

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3051

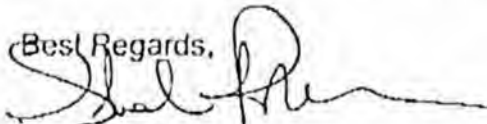
drugs and drinking and it will be no time at all (if it isn't happening already) until he is on the road drinking again. Michael J. Osness (born 7/16/70) was incarcerated for his third DWI and other offenses that he was out of compliance with including driving while license suspended. When he was last arrested he was already under an agreement to turn himself in November 1st to take care of time he had left to serve on a previous conviction.

I do not wish to have my name mentioned in relation to his arrest when the warrant is issued for him, because I fear retaliation on his part. He threatened me many times when I filed for child support and it is obvious that he doesn't care about anyone but himself; and never will. I reopened my child support case while he was incarcerated, hoping that the state can eventually seize his assets since it is not his intention to provide financial or emotional parenting. I live in a security building and do not wish to have any trouble. I supported Mike's rehabilitation and his goals for almost 4 years, but when drugs and alcohol became too oppressive in our relationship, and his behavior became more violent, I broke things off.

I previously wrote positive letters into the Department of Corrections on his behalf since he had me convinced at the time that he was trying to change. Since then he threatened us, he hurt our two-year-old son, he put holes in the walls in my home, he broke every item of mine that he could get his hands on and now he drives by us while we're walking our puppy like it's all in fun. I don't have a restraining order since I don't believe they are much help. I have a small sense of security living in a security building and there are 24-hour security patrols as well. All I can do is hope that Mike is picked up and during the time he is in jail can sober up enough to realize what deep-seeded problems he has. If not, it may be 3-5 years I do not have to worry about a run-in with him.

I am only hoping that I don't have to go any farther than this to get the State of Alaska to issue a warrant for Mike's arrest and swiftly resolve this matter.

Best Regards,



Shalese M. Primrose

CC: Anchorage Police Department, Attn: Warrants Department
MADD, Anchorage Office
Municipal Prosecutor's Office, Anchorage
Alaska State Troopers, Attn: Warrants Department
Dept. of Corrections, Office of the Commissioner (Juneau & Anchorage)

adn.com

Anchorage Daily News

Print Page

Close Window

Escapee found in home east of Wasilla**BABY-SITTING:** Police believe friends may have helped fugitive during flight.By KYLE HOPKINS
Anchorage Daily News*(Published: October 23, 2005)*

WASILLA -- Valley fugitive John Pearl Smith, who fled custody while attending a memorial service for his father, was caught Friday night while in possession of two stolen guns and baby-sitting a young boy at a house off Fairview Loop.

Investigators said they suspect Smith, a 19-year-old who cut the ankle monitor used to track him while he attended the Butte service on Oct. 14, eluded capture for a week with the help of friends and acquaintances. Smith, staring down at his cuffed hands, was arraigned Saturday in Palmer on charges of violating the conditions of his release and criminal mischief.

On the day of the service, he had been released by a judge into the custody of his mother for a few hours. He was then supposed to return to custody in the Mat-Su Pre-Trial Facility.

Instead, his mother says Smith ran while she was in the bathroom. Authorities said Saturday they aren't sure exactly what he's been up to, but he seemed well taken care of said trooper Vic Aye, a member of the Alaska Fugitive Task Force that captured Smith Friday.

"He got his food. He got showered," Aye said. "He was obviously staying with people."

Smith's mother, Christine Ace, said Saturday she's relieved to see her son back in custody. His escape upset the family, and Ace thinks police suspected her of aiding and abetting her son, which she denied.

"I'm just pissed off at him," she said.

Headed by the U.S. marshals, the fugitive task force is charged with hunting down criminals on the run. Members spent much of the last week interviewing more than 30 people in the Mat-Su, from the core area of Palmer and Wasilla to Trapper Creek, in search of Smith.

Aye said investigators suspected Smith was in the Butte or Pittman Road areas, but as part of their routine interviews Friday, they headed to the house of one of Smith's acquaintances at Michelle Lane, off Fairview Loop.

Near the house, about 8:30 p.m. Friday, they saw a small black pickup -- a vehicle they'd heard Smith might be using.



John Pearl Smith is arraigned Saturday in Palmer. Smith escaped a week ago after attending his father's memorial service. *(Photo by EVAN R. STEINHAUSER / Anchorage Daily News)*

Waiting in two unmarked cars, the task force called for backup, Aye said. Alaska state troopers and Wasilla police officers showed up, and about 9:30 p.m. one of the U.S. marshals talked to Smith over a loudspeaker: He was surrounded.

Aye said Smith surrendered peacefully after about 10 minutes.

"He claims he was going to turn himself in," Aye said. "But they all do. Every single one of them."

Troopers Sgt. Kathy Peterson, who took Smith's case when he first fled from custody, said the teenager when caught wore a black, hooded sweatshirt and blue jeans, his blond hair dyed black.

Inside the house, authorities found two stolen, semi-automatic handguns -- a 10 mm and .45-caliber. Also inside the home was an 8-year-old boy whom Smith was baby-sitting, Peterson said.

Investigators believe the boy lived in the home where Smith was found and may be the son of one of Smith's acquaintances.

Troopers continued sorting out details of the case Saturday afternoon, asking questions such as who actually owned the house, where exactly Smith got the handguns and who may have helped him.

Smith claimed he'd only been at the house a few hours, Aye said.

Peterson said anyone who aided Smith could face charges of hindering a prosecution, while Smith himself could be on the hook for gun theft.

This wouldn't be the first time Smith was accused of stealing weapons, or even the first time he's eluded his captors for days at a time.

Before he escaped last week, Smith was in the Mat-Su Pre-Trial Facility facing five separate felony cases, including burglary, robbery, vehicle theft, weapons misconduct and felony assault.

He escaped custody once before, at age 14. Accused of breaking into homes and snatching guns, Smith ran from authorities for three days after a court hearing in Palmer, troopers said in 2000.

He's now being charged with failure to meet the conditions of his release, rather than escape, because he was technically out on bond and not in custody for those few hours he attended his father's memorial service, Peterson said.

Though Department of Corrections policy sometimes requires escorts for inmates allowed on temporary leave, a Palmer Superior Court judge did not make that a requirement for Smith's release.

Aye, the task force investigator, said people asked him why that was all week, as Aye interviewed those who knew Smith and his criminal history.

"All of his friends say he was a powder keg waiting to go off," he said.

At noon Saturday, Ace stood outside her Palmer home wearing a blue sweater and blonde highlights in her short hair. Her keys hung from a ring peeking above the pocket of her jeans.

An hour later, her son was due to be arraigned in the nearby Palmer courthouse. Ace wasn't sure if she would go -- she'd been through this many times before, she said.

"He's deserving everything he gets," Ace said. She paused. "Doesn't mean I don't love him."

She grabbed cigarettes from the cab of a pickup and lit one in the driveway. Ace doesn't smoke in the house, she said. She talked about all the questions police asked over the past few days, and all the friends who called to say they'd been interviewed about John by investigators.

She took a quick drag from her cigarette. "Yup. Long week."

Contact reporter Kyle Hopkins at khopkins@adn.com or call 352-6710.

[Print Page](#)

[Close Window](#)

Copyright © 2006 The Anchorage Daily News (www.adn.com)

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/9/06

FURTHER: Finance

Date of 5-Day Notice: 2/23/06
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/1/06

Judiciary Committee considered

SENATE BILL NO. 216

SB 216 BAIL RESTRICTIONS

"An Act relating to bail."

and recommends:

- be replaced with _____ CS SB 216 (JUD)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

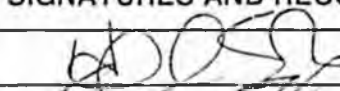
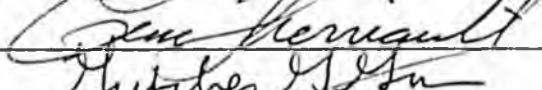
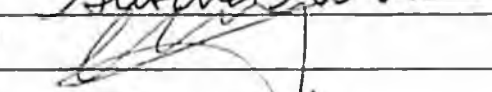


NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
COR				✓	1

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
French		X			
Therriault		X			
Guess		X			
Huggins		X			
Seelins	CHAIR: 	✓			

SB

218

HFIN

FILE

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB218CS(FIN)-DPS-CRI-3-6-06
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title An Act relating to periodic polygraph examinations RDU Statewide Services
for sex offenders and an increase in sentencing Component Criminal Records and ID
Sponsor Senator Bunde
Requester House Finance Committee Component No. 1190

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section two adds new language that makes it a class A misdemeanor if a person fails to report a sex offender or child kidnapper to the Department of Public Safety (DPS). Failure to notify the department about the location of that individual is also treated as a crime.

Section 13 requires DPS to provide information on the Sex Offender Registration Central Registry website as to how members of the public using the website may access or compile information relating to sex offenders or child kidnappers for a particular geographic area on a map. This information may direct the public to mapping programs available on the Internet and to websites where information contained in the registry has already been converted to a map or geographic format.

This legislation will not have a fiscal impact to the department.

Prepared by: Director David Schade
Division: Statewide Services
Approved by: Commissioner William Tandesko
Agency: Department of Public Safety

Phone 907-269-0202
Date/Time 3/6/06 3:33 PM
Date 3/6/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 218 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title "An act relating to sex offenders; relating to RDU Probation and Parole
reporting of sex offenders and child kidnappers; relating to . . ." Component Statewide Probation and Parole
Sponsor Senators Bunde
Requester Senate Judiciary, Finance Component No. 2826

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	138.8	277.6	*	*	*
Travel	0.0	12.0	48.0	*	*	*
Contractual	0.0	26.4	105.6	*	*	*
Supplies	0.0	18.6	46.8	*	*	*
Equipment	0.0			*	*	*
Land & Structures	0.0			*	*	*
Grants & Claims	0.0			*	*	*
Miscellaneous	0.0			*	*	*
TOTAL OPERATING	0.0	195.8	478.0	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0			*	*	*
1003 GF Match	0.0			*	*	*
1004 GF	0.0	195.8	478.0	*	*	*
1005 GF/Program Receipts	0.0			*	*	*
1037 GF/Mental Health	0.0			*	*	*
Other (Specify Type--Do not abbreviate)	0.0			*	*	*
TOTAL	0.0	195.8	478.0	*	*	*

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	0	2	4	*	*	*
Part-time	0	0	0	*	*	*
Temporary	0	0	0	*	*	*

ANALYSIS: (Attach a separate page if necessary)

The sections of the legislation relating to periodic polygraph testing of all sex offenders releasing on probation or parole supervision will have a fiscal impact on the Division of Probation & Parole. In FY08 and FY09, the department will require two additional probation/parole officers each year to handle the increasing workload associated with managing sex offender specific caseloads. With the addition of the polygraph examination being used as a tool with more and more sex offenders in community sex offender treatment and on supervision, a corresponding increase in workload for the supervising officers will result. In the interest of public safety and because of the extreme danger sex offenders pose to the community, especially to children and vulnerable adults, and due to the increase in workload per sex offender, it is the intent of the department to cap sex offender caseloads at 50 sex offenders per supervising officer.

Prepared by: Sharleen Griffin, Acting Director
Division: Administrative Services
Approved by: Portia C.K. Parker, Deputy Commissioner
Agency: Department of Corrections

Phone (907) 465-3460
Date/Time 2/28/06 10:08 AM
Date 2/28/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 218(JUD)
(S) Publish Date: 1/25/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title An Act relating to periodic polygraph examinations RDU Alaska State Troopers
for sex offenders and an increase in sentencing Component AST Detachments
Sponsor Senator Bunde
Requester Senate Judiciary Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The first section of this bill provides for the implementation and continued use of periodic polygraph examinations as a condition of probation or parole for sex offenders. This provision will have little or no impact to the Department of Public Safety, but will directly impact the Department of Corrections.

This bill also significantly increases sentences for convictions under sexual assault and sexual abuse. When a defendant is faced with a longer term of imprisonment, it is reasonable to expect that they may mount a more aggressive defense. It is difficult to predict if extra court testimony will be required as a result of this legislation or whether it increases the complexity of an investigation. At this juncture the department will absorb any unforeseen expenses associated with this legislation.

Prepared by: Lieutenant James Helgoe Phone 907-269-4532
Division Alaska State Troopers Date/Time 1/18/06 4:23 PM
Approved by: Commissioner William Tandeske Date 1/18/2006
Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 218(JUD)
(S) Publish Date: 1/25/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to periodic polygraph examinations... RDU Legal and Advocacy Services
Component Public Defender Agency
Sponsor Senator Bunde
Requester (S) Finance Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This act increases the periodic presumptive sentencing ranges for a certain sex offense; this includes a 99-year mandatory penalty for individuals with two prior sex felony convictions. This bill also requires individuals convicted of sex offenses to submit to a polygraph examination.

Due to the penalty increases, this bill will likely result in pressures that tend to increase criminal trials and increase the work necessary to prepare a case for trial or plea negotiation, thus putting an upward pressure on our case costs. The increased pressure, however, is indeterminate but may be mitigated by factors external to the Office of Public Advocacy, such as an offsetting plea bargaining policy. The Office of Public Advocacy, therefore, submits an indeterminate fiscal note.

Prepared by: Joshua P. Fink, Director Phone 907.269-3500
Division Office of Public Advocacy Date/Time 1/18/06 12:16 p.m.
Approved by: Mike Tibbles, Deputy Commissioner Date _____
Agency Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSSB 218(JUD)
(S) Publish Date: 1/25/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to periodic polygraph
examinations for sex offenders released on probation..." RDU: CRIMINAL
Sponsor: Senator Bunde Component: Criminal Justice Litigation
Requester: Senate Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	*****	*****	*****	*****	*****	*****
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill significantly increases presumptive sentencing for convicted sexual offenders. Passage of this legislation will have a fiscal impact on the Department of Law because convicted offenders will be less likely to plead to charges and will instead be willing to risk a jury trial as a result of facing much longer prison sentences than is reflected in current legislation. The fiscal impact is difficult to measure with any precision.

Prepared by: Kathryn Daughhete, Director
Division: Administrative Services Division
Approved by: Kathryn Daughhete for David Marquez, Attorney General
Agency: Department of Law

Phone 465-3673
Date/Time 1/18/06 1:21 PM
Date 1/18/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSSB 218(FIN)
(S) Publish Date: 2/9/06

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Criminal Sentencing and Polygraphs RDU Alaska Court System
Component Trial Courts
Sponsor Senator Bunde
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Judiciary Committee Substitute for SB 218 significantly increases the presumptive sentences for those convicted of sexual offenses. It is likely that the longer sentences will increase a defendant's willingness to go to trial. Although the additional costs associated with those trials will fiscally impact the court system, the extent of the impact is too speculative to support a fiscal note.

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750
Division Alaska Court System Date/Time 1/26/06 @ 9:00 am
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 1/26/2006
Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSSB 218(FIN)
(S) Publish Date: 2/9/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to periodic polygraph examinations... RDU Legal and Advocacy Services
Component Public Defender Agency
Sponsor Senator Bunde
Requester (S) Finance Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This act increases the sentencing ranges for sex offenses, and includes a 99-year mandatory penalty for individuals with two prior sex felony convictions, and a polygraph examination requirement. It also creates a new felony for failing to report a person who is not compliant with the offender registration act.

This bill will result in an increase in cases due to the new crime. It will also create pressures that tend to increase criminal trials and increase the work necessary to prepare a case for trial or plea negotiation, thus putting an upward pressure on our case costs. The increased pressure and new case loads are, however, indeterminate and may be mitigated by factors external to the Public Defender Agency, such as an offsetting plea bargaining policy. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Quinlan Steiner, Director
Division: Public Defender Agency
Approved by: Mike Tibbles, Deputy Commissioner
Agency: Administration

Phone 907.334.4414
Date/Time 1/28/06 5:30 p.m.
Date _____

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 7
Bill Version: CSSB 218 (FIN)
(S) Publish Date: 2/9/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: "An act relating to sex offenders; relating to RDU: Institutional Facilities
reporting of sex offenders and child kidnappers; relating to . . ." Component: Institution Director's Office
Sponsor: Senators Bunde
Requester: Senate Judiciary, Finance Component No.: 1381

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	*	*	*
Travel	0.0	0.0	0.0	*	*	*
Contractual	0.0	0.0	0.0	*	*	*
Supplies	0.0	0.0	0.0	*	*	*
Equipment	0.0	0.0	0.0	*	*	*
Land & Structures	0.0	0.0	0.0	*	*	*
Grants & Claims	0.0	0.0	0.0	*	*	*
Miscellaneous	0.0	0.0	0.0	*	*	*
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	0.0	0.0	0.0	*	*	*
1003 GF Match	0.0	0.0	0.0	*	*	*
1004 GF	0.0	0.0	0.0	*	*	*
1005 GF/Program Receipts	0.0	0.0	0.0	*	*	*
1037 GF/Mental Health	0.0	0.0	0.0	*	*	*
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	*	*	*
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time				*	*	*
Part-time				*	*	*
Temporary				*	*	*

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections, Division of Institutions does not anticipate a significant fiscal impact during the first three years following enactment. For years beyond FY2009, there will be a cost to the department due to the increase in the length of sentences for sexual offenders, but it cannot be determined with any precision.

In an attempt to determine the potential impact on the Department of Corrections (DOC), the department's research section investigated the re-offense rates of sex offenders in the department's custody. The research section reported that there were 927 sex offenders in DOC custody on January 24, 2006.

(Continued on Page 2)

Prepared by: Sharon Griffin, Acting Director Phone: (907) 465-3460
Division: Administrative Services Date/Time: 1/26/06 2:44 PM
Approved by: Portia C.K. Parker, Deputy Commissioner Date: 1/26/2006
Agency: Department of Corrections

FISCAL NOTE # 7

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CSSB 218(FIN)

ANALYSIS CONTINUATION

Number of the 927 sex offenders in Alaska DOC custody on January 24, 2006 who are repeat offenders (in the department's custody previously for any reason):

- Sex offenders in DOC custody	927	100%
- Number/Percent of sex offenders in DOC custody previously (repeat offenders)	863	93%
- Average number of times admitted to DOC custody	11.75 times	
- Number/Percent admitted to DOC 10 or more times (863=100%)	358	41%

Major offenses committed when admitted to DOC custody (927 sex offenders):

- Sex Offenses	47%
- Parole/Probation Violations	16%
- Assaults	10%
- Theft/Burglar/Larceny	8%
- Other crimes against persons	7%
- Alcohol	3%
- Drugs	2%
- Traffic	1%
- All other crimes	6%

Given the high re-offense rates of sex offenders in the department's custody, it is likely that many of the sex offenders who would receive substantially longer sentences under the provisions of this legislation already would spend a significant amount of time involved with Alaska's criminal justice system, including the Department of Corrections. The department believes that there will be an increased cost due to the lengthening of sentences for sexual offenders, but at this time those potential costs cannot be accurately determined.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 8
Bill Version: CSSB 218(FIN)
(S) Publish Date: 2/9/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: "An act relating to sex offenders; relating to RDU: Administrative Services & Support
reporting of sex offenders and child kidnappers; relating to . . ." Component: Offender Habilitation Programs
Sponsor: Senators Bunde
Requester: Senate Judiciary, Finance Component No.: 2751

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0				.	.
Travel	0.0				.	.
Contractual	0.0	622.3	1,124.5	1,642.0	.	.
Supplies	0.0				.	.
Equipment	0.0				.	.
Land & Structures	0.0				.	.
Grants & Claims	0.0				.	.
Miscellaneous	0.0				.	.
TOTAL OPERATING	0.0	622.3	1,124.5	1,642.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0				.	.
1003 GF Match	0.0				.	.
1004 GF	0.0	622.3	1,124.5	1,642.0	.	.
1005 GF/Program Receipts	0.0				.	.
1037 GF/Mental Health	0.0				.	.
Other (Specify Type--Do not abbreviate)	0.0				.	.
TOTAL	0.0	622.3	1,124.5	1,642.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	0	0	0	0	.	.
Part-time	0	0	0	0	.	.
Temporary	0	0	0	0	.	.

ANALYSIS: (Attach a separate page if necessary)

Sections of the legislation requiring regular periodic polygraph examinations of all sex offenders releasing on probation or parole will have a fiscal impact on the Department following the effective date of the applicable sections, specifically July 1, 2007. Regular periodic polygraph examinations used in conjunction with community sex offender treatment and sex offender specific supervision, often referred to as the Containment Model, is best practice in the field of sex offender management. The fiscal impact on Offender Habilitation Programs will be phased in over a three year period beginning in FY08 as offenders gradually are released with the new parole/probation conditions. It is assumed that 50% of releasing sex offenders will pay for community sex offender treatment and polygraph examinations, and the Department will pay for the other 50% of releasing sex offenders. (continued on page 2).

Prepared by: Sharleen Griffin, Acting Director Phone: (907) 465-3460
Division: Administrative Services Date/Time: 2/1/06 4:21 PM
Approved by: Portia C.K. Parker, Deputy Commissioner Date: 2/1/2006
Agency: Department of Corrections

ANALYSIS CONTINUATION

For years FY11 and beyond, it is difficult to estimate additional costs, if any, due to the fact that there could be more or there could be fewer sex offenders releasing on supervision for a variety of reasons, including the potential impact of the proposed new sentencing penalties contained in this legislation. Therefore, for years FY11 and beyond the fiscal impact is indeterminate.

FISCAL DETAILS AND ASSUMPTIONS:

Sex Offenders on Supervision by Location (January 2006):

Anchorage	370
Barrow	3
Bethel	104
Dillingham	8
Fairbanks	79
Juneau	60
Kenai	43
Ketchikan	31
Kodiak	11
Kotzebue	14
Nome	20
Palmer	58
Sitka	13
Institutions	120 (probation/parole violations or new crimes and pending action)
TOTAL	934

Average Number of Sex Offenders Per Year:

- 900 - Number of Sex Offenders on Supervision (Average)
- 100 - Sex Offenders in Existing Programs (Containment Model Project)
- 400 - Sex Offenders Self Paying
- 400 - Sex Offenders State Paying

COMMUNITY SEX OFFENDER TREATMENT:

FY2008 - 1/3 of the 400 offenders

\$276,618	Anchorage (108)
\$74,856	Juneau (12)
\$24,553	Kenai (7)
<u>\$15,345</u>	Ketchikan (5)
\$391,372	Total (132)

FY2009 - 2/3 of the 400 offenders

\$553,236	Anchorage (216)
\$149,712	Juneau (24)
\$49,106	Kenai (14)
<u>\$30,690</u>	Ketchikan (10)
\$782,744	Total (264)

FY2010 - All of the 400 offenders

\$838,237	Anchorage (328)
\$226,836	Juneau (36)
\$74,403	Kenai (21)
<u>\$46,500</u>	Ketchikan (15)
\$1,185,976	Total (400)

ANALYSIS CONTINUATION

POLYGRAPH EXAMINATIONS:

\$200 Cost Per Polygraph
\$800 Cost per Sex Offender (4 Polygraphs per Year)

FY2008 - 1/3 of the 400 offenders

132 Number of offenders
\$800 Cost per Sex Offender (4 Polygraphs per Year)

\$105,600 Polygraph Treatment
\$5,280 5% CPI on Contract
\$10,000 Travel (\$10,000 per Community not including Anchorage)
\$230,880 TOTAL FY2008

FY2009 - 2/3 of the 400 offenders

264 Number of offenders
\$800 Cost per Sex Offender (4 Polygraphs per Year)

\$211,200 Polygraph Treatment
\$10,560 5% CPI on Contract
\$120,000 Travel (\$10,000 per Community not including Anchorage)
\$341,760 TOTAL FY2009

FY2010 - All of the 400 offenders

400 Number of offenders
\$800 Cost per Sex Offender (4 Polygraphs per Year)

\$320,000 Polygraph Treatment
\$16,000 5% CPI on Contract
\$120,000 Travel (\$10,000 per Community not including Anchorage)
\$456,000 TOTAL FY2010

Notes:

*No Change in Revenues - Sex Offenders Self Paying will continue to, or begin to, pay up front.
Community Treatment varies in length - Average is 2 years*

TOTAL POLYGRAPH & COMMUNITY TREATMENT (STATE COST ONLY):

FY 2008 \$622,252
FY 2009 \$1,124,504
FY 2010 \$1,641,976

*Adopted
1/4/06*

AMENDMENT

11

*Hawker/
Kerthula*

OFFERED IN THE HOUSE

TO: HCS CSSB 218(), Draft Version "U"

1 Page 1, lines 1 - 2:

2 Delete "relating to reporting of sex offenders and child kidnappers;"

3

4 Page 3, lines 10 - 23:

5 Delete all material.

6

7 Renumber the following bill sections accordingly.

8

9 Page 10, line 28:

10 Delete "Sections 1 - 3, 5 - 8, and 12"

11 Insert "Sections 1 - 2, 4 - 7, and 11"

12

13 Page 10, line 30:

14 Delete "secs. 5 and 7"

15 Insert "secs. 4 and 6"

16

17 Page 10, line 31:

18 Delete "Sections 4 and 11"

19 Insert "Sections 3 and 10"

20

21 Page 11, line 2:

22 Delete "Sections 4 and 11"

22 Insert "Sections 3 and 10"

1

2 Page 11, line 3:

3 Delete "sec. 15"

4 Insert "sec. 14"

3/7

AMENDMENT

1 Meyer
passed

OFFERED IN THE HOUSE
TO: CSSB 218 (FIN)

Page 3, lines 18 -21:

Delete subsection (b)

Insert:

(b) This statute does not apply if any of the circumstances or conduct establishing the offense relate to an attorney-client relationship with the sex offender or child kidnapper.

The defendant may file notice pre-trial that sub-section (b) applies. The notice merely requires that a good faith basis for its filing exist. The defendant may request a pre-trial ruling by the Judge, or may request a jury determination, or both. The State has the burden to prove beyond a reasonable doubt that sub-section (b) does not apply.

Withdrawn
3/31/06

24-LS1307\U.11
Luckhaupt
3/31/06

AMENDMENT

12 Hawker/
Kerttula

OFFERED IN THE HOUSE

TO: HCS CSSB 218(), Draft Version "U"

- 1 Page 3, line 14:
- 2 Delete "recklessly"
- 3 Insert "knowingly"
- 4
- 5 Page 3, line 15:
- 6 Delete "and"
- 7
- 8 Page 3, following line 15:
- 9 Insert a new paragraph to read:
- 10 "(2) knows the location of that sex offender or child kidnapper; and"
- 11
- 12 Renumber the following paragraph accordingly.
- 13
- 14 Page 3, line 16, following "the":
- 15 Insert "name and"

*with drawn
4-11-06*

24-LS1307U.8
Luckhaupt
3/13/06

AMENDMENT

#13

OFFERED IN THE HOUSE

BY REPRESENTATIVE HAWKER

TO: HCS SB 218(), Draft Version "U"

- 1 Page 3, line 15:
- 2 Delete "and"
- 3
- 4 Page 3, following line 15:
- 5 Insert a new paragraph to read:
- 6 "(2) knows the location of that sex offender or child kidnapper; and"
- 7
- 8 Renumber the following paragraph accordingly.
- 9
- 10 Page 3, line 16, following "the":
- 11 Insert "name and"

adopted 3/7/06

24-LS1307U
Luckhaupt
3/6/06

HOUSE CS FOR CS FOR SENATE BILL NO. 218()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS BUNDE, Guess, Dyson, Elton, Kookesh, Green, Olson, Hoffman, Seekins
REPRESENTATIVES Neuman, Stoltze, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sex offenders and child kidnappers; relating to reporting of sex
2 offenders and child kidnappers; relating to periodic polygraph examinations for sex
3 offenders released on probation or parole; relating to sexual abuse of a minor; relating
4 to the definitions of 'aggravated sex offense' and 'child kidnapping'; relating to penalties
5 for failure to report child abuse or neglect; relating to sentencing for sex offenders and
6 habitual criminals; and providing for an effective date."

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

8 * Section 1. AS 11.41.436(a) is amended to read:

9 (a) An offender commits the crime of sexual abuse of a minor in the second
10 degree if,

11 (1) being 17 [16] years of age or older, the offender engages in sexual
12 penetration with a person who is 13, 14, or 15 years of age and at least four [THREE]
13 years younger than the offender, or aids, induces, causes, or encourages a person who

1 is 13, 14, or 15 years of age and at least four [THREE] years younger than the
2 offender to engage in sexual penetration with another person;

3 (2) being 16 years of age or older, the offender engages in sexual
4 contact with a person who is under 13 years of age or aids, induces, causes, or
5 encourages a person under 13 years of age to engage in sexual contact with another
6 person;

7 (3) being 18 years of age or older, the offender engages in sexual
8 contact with a person who is under 18 years of age and the offender is the victim's
9 natural parent, stepparent, adopted parent, or legal guardian;

10 (4) being 16 years of age or older, the offender aids, induces, causes,
11 or encourages a person who is under 16 years of age to engage in conduct described in
12 AS 11.41.455(a)(2) - (6); [OR]

13 (5) being 18 years of age or older, the offender engages in sexual
14 contact with a person who is under 16 years of age, and

15 (A) the victim at the time of the offense is residing in the same
16 household as the offender and the offender has authority over the victim; or

17 (B) the offender occupies a position of authority in relation to
18 the victim;

19 (6) being 20 years of age or older, the offender engages in sexual
20 penetration with a person who is 16 or 17 years of age and at least four years
21 younger than the offender, and the offender occupies a position of authority in
22 relation to the victim; or

23 (7) being under 16 years of age, the offender engages in sexual
24 penetration with a person who is under 13 years of age and at least three years
25 younger than the offender.

26 * Sec. 2, AS 11.41.438(a) is amended to read:

27 (a) An offender commits the crime of sexual abuse of a minor in the third
28 degree if

29 [(1)] being 17 [16] years of age or older, the offender engages in
30 sexual contact with a person who is 13, 14, or 15 years of age and at least four
31 [THREE] years younger than the offender [;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(2) BEING 18 YEARS OF AGE OR OLDER, THE OFFENDER ENGAGES IN SEXUAL PENETRATION WITH A PERSON WHO 'S 16 OR 17 YEARS OF AGE AND AT LEAST THREE YEARS YOUNGER THAN THE OFFENDER, AND THE OFFENDER OCCUPIES A POSITION OF AUTHORITY IN RELATION TO THE VICTIM; OR

(3) BEING UNDER 16 YEARS OF AGE, THE OFFENDER ENGAGES IN SEXUAL PENETRATION WITH A PERSON WHO IS UNDER 13 YEARS OF AGE AND AT LEAST THREE YEARS YOUNGER THAN THE OFFENDER].

* Sec. 3. AS 11.56 is amended by adding a new section to read:

Sec. 11.56.767. Failure to report sex offender or child kidnapper. (a) A person commits the crime of failure to report a sex offender or child kidnapper if the person

(1) recklessly disregards the fact that a sex offender or child kidnapper has not complied with the requirements of AS 11.56.840; and

(2) knowingly fails to report the location of that sex offender or child kidnapper to the Department of Public Safety.

(b) In a prosecution under (a) of this section, it is a defense that the defendant was a licensed attorney and there existed, at the time of the offense, a bona fide attorney-client relationship between the attorney and the sex offender or child kidnapper.

(c) Failure to report a sex offender or child kidnapper is a class A misdemeanor.

* Sec. 4. AS 12.55.100 is amended by adding a new subsection to read:

(e) While on probation and as a condition of probation for a sex offense, the defendant shall be required to submit to regular periodic polygraph examinations. In this subsection, "sex offense" has the meaning given in AS 12.63.100.

* Sec. 5. AS 12.55.125(i) is amended to read:

(i) A defendant convicted of

(1) sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 99

1 years and shall be sentenced to a definite term within the following presumptive
2 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

3 (A) if the offense is a first felony conviction, ~~[AND]~~ does not
4 involve circumstances described in (B) of this paragraph, and the victim was

5 (i) less than 13 years of age, 25 to 35 years;

6 (ii) 13 years of age or older, 20 to 30 [EIGHT TO 12]

7 years;

8 (B) if the offense is a first felony conviction and the defendant
9 possessed a firearm, used a dangerous instrument, or caused serious physical
10 injury during the commission of the offense, 25 to 35 [12 TO 16] years;

11 (C) if the offense is a second felony conviction and does not
12 involve circumstances described in (D) of this paragraph, 30 to 40 [15 TO 20]
13 years;

14 (D) if the offense is a second felony conviction and the
15 defendant has a prior conviction for a sexual felony, 35 to 45 [20 TO 30]
16 years;

17 (E) if the offense is a third felony conviction and the defendant
18 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
19 to 60 [25 TO 35] years;

20 (F) if the offense is a third felony conviction, the defendant is
21 not subject to sentencing under (I) of this section, and the defendant has two
22 prior convictions for sexual felonies, 99 [30 TO 40] years;

23 (2) attempt, conspiracy, or solicitation to commit sexual assault in the
24 first degree or sexual abuse of a minor in the first degree may be sentenced to a
25 definite term of imprisonment of not more than 99 [30] years and shall be sentenced to
26 a definite term within the following presumptive ranges, subject to adjustment as
27 provided in AS 12.55.155 - 12.55.175:

28 (A) if the offense is a first felony conviction, ~~[AND]~~ does not
29 involve circumstances described in (B) of this paragraph, and the victim was

30 (i) under 13 years of age, 20 to 30 years;

31 (ii) 13 years of age or older, 15 to 30 [FIVE TO

1 EIGHT] years;

2 (B) if the offense is a first felony conviction, and the defendant
3 possessed a firearm, used a dangerous instrument, or caused serious physical
4 injury during the commission of the offense, 25 to 35 [10 TO 14] years;

5 (C) if the offense is a second felony conviction and does not
6 involve circumstances described in (D) of this paragraph, 25 to 35 [12 TO 16]
7 years;

8 (D) if the offense is a second felony conviction and the
9 defendant has a prior conviction for a sexual felony, 30 to 40 [15 TO 20]
10 years;

11 (E) if the offense is a third felony conviction, does not involve
12 circumstances described in (F) of this paragraph, and the defendant is not
13 subject to sentencing under (I) of this section, 35 to 50 [15 TO 25] years;

14 (F) if the offense is a third felony conviction, the defendant is
15 not subject to sentencing under (I) of this section, and the defendant has two
16 prior convictions for sexual felonies, 99 [20 TO 30] years;

17 (3) sexual assault in the second degree, sexual abuse of a minor in the
18 second degree, unlawful exploitation of a minor, or distribution of child pornography
19 may be sentenced to a definite term of imprisonment of not more than 99 [20] years
20 and shall be sentenced to a definite term within the following presumptive ranges,
21 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

22 (A) if the offense is a first felony conviction, five to 15 [TWO
23 TO FOUR] years;

24 (B) if the offense is a second felony conviction and does not
25 involve circumstances described in (C) of this paragraph, 10 to 25 [FIVE TO
26 EIGHT] years;

27 (C) if the offense is a second felony conviction and the
28 defendant has a prior conviction for a sexual felony, 15 to 30 [10 TO 14]
29 years;

30 (D) if the offense is a third felony conviction and does not
31 involve circumstances described in (E) of this paragraph, 20 to 35 [10 TO 14]

1 years;

2 (E) if the offense is a third felony conviction and the defendant
3 has two prior convictions for sexual felonies, 99 [15 TO 20] years;

4 (4) sexual assault in the third degree, incest, indecent exposure in the
5 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to
6 commit sexual assault in the second degree, sexual abuse of a minor in the second
7 degree, unlawful exploitation of a minor, or distribution of child pornography, may be
8 sentenced to a definite term of imprisonment of not more than 99 [10] years and shall
9 be sentenced to a definite term within the following presumptive ranges, subject to
10 adjustment as provided in AS 12.55.155 - 12.55.175:

11 (A) if the offense is a first felony conviction, two to 12 [ONE
12 TO TWO] years;

13 (B) if the offense is a second felony conviction and does not
14 involve circumstances described in (C) of this paragraph, eight to 15 [TWO
15 TO FIVE] years;

16 (C) if the offense is a second felony conviction and the
17 defendant has a prior conviction for a sexual felony, 12 to 20 [THREE TO
18 SIX] years;

19 (D) if the offense is a third felony conviction and does not
20 involve circumstances described in (E) of this paragraph, 15 to 25 [THREE TO
21 SIX] years;

22 (E) if the offense is a third felony conviction and the defendant
23 has two prior convictions for sexual felonies, 99 [SIX TO 10] years.

24 * Sec. 6. AS 12.55.125(j) is amended to read:

25 (j) A defendant sentenced to a (1) mandatory term of imprisonment of 99
26 years under (a) of this section may apply once for a modification or reduction of
27 sentence under the Alaska Rules of Criminal Procedure after serving one-half of the
28 mandatory term without consideration of good time earned under AS 33.20.010, or (2)
29 definite term of imprisonment under (b) of this section may apply once for a
30 modification or reduction of sentence under the Alaska Rules of Criminal Procedure
31 after serving [THE GREATER OF (A)] one-half of the definite term [OR (B) 30

1 YEARS]. A defendant may not file and a court may not entertain more than one
2 motion for modification or reduction of a sentence subject to this subsection,
3 regardless of whether or not the court granted or denied a previous motion.

4 * Sec. 7. AS 12.55.125(l) is amended to read:

5 (l) Notwithstanding any other provision of law, a defendant convicted of an
6 unclassified or class A felony offense, and not subject to a mandatory 99-year
7 sentence under (a) of this section, shall be sentenced to a definite term of
8 imprisonment of [AT LEAST 40 YEARS BUT NOT MORE THAN] 99 years when
9 the defendant has been previously convicted of two or more most serious felonies
10 [AND THE PROSECUTING ATTORNEY HAS FILED A NOTICE OF INTENT TO
11 SEEK A DEFINITE SENTENCE UNDER THIS SUBSECTION AT THE TIME
12 THE DEFENDANT WAS ARRAIGNED IN SUPERIOR COURT]. If a defendant is
13 sentenced to a definite term under this subsection,

14 (1) imprisonment for the prescribed definite term may not be
15 suspended under AS 12.55.080;

16 (2) imposition of sentence may not be suspended under AS 12.55.085;

17 (3) imprisonment for the prescribed definite term may not be reduced,
18 except as provided in (j) of this section.

19 * Sec. 8. AS 12.55.125 is amended by adding a new subsection to read:

20 (o) Other than for convictions subject to a mandatory 99-year sentence, the
21 court shall impose, in addition to an active term of imprisonment imposed under (i) of
22 this section, a minimum period of (1) suspended imprisonment of five years and a
23 minimum period of probation supervision of 15 years for conviction of an unclassified
24 felony, (2) suspended imprisonment of three years and a minimum period of probation
25 supervision of 10 years for conviction of a class A or class B felony, or (3) suspended
26 imprisonment of two years and a minimum period of probation supervision of five
27 years for conviction of a class C felony. The period of probation is in addition to any
28 sentence received under (i) of this section and may not be suspended or reduced. Upon
29 a defendant's release from confinement in a correctional facility, the defendant is
30 subject to this probation requirement and shall submit and comply with the terms and
31 requirements of the probation.

1 * Sec. 9. AS 12.63.100(1) is amended to read:

2 (1) "aggravated sex offense" means

3 (A) a crime under AS 11.41.100(a)(3), or a similar law of
4 another jurisdiction, in which the person committed or attempted to commit a
5 sexual offense, or a similar offense under the laws of the other jurisdiction; in
6 this subparagraph, "sexual offense" has the meaning given in
7 AS 11.41.100(a)(3);

8 (B) a crime under AS 11.41.110(a)(3), or a similar law of
9 another jurisdiction, in which the person committed or attempted to commit
10 one of the following crimes, or a similar law of another jurisdiction:

11 (i) sexual assault in the first degree;

12 (ii) sexual assault in the second degree;

13 (iii) sexual abuse of a minor in the first degree; or

14 (iv) sexual abuse of a minor in the second degree; or

15 (C) a crime, or an attempt, solicitation, or conspiracy to commit
16 a crime, under AS 11.41.410, 11.41.434, or a similar law of another
17 jurisdiction or a similar provision under a former law of this state;

18 * Sec. 10. AS 12.63.100(2) is amended to read:

19 (2) "child kidnapping" means

20 (A) a crime under AS 11.41.100(a)(3), or a similar law of
21 another jurisdiction, in which the person committed or attempted to commit
22 kidnapping;

23 (B) a crime under AS 11.41.110(a)(3), or a similar law of
24 another jurisdiction, in which the person committed or attempted to commit
25 kidnapping if the victim was under 18 years of age at the time of the offense;
26 or

27 (C) a crime, or an attempt, solicitation, or conspiracy to commit
28 a crime, under AS 11.41.300, or a similar law of another jurisdiction or a
29 similar provision under a former law of this state, if the victim was under
30 18 years of age at the time of the offense;

31 * Sec. 11. AS 33.16.150(a) is amended to read:

1 (a) As a condition of parole, a prisoner released on special medical,
2 discretionary, or mandatory parole

3 (1) shall obey all state, federal, or local laws or ordinances, and any
4 court orders applicable to the parolee;

5 (2) shall make diligent efforts to maintain steady employment or meet
6 family obligations;

7 (3) shall, if involved in education, counseling, training, or treatment,
8 continue in the program unless granted permission from the parole officer assigned to
9 the parolee to discontinue the program;

10 (4) shall report

11 (A) upon release to the parole officer assigned to the parolee;

12 (B) at other times, and in the manner, prescribed by the board
13 or the parole officer assigned to the parolee;

14 (5) shall reside at a stated place and not change that residence without
15 notifying, and receiving permission from, the parole officer assigned to the parolee;

16 (6) shall remain within stated geographic limits unless written
17 permission to depart from the stated limits is granted the parolee;

18 (7) may not use, possess, handle, purchase, give, distribute, or
19 administer a controlled substance as defined in AS 11.71.900 or under federal law or a
20 drug for which a prescription is required under state or federal law without a
21 prescription from a licensed medical professional to the parolee;

22 (8) may not possess or control a firearm; in this paragraph, "firearm"
23 has the meaning given in AS 11.81.900;

24 (9) may not enter into an agreement or other arrangement with a law
25 enforcement agency or officer that will place the parolee in the position of violating a
26 law or parole condition without the prior approval of the board;

27 (10) may not contact or correspond with anyone confined in a
28 correctional facility of any type serving any term of imprisonment or a felon without
29 the permission of the parole officer assigned to a parolee;

30 (11) shall agree to waive extradition from any state or territory of the
31 United States and to not contest efforts to return the parolee to the state;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(12) shall provide a blood sample, an oral sample, or both, when requested by a health care professional acting on behalf of the state to provide the sample or samples, or an oral sample when requested by a juvenile or adult correctional, probation, or parole officer, or a peace officer, if the prisoner is being released after a conviction of an offense requiring the state to collect the sample or samples for the deoxyribonucleic acid identification system under AS 44.41.035;

(13) from a conviction for a sex offense shall submit to regular periodic polygraph examinations; in this paragraph, "sex offense" has the meaning given in AS 12.63.100.

* Sec. 12. AS 47.17.068 is amended to read:

Sec. 47.17.068. Penalty for failure to report. A person who fails to comply with the provisions of AS 47.17.020 or 47.17.023 and who knew or should have known that the circumstances gave rise to the need for a report, is guilty of a class A [CLASS B] misdemeanor.

* Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECTION TO DEPARTMENT OF PUBLIC SAFETY CONCERNING CENTRAL REGISTRY OF SEX OFFENDERS AND CHILD KIDNAPPERS. The Department of Public Safety shall provide on the Internet website that the department maintains for the central registry of sex offenders and child kidnappers information as to how members of the public using the website may access or compile the information relating to sex offenders or child kidnappers for a particular geographic area on a map. The information may direct members to mapping programs available on the Internet and to Internet websites where information contained in the registry has already been converted to a map or geographic format.

* Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. Sections 1 - 3, 5 - 8, and 12 of this Act apply to offenses committed on or after the effective date of this section. References to prior offenses or convictions in secs. 5 and 7 of this Act include offenses committed before, on, or after the effective date of this section. Sections 4 and 11 of this Act apply to persons on probation or

1 parole for offenses committed before, on, or after the effective date of this Act.

2 * Sec. 15. Sections 4 and 11 of this Act take effect July 1, 2007.

3 * Sec. 16. Except as provided in sec. 15 of this Act, this Act takes effect immediately under

4 AS 01.10.070(c).

Alaska State Legislature

DURING SESSION
STATE CAPITOL
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843
FAX: (907) 465-3871

WEB SITE
www.akrepublicans.org/Bunde



DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
(907) 269-0181
FAX: (907) 269-0184

SENATOR CON BUNDE
District P

E-MAIL
Senator.Con.Bunde@legis.state.ak.us

VICE-CHAIR: SENATE FINANCE COMMITTEE
CHAIR: SENATE LABOR & COMMERCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

Letter of Intent SENATE BILL 218 (CSSB Finance Version)

The Purposes And Rationale Underlying The Increase In Sentencing Ranges For Felony Sex Crimes In Alaska

Handwritten signature of Senator Con Bunde in cursive.

Senator Con Bunde
Senate District P

Handwritten signature of Senator Gretchen Guess in cursive.

Senator Gretchen Guess
Senate District J

Senate Bill 218 adopts longer sentences for, and closer supervision of, convicted sex offenders. These changes are appropriate in light of the following:

(1) Statistical studies about sexual assault and abuse in America, and more specifically, in Alaska;

(2) The growing body of knowledge about the actual number of victims per sex offender and the resistance of sex offenders to rehabilitative treatment;

(3) The purposes of criminal sentencing set out in AS 12.55.005 and *Chaney v. State*, 447 P.2d 441 (Alaska 1970);

(4) The principles of penal administration set out Article I, section 12 of the Alaska Constitution that gives precedence to protection of the public and community condemnation; and

(5) The rights of crime victims under Article I, section 24, of the Alaska Constitution.

Sexual assault and abuse in Alaska can be classified as a plague. Alaska has been ranked number one in the nation for 22 out of the last 29 years for sexual assault and abuse. Alaska has been number one in the nation for sexual assault since 1995.¹ In addition, Alaska has never been ranked below number five in the nation for sexual assaults per capita (forcible rapes per 100,000 residents) since 1976, when data collection began. The State currently has approximately 2.5 times the national average for sexual assault.¹ Alaska has about 4,300 registered sex offenders in our Alaskan communities.²

Even with startlingly high sex offense rates, sexual abuse and assault are still largely unreported crimes (only 16 percent of victims report the assault³); and arrest rates are also low (only 27 percent of reported sex crimes result in an arrest⁴). Therefore we can assume, the actual number of sex offenders in Alaska is significantly higher than 4,300 individuals.

¹ Uniform Crime Report, FBI, 2003

² Department of Public Safety Sex Offender Registry, 2006

³ Kilpatrick Rape in America Report, 1992

⁴ Snyder, 2000

Institutional treatment programs (cognitive-behavioral, relapse prevention and behavioral) provided to sex offenders both in other states and in Alaska have not proven to be particularly effective.⁵ Offenders who served time for sexual assault were four times as likely as those convicted of other crimes to be re-arrested for a new sexual assault. The more prior arrests an offender has, the greater their likelihood for being re-arrested for another sex crime.⁵

Forty-three percent of sex offenders re-offend within three years.⁶ Currently, 78.5 percent of sex offenders have at least one prior arrest and average 4.5 prior arrests.⁶ In Alaska, the statistics are even more startling: of the 927 convicted sex offenders in custody on January 24, 2006, 93 percent have at least one prior arrest; the average number of arrests per sex offender is 11.75; and more than 41 percent have been arrested ten or more times.⁷

Sex offenders average 110 victims and 318 offenses before being caught.⁸ Sex offenders admitted to 3.5 times the number of victims and 4.5 times the number of offenses when given a polygraph exam as compared to questioning without a polygraph. Offenders under polygraph examination also report an earlier age when they began offending than was previously known.⁹

Sex offenders go undetected for an average of 16 years,⁸ which explains how they can have so many victims. It also suggests that offenders begin raping when they are relatively young, and indeed the average age of onset of the criminal sexual behavior for offenders is between 12 and 16 years.⁸ Early detection and intervention in sex offenses committed by juveniles may be one promising way of addressing sex crimes generally, especially in the future. However, sex offenses committed by juveniles are a topic that is beyond the scope of Senate Bill 218, which deals with the immediate plague facing Alaska involving adult sex offenders.

⁵ Sex Offender Treatment Evaluation Project Report (SOTEP), January 2005

⁶ Langdon, Schmitt, and Durose "Recidivism of Sex Offenders Released from Prison in 1994", Bureau of Justice Statistics November, 2003

⁷ Alaska Department of Corrections, Research Section, January 2006

⁸ Ahlmeyer, Heil, McKee, and English "The Impact of Polygraph on Admissions of Crossover Offending Behavior in Adult Sexual Offenses", *Sexual Abuse: A Journal of Research and Treatment*, 12(2): 123-138, 2000

⁹ Wilcox and Sosnowski "Polygraph examination of British sexual offenders: A pilot study on sexual history disclosure testing", *Journal of Sexual Aggression*, 11(1), 3-25, 2005

The Alaska appellate courts have sometimes questioned whether decisions by the legislature in setting presumptive sentences were intended to achieve the results they did; in some instances the courts have reduced the presumptive sentence to avoid “anomalous” results.¹⁰ In the case of sentence ranges imposed by Senate Bill 218, the result of greatly increased sentences are, indeed, intended. The increased sentences in Senate Bill 218 are in recognition that the harm and severity of injury caused by sex offenses has been greatly under-recognized by the criminal justice system. Sex offenses are crimes of violence and much like domestic violence they are about power and control. The victims are typically vulnerable due to their age, incapacity or the offender’s position of authority. Sex offenses against young victims are particularly heinous and the sentences in Senate Bill 218 reflect the increased seriousness of choosing a young victim by increasing the sentencing ranges for the most serious offenses committed against victims less than 13 years of age.

In drafting Senate Bill 218, the conduct covered by each category of offense was carefully examined. Reclassification of conduct was considered, and for some offenses implemented. The sentencing ranges contained in Senate Bill 218 reflect the legislature’s view of the appropriate sentence for the cases involving the conduct described by the particular statute. The ranges are large enough to accommodate the wide-ranging types of conduct contained within these statutes – particularly in the B and C felony range.

In Senate Bill 218, the low end of the range for the most serious sex offenses is higher than the mandatory minimum or low end of presumptive sentences for some crimes that result in death.¹¹ This is intentional and not anomalous. Sex offenses cause great harm to victims, their families and to the entire community. Death has always been seen as the greatest harm that could be inflicted by an offender. But death can be caused by reckless conduct. Sex offenses are not reckless – they are at the very least knowing, and often intentional. The proportionality of the sentences imposed by Senate Bill 218 to other offenses in our criminal code was considered. The severity of the sentences in comparison to other crimes was intentional.

¹⁰ *New v. State*, 714 P.2d 378 (Alaska 1986), *Priett v. State*, 742 P.2d 257 (Alaska App. 1987), *Smith v. State*, 28 P.3d 323 (Alaska App. 2001) AS 12.55.005(1)

¹¹ AS 12.55.125 (b)

The “prior criminal history of the defendant and the likelihood of rehabilitation” is another recognized consideration in sentencing.¹² The sentence ranges in Senate Bill 218 start at increasingly higher levels when an offender has a prior record of both non-sex related felonies and sexual felonies. This change takes into account the decreased potential for rehabilitation with each successive conviction. It also recognizes the lack of effective treatment for most sex offenders.

The “need to confine the defendant to prevent further harm to the public” is a factor also considered by Senate Bill 218.¹³ The evidence that sex offenders have multiple victims and often do not respond to treatment supports the need for confinement to protect the public.

Another sentencing consideration is “the circumstances of the offense and the extent to which the offense harmed the victim or endangered the public safety or order.”¹⁴ Victims of sexual abuse and assault suffer from the effects of the crime for years. When sexually abused boys are not treated, it makes it more likely they will be involved in committing crimes, suicide, drug use and continued sexual abuse.¹⁵ Young girls who are sexually assaulted are more likely to abuse alcohol and drugs and are six times more likely to develop psychiatric disorders and 13 times more likely to attempt suicide.¹⁶

Although judges must take into account “the circumstances of the offense and the extent to which the offense harmed the victim” on a case-by-case basis in determining the specific sentence within a statutory range, in setting those ranges the legislature must take into account the harm to victims generally, and the extent which sex crimes impact the community as a whole. With the latter criteria and in light of the aforementioned statistics, we the Alaska State Legislature find sentences for sex offenses should be increased significantly.

¹² AS 12.55.005(2) and *Chaney*

¹³ AS 12.55.005(3)

¹⁴ AS 12.55.005(4)

¹⁵ Holmes, University of Pennsylvania School of Medicine

¹⁶ Rape in America Report to the Nation, 1992

The effect of sex offenses on the victim, and the victim's family, is enormous. But the effect on the fabric of society is no less important to consider in setting sentence ranges. In many places in Alaska, women are afraid to walk alone in their neighborhoods at night, or to let their children go to the park or the mall, because of fear that they too may become a victim. The estimated financial costs to society are also significant. In 2003, 521 victims reported sexual assault in Alaska. The National Institute of Justice estimates that the average cost of caring for each victim is \$86,500; thus every year Alaska spends about \$45 million on sexual assault victims.¹⁷

"The effect of the sentence to be imposed in deterring the defendant or other members of society from future criminal conduct" is also a consideration.¹⁸ The failure of treatment in rehabilitating most sex offenders provides little hope that longer sentences will deter future crimes. However, some categories of sex offenses, such as the teacher or coach who may be tempted to take advantage of a student, are more likely to be deterred by the threat of a long jail term. For most offenders the hope for deterrence in Senate Bill 218 is provided by the increased probation periods and the use of the polygraph while on probation or parole. The polygraph will help to provide an early warning system during supervision that will put the probation or parole officer on notice that corrective action is necessary due to signs of deception or offending behavior. The use of the polygraph should prevent at least some future victimization from occurring.

"Community condemnation," "reaffirmation of societal norms," and "restoration of the victim and the community" are the other recognized sentencing factors.¹⁹ There has been a public outcry recently over the failure of our criminal justice system to provide for the protection of the public from sex offenders. The community particularly condemns offenses against children. The increased sentences of Senate Bill 218 send the message to offenders and society: this behavior will not be tolerated nor accepted. The community has good reason to be shocked at the sobering statistics relating to sex offenses in Alaska, and to be outraged at the conduct underlying those offenses. Senate Bill 218 sets forth a sentencing scheme that sets a higher presumptive range, particularly for young victims. Although every sex

¹⁷ The National Institute of Justice

¹⁸ AS 12.55.005(5)

¹⁹ AS 12.55.005(6) and (7)

crime is heinous, the community particularly condemns those who prey on very young victims. Additionally, as indicated above, offenders who target young victims are more likely to re-offend. The increased sentences for offenders with young victims recognize these important sentencing factors – community condemnation, reaffirmation of societal norms and prospects for rehabilitation.

Finally, in enacting Senate Bill 218, it is recognized that there may be the “exceptional” case or circumstance that cries out for mercy. The criminal justice system often weeds these cases out in the referral and plea bargaining process. However, by application of existing statutory mitigating factors under AS 12.55.155, or by referral to the three-judge panel “safety net” under AS 12.55.175, the courts of Alaska will be able to avoid manifestly unjust sentences in appropriate cases. At the same time, the citizens of Alaska will benefit from the increase in safety achieved by longer incarceration of sex offenders followed by enhanced supervision using the polygraph.

Senator Con Bunde
Senator Gretchen Guess



Alaska State Legislature
Senator Con Bunde
Senate District P

Vice Chair: Senate Finance Committee
Chair: Senate Labor & Commerce Committee

Sponsor Statement for SB 218

"An Act relating to periodic polygraph examinations for sex offenders released on probation or parole and to sentencing for sex offenders and habitual criminals."

Senate Bill 218 increases sentencing times for the most egregious Unclassified and Class A sexual felonies to a minimum sentence of 25 years. It also restructures and increases the sentencing for Class B and Class C sexual offences. SB 218 requires periodic polygraph testing for sex offenders on probation and implements needed changes in sex offender registering and reporting. This bill is necessary not only to ensure Alaska is part of the national effort to curb sexual abuse and violence against children, but also to combat our ever-increasing sexual assault rates in this state.

According to the Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR), *Alaska has the highest per capita rate of reported rapes* ("rapes" in this case refer to child sexual abuse as well as adult assaults). We have held that title for 20 out of the last 27 years (UCR). Alaska's per capita rape rate is nearly 71% greater than that of the next highest state.

To date, we have 4300 registered sex offenders in our Alaskan communities. However, sexual abuse reporting rates are low (16% of victims report the assault, *Kilpatrick Rape in America Report*, 1992) and arrest rates are also low (27% of reported sex crimes result in an arrest, Snyder, 2000). Thus, the number of sex offenders in Alaska is most likely significantly higher than 4300 individuals.

While there is no record of any sex offender treatment or therapy having significant effects on recidivism rates (SOTEP Report, 1995), there are steps we can take in this state to reduce sexual abuse and assault. Longer sentences work. By ensuring that the most dangerous offenders are kept away from our children, sexual assault numbers will eventually go down. Regular polygraph testing for all sexual offenders has also been proven to have an effect on sexual behavior. Supervision of sex offenders with polygraph tests led to a 69% compliance with probation requirements, while supervision without polygraph tests led to a 26% compliance rate (Abrams and Ogard, 1986). Requiring a probation period as part of a sentence, along with mandating regular polygraph tests will make our State safer.

This legislation is imperative to changing our position as the number one state in the nation for sexual assault and sexual abuse and providing a safer place for our residents. I urge your support.



Spirit Village Inc.

February 21, 2006

The Honorable Mike Chenault
Chair, House Finance
State Capitol
Juneau, Alaska 99801

RE: SB 218 "An Act relating to periodic polygraph examinations for sex offenders released on probation or parole and to sentencing for sex offenders and habitual criminals"

Dear Representative Chenault:

Spirit Village, Inc. is a non-profit corporation organized to promote facilities and programming for re-entry of prison inmates back into the Alaska community and for the promotion of the establishment of corrections facilities to house all prisoners within the state of Alaska. With this in mind, our organization is interested in all aspects of the management of corrections activities within the state of Alaska.

Our board of directors attention has been drawn to SB 218 and the requirements of polygraph testing of sexual offenders who are under the direct supervision of the department of corrections within the prisons, in halfway houses or on probation and parole. The polygraph testing is utilized as a rehabilitation tool to monitor and provide guidance to such persons and to protect the public. We support this requirement and believe that it is in the public interest.

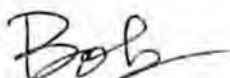
However, we believe that polygraph testing of sexual offenders should be undertaken by qualified examiners who have been trained and received certifications and continuing education to provide such examinations.

Towards this end, we recommend the standards and requirements of the American Polygraph Association - Academy and their program certification requirements for a post conviction sex offender polygraph course. Please find attached information on the association mission and goals. Additionally, we believe that persons administering such polygraph testing within or outside of the department of corrections must have such qualifications and certifications if they are going to be administering such tests. Please find attached a proposed amendment to page 6, line 19, section 13. We request that this amendment be included within this legislation. We are prepared to testify in support of the amendment.

Thanking you for this consideration.

Sincerely,

SPIRIT VILLAGE, INC.

A handwritten signature in cursive script, appearing to read "Bob", written in dark ink.

Robert W. Loescher
Board Member

(13) from a conviction for a sex offense shall submit to a periodic polygraph examinations preformed by a qualified person who has graduated from the American polygraph academy and has completed a post conviction sex offender polygraph course and is employed by the department of corrections or contracted by the department of corrections to undertake such examinations; in this paragraph, "sex offense" has the meaning given in AS 12.63.100.

Southcentral Foundation

March 3, 2006

Rep. Mike Chenault, Co-Chairman
Rep. Kevin Meyer, Co-Chairman
House Finance Committee
Alaska Legislature
Juneau, Alaska 99801

Via Facsimile

RE: CSSB 218(FIN), Criminal Sentencing and Polygraphs

Dear Co-Chairmen Chenault and Meyer:

Southcentral Foundation ("SCF") is a Tribal Organization that compacts with the Secretary of the U.S. Department of Health and Human Services under Title V of the Indian Self-Determination Act and Education Assistance Act ("ISDEAA") to carry out Indian Health Service programs for Alaska Natives and American Indians. After reviewing CSSB 218(FIN), SCF is concerned that the legislation, as currently drafted, will not have any impact upon lowering the incidence of sex crimes in Alaska and will also have a detrimental financial impact upon the State of Alaska, due to the tremendous costs associated with housing inmates over an extended period of time. Therefore, I am writing to urge the House Finance Committee to table the legislation for additional consideration.

I want to make clear that SCF is not attempting to minimize sexual assault crimes or the tremendous harm inflicted upon Alaskans by sex offenders. It is a large and difficult problem. However, SCF believes that there must be more time for analysis of the issues presented by CSSB 218(FIN), as well as the costs associated with this legislation. Furthermore, the Alaska Legislature must give the Alaska Native population more time to review CSSB 218(FIN), as well as additional opportunities to offer suggestions as to how the legislation should be amended to effectively address the ultimate purpose of the bill.

4501 Diplomacy Drive • Anchorage, Alaska 99508
(907) 729-4955 • Fax (907) 729-5000



For example, there is very little evidence to show that increased prison sentences have any impact on lowering the incidence of sexual offenses by deterring sex offenders from committing sex crimes in order to avoid increased prison sentences. Thus, increasing the mandatory minimum sentence may not provide significant protection to the public against sex offenders.

Sincerely,

SOUTHCENTRAL FOUNDATION



Katherine Gottlieb, MBA
President/CEO



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Con Bunde
Current Version: CSSB 218 (JUD)
Contact: Lauren Wickersham, 465-3881

Fact Sheet for: Senate Bill 218

Short Title: CRIMINAL SENTENCING AND POLYGRAPHS

Summary:

- Increases sentencing times for the most egregious Unclassified and Class A sexual felonies against a minor to a minimum sentence of 25 years.
- Increases sentencing for Unclassified and Class A sexual felonies against an adult to a minimum of 20 years.
- Restructures and increases sentencing for Class B and Class C sexual offenses.
- Requires periodic polygraph testing for sex offenders on probation and parole.
- Implements changes in sex offender registering and reporting.

Benefits:

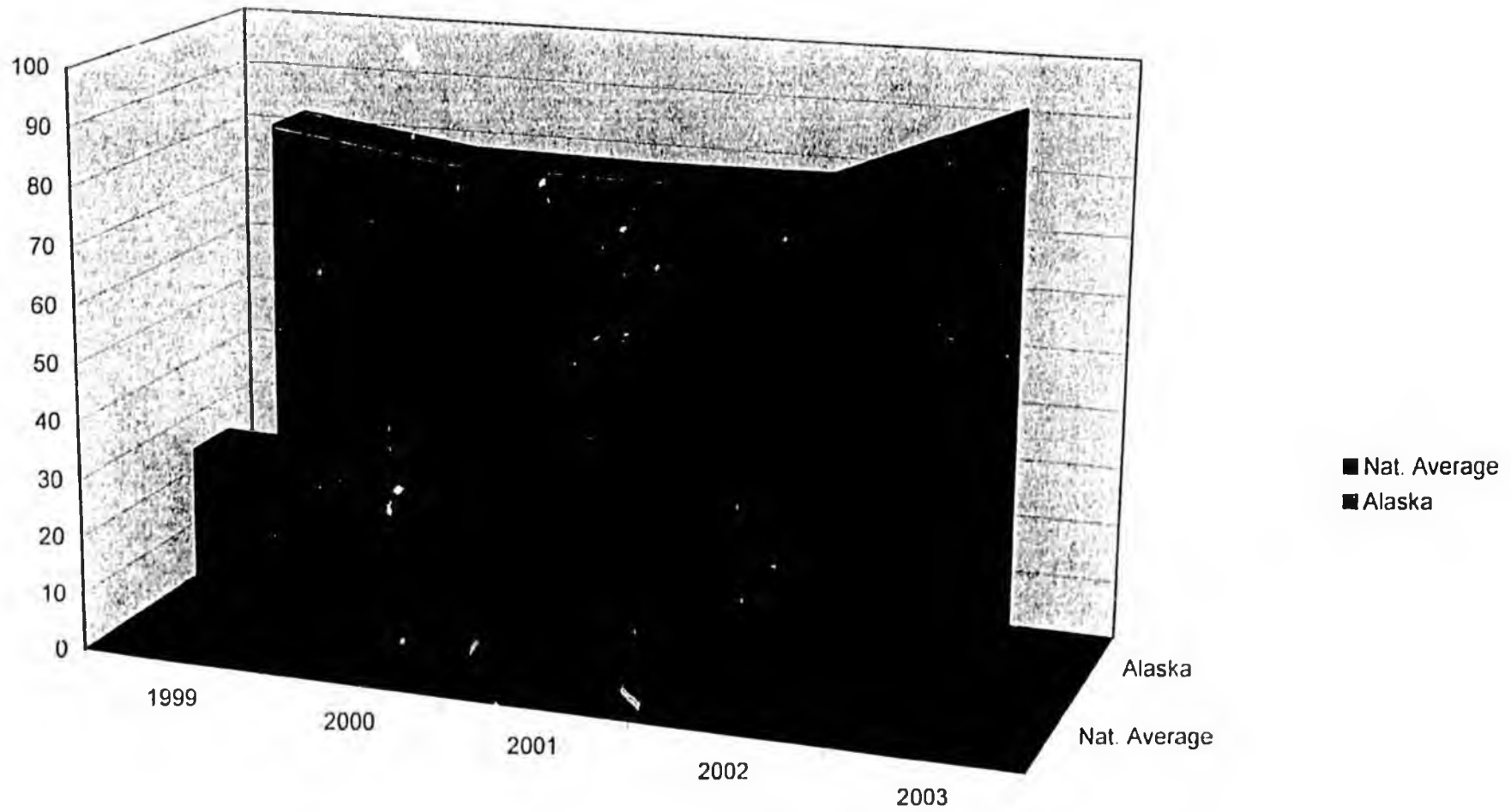
- Ensures Alaska is part of the national effort to curb sexual abuse and violence against children.
- Combats Alaska's ever-increasing sexual assault rates.
- Ensures, through longer sentences, that the most dangerous offenders are kept away from children, eventually decreasing sexual assault numbers.
- Increases compliance with probation requirements.

Background:

- According to the Federal Bureau of Investigation Uniform Crime Report, Alaska has the highest per capita rate of reported rapes ("rapes" in this case refer to child sexual abuse as well as assaults against adults). Alaska's per capita rape rate is nearly 71% greater than that of the next highest state. To date, Alaska has 4,300 registered sex offenders. However, sexual abuse reporting rates are low (16% of victims report the assault, Kilpatrick Rape in America Report, 1992) and arrest rates are also low (27% of reported sex crimes result in an arrest, Snyder, 2000). Thus, the number of sex offenders in Alaska is most likely significantly higher. While there is no record of sex offender treatment or therapy significantly affecting recidivism rates (SOTEP Report, 1995), steps can be taken to reduce sexual abuse and assault. Supervision of sex offenders with polygraph tests led to a 69% compliance with probation requirements, while supervision without polygraph tests led to a 26% compliance rate.

	First Felony	First Felony (special crimes)	Second Felony	Sex Felony with a prior sex felony	Third+ Felony	Sex Felony with two prior sex felonies	Max
Unclassified Sex Offense	(8 to 12) v< 13: 25 to 30 v>13: 20 to 30	weapon or serious injury (12 to 6) 25 to 30	(15 to 20) 30 to 40	(20 to 30) 35 to 45	(5 to 35) 40 to 60	(30 to 40) 99	99
A Felony Sex Offense	(5 to 8) v<13: 20 to 25 v>13: 15 to 25	weapon or serious injury (10 to 14) 25 to 35	(12 to 16) 25 to 35	(15 to 20) 30 to 40	(15 to 25) 35 to 50	(20 to 30) 99	(30) 99
B Felony Sex Offense	(2 to 4) 10 to 15 SFIN CS: 5-15	n/a	(5 to 8) 10 to 25	(10 to 14) 15 to 30	(10 to 14) 20 to 35	(15 to 20) 99	(20) 99
C Felony Sex Offense	(1 to 2) 1 to 12	n/a	(2 to 5) 8 to 15	(3 to 6) 12 to 20	(3 to 6) 15 to 25	(6 to 10) 99	(10) 99
<p>Numbers in parentheses are the current presumptive ranges and maximums</p> <p>Numbers in bold show the new presumptive ranges and new maximums</p>							

Forcible rapes per 100,000



	1999	2000	2001	2002	2003
■ Nat. Average	34.16538462	33.42692308	32.62115385	34.08846154	33.68846154
■ Alaska	83.5	79.3	78.9	79.4	92.5

Forcible Rapes in Western States, 2003

State	Population	Forcible Rapes	Rapes per 100,000 Inhabitants
Alaska	648,818	600	92.5
New Mexico	1,874,614	937	50.0
Washington	6,131,445	2,864	46.7
Colorado	4,550,688	1,893	41.6
Nevada	2,241,154	874	39.0
Utah	2,351,467	892	37.9
Idaho	1,366,332	508	37.2
Oregon	3,559,596	1,218	34.2
Arizona	5,580,811	1,856	33.3
Hawaii	1,257,608	367	29.2
California	35,484,453	9,994	28.2
Montana	917,621	246	26.8

Source: Federal Bureau of Investigation, *Uniform Crime Report*, Table 5: "Crime in the United States, by State, 2003;" available online at www.fbi.gov/ucr/03cius.htm.

Definitions

Sexual contact means knowingly touching, directly or through clothing, the victim's genitals, anus, or female breast; or knowingly causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast. Sexual contact does not include the following: 1) acts that may reasonably be construed to be normal caretaker responsibilities for a child, interactions with a child, or affection for a child; 2) acts performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated; or 3) acts that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services. (AS 11.81.900 (58))

Sexual penetration means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body. Each party to any of the acts described in this subparagraph is considered to be engaged in sexual penetration. Sexual penetration does not include the following: 1) acts performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical health of the person being treated; or 2) acts that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services. (AS 11.81.900 (59))

Position of authority means an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, babysitter, or a substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor. (AS 11.41.470)

Sexual act means sexual penetration or sexual contact. (AS 11.41.470)

Mentally incapable means suffering from a mental disease or defect that renders the person incapable of understanding the nature or consequences of the person's conduct, including the potential for harm to that person. (AS 11.41.470)

Incapacitated means temporarily incapable of appraising the nature of one's own conduct or physically unable to express unwillingness to act. (AS 11.41.470)

Sec. 11.41.434. Sexual abuse of a minor in the first degree.

(a) An offender commits the crime of sexual abuse of a minor in the first degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is under 13 years of age or aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person;

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian; or

(3) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.41.436. Sexual abuse of a minor in the second degree.

(a) An offender commits the crime of sexual abuse of a minor in the second degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, or 15 years of age and at least three years younger than the offender, or aids, induces, causes or encourages a person who is 13, 14, or 15 years of age and at least three years younger than the offender to engage in sexual penetration with another person;

(2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455

(a)(2) - (6); or

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the second degree is a class B felony.

Sec. 11.41.438. Sexual abuse of a minor in the third degree.

(a) An offender commits the crime of sexual abuse of a minor in the third degree if

(1) being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender;

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim; or

(3) being under 16 years of age, the offender engages in sexual penetration with a person who is under 13 years of age and at least three years younger than the offender.

(b) Sexual abuse of a minor in the third degree is a class C felony.

Sec. 11.41.440. Sexual abuse of a minor in the fourth degree.

(a) An offender commits the crime of sexual abuse of a minor in the fourth degree if

(1) being under 16 years of age, the offender engages in sexual contact with a person who is under 13 years of age and at least three years younger than the offender; or

(2) being 18 years of age or older, the offender engages in sexual contact with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the fourth degree is a class A misdemeanor.

Sec. 11.41.410. Sexual assault in the first degree.

(a) An offender commits the crime of sexual assault in the first degree if

(1) the offender engages in sexual penetration with another person without consent of that person;

(2) the offender attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;

(3) the offender engages in sexual penetration with another person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the state; or

(4) the offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual assault in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.41.420. Sexual assault in the second degree.

(a) An offender commits the crime of sexual assault in the second degree if

(1) the offender engages in sexual contact with another person without consent of that person;

(2) the offender engages in sexual contact with a person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the state;

(3) the offender engages in sexual penetration with a person who the offender knows is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed; or

(4) the offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual assault in the second degree is a class B felony.

Sec. 11.41.425. Sexual assault in the third degree.

(a) An offender commits the crime of sexual assault in the third degree if the offender

(1) engages in sexual contact with a person who the offender knows is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed;

(2) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or

(3) engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person.

(b) Sexual assault in the third degree is a class C felony.

Sec. 11.41.427. Sexual assault in the fourth degree.

(a) An offender commits the crime of sexual assault in the fourth degree if

(1) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or

(2) the offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person.

(b) Sexual assault in the fourth degree is a class A misdemeanor.

Sec. 11.41.430. Sexual assault in the third degree. [Repealed, Sec. 10 ch 78 SLA 1983. For current law, see AS 11.41.420 (a)(2)].

Repealed or Renumbered

Sec. 11.41.432. Defenses.

(a) It is a defense to a crime charged under AS 11.41.410 (a)(3), 11.41.420(a)(2), 11.41.420(a)(3), or 11.41.425 that the offender is

(1) mentally incapable; or

(2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.

(b) Except as provided in (a) of this section, in a prosecution under AS 11.41.410 or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant.



Forcible Rapes Increased 21.7%

**Reported rapes in Alaska
increased 21.7% from 2000 to
2003**

Although greatly underreported, there were 521 reported forcible rapes and 54 reported attempted rapes in 2003.

There are approximately 4300 registered sex offenders in Alaska communities.

Alaska Dept. of Public Safety Uniform Crime Reporting

Only 16% of victims
in the
Rape in America
study reported
the rape.

Kilpatrick, et al., 1992. Medical University of South Carolina.
N=4008 *Rape in America: A Report to the Nation.*

Arrest Rates are Low

27% of reported
sex crimes resulted
in an arrest

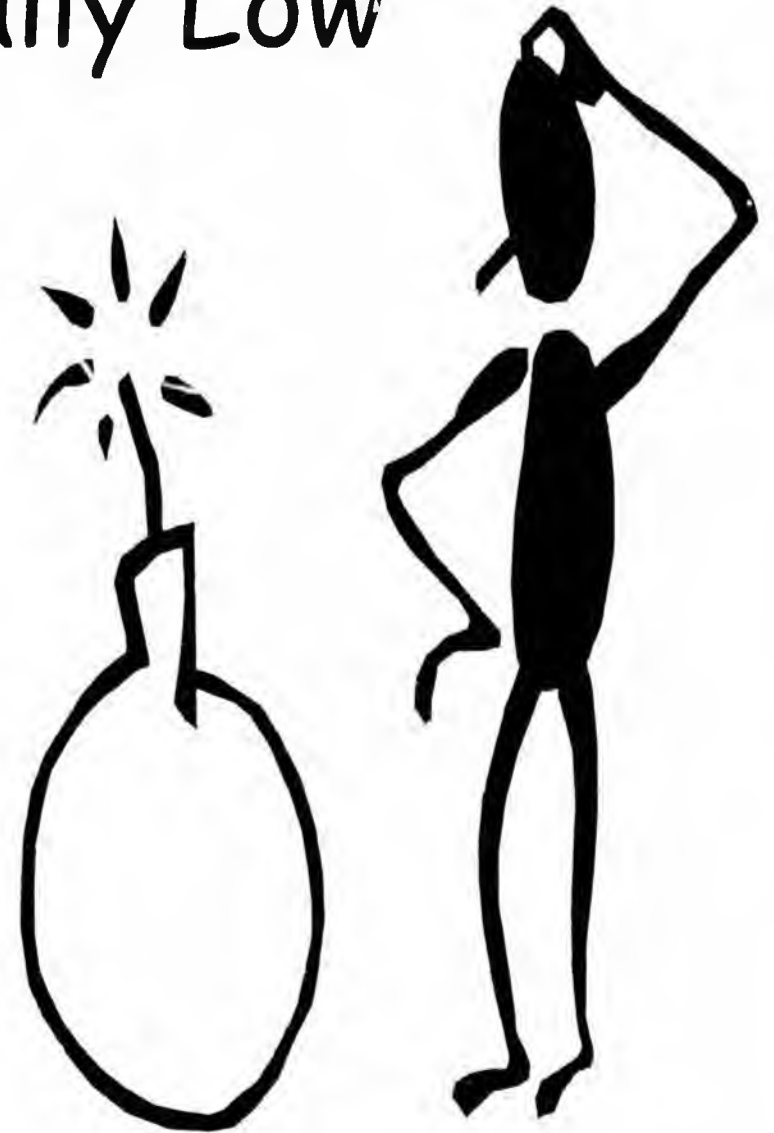


NIBRS 1991-1996, Snyder, 2000

In Colorado, between 1994-98, 54%-70% of those charged with a felony sex crime were convicted of a sex crime.

Sex Offender Recidivism Rates: Artificially Low

- Incest: 4-10%
- Rapists: 7-35%
- Child Molesters with female victims: 10-29%
- Child Molesters with male victims: 13-40%
- Exhibitionists: 41-71%



Crossover Admissions Pre & Post Polygraph N = 223

(Heil, Ahlmeyer, Simon, 2003)

Type of Crossover	Official records	Admissions after Treatment and polygraph testing
Both Adult & Child Victims	7.2%	70.0%
Both Male & Female Victims	8.5%	35.9%
Victims from 2 or more Relationship types	16.6%	79.8%

Secrets Revealed

Polygraph Research at the Colorado DOC Comparing Court Information v. Polygraph

	<u># of victims</u>	<u># of offenses</u>
Information at Sentencing	2 (1)	7 (1)
Sex History	83 (21)	394 (50)
1 st Polygraph	165 (24)	511 (95)
2 nd Polygraph	184 (26)	528 (95)

Alhmeyer et al., 2000, studied 35 sex offenders in treatment and polygraph testing at the CO Dept. of Corrections. Average admissions (median) of contact & noncontact offenses

Polygraph Research at the Colorado DOC

Comparing Court Information v. Polygraph

Admissions of Hands-on Crossover Offending

223 Sex Offenders Participating in SOTMP TC at the Colorado Department of Corrections

<u>Type of Crossover</u>	<u>Court</u>	<u>Polygraph</u>
Adult & Child Victims	7%	70%
Male & Female Victims	9%	36%
Multiple Relationships	20%	86%

Polygraph as a Deterrent



Abrams and Ogard, 1986

Studied the deterrent effect of polygraph on offenders on probation:

- Supervision **with** polygraph - **69%** successful compliance with probation
- Supervision **without** polygraph - **26%** successful compliance with probation

180 convicted sex offenders on probation and parole in TX, WI, OR

Current Conviction Crime: Incest

n=80

Ever assaulted:...



Assaulted strangers	35%
Assaulted from position of trust	57%
Assaulted adult victims	36%

Average Age of Onset

<u>Study</u>	<u>Type of Offender</u>	<u>Age of Onset</u>
Freeman-Longo(1985)	Rapist	18
	Child Molester	15
Elliot (1984)	Juvenile Rapists	16 peak
Emerick & Dutton(1993)	Juvenile Child Molesters	13 median
Ahlmeyer et al.(2000)	Inmates	12
English et al.(2001)	Supervised on Parole or Probation	12

Average Lag Time in Detection

<u>Study</u>	<u>Type of Offender</u>	<u># of Years</u>
Freeman-Longo (1985)	Rapist	6
	Child Molester	13
Elliot (1986)*	Paraphiliacs	10
Ahlmeyer et al.(2000)	Rapists and Child Molesters	16

Effects of a Relapse Prevention Program on Sexual Recidivism: Final Results From California's Sex Offender Treatment and Evaluation Project (SOTEP)

Janice K. Marques,¹ Mark Wiederander,^{1,3} David M. Day,¹ Craig Nelson,² and Alice van Ommeren¹

Final results from a longitudinal investigation of the effectiveness of cognitive-behavioral treatment with sexual offenders are presented. The study was a randomized clinical trial that compared the reoffense rates of offenders treated in an inpatient relapse prevention (RP) program with the rates of offenders in two (untreated) prison control groups. No significant differences were found among the three groups in their rates of sexual or violent reoffending over an 8-year follow-up period. This null result was found for both rapists and child molesters, and was confirmed in analyses using time to reoffense as the outcome and those controlling for static risk differences across the groups. Closer examination of the RP group's performance revealed that individuals who met the program's treatment goals had lower reoffense rates than those who did not. Although our results do not generally support the efficacy of the RP model, they do suggest a number of ways in which this kind of treatment program can be improved. This study also emphasizes the importance of including appropriate control groups in treatment outcome research. Additional controlled investigations are needed to address the many questions that remain about when and how treatment works for sexual offenders.

KEY WORDS: randomized clinical trial; sexual offender treatment; relapse prevention; treatment outcome; recidivism.

¹California Department of Mental Health, Sacramento, California.

²Atascadero State Hospital, Atascadero, California.

³To whom correspondence should be addressed at California Department of Mental Health, 1600 Ninth Street, Sacramento, California 95814, e-mail: mwieder@dmhbj.state.ca.us.

Fifteen years ago, Furby, Weinrott, and Blackshaw (1989) conducted a thorough review of existing studies of sexual offender treatment, and concluded that, "There is as yet no evidence that clinical treatment reduces rates of sex offenses in general and no appropriate data for assessing whether it may be differentially effective for different types of offenders" (p. 27). They also called upon researchers and funding agencies to devote the time and resources necessary to conduct methodologically sound investigations of sexual offender recidivism and efforts to reduce it through treatment.

Since that time, dozens of outcome studies have been completed, many of which have found significant reductions in recidivism among treated groups (e.g., Borduin, Schaeffer, & Heilblum, 2000; Huot, 2002; Looman, Abracen, & Nicholaichuk, 2000; McGrath, Cumming, Livingston, & Hoke, 2003; Nicholaichuk, Gordon, Gu, & Wong, 2000; Zgoba, Sager, & Witt, 2003). As a result, recent reviews and meta-analyses have come to more optimistic conclusions about treatment effects (e.g., Craig, Browne, & Stringer, 2003; Gallagher, Wilson, Hirschfield, Coggeshall, & MacKenzie, 1999; Grossman, Martis, & Fichtner, 1999), and there appears to be a growing consensus that current treatment approaches can indeed lower an offender's risk of sexual reoffense. Perhaps the strongest evidence of this comes from the recent collaborative outcome data project conducted by Hanson et al. (2002). Although few of the studies in this meta-analysis used true randomized designs, data were included from a wide range of treatment programs and a total of over 9,000 sexual offenders. Overall, the sexual reoffense rate was lower for the treated offenders (12.3%) than for those in the comparison groups (16.8%). More importantly, studies of contemporary treatment approaches (cognitive behavioral or systemic) reported a reduction in sexual recidivism from 17.4 to 9.9%.

Despite this developing sense of optimism about sexual offender treatment, not everyone in the field is convinced. For example, Rice and Harris (2003) reviewed the studies in the Hanson et al. (2002) meta-analysis and indicated that most had designs that were too weak to support conclusions about treatment effects. Others (Berliner, 2002; Prentky, 2003) have emphasized that important questions remain about the size, significance and stability of treatment effects over time, and about whether current research results can be generalized to the highest risk offenders. Even those reporting positive findings have pointed out significant gaps in our knowledge base and have called for vigorous research to improve our understanding of how and when sexual offender treatment works (Gallagher et al., 1999; Hanson et al., 2002).

The study described here, California's Sex Offender Treatment and Evaluation Project (SOTEP), was a longitudinal investigation that was specifically designed to add to our developing knowledge base on treatment effectiveness. By rigorously testing the impact of a contemporary treatment approach on sexual offenders who volunteered for treatment, we hoped to provide at least some answers to the question, "What kinds of treatment work for what kinds of

offenders under what conditions?" This project represents the first true randomized trial of modern cognitive-behavioral approaches with incarcerated adult sexual offenders.

OVERVIEW OF SOTEP

In the early 1980s, the California State Legislature ended the state's Mentally Disordered Sex Offender commitment program and required that a new state hospital program be established for sexual offenders who volunteered for treatment during the last 2 years of their prison terms (California Laws, 1981). It was further mandated that this was to be a small (less than 50 beds) program that was "established according to a valid experimental design in order that the most effective, newest and promising methods of treatment of sex offenders may be rigorously tested." (California Laws, 1981, 1982). These requirements, along with the fact that there were over 16,000 sexual offenders in California prisons at the time, provided the conditions under which a random assignment study of treatment effectiveness could be conducted.

In 1984, the California Department of Mental Health's proposal for the innovative treatment program and its evaluation was accepted and subsequently funded by the Legislature. Important features of this new project included (a) an experimental design that included random assignment of volunteers to either treatment or no-treatment conditions; (b) an intensive, cognitive-behavioral inpatient treatment program designed specifically to prevent relapse among sexual offenders; (c) a 1-year aftercare program in the community; and (d) a program evaluation that measured both in-treatment changes and long-term outcomes, including a follow-up period in which recidivism rates for treated and untreated participants were tracked for at least 5 years. SOTEP's treatment program operated at Atascadero State Hospital from 1985-1995; data collection for the program evaluation began in 1985 and continued for 6 years after the treatment unit closed.

Although we have published findings from several earlier panels of outcome data (Marques, Day, Nelson, Miner, & West, 1991; Marques, Day, Nelson, & West, 1994; Marques, Nelson, West, & Day, 1994; Marques, 1999), these have been in the form of preliminary studies or progress reports. The analyses that we present here are based on the last panel of SOTEP outcome data (collected in 2001), and represent our final results.

METHOD

Design

The impact of SOTEP's treatment program was determined by comparing the postrelease activities of three matched groups of participants:

Relapse prevention (RP) group. Sexual offenders who volunteered to participate and were randomly assigned to treatment at Atascadero State Hospital.

Volunteer control (VC) group. Sexual offenders in prison who volunteered but were randomly selected for no treatment. This was the primary comparison group for the treatment outcome study.

Nonvolunteer control (NVC) group. Inmates who qualified for the project but chose not to participate. This was a secondary comparison group that allowed us to track sexual offenders who did not want treatment as well as those who did.

Procedure

Study participants were involved in four phases of the project:

Selection

Between 1985 and 1994, SOTEP staff regularly visited California prisons to identify and interview eligible inmates, and to collect background information from their records. In the interview, the study's methods were explained (including the randomized group assignments, the program's assessment and treatment methods, and the program evaluation data to be collected), a brief mental status exam was conducted, and consent forms were signed by inmates who agreed to participate. Then, pairs of those who volunteered were matched on the variables of age (over or under 40 years), criminal history (prior felony conviction or not), and type of offender (rapist, molester with male victim, molester with female victim, or molester with victims of both sexes). One member of each matched pair was then assigned at random to the RP group, and the other assigned to the VC group. Matched offenders for the NVC group were selected later, also at random, from the pool of inmates who did not volunteer for the study.

Treatment

During this phase, members of the treatment group participated in an intensive 2-year treatment program at Atascadero State Hospital, a licensed and JCAHO accredited secure forensic treatment facility in California's central coast region. Members of the two control groups remained in prison and did not receive any treatment services from project staff. It should also be noted that although California prisons employed clinicians and offered some counseling to inmates (such as anger management and substance abuse groups), there was no organized sexual offender treatment program in the state's Department of Corrections during the time that SOTEP's program operated (1985-1995). Shortly before their release from either hospital or prison, all study participants were scheduled for

an interview with SOTEP research staff, and were asked to complete several assessment measures.

Aftercare

Following their hospital stays, RP group members participated in the Sex Offender Aftercare Program (SOAP) for 1 year. These services, which were provided in the offender's community by contract clinicians who were trained in RP by SOTEP clinical staff, were a condition of the participants' parole. This meant that failure to attend SOAP could result in a parole revocation and return to prison. Members of the two control groups were also supervised by parole agents after their release from prison. With the exception of several small pilot programs during the 1990s, the Department of Corrections had no sexual offender treatment programs for inmates leaving prison during our study period. At the end of the aftercare phase, SOTEP research staff conducted interviews with all RP group members and with control group members who volunteered to be interviewed.

Follow-Up

This phase overlapped the aftercare phase, and continued until the end of June 2000, when all but a few study participants had been at risk for at least 5 years. During follow-up, SOTEP staff regularly reviewed a variety of official records on all participants and recorded new offense information. Because of the lag in the posting of reoffense data, it was necessary to continue data collection into 2001 to detect all of the reoffenses that had occurred during the follow-up period. In addition to official record information, we collected some follow-up information from interviews with participants during this period.

Participants

All of the sexual offenders in this study were men from institutions within the California Department of Corrections, where they were serving sentences for child molestation or rape. Inmates who had offended in concert (e.g., gang rape) or only against their biological children (incest) were excluded from eligibility. In addition, participation was limited to inmates who (a) were within 18-30 months of release, (b) were between the ages of 18 and 60 years, (c) had no more than two felony convictions prior to their instant offenses, (d) admitted committing a sexual offense, (e) did not have pending immigration holds or felony warrants, (f) had estimated IQs above 80, (g) spoke English, (h) did not have a psychotic or organic mental condition, (i) were not so medically debilitated as to require skilled nursing care, and (j) had not presented severe management problems in prison.

Over the course of the project, SOTEP collected information from the prison records of over 1,400 men who were eligible for the study. Nearly three quarters (72.4%) of the eligibles were serving terms for child molestation, and the remainder (27.6%) were convicted rapists. Approximately one third of the eligible inmates interviewed for the project volunteered to participate. Although the most common reasons inmates gave for volunteering were to understand themselves or get help for their problems, discomfort as sexual offenders in prison was also reported as a factor. Similarly, although many of the nonvolunteers indicated that they did not want treatment, others refused because they had good job assignments, were located near family, or did not want to become state hospital patients. Overall, volunteers did not differ from the nonvolunteers on demographic and criminal history factors, with the exception of offender type. Child molesters were more likely to volunteer than rapists, $\chi^2(1, N = 1407) = 10.67, p = .001$; among child molesters, those with male victims were more likely to volunteer than those with female victims or victims of both sexes, $\chi^2(2, N = 1018) = 6.98, p = .030$.

Our study sample consisted of 704 offenders: 259 assigned to the treatment (RP) condition, 225 assigned to the volunteer control (VC) condition, and 220 selected for the nonvolunteer control (NVC) condition. Differences in the *n*'s were due primarily to RP group attrition, which is addressed below. In terms of offender types, each of the three groups was approximately 50% molesters with female victims, 20% molesters with male victims, 8% molesters with female and male victims, and 22% rapists (with adult victims). Over a third (39.9%) of the sample had prior felony convictions, 22.4% had prior arrests for sexual crimes, and 18.4% had prior convictions for sexual crimes. The major racial/ethnic groups were White (70.2%), African American (15.2%), and Hispanic/Latino (12.6%). The RP group did not differ from the control groups except that (a) more (12.8%) of the RP group members had previously been committed for treatment as mentally disordered sex offenders (MDSOs) than had the control group members (6.4%), $\chi^2(1, N = 694) = 8.20, p = .004$; and (b) a larger proportion (66.3%) of the RP group members were unmarried than were control group members (58.7%), although this difference did not quite reach significance, $\chi^2(1, N = 680) = 3.81, p = .051$.

Attrition

A total of 259 individuals were randomly assigned to the treatment (RP) condition. Of these, 55 withdrew their consent after they learned of their selection but before they were transferred to Atascadero State Hospital. Of the 204 men admitted to the treatment program, 167 (82%) completed their sentences there and were discharged to our aftercare program. The remaining 37 (18%) did not complete the program; 27 of these voluntarily withdrew and 10 were returned to prison because they presented severe management problems in the hospital. The 37 dropouts consisted of 24 child molesters and 13 rapists. Fourteen of the

dropouts (10 child molesters and 4 rapists) left the program before completing 1 year of treatment (approximately half of the program); another 23 (14 child molesters and 9 rapists) left after completing over 1 year of treatment.

Comparisons between the 167 treatment completers and the 37 dropouts revealed that they did not differ significantly on our measures of static risk (described in the section on covariates below) or treatment need (described in the section on treatment subgroups below), or on demographic variables other than age. We did find that treatment dropouts were significantly younger than completers (34.1 years vs. 37.4 years), $t(202) = 2.25$, $p = .025$ (two-tailed). The dropout rate for rapists (27%) was higher than that for child molesters (15%), but this difference did not reach statistical significance, $\chi^2(1, N = 204) = 3.38$, $p = .065$. Within the dropout group, comparisons between those who left the program early (before a year) and those who left late (after a year) revealed no significant differences on static risk, level of treatment need, psychopathy, age, or any other demographic variables.

For our comparison groups, 225 of the volunteers were assigned to the VC group, and 220 were selected from the pool of nonvolunteers to be the NVC group. None of the control participants dropped out of the study.

As we have noted previously (Marques, Day, et al., 1994) we have been concerned about attrition in our treatment sample since the study began, and have attempted to minimize its impact on our design. First, we tried to limit the number of treatment dropouts by terminating participation only when an individual created severe management problems in the hospital (such as serious contraband violations, assaultive behavior, or interfering with the treatment of others).

Men who were not disruptive, even if their progress was not substantial, were retained in the RP group. We gave participants who asked to leave the program 24 hr in which to reconsider their decision and stay in treatment. We also decided early in the study to retain in the RP group those participants who left the program after receiving a substantial dose of treatment (1 year, about half of the program). Finally, 4 years into the study we changed our selection-phase procedure to minimize the design problems caused by participants dropping out of treatment before they arrived at the program. From that point on, control group members were not matched to RP group members until the treatment participant was actually transferred to the program.

Despite these attempts, we still had a number of RP group members who dropped out of the study before they received a substantial dose of our intervention. Our method for handling this problem is described in the Results section below.

Treatment Program

From the beginning (Marques, 1984), SOTEP was designed to provide a comprehensive cognitive-behavioral treatment program that was based on our

adaptation (Marques, 1982) of Marlatt's RP model (Marlatt, 1980; Marlatt & Gordon, 1985). The program embraced the basic theoretical concepts of RP, emphasized the long-term risk of reoffending, and explicitly targeted the problem of relapse. All of the program's components, which included a variety of cognitive, behavioral and skill-training elements, were organized around the RP framework. Both assessment and treatment procedures focused on the individual's specific risk factors for reoffense, from broad lifestyle factors and cognitive distortions to deviant sexual arousal patterns and deficits in coping skills. Overall, the program's goals were to have participants show (a) an increased sense of personal responsibility and decreased use of justifications for sexual deviance; (b) a decrease in deviant sexual interests; (c) an understanding of, and ability to apply, the basic concepts and techniques of RP; (d) an improved ability to identify high-risk situations, and (e) better skills in the areas of avoiding and coping with high-risk situations.

SOTEP's primary treatment structure was the core RP group, which met for three 90-min sessions each week throughout the program. This highly structured group was the setting in which each participant's cognitive-behavioral offense chain was constructed and was used to identify the risk factors and patterns that his RP program needed to address. Core group members worked on accepting responsibility for their offenses, modifying their cognitive distortions, examining how they set up their past crimes and learning what they had to do differently to avoid reoffense.

In addition to this intensive group work, RP group members participated in other components that addressed factors associated with sexual offending. The project's specialty groups were designed to provide the specific knowledge, attitudes and skills that the offender needed to identify and cope with potential high-risk situations. These included groups on sex education, human sexuality, relaxation training, stress and anger management, and social skills. All participants also completed a prerelease class designed to prepare them for "life on the streets" and were scheduled for weekly individual sessions with their assigned clinicians and nursing staff. Other program components were offered on a prescriptive basis. Participants with significant alcohol or drug abuse histories (about 69% of the treated group) were required to complete an RP-based substance abuse group. Individuals who showed patterns of deviant arousal in their phallometric assessments were offered behavioral treatment, usually olfactory aversion or orgasmic reconditioning. To maintain consistency and fidelity in the program, all treatment services (with the exception of individual sessions) were guided by manuals that specified the goals and treatment procedures for the group sessions, as well as the homework assignments to be completed by participants. All group sessions were videotaped; the tapes were randomly selected and reviewed in clinical supervision sessions, but program fidelity was not formally monitored in the program.

Measures

In-Treatment Measures

RP group members completed a variety of psychological tests and other instruments during their hospital stays, including pre-post tests in specialty groups and a battery of measures at intake and release from the program. Some of these were used primarily by clinicians for treatment planning, some were used to evaluate specific treatment components, and others were used to determine if RP group members were reaching the overall treatment goals described above (see Marques et al., 1991 for a complete description of the instruments used). For the outcome study presented here, only measures directly related to treatment needs and goals were considered. These included (a) one pretreatment self-report, SOTEP's motivational questionnaire; (b) two pre-post tests, phallometric assessment of deviant sexual interests and the Multiphasic Sex Inventory (MSI; Nichols & Molinder, 1984); and (c) two posttreatment measures, clinician ratings of how well the participant performed on two RP exercises. Although data from another pre-post measure, the Sex Offender Situational Competency Test (Miner, Day, & Nafpaktitis, 1989) were collected, they had not been coded and analyzed in time for inclusion here.

Outcome Measures

Study participants were followed in the community for a minimum of five and a maximum of 14 years. In each year of follow-up, we collected data from both the FBI and the California Department of Justice concerning criminal activity ("rap sheets") and from the state's Department of Corrections concerning parole violations and returns to prison. When there were indications that an offense had occurred, we attempted to obtain the actual arrest and investigation reports that described the crime. Staff then rated the offense descriptions along a number of dimensions, including certainty that the offense occurred, type of offense (sexual, other violent, or other), and various levels of offense severity. Interrater agreements from year to year were evaluated using randomly selected samples of cases with reoffense activity. The overall agreements for the ratings were acceptable (89% for offense type, 100% for certainty of offender guilt, and 84% for sexual offense severity).

Possible sexual offenses were categorized as "hands on" (e.g., child molestation, rape, attempted rape), "hands off" (e.g., possession of child pornography, propositioning a minor, indecent exposure) or "high-risk behavior" (e.g., being in the presence of minors or loitering, behaviors that we considered risky or possible offense precursors but that were not sexual offenses per se). In the analyses presented here, "sexual reoffenses" included both hands-on and hands-off behaviors,

but did not include the group of high-risk behaviors. In terms of offense certainty, we only included crimes that were rated as at least "possible." In some cases then, offenses were counted if there was evidence that the crime occurred, even if charges were dropped or the offender was returned to custody for violating his parole conditions.

RESULTS

Our final panel of SOTEP data was analyzed in several steps. First, we conducted a set of main effects analyses, comparing the reoffense rates of our treated participants with those of our two control groups. We started with broad analyses that included treatment dropouts as well as completers, and used both sexual recidivism and nonsexual violent recidivism as outcomes. Next, we narrowed our focus to the major outcome of interest, sexual reoffending, and looked more closely at our groups and outcomes to determine if there were some types of offenders that did better with treatment, and if there were differences in the severity of the offenses that were committed by treated and untreated offenders. We also determined if our experimental groups differed in terms of their reoffense risk, and conducted main effects analyses that took levels of risk into account by including a measure of static risk as a covariate. Finally, we examined effects that were unique to the treatment group. The focus here was on our in-treatment measures, specifically whether they predicted outcome and whether they could be combined to identify subgroups of offenders who were more likely to succeed after discharge.

Main Effects Analysis

Table 1 presents the reoffense rates for all SOTEP study groups, with the group assigned to RP broken down into several subgroups: (a) those who withdrew before transfer to the treatment program, (b) those who left treatment before 1 year, and

Table 1. Sexual and Violent Reoffense Rates for All Study Groups

Group	n	Years at risk	Sexual reoffense	Violent reoffense
		M	%	%
Relapse prevention (all assigned)	259	8.3	22.0	16.2
Withdrew prior to treatment	55	7.9	20.0	12.7
Relapse prevention < 1 year	14	8.4	35.7	28.6
Relapse prevention ≥ 1 year	190	8.4	21.6	16.3
Volunteer control	225	8.4	20.0	11.6
Nonvolunteer control	220	8.3	19.1	15.0

Note. Relapse prevention group is broken down to show various subgroups that resulted from attrition.