

**ALASKA LEGISLATURE**

**2043**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000**

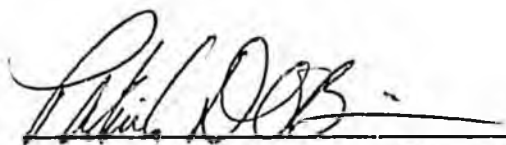
199



# RECORDS CERTIFICATION



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Signature of Camera Operator

5/15/2001  
Date

**SB**

**1**

**SFIN**

**FILE**

SB 1

was referred to the  
Senate Finance  
Committee

Hearing(s) were held

The bill did not move  
from Committee

1-LS0023M  
Luckhaupt  
1/21/00

**CS FOR SENATE BILL NO. 1(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATORS DONLEY, Leman, Taylor**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act referencing the award of good time and restricting release on mandatory  
2 parole for prisoners serving certain sentences who fail to attain certain minimum  
3 educational standards; relating to eligibility for a permanent fund dividend for  
4 persons convicted of and incarcerated for certain offenses; and providing for an  
5 effective date."

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

7 \* **Section 1.** AS 33.16.010(c) is amended to read:

8 (c) A prisoner who is not eligible for discretionary parole, or who is not  
9 released on discretionary parole, shall be released on mandatory parole for the term of  
10 good time deductions credited under AS 33.20 [,] if the prisoner is eligible under (a)  
11 of this section [TERM OR TERMS OF IMPRISONMENT ARE TWO YEARS OR  
12 MORE].

13 \* **Sec. 2.** AS 33.20.010(a) is amended to read:

1 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner  
2 convicted of an offense against the state or a political subdivision of the state and  
3 sentenced to a term or terms of imprisonment

4 (1) of two years or more [THAT EXCEEDS THREE DAYS] is  
5 entitled to a deduction of either

6 (A) one-third of the term or terms of imprisonment rounded off  
7 to the nearest day if the prisoner follows the rules of the correctional facility  
8 in which the prisoner is confined and the prisoner either

9 (i) attains or has attained a high school diploma, a  
10 general educational development diploma, or an equivalent diploma  
11 before being incarcerated or while incarcerated if the program is  
12 made available to the prisoner;

13 (ii) is incapable of attaining a diploma or its  
14 equivalent; or

15 (iii) does not speak English as the prisoner's primary  
16 language and, due to the prisoner's age and social background, the  
17 commissioner determines that the prisoner cannot reasonably be  
18 expected to meet an educational requirement; or

19 (B) one-fourth of the term or terms of imprisonment  
20 rounded off to the nearest day if the prisoner follows the rules of the  
21 correctional facility in which the prisoner is confined and the prisoner does  
22 not qualify for a one-third deduction under (A) of this paragraph;

23 (2) that exceed three days but less than two years is entitled to a  
24 deduction of one-third of the term or terms of imprisonment rounded off to the  
25 nearest day if the prisoner follows the rules of the correctional facility in which  
26 the prisoner is confined. [A PRISONER IS NOT ELIGIBLE FOR A GOOD TIME  
27 DEDUCTION IF THE PRISONER HAS BEEN SENTENCED TO A

28 (1) MANDATORY 99-YEAR TERM OF IMPRISONMENT UNDER  
29 AS 12.55.125(a) AFTER JUNE 27, 1996; OR

30 (2) DEFINITE TERM UNDER AS 12.55.125(l)].

31 \* Sec. 3. AS 33.20.010 is amended by adding a new subsection to read:

1 (c) A prisoner is not eligible for a good time deduction if the prisoner has been  
2 sentenced to a

3 (1) mandatory 99-year term of imprisonment under AS 12.55.125(a)  
4 after June 27, 1996; or

5 (2) definite term under AS 12.55.125(l).

6 \* Sec. 4. AS 43.23.005(d) is amended to read:

7 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is  
8 not eligible for a permanent fund dividend for a dividend year when

9 (1) during the qualifying year, the individual was sentenced as a result  
10 of conviction in this state of a felony;

11 (2) during all or part of

12 (A) either of the two calendar years immediately preceding  
13 that dividend year, the individual was incarcerated as a result of the  
14 conviction in this state of a felony; or

15 (B) the qualifying year, the individual was incarcerated as a  
16 result of the conviction in this state of a

17 [(A) FELONY; OR

18 (B)] misdemeanor if the individual has been convicted of

19 (i) a prior felony as defined in AS 11.81.900; or

20 (ii) two or more prior misdemeanors [CRIMES] as  
21 defined in AS 11.81.900.

22 \* Sec. 5. AS 43.23.028(a) is amended to read:

23 (a) By October 1 of each year, the commissioner shall give public notice of  
24 the value of each permanent fund dividend for that year and notice of the information  
25 required to be disclosed under (3) of this subsection. In addition, the stub attached to  
26 each individual dividend check and direct deposit advice must

27 (1) disclose the amount of each dividend attributable to income earned  
28 by the permanent fund from deposits to that fund required under art. IX, sec. 15,  
29 Constitution of the State of Alaska;

30 (2) disclose the amount of each dividend attributable to income earned  
31 by the permanent fund from appropriations to that fund and from amounts added to

1 that fund to offset the effects of inflation;

2 (3) disclose the amount by which each dividend has been reduced due  
3 to each appropriation from the dividend fund, including amounts to pay the costs of  
4 administering the dividend program and the hold harmless provisions of AS 43.23.075;

5 (4) include a statement that an individual is not eligible for a dividend  
6 when

7 (A) during the qualifying year, the individual was convicted of  
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9 (B) during all or part of

10 (i) the qualifying year or the year preceding the  
11 qualifying year, the individual was incarcerated as a result of the  
12 conviction of a felony; or

13 (ii) the qualifying year, the individual was incarcerated  
14 as a result of the conviction of a

15 [(i) FELONY; OR

16 (ii)] misdemeanor if the individual has been convicted  
17 of a prior felony or two or more prior misdemeanors [CRIMES];

18 (5) include a statement that the legislative purpose for making  
19 individuals listed under (4) of this subsection ineligible is to

20 (A) obtain reimbursement for some of the costs imposed on the  
21 state criminal justice system related to incarceration or probation of those  
22 individuals;

23 (B) provide funds for services for and payments to crime  
24 victims and for grants for the operation of domestic violence and sexual assault  
25 programs;

26 (6) disclose the total amount that would have been paid during the  
27 previous fiscal year to individuals who were ineligible to receive dividends under  
28 AS 43.23.005(d) if they had been eligible;

29 (7) disclose the total amount appropriated for the current fiscal year  
30 under (b) of this section for each of the funds and agencies listed in (b) of this section.

31 \* Sec. 6. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to

1 persons convicted of crimes committed on or after the effective date of this Act.

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

1-LS0023M  
Luckhaupt  
1/21/00

**CS FOR SENATE BILL NO. 1(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

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**BY THE SENATE FINANCE COMMITTEE**

**Offered:  
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6 (A) one-third of the term or terms of imprisonment rounded off  
7 to the nearest day if the prisoner follows the rules of the correctional facility  
8 in which the prisoner is confined and the prisoner either

9 (i) attains or has attained a high school diploma, a  
10 general educational development diploma, or an equivalent diploma  
11 before being incarcerated or while incarcerated if the program is  
12 made available to the prisoner;

13 (ii) is incapable of attaining a diploma or its  
14 equivalent; or

15 (iii) does not speak English as the prisoner's primary  
16 language and, due to the prisoner's age and social background, the  
17 commissioner determines that the prisoner cannot reasonably be  
18 expected to meet an educational requirement; or

19 (B) one-fourth of the term or terms of imprisonment  
20 rounded off to the nearest day if the prisoner follows the rules of the  
21 correctional facility in which the prisoner is confined and the prisoner does  
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13 that dividend year, the individual was incarcerated as a result of the  
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24 victims and for grants for the operation of domestic violence and sexual assault  
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27 previous fiscal year to individuals who were ineligible to receive dividends under  
28 AS 43.23.005(d) if they had been eligible;

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30 under (b) of this section for each of the funds and agencies listed in (b) of this section.

31 \* Sec. 6. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to

- 1 persons convicted of crimes committed on or after the effective date of this Act.
- 2 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

Amended & Adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

1-LS0023VK  
Luckhaupt  
9/28/99

CS FOR SENATE BILL NO. 1( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS DONLEY, Leman, Taylor

A BILL

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15 (iii) does not speak English as the prisoner's primary  
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 17 commissioner determines that the prisoner cannot reasonably be  
 18 expected to meet an educational requirement; or

19 (B) one-twelfth<sup>fourth</sup> of the term or terms of imprisonment  
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 21 correctional facility in which the prisoner is confined and the prisoner does  
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30 under (b) of this section for each of the funds and agencies listed in (b) of this section.

31 \* Sec. 6. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to

- 1 persons convicted of crimes committed on or after the effective date of this Act.
- 2 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c). ✓

SENATE FINANCE  
COMMITTEE

Amendment Number: 1  
Bill Number: CS SB 1 (JUD)  
Sponsor: Adams Date: 4/7/99  
Logged In By: Mindy

1-LS0023VI.1  
Luckhaupt  
4/7/99

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR ADAMS

TO: CSSB 1(JUD)

1 Page 1, lines 1 - 3:

2 Delete all material and insert:

3 **""An Act providing an incentive good time award for certain inmates serving**  
4 **certain sentences who complete certain minimum educational standards.""**

5 Page 1, line 5, through page 2, line 3:

6 Delete all material.

7 Page 2, line 4:

8 Delete **"\* Sec. 2"**

9 Insert **"\* Section 1"**

10 Renumber the following bill sections accordingly.

11 Page 2, line 11, through page 3, line 3:

12 Delete all material and insert:

13 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner  
14 convicted of an offense against the state or a political subdivision of the state and  
15 sentenced to a term of imprisonment that exceeds three days is entitled to a deduction  
16 of one-third of the term of imprisonment rounded off to the nearest day if the prisoner  
17 follows the rules of the correctional facility in which the prisoner is confined. [A  
18 PRISONER IS NOT ELIGIBLE FOR A GOOD TIME DEDUCTION IF THE  
19 PRISONER HAS BEEN SENTENCED TO A

20 (1) MANDATORY 99-YEAR TERM OF IMPRISONMENT UNDER  
21 AS 12.55.125(a) AFTER JUNE 27, 1996; OR

1 (2) DEFINITE TERM UNDER AS 12.55.125(I).J"

2 Page 3, line 4:

3 Delete "a new subsection"

4 Insert "new subsections"

5 Page 3, following line 4:

6 Insert a new subsection to read:

7 "(c) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3) and in addition  
8 to the deduction provided under (a) of this section, a prisoner convicted of an offense  
9 against the state or a political subdivision of the state and sentenced to a term or  
10 terms of imprisonment of two years or more is entitled to an educational good time  
11 deduction of 60 days from the prisoner's term or terms if the prisoner follows the  
12 rules of the correctional facility in which the prisoner is confined, the prisoner attains  
13 a high school diploma or a general education development diploma, or its equivalent  
14 while incarcerated, and the prisoner has never previously attained a high school  
15 diploma or a general education development diploma or its equivalent."

16 Reletter the following subsection accordingly.

17 Page 3, line 5, following "deduction":

18 Insert "under (a) or (c) of this section"

SENATE FINANCE  
COMMITTEE

Amendment Number: 2

1-LS0023V.1

Bill Number: SB 1

Luckhaupt

Sponsor: Adams Date: 1/21/00

4/8/99

Logged In By: Mindy

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR ADAMS

TO: CSSB 1(JUD)

1 Page 1, lines 1 - 3:

2 Delete all material and insert:

3 **""An Act providing an incentive good time award for certain inmates serving**  
4 **certain sentences who complete certain minimum educational standards.""**

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6 Delete all material.

7 Page 2, line 4:

8 Delete **"\* Sec. 2"**

9 Insert **"\* Section 1"**

10 Renumber the following bill sections accordingly.

11 Page 2, line 11, through page 3, line 3:

12 Delete all material and insert:

13 **"(a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner**  
14 **convicted of an offense against the state or a political subdivision of the state and**  
15 **sentenced to a term of imprisonment that exceeds three days is entitled to a deduction**  
16 **of one-third of the term of imprisonment rounded off to the nearest day if the prisoner**  
17 **follows the rules of the correctional facility in which the prisoner is confined. [A**  
18 **PRISONER IS NOT ELIGIBLE FOR A GOOD TIME DEDUCTION IF THE**  
19 **PRISONER HAS BEEN SENTENCED TO A**

20 **(1) MANDATORY 99-YEAR TERM OF IMPRISONMENT UNDER**  
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2 Page 3, line 4:

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5 Page 3, following line 4:

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12 rules of the correctional facility in which the prisoner is confined, the prisoner attains  
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14 while incarcerated, and the prisoner has never previously attained a high school  
15 diploma or a general education development diploma or its equivalent."

16 Reletter the following subsection accordingly.

17 Page 3, line 5, following "deduction":

18 Insert "under (a) or (c) of this section"

19 Page 3, lines 10 - 11:

20 Delete all material.



# SENATOR DAVE DONLEY

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ALASKA STATE LEGISLATURE

**Sponsor Statement**  
**For**  
**CS for Senate Bill 1 (JUD)**  
**Requiring Literacy as an Eligibility for**  
**Parole or Good Time Credit**

Senate Bill 1 would require convicted prisoners serving a term of two years or more to obtain a high school diploma or a general education development (G.E.D) diploma before becoming eligible for a good time sentence reduction or mandatory parole.

Under Alaska statute 33.20.10, a prisoner is entitled to a deduction of one-third of the term of imprisonment if the prisoner follows the rules of that correctional facility. This is known as a "good time" credit and applies to prisoners convicted of an offense against the state or a political subdivision of the state.

Alaska has one of the most liberal "good time" provisions in the nation. Alaska's one-third sentence reduction for "good time" is quite high compared to federal statutes which require federal offenders to serve at least 85% of the sentence imposed. Additionally thirty states also require at least 85% of the sentence be served.

Over ten states have adopted various policies that offer sentence reductions for participation in educational programs. These incentives link prison privileges and parole considerations to participation in educational programs.

National studies indicate that roughly two-thirds of today's prison inmates are functionally illiterate. These studies further point out a strong correlation between illiteracy and criminal behavior and show recidivism rates to be much higher for low-level literacy criminals.

In 1983, Alabama conducted an investigation on recidivism on 129 inmates who had taken post-secondary education courses while incarcerated. The recidivism

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January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee •  
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

CS SB 1 (JUD)  
Sponsor Statement  
Page 2

had taken post-secondary education courses while incarcerated. The recidivism rate was 3.9% for those 129 individuals compared to a 25% rate for all others released by Alabama that same year.

SB 1 seeks to reduce the recidivism rate for Alaska's correctional facilities by encouraging prisoners to obtain their G.E.D. thereby increasing their chances of successfully re-integrating back into society when they are released. Those who choose not to obtain their G.E.D. would forfeit the opportunity to be released early under Alaska's very liberal "good time" credit provision.

Prisoners would not be subject to the provisions of SB 1 if the inmate:

- is incapable of obtaining a G.E.D.;
- has already received a high school diploma or its equivalent;
- does not speak English as their primary language; and
- due to their age and social background cannot reasonably obtain the educational requirement

SB 1 is pro-active legislation designed to reduce the recidivism rate through encouraging literacy among imprisoned criminal offenders. Lower recidivism means safer Alaskan communities.

DD/jja

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

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



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Senator Donley  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801-1182

February 19, 1999

Dear Senator Donley,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 1.

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

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau  
State President  
Alaska Peace Officers Association

**PolicyFax**

# Essay

by Oklahoma Council of Public Affairs ♦ Just call 510/208-8000

Topic Code 13

## Illiteracy Fueling America's Juvenile Crime Problem

America presently has the highest juvenile crime rates in her history, and the demographic warning signs indicate the worst is yet to come.

As liberals continue to wall that poverty and low self-esteem are the root causes of crime, and as conservatives rightly point out that low God-esteem—often exacerbated by family breakdown—is a root cause of crime, it's time for policymakers on both sides of the aisle to address a frequently overlooked yet taxpayer-subsidized root cause: illiteracy.

Dr. Floyd Coppedge, an Oklahoma Democrat who serves as Gov. Keating's education secretary, is justifiably concerned about the connection he sees between the "low achievement levels" of many Oklahoma students "who receive high school diplomas even though only minimally education," and Oklahoma's juvenile crime problem. As Marva Collins, founder of Chicago's famous Westside Preparatory School, has pointed out, incarcerated juveniles in study after study have had one thing in common: they couldn't read. Longtime educator Michael Brunner, in his book *Retarding America: The Imprisonment of Potential*, says flatly that "reading failure is most likely a cause, not just a correlate, for the frustration that can and does result in delinquent behavior."

Why can't Johnny read? Because he's not receiving the reading instruction recommended by experience and by experimental research: intensive, systematic phonics.

You'll recall that phonics is the successful method used to teach beginners to read from time immemorial. The student learns the associations between letters and sounds, and soon he can read any word off the page. Despite this time-honored method producing high (by today's standards *phenomenal*) literacy, "progressive" educators around 1925 started using their speculative look-say/whole-word instruction, in which a word is supposed to be recognized and memorized as a whole, without any need to break it down by parts. This faulty method, which in its current incarnation goes by the name "whole language," is openly hostile to systematic phonics

instruction.

According to Professor Ken Goodman, one of America's most famous whole language evangelists, "whole language classrooms liberate pupils to try new things, to invent spellings, to experiment with a new genre, to guess at meanings in their reading, or to read and write imperfectly." In Professor Goodman's world, reading is—get this—"a psycholinguistic guessing game."

Sadly, the victims of this miseducation are the losers in this game. Whereas illiteracy was once, in John Adams' words, as rare as an earthquake or a comet; whereas Pierre DuPont de Nemours wrote in 1812 that fewer than four of every thousand Americans (0.4 percent) could not read well; whereas the U.S. Bureau of Education reported in 1910 that only 22 out of every thousand children ages 10 to 14 in this country (2.2 percent) were illiterate; today 22 percent of all American adults cannot read.

The Department of Education's comprehensive 1992 National Adult Literacy Survey represents 190 million U.S. adults with an average school attendance of 12.4 years. Yet 22 percent can't read, and another 57 percent read below an 8th-grade level, according to Regna Wood, a research consultant for the National Right to Read Foundation who has chronicled this problem in *National Review* and elsewhere. We've gone from a minuscule illiteracy rate in the days before compulsory schooling to a rate of more than one in a five when the average modern-day illiterate has done time in a tax-supported school.

Dr. Patrick Groff, professor of education emeritus at San Diego State University, says that whole language—the primary method used to teach reading in our public schools—may indeed be a major contributor to our juvenile crime problem, because it "is designed to guarantee failure for many students. In fact, the empirical evidence from 70 years of experimental research has led some scholars to equate it with academic child abuse." Yet the educational establishment, says Boston University president Dr. John Silber, continues to ignore "the disastrous results they produce."

Hilde Mosse, M.D., who has diagnosed children with reading disorders for over two decades as a school psychiatrist, says "the causative chain starts with the fact that the child is not taught reading properly." The child then "may feel that he is stupid and that he will never be able to achieve anything worthwhile in life, and in this way slide into delinquent behavior." No, Professor Goodman, this isn't a game.

Dr. Kathleen Wilcoxson, a fifth-grade teacher at Millard Fillmore Elementary School in Oklahoma City, has encountered "multitudes of children" thus damaged by whole language, many of them very bright children who are terribly frustrated. After nine months of intensive phonics instruction in her fifth-grade class, she says children normally have advanced two to four years.

Tragically, the anti-social aggression that leads to juvenile crime continues to be created in tens of thousands of classrooms across America, Brunner says, as teachers continue to use a teaching method "based upon theories of teaching and learning that cannot be validated by experimental research."

"There is no reason at any time to have any illiterates," Dr. Wilcoxson insists. After years of comparative research showing the superiority of intensive, systematic phonics, "we know how to teach children to read."

So why does this foolishness continue? Because whole language is a *political* movement with a left-leaning agenda which attracts many education professors who want to use education to remake society in their own image. Whole language advocate Michael Apple says it's one of the "wider social movements that aims at democratizing our economy, politics, and culture." Dr. Groff points out that some whole language advocates, such as Frank Smith, "disparage the very importance of literacy, on the grounds that it fails to make anyone smarter, more knowledgeable, more ethical, or more likely to obtain gainful employment."

Although reading failure is not the only cause of juvenile crime, Dr. Mosse and others say it is the major cause. Yet our tax-supported schools are perpetuating this heartrending failure, and that's downright criminal.



#### ABOUT THE AUTHOR

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**NATIONAL CONFERENCE OF STATE LEGISLATURES**  
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**1993 – 1998 State Laws related to  
“Truth in Sentencing”**

**Florida S 1522 (1998)** Prohibits shortening of a sentence if a defendant would serve less than 85 percent of term of imprisonment. Clarifies circumstances for departure from lowest permissible sentence. Requires department of corrections to report on trends in sentencing scores and practices; and that the Criminal Justice Estimating Conference project impact of proposes changes to the punishment code on future prison populations.

**Illinois H 3500 (1998)** Eliminates good conduct credits and requires entire sentence imposed to be served by prisoners sentenced for first degree murder and to natural life terms. Reduces good conduct credits to require 85 percent of sentence served for many other serious and violent felonies. Sets policy for revoking, suspending and reducing good conduct credits, including loss of credits for frivolous lawsuits. Establishes Truth-in-Sentencing Commission to study and suggest sentencing policy. Also requires judicial statement in sentencing as to the approximate time a defendant will serve.

**Iowa H 2002 (1998)** Adds attempted murder to crimes for which persons convicted must serve at least 85 percent of the sentence imposed.

**Kansas S 262 (1998)** Requires the court to state the sentence a defendant will serve, including maximum potential sentence reduction as a result of good time and the period of post-release supervision. Under sentencing grid, allows courts the option of sentencing specified offenders to non-prison treatment programs.

**Kentucky H 455 (1998)** Eliminates parole for violent, persistent felony offenders; and requires that all violent offenders serve 85 percent of the sentence imposed.

**New York S 7820 (1998)** Eliminates parole, requiring a determinate sentence for all violent felony offenders (including first such offense). Establishes periods of post-release supervision as part of the sentence and allows imprisonment of up to five years for violating conditions of supervision

**Oklahoma H 1002 (1998 1<sup>st</sup> Extraordinary Session)** Delays implementation of truth in sentencing legislation of 1997.

**Wisconsin A 351 (1998)** Creates new sentencing structure for felony offenses, increasing the maximum imprisonment time imposed. Abolishes parole, requiring 100 percent of sentence for all felony offenders plus a term post-prison extended supervision equal to at least 25 percent prison term. Creates a Criminal Penalties Study Committee to review, make recommendations on classification of criminal offenses, penalties for felonies and class A misdemeanors. Also creates a sentencing commission to develop advisory sentencing guidelines for judges

**Alaska S 67 (1997)** Truth in Sentencing Act requires the court to state and include in the sentencing report information on the minimum term that the defendant is expected to actually serve prior to release or parole.

**Delaware S 131 (1997)** Authorizes sentencing courts to require that a specified portion of a prison term be served without any form of early release, good time, furlough, work release, supervised custody or any other reduction of sentence.

**Florida H 1371 (1997)** The Prison Release Reoffender Punishment Act requires mandatory minimum sentences and that 100 percent of the court-imposed sentence be served for offenders who commit a qualifying offense within five years of release from prison. Offenses include weapon use in a criminal offense and various crimes against children.

**Louisiana H 1915 (1997)** Changes computation of good time for prisoners. Sets rate of 30 days for every 30 days good behavior and self improvement for some prisoners; for others convicted of a crime of violence the rate is three days for every 17 days good behavior.

**New Jersey S 855 (1997)** Requires a fixed, minimum term of 85 percent of sentence for first and second-degree violent crimes, plus a three to five year period of parole supervision. Violent crimes include those causing death, serious bodily injury, or use or threatened immediate use of a deadly weapon. Also includes any aggravated sexual assault or such assault using or threatening physical force.

**North Dakota H 1089 (1997)** Requires that violent offenders sentenced to life imprisonment with possibility of parole will serve a term computed as life expectancy based on a recognized mortality table, without parole eligibility until that requirement is met.

**Oklahoma H 1213 (1997)** Truth in Sentencing act requires that 85 percent of the sentence be served by serious, violent offenders. Non-violent offenders are required to serve 75 percent of sentence, some in community corrections, which is expanded locally under the act. Establishes sentencing commission to review impact of legislation, and so establishes planning process for future prison bed needs, including selection process for private prisons.

**Alaska H 38 (1996)** Eliminates good time for offenders serving mandatory 99-year sentences and requires that those offenders may apply just once for modification or reduction of sentence, after serving one-half of the mandatory or 30 years. Also adds, for purposes of considering prior convictions in imposing "three strikes" sentences, convictions in another jurisdiction for offenses having similar elements to applicable serious felonies.

**Delaware H 507 (1996)** Applies minimum sentence to habitual criminals convicted of a fourth felony, when the fourth conviction is for any one of more than 50 designated "violent felonies."

**Florida S 156 (1996)** Establishes eight-year revision cycle for crime and other public safety statutes and guiding principles for justice information technology. Redefines habitual and violent felony offenders to include felonies committed while serving prison sentence and limits gain time for such offenders to ensure 85 percent of sentence served. Also limits gain time for felonies involving weapon or firearm; and includes drug, sex offender, juvenile provisions.

**Iowa H 2316 (1996)** Requires persons to serve twice the maximum term for a "sexually predatory" serious or aggravated misdemeanor offense when they have one prior such conviction, and a mandatory ten year sentence and serve at least 85 percent of the sentence if they have two or more prior such convictions. Requires twice the maximum term or 25 years, whichever is greater, with sentence reductions limited so that no less than 85 percent of the sentence is served, for conviction of a "sexually predatory" felony. Also requires up to two years of community supervision (parole or work release) for sexually predatory offenders, as defined in the act to broadly include sexually violent or abusive crimes.

**Iowa S 2114 (1996)** Requires that persons imprisoned for forcible felonies serve 100 percent of the maximum sentence term, without eligibility for parole or work release. Also directs legislative council to establish sentencing task force.

**South Dakota S 273 (1996)** Eliminates good time and establishes minimum sentence that must be served before parole eligibility for each felony class. Number of felony convictions is a factor in sentence length. Less serious offenses and offenders may serve 25% of sentence before parole eligibility; more serious and frequent offenders will serve 75 and 100% of sentence. Requires DOC to keep conduct record of each inmate which can be used in considering parole release, but without sentence credits related to conduct.

**Arkansas S 820 (1995)** Offenders convicted of first-degree murder, kidnapping, aggravated robbery, rape and causing a catastrophe must serve 70% of sentence.

**Connecticut S 927 (1995)** Requires certain offenders serve at least 85% of the sentence imposed and directs the parole board to adopt guidelines and procedures for classifying people as violent offenders not limited to the elements of the offense or offenses for which they are convicted. Applies to offenders eligible for parole who used, attempted or threatened use of force against another person. (Previous law makes a capital felony, murder, or any offense committed with a firearm at or near school ineligible for parole.)

**Florida H 687 (1995)** "Stop Turning Out Prisoners Act" requires offenders to serve a minimum of 85% of the sentence imposed, with gain time limited accordingly. State prisoners sentenced to life imprisonment, including for capital felonies, will be incarcerated for the rest of their natural lives. All prison sentence offenses are affected.

**Florida S 168 (1995)** "Officer Evelyn Gort and All Fallen Officers Career Criminal Act" establishes three strikes-type penalties and includes 85% requirement for some. "Habitual felony offenders" have had 2 or more felonies and get terms from life to not exceeding 10 years; "habitual violent felony offenders" have had 1 or more previous violent crime convictions and get from life, with no release eligibility for 10 years, to 10-year sentences with no release eligibility for 5 years; "violent career criminals" have been convicted as an adult 3 or more times for violent crimes and get from life, with no release eligibility, to mandatory minimum of 10 years. "Violent career criminal," established in a separate proceeding, "gain time" limited to require 85% of sentence served. Courts must give written reasons for not imposing statutory sentences, addressing protection of the public.

**Illinois S 187 (1995)** Limits good conduct credits to require offenders serve at least 85% of sentence imposed. Also creates Illinois Truth-in-Sentencing Commission, charged with facilitating and monitoring implementation of 85% of sentence measure. 85% applies broadly to serious, violent crimes. Offenders imprisoned for first-degree murder receive no good conduct credit and will serve 100% of sentence.

**Louisiana H 146 (1995)** Requires certain offenders serve at least 85% of the sentence imposed before being eligible for parole. Life sentences must be commuted to fixed term of years to be eligible for parole consideration.

**Louisiana S 1418 (1995)** Requires established sentences must be served, without benefit of probation, parole or suspension of sentence and with good conduct limitations. Rape, 25 years; sexual battery, 10 years; aggravated sexual battery, 15 years.

**Maine S 201 (1995)** Reduces statutory meritorious good time to ensure that the term of imprisonment imposed closely approximates that which will be served. Applies to all crimes and prisoners.

**Mississippi S 2175 (1995)** Earned-time credits are limited to require that inmates serve at least 85% of prison term. Having served 85% and once released, inmates are placed under earned-release supervision until expiration of the full term. Inmates serving life sentences, except those imprisoned for life for capital murder, may petition for conditional release after age 65 and at least 15 years served. The law also establishes a reconstituted state parole board, and on July 1, 2000, transfers those duties, responsibilities to the Department of Corrections, eliminating the parole board, as such. All prison inmates affected.

**Montana H 356 (1995)** Simplifies and calls for phasing out all good time by 1997, pending recommendations of a sentencing commission, established in the legislation. Meanwhile, actual time served not substantially affected. Applies to all prison inmates.

**New York S 5281 (1995)** Sentencing Reform Act includes truth, 85%-type provisions and habitual offender measures. Also changes previous law for second felony offenders. Establishes determinate sentences under which offenders are not eligible for discretionary release and may not be paroled prior to serving six-sevenths of the set term. Determinate sentences are imposed on violent felony offenders with a prior felony conviction. Also creates commission to study the effects of the Sentencing Reform Act. The six-sevenths of sentence determinate sentences apply to Class B violent felony offenders who must serve 8 to 25 years; Class C violent felony offenders who are to serve 5 to 15 years; Class D violent felony offenders who must serve 3 to 7 years; and Class E violent felony offenses, which carry set sentences of 2 to 4 years. The parole sentence provisions for second nonviolent felony offenders applies to specified offenses including, but not limited to, criminal mischief, grand larceny, forgery, some controlled substance felony offenses.

**North Dakota H 1218 (1995)** Requires imprisoned, violent offenders must serve 85% of sentence. Violent offenders include those convicted of murder, manslaughter, aggravated assault, kidnapping, gross sexual imposition, robbery, burglary or attempts to commit the offenses.

**Ohio S 2 (1995)** Establishes new framework for felony sentencing, sets principles to guide courts in imposing sentences and specifies presumptions for imposing prison terms for certain felonies. Some mandatory minimum sentences required under law, including for repeat violent offenders on whom the court must impose a prison term from the range authorized for the offense, which cannot be reduced by judicial release, earned credit or any other provision for release. Reclassifies drug trafficking and possession offenses. Specifies financial sanctions, residential and nonresidential prison alternatives. Sets sentencing procedure and sentence appeals. Establishes sentence of life imprisonment without parole as additional alternative to the death penalty in applicable cases.

**Oregon H 3439 (1995)** Creates mandatory minimum sentences for some crimes. Extends to 25 years the period of time that a person sentenced to life imprisonment for aggravated murder must serve before parole board considers rehabilitation, release. Includes many violent crimes, including murder, attempt or conspiracy to commit murder, manslaughter, assault, kidnapping, rape, sodomy, unlawful sexual penetration, others.

**South Carolina H 3096 (1995)** Creates "no parole offenses." Requires that 80% of sentence must be served before eligibility for work release and 85% for early release, discharge or community supervision. "No parole offenders," must serve up to 2 years community supervision following prison term. "No parole offenses" are Class A, B or C felonies including many serious, violent crimes punishable by 20 years or more in prison. Life without parole sentence applies to "most serious offenses," including many serious violent felonies, drug trafficking, some bribery, embezzlement, certain accessory and attempt offenses.

**Tennessee H 1762 (1995)** Eliminates release eligibility for persons convicted of certain crimes and limits sentence credits to require at least 85% of sentence is served. Applies to 11 violent, often aggravated, crimes including murder, rape, rape of a child, kidnapping, robbery, sexual battery, arson, child abuse.

**California (1994)** Requires offenders in prison for violent felonies to serve 85 percent of the sentence imposed. Limits worktime credits to 15 percent of the sentence.

**Missouri (1994)** Requires certain categories of repeat or dangerous felony offenders to serve 50 percent, 80 percent, or 85 percent of a sentence. Retains parole release after those minimum sentences are served.

**Virginia (1994 special session)** Abolished parole and good conduct allowance for anyone convicted of a felony. Permits the court to add a post-release supervision term to the imposed prison sentence.

**Arizona (1993)** Requires inmates to serve 85 percent of their sentence, with 15 percent reduction possible through good behavior credits. Despite the lack of discretionary parole-release decision, offenders sentenced to prison are supervised upon release for a period of 15 percent of the sentence imposed.

Please call Donna Lyons at NCSL for more information.

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**NCSL LEGISBRIEF**

April/May 1999

Vol. 7, No. 21

**TRUTH IN SENTENCING**

By Donna Lyons

*Reforms require certain violent offenders to serve 85 percent of the prison sentence imposed.*

Crime control and public safety have prompted many new laws providing for "truth in sentencing." Generally, "truth" measures address the criminal sentence imposed by the court and the actual time an offender serves in prison. Recent reforms have required that certain serious or violent offenders serve at least 85 percent of the sentence given. Federal crime legislation has provided a grant incentive to states to review and implement policies to incarcerate violent offenders, including the 85-percent-of-sentence requirement.

Arizona, California, Missouri and Virginia were among states adopting "truth in sentencing" laws in the early 1990s. Arizona did so in 1993 as a complete revamp of its criminal code. The law established the requirement that all inmates serve 85 percent of their sentences, followed by supervision in the community for the 15 percent remaining. California legislation in 1994 also limited work credits that violent offenders can earn so that they serve at least 85 percent of the prison sentence. In special session in 1994, Virginia lawmakers abolished parole and good conduct allowances for any offender convicted of a felony. Courts may add a period of post-release supervision to the prison sentence.

Throughout the 1990s, other states passed similar measures. Notably, broad sentencing reform in Ohio reclassified all felony offenses, and addressed truth in sentencing by eliminating discretionary parole release. Oklahoma enacted a major truth in sentencing act that requires violent offenders to serve 85 percent of the sentence, while other less serious offenders serve less or are handled in community corrections programs. In recent years, Florida repealed sentencing guidelines in favor of minimum sentences, no parole for persistent offenders, and an 85 percent policy for others. In 1998, Kentucky, New York and Wisconsin passed laws to abolish parole. Wisconsin's law applies to all felony offenders; New York eliminated parole for all violent, even first-time, offenders; and Kentucky's no-parole policy applies to persistent violent offenders.

*Guidelines may also provide long, no-parole sentences for serious offenders.*

Other types of sentencing reforms in states also have provided for long sentences without benefit of parole release for the most serious offenders. Minnesota was one of the pioneering states in establishing sentencing guidelines. Kansas,

**Truth in Sentencing Laws 1993-1998**  
*For all or broad categories of serious offenders*

	85 Percent Requirement	No Parole	Other
Arizona	✓	✓	
Alaska			✓
California	✓		
Connecticut	✓		
Delaware			✓
Florida	✓	✓	✓
Illinois	✓	✓	
Iowa	✓	✓	
Kansas			✓
Kentucky	✓	✓	
Louisiana	✓		
Maine		✓	
Mississippi	✓		
Missouri	✓		
Montana			✓
New Jersey	✓		
New York	✓	✓	
North Dakota	✓		✓
Ohio		✓	✓
Oklahoma	✓		
Oregon			✓
South Carolina		✓	✓
South Dakota		✓	
Tennessee	✓	✓	
Wisconsin		✓	

Source: NCSL

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SB 1

NO MANDATORY PAROLE RELEASE WITHOUT GED

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Co./Dept./Title: DEPUTY COMMISSIONER  
DEPARTMENT OF REVENUE Phone: 465-5469

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

(+)

NAME: Bruce Richards Subject/Bill No: SB 1

Co./Dept./Title: Special Assistant  
Dept Corrections Phone: 465-3307

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: Marsha Pantlow Subject/Bill No: SB 1

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Do you wish to testify?  Yes  No  Respond To Questions *-if needed regarding technicality of GED*

NAME: Nanci Jones Subject/Bill No: SB 1

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**NCSL LEGISBRIEF**

April/May 1999

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By Donna Lyons

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Arizona, California, Missouri and Virginia were among states adopting "truth in sentencing" laws in the early 1990s. Arizona did so in 1993 as a complete revamp of its criminal code. The law established the requirement that all inmates serve 85 percent of their sentences, followed by supervision in the community for the 15 percent remaining. California legislation in 1994 also limited work credits that violent offenders can earn so that they serve at least 85 percent of the prison sentence. In special session in 1994, Virginia lawmakers abolished parole and good conduct allowances for any offender convicted of a felony. Courts may add a period of post-release supervision to the prison sentence.

Throughout the 1990s, other states passed similar measures. Notably, broad sentencing reform in Ohio reclassified all felony offenses, and addressed truth in sentencing by eliminating discretionary parole release. Oklahoma enacted a major truth in sentencing act that requires violent offenders to serve 85 percent of the sentence, while other less serious offenders serve less or are handled in community corrections programs. In recent years, Florida repealed sentencing guidelines in favor of minimum sentences, no parole for persistent offenders, and an 85 percent policy for others. In 1998, Kentucky, New York and Wisconsin passed laws to abolish parole. Wisconsin's law applies to all felony offenders; New York eliminated parole for all violent, even first-time, offenders; and Kentucky's no-parole policy applies to persistent violent offenders.

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Arizona	✓	✓	
Alaska			✓
California	✓		
Connecticut	✓		
Delaware			✓
Florida	✓	✓	✓
Illinois	✓	✓	
Iowa	✓	✓	
Kansas			✓
Kentucky	✓	✓	
Louisiana	✓		
Maine		✓	
Mississippi	✓		
Missouri	✓		
Montana			✓
New Jersey	✓		
New York	✓	✓	
North Dakota	✓		✓
Ohio		✓	✓
Oklahoma	✓		
Oregon			✓
South Carolina		✓	✓
South Dakota		✓	
Tennessee	✓	✓	
Wisconsin		✓	

Source: NCSL

Michigan and North Carolina are among states with more recent experience in structured sentencing. Often, guidelines have come about as a result of the work of sentencing commissions. Those commissions also develop and monitor truth in sentencing policies.

Congress addressed truth in sentencing as part of the Violent Crime Control and Law Enforcement Act of 1994. Funding at \$8 billion through the year 2000 was authorized for the Violent Offender Incarceration and Truth in Sentencing Incentive Grant (VOITIS) program. States receive money for construction or improvement of correctional facilities upon demonstration that truth in sentencing and related incarceration policies exist for violent offenders. Regulations were designed to accommodate various sentencing structures, including guidelines, as well as new laws that specify 85 percent of sentence policy. The Bureau of Justice Statistics reports that 27 states and the District of Columbia qualified in 1998 for VOITIS truth in sentencing funds.

*A federal grant ties funds for prison construction to policies on sentencing violent offenders.*

Research sponsored by the federal National Institute of Justice (NIJ) is under way to help states evaluate the effect of truth in sentencing on crime and the criminal justice system. The Rand Corporation in Santa Monica, Calif., is carrying out a multiyear, broad evaluation of "truth" laws. Rand's study is analyzing the impact on prosecutorial and judicial actions, correctional populations and costs, and crime rates. Another NIJ-funded study by the Urban Institute is analyzing effects on lengths of prison stay, as well as if and how criminal justice and corrections systems are adapting to "truth" policies. A report this year from the Bureau of Justice Statistics ties adoption of truth in sentencing laws to increases in time actually served behind bars and to growing state prison populations. Nationally, seven in 10 violent offenders are in a state that requires that 85 percent of the sentence be served, according to the report.

*Today, seven of 10 violent offenders are in a state that requires 85 percent of the sentence to be served.*

Proponents of 85 percent "truth" laws assert that credibility of the criminal justice system requires a closer relationship between the sentence imposed and time served. Indeed, there has been strong public and political support for longer, more determinate sentences for serious, dangerous offenders. Other observers suggest that laws that broadly provide for longer time in prisons will further increase state corrections populations and costs without a proportionate impact on public safety. NCSL has reported that state corrections appropriations are about 6 percent of state general funds in 1999.

### **Selected References**

Bureau of Justice Statistics, Office of Justice Programs. "Truth in Sentencing in State Prisons." Washington, D.C., January 1999, NCJ #170032. Fax on demand (301) 519-5550, or call BJS clearinghouse at (800) 732-3277, or find at [www.ojp.usdoj.gov/bjs/](http://www.ojp.usdoj.gov/bjs/)

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Corrections Program Office, Office of Justice Programs  
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SENATE FINANCE COMMITTEE

SIGN-IN

SB 1

NO MANDATORY PAROLE RELEASE WITHOUT GED

NAME: LARRY PERSILY Subject/Bill No: SB 1

Co./Dept./Title: DEPUTY COMMISSIONER DEPARTMENT OF REVENUE Phone: 465-5469

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

(+) NAME: Bruce Richards Subject/Bill No: SB 1

Co./Dept./Title: Special Assistant Dept Corrections Phone: 465-3307

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: Marsha Pantlow Subject/Bill No: SB 1

Co./Dept./Title: DOLWD Phone: 465-8714

Address: PUB 25529 Zip: 99802

Do you wish to testify?  Yes  No  Respond To Questions *-if needed regarding technicality of GED*

NAME: Nanci Jones Subject/Bill No: SB 1

Co./Dept./Title: PFD Director Phone: 2323

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions



# Teleconference Participants

TCN: 10089

## Participant Lists

View List for

ALL	▼	Testifiers	▼	Go >>>	Close Window
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## Participants

Unidentified Testifiers: 0

Unidentified Observers: 0

### ANCHORAGE (ANC)

1	Name: Mr. Michael Dean	Phone: 344 9121
	Address: PO Box 112923	Affiliation: self
	City /St /Zip: Anchorage AK 99511	Type: Testifier
	Bill: SB 85: CREDITED SERVICE FOR TEMP EMPLOYEES:PERS	

2	Name: Mr. Blair McCune	Phone: 264 4400
	Address: 900 W 5th Ave #200	Affiliation: Public Def
	City /St /Zip: Anchorage AK 99501	Type: Testifier
	Bill: SB 1: NO MANDATORY PAROLE RELEASE WITHOUT GED	

### KODIAK (KOD)

**SB**

**3**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 24, 1999

FURTHER REFERRALS:

Date of Committee Action: 5/10/99

The FINANCE Committee considered:

CSSB 3(RLS)

CS FOR SENATE BILL NO. 3(RLS)

CRIMES OF MURDER & CHILD MURDERS

"An Act relating to the crimes of murder, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, manslaughter, and criminally negligent homicide; relating to homicides of children; relating to registration as a sex offender or child kidnapper; relating to the crime of interference with custody of a child or incompetent person; and providing for an effective date."

recommends it be replaced with the following committee substitute HCS CS SB 3 (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) CRIMINALS  fiscal note(s) DNA 1/25/99

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) WOW 1/25/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Gene Therrault</u> Therrault	X			
<u>Don Bledsoe</u> Bledsoe				
<u>Jim Kohns</u> Kohns	X			
<u>Alan Austerman</u> Austerman	X			
<u>Carl Davis</u> J. Davis			X	
<u>Ben Brumby</u> Brumby	X			
<u>Paul E. Moses</u> Moses			X	
<u>John L. Davis</u> J. Davis			X	
<u>W. Williams</u> Williams			X	
<u>[Signature]</u> Foster	X			

CHAIR'S SIGNATURE Gene Therrault  
 Therrault

# FISCAL NOTE

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO. CS SB 3 (JUD)**

Revision Date/Time (Note if correction) <u>4/28/99</u>	Dept. Affected <u>Department of Corrections</u>
Title <u>An Act relating to the crimes of murder, solicitation to commit murder in the first degree,...</u>	BRU <u>Administration and Operations</u>
Sponsor <u>Senator Halford</u>	Component <u>All</u>
Requester <u>House Judiciary Committee</u>	Component Serial No. <u>#0694</u>

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous		35.8	35.8	86.0	143.3	179.1
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>35.8</b>	<b>35.8</b>	<b>86.0</b>	<b>143.3</b>	<b>179.1</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match		35.8	35.8	86.0	143.3	179.1
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>35.8</b>	<b>35.8</b>	<b>86.0</b>	<b>143.3</b>	<b>179.1</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See attached analysis.

Prepared by <u>Bruce Richards</u>	Phone <u>465-3307</u>
Division <u>Commissioner's Office</u>	Date/Time <u>4/28/99 11:41 AM</u>
Approved by <u>Comm. Margaret M. Pugh</u> <i>Margaret M. Pugh</i>	Date <u>4/28/99</u>
Agency <u>Department of Corrections</u>	

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FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION  
DEPARTMENT OF CORRECTIONS

BILL NO. CS SB 3 (JUD)  
PAGE 2 of 2  
DATE 4/28/99

Section 2. In consultation with the Dept. of Law it was determined this section will have a budgetary impact. However, it will most likely occur outside the scope of this fiscal note. This type of crime happens rarely and therefore is difficult to estimate the fiscal impact.

Section 3. The Dept. of Corrections does not anticipate a fiscal impact as a result of the changes made to AS 11.41.100.

Section 4 & 9. The Dept. of Law (DOL) estimates the changes proposed to AS 11.41.110(a) in conjunction with the sentencing changes under section nine will impact one (1) case per year. The sentencing provisions will increase the mandatory minimum sentence from five (5) to twenty (20) years for a net gain of fifteen (15) years. Subtracting one-third for statutory good time, the actual increase in sentence will be ten (10) years per case.

Section 5. The DOL estimates the increase in penalty for criminally negligent homicide will impact one case per year. This section will raise the penalty from a class C felony to a class B felony. This will result in an additional sentence of one and a half (1.5) years. Subtracting one third for good time results in a total increase of one (1) year per case.

Section 6. No impact.

Section 10. The DOL estimates the changes proposed to AS 12.155.125(c) will impact one case per year. Under current sentencing provisions the offender would be sentenced to a five (5) year presumptive sentence. The proposed change would increase the presumptive sentence to seven (7) years for a net gain of two (2) years. Subtracting one third for statutory good time the actual increase in sentence will be 474 days per case.

Section 11. The impact from the proposed changes in section eleven is difficult to project because the language is permissive and left to the discretion of the judge.

# FISCAL NOTE

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

No. 3  
 Bill Version: SB 3  
 (S) Publish Date: 1-25-99

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

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB 3 increases the penalties for those people who kill children. These changes will have no fiscal impact on the Department of Law. The department already aggressively pursues criminal cases involving the murder of a child. Enactment of this legislation will increase the penalties for those charged, but will not increase the department's workload.

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

Phone 465-5370  
 Date/Time 1/22/99, 9:14 AM  
 Date 1/22/99

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# FISCAL NOTE

No. 4  
 Bill Version: SB 3  
 (S) Publish Date: 1-25-99

STATE OF ALASKA  
 1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Administration \_\_\_\_\_  
 Title "An Act relating to the crimes of murder..." BRU Legal and Advocacy Services  
 Component Office of Public Advocacy  
 Sponsor Senator Halford  
 Requester (S) JUD Component Serial No. 43

## Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Service	**	**	**	**	**	**
Travel	**	**	**	**	**	**
Contractual	**	**	**	**	**	**
Supplies	**	**	**	**	**	**
Equipment	**	**	**	**	**	**
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	**	**	**	**	**	**

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

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

Estimate of any current year (FY99) cost: \$ \_\_\_\_\_

### POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Office of Public Advocacy is currently unable to provide precise cost data.

Prepared by Brant McGee, Public Advocate Phone 269-3500  
 Division Office of Public Advocacy Date/Time 1/22/99  
 Approved by Commissioner Robert G. Poe Date 1/22/99  
 Agency Administration

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

No. 2  
Bill Version: SB 3  
(S) Publish Date: 1-25-99

Revision Date: \_\_\_\_\_  
Title: "An Act relating to the crimes of murder.."  
Sponsor: Senator Halford  
Requestor: (S) JUD

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

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	..	..	..	..	..	..
TRAVEL	..	..	..	..	..	..
CONTRACTUAL	..	..	..	..	..	..
SUPPLIES	..	..	..	..	..	..
EQUIPMENT	..	..	..	..	..	..
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	..	..	..	..	..	..

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

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

Estimate of any current year (FY 98) 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: Robert Poe Jr.  
Agency: Department of Administration

Date: 1/22/99

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 3

#2

1999 LEGISLATIVE SESSION

ANALYSIS: (Continued)

The proposed legislation re-writes the homicide laws in Alaska based solely upon a victim's status as a child younger than 16. The bill makes it easier to charge and convict individuals and increases the sentences they receive based solely upon a victim's status as a child younger than 16. The bill also expands the definition of felony custodial interference.

Alaska's current set of homicide laws is a well ordered and logical system of varying degrees of seriousness and consequences based upon the conduct, the intent, and the circumstances surrounding the offense. The punishment for crimes against children, or other particularly vulnerable victims such as the elderly or the disabled, can already be enhanced when appropriate. There is no need to make separate laws based solely upon the victim's status. The bill is part of an ill-advised trend to make significant changes to Alaska's reasonable, orderly criminal justice system based upon anecdotal and incomplete information. Because the law already takes into account the vulnerable nature of children, such changes are unnecessary and damaging to the quality of the system as a whole.

Increasing the penalties based upon the status of the victim, and making it easier to charge and convict individuals will increase the workload of Agency attorneys who are already appointed to represent most of the defendants in these types of cases. The Department of Law already aggressively pursues these types of criminal cases. Increasing penalties for merely negligent or reckless conduct disproportionately to other cases will result in increased numbers of these cases proceeding to costly and expensive jury trials rather than settlement. Such significant increases will likely foster a "nothing to lose by going to trial" attitude. Additional litigation will also result in lower level charges to prevent the accumulation of the predicate convictions that may later form the basis for these enhanced charges.

Child homicide trials are often very expensive because of the complex medical and psychological issues that arise. These cases, for example, can involve cutting edge medical diagnoses like the "shaken baby syndrome." Investigation is often difficult and expensive as well. The Department of Law will have some of its expenses covered by other agencies, such as the Medical Examiner's office in the Department of Public Safety, the Alaska State Troopers, local police departments, and the State Crime Lab. However, the Public Defender Agency has to pay for all its expenses out of its budget.

Last year the Department of Law received an additional criminal prosecutor specifically to increase response to child abuse and neglect. Whether by means of this fiscal note, or a different incremental appropriation, balance must be maintained to effectively process these cases through the court system.

5/10/99

I-LS0028V.1  
Luckhaupt  
5/10/99

adopted N/D  
AMENDMENT I

OFFERED IN THE HOUSE

BY REPRESENTATIVE THERRIAULT

TO: HCS CSSB 3(JUD)

- 1 Page 2, line 27:
- 2 Delete "or kidnapping against"
- 3 Insert "against or kidnapping of"

# FISCAL NOTE

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

No. 3  
 Bill Version: SB 3  
 (S) Publish Date: 1-25-99

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

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB 3 increases the penalties for those people who kill children. These changes will have no fiscal impact on the Department of Law. The department already aggressively pursues criminal cases involving the murder of a child. Enactment of this legislation will increase the penalties for those charged, but will not increase the department's workload.

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

Phone 465-5370  
 Date/Time 1/22/99, 9:14 AM  
 Date 1/22/99

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# FISCAL NOTE

No. 4  
 Bill Version: SB 3  
 (S) Publish Date: 1-25-99

STATE OF ALASKA  
 1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Administration \_\_\_\_\_  
 Title "An Act relating to the crimes of murder..." BRU Legal and Advocacy Services  
 Component Office of Public Advocacy  
 Sponsor Senator Halford  
 Requester (S) JUD Component Serial No. 43

## Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	**	**	**	**	**	**
Travel	**	**	**	**	**	**
Contractual	**	**	**	**	**	**
Supplies	**	**	**	**	**	**
Equipment	**	**	**	**	**	**
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	**	**	**	**	**	**

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

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

Estimate of any current year (FY99) cost: \$ \_\_\_\_\_

### POSITIONS

Full-time						
Part-time						
Temporary						

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

The Office of Public Advocacy is currently unable to provide precise cost data.

Prepared by Brant McGee, Public Advocate Phone 269-3500  
 Division Office of Public Advocacy Date/Time 1/22/99  
 Approved by Commissioner Robert G. Poe Date 1/22/99  
 Agency Administration

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## FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

No. 2  
Bill Version: SB 3  
(S) Publish Date: 1-25-99

Revision Date: \_\_\_\_\_  
Title: "An Act relating to the crimes of murder..."  
Sponsor: Senator Halford  
Requestor: (S) JUD

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

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL	**	**	**	**	**	**
CONTRACTUAL	**	**	**	**	**	**
SUPPLIES	**	**	**	**	**	**
EQUIPMENT	**	**	**	**	**	**
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

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

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

Estimate of any current year (FY 98) 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: Robert Poe Jr.  
Agency: Department of Administration

Date: 1/22/99

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 3

#2

1999 LEGISLATIVE SESSION

ANALYSIS. (Continued)

The proposed legislation re-writes the homicide laws in Alaska based solely upon a victim's status as a child younger than 16. The bill makes it easier to charge and convict individuals and increases the sentences they receive based solely upon a victim's status as a child younger than 16. The bill also expands the definition of felony custodial interference.

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Increasing the penalties based upon the status of the victim, and making it easier to charge and convict individuals will increase the workload of Agency attorneys who are already appointed to represent most of the defendants in these types of cases. The Department of Law already aggressively pursues these types of criminal cases. Increasing penalties for merely negligent or reckless conduct disproportionately to other cases will result in increased numbers of these cases proceeding to costly and expensive jury trials rather than settlement. Such significant increases will likely foster a "nothing to lose by going to trial" attitude. Additional litigation will also result in lower level charges to prevent the accumulation of the predicate convictions that may later form the basis for these enhanced charges.

Child homicide trials are often very expensive because of the complex medical and psychological issues that arise. These cases, for example, can involve cutting edge medical diagnoses like the "shaken baby syndrome." Investigation is often difficult and expensive as well. The Department of Law will have some of its expenses covered by other agencies, such as the Medical Examiner's office in the Department of Public Safety, the Alaska State Troopers, local police departments, and the State Crime Lab. However, the Public Defender Agency has to pay for all its expenses out of its budget.

Last year the Department of Law received an additional criminal prosecutor specifically to increase response to child abuse and neglect. Whether by means of this fiscal note, or a different incremental appropriation, balance must be maintained to effectively process these cases through the court system.



Official Business

# Alaska State Legislature

## Senate

**RICK  
HALFORD**

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

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

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

### Sponsor Statement HCS CS Senate Bill 3 (JUD)

**"An Act relating to the crimes of murder, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, manslaughter, and criminally negligent homicide; relating to homicides of children; relating to registration as a sex offender or child kidnapper; relating to the crime of interference with custody of a child or incompetent person; and providing for an effective date."**

All too often, when a child is killed, even when the killer is convicted, they do not receive punishment commensurate with the severity of their actions. Tragically, this has especially been the case when very young children are killed. I believe these children, who are the most vulnerable members of our society, are owed far more than our criminal justice system has afforded them. SB 3 makes the following changes to our criminal statutes:

- *adds a new form of first degree murder when the death of a child results from the commission or attempted commission of kidnapping or a sexual offense;*
- *expands the list of offenses constituting felony murder to include sexual abuse of a minor in the first and second degrees;*
- *adds a new form of second degree murder when a person causes the death of a child with criminal negligence and has a previous felony conviction against a child;*
- *elevates criminally negligent homicide from a class C to a class B felony,*
- *establishes a twenty year mandatory minimum sentence for a person convicted of a murder of a child under the age of sixteen;*
- *increases the mandatory minimum sentence (from five to seven years) for manslaughter, when the victim is a child under the age of sixteen;*
- *establishes a new sentencing provision, which allows for a term of unsuspended imprisonment that exceeds the presumptive term, for certain felony offenses if the victim is a child under the age of 16;*
- *expands the crime of custodial interference in the first degree to include the act of keeping a child or incompetent person outside of the state;*
- *clarifies language in the sex offender registry statute; and*
- *elevates solicitation of murder to an unclassified felony.*

Children deserve a responsible level of care when they are entrusted to an adult. SB 3 will help accomplish both the goals of deterrence and establishing a punishment more fitting the crime.

Identical legislation was considered by the 20th legislature and moved through the committee process in both bodies with unanimous bipartisan support before dying on the House calendar on the final day of session. Passage of this bill will correct serious deficiencies in our legal system. I urge your support.



Official Business

# Alaska State Legislature

## Senate

**RICK  
HALFORD**

State Capitol  
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## Sectional Analysis HCS CS Senate Bill 3 (JUD)

**Section 1.** States purpose of Section 15.

**Section 2.** Increases the penalty for the crime of solicitation of first degree murder from a Class A felony to an unclassified felony, bringing it in line with the crime of conspiracy to commit murder.

**Section 3.** (1) Simplifies the language and expands the range of conduct constituting this particular form of first degree murder. (2) Creates a new form of first degree murder when the death of a child results from the commission or attempted commission of kidnapping or a sexual offense.

**Section 4.** (1) Expands the list of offenses constituting felony murder to include sexual abuse of a minor in the first and second degrees. (2) Makes causing the death of a child with criminal negligence a form of second degree murder if there is a previous conviction of a felony crime against a child.

**Section 5.** Increases the penalty for criminally negligent homicide from a class C to a class B felony.

**Section 6.** Expands the definition of custodial interference to include keeping a child or incompetent person outside of the state.

**Section 7 and 8.** Adds solicitation to commit murder in the first degree and conspiracy to commit murder in the first degree to the listing of unclassified offenses and unclassified felonies.

**Section 9.** Establishes a mandatory 20 year minimum sentence for the murder of a child under 16 years of age, providing the assailant was a legal guardian, occupied a position of authority, or caused the death of the child by committing a crime against a person under AS 11.41.200 – 11.41.530.

**Section 10.** Increases the presumptive penalty for child manslaughter from 5 to 7 years.

**Section 11.** Allows the courts to sentence a first felony offender convicted of criminally negligent homicide of a child under 16 years of age to a longer sentence than the presumptive sentence for a second or third felony offender convicted of the same crime.

**Section 12.** Adds AS 11.41.100(a)(3) and certain offenses under AS 11.41.110(a)(3) to the definition of aggravated sex offense in the definition sections of the sex offender registration statutes.

**Section 13.** Adds AS 11.41.100(a)(3) and AS 11.41.110(a)(3), when coupled with kidnapping, to the definition of child kidnapping in the definition sections of the sex offender registration statutes.

**Section 14.** Adds AS 11.41.100(a)(3) and certain offenses under AS 11.41.110(a)(3) to the definition of sex offense in the definition sections of the sex offender registration statutes.

**Section 15.** Clarifies that the definition for "conviction" in the sex offender registry statutes.

**Sections 16 – 17.** Bifurcates applicability of the act.

Sections 2-6 and 9-11 apply to offenses committed on or after the immediate effective date.

Previous convictions refer to convictions occurring before, on, or after the effective date.

Sections 12-14 reach back to require registration for commission of a sex offense or a child kidnapping similar to those crimes established in AS 11.41.100(a)(3) or AS 11.41.110(a)(3) after July 1, 1984.

A conviction for a sex offense or child kidnapping before the effective date of this Act is a sex offense for registration requirements under AS 12.63.020(a).

**Section 18.** Definition for conviction in the sex offender registry statutes applies to convictions that occurred before, on or after the effective date.

**Section 19.** Immediate effective date

**BILL: SB 218**                      **SHORT TITLE: CRIMES OF MURDER & CHILD MURDERS**  
BILL VERSION: HCS CSSB 218(FIN)  
SPONSOR(S): SENATOR(S) HALFORD, Green, Donley, Taylor, Leman, Duncan,  
Lincoln, Parnell, Kelly, Pearce, Sharp, Miller; REPRESENTATIVE(S) Ogan,  
Croft

CURRENT STATUS: 3RD RDG,5/12 CAL(H)                      STATUS DATE: 5/12/98

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

Jrn-Date	Jrn-Page	Action
1/12/98	2167	(S) PREFILE RELEASED 1/9/98
1/12/98	2167	(S) READ THE FIRST TIME - REFERRAL(S)
1/12/98	2167	(S) JUD, FIN
2/12/98	2495	(S) JUD RPT CS 3DP                      NEW TITLE
2/12/98	2495	(S) DP: TAYLOR, MILLER, PEARCE
2/12/98	2495	(S) INDETERMINATE FN TO SB & CS (ADM)
2/12/98	2495	(S) ZERO FN TO SB & CS (COR, LAW)
4/02/98	3110	(S) FIN RPT CS 7DP                      NEW TITLE
4/02/98	3110	(S) DP: PEARCE, SHARP, PHILLIPS, PARNELL,
4/02/98	3110	(S) ADAMS, DONLEY, TORGERSON
4/02/98	3110	(S) PREVIOUS INDETERMINATE FN (ADM)
4/02/98	3110	(S) PREVIOUS ZERO FNS (LAW, COR)
4/06/98	3159	(S) RULES TO CALENDAR 4/6/98
4/06/98	3160	(S) READ THE SECOND TIME
4/06/98	3161	(S) FIN CS ADOPTED UNAN CONSENT
4/06/98	3161	(S) COSPONSOR(S): DUNCAN, LINCOLN, PARNELL,
4/06/98	3161	(S) KELLY, PEARCE, SHARP, MILLER
4/06/98	3161	(S) ADVANCED TO THIRD READING UNAN CONSENT
4/06/98	3161	(S) READ THE THIRD TIME CSSB 218(FIN)
4/06/98	3161	(S) PASSED Y19 N- E1
4/06/98	3166	(S) TRANSMITTED TO (H)
4/07/98	2897	(H) READ THE FIRST TIME - REFERRAL(S)
4/07/98	2898	(H) JUDICIARY, FINANCE
5/01/98	3395	(H) JUD RPT HCS(JUD) 7DP
5/01/98	3396	(H) DP: PORTER, ROKEBERG, CROFT, GREEN,
5/01/98	3396	(H) JAMES, BUNDE, BERKOWITZ
5/01/98	3396	(H) SENATE INDETERMINATE FN (ADM) 2/12/98
5/01/98	3396	(H) 2 SENATE ZERO FNS (COR, LAW) 2/12/98
5/06/98	3558	(H) FIN RPT HCS(FIN) 8DP
5/06/98	3558	(H) DP: THERRIALT, MULDER, KOHRING, MARTIN,
5/06/98	3558	(H) DAVIES, GRUSSENDORF, MOSES, KELLY
5/06/98	3559	(H) SENATE INDETERMINATE FN (ADM) 2/12/98
5/06/98	3559	(H) 2 SENATE ZERO FNS (COR, LAW) 2/12/98
5/11/98	3826	(H) RULES TO 1ST SUPPLEMENTAL CAL 5/11/98
5/11/98	3826	(H) READ THE SECOND TIME
5/11/98	3827	(H) FIN HCS ADOPTED UNAN CONSENT
5/11/98	3827	(H) ADVANCED TO THIRD READING 5/12 CALENDAR
5/12/98	3904	(H) MOVED TO BOTTOM OF CALENDAR
5/12/98	3940	(H) NOT TAKEN UP
5/12/98	3941	(H) CROSS SPONSOR(S): OGAN, CROFT

## Index to Statutes, SB 3

Sec. 11.31.110. Solicitation.

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Crimes under 11.41:

Sec. 11.41.100. Murder in the first degree.

Sec. 11.41.110. Murder in the second degree.

Sec. 11.41.115. Defenses to murder.

Sec. 11.41.120. Manslaughter.

Sec. 11.41.130. Criminally negligent homicide.

Sec. 11.41.135. Multiple deaths.

Sec. 11.41.140. Definition (person)

Sec. 11.41.200. Assault in the first degree.

Sec. 11.41.210. Assault in the second degree.

Sec. 11.41.220. Assault in the third degree.

? Sec. 11.41.230. Assault in the fourth degree.

Sec. 11.41.250. Reckless endangerment.

Sec. 11.41.260. Stalking in the first degree.

? - Sec. 11.41.270. Stalking in the second degree.

Sec. 11.41.300. Kidnapping.

Sec. 11.41.320. Custodial interference in the first degree.

? - Sec. 11.41.330. Custodial interference in the second degree.

Sec. 11.41.370. Definitions.

~~Sec. 11.41.410. Sexual assault, 1<sup>st</sup> degree.~~

*six offenses are in 11.41.410*

Sec. 11.41.420. Sexual assault, 2<sup>nd</sup> degree.

Sec. 11.41.425. Sexual assault, 3<sup>rd</sup> degree.

Sec. 11.41.430. Repealed

Sec. 11.41.432. Defenses.

Sec. 11.41.434. Sexual abuse of a minor, 1<sup>st</sup> degree.

Sec. 11.41.436. Sexual abuse of a minor, 2<sup>nd</sup> degree.

Sec. 11.41.438. Sexual abuse of a minor, 3<sup>rd</sup> degree.

Sec. 11.41.440. Sexual abuse of a minor, 4<sup>th</sup> degree.

Sec. 11.41.443. Repealed

Sec. 11.41.445. General provisions.

Sec. 11.41.450. Incest.

Sec. 11.41.455. Unlawful exploitation of a minor.

Sec. 11.41.458. Indecent exposure, 1<sup>st</sup> degree.

Sec. 11.41.460. Indecent exposure, 2<sup>nd</sup> degree.

Sec. 11.41.470. Definitions.

Sec. 11.41.500. Robbery in the first degree.

Sec. 11.41.510. Robbery in the second degree.

Sec. 11.41.520. Extortion.

Sec. 11.41.530. Coercion.

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Sec. 11.81.250. Classification of offenses.

Sec. 12.55.125. Sentences of imprisonment for felonies.

Sec. 12.63.100 Registration of sex offenders

FEB 24 1999

729 East 75th Avenue  
Anchorage, AK 99518  
(907) 344-0616  
Feb. 24, 1999

Senator Halford  
State Capitol Building  
Juneau, AK 99801

Dear Senator Halford:

We were pleased to hear that you support Senate Bill 3 that will give longer jail time to people that kill babies.

On June 9, 1997 we brought Timothy Kalmakoff home from the hospital. His birth mother, Karey Kalmakoff, wanted us to adopt him because she was not able to care for him. He was such a calm and peaceful baby. We loved and cared for him. On the tenth day, his birth mother wanted Timothy back. She couldn't live without him.

A month later, we were asked to go to the hospital. Five days later he died from being shaken to death. The medical staff said that Timothy had hemorrhages in his eyes that were in various stages of healing. The nurse told me that meant that he had been shaken repeatedly. He also had ribs that were healing. That means that baby Timothy lived in pain for much of the last month of his life.

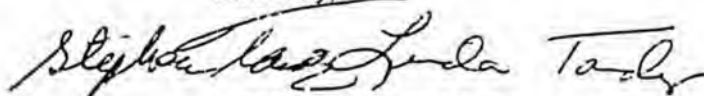
Mark Nusbaum, the boyfriend, was brought to trial ( Court No.3AN-S97-5750). The first trial was a hung jury. The second trial never took place. He is out with only a little over a year spent in jail.

It is our hope and prayer that no child ever has to go through what Timothy did. The only thing that gives us peace is that Timothy is safe in the arms of Jesus. No one can hurt him again.

We heard that people that kill babies do not get more than 2 years in jail. Now, we know that this is true. Why is the life of a baby of less value than an adult? We do not think so.

We support any bill that you pass that will tell everyone that babies and young children are valuable to the State of Alaska.

Sincerely,



Stephen and Linda Tandy



# Anchorage man charged with shaking

By DANIELLE STANTON  
Daily News reporter

An 18-year-old Anchorage man was charged Friday with second-degree murder in the death of his girlfriend's month-old baby.

Mark Adam Nusbaum allegedly killed the baby by shaking him while the mother was at work Sunday, according to documents filed

Friday in district court.

Nusbaum was being held Friday at Cook Inlet Pre-Trial Facility in lieu of \$250,000 bail, police spokesman Ron McGee said.

The baby, Tim Kalmakoff, died Thursday at Providence Alaska Medical Center. He had been on a life-support system since Monday.

An autopsy performed Friday by

a state medical examiner showed the baby had blunt traumatic injuries to the head, which are consistent with shaken baby syndrome. He also had fresh rib fractures, evidence of having been grabbed under the arms and violently shaken, the document says.

The autopsy also revealed evidence of earlier abuse — healed rib

## month-old infant to death

fractures and bruising on the chest wall — the document says.

Nusbaum told police detective Linda Branchflower that he sometimes became frustrated with the baby and would abruptly lay him down.

On Sunday, the baby continued to cry after his 19-year-old mother, Karey Kalmakoff, left for work,

Nusbaum told police. He said he had tried to feed the baby. Then he put him in a swing. When Nusbaum bounced the baby on his knee, the infant finally quieted down.

Nusbaum told police he called his girlfriend twice at work to tell her the baby seemed unusually tired, he

Please see Page B-3, INFANT

## INFANT: Man charged with shaking baby to death

Continued from Page B-1

told police.

Nusbaum took the baby when he went to pick up his girlfriend at work about 7 p.m. The mother noticed the baby seemed limp, that one pupil was larger than the oth-

er and that his skin was cold.

The couple immediately drove the baby to Alaska Native Medical Center. Nusbaum told a doctor that the baby had been in that condition since noon.

The child was later transferred to Providence.

**AUTHORIZATION FOR RELEASE OF MINOR AND/OR MINOR'S RECORDS  
TO PERSON OTHER THAN PARENT OR GUARDIAN**

Alaska Native Medical Center, 4315 Diplomacy Dr., Anchorage, Ak.

Name and Address of Facility Where Minor and/or Minor's Records Are Located:

I/We, as the parent(s) or guardian(s) of Timothy Adam Kalmakoff, born 6-8-97  
(Name of Minor) (Date)

at ANMC hereby: (Mark out any statement that does not apply)  
(Place of Birth)

1. Authorize the Service Unit Director of the above facility, or his/her designee, to release, when ready for discharge, said minor into the care of:

Steve & Linda Tandy  
(Name of Individual or Agency)

Anchorage, AK  
(Address)

2. Authorize the Service Unit Director of the above facility, or his/her designee, to furnish information from or copies of said minor's health record, covering the following dates (inclusive):  
6-8-97 to D/C to:

Steve & Linda Tandy  
(Name of Health Professional or Agency)

(Address)

I/We have read the above (the above has been read and explained to me/us by: Joan E. Galt;  
and this consent is voluntarily executed. (Name) J.E.G.

PARENT(S) OR GUARDIAN(S):

Karen L. Kalmakoff  
(Signature)

6-9-97  
(Date)

2080 Diamond Dr  
(Address)

Anchorage, Alaska 99507  
(City) (State)

(Signature)

(Date)

(Address)

(City)

(State)

WITNESS:

Joan E. Galt  
(Signature)

6-9-97  
(Date)

ANMC, 4315 Diplomacy Dr.  
(Address)

Anchorage, AK 99508  
(City) (State)

Imprint of Minor's Identification Plate

(Name) Kalmakoff, Timothy Adam  
(Record #) 13-62-40  
(DOB) 6-8-97

**AUTHORIZATION FOR RELEASE OF MINOR AND/OR  
MINOR'S RECORDS TO PERSON OTHER THAN  
PARENT OR GUARDIAN**

# Mother decries short sentence

## *Vows fight to change law so killers punished*

By LEE JORDAN  
Alaska Star Editor

Linda Tellsworth insists that justice was not served when the woman who killed her baby received a sentence that will make her eligible for parole after serving about 66 months in jail. Tellsworth has mounted a campaign to demand changes in the law.

"People need to know they will be held accountable if they kill a baby," Tellsworth said Monday. She is circulating flyers with her son's

picture and a heading that reads, "Murder this baby and you will only get 5 and 1/2 years! If you disagree, please contact your local senator."

Eagle River daycare operator Michelle Dague, 29, on Friday was sentenced by Judge Milton Souter to 20 years in prison with an additional 20 years suspended. Souter said, though, that Dague should be eligible for parole after serving as little as 5-1/2 years. If she is paroled, she would be required to be on probation for 10 years. She also was ordered to pay \$1,000 in restitution.

The sentence is the minimum in the range he had recommended, said John Novak, chief assistant district attorney. Novak had asked Souter to require Dague to spend 20 to 30 years in prison.

An Anchorage jury in April convicted Dague of killing 10-month-old Kyle Tellsworth who on Jan. 28, 1977 had been left at the home-based daycare center by his mother, a neighbor of Dague's. Dague initially denied harming the child, saying he had fallen. In (See MOTHER, Page 2)



Linda Tellsworth is posting flyers with son Kyle's photo.

STAR PHOTO BY LEE JORDAN

## MOTHER:

(Continued from page 1)

court, she admitted that she had thrown Kyle, who she said had been crying incessantly, during a moment of blind rage caused by a severe headache. She said she suffered from migraine headaches.

Novak's witnesses, however, testified that the woman had probably held the child's feet and forcefully slammed his head against something hard. During an interview, Tellsworth painstakingly and graphically described the massive injuries to Kyle's head that resulted in his death.

The jury convicted the woman of second degree murder.

Reaction to Souter's explanation of the sentence sent Tellsworth on a mission to change the law. "It's wrong," she said, adding that the judge had said there was no need for punishment in this case.

"Someone who kills a baby, no matter what the excuse, has to be held accountable," Tellsworth said. "Other people have to know that, no matter what the excuse, if they give in and do something terrible like this, they will have to pay the consequences."

The judge's explanation, Novak said, is required under a "truth in sentencing" law that was passed in the last year or so.

"The judge is required to tell what the sentence means," Novak said. The law is designed to "let people know that when a person is sentenced to 20 years, it doesn't mean that person will necessarily spend 20 years in jail."

one-third of the balance. Souter explained that under the law, five and a half years would be the earliest Dague could expect to be released, Novak said.

"It's up to the parole board" when she might be released, Novak said.

Tellsworth said she cannot accept the situation surrounding the event that changed her life.

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***"Someone who kills a baby, no matter what the excuse, has to be held accountable."***

---

— Linda Tellsworth

Under sentencing guidelines, the prosecutor said Souter "had a lot of discretion. He could have imposed anywhere from five to 99 years in prison."

There is a difference between the federal system and the one under which Alaska operates, Novak said. In the federal criminal justice system, "good time maybe amounts to one month off for each year served." That would take 20 months off a 20-year sentence.

Under Alaska law, however, the offender is required to serve two-thirds of the presumptive time, then

She's only spent 60 days in jail since she was arrested. And now they're going to let her out in five and a half years? That's wrong."

Tellsworth's flyers list Sen. Randy Phillips as the person to contact with demands for changes in the law.

Phillips said this week that he has directed his staff to investigate the case in order for him to see if the law was followed and to consider possible changes.

"It could be that (Tellsworth) is right," Phillips said. "It certainly raises questions in my mind."

"(Dague) will be at Hiland Mountain (Correction Center in Eagle River). Her family can go and visit her.

Michelle Dauge  
Case Number: 3AN-S97-3317-CR

TO WHOM IT MAY CONCERN:

This letter is extremely devastating to write because I have to relive this nightmare again when this situation should have never occurred. Part of this nightmare that I relive is the neighbor calling me to inform me that something was wrong with my infant son Kyle George Tellsworth. This is every parents nightmare to receive a call of this nature. Another part of the nightmare is remembering walking into Michelle's house and seeing my infant son Kyle lying on the floor in a coma, and seeing Officer Tincher at the scene of the Crime. Officer Tincher told me that my son was in critical condition. The ambulance and four police officers vehicles and a fire truck were at the scene of the crime at the time I arrived at Michelle's house. My teenage son Chris was with me when I arrived and informed me that he did not want to go into the house because he was afraid that his little brother, Kyle was dead. After arriving at Michelle's house Michelle informed my teenage son Chris and I that Kyle fell off the couch. At the time Michelle said this neither Chris nor I believed her story because of where Kyle was lying on the floor, and the fact that the couch was not even a foot from the floor. We also did not believe her because Kyle was in a coma when we arrived.

On the way to Alaska Regional Hospital in the ambulance I watched my infant son Kyle go into cardiac arrest. After arriving at Alaska Regional Hospital Kyle's pediatrician Janet Alexander informed my teenage son Chris and I that Kyle was going to die. This was not an accident, this was a deliberate act against my infant son Kyle. Chris and I were in tremendous shock and the doctors on duty wanted to give me an intravenous sedative because I was going into an anxiety hyperventilating attack. After Janet informed my son Chris and I of Kyle's condition I telephoned my mother in California, from Alaska Regional Hospital. After I made this telephone call Kyle was transported over to Providence Hospital to the Intensive Care Unit on the Pediatrics Ward. Two hours after

my mother received the telephone call from me; my sister Patricia took my mother to Kaiser Hospital in Walnut Creek, California because she was having a heart attack.

In the meantime my brother Georgie and my father George F. Tellsworth left California on separate flights bound for Alaska. Their flights were an hour to an hour and a half apart. They had no knowledge of my mother's condition prior to leaving. When Georgie arrived at Providence Hospital he received a telephone message to call Kaiser Hospital in Walnut Creek, California. After Georgie returned the telephone call he learned that our mother was also in critical condition. After Georgie received this information about our mother I saw the look on his face and he said to me that it is nothing for you to worry about; you just need to concentrate all your concerns on Kyle. Georgie then went into see Kyle. After entering Kyle's room he was devastated to see Kyle hooked up to all the mechanical devices that were keeping him alive and stated "OH SHIT!"

This situation was so serious at Providence Hospital that the Intensive Care Unit Pediatric Ward that the only way a person could gain access to the ward was by showing a drivers license or a police badge. The reason security was so tight was because Michelle sneaked around the hospital, and came up to the Intensive Care Pediatrics Ward by gaining access to the floor by the back elevators. Michelle came to the ward to determine what Kyle's condition was because she knew she committed a horrible act of violence. Michelle did not care about anyone else's feelings or concerns of our family. Her only concerns and feelings at the time she came to the hospital were surrounded around her, and that fact that she was going to lose her day care license. To this day Michelle still shows no remorse for her act of violence. Her only concerns shown throughout the trial were all related to her own self pity. The hospital has changed the access to the Intensive Care Pediatrics Ward due to Michelle coming to the ward and trying to cause a scene when this was not the place for her to be. This was done to prevent abusers from gaining access to the victims and their family members.

In the interim my brother Georgie informs me that we need to make a decision about Kyle. He said "let's call the doctor". The doctors who responded were Callie Gonzales and Dr. Brauner. The doctors informed my brother Georgie and I that Kyle was brain dead. There were certain medical signs to prove that Kyle brain dead. These signs were as follows:

1. Doll eyes-- a medical term for his pupil being big like when you look at a doll. The pupils do not respond to dilation.

2. No response to tickling.

3. No nerve impulses

4. Cat scan that showed no live brain movement.

These facts were presented to us of what will take place during the next four-eight hours.

1. Kidneys will shut down and will cause Kyle to develop Diabetes mellitus. Trauma to the cranial causes Diabetes mellitus.

2. Not breathing on his own, therefore the only way he can keep breathing is to be kept on mechanical devices.

3. Went into cardiac arrest several times, and Kyle will continue to go into cardiac arrest.

4. Catheterization to his heart will have to be performed. This is due to the massive head injuries which caused his body fluids to back flow which caused Kyle to drown in his own body fluids.

5. His temperature was not staying stable.

6. Seizures will continue to get worse.

The only artery they could find in order to put the intravenous tube was the femora artery because all of his arteries and veins had collapsed due to the massive trauma to his cranial. Kyle had a tube in his stomach in order to feed him. The end result of all of this is that the doctors were continually giving Kyle morphine intravenously through the femora artery in

order to ease the seizures. The doctors were also doing this in order to try and prevent him from going into cardiac arrest and keep him from suffering which resulted in Kyle developing Diabetes mellitus.

The doctors said that eventually the machines will no longer work. My brother Georgie and I were informed that we had two choices.

1. Not to resuscitate him when he goes into cardiac arrest.

2. To unhook Kyle from all mechanical devices; but before we can legally do this we must call in another physician to obtain a third opinion. We must counsel you about the procedures and test run prior to unhooking him from mechanical devices.

In the meantime I took off my crystal necklace for my infant son Kyle to hold on to, and squeeze while he was going through seizures. Watching my infant son Kyle go through these seizures I was emotionally being torn me apart. Because there was nothing I could do except try to comfort him during these seizures. While in the room observing my infant son Kyle going through the seizures I would lift his eyelids to see if there was any response; but there was never a response. This was also part of the procedure prior to unhooking Kyle from the life support. Because the first procedure the doctors did was take a Q-tip and run it over his eye lids to see if there was a response.

Now the doctors are getting ready to unhook my infant son Kyle from the medical devices which were his only life support. The second procedure that the doctors did was tickling him for nerve responses and again there was no response. The last test prior to unhooking my infant son Kyle from mechanical devices was to take a look at the Cat scan. In doing this we evaluated a live brain in Cat scan and then the doctors showed us my infant son Kyle's brain Cat scan. In evaluating the Cat scan of Kyle's brain, the doctors showed us that there was no live brain. When we looked at Kyle's brain my brother Georgie remark was "OH MY GOD" and I said to the doctor "I do not see any live brain!" Georgie and I were both shocked by what we saw on the Cat scan. At this time we also saw how bad his skull had been fractured. After seeing his skull fractured and being in a state of shock "I

responded there is no live brain and my brother Georgie said "NO SHIT Michelle killed all of it!" That is when the final decision was made to unhook my infant son Kyle from all mechanical devices that were supporting his life. All three of us, my brother Georgie, and my teenage son Chris and I were at the hospital for forty-eight hours with very little rest in an extremely stressful situation. At this time on the Intensive Care Pediatric ward there was a seven year old girl who had suffered severe head injuries from an automobile accident and was in a comma also. Our two families supported each other at a desperate time of need. Meanwhile my father George F. Tellsworth arrives at Providence Hospital at the time of making the final decision to unhook Kyle from all life support devices. Remember my infant son Kyle was named after both my brother Georgie and my father. Therefore my father could not bear to see Kyle in this critical condition as he wanted to remember his grandson Kyle from the three hundred and forty seven pictures of Kyle. My father choose to support my brother's, and my decision by waiting in the lobby area on the Intensive Care Unit on Pediatric Ward by pacing about nervously. At this time my father was totally unaware about the critical condition our mother was in, in California. We then called in Father Luiz to have Kyle baptized before unhooking him from all mechanical devices. Kyle went downhill extremely fast prior to unhooking him from all mechanical devices. Callie Gonzales unhooked Kyle and handed Kyle to me. He took one breath and then he was gone. We stayed at the hospital for approximately four hours before leaving because I wanted to take him home, but my brother Georgie intervened again, and said "NO" to me. The doctors allowed us to have as much time as we needed to say good by to Kyle, and told us to close the door when were done so they would know it was time to call the coroners office. We wanted to donate his organs, but were unsuccessful as an autopsy had to be performed. On the day Kyle was born it snowed. and on the day Kyle died it also snowed. I believe this was Kyle's way of saying good-bye. This was the hardest experience I have had to endure as a mother; coming home with out her baby and knowing he will never come home again. My arms felt empty and my heart was heavy with sorrow

when I walked into my house without my baby. For months I was in total denial and shock of everything that had taken place in the last forty-eight hour to seventy two hour period. I felt like I was in bad dream and hoping to wake up with Kyle alive and well and in my home.

My brother Georgie was a great family supporter through all of this, he told our father about our mother being in the hospital in California, after we unhooked Kyle from life support. So now our father is left with grieving over the loss of his grandson Kyle and with worry and grief over our mother being hospitalized for a heart attack. Georgie on the other hand left his wife and his daughter soon to be a year old, whom turned a year old three days after Kyle was murdered. Therefore, Georgie was unable to be with his daughter on her first birthday. A friend K. Lisa, son Brice turned a year old three days prior to Kyle's murder. Yet another friend of mine had a birthday on the day of the accident. The funeral was also very difficult for my family and a lot of other people. There were over 1000 attendees. On the day of the funeral it snowed. In the mean time my mother was hospitalized for a tumor on her liver. They had to remove one third of her liver. The only family member with my mother during this surgery were my sister Patricia. My father was not able to attend Kyle's funeral because he had to go back to California to be there to support my mother through the surgery and my sister through these difficult times.

If all of this is not bad enough the lose of my infant son Kyle and my mothers surgery, we were made to wait several months prior to Michelle's arrest. I was continuously harassed by Michelle and her friends driving around my neighborhood. During this period I also find it strange that I found a dead baby duck on my front porch along with the continuous hang-up telephone calls. Due to these persisting telephone calls I was forced to have my telephone number changed. The day of Michelle's arrest finally came. A week later Michelle was able to make bail; making another disappointment in my life. After Michelle being out on bail for a year we finally go to court after she filed numerous motion to delay this murder trial, we finally get to go to trial.

On Kyle's first birthday my mother's best friend died. In the interim my teenage son Chris has a friend on his baseball team that commits suicide. Chris in the mean time feels guilty for not protecting his baby brother and is still extremely angry about this murder. In the mean time our family to keep Chris away from the trial and sentencing because he has already suffered a great loss. Chris is continuously in counseling due to this situation.

On Kyle's second birthday we still have not been to trial. Two days after Kyle would have turned two years old we started the murder trial. From the time of the telephone call from Michelle's neighbor to the present I have experienced post trauma depressed syndrome with continuous nightmares of seeing my infant sons head being bashed in and his brains flowing like a water fall from his head. I can not sleep with out a television on; half of my heart is gone and I only have half a heart left to share with my family and my only son left.

Due to this violent murder people around me want to avoid me. My counselor and I call this the death murder disease. People avoid me at work. This is causing havoc at work. As a result I am being put in jeopardy of loosing my occupation. My personal friends have turned against me; and will no longer associate with me because of this murder. People do not know how to deal with this murder situation. Have I failed as a mother? or has society failed to protect my son? These are guilt's and questions that I will have to accept for the rest of eternity.

I am in the process of changing legislation in order to protect our children in society. I feel that this will not be enough. Therefore, I intend to further my education and broaden my horizons by obtaining a law degree. My interests are in the area of criminal law and being an advocate for children's rights.

Now that we have been through this devastating trial and we are upon sentencing I find out my father has to go into the hospital for surgery. Does it not end yet? My mother has another surgery to look forward too due to another tumor. My aunt has had TIA strokes. I feel that this situation has devastated our family. If this is not enough my

parents forty-seventh anniversary is the day before the sentencing. They will not be together on their anniversary because of my fathers surgery. My father is still having a hard time dealing with the loss of his grandson. After all your grandchildren are not suppose to die before their grandparents. My brother Georgie still has nightmares about seeing Kyle in the hospital. The funeral was difficult for Georgie to attend. He usually never cries and I saw him cry at the funeral. He will have his forty third birthday four days before the sentencing but will be in transit to Alaska to be here for the sentencing. He will be with his family, but his wife and child will be in California, on his birthday. Georgies wife Sonya has taken Kyle's death extremely hard she goes to church everyday twice a day to pray for me and my teenage son Chris.

This letter is extremely difficult to write because I have had to relive this murder experience. My teenage son Chris cannot be here at this difficult time of sentencing because he is not at the proper stage of the grieving process and has a hard time dealing with the fact that his baby brother is gone forever. We can only pray and hope that Kyle is with us. I have friends and other family members that are unable to write letters due to grief over the loss of Kyle, who was an extremely beautiful child. Do not ask me to let go of my grief and anger with Michelle. I am not at the point in my grieving process to enable me to just let go of this so easily.

My requests are to you that when you sentence Michelle you set her minimum sentence preferably at sixty years with no parole, and no time taken off for good behavior, and with a maximum sentence of ninety nine years or better with no parole, and no time taken for good behavior. I request that you put Michelle's in a maximum security prison preferably in the lower forty-eight. I prefer that Michelle not be put in Highland which is a minimum security prison less than two miles from my residents. I fear for my safety. I fear that Michelle will be allowed to have conjointly visits; and have contact with her two year old child and her soon to be newborn child. This women is a danger to children and a danger to society. I do not want Michelle allowed to deliver her newborn at Providence

Hospital; and allowed to bond with her newborn. This is also another disappointment in my life because she is became pregnant and is going to have another child and I am unable. I fear for Michelle's children's safety and emotional state. Please allow Michelle to have no contact with any children or infants because she is an extremely dangerous women. She should never be allowed to get out of prison and harm any other children in our society and in our lifetime. Another request I have is that Michelle or any of her family be able to have contact with me or my family. I also request that if she or her family want to contact me or my family to apologize that this be done in a legal fashion through the correctional officers. I request to always be notified of her whereabouts in the judicial system and her progress and performance in prison.

This is murder that has taken place in my life and within my family unit is a situation that will never go away. This murder has made a great change in my personal life and has changed our whole family unit as we will never be the same people we were prior to this murder taking place. Every time Michelle comes up for parole I will be there. every time she has a thought of gaining freedom I will be there as a reminder to her, what her violent action have caused to our family. Our family is a well respected family in society. We would like to believe that things like this do not happen to families like ours and now we know that this is not true and that it can happen to any family in our society. Our family will no longer allow Michelle and her family to destroy our family anymore. Our family is a family of survivors. Our family will rise above this and become a stronger family than we have ever been before.

I still have a long way to go in my grieving process, and my family does too. It is a known fact that the grieving process can take six years or longer. Please feel the pain and anxiety our family has already endured, when you are considering our request at the time of sentencing. Thank you for your patience for our thoughts and grief. You and the jurors have endured a terrible murder trial. You have the most difficult decision to make in sentencing Michelle for this devastating murder of my infant son Kyle George Tellsworth.

We do not know what Kyle could have become in our society but his personality and good nature lead us to believe that he would have been a well respected and loved person in our community. I will never be able to watch Kyle grow nor will I be able to see him play ball or him playing with Chris nor will we ever be a family unit the three of us again. I will not be able to see him graduate from high school or get married or have children. Michelle will still have these opportunities even though she will be in prison. She will always have her children. This is very wrong and unfair.

We will never forget Kyle. He will always be with us. So when you make your final decision on this sentencing please remember what our family has already endured and GOD be with you.

Yours Sincerely

Linda Tellsworth

January 22, 1999

Karen Campbell  
2024 Saratoga Ave.  
Anchorage, AK 99517

Senator Rick Halford  
State Capitol  
Juneau, AK 99801-1188

Dear Senator Halford,

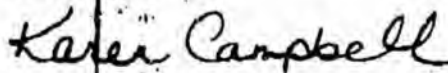
I am Karen Campbell, Bonnie Craig's mother. Bonnie was on her way to school when she was brutally raped and murdered September 28, 1994. Her murderer is still free, free to continue harming the children in our community.

Losing a child is the worst possible pain anyone could go through. The whole family is devastated for years to come. The struggles of dealing with such a senseless tragedy continue to affect my life and the life of Bonnie's brothers and sister. A child's future was taken away. We will never see her graduate from college, her wedding day, or the birth of children she planned. She could have been a doctor or a Nobel Prize Winner. Now, we only have pain and memories.

It saddens me greatly when criminals don't seem to get as much of a sentence for murdering an infant, toddler, or teenager, as they would an adult. Our children are worth so much more. It is our duty to protect our children, our future, and make sure anyone responsible for the death of a child will pay greatly.

I strongly support Senate Bill no. 218. I urge all our lawmakers to stand behind this bill and ensure its swift passage.

Sincerely,



Karen Campbell  
(907) 261-7662

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-1315

FEB 23 1999

February 19, 1999



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

Dear Senator Halford,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 3.

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

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau

State President

Alaska Peace Officers Association

To Senate Staff:

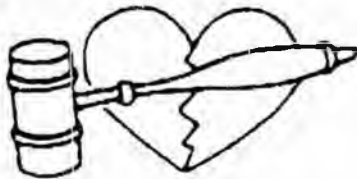
I have been informed that CS SB 3 (RLS) "Crimes of murder/Child Murders" by Senator Halford will be on the calendar tomorrow. Please be advised that the Department of Public Safety supports the Rules CS. We have worked with the sponsor on the bill and the committee substitute.

If you have any questions please feel free to call me.

Sandy Perry-Provost

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Sandy Perry-Provost  
Special Assistant  
Department of Public Safety  
465-2649 tel  
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**VICTIMS**

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

January 21, 1999

Senator Robin Taylor, Chair  
Members of the Judiciary Committee  
State Capitol  
Juneau, AK 99801-1182

Re: YES on Senate Bill 3!

Dear Senator Taylor and Members of the Judiciary Committee:

*A child is dead!* Our minds stagger at the jarring impact. One of the greatest tragedies of all is the death of a child from abuse or neglect. It is not an accident when a child is so severely abused or neglected that it results in death. Parents/legal guardians deliberately murder children every year!

We are shocked and horrified by these senseless deaths of children. What remains equally senseless is that most of the people who murder these children receive very little jail time or no jail time at all.

Victims for Justice strongly supports the proposed Senate Bill 3; "relating to the homicide of children."

Crimes of violence that destroy our children must not be minimized or trivialized. It is time to ensure that those who abuse and kill our children are dealt with in the strongest possible terms. The laws must change so innocent children will be saved.

Please support the passage of Senate Bill 3.

Sincerely,

  
Cathy Satterfield  
Director



# Alaska State Legislature

Please enter into the record my testimony to the House Finance  
 committee name  
 committee on SB 3, dated \_\_\_\_\_  
 bill/subject

see attached news paper  
 clippings

Signed: Paul Sweet  
 Testifier

Representing (Optional)

P O Box

1562

Palmer AK  
99645

Address

745-2242

Phone No.

# 'Two Strikes Law' would jail second offenders for life

By Cynthia Smith  
MPG Newspapers

Convicted sex offenders might soon face harsher penalties in Massachusetts. State Executive Office of Public Safety spokesman Charlie McDonald speaks for many who consider child molestation a crime rather than an illness. "Police officers who investigate these cases see a pattern of arraignments which continue until they are (finally convicted). When the sentence doesn't fit the violent nature of the crime, we as a society pay for it later."

As a way of addressing this problem, McDonald says, the Cellucci administration recently filed new legislation intended to "absolutely incapacitate the child molesters who continue to do this again and again."

"There are three pieces of the puzzle," McDonald said. "The first

piece is the Two Strikes Law under which a second time offender for violent sexual assault would be sent to prison for life. Secondly, we're talking about lifetime supervision for sex offenders, which would be like lifetime parole because of the high rate of recidivism. The third piece would be a civil commitment option by which a prosecutor could have someone designated as a sexually dangerous predator and they would still have to stay behind bars until they proved themselves no longer sexually dangerous.

At the present time, local families might find that their strongest line of defense lies in the state-sponsored Offender Registry Program. According to McDonald, this program is not meant to be a punitive tool but an informational tool. Prior to 1996, when the law that created the registry system was passed, McDonald says law enforcement officials and private

residents alike had no right to information about convicted sex offenders who might be living or working in their communities.

Some treatment-oriented professionals have protested the posting of names and photographs of citizens who, after serving prison sentences, have paid their debts to society. The registry system, these critics say, creates a new American sub-class. One such professional, speaking on condition of anonymity, said, "I don't know of a precedent in history where pulling a certain group of citizens out of society and putting them in a different class than everybody else has ever proved to be a good sign for that society."

Critics of the newly proposed articles of legislation consider them simplistic attempts to solve a complex problem. In Dr. Avrom Weinberg's words, "not all serious problems have good solutions."

# No group free of child sexual abuse

By Cynthia Smith  
WPG Newspapers

Child sexual abuse occurs across socio-economic classes, religious orientations, and races, occurring in 10-25 percent of American families and striking both male and female children, according to the federal probation report. According to 1992 statistics furnished from the United States Department of Health and Human Services, between 1976 to 1986, the number of reported cases of child sexual abuse grew from 6,000 to 132,000, an increase

totalled 432,000 an increase of another 227 percent. Nobody seems to know how much of the increase is attributable to increasing press coverage and how much reflects an increase in actual occurrences.

Some studies suggest that approximately one in six boys are sexually abused before age 16. But experts also warn that the most trustworthy statistics on childhood sexual abuse among males are those obtained by means of anonymous questionnaires, since males are less willing to acknowledge unwanted sexual experiences in the presence of others.

Since adults who sexually abuse children assume so many different faces, labels like "pedophile" fail to adequately classify all of them. The latest edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* says that true pedophiles must be over 16 years old and least 5 years older than the children they target.

Some experts hold that offenders who sexually abuse children are motivated by power and ego needs than they are by sexual interest. Others, including Dr. Avrom Weinberg of Marshfield, a clinical psychologist who has treated victims of assault, view "pedophilia" as a condition (which is) as ingrained as heterosexuality or adult homosexuality. So when a person has a pedophile orientation, it is not something any known form of therapy can really alter."

Greg Canfield, director of Justice Programs for the Justice Resource Institute, a private, non-profit organization that administers treatment programs for incarcerated sexual offenders through the Center for Sex Offender Management at Bridgewater State Prison, views things differently. "Just about all the time, there are patterns which have been learned," Canfield says. "They've never been able to find a gene that makes some one an offender. Usually people stay with age appropriate sexual and romantic partners throughout their lives. So one could argue that something has to happen to that person to make it that they're interested in younger people. Some of these people were introduced to pornography or to sex way before they had the developmental ability to deal with it."

## Keep talk lines open

Experts do agree that parents can do three things to decrease the chance that a child will be abused:

1. build trusting relationships and maintain open lines of communication with children so that they feel comfortable speaking even the unspeakable;
2. watch over them carefully;

comes to knowing the background of the adults who spend a lot of time with your children.

Adults who molest children sexually will continue to reside in local communities. Parents, law enforcement agencies, helping professionals and legislators all play important roles in containing a problem that just won't go away. One innovative Massachusetts organization that calls itself Stop It Now provides confidential information to those calling their helpline at 1-888-PREVENT, Mondays through Fridays from 1 to 4 pm. The group's name echoes the sentiments of many who really don't care whether offenders are punished, as long as they stop offending.

"So in the offender population," Canfield said, "we are usually dealing with people who have been hurt themselves. A certain number of people are psychopathic or sociopathic criminals and this is the crime they commit. (But) you have to be careful when you paint a whole section of people with the same brush."

Perpetrators of sex crimes may or may not be victims of child sexual abuse themselves. In one 1984 study, after data on 1,000 sex offenders from 18 different studies was reviewed, the average rate of childhood abuse was found to be 28 percent. A 1984 study found that 28 percent of surveyed college students reported having sexual encounters with adults during childhood. These findings suggest that most people who experience sexual abuse as children do not invariably become molesters later in life. Among any group of child molesters though, the percentage of those who were sexually abused as children is likely to be higher than the percentage of sexually abused persons in the general population.

Regardless of why these tendencies exist, the central question is whether offenders can be cured. "Frankly, I'm very pessimistic about that," Weinberg said. "I'm not saying that they can't (be treated) but it might be like asking whether Down's Syndrome is treatable. It may be, but I don't know of any. The best that can be hoped for is that -- because of fear of

punishment or through an understanding of the psychological harm to people -- they will divert those impulses so that they don't do that. But I don't feel that their fantasies stop, and I don't believe that they ever stop wishing to have sex in that manner."

Canfield, on the other hand, argues that conventional therapists occupy a different reality than therapists who specialize in treating sex offenders. "When therapists say that (sex offenders) can't be treated, they're right in the sense that they can't be treated using conventional therapeutic approaches," he said.

over to the whole idea that children are far exploitation, Canfield said, "the majority of sex offenders don't want to be. Say that you're married, and your husband is leaving you, and you've lost your job, and your car broke down. Well, it's really hard to self-actualize under those conditions. If you go back into most of these guys' lives, the car has always been broken down, and they were always being left behind. Some of the older group of people have been in care all of their lives. They were defective delinquents, then they were in DSS, then DYS, then in the mental health system. Then they committed these crimes. Some of their lives have been very tragic. We don't accept that as an excuse for hurting other people, but it's just that an awful lot of work has to be done with them to get them to the point where they can get control of their lives."

According to Canfield, not all convicted offenders strike again. Some estimate recidivism rates to be as high as 30 to 70 percent others as low as 40 percent. "Some sex offender treatment programs report very low recidivism rates -- as low as 3 to 5 percent. Others aim for rates as high as 20 percent. We have to live with the fact that some will recidivate, and that, since it's very hard to get a matched sample, it's just not something that we know a whole lot about. It's like a doctor who works with cancer patients. To be cured is the highest standard. Sometimes they can cure the symptoms, but not the actual disease."

This is why, Canfield says, "sexual offender treatment employs a cognitive, behavioral approach, which means that it uses everything it can to try to come up with a very powerful intervention." Such treatment might include behavioral interventions like desensitization, drug interventions and group therapy sessions with other offenders.

"When a sex offender does turn his or her life around, it's worth it because you have essentially saved victims," Canfield said. "Some people do need to be locked up and given longer sentences. On the other hand, people who have been successful in treatment and are legitimately interested in reintegrating back into society in a responsible manner which provides for public safety, should be given a chance to do so."