

ALASKA LEGISLATURE

2267

HOUSE and SENATE FINANCE COMMITTEE FILES, 2001 - 2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 317(JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DPS
Title An Act relating to stalking . . . BRU Statewide Support
Component APSIN
Sponsor Representative Crawford
Requester House Finance Component No. 528

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on the department.

Prepared by: Diane Schenker, Administrative Manager, CJIS Phone (907) 269-5092
Division Administrative Services Date/Time 4/15/02 2:26 PM
Approved by: Commissioner Glenn Godfrey Date 4/15/2002
Agency Department of Public Safety

2700

Amendment #1

OFFERED IN THE HOUSE FINANCE COMMITTEE BY: REP. DAVIES

TO: CSHB 317 (JUD)

adopted
u/c.

10
Page 3, lines 17 after "(c)" insert
"1 & 2" *Protection*
delete "Provided"
insert "allowed"

Page 3, lines 29 after "(c)" insert
"1 & 2" *Protection*
delete "Provided"
insert "allowed"

Page 5, line 27 after "AS 11.56.740" insert
"(a)(1)"

N10
adopted

4-16-02

Amendment #1

OFFERED IN THE HOUSE FINANCE COMMITTEE BY: REP. DAVIES

TO: CSHB 317 (JUD)

change Page 3, lines 17 after "(c)" insert
~~"1 & 2"~~

change Page 3, lines 29 after "(e)" insert
~~"1 & 2"~~

okay Page 5, line 27 after "AS 11.56.740" insert
"(a)(1)"

NO
adopted

4-16-02

Amendment #2

OFFERED IN THE HOUSE FINANCE COMMITTEE BY: REP. DAVIES

TO: CSHB 317 (JUD)

Page 4, lines 31 after "charged."

Delete: "for filing the petition."

Insert: "in any action seeking only the relief provided in this chapter."

1

Alaska State Legislature
House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)



Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 22

**REPRESENTATIVE HARRY CRAWFORD
SPONSOR STATEMENT FOR HB 317**

HB 317 closes a dangerous loophole in the Alaska statutes, by allowing unacquainted victims of stalking to enjoy the security of a judicial protective order. Current law provides protection to those in domestic situations and minor children, but enjoins the victims of strangers from equal protection of the law. HB 317 allows the victims of stalking to seek and obtain a protective order in cases of stalking that are not crimes involving domestic violence. The bill streamlines the process for public safety and judicial practitioners by harmonizing the arrest and notification procedures to mirror those already in place for domestic violence situations. The bill adds the crime of violation of a child protective order and of a violation of a stalking protective order, these changes also reflect existing practitioner procedures.

I urge your support for this necessary change in the law.

LEGAL SERVICES

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

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


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 20, 2002

SUBJECT: Sectional Summary (CSHB 317(), "F" Version, Draft,
Dated 2/14/02, Work Order No. 22-LS1258\F)

TO: Representative Harry Crawford
Attn: Dave

FROM: Gerald P. Luckhaupt 
Legal Counsel

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

Section 1. Amends AS 04.11.494(e)(1)(B) to provide a conforming change to the change made in sec. 2 of the CS().

Section 2. Amends the existing crime of violating a protective order, AS 11.56.740(a), by adding violations of stalking protective orders, sec. 5 of the CS(), and child protective injunctions under AS 47.17.069 as alternative ways to commit this crime.

Section 3. Amends AS 12.25.030(b) to provide a conforming change to the change made in sec. 2 of the CS().

Section 4. Amends AS 18.65.530(a) to provide a conforming change to the change made in sec. 2 of the CS().

Section 5. Amends AS 18.65 by adding new sections that provide for the issuance of protective orders in cases of stalking, that are not crimes involving domestic violence.

Section 6. Amends AS 18.65.990(3) to provide a conforming change to the change made in sec. 2 of the CS().

Section 7. Provides notice that sec. 5 includes an indirect amendment to a court rule.

GPL:lmb
02-029.lmb

1 **Approved**

2 Submitted by: Assemblymembers TAYLOR, Tesche,
3 Von Gemmingen

4 Date: 3/19/02

5 Prepared by: Department of Assembly
6 For reading: March 19, 2002

7 ANCHORAGE, ALASKA
8 AR NO. 2002-85

9 A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HOUSE BILL
10 NO. 317, "AN ACT RELATING TO STALKING AND AMENDING RULE 4, ALASKA RULES OF
11 CIVIL PROCEDURE, AND RULE 9, ALASKA RULES OF ADMINISTRATION."
12

13
14 WHEREAS, according to the Anchorage Police Department, there were 22 reported cases
15 of stalking in the year 2000 which may not reflect the number of possible other victims who were
16 too fearful to come forward; and

17
18 WHEREAS, current law provides protection to those in domestic situations and minor
19 children, but does not protect victims who are stalked by strangers; and

20
21 WHEREAS, House Bill No. 317 (HB 317), introduced by Representative Crawford, proposes
22 to close a dangerous loophole in the current Statutes by providing equal protection to those being
23 stalked by a stranger; and

24
25 WHEREAS, HB 317 would allow the victims of stalking to seek and obtain a protective order
26 in cases of stalking that are not crimes involving domestic violence, and would also streamline the
27 process by integrating the arrest and notification procedures to mirror the current law for domestic
28 violence situations; and

29
30 WHEREAS, upon passage, HB 317 would provide three different types of protective orders
31 to include an emergency order for three days, another order for 20 day, and one for six months and
32 longer; and

33
34 WHEREAS, HB 317 represents a long overdue law and it is only fair that any citizen who
35 believes that their life is threatened, whether by the known or the unknown, are protected and
36 provided a sense of security within the community.

37
38 NOW, THEREFORE, the Anchorage Assembly resolves:

39
40 Section 1: That the Anchorage Assembly supports and urges passage of House Bill No.
41 317.

42
43 Section 2: That copies of this resolution be forwarded to the Alaska State Legislature and
44 the Governor immediately upon passage and approval.

45
46 PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____,
47 2002.

48
49
50
51 _____
52 Chair

53 ATTEST:

54
55
56 _____
57 Municipal Clerk

Fwd: HB 317 Re: Stalking]

Subject: [Fwd: HB 317 Re: Stalking]

Date: Tue, 26 Feb 2002 08:10:32 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

Subject: HB 317 Re: Stalking

Date: Mon, 25 Feb 2002 17:22:11 -0900

From: "Fay Von Gemmingen" <fayvong@alaska.com>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

CC: <Representative_Scott_Ogan@legis.state.ak.us>

Representative Rokeberg:

I am writing in support of HB 317 and urge you to schedule it for a public hearing in Judiciary Committee. In Anchorage, we call it the "Mary Wells Law" because of the terror she and her family went through. She works for a non profit organization, and one of the clients pursued her and terrorized her and her family.

She wanted to file a domestic relations order to try to keep him away, but the judge said she couldn't because there was no relationship. The judge, municipal prosecutors, and Police Chief Monegan urged her to try to get the law changed.

That's how I got involved. She brought her story to me as co-chair of Alaska Municipal League's Local Government and Public Services subcommittee. This committee listened to her story and agreed that something must be done to prevent this horror story from happening again. We added a section to our AML policy to support this legislation.

I'm asking you to give it a chance, give it a public hearing. This issue is too important to women and their families.

Thank you,

Fay

Fay Von Gemmingen

fayvong@alaska.com

Subject: [Fwd: Stalking HB 317]

Date: Tue, 26 Feb 2002 08:11:09 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

Subject: Stalking HB 317

Date: Mon, 25 Feb 2002 23:40:27 -0900

From: "gary l. wells" <wells1@gci.net>

To: Representative_Norman_Rokeberg@legis.state.ak.us

Norm, I am a registered Republican and so is the rest of my family on both sides (this, my husband Gary, told me to tell you)!

I work for Bean's Cafe in Anchorage as the Development Director. We provide basic services such as food, day shelter, emergency services, etc. for the Anchorage's poorest, homeless and children between the average age of 7-11 years. I do about two presentations a week from 35 to 1500 people. So I'm always in the public's eye. As such, it took even a long time to figure out who this guy was, where he came from and then to find no one could help. In over 26 years in nonprofit, I have never experienced anything like this. It was a scary time for my husband and kids. As a family, we made a commitment to work through this, not just for us but for all who have committed their life's work to human services. After doing all the research, this stuff happens to a lot of people, good people. And, they can't do anything about it.

There is nothing worse than knowing that I, as their Mom, the police man and the judges could not make the fear go away. My 5 year old became incontinent when the phone or door bell rang. The boys slept in my bed, would not take shower or go to the bathroom unless I was there physically holding them. I discovered that my 12 year old carried a little knife for "just in case" and didn't want me to know about. This guy tried to befriend my boys on top of that to try to get to me. In the end, I've spent the money in therapy for them and they have come out of it OK.

They also know that a bill is in progress. My hope is that I can tell them that aside from Harry Crawford, Norm Rokeberg is their other hero who will also co-sponsor the bill, a person who cares about other people and to the many other little "gals & guys" that stalking affects.

So, I'm sending you a copy of the letter I sent to everyone and this one is specially for you!

Mary A. Wells
3665 Burl Court
Anchorage, AK 99504
Email: wells1@gci.net

February 25, 2002

Representative Norman Rokeberg
State Capital
Juneau, AK 99801

Dear Representative Rokeberg:

I want YOU to be a member of a group of HEROES that is together in Juneau to approve a stalking bill (HB 317) so it includes ALL VICTIMS. Currently, Protective Orders (Restraining Orders) are only applicable to member(s) of family(s) or, lived or living under the same roof or, dated or have dated or, have or have had a sexual relationship. This current law excluded my 5 and 12-year sons and myself - he was a stranger.

For almost three months my family was stalked and I kept calling the police. In November of 2001, something in the stalker's behavior, tone and actions changed. The increase in telephone calls day and night, his statements to us of "he was coming, on his way, going to have me, my children and for us to be ready" frightened us. The very day he said my children's names, I lost all fear and I started to prepare for what I needed to do to protect my babies - my sword, my friends, the police and the law.

Judge Murphy denied my boys and I the Protective Order from this person because the law didn't apply to us. His resolution was to protect us by police escort to AWAIC until things could be worked out. Further, Judge Murphy said in court "the law has to change." Fortunately, the Prosecuting Office did their job in identifying other laws broken to obtain sufficient information to arrest him. He pleaded guilty to all charges and was given four years.

Our Governor, Municipal League, Chief of Police, Prosecuting Office and so many folks, supports this bill. But I am learning this is not enough. We need you to immediately and urgently call, write or contact in any way:

Norm Rokeberg, Judiciary & Finance Committee Chair
Members of the Judiciary & Finance Committee

And say, "We need to pass HB 317"

If you are in public, going shopping, giving public presentations, standing in a public line, perhaps it's someone in your Family, one of your Friends, your Neighbor, this can happen to them and to you too! Please be their HERO too!

Sincerely yours,

Mary A. Wells

HB

317

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/11/02

FURTHER:

RECEIVED

MAY 12 2002

SENATE FINANCE

DATE TURNED
IN TO OFFICE:

12 May 2002

Finance Committee considered

CS FOR HOUSE BILL NO. 317(FIN)

HB 317 STALKING & PROTECTIVE ORDERS

"An Act relating to stalking and to violating a protective order; and amending Rules 4 and 65, Alaska Rules of Civil Procedure, and Rule 9, Alaska Rules of Administration."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

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

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Law	3/1/02		✓	#1
Corrections	3/5/02	*		#2
Admin	3/6/02	*		#3
Public Safety	4/15/02		✓	#5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Lynne Green</i>	✓			
<i>Alan Curtis</i>	✓			
<i>Tom Hoff</i>	✓			
<i>Bill</i>	✓			
<i>Sony Wilke</i>	✓			
<i>Don</i>	✓			
<i>Robert Leman</i>	✓			
COCHAIR: <i>Carl Douglas</i>	✓			
COCHAIR: <i>Pat Kelly</i>	✓			

MAY 12 2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 317(JUD)
 (H) Publish Date: 4/9/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to stalking..." BRU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Rep. Crawford
 Requester (H) JUD Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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-Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

Prepared by: Barbara Brink, Director Phone (907) 334-4416
 Division: Public Defender Agency Date/Time 3/6/02 11:18 AM
 Approved by: Jim Duncan, Commissioner Date 3/6/2002
 Agency: Department of Administration

FISCAL NOTE

**STATE OF ALASKA
2002 LEGISLATIVE SESSION**

BILL NO. CSHB 317(JUD) - FN#3

ANALYSIS CONTINUATION

This legislation would create a new section in the protective order statutes to provide for the application and issuance of a protective order for victims of the crime of stalking, that is not a crime of domestic violence. Under the proposed legislation, if a person allegedly violates the protective order, they may be prosecuted for the crime of violating a protective order, a class A misdemeanor.

This legislation will likely have a fiscal impact on the Public Defender Agency, because it broadens the scope of the crime of violating a protective order, which will likely result in more cases, handled by the Agency, charging a violation of this crime. However it is not possible to predict with any certainty the number of new cases this bill will generate, therefore an indeterminate fiscal note is submitted.

MAY 1 2 2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSHB 317(FIN)
(H) Publish Date: 4/17/02

Revision Date/Time (Note if correction): _____ Dept. Affected: DPS
Title An Act relating to stalking . . . BRU Statewide Support
Component APSIN
Sponsor Representative Crawford
Requester House Finance Component No. 528

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on the department.

Prepared by: Diane Schenker, Administrative Manager, CJIS Phone (907) 269-5092
Division Administrative Services Date/Time 4/15/02 2:26 PM
Approved by: Commissioner Glenn Godfrey Date 4/15/2002
Agency Department of Public Safety

COMMITTEE COPY
MAY 12 2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 317(JUD)
(H) Publish Date: 4/9/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: An Act relating to stalking and amendi BRU: Administration and Operations
Rule 4, Alaska Rules of Civil Procedure..... Component: All
Sponsor: Representative Crawford
Requester: House Judiciary Component No.: 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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-Do not abbreviate)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation creates a new provision to include protective orders related to non-domestic violence stalking. In addition, it includes a violation of this protective order to AS 11.56.740(a). That creates a new provision to the crime of "violating a protective order".

It is expected that there will be relatively few stalking protective orders. In order to obtain a stalking protective order, the victim essentially has to prove that the stalking occurred, and then the stalker can be arrested which will probably be the preferred response. We do not currently have the availability of the protective orders so we do not know how many will be issued, and then subsequently violated, therefore, we are submitting an indeterminate fiscal note.

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 3/5/02 2:33 PM
Approved by: Margaret Pugh, Commissioner Date 3/5/02
Agency: Department of Corrections.

Alaska State Legislature
House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)



Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 22

**REPRESENTATIVE HARRY CRAWFORD
SPONSOR STATEMENT FOR HB 317**

HB 317 closes a dangerous loophole in Alaska statutes, by allowing unacquainted victims of stalking to enjoy the security of a judicial protective order. Current law provides protection to those in the domestic situations and minor children, but enjoins the victims of strangers from equal protection of the law. HB 317 allows the victims of stalking to seek and obtain a protective order in cases of stalking that are not crimes of domestic violence. The bill streamlines the process for public safety and judicial practitioners by harmonizing the arrest and notifications procedures to mirror those already in place for domestic violence situations. The bill adds the crime of violation of a child protective order and of a violation of a stalking protective order, these changes also reflect existing practitioner procedures.

I urge your support for this necessary change in the law.

CS FOR HOUSE BILL 317(JUD)

SECTIONAL SUMMARY

Section 1 amends the law prohibiting the violation of a protective order to include the violation of a protective order for stalking.

Section 2 amends the mandatory arrest provision for violation of a domestic violence protective order under certain circumstances to exclude the violation of a protective order for stalking from the mandatory arrest requirement.

Section 3 adopts a new article in AS 18.65 to allow a person who is a stalking victim to request a protective order from a judicial officer that orders the alleged stalker to stay away from the victim. Specifically, the bill provides the following:

A person who reasonably believes that he or she is the victim of stalking may file a petition in the district or superior court for a protective order. A parent may file on behalf of a minor.

After a petition is filed, 10 days' notice to the alleged stalked is required before a hearing on the petition may be held. A protective order may be issued if the court finds by a preponderance of evidence the respondent has committed stalking against the petitioner. The protective order after notice and a hearing is effective for six months.

The court, in issuing a protective order may grant the following relief:

1. Prohibit the respondent from further stalking;
2. Prohibit the respondent from communicating directly or indirectly with the petitioner or a family member of the petitioner specifically named in the order;
3. Direct the respondent to stay away from the home, school, place of employment of the petitioner, or any other place specified in the order; however, the court may only order the respondent to stay away from the respondent's own home, school, or place of employment if the respondent has had actual notice and an opportunity to be heard on the petition.

The court may order a protective order for stalking and issue the order ex parte. The court may do so only if it finds probable cause that a crime of stalking has occurred, that the order is necessary to protect the petitioner, and the petitioner has certified the efforts, if any, that have been made to notify the respondent. An ex parte protective order expires 20 days after it is issued unless dissolved earlier at the request of the petitioner or respondent and, if requested, after a hearing.

A peace officer, on behalf of a stalking victim, may request an emergency protective order from a judicial officer. If the court finds probable cause that the petitioner is in immediate danger of stalking based on recent stalking, the court shall issue an emergency protective order. The emergency order expires 72 hours after it is issued unless dissolved earlier at the request of the petitioner.

There is a procedure for the modification of protective orders issued ex parte and after a hearing, at the request of either the petitioner or respondent. A hearing is required before the order may be modified.

Provisions for service of process, forms for petitions and protective orders, and notice of the rights of stalking victims are included.

Section 4 is a conforming amendment to the definition of domestic violence.

Section 5 is a conforming amendment that provides that a district court judge and a magistrate may issue a protective order for stalking in addition to a domestic violence protective order.

Section 6 provides that section 3 of the bill have the effect of indirectly amending court rules relating to preliminary injunctions, fees, and service of process.

1 **Approved**

Submitted by: Assemblymembers TAYLOR, Tesche,
Von Gemmingen

2
3 Date: 3/19/02

Prepared by: Department of Assembly
For reading: March 19, 2002

4
5
6 ANCHORAGE, ALASKA
7 AR NO. 2002-85

8
9 A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HOUSE BILL
10 NO. 317, "AN ACT RELATING TO STALKING AND AMENDING RULE 4, ALASKA RULES OF
11 CIVIL PROCEDURE, AND RULE 9, ALASKA RULES OF ADMINISTRATION."
12

13
14 WHEREAS, according to the Anchorage Police Department, there were 22 reported cases
15 of stalking in the year 2000 which may not reflect the number of possible other victims who were
16 too fearful to come forward; and

17
18 WHEREAS, current law provides protection to those in domestic situations and minor
19 children, but does not protect victims who are stalked by strangers; and

20
21 WHEREAS, House Bill No. 317 (HB 317), introduced by Representative Crawford, proposes
22 to close a dangerous loophole in the current Statues by providing equal protecion to those being
23 stalked by a stranger; and

24
25 WHEREAS, HB 317 would allow the victims of stalking to seek and obtain a protective order
26 in cases of stalking that are not crimes involving domestic violence, and would also streamline the
27 process by integrating the arrest and notification procedures to mirror the current law for domestic
28 violence situations; and

29
30 WHEREAS, upon passage, HB 317 would provide three different types of protective orders
31 to include an emergency order for three days, another order for 20 day, and one for six months and
32 longer; and

33
34 WHEREAS, HB 317 represents a long overdue law and it is only fair that any citizen who
35 believes that their life is threatened, whether by the known or the unknown, are protected and
36 provided a sense of security within the community.

37
38 NOW, THEREFORE, the Anchorage Assembly resolves:

39
40 Section 1: That the Anchorage Assembly supports and urges passage of House Bill No.
41 317.

42
43 Section 2: That copies of this resolution be forwarded to the Alaska State Legislature and
44 the Governor immediately upon passage and approval.

45
46 PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____,
47 2002.

48
49
50 _____
51 Chair

52 ATTEST:

53
54
55 _____
56 Municipal Clerk

57 EGJ/2002/RESOLUTIONS/AR28

58
MAR 21 2002

**Municipality
of
Anchorage**



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4250
Fax: (907) 274-6689
<http://www.ci.anchorage.ak.us>

George P. Wuerch, Mayor

DEPARTMENT OF LAW
Office of the Prosecutor
420 L Street, Suite 100

April 18, 2002

Representative Harry Crawford
State Capitol Building, Room 426
Juneau, Alaska 99801

FAX: 907-465-4565
Hard copy will follow by mail.

Dear Representative Crawford:

I am writing on behalf of the Municipal Department of Law regarding HB 317. You may recall I testified telephonically from Anchorage on March 6, 2002, in support of the bill. We continue to support the bill as amended, and are pleased it left committee with unanimous support.

While we were able to help Ms. Wells in ultimately resolving the problem, it was only after some delay in process because of the lack of a procedural safeguard which your bill covers. When your bill becomes law, a victim of stalking-type conduct will be able to seek judicial intervention and protection at an earlier phase of the criminal justice process, which provides an additional law enforcement tool and greater victim safety.

Thank you for allowing us to participate and provide input into this issue. If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Roberts", is written over a horizontal line. The signature is stylized and somewhat cursive.

R. Bruce Roberts
Deputy Municipal Attorney
Department of Law
Criminal Division

**ALASKA NETWORK ON
DOMESTIC VIOLENCE AND SEXUAL ASSAULT**

130 Seward, Rm 209
Juneau, Alaska 99801

(907) 586-3650 ph
(907) 463-4493 fx

HB317

The Network supports HB317. HB317 creates protective orders for victims of stalking that is not domestic violence.

A person who reasonably believes that she or he is a victim of stalking may file a petition in a district or superior court for a stalking protective order.

Three types of orders are created: an emergency order valid for 72 hours; an ex parte order valid for 20 days; and, a regular order valid for 6 months.

The protective order may prohibit the respondent from threatening to commit or committing stalking; prohibit the respondent from telephoning, contacting, or otherwise communicating directly or indirectly with the petitioner or a designated household member of the petitioner; and/or direct the respondent to stay away from the residence, school, or place of employment of the petitioner, or any specified place frequented by the petitioner.

The respondent cannot be ordered to stay away from his own residence, school, or place of employment unless he has been provided actual notice of the opportunity to appear and be heard on the petition.

Either the petitioner or respondent may request a modification to the order.

The bill is necessary because while stalking behavior is easy to recognize it is hard to prove by a clear and convincing standard of evidence which is necessary for a criminal conviction. The civil standard of proof by a preponderance of the evidence is high enough to safeguard the alleged stalker's rights, but not so high that victims of this serious crime cannot gain some judicial relief. Please assist victims of stalking in obtaining some relief from their plight by passing HB317.

SENATE COMMITTEE REPORT

DATE: 4/23/02

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5/10/02

Judiciary Committee considered **CS FOR HOUSE BILL NO. 317(FIN)**
HB 317 STALKING & PROTECTIVE ORDERS

"An Act relating to stalking and to violating a protective order; and amending Rules 4 and 65, Alaska Rules of Civil Procedure, and Rule 9, Alaska Rules of Administration."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

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

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DOL	3/6/02		✓	1
DOC	3/25/02	X		2
DOA	3/26/02	X		3
DPS	4/15/02		✓	5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John C. ...</i>	✓			
<i>John ...</i>			X	
<i>J. ...</i>	X			
CHAIR: <i>Chris Taylor</i>	✓			

SENATE FINANCE COMMITTEE
HB 317-STALKING & PROTECTIVE ORDERS
SIGN-IN

NAME: Lauree Hugenin Subject/Bill No: HB317
Co./Dept./Title: Alaska Network on Domestic Violence ^{Sexual} Assault Phone: 586-3650
Address: 130 Seward, room 209 Juneau Zip: 99801

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

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

Do you wish to testify? Yes No Respond To Questions

HB

318

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 318(L&C)
(H) Publish Date: 3/22/02

Revision Date/Time _____ Dept. Affected: Administration
Title Relating to a uniform prescription BRU Centralized Administrative Services
drug information card Component Retirement & Benefits
Sponsor (H) Labor & Commerce
Requester (H) Labor & Commerce Component No. 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would require insurers to provide specific information on prescription drug identification cards.

This fiscal note assumes the State will not need to change our current identification cards.

Prepared by: Guy Bell, Director Phone 465-4470
Division Retirement & Benefits Date/Time 1/31/02 4:26 PM
Approved by: Jim Duncan, Commissioner Date 1/31/2002
Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 318(L&C)
(H) Publish Date: 3/22/02

Revision Date/Time (Note if correction): 02/01/2002 Dept. Affected: DCED
Title An Act relating to a health insurance uniform BRU Insurance (116)
prescription drug information card Component Insurance Operations
Sponsor House Labor & Commerce by request
Requester House Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill requires the Director of the Division of Insurance to specify by regulation information to be contained on a prescription drug information card. Anticipated expenses to draft the regulation and enforce the provision on insurers would be absorbed within existing division resources.

Prepared by: Robert A. Lohr, Director Phone 269-7900
Division Insurance Date/Time 2/1/02 10:53 AM
Approved by: Deborah B. Sedwick, Commissioner Date 2/1/2002
Agency Department of Community & Economic Development

*Adopted
4/25/02*

22-LS1061X
Ford
4/25/02

CS FOR HOUSE BILL NO. 318()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a health insurance uniform prescription drug information card; and
2 providing for an effective date."

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

4 * **Section 1.** AS 21.06 is amended by adding a new section to read:

5 **Sec. 21.06.086. Uniform prescription drug information card.** (a) A health
6 care insurer that provides coverage for prescription drugs or devices and that issues,
7 uses, requires, or reissues a card or other technology for prescription claims processing
8 shall issue or require the insurer's agent, contractor, or third-party administrator to
9 issue a uniform prescription drug information card for an insured, enrollee, or
10 participant in the insurer's health insurance plan as required in this section. The
11 director shall by regulation specify the information to be contained on a uniform
12 prescription drug information card and shall require, at a minimum, that a uniform
13 prescription drug information card

14 (1) except as required in this section, conform to the standards and

1 format of the current National Council for Prescription Drug Programs Pharmacy
2 Identification Card Implementation Guide; or

3 (2) contain, in a clear, readable, and understandable manner, all
4 information necessary for prescription drug claims submission, including

5 (A) the card issuer's name or logo on the front of the card;

6 (B) the name and identification number of the enrollee or
7 enrollee's dependent displayed on the front of the card;

8 (C) if the insurer accepts electronic prescription drug claims
9 submissions, complete and clearly labeled information for electronic
10 transaction claims routing, including

11 (i) the international or bank identification number;

12 (ii) the processor control number; or

13 (iii) the group number if required for adjudication;

14 (D) the name and address of the benefits administrator or other
15 entity responsible for prescription claims submission, adjudication, or
16 pharmacy provider correspondence for prescription benefits claims; and

17 (E) a help desk telephone number for pharmacy benefit claims
18 assistance or a reference to a telephone number for pharmacy benefit claims
19 assistance, unless provided electronically at the time of adjudication.

20 (b) This section

21 (1) does not apply to a health care insurer providing prescription drug
22 coverage under an excepted benefits policy;

23 (2) may not be construed to require the reissuance of a uniform
24 prescription drug information card issued before the effective date of this section; and

25 (3) does not require issuance of a separate prescription drug
26 information card if an existing information card contains the information required
27 under this section.

28 (c) In this section,

29 (1) "device" has the meaning given in AS 08.80.480;

30 (2) "excepted benefits" has the meaning given in AS 21.54.160;

31 (3) "health care insurer" has the meaning given in AS 21.54.500;

1 (4) "prescription drug" has the meaning given in AS 08.80.480 and
2 includes a device.

3 * Sec. 2. This Act takes effect July 1, 2004.

NCPDP Pharmacy ID Card Fact Sheet

This Fact Sheet relates to the current NCPDP Health Care Identification Card Pharmacy ID Card Implementation Guide ("The Guide"). The purpose of The Guide is to reduce the time that consumers wait for prescriptions at community retail pharmacies by preventing delays caused by the lack of necessary information on consumer prescription benefit ID cards.


Over 3 billion pharmacy claims are adjudicated electronically each year. This occurs at the time of service similar to the processes used for credit card authorization and verification. Including the minimum amount of information, as specified in The Guide, is crucial for improving the timely processing of pharmacy claims, so that providers and patients are not subjected to unnecessary delays.

The Guide requires the minimum necessary information that must be included and lists additional information that may be included in specific situations. The guide also identifies information that was considered for inclusion on the card, but was intentionally omitted. (See Excluded Data Elements).

Sample Card:

Front

Back

	Desired Name/Logos (1)
RxBIN	999999 (3)
RxPCN	ABC1234567 (3)
RxGrp	ABC123456789 (3)
Issuer (80840)	(4)
ID	12345678901 (2)
Name	JOHN Q PUBLIC (5)

<p>Pharmacy Help Desk: (800) 555-1234 (7)</p> <p>Submit Claims to: Any Pharmacy Benefits Manager 123 ABC Street Anytown, MO 00000-0000 (6)</p>

Mandatory Information

Front of card:

1. Name or logo of the benefit administrator issuing the identification card. This information is to be located at the top.
2. Insured's identification number. This information is to be left justified.
3. Complete electronic transaction routing information including the International Identification Number (RxBIN). The Processor Control (RxPCN) and Group Numbers (RxGrp) are mandatory when required by the benefit administrator to electronically route a prescription claim. This information is to be left justified.
4. Issuer ID. This label is required and is for future use. As specified in the Health Information Portability and Accountability Act (HIPAA), a unique plan ID will identify health care benefit plans. This plan ID will become the Issuer ID on the pharmacy ID card. The issuer ID is left justified and above the insured's identification number.
5. Cardholder Name. (Sequence of name is: given names and initials, surname, and name suffix. Name should not contain punctuation such as periods or commas.)

Back of card:

6. Name and address of the benefit administrator where non-electronic prescription claims, patient, or provider correspondence can be sent.
7. Telephone number that providers or patients/participants may call for assistance.


NCPDP Pharmacy ID Card Requirements Summary

The prescription drug identification card shall include at a minimum the following information:

- (1) Name or logo of the benefit administrator issuing the identification card. The placement of this information is to be located at the top, front side of the identification card.
- (2) Insured's identification number. This information is to be left justified and located on the front side of the identification card.
- (3) Name and address of the benefit administrator where non-electronic prescription claims or other patient or provider correspondence can be sent. This information is to be located on the reverse side of the identification card.
- (4) Telephone number that providers may call for assistance. This information is to be located on the reverse side of the identification card.
- (5) Complete electronic transaction routing information including, at a minimum, the International Identification Number. Processor Control Numbers and Group Numbers are required if needed by the benefit administrator to electronically process a prescription claim. This information is to be left justified and located on the front side of the identification card.

Sample Card:

Front

	Desired Name/Logos
999999	
RxPCN	ABC1234567
RxGrp	ABC123456789
Issuer (80840)	
ID	12345678901
Name	JOHN Q PUBLIC

Back

<p>Pharmacy Help Desk: (800) 555-1234 Customer Service: (800) 555-9876</p> <p>Submit Claims to: Any Pharmacy Benefits Manager 123 ABC Street Anytown, MO 00000-0000</p>

Excluded Data Elements

Co-payment Amounts are not on the card for the following reasons:

- ◆ Real time on-line processing systems do not require that co-payments be submitted with the prescription claim.
- ◆ This information changes frequently and would require new cards to be printed AND carried by consumers.
- ◆ Many managed care plans include multiple levels of co-payment that would not fit on a card.

Date(s) of Birth are not on the card for the following reasons:

- ◆ Patients prefer to carry one card that includes both medical and pharmacy benefits ("a combination card"). In addition, patients want only one family card, rather than one card for each individual. Given this, the norm in the industry is to print one family combination card. Therefore, there is not enough space to include the dates of birth for all dependents on the ID card.

Benefit Effective Date and Expiration Date are not on the card for the following reasons:

- ◆ An individual may have their coverage terminated for any number of reasons prior to the date printed, leading to confusion at the time of service.
- ◆ The requirement of the expiration date will cause massive reprinting of ID cards.
- ◆ Many plans offer eligibility on a monthly or yearly basis. Including effective and expiration dates would require that ID cards be reprinted upon each renewal. The additional card printing costs would be passed along to the cardholders, probably through higher premiums.

Who is NCPDP?

The National Council for Prescription Drug Programs is the standard setting organization for retail pharmacy. There are over 1300 NCPDP members, representing chain and community pharmacies, manufacturers, payers and others with a vested interest in the industry such as software vendors.

How was this guide developed and how is it maintained?

The Guide was developed and is maintained by NCPDP Work Group 3 Standard Identifiers. Business needs are discussed in the work group and result in specific wording, which is then considered and voted upon according to the American National Standards Institute's (ANSI's) nationally recognized procedures. The Guide was designed to reflect available technologies and current industry practices.

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halco Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



Alaska State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
Fax: (907) 465-2293
Representative_Lisa_Murkowski@legis.state.ak.us

HOUSE LABOR AND COMMERCE COMMITTEE

Sponsor Statement HB 318 Uniform Prescription Drug Card

House Bill 318 creates a uniform prescription drug card that contains basic but essential information to help pharmacists improve patient care by minimizing confusion, eliminating unnecessary paperwork, decreasing administrative burdens and processing claim delays, and streamlining dispensing of prescription products paid for by third party payors.

The card includes the card issuer's logo, patient's name, routing and group numbers, and the name and address of the benefits administrator and help desk. The need for a uniform prescription card is necessary to the retail pharmacy industry. Pharmacists spend considerable time deciphering insurance benefit cards—time that could be better spent with patients providing pharmaceutical care and educating them to effect optimal outcome of their drug therapy.

Prescription load volume has increased two-fold in the last five years and is expected to double again in the next four years. As our population grows older, more people are taking increasing numbers of prescription medications to prolong well-being and quality of life. By clarifying the content on prescription benefit cards, pharmacists will be able to spend more time with the consumer providing pharmaceutical care.

HB

321

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSSHB 321(JUD)
(H) Publish Date: 2/13/02

Revision Date/Time (Note if correction): 2/7/2002 10 a.m. correct Dept. Affected: Public Safety
Title: An Act Relating to the Purpose of BRU: Violent Crimes Compensation
Crime Victims' Compensation Component: Violent Crimes Compensation
Sponsor: Representative Guess
Requester: House Judiciary Component No.: 163

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill should have no fiscal impact for the following reasons:

- 1) current claimants, under similar circumstances, are already being compensated;
- 2) the number of potential cases is small.

Prepared by: Susan L. Browne, Administrator
Division: Violent Crimes Compensation Board
Approved by: Commissioner Glenn Godfrey
Agency: Department of Public Safety

Phone (907)465-5525
Date/Time 2/7/02 10:11 AM
Date 2/7/2002

Secretary

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSSHB 321(JUD)
(H) Publish Date: 2/13/02

Revision Date/Time (Note if correction): 2/7/2002 10 a.m. correctio Dept. Affected: Public Safety
Title: An Act Relating to the Purpose of BRU: Violent Crimes Compensation
Crime Victims' Compensation Component: Violent Crimes Compensation
Sponsor: Representative Guess
Requester: House Judiciary Component No.: 163

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill should have no fiscal impact for the following reasons:
1) current claimants, under similar circumstances, are already being compensated;
2) the number of potential cases is small.

Prepared by: Susan L. Browne, Administrator Phone (907)465-5525
Division: Violent Crimes Compensation Board Date/Time 2/7/02 10:11 AM
Approved by: Commissioner Glenn Godfrey Date 2/7/2002
Agency: Department of Public Safety

ALASKA STATE LEGISLATURE



REPRESENTATIVE GRETCHEN GUESS

Sponsor Statement HB 321

An act relating to the purpose for crime victims' compensation; and limiting the factors that may be considered in making a crime victims' compensation award in cases of sexual assault or sexual abuse of a minor.

When the state established Victims' Compensation Board over 20 years ago, it ensured the victim's role in the crime would be considered. For example, if someone started a bar brawl and was hurt, their case could be denied by the Victims' Compensation Board.

The unintended consequence of this language was child abuse and sexual assault victims could be denied funding if the board found them to have contributed to the circumstances of the crime. For example, a victim of sexual assault could be denied because they were drinking the night of their sexual assault.

Implying a victim of sexual assault somehow deserved or played a role in being victimized is in direct opposition to what we believe as a community – a victim of child abuse or sexual assault has not done anything to bring the crime on him or herself.

Toward fixing this unintended consequence, the language of this bill does the following.

- Ensures compensation is not denied based on considerations of provocation, the use of alcohol or drugs, or the prior social history of the victim.
- Retains the current language for compensation criteria for all other crimes.

The victim's compensation board is funded 60 percent by state government and 40 percent by federal government. The 40 percent from the state government comes from garnishing felon's permanent fund dividend checks. Given the nature of the funding mechanism, the fiscal note from the Department of Public Safety will be zero.

ALASKA STATE LEGISLATURE



REPRESENTATIVE GRETCHEN GUESS

Sectional Analysis HB 321

"An act relating to the purpose for the crime victims' compensation; and limiting the factors that may be considered in making a crime victim' compensation award in cases of sexual assault or sexual abuse of a minor."

Section 1: Amends AS 18.67.080 (Awarding Compensation) (c) by adding language prohibiting the consideration of provocation, the use of alcohol or drugs, or the prior social history of the victim, in the case of sexual assault or sexual abuse of a minor.



121 West Fireweed Lane
Suite 240
Anchorage, AK 99503
Phone: (907) 278-1122
Fax: (907) 278-1121

February 11, 2002

To Whom It May Concern:

My name is Denise Morris, I am the President/CEO of the Alaska Native Justice Center. I chair the Alaska Native Women's Sexual Assault Committee whose mission is to prevent sexual violence against Alaska Native women by increasing community awareness through outreach, education, ongoing evaluation, and supporting and promoting research. I am also a board member of Standing Together Against Rape.

I am writing today in support of HB 321 "An act relating to the purpose for crime victims' compensation; and limiting the factors that may be considered in making a crime victims' compensation award in cases of sexual assault or sexual abuse of a minor." offered by Representative Guess. This bill would simply ensure that victims of child abuse and sexual assault would not be denied compensation for crimes committed against them.

The present language includes the word "innocent" which could be subjectively interpreted and could potentially deny victims of serious crimes just compensation. A victim of sexual assault could potentially be denied compensation because they were consuming alcohol at the time of the assault.

On Friday February 8, 2002 I attended the sentencing of the individual responsible for the sexual assault and kidnapping of five Alaska Native women. The defense attorney alleged that these victims contributed to and were some how responsible for the brutal attacks because they were consuming alcohol prior to the sexual violence. This case demonstrates the need for clear and precise language regarding the rights of victims of violent crimes.

HB 321 will ensure that the use of alcohol/drugs or a person's prior social history will not be used to deny just compensation. The unintended consequence of the present law creates an "impression" of wrongdoing on the part of the victim and that is neither right nor consistent with the practices Alaskans hold dear.

On behalf of the Alaska Native Justice Center, the Alaska Native Women's Sexual Assault Committee and the clients we serve, I urge your support of HB 321.

Sincerely,

Denise R. Morris
President/CEO

HB

330

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 330(JUD)
 (H) Publish Date: 2/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to providing alcoholic BRU Criminal Division
beverages to a person under 21 years of age." Component 1st-4th Judicial Districts: Criminal
 Sponsor House Judiciary Committee by Request Appeals/Special Litigation
 Requester House Judiciary Committee Component No. 2198-99:2201/03/61/79

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 330 creates a new class C felony. The new crime would be providing an alcoholic beverage to someone under 21, if the recipient of the alcoholic beverage then injures or causes the death of another person while under the influence of that alcoholic beverage.

The Department of Law anticipates little fiscal impact to the Criminal Division from passage of this bill.

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

Phone (907) 465-5370
 Date/Time 2/8/02 3:25 PM
 Date 2/8/2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 330(JUD)
 (H) Publish Date: 2/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to providing alcohol
to a minor...." BRU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: House Judiciary by Request
 Requester: (H) JUD Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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-Do not abbreviate)						
TOTAL	.	.	.	.	.	.

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

Prepared by: Barbara Brink, Director
 Division: Public Defender Agency
 Approved by: Jim Duncan, Commissioner
 Agency: Department of Administration

Phone: (907) 334-4416
 Date/Time: 2/11/02 8:17 AM
 Date: 2/11/2002

ANALYSIS CONTINUATION

This legislation would increase the penalty from an A misdemeanor to a C felony for furnishing alcohol to a person under 21 years of age if the person under 21 who receives the alcohol injures or causes the death of another person and the injury or death occurs while the person under 21 was under the influence of the alcohol received. This bill is broadly worded to include any "injury." With such broad language it is likely to have a fiscal impact on the Agency, by increasing the workload of attorneys. Increasing the charge from a misdemeanor to a felony increases the workload, however it is not possible to determine what percentage of cases that the Agency currently represents people charged with furnishing alcohol to persons under 21, resulted in the person under 21, who received the alcohol, injuring another person. There is no way to gather that information therefore an indeterminate fiscal note is submitted. The Agency has serious concerns regarding determinations of what constitutes an "injury" as well as determinations of causation when time and intervening or superseding factors exist.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 330(JUD)
 (H) Publish Date: 2/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An Act relating to providing alcoholic beverages to a person under 21 years of age." BRU Administration and Operations
 Component All
 Sponsor House Judiciary Committee
 Requester House Judiciary Committee Component No. 694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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—Do not abbreviate)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would make it a C felony for someone to provide alcohol to a person under the age of 21 and the person who receives the alcohol injures or causes the death of another person while under the influence of the provided alcohol.

This bill could have a significant impact on the Department of Corrections as it is currently written. Injury is a very broad term and could be interpreted to mean someone who has been punched in the nose. We have no way of knowing how broadly it would be interpreted or how difficult it would be to prosecute, nor do we know how often an injury is involved in these cases. We do know it occurs. Anytime misdemeanants are elevated to felons, not only are sentences likely to increase, but probation also becomes a requirement and an additional fiscal impact.

Prepared by: Candace Brower
 Division: Commissioner's Office
 Approved by: Margaret Pugh, Commissioner
 Agency: Department of Corrections

Phone 465-4652
 Date/Time 2/8/02 4:09 PM
 Date 2/8/02

Amended in 12

CS FOR HOUSE BILL NO. 330(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/13/02
Referred: Finance

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to providing alcoholic beverages to a person under 21 years of age."

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

3 * Section 1. AS 04.16.051(d) is amended to read:

4 (d) A person acting with criminal negligence who violates this section is guilty
5 of a class C felony if

6 (1) [.] within the five years preceding the violation, the person has
7 been previously convicted under

8 (A) [(1)] this section; or

9 (B) [(2)] a law or ordinance of this or another jurisdiction with
10 clements substantially similar to this section; or

11 (2) the person who receives the alcoholic beverage negligently
12 causes serious physical injury to or the death of another person while ^{Actual} under the
13 influence of the alcoholic beverage received in violation of this section; in this
14 paragraph,

15 (A) "negligently" means acting with civil negligence; and

1

(B) "serious physical injury" has the meaning given in

2

AS 11.81.900.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for HB 330

The House Judiciary Committee was requested to introduce this bill by Mothers Against Drunk Driving. HB 330 creates tougher penalties for adults who furnish alcohol to minors, who then go on to cause injury or death.

On July 9, 2001, Anchorage Police Officer Justin Wollam, and three others were killed when driver Robert Esper crossed the median of the Glenn Highway, and collided head-on with Officer Wollam's patrol car during the early hours of the morning. Esper was suspected of driving while intoxicated.

It was later discovered that Robert Esper, age 19, had a blood alcohol level of .091. The legal limit, at the time of the accident, was .10 BAC, but has since been lowered to .08 BAC. In investigating the events leading up to the tragic and deadly accident, police discovered that Esper, and his underage friends, had been drinking at a party where alcohol was provided by two adults, Ronald Frank and Michael Hunter.

Frank and Hunter were arrested and charged with multiple counts of contributing to the delinquency of a minor, and furnishing alcohol to a minor. Both are class A misdemeanors subject to imprisonment of not more than one year, and a fine of no more than \$5000. Frank pled to two counts of furnishing, and Hunter pled to one count of furnishing. They are scheduled to be sentenced on February 20.

HB 330 would increase the penalty, for an adult who furnishes a minor alcohol, to a class C felony, if the minor causes death or physical injury while under the influence of the alcohol that was furnished by the adult. A class C felony carries a sentence of not more than five years, and a fine of no more than \$50,000.

It is important that those individuals like Ronald Frank and Michael Hunter, who purchase alcohol for minors, be appropriately punished when those minors go on to hurt or kill someone while under the influence of alcohol. HB 330 creates those appropriate penalties and is intended to further dissuade adults from supplying alcohol to minors.

The committee urges your support of this bill.

adn.com

Anchorage Daily News

Second man to be charged in fatal crash

FOUR DEAD:31-year-old bought alcohol for party, police say.

By Lucas Wall
Anchorage Daily News

(Published: July 25, 2001)

Anchorage police Tuesday cited a second man for providing alcohol to teens at a July 8 party before the fatal car crash that killed an Anchorage police officer and three teenagers.

Michael Hunter, 31, will be charged with two counts of contributing to the delinquency of a minor and two counts of furnishing alcohol to a minor, according to police. He received a summons to appear in court Aug. 28.

Hunter's phone is disconnected, and he could not be reached.

Detective Everett Robbins said Hunter picked up two girls the evening of July 8 and brought them to the trailer owned by his wife, Leona, in the 7100 block of Lake Otis Parkway. Leona Hunter was working that night and hired the girls to come over and clean the trailer, Robbins said. Contrary to earlier reports, the girls were not baby-sitting that night. Robbins said they were scheduled to baby-sit for Leona Hunter the next day.

She left money for the girls at the trailer, which Robbins said they gave to Michael Hunter, asking him to buy them alcohol. Hunter went to a nearby Tesoro station, Robbins said, where he bought alcohol and brought it back to the trailer. The Hunters are separated, he said, and Michael Hunter returned to his trailer to sleep.

Police arrested Ronald Frank, 30, two weeks ago and charged him with five counts of furnishing alcohol to a minor and four counts of contributing to the delinquency of a minor. He remains at the Sixth Avenue Correctional Center in lieu of \$8,000 bail. Frank and Hunter are friends, Robbins said, and they attended a barbecue together the afternoon of July 8.

Robbins said Hunter has been cooperative and admitted to buying alcohol for the girls. Hunter wasn't jailed, he said, because he wasn't at the party at the trailer later that night.

"He wasn't promoting the party as Ronny had done," Robbins said. "He claims he wasn't aware of the party. He was thinking (the two girls) were just going to be home for the evening."

The party was attended by several other youths. After leaving the party with six others, 19-year-old Robert Esper drove erratically through the city for about half an hour before crashing head-on into a police car driven by officer Justin Wollam on the Glenn Highway. The crash killed the officer, Esper, and two other teens.

With Hunter's arrest, police are starting to wind down the criminal investigation into the crash.

"There are no other suspects we're looking at this time," Robbins said.

A separate internal investigation into how police handled the attempts to stop Esper continues.

Reporter Lucas Wall can be reached at lwall@adn.com or 907 257-4321.

Close Window

Copyright © 2001 The Anchorage Daily News (www.adn.com)

Arrest made in collision

RONALD FRANK Man is to face charges in providing alcohol to teens

By LUCAS WALL
Anchorage Daily News

Police on Thursday arrested a 30-year-old Anchorage man they say provided alcohol Saturday night to a group of youths including those involved in a fatal head-on collision with Anchorage police officer Justin Wollam.

Ronald Frank will be charged with seven counts of contributing to the delinquency of a minor and one count of reckless endangerment. He was in the Sixth Avenue Correctional Center under \$8,000 bail Thursday night.

Detective Everett Robbins said Frank cooperated with police after his arrest and acknowledged buying the alcohol for minors at a liquor store sometime after 10 p.m. Sunday.

Frank was convicted of driving while intoxicated in August, according to state records.

Robert Esper, the driver of the 1985 Chevy Blazer that collided with Wollam's patrol car, had attended a party that night with several other youths and drank liquor and other alcoholic beverages provided by Frank. Robbins told reporters Thursday evening the party took place at a residence on the east side of Old Parkway.

ADN 13 July 2001

CRASH: Man arrested

Continued from A-1... facing Frank is a Class A misdemeanor when the officer attempted to pull him over. Police are awaiting toxicology results to determine if he was intoxicated.

Esper dropped off three passengers near Arctic Boulevard and Garnet Street. Two were apprehended by police. The third fled, but police announced Thursday he has turned himself in.

Brian Nichols, 18, has not been charged in connection with Monday's incident because he has outstanding juvenile warrants, he was taken to McLaughlin Youth Center.

Esper continued driving erratically, ending up north of the Glenn Highway, where he collided head-on with Wollam's patrol car just before 7 a.m.

Wollam, 28, and Esper were killed as well as two of the special passengers.

Frank deserves some blame for what happened, Robbins said.

He provided the alcohol to minors, which caused this deadly tragedy," he said.

Apparenty Frank knew some of the minors.

Robbins said he can't yet answer many questions about details of Frank's actions on the party because detectives are still interviewing people who were involved.

Some of the minors were named in Alaska magazine's "A Walk with Frank" article.

Wollam's body west of Ted Stevens Anchorage International Airport. His body will be returned to his hometown of Danbury, Texas.

Mourners should expect delays of about 15 minutes as the procession is blocked to allow the people to pass.

Tony Knowles has ordered Alaska flags lowered in honor of Wollam. He is the seventh person killed in the line.

Wollam's family, friends and co-workers gathered downtown at Evergreen Memorial Chapel for his visitation. Wollam's body was in a closed casket draped with an American flag, on which lay flowers and photos of Wollam in uniform and with his wife, Kristy, and 4-year-old daughter, Kristin. Police officers at the funeral flanked the coffin.

A public memorial service for Wollam is scheduled for 2 p.m. today at Anchorage Bay Temple, 6401 E. Northern Lights Blvd. Overflow parking will be at Baxter Elementary School, 2991 Baxter Road. Shuttle buses will begin running at 1 p.m. to ferry mourners to the temple. The service will be broadcast live on television channels 13 and 20 as well as radio station KATB, 89.3 FM.

Following the service, a procession of police cars will accompany Wollam's body west on Northern Lights Boulevard to Ted Stevens Anchorage International Airport. His body will be returned to his hometown of Danbury, Texas.

Mourners should expect delays of about 15 minutes as the procession is blocked to allow the people to pass. Tony Knowles has ordered Alaska flags lowered in honor of Wollam. He is the seventh person killed in the line.

Esper was drinking, toxicology confirms

■ .091: Reading short of legal limit, but driving warranted charges, police say.

By LUCAS WALL
Anchorage Daily News

Toxicology results released by police Wednesday show the 19-year-old man who crashed head-on into an Anchorage police officer last month had a blood-alcohol content of .091.

Police initially suspected Robert Esper was driving while intoxicated when an offi-

cer attempted to stop him about 3:20 a.m. July 9 near the 7200 block of Lake Otis Parkway. Esper and nine other teens had attended a get-together at a nearby trailer that night where alcohol was present.

"Based on his initial driving behavior and his erratic driving, the officer suspected he was a drunken driver," said Detective Everett Robbins. "This confirms her initial observations."

See Back Page, ESPER



Robert Esper was the driver of the Chevrolet Blazer that killed officer Justin Wollam and three teens, including himself July 9.



ERIK HILL / Anchorage Daily News

Flowers, stuffed animals, birthday balloons, religious tokens and other items adorn the Glenn Highway memorials to crash victims Makayla Lewis, Robert Esper, Heidi Weilbacher and officer Justin Wollam on Tuesday.

ESPER: Teenager had .091 blood-alcohol level

Continued from A-1

Esper fled from police for more than half an hour before ending up running into officer Justin Wollam on the wrong side of the Glenn Highway. Wollam, Esper and two passengers in Esper's Chevrolet Blazer, Makayla Lewis and Heidi Weilbacher, died.

Police reported Weilbacher, 14, had a blood-alcohol content of .088. No alcohol was found in Lewis' blood, and none of the teenagers tested positive for drug use.

Robbins said if police had stopped Esper that night, he could have been charged with DWI even though he was slightly below the presumptive legal limit of .10. Drivers are considered impaired if their BAC is higher than .04. Everett said, and if they are driving in a dangerous manner they can still be considered intoxicated even if they haven't reached .10. People's alcohol tolerance levels are different,

I'm sorry for all the losses. I wish it could have been handled better totally so there wouldn't have been any losses.

Teenager's father, Robert Esper

he said, and that affects how they drive after drinking. The Legislature, under threat of losing federal funds, this year lowered the state's presumptive legal limit for DWI to .08. Esper would have been considered legally drunk under the new standard, which takes effect Sept. 1.

All those legalisms aside, Everett said, "minors shouldn't

have any alcohol at all."

Ronald Frank and Michael Hunter have been charged with providing the alcohol to the minors and contributing to their delinquency that night. The district attorney's office is still reviewing the case against the two men and further charges are possible, Robbins said.

Esper's father, Robert, said he didn't have much to say about Wednesday's release.

"I'm sorry for all the losses," he said. "I wish it could have been handled better totally so there wouldn't have been any losses."

Police have been criticized by some, including 15-year-old Ashley Shetters and her mother, for their handling of the attempt to stop Esper that night. Shetters was one of three teens who got out of Esper's Chevrolet Blazer in a trailer park before the crash.

Robbins said the account of events Shetters gave in an interview with the Daily News

last week is a little different than the statement she gave police after the crash. Her account is more exaggerated than what she originally told police, Robbins said, and conflicts with what 15-year-old Savannah Fielding told police. Fielding is the only person who survived the crash.

"Her story doesn't jive exactly with what Shetters is saying," Robbins said. "There's conflicting information, and I'm going to leave it at that. What am I going to say? She's entitled to her own opinion. There's more than just one person's statement here, and you have to weigh it all out."

Robbins would not discuss what Fielding told police about the events leading up to the collision. Fielding's family has declined to speak publicly about that night.

Reporter Lucas Wall can be reached at lwall@adn.com or 257-4321.



Mothers Against Drunk Driving • Juneau Chapter
211 Fourth St. Suite 102 • Juneau, AK 99801

January 22, 2002

HOUSE BILL NO. 330 "An Act relating to providing alcoholic beverages to a person under 21 years of age." BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA: * **Section 1.** AS 04.16.051(d) is amended to read: (d) A person acting with criminal negligence who violates this section is guilty of a class C felony if **(1)** [,] within the five years preceding the violation, the person has been previously convicted under **(A)** [(1)] this section; or **(B)** [(2)] a law or ordinance of this or another jurisdiction with elements substantially similar to this section; or **(2) the person under 21 years of age who receives the alcoholic beverage injures or causes the death of another person and the injury or death occurs while the person under 21 years of age was under the influence of an alcoholic beverage received in violation of this section.**

Mothers Against Drunk Driving (MADD) supports House Bill Number 330. MADD supports laws, which save lives from injuries or death due to drunk driving.

House Bill 330 will make the sale of alcohol to minors a felony, thereby increasing fines and jail time.

House Bill 330, by becoming law, will send a message out to Alaskans that our children are valuable and if harmed, severe consequence will occur. House Bill 330 supports and joins Alaskans in their attempt to change the current accepted norm of underage drinking.

Sincerely,

Cindy Cashen
Volunteer

Subject: [Fwd: HB 329 and 330]

Date: Mon, 21 Jan 2002 10:40:27 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

For our files.

Janet

Subject: HB 329 and 330

Date: Sun, 20 Jan 2002 16:29:45 -0800

From: "David W. Rochford" <rochfor@concentric.net>

To: <Representative_Norman_Rokeberg@Legis.state.ak.us>

CC: "MADD Anchorage Chapter" <madd@corecom.net>

Dear Representative Rokeberg

I am writing in support of HB 329 and 330.

I am a police officer with the Anchorage Police Department and have 30 years of police experience (20 years with APD).

HB329

I agree that chemical testing should be required for all persons arrested as the bill describes. It would also be helpful if this requirement extended to all drivers involved in a collision which involved death or an injury which required medical treatment. Also, there should be a requirement that treating physicians inform law enforcement if a person being treated has alcohol or drugs in their system, and what the reported level or concentration is. This requirement would only apply if the person being treated was the driver of a motor vehicle, or is the suspect in a crime. Many people are injury while driving while intoxicated and are never prosecuted. The reason is that police officers are often not in a position to make a determination as to the suspect's state of sobriety by virtue of the fact that the person is receiving emergency treatment or is in surgery and can not be observed by the officer until it is too late. I have personally seen suspects fake unconsciousness to avoid detection of alcohol impairment by me.

Additionally, the wording "controlled substance" should be replaced with "any drug" or better yet, "any substance that impairs...". The problem with "controlled substance" is that it requires that the substance appear on the state's list of controlled substances. There are many substances that impair driving which are not on this list. Toluene, paint thinner, and gasoline fumes are primary examples. No matter how complete a list is, someone will get intoxicated on something that was overlooked on the list and escape prosecution. The other problem with using the "controlled substance" wording is that it requires that a specific drug be identified and named. This is not always possible. We may be able to prove to a jury that the driver is impaired by an unknown substance, or a substance we suspect, but we can not convict with out a blood test which is positive for a controlled substance. Even then, there may be a problem proving that the controlled substance detected in the blood was the drug or substance causing the impairment. This wording seriously needs to be changed.

The law was recently changed to allow law enforcement to obtain a search warrant for a person's blood in a DWI case if we can articulate drug involvement. This law has been a great help and I have already obtained search warrants and obtained valuable evidence using this law. However, a law like California enacted would be even more helpful. California extended the implied consent law to include a blood and/or urine testing if the arresting officer suspects drug use, and articulates the suspicion in his

police report. This would save valuable time lost while applying for a search warrant. Some drugs clear from the blood stream quickly and the time spent getting a warrant could make the difference between getting a positive blood test and a negative one. Also, such a law should include blood AND urine, since we cannot know ahead of time if the drugs will be found in the blood or urine or both blood and urine.

Also, I should put in a pitch for the Drug Recognition Program which I spoke of at the DWI training you attended at the APD training center. The laws pertaining to driving under the influence of drugs are useless without having officers trained to enforce these laws. This program still has not been established here in Alaska.

I also support HB 330

The tragic death of my friend and co worker, Justin Wollam, is testimony enough of the need for this law. If an adult knew he might be charged with a felony, he might reconsider providing alcohol to minors.

Respectfully,
Dave Dochford
Anchorage P.D.

HB

330

SFIN

FILE

HB 330

was referred to the
Senate Finance
Committee

No hearing was held
on this bill



OFFICIAL BUSINESS

Alaska State Legislature
Senate
Office of the Secretary

STATE CAPITOL, ROOM 213
JUNEAU, ALASKA 99801-1182
(907) 465-3701
FAX: 465-2832
EMAIL: senate_secretary@ler.s.state.ak.us

FOR YOUR IMMEDIATE ATTENTION

DATE: May 11, 2002
TO: Finance Committee
(Mindy - Room 520)
FROM: Office of the Senate Secretary
SUBJ: Waived Bill(s)

The Chair of the Committee noted above has waived referral on the following bill(s):

RETRIEVE

CS FOR HOUSE BILL NO. 330(FIN) am
"An Act relating to providing alcoholic beverages to a person under 21 years of age."

Please give the bill file(s) to the page for forwarding to the next Committee of referral.

Thank you.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for SCS CSHB 330 (JUD)

The House Judiciary Committee was requested to introduce this bill by Mothers Against Drunk Driving. HB 330 creates tougher penalties for adults who furnish alcohol to minors, who then go on to negligently cause serious injury or death.

On July 9, 2001, Anchorage Police Officer Justin Wollam, and three others were killed when driver Robert Esper crossed the median of the Glenn Highway, and collided head-on with Officer Wollam's patrol car during the early hours of the morning. Esper was suspected of driving while intoxicated.

It was later discovered that Robert Esper, age 19, had a blood alcohol level of .091. The legal limit, at the time of the accident, was .10 BAC, but has since been lowered to .08 BAC. In investigating the events leading up to the tragic and deadly accident, police discovered that Esper, and his underage friends, had been drinking at a party where alcohol was provided by two adults, Ronald Frank and Michael Hunter.

Frank and Hunter were arrested and charged with multiple counts of contributing to the delinquency of a minor, and furnishing alcohol to a minor. Both are class A misdemeanors subject to imprisonment of not more than one year, and a fine of no more than \$5000. Frank pled to two counts of furnishing, and Hunter pled to one count of furnishing. On February 20, Frank was sentenced to two years in jail (the maximum), and Hunter received 240 days in jail.

HB 330 would increase the penalty, for an adult who furnishes a minor alcohol, to a class C felony, if the minor negligently causes death or serious physical injury while under the influence of the alcohol that was furnished by the adult. A class C felony carries a sentence of not more than five years, and a fine of no more than \$50,000.

It is important that those individuals like Ronald Frank and Michael Hunter, who purchase alcohol for minors, be appropriately punished when those minors go on to hurt or kill someone while under the influence of alcohol. HB 330 creates those appropriate penalties and is intended to further dissuade adults from supplying alcohol to minors.

The committee urges your support of this bill.

premises. A
beverages by
§ 3 ch 131 SLA

ibility of licensee

ed premises.
n in premises

ge of 21 years;
y the board as
ains only for

ver the age of
premises are
nd the person

mployee of the
art of licensed
refuse service
ge of 21 years
e sold, served,

een 16 and 19
restaurant, or
ot involve the
erson has the
hibition of AS
nt. The board,
usee's request,
r the purposes

0 years of age
ing place, may
ut may not in
es. (§ 3 ch 131

tion (c) in accor-

nder the age
e, possess, or
3.051(b).

1 conviction in
131 SLA 1980;

Effect of amendments. — The 1995 amendment, effective September 13, 1995, added subsection (b).

Editor's notes. — Section 6, ch. 81, SLA 1995

provides that subsection (b), added by § 1, ch. 81, SLA 1995, "applies to an offense committed on or after September 13, 1995."

NOTES TO DECISIONS

Double jeopardy. — Administrative revocation of a minor's license to drive under AS 28.15.183 is not "punishment" for double jeopardy purposes; thus, a minor whose license was revoked under that section could still be prosecuted for the offense of minor consuming. *Rexford v. State*, 941 P.2d 906 (Alaska Ct. App. 1997), overruled on other grounds, *State v. Esmailka*, 961 P.2d 432 (Alaska Ct. App. 1998).

Even if revocation of a minor's driver's license under AS 28.15.183 is unconstitutional, the minor is not immunized from prosecution for illegal use of alcoholic beverages under this section; the aggrieved minor's remedy is to attack the license revocation. *State v. Esmailka*, 961 P.2d 432 (Alaska Ct. App. 1998).

Right to jury trial. — Minors charged with this offense are entitled to a jury trial and to court-

appointed counsel if they are indigent. *State v. District Court*, 927 P.2d 1295 (Alaska Ct. App. 1996).

Comparative negligence. — A licensee who violates this section is not entitled to assert the comparative fault of the minor/consumer, in an action for damages resulting from the unlawful sale of intoxicating liquor. *Loeb v. Rasmussen*, 822 P.2d 914 (Alaska 1991).

Stated in *Shamberg v. State*, 762 P.2d 488 (Alaska Ct. App. 1988); *Martin-Wilson v. State*, Ct. App. Op. No. 4226 (File No. A-7354), P.2d (Alaska Ct. App. 2000).

Cited in *M.O.W. v. State*, 645 P.2d 1229 (Alaska Ct. App. 1982); *Alfred v. State*, 758 P.2d 130 (Alaska Ct. App. 1988); *State v. Simpson*, 946 P.2d 890 (Alaska Ct. App. 1997).

Sec. 04.16.051. Furnishing or delivery of alcoholic beverages to persons under the age of 21. (a) A person may not furnish or deliver an alcoholic beverage to a person under the age of 21 years.

(b) This section does not prohibit the furnishing or delivery of an alcoholic beverage

(1) by a parent to the parent's child, by a guardian to the guardian's ward, or by a person to the legal spouse of that person if the furnishing or delivery occurs off licensed premises; or

(2) by a licensed physician or nurse to a patient in the course of administering medical treatment.

(c) Acts unlawful under AS 11.51.130 are not made legal by (b) of this section.

(d) A person acting with criminal negligence who violates this section is guilty of a class C felony if, within the five years preceding the violation, the person has been previously convicted under

(1) this section; or

(2) a law or ordinance of this or another jurisdiction with elements substantially similar to this section. (§ 3 ch 131 SLA 1980; am § 9 ch 109 SLA 1983; am §§ 7, 8 ch 156 SLA 1988; am § 1 ch 50 SLA 1989; am § 1 ch 46 SLA 1994)

Effect of amendments. — The 1994 amendment, effective July 1, 1994, added subsection (d).

Legislative history reports. — For Senate letter

of intent relating to the amendments to (a) and (b) of this section by secs. 7 and 8, ch. 156, SLA 1988 (HCS CSSB 371 (Jud) am H), see 1988 Senate Journal 2939.

NOTES TO DECISIONS

Contributory negligence. — Fact that injured party violated this section by providing liquor to minor causing accident does not mitigate liability of seller of liquor in violation of AS 04.16.052. *Morris v. Farley Enters., Inc.*, 661 P.2d 167 (Alaska 1983).

Comparative negligence. — A licensee who violates this section is not entitled to assert the comparative fault of the minor/consumer, in an action for damages resulting from the unlawful sale of intoxicating liquor. *Loeb v. Rasmussen*, 822 P.2d 914 (Alaska 1991).

Double jeopardy violation. — Trial court violated defendant's double jeopardy rights by sentencing him for both contributing to the delinquency of a minor and for furnishing alcohol to a minor for the single act of furnishing alcohol to the minor, where

defendant engaged in only a single criminal act which violated two separate statutes and the two counts should have merged. *Newsome v. State*, 782 P.2d 689 (Alaska Ct. App. 1989).

Exceptions as affirmative defenses. — At a minimum, the exceptions specified under subsection (b) are "defenses" to criminal liability; that is, if a defendant wishes to invoke one of these exceptions, then at the very least the defendant must affirmatively raise the exception and point to some evidence from which a reasonable jury could decide that issue in his or her favor. Accordingly, where defendant presented no evidence that he had received his alcoholic beverage from a parent, guardian, or spouse, his conviction was affirmed. *Trout v. State*, 866 P.2d 1323 (Alaska Ct. App. 1994).

Furnishing Alcohol to Minors

	1999	2000	2001	
Arrests - Misdemeanor	310	400	373	
Arrests - Felony	2	5	8	
Convictions - Misdemeanor	124	201	145	
Convictions - Felony	1	2	1	
Sex of Arrestees - Male	261	293	301	61%
Sex of Arrestees - Female	51	111	80	17%
Average Age at Arrest	25	29	26	27

Source:

DPS Criminal History files updated as of March 4, 2002.

Offenses:

DPS offense code 9931, AS 04.16.051, AS 04.16.052, AS 04.16.060

Prepared by DPS March 5, 2002

Arrest made in collision

RONALD FRANK, 25, is charged with charges in providing alcohol

By **LUCAS WALL**
Anchorage Daily News

Police on Thursday arrested an Anchorage man they say provided alcohol to a group of youths including one involved in a fatal head-on collision with an Anchorage police officer Justin Wollam, 37, on Tuesday. Ronald Frank, 25, will be charged with seven counts of contributing to the delinquency of a minor and one count of reckless endangerment. He was in the Sixth Avenue Correctional Center under \$8,000 bail Thursday night.

Detective Everett Robbins said Frank cooperated with police after his arrest and acknowledged buying the alcohol for minors at a liquor store sometime after 10 p.m. Sunday.

Frank was convicted of driving while intoxicated in August, according to state records. Robert Esper, the driver of the 1985 Chevy Blazer that collided with Wollam's patrol car, had attended a party that night with several other youths and drank liquor and other alcohol. He has been charged with providing alcohol to minors.

CRASH: Man arrested

...ing Frank, a Class A misdemeanor that carries a penalty of up to one year in prison. Robbins, briefed reporters on the results to determine if the driver was intoxicated. Wollam's family, friends and co-workers gathered downtown at the Evergreen Memorial Chapel for Wollam's visitation. Wollam's body was in a closed casket draped with an American flag, on which were flowers and photos of Wollam in uniform and with his wife, Kristin. His 18-year-old daughter, Kristin, and 4-year-old son, Ryan, were in the casket with him. Police officers at the scene had hauled the coffin to the Evergreen Memorial service on Thursday.

Wollam is scheduled for a public hearing today at Anchorage Bay Center, 2991 Baxter Road, Shikpe, 6401 E. Northern Blvd. Overflow parking will be at Baxter Elementary School, 2991 Baxter Road, Shikpe. The bus will begin running at 7 a.m. to ferry mourners to the funeral home. The service will be on television on Channels 13 and 20 as well as on radio station KATL 89.3 FM.

Following the service, a procession of police cars will accompany Wollam's body west on Northern Lights Boulevard to Ted Stevens Anchorage International Airport. His body will be returned to his home in Danbury, Texas. Many questions about the crash should be answered in about 15 minutes as the party because detectives are blocked to allow the investigation to proceed to pass.

Robbins said he can't say if the crash was a tragedy, he said. He said he can't say if the crash was a tragedy, he said. He said he can't say if the crash was a tragedy, he said.

File 13742001

adn.com

Anchorage Daily News

Second man to be charged in fatal crash **FOUR DEAD:31-year-old bought alcohol for party, police say.**

By Lucas Wall
Anchorage Daily News

(Published: July 25, 2001)

Anchorage police Tuesday cited a second man for providing alcohol to teens at a July 8 party before the fatal car crash that killed an Anchorage police officer and three teenagers.

Michael Hunter, 31, will be charged with two counts of contributing to the delinquency of a minor and two counts of furnishing alcohol to a minor, according to police. He received a summons to appear in court Aug. 28.

Hunter's phone is disconnected, and he could not be reached.

Detective Everett Robbins said Hunter picked up two girls the evening of July 8 and brought them to the trailer owned by his wife, Leona, in the 7100 block of Lake Otis Parkway. Leona Hunter was working that night and hired the girls to come over and clean the trailer, Robbins said. Contrary to earlier reports, the girls were not baby-sitting that night. Robbins said they were scheduled to baby-sit for Leona Hunter the next day.

She left money for the girls at the trailer, which Robbins said they gave to Michael Hunter, asking him to buy them alcohol. Hunter went to a nearby Tesoro station, Robbins said, where he bought alcohol and brought it back to the trailer. The Hunters are separated, he said, and Michael Hunter returned to his trailer to sleep.

Police arrested Ronald Frank, 30, two weeks ago and charged him with five counts of furnishing alcohol to a minor and four counts of contributing to the delinquency of a minor. He remains at the Sixth Avenue Correctional Center in lieu of \$8,000 bail. Frank and Hunter are friends, Robbins said, and they attended a barbecue together the afternoon of July 8.

Robbins said Hunter has been cooperative and admitted to buying alcohol for the girls. Hunter wasn't jailed, he said, because he wasn't at the party at the trailer later that night.

"He wasn't promoting the party as Ronny had done," Robbins said. "He claims he wasn't aware of the party. He was thinking (the two girls) were just going to be home for the evening."

The party was attended by several other youths. After leaving the party with six others, 19-year-old Robert Esper drove erratically through the city for about half an hour before crashing head-on into a police car driven by officer Justin Wollam on the Glenn Highway. The crash killed the officer, Esper, and two other teens.

With Hunter's arrest, police are starting to wind down the criminal investigation into the crash.

"There are no other suspects we're looking at this time," Robbins said.

A separate internal investigation into how police handled the attempts to stop Esper continues.

Reporter Lucas Wall can be reached at lw@adn.com or 907 257-4321.

Close Window

Copyright © 2001 The Anchorage Daily News (www.adn.com)

Esper was drinking, toxicology confirms

■ **091:** Reading short of legal limit, but driving warranted charges, police say.

By LUCAS WALL
Anchorage Daily News

Toxicology results released by police Wednesday show the 19-year-old man who crashed head-on into an Anchorage police officer last month had a blood-alcohol content of .091.

Police initially suspected Robert Esper was driving while intoxicated when an offi-

cer attempted to stop him about 3:20 a.m. July 9 near the 7200 block of Lake Otis Parkway. Esper and nine other teens had attended a get-together at a nearby trailer that night where alcohol was present.

"Based on his initial driving behavior and his erratic driving, the officer suspected he was a drunken driver," said Detective Everett Robbins. "This confirms her initial observations."

See Back Page, ESPER

Robert Esper was the driver of the Chevrolet Blazer that killed officer Justin Wollam and three teens, including himself July 9.



Flowers, stuffed animals, birthday balloons, religious tokens and other items adorn the Glenn Highway memorials to crash victims Makayla Lewis, Robert Esper, Heidi Weibacher and officer Justin Wollam on Tuesday.

ESPER: Teenager had .091 blood-alcohol level

Continued from A-1

Esper fled from police for more than half an hour before ending up running in officer Justin Wollam on the wrong side of the Glenn Highway. Wollam, Esper and two passengers in Esper's Chevrolet Blazer, Makayla Lewis and Heidi Weibacher, died.

Police reported Weibacher, 14, had a blood alcohol content of .088. No alcohol was found in Lewis' blood, and none of the teenagers tested positive for drug use.

Robbins said if police had stopped Esper that night, he could have been charged with DWI even though he was slightly below the presumptive legal limit of .10. Drivers are considered impaired if their BAC is higher than .04, Everett said, and if they are driving in a dangerous manner they can still be considered intoxicated even if they haven't reached .10. People's alcohol tolerance levels are different,

I'm sorry for all the losses. I wish it could have been handled better totally so there wouldn't have been any losses.

Teenager's father
Robert Esper

he said, and that affects how they drive after drinking. The Legislature, under threat of losing federal funds, this year lowered the state's presumptive legal limit for DWI to .08. Esper would have been considered legally drunk under the new standard, which takes effect Sept. 1.

All those legalisms aside, Everett said, "minors shouldn't

have any alcohol at all." Ronald Frank and Michael Hunter have been charged with providing the alcohol to the minors and contributing to their delinquency that night. The district attorney's office is still reviewing the case against the two men and further charges are possible, Robbins said.

Esper's father, Robert, said he didn't have much to say about Wednesday's release.

"I'm sorry for all the losses," he said. "I wish it could have been handled better totally so there wouldn't have been any losses."

Police have been criticized by some, including 15-year-old Ashley Shettlers and her mother, for their handling of the attempt to stop Esper that night. Shettlers was one of three teens who got out of Esper's Chevrolet Blazer in a trailer park before the crash.

Robbins said the account of events Shettlers gave in an interview with the Daily News

last week is a little different than the state's. The police after the crash. Her account is more exaggerated than what she originally told police, Robbins said, and conflicts with what 15-year-old Savannah Fielding told police. Fielding is the only person who survived the crash.

"Her story doesn't exactly match what she's saying," Robbins said. "There's conflicting information, and I'm going to leave it at that. What am I going to say? She's entitled to her own opinion. There's more than just one person's statement here, and you have to weigh it all out."

Robbins would not discuss what Fielding told police about the events leading up to the collision. Fielding's family has declined to speak publicly about that night.

Reporting by Lucas Wall can be reached at wall@adn.com or 257-4321.



Mothers Against Drunk Driving • Juneau Chapter

211 Fourth St. Suite 102 • Juneau, AK 99801

January 22, 2002

HOUSE BILL NO. 330 "An Act relating to providing alcoholic beverages to a person under 21 years of age." BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA: * Section 1. AS 04.16.051(d) is amended to read: (d) A person acting with criminal negligence who violates this section is guilty of a class C felony if (1) [,] within the five years preceding the violation, the person has been previously convicted under (A) [(1)] this section; or (B) [(2)] a law or ordinance of this or another jurisdiction with elements substantially similar to this section; or (2) the person under 21 years of age who receives the alcoholic beverage injures or causes the death of another person and the injury or death occurs while the person under 21 years of age was under the influence of an alcoholic beverage received in violation of this section.

Mothers Against Drunk Driving (MADD) supports House Bill Number 330. MADD supports laws, which save lives from injuries or death due to drunk driving.

House Bill 330 will make the sale of alcohol to minors a felony, thereby increasing fines and jail time.

House Bill 330, by becoming law, will send a message out to Alaskans that our children are valuable and if harmed, severe consequence will occur. House Bill 330 supports and joins Alaskans in their attempt to change the current accepted norm of underage drinking.

Sincerely,

Cindy Cashen
Volunteer

Subject: [Fwd: HB 329 and 330]

Date: Mon, 21 Jan 2002 10:40:27 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

For our files.

Janet

Subject: HB 329 and 330

Date: Sun, 20 Jan 2002 16:29:45 -0800

From: "David W. Rochford" <rochfor@concentric.net>

To: <Representative_Norman_Rokeberg@Legis.state.ak.us>

CC: "MADD Anchorage Chapter" <madd@corecom.net>

Dear Representative Rokeberg

I am writing in support of HB 329 and 330.

I am a police officer with the Anchorage Police Department and have 30 years of police experience (20 years with APD).

HB329

I agree that chemical testing should be required for all persons arrested as the bill describes. It would also be helpful . . . this requirement extended to all drivers involved in a collision which involved death or an injury which required medical treatment. Also, there should be a requirement that treating physicians inform law enforcement if a person being treated has alcohol or drugs in their system, and what the reported level or concentration is. This requirement would only apply if the person being treated was the driver of a motor vehicle, or is the suspect in a crime. Many people are injury while driving while intoxicated and are never prosecuted. The reason is that police officers are often not in a position to make a determination as to the suspect's state of sobriety by virtue of the fact that the person is receiving emergency treatment or is in surgery and can not be observed by the officer until it is too late. I have personally seen suspects fake unconsciousness to avoid detection of alcohol impairment by me.

Additionally, the wording "controlled substance" should be replaced with "any drug" or better yet, "any substance that impairs...". The problem with "controlled substance" is that it requires that the substance appear on the state's list of controlled substances. There are many substances that impair driving which are not on this list. Toluene, paint thinner, and gasoline fumes are primary examples. No matter how complete a list is, someone will get intoxicated on something that was overlooked on the list and escape prosecution. The other problem with using the "controlled substance" wording is that it requires that a specific drug be identified and named. This is not always possible. We may be able to prove to a jury that the driver is impaired by an unknown substance, or a substance we suspect, but we can not convict with out a blood test which is positive for a controlled substance. Even then, there may be a problem proving that the controlled substance detected in the blood was the drug or substance causing the impairment. This wording seriously needs to be changed.

The law was recently changed to allow law enforcement to obtain a search warrant for a person's blood in a DWI case if we can articulate drug involvement. This law has been a great help and I have already obtained search warrants and obtained valuable evidence using this law. However, a law like California enacted would be even more helpful. California extended the implied consent law to include a blood and/ or urine testing if the arresting officer suspects drug use, and articulates the suspicion in his