

ALASKA LEGISLATURE

2052

HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000

205

1 (2) the approach taken by the regulation is not required by a substantial
2 state interest.

3 (c) Notwithstanding (b) of this section, when an action for declaratory relief
4 is brought under (a) of this section, a court may not issue a temporary restraining
5 order, a preliminary injunction, or a permanent injunction based on (b) of this section
6 to stop the operation of the regulation.

7 (d) In (b)(2) of this section, the person challenging the regulation carries the
8 burden of proving that there is not a substantial state interest that requires using the
9 approach taken by the regulation.

10 (e) A regulation of the Department of Corrections, the Department of Natural
11 Resources, a state board, or a state commission is not subject to (b) of this section.

12 * **Sec. 14.** AS 44.62 is amended by adding a new section to read:

13 **Sec. 44.62.555. Time limit.** (a) An administrative adjudication must result
14 in

15 (1) a proposed administrative order within the later of 60 days after the
16 hearing officer closes the record or two years after the statement of issues under
17 AS 44.62.370 or an accusation under AS 44.62.360 is filed; and

18 (2) a final administrative order within 30 days after the proposed
19 administrative order unless the agency conducting the administrative adjudication is
20 a state commission or a state board, in which case the state commission or state board
21 has 30 days after the commission's or board's next meeting to arrive at a final
22 administrative order.

23 (b) Notwithstanding any other provision of AS 44.62.330 - 44.62.630 to the
24 contrary, an agency may not order a record to be reopened after the hearing officer has
25 closed the record unless a substantial factual question exists that is necessary to the
26 resolution of the administrative adjudication and the lieutenant governor approves
27 reopening the record.

28 (c) A time limitation in (a) of this section may be extended if

29 (1) the lieutenant governor approves the extension, but, even with an
30 extension under this paragraph, the administrative adjudication may not exceed four
31 years;

1 (2) a respondent other than a state agency petitions for reconsideration
2 under AS 44.62.540 for a stay of execution under AS 44.62.520, for an extension of
3 a time limit in (a) of this section, or for the record to be reopened in the administrative
4 adjudication.

5 (d) Unless the time is extended by (c) of this section, if an administrative
6 adjudication does not result in a final administrative order in the total time allowed by
7 (a) of this section for an agency to reach a proposed administrative order and a final
8 administrative order, and if an agency instigated the administrative adjudication, the
9 respondent may cancel the administrative adjudication by notifying the agency in
10 writing of the cancellation. The agency may not subsequently begin another
11 administrative adjudication for the same matter that was the subject of the cancelled
12 administrative adjudication, and an appeal may not be taken from the cancelled
13 administrative adjudication or from the cancellation of the administrative adjudication.
14 However, after the administrative adjudication is cancelled, the agency may bring an
15 action in superior court covering the matter that was the subject of the cancelled
16 administrative adjudication. The complaint must be filed with the superior court
17 within 60 days after the administrative adjudication is cancelled under this subsection.

18 (e) Unless the time is extended by (c) of this section, if an administrative
19 adjudication does not result in a final administrative order in the total time allowed by
20 (a) of this section for an agency to reach a proposed administrative order and a final
21 administrative order, and if a person other than an agency instigated the administrative
22 adjudication, the person may cancel the administrative adjudication by notifying the
23 agency in writing of the cancellation. The person is considered to have exhausted the
24 person's administrative remedies with regard to the subject matter of the cancelled
25 administrative adjudication, and an appeal may not be taken from the cancelled
26 administrative adjudication or from the cancellation of the administrative adjudication.
27 However, after the administrative adjudication is cancelled, the person may bring an
28 action in superior court covering the matter that was the subject of the administrative
29 adjudication. The complaint must be filed with the superior court within 60 days after
30 the administrative adjudication is cancelled under this subsection.

31 (f) If an administrative adjudication involves an allegation of criminal conduct

1 and is parallel to a criminal case brought in court for the criminal conduct, this section
2 does not apply to, and the time limits in this section do not start running for, the
3 administrative adjudication until the criminal case is resolved.

4 (g) This section does not apply to the Department of Corrections, the Board
5 of Fisheries, the Board of Game, or the Alaska Commercial Fisheries Entry
6 Commission.

7 (h) In this section,

8 (1) "administrative adjudication" means the procedure that begins with
9 filing a statement of issues under AS 44.62.370 or an accusation under AS 44.62.380
10 and ends with the issuance of a final administrative order;

11 (2) "final administrative order" means a decision under AS 44.62.330 -
12 44.62.630 that is eligible for judicial review under AS 44.62.560.

13 * Sec. 15. APPLICABILITY. (a) Sections 1 - 11 and 13 of this Act apply to the
14 adoption, amendment, or repeal of a regulation if the initial notice under AS 44.62.190, as
15 amended by sec. 5 of this Act, of the adoption, amendment, or repeal is given on or after the
16 effective date of this Act.

17 (b) Section 12 of this Act applies to a state agency's adoption of regulations if the
18 effective date of the Act enacting the statutory authority requiring the adoption is the same
19 as or after the effective date of this Act.

20 (c) Section 14 of this Act applies to an administrative adjudication if the statement
21 of issues under AS 44.62.370 or the accusation under AS 44.62.360 is filed on or after the
22 effective date of this Act.

23 * Sec. 16. COURT RULE CHANGES. AS 44.62.030(b), enacted by sec. 3 of this Act,
24 and AS 44.62.300(c), enacted by sec. 13 of this Act, change Rule 65, Alaska Rules of Civil
25 Procedure, by prohibiting temporary restraining orders and injunctions in certain situations.

26 * Sec. 17. This Act takes effect July 1, 2000.

1-LS0274\N
Bannister ✓
3/8/99

CS FOR SENATE BILL NO. 24()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regulations; relating to administrative adjudications; amending
2 Rule 65, Alaska Rules of Civil Procedure; and providing for an effective date."

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

4 * Section 1. SHORT TITLE. Sections 2 - 13 of this Act may be known as the Alaska
5 Regulations Reform Act.

6 * Sec. 2. AS 44.62.030 is amended to read:

7 Sec. 44.62.030. Relationship [CONSISTENCY] between regulation and
8 statute. If, by express or implied terms of a statute, a state agency has authority to
9 adopt regulations to implement, interpret, make specific, or otherwise carry out the
10 provisions of the statute, a regulation adopted is not valid or effective,
11 notwithstanding any other provision of law, unless the regulation takes a
12 reasonable approach clearly within the intent of [CONSISTENT WITH] the statute
13 [AND REASONABLY NECESSARY TO CARRY OUT THE PURPOSE OF THE
14 STATUTE].

1 * Sec. 3. AS 44.62.030 is amended by adding a new subsection to read:

2 (b) In addition to the requirements of (a) of this section, a state agency may
3 not adopt a regulation that changes the intent of the statute being implemented,
4 interpreted, made specific, or otherwise carried out. When challenging a regulation
5 under this subsection, the burden of proof is on the person challenging the regulation
6 to prove that the regulation changes the intent of the statute. A person may not obtain
7 a temporary restraining order, a preliminary injunction, or a permanent injunction from
8 a court to enjoin the operation of a regulation based on a failure to comply with this
9 subsection.

10 * Sec. 4. AS 44.62 is amended by adding a new section to article 1 to read:

11 **Sec. 44.62.035. Cost-benefit requirement.** (a) When adopting a regulation,
12 an order of repeal, or an amendment to a regulation, unless the adopting state agency
13 head determines in writing that the cost to prepare a cost-benefit analysis is prohibitive
14 or that the costs and benefits cannot be easily determined, a state agency shall prepare
15 a cost-benefit analysis of the costs to the public to comply with the proposed
16 regulatory action and the benefits to the public from the proposed regulatory action.
17 The state agency shall consider a cost or benefit even if the cost or benefit relates to
18 aesthetics or is otherwise nonquantifiable, and the state agency is not required to give
19 the cost or benefit a dollar value in order to prepare a cost-benefit analysis.

20 (b) Notwithstanding other laws to the contrary, if a cost-benefit analysis is
21 required by this section, the agency may not adopt a regulation, order of repeal, or
22 amendment unless, under the analysis, the benefit to the public outweighs the cost to
23 the public.

24 (c) Consistent with this section, the adopting state agency head shall determine
25 the type of cost-benefit analysis to be prepared by the state agency under this section.

26 (d) The cost-benefit analysis requirement of this section does not apply when
27 the proposed regulatory action is necessary to implement a budgetary modification or
28 when the state agency is expressly required by statute to adopt the proposed regulation,
29 order of repeal, or amendment.

30 (e) A regulation, an order of repeal, or an amendment to a regulation may not
31 be voided because the state agency taking the regulatory action failed to comply with

1 this section if the state agency made a good faith attempt to comply with this section.

2 (f) The state agency shall make a copy of the cost-benefit analysis prepared
3 under this section available to the public before a hearing on the proposed regulatory
4 action.

5 (g) In this section,

6 (1) "adopting state agency head" means the governor if the state agency
7 is the Office of the Governor, or the commissioner of the department within which the
8 state agency is located;

9 (2) "state agency" does not include the Department of Corrections, the
10 Board of Fisheries, the Board of Game, or the Alaska Commercial Fisheries Entry
11 Commission.

12 * Sec. 5. AS 44.62.190(a) is amended to read:

13 (a) At least 30 days before the adoption, amendment, or repeal of a regulation,
14 notice of the proposed action shall be

15 (1) published in the newspaper of general circulation or trade or
16 industry publication that the state agency prescribes and in the Alaska Administrative
17 Journal; in the discretion of the state agency giving the notice, the requirement of
18 publication in a newspaper or trade or industry publication may be satisfied by using
19 a combination of publication and broadcasting; when broadcasting the notice, an
20 agency may use an abbreviated form of the notice if the broadcast provides the name
21 and date of the newspaper or trade or industry journal where the full text of the notice
22 can be found;

23 (2) mailed to every person who has filed a request for notice of
24 proposed action with the state agency;

25 (3) if the agency is within a department, mailed or delivered to the
26 commissioner of the department;

27 (4) when appropriate in the judgment of the agency,

28 (A) mailed to a person or group of persons whom the agency
29 believes is interested in the proposed action; and

30 (B) published in the additional form and manner the state
31 agency prescribes;

1 (5) furnished the Department of Law together with a copy of the
2 proposed regulation, amendment, or order of repeal for the department's use in
3 preparing the opinion required after adoption and before filing by AS 44.62.060;

4 (6) furnished to all incumbent State of Alaska legislators and the
5 Legislative Affairs Agency;

6 (7) furnished to the standing committee of each house of the legislature
7 having legislative jurisdiction over the subject matter treated by the regulation under
8 the Uniform Rules of the Alaska State Legislature, together with a copy of the
9 proposed regulation, amendment, or order of repeal for the committee's use in
10 conducting the review authorized by AS 24.05.182;

11 (8) furnished to the staff of the Administrative Regulation Review
12 Committee, together with a copy of the proposed regulation, amendment, or order of
13 repeal and, if preparation of an appropriation increase estimate is required by
14 AS 44.62.195, a copy of the estimate;

15 (9) published on the Internet by the state agency proposing the
16 action if the state agency has the technological capability to publish on the
17 Internet; in this paragraph, "state agency" does not include the Department of
18 Corrections, the Board of Fisheries, the Board of Game, or the Alaska
19 Commercial Fisheries Entry Commission.

20 * Sec. 6. AS 44.62.200(a) is amended to read:

21 (a) The notice of proposed adoption, amendment, or repeal of a regulation
22 must include

23 (1) a statement of the time, place, and nature of proceedings for
24 adoption, amendment, or repeal of the regulation;

25 (2) reference to the authority under which the regulation is proposed
26 and a reference to the particular code section or other provisions of law that are being
27 implemented, interpreted, or made specific;

28 (3) an informative summary of the proposed subject of agency action;

29 (4) other matters prescribed by a statute applicable to the specific
30 agency or to the specific regulation or class of regulations;

31 (5) a summary of the fiscal information required to be prepared under

1 AS 44.62.195;

2 (6) a statement that a copy of the cost-benefit analysis is available
3 from the agency proposing the regulatory action if a summary of the cost-benefit
4 analysis is required under AS 44.62.035.

5 * Sec. 7. AS 44.62.200(b) is amended to read:

6 (b) A regulation that is adopted, amended, or repealed may vary in content
7 from the summary specified in (a)(3) of this section if the subject matter of the
8 regulation remains the same and the [ORIGINAL] notice was written so as to assure
9 that members of the public are reasonably notified of the proposed subject of agency
10 action in order for them to determine whether their interests could be affected by
11 agency action on that subject.

12 * Sec. 8. AS 44.62 is amended by adding a new section to read:

13 **Sec. 44.62.213. Supplemental notice and public proceedings.** (a) If a state
14 agency rewrites a proposed regulation, amendment of a regulation, or order of repeal
15 after the agency has complied with AS 44.62.190, 44.62.200, and 44.62.210, and if the
16 rewriting changes the substance of the regulation, amendment, or order but the state
17 agency would not normally consider the change to be significant enough to require
18 additional notice and opportunity for comment under AS 44.62.190, 44.62.200, and
19 44.62.210, before adoption, the agency shall provide notice and opportunity for public
20 comment under AS 44.62.190(a)(2) - (9), 44.62.200, and 44.62.210 for the rewritten
21 regulation, amendment, or order of repeal.

22 (b) If a state agency does not provide the notice and opportunity for public
23 comment under (a) of this section for a rewritten proposed regulation, amendment, or
24 order of repeal, the agency shall prepare a written explanation of the reasons why the
25 requirement of (a) of this section does not apply. When the adopted regulation,
26 amendment, or order of repeal is published in the Alaska Administrative Journal, the
27 lieutenant governor shall include the agency explanation with the text or a summary
28 of the text of the regulation, amendment, or order of repeal.

29 (c) A regulation, an order of repeal, or an amendment to a regulation may not
30 be voided because the state agency taking the regulatory action failed to comply with
31 this section if the state agency made a good faith attempt to comply with this section.

1 (d) This section does not apply to regulations

2 (1) adopted under AS 44.62.260 to make emergency regulations
3 permanent; or

4 (2) that are necessary to meet federal requirements.

5 (e) In this section, "state agency" does not include the Department of
6 Corrections, the Board of Fisheries, the Board of Game, or the Alaska Commercial
7 Fisheries Entry Commission.

8 * Sec. 9. AS 44.62.230 is amended to read:

9 **Sec. 44.62.230. Procedure on petition.** Upon receipt of a petition requesting
10 the adoption, amendment, or repeal of a regulation under AS 44.62.180 - 44.62.290,
11 a state agency shall, within 30 days, deny the petition in writing or schedule the matter
12 for public hearing under AS 44.62.190 - 44.62.215. However, if the petition is for an
13 emergency regulation, and the agency finds that an emergency exists, the requirements
14 of AS 44.62.035, 44.62.040(c), [AS 44.62.040(c)] and 44.62.190 - 44.62.215 do not
15 apply, and the agency may submit the regulation to the lieutenant governor
16 immediately after making the finding of emergency and putting the regulation into
17 proper form.

18 * Sec. 10. AS 44.62.250 is amended to read:

19 **Sec. 44.62.250. Emergency regulations.** A regulation or order of repeal may
20 be adopted as an emergency regulation or order of repeal if a state agency makes a
21 written finding, including a statement of the facts that constitute the emergency, that
22 the adoption of the regulation or order of repeal is necessary for the immediate
23 preservation of the public peace, health, safety, or general welfare. The requirements
24 of AS 44.62.035, 44.62.040(c) [AS 44.62.040(c)], 44.62.060, and 44.62.190 -
25 44.62.215 do not apply to the initial adoption of emergency regulations; however, upon
26 adoption of an emergency regulation, the adopting agency shall immediately submit
27 a copy of it to the lieutenant governor for filing and for publication in the Alaska
28 Administrative Register, and, within five days after filing by the lieutenant governor,
29 the agency shall give notice of the adoption in accordance with AS 44.62.190(a).
30 Failure to give the required notice by the end of the 10th day automatically repeals the
31 regulation.

1 * Sec. 11. AS 44.62.260 is amended to read:

2 **Sec. 44.62.260. Limitation on effective period of emergency regulations.**

3 (a) A regulation adopted as an emergency regulation does not remain in effect more
4 than 120 days unless the adopting agency complies with AS 44.62.035, 44.62.040(c)
5 [AS 44.62.040(c)], 44.62.060, and 44.62.190 - 44.62.215 either before submitting the
6 regulation to the lieutenant governor or during the 120-day period.

7 (b) Before the expiration of the 120-day period, the agency shall transmit to
8 the lieutenant governor for filing a certification that AS 44.62.035, 44.62.040(c)
9 [AS 44.62.040(c)], 44.62.060, and 44.62.190 - 44.62.215 were complied with before
10 submitting the regulation to the lieutenant governor, or that the agency complied with
11 those sections within the 120-day period. Failure to so certify repeals the emergency
12 regulation; it may not be renewed or refiled as an emergency regulation.

13 * Sec. 12. AS 44.62 is amended by adding a new section to read:

14 **Sec. 44.62.285. Time limit for adoption.** (a) A state agency may not take
15 more than two years to adopt regulations that the state agency is required to adopt by
16 a statute. The two-year period begins on the effective date of enactment of the statute
17 requiring the adoption of the regulations.

18 (b) If a state agency fails to comply with (a) of this section, the state agency
19 shall prepare a written report containing the reasons for the failure and submit the
20 report to the president of the senate, the speaker of the house of representatives, and
21 the Administrative Regulation Review Committee established under AS 24.20.400.
22 Notwithstanding AS 44.62.300, a court may not hold a regulation invalid for failure
23 to comply with this section.

24 (c) The requirement of (a) of this section is not intended to prohibit a state
25 agency from amending a regulation after the regulation has been adopted.

26 * Sec. 13. AS 44.62.300 is amended by adding new subsections to read:

27 (b) Except where a court has other grounds for holding the regulation invalid,
28 a court that reviews the validity of a regulation shall hold the regulation valid unless

29 (1) the regulation uses an approach that causes more than the least
30 intrusion on the rights and property of the persons affected by the regulation; and

31 (2) the approach taken by the regulation is not required by a substantial

1 state interest.

2 (c) Notwithstanding (b) of this section, when an action for declaratory relief
3 is brought under (a) of this section, a court may not issue a temporary restraining
4 order, a preliminary injunction, or a permanent injunction based on (b) ~~of~~ this section
5 to stop the operation of the regulation.

6 (d) In (b)(2) of this section, the person challenging the regulation carries the
7 burden of proving that there is not a substantial state interest that requires using the
8 approach taken by the regulation.

9 (e) A regulation of the Department of Corrections, the Department of Natural
10 Resources, a state board, or a state commission is not subject to (b) of this section.

11 * Sec. 14. AS 44.62 is amended by adding a new section to read:

12 **Sec. 44.62.555. Time limit.** (a) An administrative adjudication must result
13 in

14 (1) a proposed administrative order within the later of 60 days after the
15 hearing officer closes the record or two years after the statement of issues under
16 AS 44.62.370 or an accusation under AS 44.62.360 is filed; and

17 (2) a final administrative order within 30 days after the proposed
18 administrative order unless the commission conducting the administrative adjudication
19 is a state commission or a state board.

20 (b) Notwithstanding any other provision of AS 44.62.330 - 44.62.630 to the
21 contrary, an agency may not order a record to be reopened after the hearing officer has
22 closed the record unless a substantial factual question exists that is necessary to the
23 resolution of the administrative adjudication and the lieutenant governor approves
24 reopening the record.

25 (c) A time limitation in (a) of this section may be extended if

26 (1) the lieutenant governor approves the extension, but, even with an
27 extension under this paragraph, the administrative adjudication may not exceed four
28 years;

29 (2) a respondent other than a state agency petitions for reconsideration
30 under AS 44.62.540 for a stay of execution under AS 44.62.520, for an extension of
31 a time limit in (a) of this section, or for the record to be reopened in the administrative

1 adjudication.

2 (d) Unless the time is extended by (c) of this section, if an administrative
3 adjudication does not result in a final administrative order in the total time allowed by
4 (a) of this section for an agency to reach a proposed administrative order and a final
5 administrative order, and if an agency instigated the administrative adjudication, the
6 respondent may cancel the administrative adjudication by notifying the agency in
7 writing of the cancellation. The agency may not subsequently begin another
8 administrative adjudication for the same matter that was the subject of the cancelled
9 administrative adjudication, and an appeal may not be taken from the cancelled
10 administrative adjudication or from the cancellation of the administrative adjudication.
11 However, after the administrative adjudication is cancelled, the agency may bring an
12 action in superior court covering the matter that was the subject of the cancelled
13 administrative adjudication. The complaint must be filed with the superior court
14 within 60 days after the administrative adjudication is cancelled under this subsection.

15 (e) Unless the time is extended by (c) of this section, if an administrative
16 adjudication does not result in a final administrative order in the total time allowed by
17 (a) of this section for an agency to reach a proposed administrative order and a final
18 administrative order, and if a person other than an agency instigated the administrative
19 adjudication, the person may cancel the administrative adjudication by notifying the
20 agency in writing of the cancellation. The person is considered to have exhausted the
21 person's administrative remedies with regard to the subject matter of the cancelled
22 administrative adjudication, and an appeal may not be taken from the cancelled
23 administrative adjudication or from the cancellation of the administrative adjudication.
24 However, after the administrative adjudication is cancelled, the person may bring an
25 action in superior court covering the matter that was the subject of the administrative
26 adjudication. The complaint must be filed with the superior court within 60 days after
27 the administrative adjudication is cancelled under this subsection.

28 (f) This section does not apply to an administrative adjudication that involves
29 allegations of criminal conduct and that is parallel to a criminal case brought in court
30 for the criminal conduct.

31 (g) This section does not apply to the Department of Corrections, the Board

1 of Fisheries, the Board of Game, or the Alaska Commercial Fisheries Entry
2 Commission.

3 (h) In this section,

4 (1) "administrative adjudication" means the procedure that begins with
5 filing a statement of issues under AS 44.62.370 or an accusation under AS 44.62.380
6 and ends with the issuance of a final administrative order;

7 (2) "final administrative order" means a decision under AS 44.62.330 -
8 44.62.630 that is eligible for judicial review under AS 44.62.560.

9 * **Sec. 15. APPLICABILITY.** (a) Sections 1 - 11 and 13 of this Act apply to the
10 adoption, amendment, or repeal of a regulation if the initial notice under AS 44.62.190, as
11 amended by sec. 5 of this Act, of the adoption, amendment, or repeal is given on or after the
12 effective date of this Act.

13 (b) Section 12 of this Act applies to a state agency's adoption of regulations if the
14 effective date of the Act enacting the statutory authority requiring the adoption is the same
15 as or after the effective date of this Act.

16 (c) Section 14 of this Act applies to an administrative adjudication if the statement
17 of issues under AS 44.62.370 or the accusation under AS 44.62.360 is filed on or after the
18 effective date of this Act.

19 * **Sec. 16. COURT RULE CHANGES.** AS 44.62.030(b), enacted by sec. 3 of this Act,
20 and AS 44.62.300(c), enacted by sec. 13 of this Act, change Rule 65, Alaska Rules of Civil
21 Procedure, by prohibiting temporary restraining orders and injunctions in certain situations.

22 * **Sec. 17.** This Act takes effect July 1, 2000.

LEGAL SERVICES

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

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

MEMORANDUM

March 10, 1999

SUBJECT: Draft CSSB 24(Fin) relating to regulations and administrative adjudications (Work Order No. 21-LS0274S)

TO: Senator Sean Parnell, Co-Chair
Senator John Torgerson, Co-Chair
Senate Finance Committee
Attn: Mindy

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies the draft bill described above.

The language for sec. 44.62.555(f) has been changed somewhat from what was requested by the amendment. The purpose of the changes is clarity. The first change was to add a provision expressly addressing the time limits in the section. Because the language in the "N" version was a total exemption from the section, it was sufficient to state that the section did not apply. However, in the new "S" version, the new language applies the sections of the provision, including specific time limits, to the administrative adjudication at a certain point (when the criminal case ends). This raised the question of when the time limits in the section started. To clarify this, and after consulting with Senator Donley's office as to the intent of the amendment, the subsection was changed to include the more express language about the time limits. The language of the subsection has also been rearranged to make it clearer and easier to read.

If I may be of further assistance, please advise.

TLB:pl:jr
99-035.plm

Enclosure



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

ADMINISTRATIVE ORDER NO. 157

I, Tony Knowles, Governor of the State of Alaska, under the authority vested in me by art. III, secs. 1 and 24, of the Alaska Constitution, order all executive branch agencies to comply with the directives set out in this Order regarding administrative regulations, in order to accomplish the following objectives:

- achieve clear and concise language, and "plain English," in administrative regulations so that customers of state services are better able to understand and comply with the regulations;
- promote a better relationship between the Legislature, executive branch agencies, and the public that they serve;
- make the regulation-adoption process more accessible and understandable to the general public;
- minimize the cost to the public of complying with state regulations; and
- encourage state agencies to work with the regulated public to meet the objectives of agency regulations.

AGENCY DIRECTIVES

1. Public notices regarding regulation changes, including repeals of existing regulations, should include statements that describe:

- ▶ what is being changed;
- ▶ how it is being changed; and
- ▶ why it is being changed.

2. In public notices regarding regulation changes:

- ▶ minimize the use of technical terms not generally understood by the public;
- ▶ use "plain English" in describing the regulatory action;
- ▶ strive for clarity and clean, concise language;
- ▶ name a specific agency contact person for requesting information about the regulation project, including information regarding special accommodations for persons with a disability; and
- ▶ actively solicit comments from the affected public on the cost of compliance with the proposed regulation.

3. When drafting regulations, each agency shall consider known and potential costs to the public of complying with the regulations and, to the extent possible, shall draft the regulations so as to minimize those costs.

4. When preparing the public notice for regulation changes, the adopting agency shall consider whether, because of the nature and effect of the regulation changes, the agency should hold one or more oral public hearings on the changes, in addition to providing for written comments on the changes. In deciding whether to hold oral hearings, the agency shall consider both its budget and the possibility of using teleconferencing.

5. In determining an appropriate length of time for the public comment period for a set of regulations, the adopting agency shall consider:

- ▶ the special needs or concerns of those likely to be affected by the regulations;
- ▶ whether the anticipated comment period is sufficient for the public to obtain a copy of, review, and comment on the regulations;
- ▶ the urgency of the regulations project; and
- ▶ the overall time frame for the regulations project.

6. At the time of publishing a public notice regarding regulation changes, each adopting agency shall provide for additional newspaper or broadcast media press releases, or mailings to affected persons, to the extent that action is economically feasible, in order to ensure maximum public awareness of the agency action.

7. In maintaining mailing lists of persons interested in agency regulations, each agency shall periodically review the lists to ensure that, to the extent possible, the lists represent the broadest spectrum of interested persons as well as persons likely to be affected by the agency's regulations.

8. After a regulation change has been filed by the Lieutenant Governor's Office, the adopting agency, to the extent economically feasible, shall use newspaper or broadcast media press releases, or mailings, to inform the public of the filing and impending effective date of the regulation change.

9. To better respond to inquiries from the public regarding regulations projects, each commissioner shall institute an internal agency system for maintaining, in a centralized manner, current information regarding pending agency regulations projects. As part of such a system:

- ▶ each commissioner shall designate a staff person within the agency to serve as the general regulation information contact person for that agency;
- ▶ each commissioner shall direct agency staff to provide to the contact person information necessary to develop and maintain a current list of that agency's pending regulations projects;
- ▶ at the time it opens a regulation file, the Department of Law shall provide to the appropriate agency regulation contact person a copy of the file-opening information; and
- ▶ each commissioner shall ensure that that agency's pending regulation project list contains adequate and accurate information, including a sufficient description of each project and the name and phone number of the agency staff person who can provide more specific information about the project.

10. Each adopting agency immediately shall submit a plan to the Governor for a process of reviewing, in consultation with the Department of Law, its existing regulations for the purpose of identifying, within budget constraints, provisions to be amended or repealed because:

- ▶ the provision contains confusing or unnecessarily technical language; the use of "plain English" is the standard that should be achieved whenever possible;
- ▶ the cost to the regulated public is excessive when compared to the state's interest in or benefit from the particular requirement; and
- ▶ the requirements of the provision are burdensome to the regulated public and less burdensome requirements still would allow the agency to carry out its statutory responsibilities.

11. The Department of Law shall, to the extent economically feasible, provide, through its own staff or through others, training to appropriate staff of executive branch agencies regarding:

- ▶ handling of public information requests regarding regulation projects, including the requirements of the public records law;
- ▶ ways to improve the language of public notices regarding regulation changes, so that the notices are more understandable and meaningful to the public while still meeting legal requirements;
- ▶ ways to improve regulation writing, so that draft regulations that are distributed to the public for comment are clearer, in "plain English," and adequately and accurately describe the agency's intent;
- ▶ the requirements of the Americans With Disabilities Act regarding accommodations that might be required in order for persons with a disability to be able to participate in the regulatory process; and
- ▶ the requirements for collecting and seriously considering all public comments received during the public comment period for a regulation project.

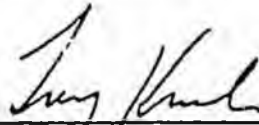
12. Each commissioner shall take appropriate steps to ensure that the agency focuses its efforts on educating and otherwise working with the public so that the public is better able to comply with regulatory requirements in a cost-effective manner and avoid inadvertent noncompliance.

13. Each commissioner shall take appropriate steps to inform federal agencies of state concerns in proposed federal regulations and to suggest changes so that federal regulations are not overly burdensome for Alaskans.

14. If state agencies have overlapping regulatory responsibilities regarding business activities, the commissioners of those agencies shall ensure that the agencies work together to achieve, to the extent possible, regulatory requirements that avoid duplication while facilitating compliance with statutory requirements.

This Order takes effect immediately.

DATED at Juneau, Alaska, this 5 day of June, 1995.



Tony Knowles
Governor

TONY KNOWLES
GOVERNOR



P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 485-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 9, 1997

The Honorable Jeannette James, Chair
The Honorable Jerry Mackie, Vice-Chair
Administrative Regulation Review Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Jeannette
Dear Representative James and Senator Mackie:

On June 5, 1995, the Governor issued Administrative Order (AO) No. 157 directing a number of actions be taken in the formulation, promulgation and implementation of regulations, (copy enclosed). This AO called for straightforward, "plain English" descriptions of proposed actions, comprehensive and flexible public notification designed to maximize public input, cost considerations to the public and affected parties, training of regulation writers and other reforms.

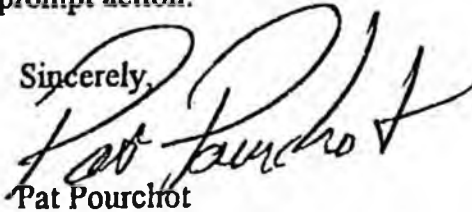
We recently received reports back from the various departments summarizing their actions over the past year and an half pursuant to the AO which I have enclosed for your interest and consideration. Several departments have reviewed and revised many of their current regulations in accordance with the AO; others, with a substantial body of regulation, have scheduled a rotation of their regulations so that all will be reviewed and revised over a short number of years. A number of innovations were part of this review and new rulemaking, including public notification methods (such as internet "home pages"), new staff training programs, centralized regulation information, streamlining application required processes, more readable language and many more.

I hope you will find these reports helpful to your efforts. Rest assured this Administration will continue to look for ways of making our regulatory process more efficient and more

The Honorable Jeannette James, Chair
The Honorable Jerry Mackie, Vice-Chair
April 9, 1997
Page 2

responsive to the needs of Alaskans. In this regard the Governor has recently introduced HB221/SB155 which would also improve several aspects of state rule-making and on which we hope the legislature will take prompt action.

Sincerely,



Pat Pourchot
Legislative Director

Enclosures

cc: The Honorable Gail Phillips, Speaker of the House
The Honorable Mike Miller, Senate President
The Honorable Jim Duncan, Senate Minority Leader
The Honorable Gene Kubina, House Minority Leader



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

DIFFERENCES BETWEEN CS SB 24 (JUD) AND CS SB 24 () 1-LS0274\N

SUMMARY OF CHANGES:

The intent of CS Senate Bill 24 (JUD) remains fundamentally unchanged. The proposed CSSB 24 (1-LS0274\N) alters language in several sections in an effort to address some of the concerns of the Attorney General's Office.

Specific Changes:

Sec. 2—whereas CSSB 24 (JUD) substitutes the word "clearly" for "reasonably", CSSB 24 (1-LS0274\N) utilizes several language changes to address the concerns of the AG that the word "clearly" is problematic.

Sec. 12—CSSB 24 (1-LS0274\N) adds language on p. 7, line 22-23 that reads "Notwithstanding AS 44.62.300, a court may not hold a regulation invalid for failure to comply with this section."

Sec. 13—in CSSB 24 (1-LS0274\N) this section is rewritten to ensure the regulation is held valid unless it does not meet certain stated criteria. In CSSB 24 (JUD) the regulation was held invalid until meeting certain criteria.

Sec. 14—CSSB 24 (1-LS0274\N) replaces the term "final administrative order" with the term "proposed administrative order". Also, it adds an additional 30 day period to the 60 day period, by which time a "final administrative order" should be provided.

Subsections (d) & (e)—are amended to reflect the addition of the "proposed administrative order" language of subsection (a).

Subsection (f)—ensures that this section does not pertain to administrative adjudications that involve allegations of criminal conduct and that is parallel to a criminal case brought in court.

DD/hn

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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

MEMORANDUM

State of Alaska

Department of Natural Resources
Division of Mining and Water Management

Tele: (907) 269-8625
Fax: (907) 563-1853
E-mail: bobl@dnr.state.ak.us

March 16, 1999

To: Carol Carroll, Director
Division of Support Services

From: Bob Loeffler
Director

Subject: CSSB24 (Fin)

You asked that I review CSSB24 to determine whether the bill would affect mining activities. The bill in its present form could, in fact, make it substantially more difficult for new mines to receive permits in Alaska. Had this bill been in effect a decade ago, it is possible that neither the Kensington Gold Mine nor many placer mines would have received permits without substantial additional cost. This consequence occurs because of the bill's potential affect on regulations of the Department of Environmental Conservation (not DNR).

Summary. Section 2 of the bill changes a current standard for determining the validity of a regulation. The current standard is that a regulation is not valid or effective unless it is "*reasonably necessary* to carry out the purpose of the statute." The new language requires a regulation "take a reasonable approach *clearly within the intent* of the statute." That is, a regulation must pass a more difficult validity test, and that more difficult test is the purpose of the section.

DEC's authorizing statutes are relatively general and focus on avoiding pollution. Many mining projects receive permits under regulatory exceptions to DEC standards. The standard is always the thrust of the law, but the exceptions are on the margin. My worry is that the proposed bill would invalidate the exceptions, which would drastically affect the mining industry.

Reasonably Necessary versus *Clearly within the Intent*. I base my analysis on my understanding of the difference between the two legal standards. *Black's Law Dictionary* defines "reasonable" to mean "fair, proper, just, moderate, suitable under the circumstances..." The same dictionary defines "clear" as "obvious; beyond reasonable doubt; perspicuous; plain; free from all limitation, qualification, question or shortcoming..." Obvious or beyond a reasonable doubt is a tough standard for regulations, and I fear that the exceptions would fail this test. Two examples may illustrate the problem.

Kensington Gold Mine — Discharge Under a New Regulation not Clearly Anticipated in the Statute.

The Kensington Gold Mine, north of Juneau, received permits to operate in 1997. One of the crucial permits was DEC's wastewater discharge permit, issued under a site-specific criterion. The site-specific criterion required DEC to go through a regulatory process to approve a discharge above the water quality standards established in regulation. The site-specific criterion process is a regulation process anticipated in regulation but not in statute.

DEC's authorizing statute is very broad. The pertinent section is AS 46.03.070, Pollution Standards, that authorizes DEC to adopt standards to determine "what qualities and properties of water indicate a polluted condition actually or potentially deleterious, harmful, detrimental, or injurious to the public health, safety, or welfare..." As I read it, (and I am not an expert), the law contains no clear intent that DEC should provide exceptions to allow discharge of water that contains effluent above the standards established to protect public health. But that is what was required at Kensington. DEC adopted a site-specific criterion under regulation that allowed effluent concentrations high than the established state-wide standard to be discharged in this location.

DEC's decision, made under regulation, to allow the Kensington Mine to discharge water with concentrations greater than the adopted public health standards was reasonable and appropriate under the circumstances ("reasonably necessary"). Given the controversy that surrounded Kensington, it is much less certain that the regulation was obvious or beyond a reasonable doubt ("clearly within the intent of the statute").

I fear that Kensington's site-specific criterion process and future site-specific criteria would fail the "clearly within the intent" standard. If so, mines like Kensington would be permitted only with greatly increased cost, if at all.

Would Mixing Zones Pass the "Clearly within the Intent" Test?

Using mixing zones to authorize a water quality discharge is a controversial and important part of DEC's permitting tools. Without mixing zones, many placer mines would fail to meet water quality standards.

The mixing zones regulation, 18 AAC 70.240, provides that "The water quality criteria and limits... may be exceeded within a mixing zone authorized by the department... The department will authorize a mixing zone if the department finds that the available evidence reasonably demonstrates that... the mixing zone will be as small as practicable; and... an effluent or substance will be treated... using... the most effective and technologically and economically feasible... treatment..." None of this language is in statute, expressly anticipated in statute, nor even expressly implied in statute. (AS 46.03.010 — 110).

Mixing zones are reasonable and appropriate ("reasonably necessary"). The controversy surround them makes it unlikely they are obvious or beyond a reasonable doubt ("clearly within the intent of the statute"). This argument becomes especially difficult because mixing zones are not explicitly authorized in the governing federal laws. Arguing that Alaskan law obviously authorizes an exception that is not explicitly authorized in the governing federal laws may be difficult. Without mixing zones, many placer mines would be unable to operate.

Conclusion. These two examples illustrate the problem. The higher test for regulations may prohibit exceptions to water and air quality standards required for economical mining. If so, the proposed test will have a drastic affect on the industry. In this analysis, I focused on the water-related affects, because I know the DEC's water program best. However, there may be other, similar affects with the air program, solid waste, etc.

March 16, 1999

Senator Dave Donley,
State Capitol
Juneau, Alaska 99801

Subject: SB 24

Senator Donley,

I wish to commend you for submitting Senate Bill 24. This Bill, upon affirmation by both the House and Senate and being signed into law, would provide a means of reviewing Departmental drafted "Proposed Regulations" that would be burdensome to the public, before they are placed in effect.

Although the Statutes provide that a Department will enact regulations to implement the statutes applicable to the particular Department, and that there will be public input in developing the "Proposed Regulations," I have been involved in the public meeting process and I am extremely frustrated by the experience.

In my particular case I would like to make reference to the Department of Transportation Leasing & Public Facilities Proposed Regulation for Rural Airports, 17-AAC-45. This draft is far too lengthy and would cause a considerable burden to rural airport users and "bush residents" who depend on General Aviation as a means of transportation away from any road system. Within the "Proposed Draft" are all sorts of discretionary authority given to the DOT PF which restricts the activities of the public that operates on and from and also the resident and tourist passengers' users of the airports.

There is also additional spending included within the Proposed Regulation which would be approved if the regulation is implemented.

Representatives of the General Aviation public have been meeting with personnel from DOT/PF for five or more years voicing their objections to 17-AAC-45 and each time, the complaints seem to be falling on deaf ears. This is not a regulation that we need! We have 17-AAC-40, which is working well. If changes are needed, let us agree on the changes and make small changes instead of a sweeping change that would restrict free enterprise of the individuals that make a living working in General Aviation on and from State Owned Airports

If you are a pilot, this Proposed Regulation would affect you, if you are a passenger using FAR Part 135 Air Taxi services this Proposed Regulation would affect you, if you are a "Bush" resident this Proposed Regulation would affect you.

The one thing that this Proposed Rural Airport Regulation 17-AAC-45 does do, is give the public servants that are employed within DOT/PF absolute control over the lives of the Public

This is for
your files, - already
been distributed to
members.

-Darwin

that they are supposed to be serving, those individuals that depend upon State Owned Rural Airports for their lively hood, food, medical aid, fuel and general transportation.

I have visited with many of the Legislative members over the last five or six years, attended public meetings of the Senators & Representatives of my District and sent many Personal Opinion Messages and I will continue to do so, because you are the individuals elected to represent the voters and you should be able to control the power and authority seeking individual bureaucrats within the various Departments of the State Agencies.

Senate Bill 24 is one of the tools needed to Perform that function.

I sincerely thank you for your time and consideration of the comments I have made.

Thank you,

Marvin E. (Eddie) Trimmer
P. O. Box 361
Willow, Alaska 99688-0361
907-495-5724

Subject: SB 24

Date: Mon, 8 Mar 1999 22:57:18 -0900 (AKST)

From: winktas <winktas@alaska.net>

To: Darwin_Peterson@legis.state.AK.us

March 9, 1999

Dear Members of the Senate Finance Committee:

I am writing to you in reference to SB 24, the "Alaska Regulations Reform Act". As Chair of the Regulatory Board for Licensed Professional Counselors, I am very concerned with the writing of regulations. People who sit on boards do so as volunteers who act in good faith to serve interested parties and the public. I question the wisdom of some aspects of SB 24, and respectfully request that you consider who is being served by them.

sec. 2, page 1, line 11 which states that Regulations must be "clearly necessary", rather than the current "reasonably necessary" sounds like it opens the door for litigation. It also unreasonably restricts the power of boards to be flexible when circumstances warrant. Circumstances which will benefit the public good.

sec. 13, page 7, lines 20-27, (1) "the least intrusion on the rights and property" and (2) "a substantial state interest requires using the approach taken", sounds like you need experts on boards, and again invites litigation. How many regulations will be able to meet this test?

sec. 4, page 2, lines 17-31, the "benefit to the public outweighs the cost to the public". As a board member struggling to meet the mandates of our statutes in a timely fashion to serve the public interest and the licensees, this sounds both costly and time consuming. And ultimately, who is to determine the dollar value of "benefits to the public"?

sec. 8, page 5, lines 9-17, again are time consuming and costly when boards are attempting to be fiscally responsible and timely.

sec. 12, page 7, lines 9-11, a state agency may not take more than two years to adopt a regulation. As a new board, I am well aware that even the simplest seeming of regulations take many months to enact. If a more complex issue is at hand, I can well imagine it taking considerably longer. And, should a "clearly necessary" regulation take more than two years, what is the alternative? No regulation?

sec. 14, page 8, lines 7-9, lines 9-10, and 17-19, are again going to increase costs.

I urge you to consider these points. Reforming of the regulatory procedure needs to clearly serve the public, and not unduly hinder the process by which the public is served.

Thank you for your consideration.

Respectfully,

Anne L. Henry, MA
Chair, Regulatory Board of Licensed Professional Counselors



SENATOR DAVE DONLEY
 ALASKA STATE LEGISLATURE

MEMORANDUM

To: Senator Torgeson, Co-Chairman of the Senate Finance Committee

Fr: Senator Dave Donley **DD**

Dt: February 23, 1999

Re: Requesting a hearing for SB 24 "The Alaska Regulation Review Act"

I request that you schedule Senate Bill 24 "The Alaska Regulations Reform Act" for a hearing in your committee.

Senate Bill 24 reforms how administrative regulations are adopted by the state of Alaska and places reasonable new limits on the power of state bureaucracy to impose new regulations on Alaskans.

SB 24 increases opportunities for public notice and comment regarding adoption of regulations. SB 24 requires that new regulations pass a "needs" test and be drafted in a way to minimize their impact on personal liberties and property rights.

Senate Bill 24 makes state regulators more accountable to the public and to elected officials. SB 24 places reasonable and needed restraints on the ever increasing number of state regulations Alaskans live with.

Thank you in advance for your consideration of this request. If you or your staff should have any questions, please contact myself or Hans Neidig of my staff at 465-3892.

DD/hn



SENATOR DAVE DONLEY
 ALASKA STATE LEGISLATURE

**SPONSOR STATEMENT
 FOR CS SENATE BILL 24 (JUD)
 "THE ALASKA REGULATION REFORM ACT"**

Senate Bill 24 reforms how administrative regulations are adopted by the state of Alaska and places reasonable new limits on the power of state bureaucracy to impose new regulations on Alaskans.

SB 24 increases opportunities for public notice and comment regarding adoption of regulations. SB 24 requires that new regulations pass a "needs" test and be drafted in a way to minimize their impact on personal liberties and property rights. The Board of Fisheries, Board of Game and the Alaska Commercial Fisheries Limited Entry Commission are exempt from these changes.

Regulations adopted by state agencies have the effect of law similar to statutes adopted by the legislature. The regulations adoption process however has very few of the safeguards and opportunity for public input that the legislative process has. Unlike statutes which require a series of public hearings in the state House and Senate, regulations can be adopted with a single notice and hearing which may or may not even reflect the actual content of the final version of the regulation.

Once adopted, state regulations can only be amended by the agency that adopted them or by the adoption of a statute that somehow directly conflicts with the regulation. This makes state regulations in Alaska very hard to amend or appeal once in place. Entrenched state bureaucrats, with little incentive to be responsive to the public, often have more real control over public policy through regulations than elected state officials.

Senate Bill 24 makes state regulators more accountable to the public and to elected officials. SB 24 places reasonable and needed restraints on the ever increasing number of state regulations Alaskans live with.

DD/hrn

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SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SECTIONAL ANALYSIS FOR CS SENATE BILL 24 (JUD) "THE ALASKA REGULATIONS REFORM ACT"

Section #1 - refers to this act as "The Alaska Regulations Reform Act"

Section #2 - in AS 44.62.030—*Consistency between regulation and statute*—a state agency may not adopt a regulation that changes the intent of the statute and 'clearly' (rather than the current word—'reasonably') necessary to carry out the purpose of the statute.

Rationale: the change from 'reasonably' to 'clearly' allows for less ambiguity in the way this statute can be interpreted, thus holding agencies to the original intent of the statutes for which they promulgate regulations.

Section #3 - adds a new subsection to AS 44.62.030 which states that an agency cannot adopt a regulation that changes the intent of the statute. It places the burden of proof on the person challenging the regulation under this subsection, and does not allow for a temporary restraining order, preliminary injunction or a permanent injunction to enjoin the operation of a regulation.

Rationale: by placing the burden of proof on the person challenging the regulation; and by removing the ability to obtain a temporary restraining order, a preliminary injunction or a permanent injunction the use of this section to enjoin the operation of a regulation is meant to be deterred.

Section #4 - requires that when a department adopts a regulation, an order of appeal, or an amendment to a regulation the department will submit a cost-benefit analysis of the costs of the regulatory action. The Department of Corrections, Board of Fisheries, Board of Game and the Alaska Commercial Fisheries Limited Entry Commission are exempt from this requirement.

Rationale: this would make each department justify that the fiscal benefit of a proposed regulatory action outweighs the cost to the public.

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Section #5 – requires that before the adoption, amendment, or repeal of a regulation notice of the proposed action be published on the internet by agencies possessing the needed technological capability.

Rationale: under existing law a department is not required to utilize this affordable approach to publishing proposed regulation action.

Section #6 - adds a summary of the cost-benefit analysis to the other required information for a notice of proposed adoption, amendment, or repeal of a regulation.

Rationale: under existing law a department is required to include specific information when noticing a proposed regulatory action. If the department fails to provide a cost-benefit analysis or any other information required by law a court may declare the regulation invalid.

Section #7 - deletes the word "original" from the statute regarding the content of the public notice of a proposed adoption of a regulatory action. This is a conforming change since the bill now allows supplemental notices.

Section #8 - requires a department to provide a supplemental notice and the opportunity for additional public comment if the department rewrites a proposed regulatory action and the rewrite is significantly different in substance from the original regulatory action. This section does not include the Department of Corrections, Board of Fisheries, Board of Game and the Alaska Commercial Fisheries Limited Entry Commission.

Rationale: under existing law a department is only required to provide one notice to the public regarding a proposed regulatory action. However, the content of the proposed regulatory action could and often changes without the knowledge of the public. This provision would address this problem by alerting the public of any significant change and allow the public to provide additional testimony. This section exempts regulations promulgated by the Board of Game, Board of Fisheries, Alaska Commercial Fisheries Entry Commission or when emergency regulations are made permanent.

Sections #9, 10, 11 - exempt a department from complying with the new provisions of this bill if the proposed regulations are necessary for the immediate preservation of public peace, health, safety or general welfare.

Section #12 – places a time limit on the adoption of regulations. This section requires a state agency to not take more than two years to adopt regulations that it is required to by statute. If the agency fails to comply, it must prepare and submit a written report on the reasons for its failure to adopt the regulations to the senate president, speaker of the house and the Administrative Regulation Review Committee.

Rationale: this section addresses the issue of state agencies taking too long to promulgate regulations for new statutes.

Section #13 - adds additional provisions, except for the Department of Corrections, Board of Fisheries, Board of Game and the Alaska Commercial Fisheries Limited Entry Commission, that the court must consider in determining the validity of a regulation including new requirements that:

- 1) the regulation uses an approach that causes the least intrusion on the rights and property of the persons affected; or
- 2) a compelling state interest requires using the approach taken by the regulation.

Rationale: forces a department to not intrude on the rights and property of persons affected when adopting a regulation except in those cases where the department can prove that a compelling state interest requires such an action.

Section #14 – places time limits on administrative adjudications. This section requires administrative adjudication to result in an appealable decision by a deadline of the later of two possible dates (60 days after the hearing officer closes the record or two years after the adjudication is begun).

Rationale: these limits are created in order to curtail state agency's from taking too long to adjudicate cases.

Section #15 – a technical section to address the applicability of the various bill sections.

Section #16 – addresses the need to change Rule 65 of the Alaska Rules of Civil Procedure in order to comply with sec. 3 of this Act.

Section #17 - provides for the effective date of this legislation– July 1, 2000.

Headquarters:
217 2nd Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323 FAX 463-5515



January 22, 1999

Senator Dave Donley
Alaska State Legislature
State Capitol, Room 508
Juneau, AK 99801-1182

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MAR 08 1999

Senate Finance
Committee

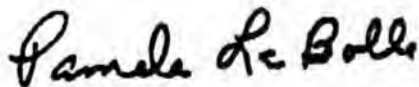
Dear Senator Donley:

We are pleased that you have introduced Senate Bill 24, "The Alaska Regulations Reform Act".

Reform of the present regulatory system is one of the highest priorities of the Alaska State Chamber of Commerce. Our resolution on this matter asks the legislature and the administration to create a regulatory and economic environment supportive of business development that encourages business to locate and grow in Alaska. ASCC's resolution also asks the legislature and the administration to provide for an effective oversight mechanism to assure that regulations are producing effective results that follow legislative intent.

We support the current version, "A" of SB 24 which provides the Legislature with decennial oversight of regulations, and requires a public comment period before final regulations are adopted. We would be happy to provide verbal testimony on SB 24 during the committee process. Please let us know of any other help we might provide in this matter.

Sincerely,



Pamela La Bolle
President

SENATE FINANCE COMMITTEE

SIGN-IN

SB 24-REGULATIONS: ADOPTION & JUDICIAL REVIEW

NAME: Deborah Behr Subject/Bill No: SB 24

Co./Dept./Title: Dept of Law Phone: 465-2122

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions *on fiscal note*
Testify only if needed on new issues

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

03/24/99
18:07:33

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (TESTIFIERS ONLY)
TCN:90451 SCHEDULED FOR:03/24/99 18:00 TO 21:00
PUBLIC HEARING SENATE FINANCE

LTN1150
BY:JNU
FOR:ALL

LOCATION: ANCHORAGE

| | | | | |
|--------|------|-----------------------|-------------------------|---------|
| SB 101 | JIM | BUTCHART__ (ANS ?'S) | DMVA/DIES | TESTIFY |
| SB 101 | MARY | GILSON_____ (ANS ?'S) | DIAW | TESTIFY |
| SB 24 | ✓BOB | LOEFFLER | DNR-DIV OF MININTESTIFY | |

SENATE FINANCE COMMITTEE

SIGN-IN

SB 24-REGULATIONS: ADOPTION & JUDICIAL REVIEW

NAME: DEBORAH BEHR Subject/Bill No: SB24
Co./Dept./Title: REGULATIONS ATTORNEY Phone: 465-3600
Department of LAW
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

SB 24-REGULATIONS: ADOPTION & JUDICIAL REVIEW

NAME: Deborah Behr Subject/Bill No: SB24
Co./Dept./Title: Dept of LAW Phone: 465-2122
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

SB 24-REGULATIONS: ADOPTION & JUDICIAL REVIEW

NAME: Juborah Behr Subject/Bill No: SB24

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

03/09/99
09:46:35

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (TESTIFIERS ONLY)
TCN:90311 SCHEDULED FOR:03/09/99 09:45 TO 11:00
PUBLIC HEARING SENATE FINANCE

LTN1150
BY:JNU
FOR:ALL

LOCATION: ANCHORAGE
SB 24

TERESA

WILLIAMS

A.G.OFFICE

TESTIFY

SENATE FINANCE COMMITTEE

SIGN-IN

SB 24-REGULATIONS: ADOPTION & JUDICIAL REVIEW

NAME: Deborah Benr Subject/Bill No: SB 24

Co./Dept./Title: Dept of LAW Phone: 465-3600

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SB

26

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 17, 2000

FURTHER REFERRALS:

Date of Committee Action: 4/17/00

The FINANCE Committee considered:

CSSB 26(FIN)

CS FOR SENATE BILL NO. 26(FIN)

FALSE REPORT TO POLICE/HINDER PROSECUTION

"An Act relating to hindering prosecution and to providing false information or reports to a peace officer."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ 3 fiscal note(s) Senate 4-12-00
DOA (indeterminate)

_____ Court (indeterminate) 3-30-00
DOA 4-12-00

zero fiscal note(s) _____ 2 zero fiscal note(s) _____

PS 4-12-00 LAW 4-11-00

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|----|----|
| <i>Don Herrinall</i> | | | X | |
| <i>Bob Huel</i> | ✓ | | | |
| <i>Con Brande</i> | | | ✓ | |
| <i>Alan Pent</i> | X | | | |
| <i>Ben Sanderson</i> | | | ✓ | |
| <i>Rep. F. Morse</i> | | | X | |
| <i>Rep. J. ...</i> | | | X | |
| <i>W.K. Williams</i> | X | | | |
| <i>Gail Phillips</i> | ✓ | | | |
| | | | | |

CHAIR'S SIGNATURE *Don Herrinall* *Bob Huel*

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 26 (FIN)

Revision Date/Time (Note if correction) 4/11/00 11:50 a.m. Dept. Affected Department of Corrections
 Title An Act relating to hindering prosecution and to BRU Administration and Operations
providing false information or reports to a peace officer. Component All
 Sponsor Senator Leman
 Requester Senate Finance Committee Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | *** | *** | *** | *** | *** | *** |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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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) | | | | | | |
| TOTAL | *** | *** | *** | *** | *** | *** |

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation would provide an additional category to the crime of providing false information to a peace officer. It would become a Class A misdemeanor for an individual to provide a false identity to a peace officer while under investigation, arrest or detention or while being served with an arrest warrant or being issued a citation.

A class A misdemeanor is punishable by up to one year in prison. It would be very difficult to determine the fiscal impact of this bill because we do not have any way of determining how many times this occurs or what kind of sentencing might result. It could be used as a negotiating tool and result in no additional time as well. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by: Candy Brower, Legislative Liaison Phone 465-3307
 Division Commissioner's Office Date/Time 4/11/00 4:18 PM
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 4-11-00
 Agency Dept. of Corrections

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CS for SB 26 (FIN)

| | |
|---|--|
| Revision Date <u>4/11/00</u> | Dept. Affected <u>Public Safety</u> |
| Title <u>An Act relating to providing false information</u> | BRU <u>AK. State Trooper - Detachments</u> |
| or reports to a peace officer | Component <u>AK. State Trooper - Detachments</u> |
| Sponsor <u>Senator Leman</u> | |
| Requester <u>Senate Finance Committee</u> | Component No. <u>2325</u> |

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|---------|---------|---------|---------|---------|---------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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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) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill is not expected to have a budgetary impact.

Prepared by: Royce Weller, Special Assistant
 Division Office of the Commissioner
 Approved by Commissioner Ronald L. Otte
 Agency Department of Public Safety

Phone 465-2649
 Date/Time 4/11/00 5:45 PM
 Date 4/11/00

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 26 (FIN)

| | | |
|--|----------------|------------------------------------|
| Revision Date/Time (Note if correction) <u>11-Apr-00</u> | Dept. Affected | <u>Administration</u> |
| Title <u>"An Act relating to hindering prosecution and to providing false information or reports to a peace officer"</u> | BRU | <u>Legal and Advocacy Services</u> |
| Sponsor <u>Senator Leman</u> | Component | <u>Public Defender Agency</u> |
| Requester <u>(S) FIN</u> | Component No. | <u>1631</u> |

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

FUND SOURCE

| | | | | | | |
|--------------------------|-------------|-------------|--|------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 26.8 | | | 3 | 26.8 | 26.8 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 26.8 | 26.8 | | 6.8 | 26.8 | 26.8 |

Bill

Estimate of any current year (FY2000) cost: _____

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

See attached.

| | |
|---|-----------------------|
| Prepared by: <u>Barbara Brink, Director</u> | Phone <u>264-4414</u> |
| Division <u>Public Defender Agency</u> | Date/Time _____ |
| Approved by <u>Commissioner - Robert Poe, Jr.</u> | Date <u>4/11/00</u> |
| Agency <u>Department of Administration</u> | |

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 26 (FIN)

ANALYSIS: (continued)

This bill would change the current statute on Making a False Report, AS 11.56.800 by adding a provision making it illegal for a person to provide false information concerning his or her identity if the person is being detained or cited by the police. The bill also broadens the hindering prosecution bill to include rendering assistance to people who have committed any misdemeanor. (Under current law, hindering prosecution does not apply to class B misdemeanors.)

This bill will have some fiscal impact on the Public Defender Agency. Although it is difficult to determine the exact impact, the Agency does know that, in a significant percentage of arrests, defendants give false information concerning their identities. We conservatively estimate that defendants give false identity information in 2% of our cases.

We are currently appointed to represent defendants in about 3,200 new felonies and 8,500 new misdemeanors a year. If 2% of the defendants give false identity information, we would have 234 new misdemeanor charges. 234 new misdemeanors would be about a half-time caseload for a misdemeanor attorney, an Attorney II.

However, we have to take into account that other charges would be brought in many of these cases and that part of our existing caseload includes charges brought under the current Making a False Report statute. Because of these factors we are estimating that a part-time associate attorney could be hired to deal with the increased caseload. We are not requesting funding for any additional equipment, supplies, travel, or contractual services.

Therefore, we are requesting funding for a part-time Associate Attorney I to be stationed in Anchorage.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 26 (FIN)

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "An Act relating to hindering prosecution and to BRU Criminal Division
providing false information or reports to a peace officer." Component 1st-4th Judicial Districts: Criminal
 Sponsor Senator Leman Appeals/Special Litigation
 Requester Senate Finance Committee Component Serial No. 2198-99:2201,03,61,79

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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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) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2000) cost: _____

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

CSSB 26 (FIN) applies hindering prosecution in the second degree to conduct where a person helps another who has committed any misdemeanor. The committee substitute also makes lying to a police officer regarding one's identity under certain defined circumstances a class A misdemeanor.

The Department of Law does not anticipate a fiscal impact from passage of this bill.

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

Phone 465-5370
 Date/Time 4/6/00, 4:49 PM
 Date 4/6/00

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 1
Bill Version: CSSB 26(JUD)
(S) Publish Date: 3-30-00

| | |
|---|---|
| Revision Date | Dept. Affected <u>Alaska Court System</u> |
| Title <u>Hindering prosecution and providing false information or reports</u> | BRU <u>Alaska Court System</u> |
| Sponsor <u>Senator Leman</u> | Component <u>Trial Courts</u> |
| Requester <u>Senate Finance</u> | Component Serial No. <u>769</u> |

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY2001 | FY2002 | FY2003 | FY2004 | FY2005 | FY2006 |
|------------------------|--------|--------|--------|--------|--------|--------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | . | . | . | . | . | . |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost None

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: *(Attach a separate page if necessary)*
 CSSB 26(JUD) makes it a class A misdemeanor for a person who has committed a crime to provide a peace officer with false information with the intent of avoiding apprehension, prosecution, conviction, or punishment. Although the creation of this new offense is likely to result in some additional cases being brought before the court system, the number of such cases is too speculative to support a fiscal note.

| | |
|--|------------------------------------|
| Prepared by: <u>Doug Wooliver, Administrative Attorney</u> | Phone: <u>264-8265</u> |
| Agency: <u>Alaska Court System</u> | Date/Time: <u>3/29/00 11:33 AM</u> |
| Approved by: <u>Stephanie J. Cole, Administrative Director</u> | Date: <u>3/29/00</u> |
| Agency: <u>Alaska Court System</u> | |

During Session, January - May:
State Capitol, Room 115
Juneau, Alaska 99801
(907) 465-2095
465-3810 FAX



During Interim, June - December:
716 W 4th Ave, Suite 520
Anchorage, Alaska 99501
(907) 269-0240
269-0242 FAX

Senator Loren Lemman

Sponsor Statement – CS for SB 26 (FIN)

“An Act relating to hindering prosecution and to providing false information or reports to a peace officer.”

SB 26 broadens existing statutes that prohibit the use of deception and false information to hinder the criminal justice system.

In the criminal justice context, people employ deception in two ways: they lie to protect another person who has committed a crime, or they lie to protect themselves. SB 26 addresses both situations.

Existing law (AS 11.56.770 & 11.56.780) makes it a crime to hinder prosecution by rendering assistance to another person who has committed a crime, with the intention of hindering the apprehension, prosecution, conviction, or punishment of the other person. The definition of “rendering assistance to another” includes using deception to prevent or obstruct the discovery or apprehension of that person. Accordingly, it is a crime if a person lies to a police officer in an effort to obstruct the apprehension of another person who has committed a crime.

However, the “hindering prosecution” statute applies only if a person lies to prevent apprehension of a person who has committed a crime that is punishable by imprisonment of greater than 90 days. This means that Class B misdemeanors are not covered under existing law. Class B misdemeanors include such offenses as disorderly conduct, harassment, misconduct involving weapons in the fifth degree, and criminal mischief in the fourth degree. Although these crimes are not the most serious offenses on the books, they do consume a significant amount of time and resources of both law enforcement agencies and the court system. It is not appropriate for the statute to sanction deception under these circumstances. SB 26 amends the existing law so that it applies to all crimes, including Class B misdemeanors.

SB 26 also amends existing law concerning false reports to a peace officer (AS 11.56.800). Currently it is a crime to give false information to a police officer with the intent of implicating another in a crime. SB 26 amends this to state that it is also a crime to give false identity information to a peace officer while the person is under arrest, detention, or investigation for a crime, or while the person is being served with an arrest warrant or being issued a citation. According to law enforcement personnel, false identity information can be a significant impediment to successful investigations and prosecutions. The law should not sanction this behavior.

SB 26 is supported by the Alaska Association of Chiefs of Police, the Alaska Peace Officers Association, and Victims for Justice.

Prepared by Mike Pauley, Staff Aide to Senator Loren Lemman (907-465-3841)
Last updated: April 14, 2000

Alaska Association of Chiefs of Police



MAR 02 1999

February 23, 1999

Senator Loran Leman
State Capitol
Juneau, AK 99801

Dear Senator Lemman:

This letter is written in support of SB 26, an Act relating to providing false information or reports to a peace officer.

The use of false information to escape arrest or prosecution has become a way of life for many criminals. Beyond implicating another in a crime, a substantial number of persons continue to use the names and personal information of others again and again in order to "escape" the justice system. We also believe the penalty should equal the seriousness of the crime, since there is currently no greater penalty for providing false information in a felony case than in a misdemeanor case.

We endorse this effort to discourage both misdemeanor and felony suspects from attempting to escape justice by deception.

Sincerely,

A handwritten signature in cursive script, reading "Duane S. Udland".

Duane S. Udland, President
Alaska Association of Chiefs of Police

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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Pres. Kenai Chapter

Leo Brandlen, Member
Anchorage
Pres. Anchorage Chapter

Jella Long, Member
Palmer
Pres. Mai-Su Chapter

Tonya Barnes, Member
Fairbanks
Pres. Farthest North Chapter

Robert Fletcher, Member
Juneau
Pres. Capitol City Chapter

Leroy Mestas, Member
Ketchikan
Pres. First City Chapter

Robert Claus, Member
Craig
Pres. Prince of Wales Chapter

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

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

February 19, 1999

Dear Senator Leman,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 26.

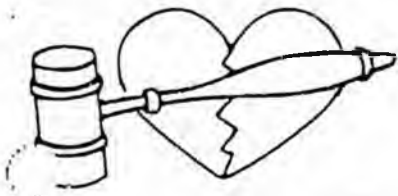
Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau
State President
Alaska Peace Officers Association

VICTIMS



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

MAR 02 10
MAR 02 1999

February 24, 1999

Loren Leman
State Capitol Suite 520
Juneau, Ak 99801

Dear Senator Leman:

Victims for Justice is writing in support of SB 26, which is an act relating to providing false information or reports to a peace officer. It is important that a person is held accountable for lying to a police officer. When it is necessary for an officer to make an arrest or to use a statement from a witness concerning a crime, a simple lie can prevent that person from providing necessary information. Lying needs to be discouraged. I have seen juvenile offenders not be prosecuted because of lying to an officer. It is difficult for the justice system when a simple lie can prevent arrest or a person from being involved in an investigation. This legislation would be a good tool for police, prosecutors and crime prevention. Thank you Senator Leman for working for the safety of our communities.

Sincerely,

A handwritten signature in cursive that reads "Janice Lienhart".

Janice Lienhart

(P. 3 ch 166 SLA

Effective dates. — Section 24, ch. 86, SLA 1998 makes this section effective June 13, 1998, in accordance with AS 01.10.070(c).

Sec. 11.56.755. Unlawful contact in the second degree. (a) A person commits the crime of unlawful contact in the second degree if

(1) the person is arrested for a crime against a person under AS 11.41 or a crime involving domestic violence; and

(2) before the person's initial appearance before a judge or magistrate or before dismissal of the charge for which the person was arrested, whichever occurs first, the person initiates communication or attempts to initiate communication with the alleged victim of the crime that was the basis for the person's arrest.

(b) Unlawful contact in the second degree is

(1) a class B misdemeanor if the person was arrested for an offense that is a class A misdemeanor or a felony offense;

(2) a violation if the person was arrested for an offense that is a class B misdemeanor. (§ 2 ch 86 SLA 1998)

Effective dates. — Section 24, ch. 86, SLA 1998 makes this section effective June 13, 1998, in accordance with AS 01.10.070(c).

Sec. 11.56.756. Definitions. In AS 11.56.750 and 11.56.755,

(1) "victim" has the meaning given in AS 12.55.185; and

(2) "witness" has the meaning given in AS 12.61.900. (§ 3 ch 86 SLA 1998)

Effective dates. — Section 24, ch. 86, SLA 1998 makes this section effective June 13, 1998, in accordance with AS 01.10.070(c).

Sec. 11.56.760. Violating an order to submit to DNA testing. (a) A person commits the crime of violating an order to submit to DNA testing if, when requested by a health care professional acting on behalf of the state to provide a blood sample, oral sample, or both, the person refuses to provide the sample or samples and the person has been

(1) ordered to submit to DNA testing as part of a sentence imposed under AS 12.55.015; or

(2) convicted of an offense that requires DNA testing under the provisions of AS 44.41.035.

(b) In this section, "DNA testing" means the collection of a blood sample, oral sample, or both, for the deoxyribonucleic acid identification registration system under AS 44.41.035.

(c) Violating an order to submit to DNA testing is a class A misdemeanor. (§ 4 ch 95 SLA 1998)

Effective dates. — Section 4, ch. 95, SLA 1998, which enacted this section, took effect on September 10, 1998.

Sec. 11.56.770. Hindering prosecution in the first degree. (a) A person commits the crime of hindering prosecution in the first degree if the person renders assistance to a person who has committed a crime punishable as a felony with intent to

(1) hinder the apprehension, prosecution, conviction, or punishment of that person; or
(2) assist that person in profiting or benefiting from the commission of the crime.

(b) For purposes of this section, a person "renders assistance" to another if the person

(1) harbors or conceals the other person;

(2) warns the other person of impending discovery or apprehension;

- (3) provides or aids in providing the other person with money, transportation, a dangerous instrument, a disguise, or other means of avoiding discovery or apprehension;
 - (4) prevents or obstructs, by means of force, threat, or deception, anyone from performing an act which might aid in the discovery or apprehension of the other person;
 - (5) suppresses by an act of concealment, alteration, or destruction physical evidence which might aid in the discovery or apprehension of the other person; or
 - (6) aids the other person in securing or protecting the proceeds of the crime.
- (c) Hindering prosecution in the first degree is a class C felony. (§ 6 ch 166 SLA 1978)

Opinions of attorney general. — Where an operator of a motor vehicle which was involved in an accident, fails to render assistance to an injured person, an act which is punishable as a felony under AS 28.35.060(c); the Alaska state troopers investigate the incident and during the course of the investigation an attorney contacts the troopers, stating that a client has informed him that the client has committed the

act and wishes to make restitution to the victim for medical expenses; and the attorney requests the troopers' assistance in making the payment, but refuses to disclose to the troopers the name of his client, such refusal to divulge the client's identity is neither illegal nor unethical. November 27, 1979, Op. Att'y Gen.

NOTES TO DECISIONS

Legislative intent. — In enacting the hindering prosecution statutes, the legislature unequivocally expressed the intent to dispense with any requirement of awareness as to the legal classification of the crime committed by the assisted person. *Noblit v. State*, 808 P.2d 280 (Alaska Ct. App. 1991).

Culpable mental state. — Where it is found that the defendant rendered assistance to another with knowledge of the other person's wrongdoing and with the specific intent to hinder his prosecution, this culpable mental state affords adequate protection against the possibility of a conviction based on innocent conduct; no additional culpable mental state is necessary for due process purposes. *Noblit v. State*, 808 P.2d 280 (Alaska Ct. App. 1991).

Concealment of evidence by defense attorney. — While statutes which address the concealing of evidence are generally construed to require an affirmative act of concealment in addition to the failure to disclose information to the authorities, a defense attorney's taking possession of evidence from a

nonclient third party and holding the evidence in a place not accessible to investigating authorities would seem to fall within predecessor section's ambit. *Morrell v. State*, 575 P.2d 1200 (Alaska 1978).

Not lesser included offense of robbery. — While, under the circumstances of the case, robbery and hindering prosecution may have been related offenses, the latter offense was not necessarily included in the former. Consequently, in a prosecution for robbery, the trial court did not err in refusing to give a lesser included offense instruction on hindering prosecution. *Thiel v. State*, 762 P.2d 478 (Alaska Ct. App. 1988).

Applied in State v. Williams, 652 P.2d 1067 (Alaska Ct. App. 1982).

Quoted in Borja v. State, 886 P.2d 1311 (Alaska Ct. App. 1994).

Cited in Gilbreth v. State, 668 P.2d 1354 (Alaska Ct. App. 1983); **Stumpf v. State**, 749 P.2d 880 (Alaska Ct. App. 1988).

Sec. 11.56.780. Hindering prosecution in the second degree. (a) A person commits the crime of hindering prosecution in the second degree if the person renders assistance to another who has committed a crime punishable by imprisonment for more than 90 days, with intent to

- (1) hinder the apprehension, prosecution, conviction, or punishment of the other person; or
 - (2) assist the other person in profiting or benefiting from the commission of the crime.
- (b) For purposes of this section, a person "renders assistance" to another if the person does any act described in AS 11.56.770(b).
- (c) Hindering prosecution in the second degree is a class B misdemeanor. (§ 6 ch 166 SLA 1978)

Opinions of attorney general. — Where an operator of a motor vehicle which was involved in an accident, fails to render assistance to an injured person, an act which is punishable as a felony under AS 28.35.060(c); the Alaska state troopers investigate the incident and during the course of the investigation an attorney contacts the troopers, stating that a client has informed him that the client has committed the

act and wishes to make restitution to the victim for medical expenses; and the attorney requests the troopers' assistance in making the payment, but refuses to disclose to the troopers the name of his client, such refusal to divulge the client's identity is neither illegal nor unethical. November 27, 1979, Op. Att'y Gen.

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27, 1979, Op. Att'y

NOTES TO DECISIONS

Legislative intent. — In enacting the hindering prosecution statutes, the legislature unequivocally expressed the intent to dispense with any requirement of awareness as to the legal classification of the crime committed by the assisted person. *Noblit v. State*, 808 P.2d 280 (Alaska Ct. App. 1991).

Culpable mental state. — Where it is found that the defendant rendered assistance to another with

knowledge of the other person's wrongdoing and with the specific intent to hinder his prosecution, this culpable mental state affords adequate protection against the possibility of a conviction based on innocent conduct; no additional culpable mental state is necessary for due process purposes. *Noblit v. State*, 808 P.2d 280 (Alaska Ct. App. 1991).

Sec. 11.56.790. Compounding. (a) A person commits the crime of compounding if, unless authorized by AS 12.45.120 or 12.45.130, the person

(1) confers, offers to confer, or agrees to confer a benefit on another in consideration of that other person's concealing an offense, refraining from initiating or aiding in the prosecution of an offense, or withholding evidence of an offense; or

(2) accepts or agrees to accept a benefit in consideration of concealing an offense, refraining from initiating or aiding in the prosecution of an offense, or withholding evidence of an offense.

(b) Compounding is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Sec. 11.56.800. Making a false report. (a) A person commits the crime of making a false report if the person knowingly

(1) gives false information to a peace officer with the intent of implicating another in a crime;

(2) makes a false report to a peace officer that a crime has occurred or is about to occur;

(3) makes a false report or gives a false alarm that a fire or other incident dangerous to life or property calling for an emergency response has occurred or is about to occur; or

(4) makes a false report to the Department of Natural Resources under AS 46.17 concerning the condition of a dam or reservoir.

(b) Making a false report is a class A misdemeanor. (§ 6 ch 166 SLA 1978; am § 1 ch 30 SLA 1987)

Effect of amendments. — The 1987 amendment added paragraph (a)(4).

NOTES TO DECISIONS

Statements prohibited. — Defendant's statements concerning his oral accusation that a police officer had taken \$250 from the glove compartment of his truck, which the police officer authorized to be towed without operating lights or current registra-

tion, were prohibited by former AS 11.30.215, which made it a misdemeanor to give a false report of a crime to a peace officer. *Gottschalk v. State*, 575 P.2d 289 (Alaska 1978).

Sec. 11.56.805. False accusation. (a) A person commits the crime of false accusation if the person knowingly or intentionally initiates a false complaint with the Select Committee on Legislative Ethics established in AS 24.60.

(b) False accusation is a class A misdemeanor. (§ 2 ch 36 SLA 1984; am § 1 ch 113 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (b) substituted "class A misdemeanor" for "class C felony."

Sec. 11.56.810. Terroristic threatening. (a) A person commits the crime of terroristic threatening if the person knowingly makes a false report that a circumstance dangerous to human life exists or is about to exist and

(1) places a person in fear of physical injury to any person;

SB

26

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/30/00

FURTHER:

REPORTED OUT OF
SFC 4/11/00

DATE TURNED
IN TO OFFICE: 4/11/00

Finance Committee considered

SENATE BILL NO. 26

"An Act relating to providing false information or reports to a peace officer."

and recommends:

- be replaced with _____ CS SB 26 (Fin)
- adopt previous _____ C: Forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____
- further referral to the _____ Committee

Senate Bill:

- same title
- new title
- House Bill:
- same title
- technical title
- new: SCR# _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|----------------------------|----|-----------------------|----|--------------|----|
| <u>Bob E. King</u> | ✓ | <u>Pete Kelly</u> | ✓ | ✓ | |
| <u>Lynne Green</u> | ✓ | <u>Carol Sappely</u> | ✓ | | |
| <u>Robert D. Jensen</u> | ✓ | <u>Al Adams</u> | X | | |
| <u>Gary White</u> | ✓ | | | | |
| | | | | | |
| | | | | | |
| Co-Chair: <u>Markus</u> | ✓ | Co-Chair: | | | |
| Co-Chair: <u>Paul Paul</u> | ✓ | Co-Chair: | | | |

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

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|------------------------|--|--|--|
| <u>Forthcoming</u> | | | |
| <u>FN</u> | | | |
| <u>Public</u> | | | |
| <u>Defensor, et al</u> | | | |

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

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[] APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 4/11/00

BILL NO. CSSB 26 (FIN)

Revision Date/Time (Note if correction) 4/11/00 11:50 a.m. Dept. Affected Department of Corrections
 Title An Act relating to hindering prosecution and to BRU Administration and Operations
providing false information or reports to a peace officer. Component All
 Sponsor Senator Leman
 Requester Senate Finance Committee Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | *** | *** | *** | *** | *** | *** |

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

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation would provide an additional category to the crime of providing false information to a peace officer. It would become a Class A misdemeanor for an individual to provide a false identity to a peace officer while under investigation, arrest or detention or while being served with an arrest warrant or being issued a citation.

A class A misdemeanor is punishable by up to one year in prison. It would be very difficult to determine the fiscal impact of this bill because we do not have any way of determining how many times this occurs or what kind of sentencing might result. It could be used as a negotiating tool and result in no additional time as well. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by: Candy Brower, Legislative Liaison Phone 465-3307
 Division Commissioner's Office Date/Time 4/11/00 4:18 PM
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 4-11-00
 Agency Dept. of Corrections

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 4/11/00

BILL NO. CS for SB 26 (FIN)

| | | |
|---|--|--|
| Revision Date <u>4/11/00</u> | Dept. Affected <u>Public Safety</u> | |
| Title <u>An Act relating to providing false information</u> | BRU <u>AK. State Trooper - Detachments</u> | |
| or reports to a peace officer | Component <u>AK. State Trooper - Detachments</u> | |
| Sponsor <u>Senator Leman</u> | | |
| Requester <u>Senate Finance Committee</u> | Component No. <u>2325</u> | |

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

| FUND SOURCE | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

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|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill is not expected to have a budgetary impact.

| | |
|--|----------------------------------|
| Prepared by: <u>Royce Weller, Special Assistant</u> | Phone <u>465-2649</u> |
| Division <u>Office of the Commissioner</u> | Date/Time <u>4/11/00 5:45 PM</u> |
| Approved by Commissioner <u>Ronald L. Otto</u> <i>R. L. Otto</i> | Date <u>4/11/00</u> |
| Agency <u>Department of Public Safety</u> | |

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
 SFC 4/11/00

BILL NO. CS for SB 26 (FIN)

Revision Date 4/11/00 Dept. Affected Public Safety
 Title An Act relating to providing false information BRU AK. State Trooper - Detachments
 or reports to a peace officer Component AK. State Trooper - Detachments
 Sponsor Senator Leman
 Requester Senate Finance Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

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|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill is not expected to have a budgetary impact.

Prepared by: Royce Weller, Special Assistant Phone 465-2649
 Division Office of the Commissioner Date/Time 4/11/00 5:45 PM
 Approved by Commissioner Ronald L. Otte Date 4/11/00
 Agency Department of Public Safety

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
 SFC 4/11/00

BILL NO. CSSB 26 (FIN)

Revision Date/Time (Note if correction) 11-Apr-00 Dept. Affected Administration
 Title "An Act relating to hindering prosecution and to BRU Legal and Advocacy Services
providing false information or reports to a peace officer" Component Public Defender Agency
 Sponsor Senator Leman
 Requester (S) FIN Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |

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| CHANGE IN REVENUES () | | | | | | |
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FUND SOURCE (Thousands of Dollars)

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|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |

Estimate of any current year (FY2000) cost: _____

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Barbara Brink, Director Phone 264-4414
 Division Public Defender Agency Date/Time _____
 Approved by Commissioner – Robert Poe, Jr. [Signature] Date 4/11/00
 Agency Department of Administration

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 26 (FIN)

ANALYSIS: (continued)

This bill would change the current statute on Making a False Report, AS 11.56.800 by adding a provision making it illegal for a person to provide false information concerning his or her identity if the person is being detained or cited by the police. The bill also broadens the hindering prosecution bill to include rendering assistance to people who have committed any misdemeanor. (Under current law, hindering prosecution does not apply to class B misdemeanors.)

This bill will have some fiscal impact on the Public Defender Agency. Although it is difficult to determine the exact impact, the Agency does know that, in a significant percentage of arrests, defendants give false information concerning their identities. We conservatively estimate that defendants give false identity information in 2% of our cases.

We are currently appointed to represent defendants in about 3,200 new felonies and 8,500 new misdemeanors a year. If 2% of the defendants give false identity information, we would have 234 new misdemeanor charges. 234 new misdemeanors would be about a half-time caseload for a misdemeanor attorney, an Attorney II.

However, we have to take into account that other charges would be brought in many of these cases and that part of our existing caseload includes charges brought under the current Making a False Report statute. Because of these factors we are estimating that a part-time associate attorney could be hired to deal with the increased caseload. We are not requesting funding for any additional equipment, supplies, travel, or contractual services.

Therefore, we are requesting funding for a part-time Associate Attorney I to be stationed in Anchorage.

CS FOR SENATE BILL NO. 26()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS LEMAN, Donley

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to hindering prosecution and to providing false information or
2 reports to a peace officer."

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

4 * Section 1. AS 11.56.780(a) is amended to read:

5 (a) A person commits the crime of hindering prosecution in the second degree
6 if the person renders assistance to another who has committed a crime punishable as
7 a misdemeanor [BY IMPRISONMENT FOR MORE THAN 90 DAYS], with intent
8 to

9 (1) hinder the apprehension, prosecution, conviction, or punishment of
10 the other person; or

11 (2) assist the other person in profiting or benefiting from the
12 commission of the crime.

13 * Sec. 2. AS 11.56.800 is amended to read:

14 Sec. 11.56.800. False information or [MAKING A FALSE] report. (a) A

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person commits the crime of [MAKING A] false information or report if the person knowingly

(1) gives false information to a peace officer

(A) with the intent of implicating another in a crime; or

(B) concerning the person's identity while the person is

(i) under arrest, detention, or investigation for a

crime; or

(ii) being served with an arrest warrant or being

issued a citation;

(2) makes a false report to a peace officer that a crime has occurred or is about to occur;

(3) makes a false report or gives a false alarm that a fire or other incident dangerous to life or property calling for an emergency response has occurred or is about to occur; or

(4) makes a false report to the Department of Natural Resources under AS 46.17 concerning the condition of a dam or reservoir.

(b) False information or [MAKING A FALSE] report is a class A misdemeanor.

FISCAL NOTE

DRAFT

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 26 Version K
Work Draft

| | | | |
|---|---|----------------|-----------------------------|
| Revision Date/Time (Note if correction) | 10-Apr-00 | Dept. Affected | Administration |
| Title | "An Act relating to hindering prosecution and to providing false information or reports to a peace officer" | BRU | Legal and Advocacy Services |
| Sponsor | Senator Leman | Component | Public Defender Agency |
| Requester | (S) FIN | Component No. | 1631 |

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

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

FUND SOURCE (Thousands of Dollars)

| FUND SOURCE | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 | 26.8 |

Estimate of any current year (FY2000) cost: _____

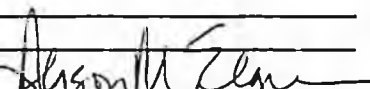
POSITIONS

| POSITIONS | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|-----------|---------|---------|---------|---------|---------|---------|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

See attached.

DRAFT

| | | | |
|--------------|---|-----------|----------|
| Prepared by: | Barbara Brink, Director | Phone | 264-4414 |
| Division | Public Defender Agency | Date/Time | |
| Approved by | Commissioner – Robert Poe, Jr.  | Date | 4/10/00 |
| Agency | Department of Administration | | |

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FISCAL NOTE

DRAFT

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 26

ANALYSIS: (continued)

This bill would change the current statute on Making a False Report, AS 11.56.800 by adding a provision making it illegal for a person to provide false information concerning his or her identity if the person is being detained or cited by the police. The bill also broadens the hindering prosecution bill to include rendering assistance to people who have committed any misdemeanor. (Under current law, hindering prosecution does not apply to class B misdemeanors.)

This bill will have some fiscal impact on the Public Defender Agency. Although it is difficult to determine the exact impact, the Agency does know that, in a significant percentage of arrests, defendants give false information concerning their identities. We conservatively estimate that defendants give false identity information in 2% of our cases.

We are currently appointed to represent defendants in about 3,200 new felonies and 8,500 new misdemeanors a year. If 2% of the defendants give false identity information, we would have 234 new misdemeanor charges. 234 new misdemeanors would be about a half-time caseload for a misdemeanor attorney, an Attorney II.

However, we have to take into account that other charges would be brought in many of these cases and that part of our existing caseload includes charges brought under the current Making a False Report statute. Because of these factors we are estimating that a part-time associate attorney could be hired to deal with the increased caseload. We are not requesting funding for any additional equipment, supplies, travel, or contractual services.

Therefore, we are requesting funding for a part-time Associate Attorney I to be stationed in Anchorage.

DRAFT

During Session, January - May:
State Capitol, Room 115
Juneau, Alaska 99801
(907) 465-2095
465-3810 FAX

During Interim, June - December:
716 W 11th Ave, Suite 520
Anchorage, Alaska 99501
(907) 269-0240
269-0242 FAX

Senator Loren Lemman

Sponsor Statement – CS for SB 26 (JUD)

“An Act relating to hindering prosecution and to providing false information or reports to a peace officer.”

SB 26 provides prosecutors an additional tool to deal with those persons who hinder law enforcement by using deception to protect themselves or others.

Existing law (AS 11.56.770 & 11.56.780) makes it a crime to hinder prosecution by rendering assistance to another person who has committed a crime, with the intention of hindering the apprehension, prosecution, conviction, or punishment of the other person. The definition of “rendering assistance to another” includes using deception to prevent or obstruct the discovery or apprehension of that person. Accordingly, it is a crime if a person lies to a police officer in an effort to obstruct the apprehension of a another person who has committed a crime.

However, the “hindering prosecution” statute applies only if a person lies to prevent apprehension of a person who has committed a crime that is punishable by imprisonment of greater than 90 days. This means that Class B misdemeanors are not covered under existing law. Class B misdemeanors include such offenses as disorderly conduct, harassment, misconduct involving weapons in the fifth degree, and criminal mischief in the fourth degree. Although these crimes are not the most serious offenses on the books, they do consume a significant amount of time and resources of both law enforcement agencies and the court system. It is not appropriate for the statute to sanction deception under these circumstances. SB 26 amends the existing law so that it applies to all crimes, including Class B misdemeanors.

SB 26 also amends AS 11.56.800 (making a false report) by adding a new paragraph stating that a crime has been committed if a person, **“having committed a crime, knowingly gives false information to a peace officer with the intent of avoiding apprehension, prosecution, conviction, or punishment.”** The existing statute states that providing false information to a peace officer “with the intent of implicating another in a crime” is a class A misdemeanor. SB 26 expands this section to cover any false information that is knowingly provided with the intent of avoiding justice.

Prepared by Mike Pauley, Staff Aide to Senator Loren Lemman (907-465-3841)
Last updated: April 3, 2000

Alaska Association of Chiefs of Police



MAR 02 1999

February 23, 1999

Senator Loran Leman
State Capitol
Juneau, AK 99801

Dear Senator Leman:

This letter is written in support of SB 26, an Act relating to providing false information or reports to a peace officer.

The use of false information to escape arrest or prosecution has become a way of life for many criminals. Beyond implicating another in a crime, a substantial number of persons continue to use the names and personal information of others again and again in order to "escape" the justice system. We also believe the penalty should equal the seriousness of the crime, since there is currently no greater penalty for providing false information in a felony case than in a misdemeanor case.

We endorse this effort to discourage both misdemeanor and felony suspects from attempting to escape justice by deception.

Sincerely,

A handwritten signature in cursive script, reading "Duane S. Udland".

Duane S. Udland, President
Alaska Association of Chiefs of Police

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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Robert Claus, Member
Craig
Pres. Prince of Wales Chapter

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

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

February 19, 1999

Dear Senator Leman,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 26.

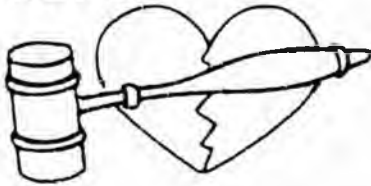
Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau
State President
Alaska Peace Officers Association

VICTIMS



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

MAR 02 1999
MAR 02 1999

February 24, 1999

Loren Leman
State Capitol Suite 520
Juneau, Ak 99801

Dear Senator Leman:

Victims for Justice is writing in support of SB 26, which is an act relating to providing false information or reports to a peace officer. It is important that a person is held accountable for lying to a police officer. When it is necessary for an officer to make an arrest or to use a statement from a witness concerning a crime, a simple lie can prevent that person from providing necessary information. Lying needs to be discouraged. I have seen juvenile offenders not be prosecuted because of lying to an officer. It is difficult for the justice system when a simple lie can prevent arrest or a person from being involved in an investigation. This legislation would be a good tool for police, prosecutors and crime prevention. Thank you Senator Leman for working for the safety of our communities.

Sincerely,

A handwritten signature in cursive script that reads "Janice Lienhart".

Janice Lienhart



Teleconference Participants

TCN: 10735

Participant Lists

View List for

Participants

Unidentified Testifiers: Unidentified Observers:

ANCHORAGE (ANC)

1 Name: Mr. Blair McCune Ans ?s Phone:
 Address: Affiliation:
 City /St /Zip: Type: Testifier
 Bill: SB 26: FALSE INFORMATION/REPORT TO POLICE

2 Name: Mr. John Tetpon Phone:
 Address: Affiliation:
 City /St /Zip: Type: Testifier
 Bill: SB 26: FALSE INFORMATION/REPORT TO POLICE



Teleconference Participants

TCN: 10687

Participant Lists

View List for

ALL Testifiers Go >>> Close Window

Participants

Unidentified Testifiers: 0 Unidentified Observers: 0

ANCHORAGE (ANC)

- 1 Name:Mr. Blair McCune Phone:
Address: Affiliation: Public Def
City /St /Zip: Type: Testifier
Bill: SB 26: FALSE INFORMATION/REPORT TO POLICE

- 2 Name:Lt David Hudson Phone:
Address: Affiliation: Public Saf
City /St /Zip: Type: Testifier
Bill: SB 26: FALSE INFORMATION/REPORT TO POLICE

SENATE FINANCE COMMITTEE

SIGN-IN

SB 26-FALSE INFORMATION/REPORT TO POLICE

NAME: Anne Carpenter Subject/Bill No: SB 26
Co./Dept./Title: Law Phone: 3428
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SB

27

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 28, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/29/99

The FINANCE Committee considered:

CSSB 27(FIN)

CS FOR SENATE BILL NO. 27(FIN)

ACCESS TO DRIVING/SCHOOL RECORDS OF CHILD

"An Act relating to school records and driver license records of certain children."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

^{Senate} fiscal note(s) DOE 2/25/99
(Indeterminate)

zero fiscal note(s) _____

^{Senate} zero fiscal note(s) DOA 2/25/99

| SIGNING WITH RECOMMENDATIONS | | DP | DNP | NR | AM |
|------------------------------|-------------|----|-----|----|----|
| <i>Gene Therriault</i> | Therriault | X | | | |
| <i>Tom Bunde</i> | Bunde | | | ✓ | |
| <i>Wm Kohring</i> | Kohring | X | | | |
| <i>Alvin Austerman</i> | Austerman | | | X | |
| <i>John Davies</i> | Davies | | | X | |
| <i>Ben Grussendorf</i> | Grussendorf | | | X | |
| <i>Joseph Moses</i> | Moses | | | X | |
| <i>John Davis</i> | Davis | X | | | |
| <i>Wm Williams</i> | Williams | X | | | |
| <i>John Foster</i> | Foster | X | | | |

CHAIR'S SIGNATURE

Gene Therriault
Therriault

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB27

| | | |
|--|----------------------|--------------------------------------|
| Revision Date/Time (Note if correction) | Dept. Affected | Education |
| Title <u>School Records and Driver</u> | BRU | <u>Teaching and Learning Support</u> |
| <u>License Records of Certain Children</u> | Component | |
| Sponsor <u>Senator Leman</u> | | |
| Requester | Component Serial No. | |

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 | * | * | * | * | * | * |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Section 1 of this bill directs districts to provide a copy of a child's record, upon the request of a parent or guardian of a child under 18 years of age currently, or previously, enrolled in a school district.

* It is impossible to determine what the cost to the school districts will be.

| | | | |
|---------------------------|-------------------------------|-----------|-----------------|
| Prepared by | Barbara Thompson | Phone | 465-8727 |
| Division | Teaching and Learning Support | Date/Time | 2/12/99 1:43 PM |
| Approved by Commissioner: | Shirley J. Holloway, Ph.D. | Date | 2/19/99 |
| Agency | Department of Education | | |

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB 27 (HES)

Revision Date: 2/26/99
 Title: An Act relating to school records and driver license records of certain children
 Sponsor: Senator Leman
 Requestor: (S) FIN

Department Affected: Administration
 BRU: Motor Vehicles
 Component: _____
 COMPONENT SERIAL NO. 2348

Expenditures/Revenues: (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below

| OPERATING EXPENDITURES | FY 2000 | FY 2001 | FY2002 | FY 2003 | FY 2004 | FY 2005 |
|------------------------|---------|---------|--------|---------|---------|---------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

FUND SOURCE: (Thousands of Dollars)

| | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY 99) cost: \$ _____

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary.)

This bill allows parents who are financially responsible for the actions of a minor driver to obtain the driving record of that minor.
 This bill has no fiscal impact on DMV.

Prepared by: Charles R. Hosack
 Division: Motor Vehicles

Phone: 269-5559
 Date: _____

Approved by Commissioner: Robert Poe Jr.
 Agency: Department of Administration

Date: 3/1/99

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SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189
Web Site: <http://www.akrepublicans.org/Leman.htm>

Session: State Capitol, Juneau, AK 99801 (907) 465-2095
Email: Senator_Loren_Leman@legis.state.ak.us

Sponsor Statement - CS for SB 27 (FIN)

"An Act relating to school records and driver license records of certain children."

Senate Bill 27 ensures parents will have access to important records about their minor children, and also requires school districts to share information with other districts about potentially dangerous transfer students.

The Division of Motor Vehicles will not allow a parent or legal guardian to review a minor's driving record. AS 28.15.151(f) declares that "information and records under this section are... confidential and private." An exception in the law allows DMV to provide a certified abstract of an individual's driving record to a municipal, state, or federal administrative or judicial agency. However, no exception exists to allow parental access.

Denying parents this information is unfair and nonsensical given that state law requires a parent or legal guardian to sign a minor's application for a driver's license. Furthermore, state law holds the parent or guardian who signed the application liable for any damage caused by negligence or wilful misconduct of the minor while operating a motor vehicle [AS 28.15.071(b)].

A driving record includes information that could help parents determine whether their child is driving safely: accident reports; convictions of vehicle, driver, and traffic offenses; and any actions taken upon the driver's license, such as suspension.

SB 27 also requires school districts to make copies of a minor child's school record available to parents. Although most districts in Alaska voluntarily make school records available, parents have no explicit right under state law to review this information. However, it is the federal government's policy to deny funding to any educational agency or institution that denies parental access to school records. SB 27 adds clarity to Alaska law by clearly stating that parents have this right.

Finally, SB 27 requires school districts to transfer certain information about a child who moves from one school district to another. If a student has committed an offense that is punishable as a felony, or if the student has committed any offense involving the use of a deadly weapon, this information must be included in the student record information that follows the child from one district to another. This provision will help school districts protect their students from potentially dangerous young offenders.

Public officials are often heard imploring parents to become more involved in the lives of their children. However, rather than helping parents do their job, government sometimes creates obstacles. By removing a few of these legal impediments, SB 27 takes a small step toward helping parents meet their responsibilities.

Prepared by Mike Pauley, Staff Aide to Senator Loren Lemman (465-3841)
Last updated: March 25, 1999