

bench in 1992, runs the only officially supported and the most successful experiment to date.



BOB HALLINEN / Anchorage Daily News

Laura Brooks, a caseworker for the Department of Corrections, recommends action for mentally ill defendants in Judge Stephanie Rhoades' courtroom. Brooks comes to court with the defendants and reports on their progress.

The idea is simple: Identify defendants whose criminal behavior seems to be a result of mental illness. Put them on long-term bail or probation and supervise them closely as they take small steps toward getting their lives under control.

These are people routinely subject to "mercy arrests" by police who worry about them freezing to death, hurting someone or getting hurt themselves. They are often homeless and are rarely focused enough to negotiate the social welfare system on their own. There is no place for them to go but jail.

America started emptying out its mental hospitals in the 1970s on the theory that, with some assistance, most patients could live in less restrictive, more humane settings. Unfortunately, the better settings rarely materialized and huge numbers of the mentally ill became victims of the streets.

Charged with trespassing or some other nuisance misbehavior, these chronic offenders plead no contest, do some jail time and are returned to their lives in the same or worse condition, primed for another arrest.

"These are the unwanted people," Rhoades said, people who hear voices, who speak to people who aren't there, who frighten a wary public, don't keep appointments and disrupt groups designed to help them.

Often they have stopped taking anti-psychotic drugs because the side effects are so bad. They sometimes substitute alcohol or a street drug, anything to blur the details of a fearful existence.

"I think self-medication is just the easier way to go for these folks," Rhoades said. "It's painful to be hearing voices and to be seeing things and to know what they are telling you to do is wrong." And when they get drunk or stoned, they get stupid like anyone else.

The Anchorage mental health court was started in 1998 with a grant from the Mental Health Trust and cooperation from the Department of Corrections. An analysis by corrections after a year of operation found that defendants who opt into the program get arrested less and spend significantly fewer days occupying expensive jail beds than those not in the program.

Rhoades convenes her special court for about an hour every Tuesday and Thursday. Judge Lohff holds a Wednesday session. On public notices, they're called CRP — the Coordinated Resources Project. "How would you like to see your name under something called 'mental health court?'" Rhoades said.

Defendants must volunteer for the project and be willing to waive trial or be finished with trial and ready for sentencing. Rhoades can revoke their bail and will eventually sentence them. This gives her leverage defendants understand and encourages compliance.

Forty defendants get the services of Laura Brooks, a caseworker for the Department of



To help reform DWI offenders, Dis for alcohol.

Corrections, paid for by the Me Trust, which wants jail alternative for the mentally ill. The rest have to their lawyers and family to develop for them, which Rhoades approves.

Defendants are given an individual do list, which Rhoades repeats with them. Are they reporting as therapy? To whoever monitors the tion? Have they filled out an application? If not, why not? What's their lives right now?

Brooks keeps tabs on the defendant. Alternative Services project them, talks to their families and tries to simplify their dealings with agencies. She comes to court and reports their progress to Rhoades.

If someone does well, he or she gets of applause, led by the judge. If they delivered, they get a stern talking to list, a tighter timeline. If they badly, they might be sent back to short reminder stay, then start over.

Most of the defendants who choose the program are chronically ill. But it also ple like Mandy Gershon, a 35-year-old of four whose mental health collapsed the weight of a back injury, family and depression.

One day she found herself a misdemeanor arraignment, charged with ing a gun. "I was treated like a cri

ill. empty hospitals theory instance, live in ore hu- fortun- settings d and ie men- tims of

passing these o some s in the another

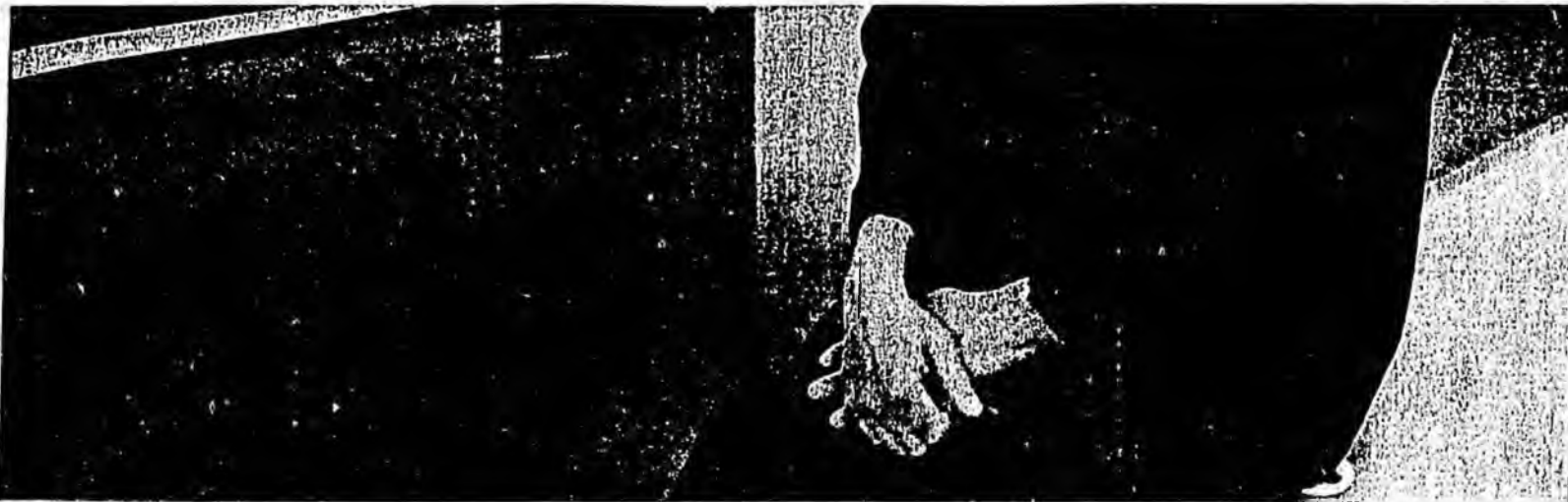
hoades eak to a wary disrupt

nti-psy- are so ol or a ils of a

easier id. "It's seeing you to unk or rt was Mental m the 'sis by found am get fewer those

irt for rursday. on. On — the would hething said.

project nished hoades ly sen- defen- lance. Laura ent of



BOB HALLINEN / Anchorage Daily News

To help reform DWI offenders, District Judge James Wanamaker instigated an experiment using the drug naltrexone, which helps kill the craving for alcohol.

Corrections, paid for by the Mental Health Trust, which wants jail alternatives offered to the mentally ill. The rest have to depend on their lawyers and family to develop a program for them, which Rhoades approves and monitors.

Defendants are given an individualized to-do list, which Rhoades repeatedly reviews with them. Are they reporting as scheduled to therapy? To whoever monitors their medication? Have they filled out an application for housing? If not, why not? What's going on in their lives right now?

Brooks keeps tabs on the defendants in the Jail Alternative Services project. She visits them, talks to their families and therapists, and tries to simplify their dealings with various agencies. She comes to court with them and reports their progress to Rhoades.

If someone does well, he or she gets a round of applause, led by the judge. If they haven't delivered, they get a stern talking to, a shorter list, a tighter timeline. If they've failed badly, they might be sent back to jail for a short reminder stay, then start over.

Most of the defendants who choose the program are chronically ill. But it also helps people like Mandy Gershon, a 35-year-old mother of four whose mental health collapsed under the weight of a back injury, family problems and depression.

One day she found herself at a misdemeanor arraignment, charged with discharging a gun. "I was treated like a criminal," she

said recently. "I think (the magistrate) read me as some crazy person on drugs. ... My self-esteem was so low I wanted to die. ... Not one person sat down and talked to me as a human being."

Luckily, Gershon's mother had heard of the mental health court, and her attorney, Rex Butler, got her case transferred to Rhoades. Butler and a psychologist worked up a treatment plan for Gershon, and Rhoades accepted it. Rhoades' court "treats the mentally ill the way they should be treated in the 21st century," Butler said.

The normal operating principle in District Court is to keep the cases moving or risk getting buried by them. Rhoades holds on to her CRP cases for as long as it takes to get a defendant plugged in to a support system that will help stop the criminal behavior or until the judge concludes that a defendant is not willing to take even small steps toward stability.

It's been almost a year since Gershon started treatment. She still reports to the judge, but she's on track and soon her case will be dismissed.

The difference between her two courtroom experiences was the difference between getting sicker and getting better, Gershon said. "I was literally touched to tears when the judge helped me get treatment."

FOR SOME, THERE IS NO PLACE TO GO

Gershon is not an average mental health

court defendant. She had a home, family nearby and a private lawyer. Henry Ongtowsruk, 30, did not.

Ongtowsruk, originally from the village of Wales, had had schizophrenia for about 16 years. His mother, a village health aide, tried for years to take care of him but finally had to admit she couldn't. He had been in and out of the Alaska Psychiatric Institute and had accumulated at least seven arrests since 1992, several for assault.

The latest charge was last year, malicious destruction of property, for kicking out a window at Southcentral Counseling. As a result, Southcentral kicked him out of its program, Brooks said.

His symptoms, never completely erased by medicine, included self-mutilation and sexual ritual.

When he did well, little children loved him, said his mother, who now works at the clinic in Unalakleet. He could sit and talk to them for hours.

"He did as well as his illness allowed," Brooks said. "When he was doing well, he was a sweet little guy. He tried."

He died in a cheap motel on Thanksgiving weekend, strangled by someone as yet unknown, police say.

He was living in the motel because there is no place in Anchorage for severely ill people like him to live; no program, no group home would take him. ASI only admits people if they are an immediate danger to themselves or others.

in a motel that is clean but mentally ill, said Anchorage Joe Hoffbeck. He visited and incidents as he investigated death. He found many of the beds, not even watching television and with nothing to do.

In the months before Ongtowsruk took his medication for his court dates, Brooks' Henry scale, he was doing it someone killed him.

PROMOTING INDEFINITE

Robed and looking down at her seat, Rhoades assumes a no-nonsense tone that edges into sternness, reminding that the judge is in control. Out of her robes and in her usual attire, she looks like a woman with dismay about how the system treats the mentally ill.

"I have an interest because I'm a member who suffers from mental illness," she said. "I can't even imagine how it would cope with being arrested for behavior attributable to his illness."

Born in Massachusetts, Rhoades' way through college included managing a community center, analyzing grant budgets at the University of Alaska School and researching legislation at the state Senate.

"This program does not exist for these offenders," she said. "It's about these folks functioning better, not creating public safety risks." In courtroom exchanges, Rhoades adopts a paternalistic tone. "I grew up on welfare so I know how to grow up poor," she said. "It's not easy to have to seek help."

Rhoades said some of her criticism is if this "social work" is not done by the judge. To her, it is the highest form of social power, a persuasion/compromise that inches a chronic defendant toward a healthier, happier life.

"It's the psychology of what we do to everyone who has a mental illness," she said. "In life, it's about parents ... someone who will ignore issues as much as possible to avoid importance to that reality."

Defense attorney Butler succinctly: "For a smart person, it's in gear with what they have to do." "I'm not interested in how long while they're going through it," he said. "I would like to promote



HALLINEN / Anchorage Daily News
helps kill the craving

at home, family near-
Henry Ongtawasruk,

ly from the village of
hrenia for about 16
age health aide, tried
him but finally had to
ad been in and out of
stitute and had accu-
rests since 1992, sev-

last year, malicious
or kicking out a win-
nseling. As a result,
out of its program,

ompletely erased by
utilitation and sexual

children loved him,
works at the clinic in
and talk to them for

is illness allowed,"
s doing well, he was
l."

el on Thanksgiving
someone as yet

because there is no
erely ill people like
group home would
people if they are an
elves or others.

District Judge Stephanie Rhoades presides over one of only three mental health courts in the country.

"It's hard to fault them for kicking the Henrys out," Brooks said. "They're not equipped to handle people like him."

So Ongtawasruk lived when he had money in a motel that is clean but houses many of the mentally ill, said Anchorage Police Detective Joe Hoffbeck. He visited and talked to the residents as he investigated Ongtawasruk's death. He found many of them lying on their beds, not even watching television, unsupervised and with nothing to do.

In the months before his death, Ongtawasruk took his medication and showed up for his court dates, Brooks said. "On the Henry scale, he was doing really well." Until someone killed him.

PROMOTING INDEPENDENCE

Robed and looking down from her bench seat, Rhoades assumes a no-nonsense manner, a tone that edges into stern if a defendant needs reminding that the judge is not pleased.

Out of her robes and in her office, she talks with dismay about how the system normally treats the mentally ill.

"I have an interest because I have a family member who suffers from a mental disability," she said. "I can't even imagine how he would cope with being arrested and jailed for behavior attributable to his disability."

Born in Massachusetts, Rhoades worked her way through college there in jobs that included managing a community law center, analyzing grant budgets at Harvard Medical School and researching legislation for the state Senate.

"This program does not deal with dangerous offenders," she said. "My goal is to have these folks functioning better, not offending, not creating public safety risks."

In courtroom exchanges with defendants, Rhoades adopts a paternal but respectful tone. "I grew up on welfare so I know what it's like to grow up poor," she said, "how demeaning it is to have to seek help."

Rhoades said some of her colleagues question if this "social work" is appropriate for a judge. To her, it is the highest use of her judicial power, a persuasion/coercion approach that inches a chronic defendant toward a lawful, healthier, happier life.

"It's the psychology of what a judge represents to everyone who has grown up in this society," she said. "In life, the judge is your parents ... someone who will consider compassion issues as much as penalties. There is an importance to that reality."

Defense attorney Butler puts it more succinctly: "For a smart person, it helps them get in gear with what they have to do."

"I'm not interested in holding their hands while they're going through this," Rhoades said. "I would like to promote their independence, just like I promoted my own independence."

ence, just like I promoted my own independence."

INNOVATIVE APPROACH

No one had to convince Judge Wanamaker that alcoholism is a physical addiction or that a predisposition is probably inherited. He had five uncles who were "raging alcoholics," and he grew up hearing dire warnings about a bad family gene.

So when a teacher at a school for judges mentioned naltrexone, a new anti-alcoholism drug, Wanamaker checked it out immediately. It seemed logical to him that a drug could change the brain chemistry that makes some people more vulnerable to addiction than others.

Last year, after months of research and a visit from a California judge who has been sentencing alcoholic defendants to naltrexone for four years, Wanamaker began offering it to a few selected repeaters. A mother with small children. A doctor. A bankrupt construction worker at the end of his rope.

So far, with 18 defendants in his little ad hoc program, Wanamaker is letting himself hope that the revolving door to the courthouse might one day spin a little slower.

It's too short a time and too small a sample for any big conclusions, but about 40 percent of his naltrexone people have stopped drinking and have not relapsed, Wanamaker said.

"On certain people, it hits a home run. It's astounding. ... They say, 'Judge, this is fantastic.' They've gotten brighter, more alert, more totally with it. They dress better, look you in the eye. They smile."

"How many times do people smile in court?"

Another 30 percent seem to be staying sober, but they claim the drug has nothing to do with it, Wanamaker said. Others relapse, and he has to issue warrants for their arrest.

Not every defendant is right for the naltrexone program. Under Alaska law, drunken drivers have to do at least some halfway house time. Some defendants have exhibited such aggressive or reckless behavior that they are a danger to the public and need to go to jail, he said. But the fact is, they all get out, usually in less than a year. If they go back to drinking, the cycle continues, and so does the danger to the community.

Wanamaker came to the bench in 1993 after a long career that included two years as Anchorage district attorney back in the 1960s. He was an assistant attorney general and in private practice for more than 20 years. He's a conservationist with expertise in resource law, a subject that doesn't come up much in "mondo misdemeanor."

At age 64, Wanamaker is hardly a young Turk, but he soon realized that just following the rules in his new job didn't work: three days

managed
People for
Judge Ash
During
country, i
requiring
informed.
into close
at sentenc

Ashmar
another st
heal and n
a survey b
reactions th
from defer
bility, ackn
tion, a com
and that :
topped the
Violent
those aren'
in District

Last yea
DWI defen
officer, the
represental
Driving, Vi
of Family a
circle. Tell
has 15 alcc
Every poss
against him
back to drin

"How ca
Ashman sai

It took six
end the circ
even lenien
mandatory
continue a
from than t
television, t

Why sper
result that c
judge in a
process affe
leaves the
ecutor John

"What I
court projec
difference b
moving rapi
system with
defenders an
less or being
their names :

"I think it
of dealing w
individually,
ing them in j
assembly-lin

Ashman's
reason for tr
with keepin
"Basically it'
the work," he
bench burea

Reporter She
adn.com.

d
h
i
h
e
e
j
b
n
a
for a first offense; 20 days for a second; 60 days for a third. Fines. Probation. Crowded jails, miserable families and no noticeable change in behavior by many of the defendants.

"We just put them through the mill."

Wanamaker didn't see any way out. Judges are not supposed to get involved. "We sentence people and turn them over to the professionals. I just said, 'Well it's a tough area. They're doing the best they can.'"

But it wasn't good enough, not for the people who kept drinking and getting arrested.

Since Wanamaker started his program last spring and started talking about it publicly, several treatment programs in Anchorage have added naltrexone to the options they offer.

"They should be serving this up in the jails," the judge said. "But that's a battle for another day."

There are problems with a judge orchestrating a rehab program, the first being time and the second money. Research, supervision and coordination require both. Wanamaker is looking for money to pay a part-time clerk to keep track of his naltrexone defendants. Tracking progress is essential to gauging success in any experiment.

To be effective, Wanamaker has to talk to each defendant every few weeks, which violates the get-'em-in, get-'em-out principle. But like Rhoades, Wanamaker said he thinks the authority of the bench is a crucial element in the mysterious and unpredictable mix that results in a longtime alcoholic finding the grit to stop drinking forever. However personable and supportive the judge is, the people who come before him stand convicted of a crime and he can send them to jail. Whatever conversation takes place, this subtext is always present.

There's an added urgency to Wanamaker's mission. A third drunken driving conviction within five years is now a felony. A second felony DWI conviction requires a two-year prison sentence, he said. Suspended sentences and probation are not allowed.

"I do these, and I just feel sick afterwards," Wanamaker said. "Because you know you're putting people in jail for a sickness."

JUSTICE SHOULD HEAL, NOT PUNISH

The underlying philosophy of American law is that crimes are offenses against public order or, as local indictments put it, "against the peace and dignity of the state of Alaska." This raises law enforcement above personal vengeance and promotes equality of treatment.

But it also creates a justice system run by hired experts, far removed from the people damaged by crime. Justice is handed down. People feel alienated from the system, said Judge Ashman.

operator did nothing wrong
and with the official on immunity and stay in the
route the witness. United States was his wish to

During the 1980s, legislatures around the country, including in Alaska, passed laws requiring prosecutors to keep victims informed. They ordered judges to let victims into closed hearings and invite them to speak at sentencings.

Ashman said he thinks it's time to move another step in some cases. Justice should heal and not just punish, he said. He points to a survey by the Vermont Department of Corrections that asked victims what they wanted from defendants. Full acceptance of responsibility, acknowledgment of guilt, full restitution, a commitment never to repeat the crime and that some good should come from it topped the list.

Violent predators were an exception, but those aren't the people who clog the calendars in District Court or pack the jails.

Last year Ashman invited the family of a DWI defendant to join the arresting police officer, the prosecutor and defense attorney, representatives from Mothers Against Drunk Driving, Victims for Justice and the Division of Family and Youth Services in a discussion circle. Tell me what to do with this man who has 15 alcohol related convictions, he said. Every possible sentence has been imposed against him over the years, but he always goes back to drinking and getting in trouble.

"How can it possibly matter what I do?" Ashman said.

It took six hours over three days, and in the end the circle gave the defendant a standard, even lenient, sentence: 60 days in jail, the mandatory minimum. It was better for him to continue a rehab program he had relapsed from than to spend months in jail watching television, they concluded.

Why spend so much time and effort for a result that could have been dished out by any judge in a 10-minute hearing? Because the process affects what happens after everyone leaves the courthouse, said municipal prosecutor John Richard.

"What I learned from the mental health court project was that defendants notice the difference between being on an assembly line moving rapidly through the criminal justice system with nameless, faceless prosecutors, defenders and judges who could obviously care less or being in a room with people who know their names and care about the outcome.

"I think it is good that we are finding ways of dealing with people's individual problems individually, rather than just knee-jerk throwing them in jail ... rather than the cookie-cutter assembly-line approach to justice."

Ashman said there's another compelling reason for trying new approaches. It has to do with keeping good people on the bench. "Basically it's a lot about getting reinvested in the work," he said. "I don't want to turn into a bench bureaucrat."

□ Reporter Sheila Toomey can be reached at stoomey@adn.com.

Communities with Youth and Community Court Agreements February 2000

Youth Courts

Anchorage
 Kodiak
 Mat-Su
 Kenai Peninsula
 (Homer and Kenai)
 Fairbanks Northstar
 Nome
 Tetlin
 Sitka

Emerging Youth Courts

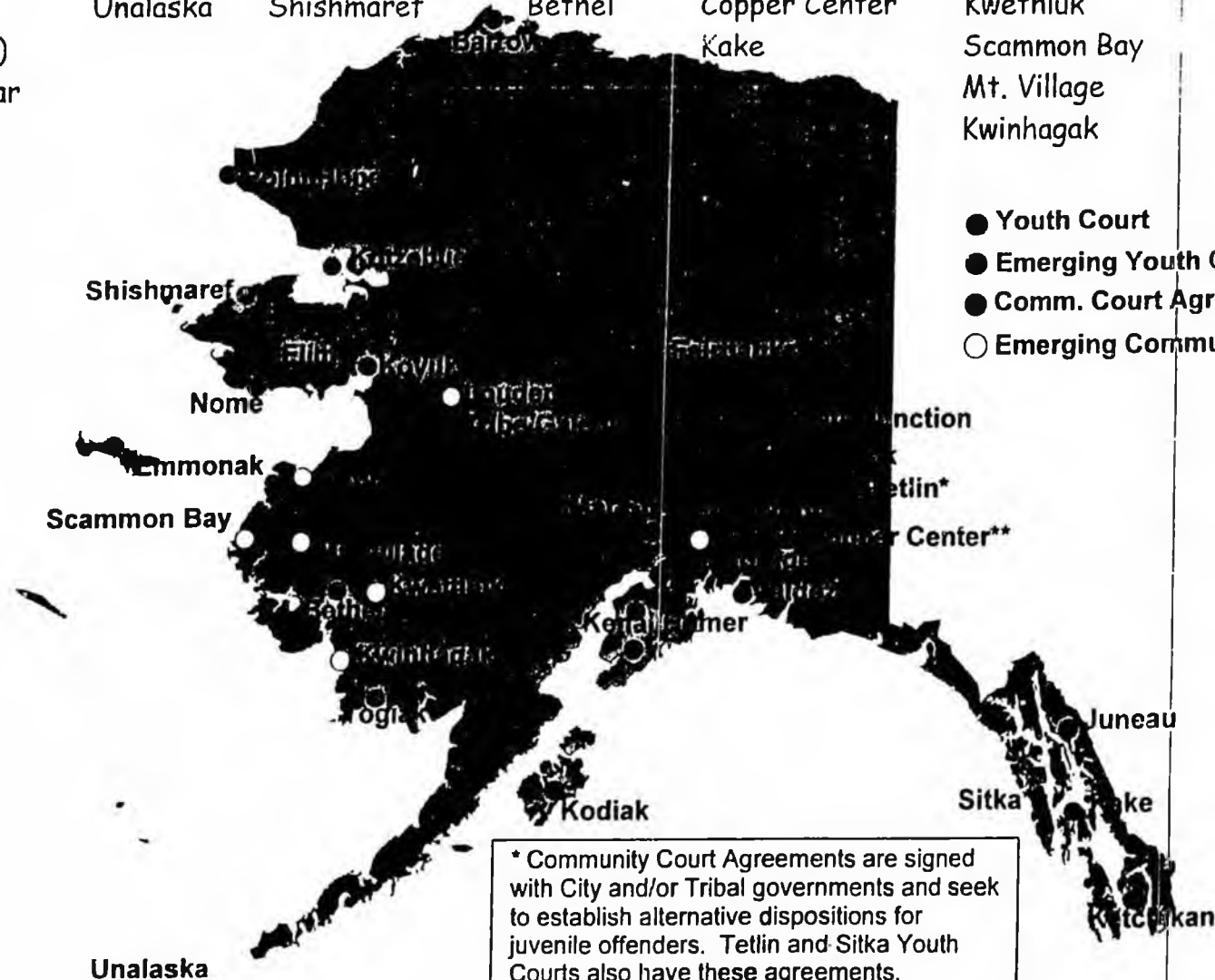
Valdez
 Kotzebue
 Tok
 Unalaska
 Juneau
 Ketchikan
 Delta Junction
 Shishmaref

Comm. Court agreements

Togiak
 Barrow
 Elim
 Bethel
 Point Hope
 Koyuk
 Emmonak
 Copper Center
 Kake

Emerging Comm. Courts

Kotlik
 Louden (Galena)
 Chickaloon
 Kwethluk
 Scammon Bay
 Mt. Village
 Kwinhagak



- Youth Court
- Emerging Youth Court
- Comm. Court Agreement *
- Emerging Community Court

* Community Court Agreements are signed with City and/or Tribal governments and seek to establish alternative dispositions for juvenile offenders. Tetlin and Sitka Youth Courts also have these agreements.

** Copper Center's court is a circuit court covering the communities of Cantwell, Kluti Kaah, Gulkana, Gakona, and Tazlina.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

Communities with Youth and Community Court Agreements February 2000

Youth Courts

- Anchorage
- Kodiak
- Mat-Su
- Kenai Peninsula
(Homer and Kenai)
- Fairbanks Northstar
- Nome
- Tetlin
- Sitka

Emerging Youth Courts

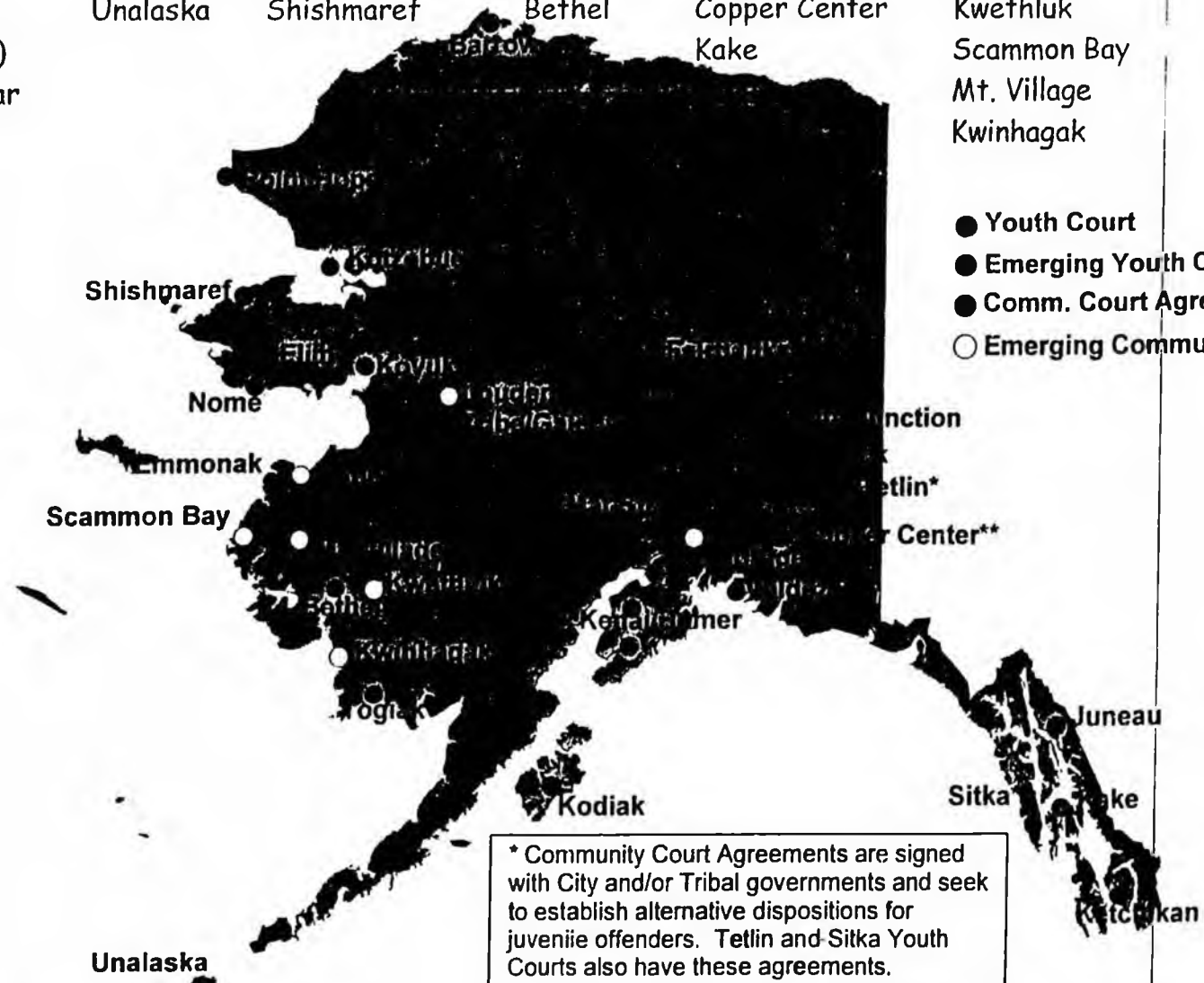
- Valdez
- Kotzebue
- Tok
- Unalaska
- Juneau
- Ketchikan
- Delta Junction
- Shishmaref

Comm. Court agreements

- Togiak
- Barrow
- Elim
- Bethel
- Point Hope
- Koyuk
- Emmonak
- Copper Center
- Kake

Emerging Comm. Courts

- Kotlik
- Louden (Galena)
- Chickaloon
- Kwethluk
- Scammon Bay
- Mt. Village
- Kwinhagak



- Youth Court
- Emerging Youth Court
- Comm. Court Agreement *
- Emerging Community Court

* Community Court Agreements are signed with City and/or Tribal governments and seek to establish alternative dispositions for juvenile offenders. Tetlin and Sitka Youth Courts also have these agreements.

** Copper Center's court is a circuit court covering the communities of Cantwell, Kluti Kaah, Gulkana, Gakona, and Tazlina.

2. Community Courts

The rapid development of tribal courts and youth courts has been accompanied by the emergence of hybrid forums that adjudicate juvenile crimes in the context of the local community. These courts represent an interesting partnership of city, state, and tribal governments. They recognize youth crime as a serious problem for both community life and cultural survival. Unlike the urban youth courts, community courts do not follow the model of the western court system nor do they use peer adjudication. They represent an agreement between the adults in a community to handle juvenile crime quickly and locally, in a manner appropriate to the local community and culture.

Each of these courts has a slightly different structure and a slightly different relationship with the state justice system. In 1996, the villages of Elim and Koyuk entered into agreements with the state to handle juvenile misdemeanors.¹¹ In Elim, juvenile cases were heard by the IRA council sitting as a court; in Koyuk, the IRA council appointed three tribal members to act as judges. These courts functioned for a brief period of time but fell into disuse. In 1997, the Native Village of Togiak and the City of Togiak began an unofficial collaboration with DFYS and the Alaska State Troopers to accept referral of juvenile misdemeanors to a panel of tribal elders. This court was in operation for a year before the state entered into a formal memorandum of agreement recognizing the court. In 1998, Barrow community groups worked to establish an elders' court to which juvenile misdemeanors could be referred. This court came quickly into operation, although it does not yet have an official memorandum of agreement with the state. Several other communities are discussing similar agreements with the state. The map at the end of this excerpt shows the location of existing and emerging community courts and youth courts.

A. Elim and Koyuk

In 1996, the State of Alaska entered into an agreement with the village councils of Elim and Koyuk to develop courts to handle youthful offenders. Koyuk did so under the authority provided by its village court ordinances, appointing three elders as judges. Elim acted under authority provided by its juvenile justice ordinances, which prescribe to the IRA council how to act as a court. Referrals came from the state troopers, VPSOs, and DFYS for misdemeanor cases where the juvenile was not already on probation. The state provided a limited amount of training, and Alaska Legal Services provided some procedural advice.

The first year of the program went well, with each village handling about three cases. When a case was referred, the council or court would meet with the parents and youth to discuss the youth's wrongdoing. If the youth was willing to admit the wrongdoing, the council or court would lecture the youth extensively, then work out an agreement with the parents and youth as to what the

¹¹ The agreements make an exception for misdemeanor sexual abuse of a minor, which must be handled in state court.

consequences would be.¹² Although procedures were available to hold a public hearing if the youth would not admit wrongdoing, all of the juveniles referred to the program were willing to admit their wrongs. A state trooper noted that the program worked well at first and seemed to have a deterrent effect, because juvenile problems dropped off substantially for a while. He also reported no enforcement problems, saying the juveniles were willing to comply with the conditions set by the court or council.

Both programs became inactive after the first year. In late 1998, state representatives met with community leaders in both villages to reevaluate the programs. In Koyuk, community leaders attributed the court's inactivity to the fact that the village had not had a VPSO for much of the time, and requested that the state suspend the agreement until a new VPSO is appointed. At the request of the village, the agreement was suspended in January 1999 with the hope of reactivating it later. In Elim, community leaders are looking for someone to head the program and keep it on track.

B. Togiak Community Court

¹² In Elim, community work service sometimes involves working on a local housing project. The village president noted that when the council heard cases in the 1940, community work service involved construction of the Iditarod Trail.

For several years, Togiak has had an elders' court using informal procedures and traditional counseling methods to handle a small number of cases. In early 1997, the Togiak Traditional Council entered into a cooperative agreement with the City of Togiak, the Alaska State Troopers, and DFYS to create the Togiak Community Court. The intent of the agreement is to improve the prosecution and rehabilitation of juvenile offenders at the village level for most misdemeanor offenses.¹³ Unlike the state, the Togiak court takes jurisdiction over children 8-12 years old, which allows it to deal with young offenders at an earlier stage.

Under this agreement, the principal responsibility for handling misdemeanor juvenile offenses rests with the Togiak Community Court. Allegations of misdemeanor offenses coming to the attention of the troopers, city police department, or VPSO are referred to the court. If the court determines that the matter is appropriate for disposition, the court clerk meets with the juvenile and parents to review the court's procedures. If the juvenile agrees to participate, DFYS is notified and asked to concur. If the court determines the matter is not appropriate, or if DFYS does not agree, the juvenile will be referred to DFYS for investigation and prosecution under state law. If the community court hears the case, it determines whether the juvenile is innocent or guilty, and if guilty fixes the appropriate punishment pursuant to city law. DFYS is notified by the court clerk of the disposition of the case and to what extent the sentence of the court was obeyed. The state court system can be used for reinforcement in the event that community court enforcement and rehabilitation is ineffective with respect to a particular offender. The community court clerk maintains records in a form that can be used in state court, should it prove necessary to prosecute an individual in the state court system.

The court handled about 35 cases its first year. DFYS handled only one case from Togiak during this period, which DFYS and the troopers attribute to the effectiveness of the court. DFYS estimates that ten of these offenses would have received a response from DFYS, while the other 25 would have gone unaddressed if not for the community court. The cases mostly have been curfew violations, criminal mischief, fourth-degree assault, trespass, and forcible entry. The community court also asked and received referral of one state probation violation.

The cases are handled by three tribal elders who act as judges. Using a small grant from the Governor's Conference on Youth and Justice, the elders have received several hours of training from the police officer who helped establish their court and the Barrow community court. The elders generally question the juveniles and their parents, ask them why they committed the crime, and discuss the implications of their behavior. Most cases result in a sentence of community work service and an order of restitution. The court reports a high rate of compliance.

To determine if the community court was having an effect, the local VPSO did a community

¹³ The cooperative agreement sets up a process of continuous consultation among the parties on how cases should be handled. It provides: "Each party shall give substantial deference to the views of the other party during such consultation and all decisions shall, to the maximum amount possible, be made on the basis of consensus." The cooperative agreement applies to all misdemeanor offenses committed under Alaska Statutes Title 11 (the criminal code), with the exception of fourth-degree sexual abuse of a minor.

survey, going house to house before the project started and following up one year later. The survey results were evaluated by the UAA Justice Center. Because the community court responded to more offenses than DFYS would have, the number of juvenile cases increased, but the community did not perceive this as an increase in crime. The community perceived itself as a safe place to live, both before and after the inception of the court.

C. Barrow Community Court

In early 1998, members of the Barrow community worked together to form a community court for juvenile offenses. The court is a cooperative effort among the City of Barrow, North Slope Borough police and youth services, Native Village of Barrow, ASNA, DFYS, Alaska Department of Law, and the state troopers. After considerable discussion about the form the court should take, Barrow decided to form a community court using elders as judges, similar to the Togiak model, rather than a youth court similar to the Anchorage model.

The court came together rapidly and held its first hearing at the end of June. At this hearing, a juvenile was prosecuted for a city curfew violation. The juvenile and his parents met with three elders and an interpreter, and the hearing flowed back and forth between Inupiaq and English. Most of the proceedings were translated at the time and all were recorded on tape. The family did not request confidentiality, and a number of community members came to witness the proceeding. One observer commented that it was a powerful emotional experience to watch elders talk deeply with a child and his family about the importance of proper behavior for the family and for the community. The police officer in charge of the program said that parents like the concept of using an elders' court to intervene with youthful offenders before they get out of hand.

The Barrow Community Court now meets at least twice a month to hear cases. It expects to enter into a memorandum of agreement similar to the agreement governing the Togiak Community Court. If other villages are agreeable, jurisdiction might be extended so that youthful offenders who get in trouble while visiting Barrow can appear in front of the court there. DFYS has given the court a small grant to pay a stipend to the judges and to support training and coordination.

4. Other villages

Kotlik, Point Hope, and Galena are discussing establishment of community courts for juvenile offenses. The city of Kotlik includes three villages, Kotlik, Hamilton, and Bill Moore's Slough, a total of about 500 people. In December 1998, the mayor and 48 local residents met with state representatives to discuss formation of a community court and to request technical assistance. In Point Hope, community members are working with the same police officer who helped organize the community courts of Togiak and Barrow. In Galena, community members are discussing the concept of a community court for Galena and the surrounding area, combined with a leadership program for training local youth. In Bethel, Orutsaramiut Native Council has received a federal grant to develop a tribal court for juvenile offenders, which may receive referrals from DFYS.

COMMUNITY COURT AGREEMENT

Under AS 47.12.040, AS 47.12.060, and AS 47.12.120, the juvenile and the parents/guardian/custodian enter into the following agreement for informal diversion through the _____ Community Court.

1. The juvenile and parents/guardian/custodian have been advised of their rights and understand that any rights to a speedy trial are waived during the period of processing through this diversion action. All parties hereby consent to have the alleged offense(s) which occurred on _____ handled by the _____ Community Court.
2. The juvenile agrees to observe and obey all city, state and federal laws during this processing.
3. The juvenile agrees to attend school and follow school rules (or seek and maintain employment), obey the instructions of the parents/guardian/ custodian and seek permission before leaving or staying away from home
4. The juvenile agrees to participate in the program and to abide by the sentencing act set forth by the Community Court, understanding that the Community Court may not order removal from the home, formal state probation, or a formal state juvenile delinquency record.
5. Upon the juvenile's successful completion of this agreement the case will be adjusted and closed. If the juvenile fails to complete this agreement, he/she may be brought before the State Superior Court.
6. The juvenile and parent/guardian/custodian authorize DJJ Juvenile Intake or its designee to release, share and keep records for administrative purposes as necessary to coordinate the referral with diversion programs and to facilitate successful completion of any sentence imposed by Community Court. Otherwise information is confidential and shall be protected.

COURT DATE/ TIME: _____

Community Court Representative

Date

Juvenile

Date

Parent/Guardian/Custodian

Date

Juvenile Probation Officer

Date

Sponsor Statement for House Bill 372

Alaska's Constitution is one of the few state founding documents to specifically recognize restitution and rehabilitation as primary goals of the correctional services.

HB 372 is a small first step towards promoting the values of restorative justice, a philosophy that is proving a highly successful response for low-impact non-violent offenders in other areas. The central theme of restorative justice is accountability for the offender, restitution for the victim and reconciliation for the community. These are big words to say that the offender says, "I'm sorry", the victim gets his car fixed, and the community is allowed the chance to meet the offender and enforce the sanction.

Once an offender is found guilty, the provisions of HB 372 would permit a judge to allow the victim and offender to work out a sentence that would make the victim, or the victim's community, as whole as possible. For instance, if the offender broke a window, the window should be replaced. HB 372 is careful to specify that only willing, non-violent offenders, may be considered for a community-based sentence and only with the victim's consent. Domestic cases, where one household member acts against another, are also exempt from negotiation. In all cases, if the victim wishes to invoke the criminal sanctions all they have to do is ask. Only with a court's approval would a community-based sentence have the force of law and should an offender fail to meet the requirements agreed to, the judge may always invoke the standard penal response. Judicial review of these cases is important to ensure that similar offenses are countered with proportionate sentences.

In cases where the victim wishes to be involved and repaid by a non-violent offender, it is our belief that a more cost-effective community response is possible while still upholding the state's primary interest in public safety.

It is worth noting that traditional societies world wide have almost universally focused their justice systems on forcing the perpetrator to restore the victim to a pre-offense condition, to the degree possible. All Alaska Native groups enforced restorative principles to some extent and the Tlingit and Haida Indians had elaborate protocols for adjudicating offenses. Several Alaska and Yukon judges are now working with local volunteers to arrange for community-based, or "circle" sentencing in a number of Alaska communities.

HB

372

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/19/00

REPORTED OUT OF
SFC 4/20/00

FURTHER:

DATE TURNED
IN TO OFFICE: 20 April 00

Finance Committee considered CS FOR HOUSE BILL NO. 372(FIN) am

"An Act relating to criminal sentencing and restitution."

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# _____

<u>SIGNING DO PASS</u>	DP	<u>OTHER RECOMMENDATIONS</u>	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>Loren D. Simon</i>	✓	<i>[Signature]</i>	X		
<i>Gary Wilke</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>		Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Corrections	3/2/00		*

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

CS FOR HOUSE BILL NO. 372(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 4/11/00

Offered: 4/7/00

Sponsor(s): REPRESENTATIVES DYSON, Berkowitz, Davies, Ogan, Kemplen, Murkowski, Smalley, James, Therriault, Croft, Cissna, Rokeberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to criminal sentencing and restitution."**

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

3 *** Section 1.** AS 12.55 is amended by adding a new section to read:

4 **Sec. 12.55.011. Victim and community involvement in sentencing.** A court,
5 when considering the sentence to be imposed under this chapter for an offense other
6 than a violation of AS 11.41, AS 11.46.400, or a crime involving domestic violence,
7 may permit the victim and the offender to submit a sentence for the court's review
8 based upon a negotiated agreement between the victim and the offender, or between
9 the offender and the community if there is no victim. The court may, with the consent
10 of the victim and the offender, impose the sentence that has been determined by the
11 negotiated agreement between the offender and the victim, or between the offender and
12 the community if there is no victim, if that sentence otherwise complies with this
13 chapter and accomplishes the goals of restoration of the victim and the community and
14 rehabilitation of the offender. Before accepting a negotiated agreement, the court shall
15 determine that the victim has not been intimidated or coerced in reaching the

1 agreement. In this section, "community" has the meaning determined by the court.

2 * Sec. 2. AS 12.55.045 is amended by adding a new subsection to read:

3 (h) In imposing restitution under this section, the court may require the
4 defendant to make restitution by means other than the payment of money if the
5 restitution has been determined under a negotiated agreement for a sentence under
6 AS 12.55.011.

7 * Sec. 3. AS 12.55.155(d) is amended by adding a new paragraph to read:

8 (18) the defendant and the victim, or the defendant and the community
9 if there is no victim, have negotiated an agreement for a sentence under AS 12.55.011.

FISCAL NOTE

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to criminal sentencing and BRU Administration and Operations
restitution. Component All
 Sponsor Rep. Dyson
 Requester House Judiciary Committee Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

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

OPEFATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation would allow victims and offenders or communities and offenders to negotiate an agreed sentence for an offense and allow for restitution to be made by means other than money. This bill would not include offenses against a person. An agreed sentence could be less than the presumptive sentence for a felony because reaching such an agreement will be a mitigating factor under AS 12.55.155(d).

It is difficult to predict what kind of a fiscal impact this would have on the Department of Corrections. We have no way of knowing how often this would occur and what the outcome would be. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by: Candy Brower, Legislative Liaison Phone 465-3307
 Division Commissioner's Office Date/Time 3/2/00 5:02 PM
 Approved by Commissioner Margaret M. Pugh Date 3-2-00
 Agency Dept. of Corrections

SENATE FINANCE COMMITTEE

SIGN-IN

HB 372-CRIMINAL SENTENCING AND RESTITUTION

NAME: Fred Dyson & Peter Tokulson Subject/Bill No: 372

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

HB

373

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 3, 2000

FURTHER REFERRALS:

Date of Committee Action: 4/12/00

The FINANCE Committee considered:

HB 373

HOUSE BILL NO. 373

STUDENT LOAN CORP PAYMENTS TO STATE

"An Act relating to return of contributed capital, or payment of a dividend, to the state by the Alaska Student Loan Corporation; 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) _____

zero fiscal note(s) _____ zero fiscal note(s) Dec 2-16-00

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Car Bunde</u> BUNDE			✓	
<u>Wm. Auster</u> AUSTERMAN			X	
<u>Ch. Davy</u> DAVIES			X	
<u>A. Moses</u> MOSES			X	
<u>Henry L. Davis</u> DAVIS	X			
<u>W.K. Williams</u> WILLIAMS	X			
<u>Gail Phillips</u> PHILLIPS	✓			
<u>Grussen Dorf</u> GRUSSENDORF			X	

CHAIR'S SIGNATURE Car Bunde
DATE DATE

FISCAL NOTE

No: 1

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: HB 373
(H) Publish Date: 2/16/00

Revision Date/Time (Note if correction)	Dept. Affected <u>EED</u>
Title <u>An Act relating to return of contributed capital, or payment of dividend, to the state by the Alaska Student Loan Corpora...</u>	BRU <u>ACPE</u>
Sponsor <u>Rules Committee</u>	Component <u>Alaska Student Loan Program</u>
Requester <u>Governor</u>	Component No. <u>18010</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: _____

POSITIONS

POSITIONS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Based on current projections, the payment for FY01 could be between \$.6 million and \$2.2 million, and future years would vary in accordance with the statutory provisions and future net income amounts.

Prepared by: <u>Donna Mayfield, Exec. Secretary</u>	Phone <u>465-6740</u>
Division <u>Exec. Office</u>	Date/Time <u>2/10/00 9:30 a.m.</u>
Approved by Executive Officer <u><i>Diane Barrans</i></u> , Diane Barrans	Date <u>2/10/2000</u>
Agency <u>ACPE/ALASKA STUDENT LOAN CORPORATION</u>	

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

COMMITTEE COPY
(Rev 10/99) 2000inform.xls/OMB

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

FISCAL NOTE

No: 1

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Bill Version: HB 373
(H) Publish Date: 2/16/00

Revision Date/Time (Note if correction)	Dept. Affected <u>EED</u>
Title <u>An Act relating to return of contributed capital, or payment of dividend, to the state by the Alaska Student Loan Corpora...</u>	BRU <u>ACPE</u>
Sponsor <u>Rules Committee</u>	Component <u>Alaska Student Loan Program</u>
Requester <u>Governor</u>	Component No. <u>18010</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Based on current projections, the payment for FY01 could be between \$.6 million and \$2.2 million, and future years would vary in accordance with the statutory provisions and future net income amounts.

Prepared by: <u>Donna Mayfield, Exec. Secretary</u>	Phone <u>465-6740</u>
Division <u>Exec. Office</u>	Date/Time <u>2/10/00 9:30 a.m.</u>
Approved by Executive Officer <u><i>Diane Barrans</i></u> , Diane Barrans	Date <u>2/10/2000</u>
Agency <u>ACPE/ALASKA STUDENT LOAN CORPORATION</u>	

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

COMMITTEE COPY

(Rev 10/99) 2000Inform.xls/OMB

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

HB 373

TONY KNOWLES
GOVERNOR
2000 0001 0001 0001 0001

State of Alaska
Juneau, Alaska 99801
Tel: 907-465-1000
Fax: 907-465-1000

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 10, 2000

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

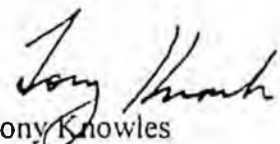
Dear Speaker Porter:

Since 1995, the Alaska Student Loan Corporation has transformed the loan program from an operation posting a \$7 million annual loss to one with a \$6.3 million net income. The exceptional success of the corporation means it is now able to pay dividends back to the state as a return of the capital contributed in 1987 when the corporation was created.

This bill I transmit today provides for the corporation to issue annual payments to the state in years when the corporate net income is at least \$2 million. The payment would be between 10 and 35 percent of the net income, subject to provisions of applicable bond indentures of the corporation.

A fitting use for the dividend income would be to fund the Alaska Scholars Program. This scholarship program at the University of Alaska rewards the top high school students in our state and offers them an opportunity to continue their higher education. The program is estimated to reach a cost of about \$3.6 million and will need general fund support by fiscal year 2002.

Alaska students have reaped great benefits from the state's student loan program. Now that the program can repay some of that investment to the state, we should continue to invest it right back into the education of our young adults. I urge your prompt and favorable action on this measure to receive payments from the Alaska Student Loan Corporation and the intent to use these receipts to fund the Alaska Scholars Program.

Sincerely,

Tony Knowles
Governor

TONY KNOWLES, GOVERNOR

3030 VINTAGE BLVD.
JUNEAU, ALASKA 99801-7109
VOICE (800) 441-2962
In Juneau 465-6740
TDD (907) 465-3143
FAX (907) 465-3293

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

March 6, 2000

HB 373

The Honorable Fred Dyson, Chair
Members, Health, Education and Social Services
Committee
Alaska State House of Representatives
Room 104
State Capitol
Juneau, Alaska 99801-1182

Re: HB 373; An act relating to return of contributed capital...

Dear Chairman Dyson and HESS Committee Members:

I am writing to provide follow-up to inquiries made during Commission staff testimony before you at your March 2 hearing regarding legislation creating a methodology for the Alaska Student Loan Corporation (ASLC) to return to the State contributed capital, under certain conditions.

The committee requested information regarding the ASLC's ability to use the funds proposed for a return of capital payment to either reduce interest currently being paid by borrowers, or to reduce the rate on loans made in future years.

Regarding a reduction of interest charges for existing loans, enclosed is a copy of the ASLC's 1999 Preliminary Official Statement (POS) for your review. Due to the fact that ASLC bonds are secured by the loans and the expected earnings on those loans, the option of retroactively lowering interest is not available to the Corporation. I would direct your attention specifically to pages 22 through 30 of the POS. You will note that as part of the bond sale process, the Corporation discloses a substantial amount of information about the loan program, including the specific financial terms and conditions of the pledged loans. In marketing and selling its bonds, the Corporation is essentially promising to bondholders that loans issued to back the bonds will contain certain characteristics, and that it will service and collect on the loans in its portfolio in accordance with the terms and conditions set out in the POS. If the Corporation were to reduce its future income stream by altering those loan characteristics without an outside income source to subsidize the change, we would be in violation of our bond covenants.

With reference to the potential use of the funds to further reduce future interest rates, due to the way in which interest rates are calculated, recycling the small amount of capital proposed for payment to the State would not measurably affect that rate. Alaska Student Loan interest rates are determined based on the components articulated in AS 14.43.120(f) and (v) and further defined in 20 AAC 15.945. Because the rates are tied to the weighted average of the stated interest rate on all outstanding bonds and the average program costs for the preceding five fiscal years, reducing the rate on loans is best achieved by continuing to improve the Corporation's credit standing and to reduce program costs (most significantly reducing losses due to uncollected loan principal and interest).

In light of the strength of its current financial turnaround, last November the Corporation Board met and identified four key priorities relating to the ASLC's mission in the 21st century:

- Ensure the fiscal stability and credit standing of the Corporation;
- Continue reducing interest rates to insure affordable education to residents;
- Continue reducing current fund equity deficit of \$43 million; and
- Propose a structure for an annual dividend payment to the State as a return on its capital contribution of \$306 million.

In placing the priorities in this order, the Board is expressly committing this agency to maintaining the long-term availability of the student loan programs and to insuring that educational loans in Alaska remain affordable. Subordinate to those objectives, however, they seek continued improvement in the Corporation's financial position so that the programs we fund will continue to enjoy broadbased public and legislative support, and that we will continue to improve our underlying bond rating to further reduce program costs. At the same time, as an enterprise agency of the State, the Corporation is able to begin sharing the benefits of improved operation by contributing to support general government services.


The committee also expressed an interest in both the model for determining the return of capital payments, as well as the forecasted level of payments for the next few years. Enclosed for your information is the Corporation's Statement of Projected Revenues and Expenses spreadsheet and associated notes prepared by Ms. King, Finance Officer. This provides the forecasted range of payments and illustrates the impact of the payments relative to the investment interest income stream to the ASLC.

House HESS Committee
March 6, 2000
Page - 3 -

Your inquiry regarding the scope of the Commission's administrative garnishment authority respective of regional corporation dividends has been forwarded to our Assistant Attorney General Mary Ellen Beardsley and I will advise you of her response as soon as it is received.

I hope this information is responsive and helpful in providing a context for the proposed legislation. Thank you again for the opportunity to be heard in support of this bill and for your ongoing support of our programs. Further questions can be addressed to either Ms. King or myself at 465-6757 or 465-6740, respectively.

Sincerely,


Diane Barrans
Executive Director

DB/dm

Enclosures

cc: Mary Ellen Beardsley, AAG

Alaska Student Loan Corporation
Statement of Projected Revenues and Expenses
by Fiscal Year

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Interest income on student loans	30,371,736	29,892,946	30,287,823	30,583,561	31,314,503
Provision for loan loss and forgiveness	(6,500,000)	(6,500,000)	(6,500,000)	(6,500,000)	(6,500,000)
Operating expenses and collection fees	(7,900,000)	(7,900,000)	(7,900,000)	(7,900,000)	(7,900,000)
Operating income	<u>15,971,736</u>	<u>15,492,946</u>	<u>15,887,823</u>	<u>16,183,561</u>	<u>16,914,503</u>
Investment interest income	11,480,287	11,190,752	11,280,404	10,777,420	10,507,200
Bond interest expense	(21,601,665)	(22,156,441)	(22,380,074)	(21,983,863)	(21,727,682)
Amort. of bond discounts	(308,000)	(275,000)	(205,000)	(137,000)	(71,000)
Amort. of bond issue costs	(870,000)	(890,000)	(910,000)	(930,000)	(950,000)
Net income	<u>4,672,358</u>	<u>3,362,257</u>	<u>3,673,153</u>	<u>3,910,118</u>	<u>4,673,021</u>
Net income before return of capital (ROC)	<u>4,672,358</u>	<u>3,417,808</u>	<u>3,827,915</u>	<u>4,142,921</u>	<u>4,979,025</u>
Base year net income	-	6,348,663	4,672,358	3,362,257	3,673,153
10% ROC	-	634,860	467,236	336,226	367,315
35% ROC	-	2,222,032	1,635,325	1,176,790	1,285,603
Net equity increase/(decrease) (35% return)	<u>-</u>	<u>4,126,631</u>	<u>3,037,033</u>	<u>2,185,467</u>	<u>2,387,549</u>

** Assumes 8% rate on all new loan fundings.

NOTES TO STATEMENT OF PROJECTED REVENUES AND EXPENSES

Interest income on student loans is projected using the cashflow information prepared by Salomon Smith Barney (SSB) for the Series 1999A bond transaction and an assumed new loan funding level of \$65 million per year bearing an 8% interest rate. The SSB cashflows include the effect of a 17% default rate with all defaults occurring in the first three years of those cashflows. A default rate of 14% has been used for the new loan fundings as the SSB approach is very conservative and all new loans include certain credit enhancement provisions (i.e. borrower credit checking, etc.). Permanent fund dividend receipts (PFD) are assumed to be \$13 million for each year. PFD's are allocated between principal and interest using a 60/40 split.

Provision for loan loss is estimated using the 14% default rate less the loan origination fee. A **forgiveness** component of \$650,000 is also included.

Operating expenses and collection costs remain flat. Collection costs are expected to decline in future years. It's assumed that the collection cost decrease offsets the cost of living increase in operating expenses.

Interest income on investments is calculated on the using an average rate of 5%.

Interest expense on bonds includes the following new issues:

- \$40 million estimated to close 6/2000
- \$30 million estimated to close 6/2001
- \$23 million estimated to close 6/2002
- \$40 million estimated to close 6/2003

Amortization of bond discounts/premiums assumes that all future bonds are issued at par, therefore, no additional discount or premium to be amortized is included.

Amortization of bond issue costs is assumed to increase by \$20,000 each year.

HB 331

SAD DUTY PAY AND ALLOWANCE COMPARISON WORKSHEET

<u>RANK AND YEARS OF SERVICE</u>	<u>DAILY PAY AMOUNT CURRENT METHOD*</u>	<u>DAILY PAY AMOUNT PROPOSED FORMULA</u>	<u>DIFFERENCE</u>
<u>Officers</u>			
Colonel - 20	\$277.45	\$270.74	-\$6.71
Lt Colonel - 18	\$251.52	\$216.56	-\$34.96
Major - 14	\$216.64	\$182.52	-\$34.96
Captain - 8	\$182.95	\$169.60	-\$34.12
1st Lt - 4	\$152.93	\$147.92	-\$13.35
2nd Lt - 2	\$114.44	\$128.42	-\$5.01
Warrant Officer 5 - 20	\$214.10	\$294.92	\$80.82
Warrant Officer 4 - 18	\$192.04	\$172.80	-\$19.24
Warrant Officer 3 - 12	\$162.93	\$157.06	-\$5.87
Warrant Officer 2 - 8	\$141.31	\$137.56	-\$3.75
Warrant Officer 1 - 4	\$122.55	\$114.60	-\$7.95
<u>Air Force/Army Enlisted</u>			
CMSgt/Sgt Maj - 20	\$178.05	\$201.02	\$22.97
SMSgt/1st Sgt - 18	\$157.73	\$168.56	\$10.83
MSgt/Sgt First Class - 14	\$139.05	\$117.72	-\$21.33
TSgt/SSgt - 10	\$121.36	\$105.30 (State Minmum)	-\$16.06
SSgt/Sgt - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
SRA/Spec - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
A1C/Pvt 1st Class - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
Amn/Pvt 2nd Class - 0-20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
AB/Pvt - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00

- Note 1: Includes base pay, housing , COLA, Separate rations
- Note 2: Calculated at with dependents housing rate and one dependent COLA rate
- Note 3: Does not include other additional special pay for pilots and aircrew members
- Note 4: If total pay and allowance is less than the State Daily Minimum (\$105.30) the member receives the State Daily Minimum amount.

Li Colonel - Lieutenant Colonel	1st Lt - First Lieutenant	2nd Lt - Second Lieutenant	CMSgt - Chief Master Sergeant
Sgt Maj - Sergeant Major	SMSgt - Senior Master Sergeant	1st Sgt - First Sergeant	MSgt - Master Sergeant
Sgt First Class - Sergeant First Class	TSgt - Technical Sergeant	SSgt - Staff Sergeant	Sgt - Sergeant
SRA - Senior Airman	Spec - Specialist	A1C - Airman First Class	Pvt 1st Class - Private 1st Class
Amn - Airman	Pvt 2nd Class - Private 2nd Class	AB - Airman Basic	Pvt - Private

Daily Rate with SBS

Sal. Sched. AA
8 Hour Shift

	RANGE 8			RANGE 10			RANGE 12		
	Base Rate	Swing	Grave	Base Rate	Swing	Grave	Base Rate	Swing	Grave
Hourly Rate	\$ 11.33	\$ 11.66	\$ 12.02	\$ 12.74	\$ 13.15	\$ 13.58	\$ 14.39	\$ 14.82	\$ 15.33
Daily Rate	\$ 96.20	\$ 99.00	\$ 102.05	\$ 108.17	\$ 111.65	\$ 115.30	\$ 122.18	\$ 125.83	\$ 130.16

Daily Rate without SBS

Sal. Sched. AA
8 Hour Shift

	RANGE 8			RANGE 10			RANGE 12		
	Base Rate	Swing	Grave	Base Rate	Swing	Grave	Base Rate	Swing	Grave
Hourly Rate	\$ 11.33	\$ 11.66	\$ 12.02	\$ 12.74	\$ 13.15	\$ 13.58	\$ 14.39	\$ 14.82	\$ 15.33
Daily Rate	\$ 90.64	\$ 93.28	\$ 96.16	\$ 101.92	\$ 105.20	\$ 108.64	\$ 115.12	\$ 118.56	\$ 122.64
Daily Savings	\$ 5.56	\$ 5.72	\$ 5.89	\$ 6.25	\$ 6.45	\$ 6.66	\$ 7.06	\$ 7.27	\$ 7.52

Alaska Student Loan Corporation
Statement of Projected Revenues and Expenses
by Fiscal Year

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Interest income on student loans	30,371,736	29,892,946	30,287,823	30,583,561	31,314,503
Provision for loan loss and forgiveness	(6,500,000)	(6,500,000)	(6,500,000)	(6,500,000)	(6,500,000)
Operating expenses and collection fees	(7,900,000)	(7,900,000)	(7,900,000)	(7,900,000)	(7,900,000)
Operating income	<u>15,971,736</u>	<u>15,492,946</u>	<u>15,887,823</u>	<u>16,183,561</u>	<u>16,914,503</u>
Investment interest income	11,480,287	11,190,752	11,280,404	10,777,420	10,507,200
Bond interest expense	(21,601,665)	(22,156,441)	(22,380,074)	(21,983,863)	(21,727,682)
Amort. of bond discounts	(308,000)	(275,000)	(205,000)	(137,000)	(71,000)
Amort. of bond issue costs	(870,000)	(890,000)	(910,000)	(930,000)	(950,000)
Net income	<u>4,672,358</u>	<u>3,362,257</u>	<u>3,673,155</u>	<u>3,910,118</u>	<u>4,673,021</u>
Net income before return of capital (ROC)	<u>4,672,358</u>	<u>3,417,808</u>	<u>3,827,915</u>	<u>4,142,921</u>	<u>4,979,025</u>
Base year net income	-	6,348,663	4,672,358	3,362,257	3,673,153
10% ROC	-	634,866	467,236	336,226	367,315
35% ROC	-	2,222,032	1,635,325	1,176,790	1,205,603
Net equity increase/(decrease) (35% return)	<u>-</u>	<u>4,126,631</u>	<u>3,037,033</u>	<u>2,185,467</u>	<u>2,387,549</u>

** Assumes 8% rate on all new loan fundings.

NOTES TO STATEMENT OF PROJECTED REVENUES AND EXPENSES

Interest income on student loans is projected using the cashflow information prepared by Salomon Smith Barney (SSB) for the Series 1999A bond transaction and an assumed new loan funding level of \$65 million per year bearing an 8% interest rate. The SSB cashflows include the effect of a 17% default rate with all defaults occurring in the first three years of those cashflows. A default rate of 14% has been used for the new loan fundings as the SSB approach is very conservative and all new loans include certain credit enhancement provisions (i.e. borrower credit checking, etc.). Permanent fund dividend receipts (PFD) are assumed to be \$13 million for each year. PFD's are allocated between principal and interest using a 60/40 split.

Provision for loan loss is estimated using the 14% default rate less the loan origination fee. A **forgiveness** component of \$650,000 is also included.

Operating expenses and collection costs remain flat. Collection costs are expected to decline in future years. It's assumed that the collection cost decrease offsets the cost of living increase in operating expenses.

Interest income on investments is calculated on the using an average rate of 5%.

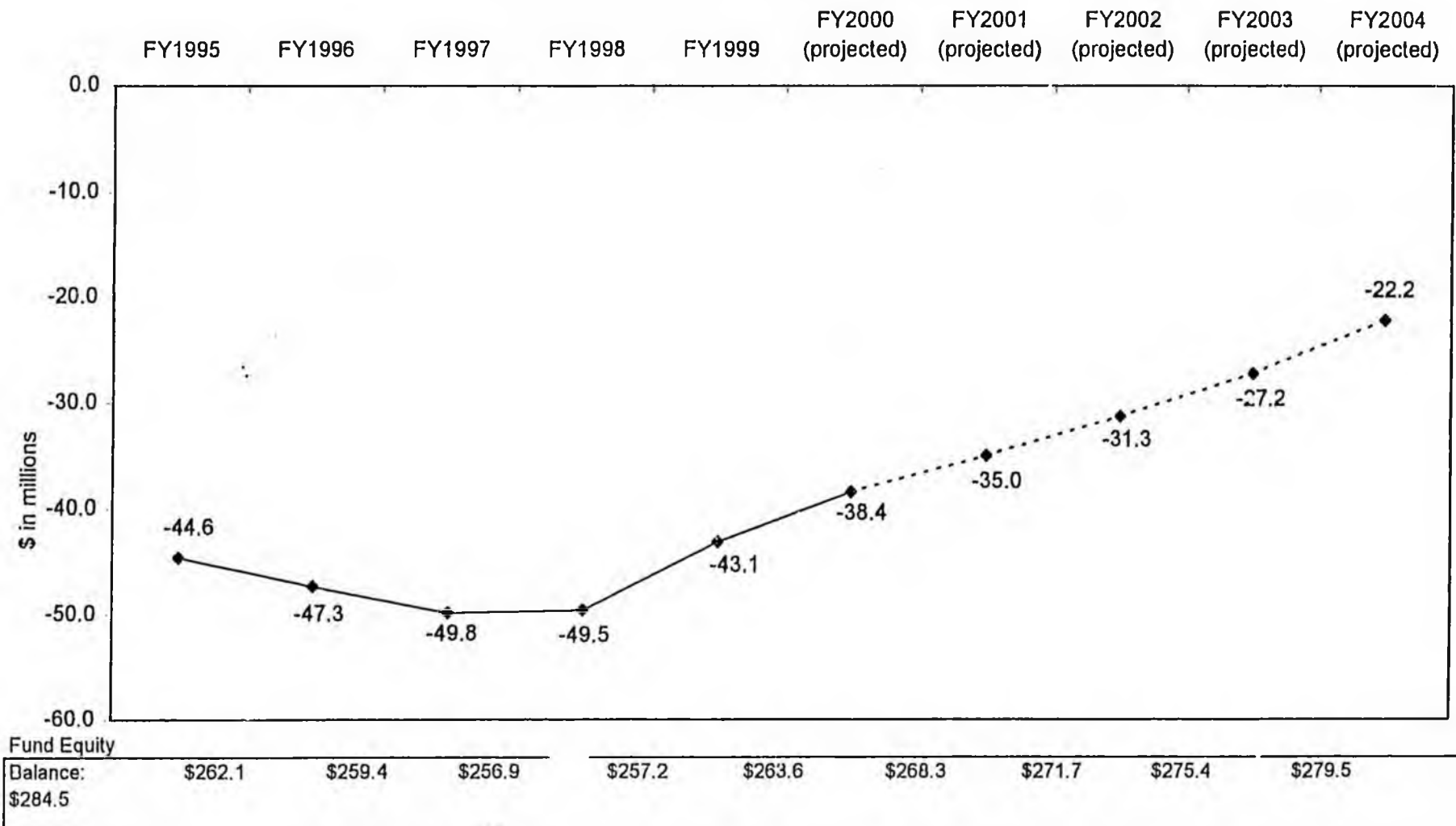
Interest expense on bonds includes the following new issues:

- \$40 million estimated to close 6/2000
- \$30 million estimated to close 6/2001
- \$23 million estimated to close 6/2002
- \$40 million estimated to close 6/2003

Amortization of bond discounts/premiums assumes that all future bonds are issued at par, therefore, no additional discount or premium to be amortized is included.

Amortization of bond issue costs is assumed to increase by \$20,000 each year.

Alaska Student Loan Corporation Accumulated Deficit of Fund Equity*



*In 1987, the Legislature transferred assets valued at \$360 million in the form of student loans to the Corporation in order to establish the student loan fund.

Alaska Student Loan Corporation 10-Year Income/Loss Trend

