

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3240

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB307-DOC-IDO-03-13-08
() Publish Date: _____

Identifier (file name): HB307-DOC-IDO-02-27-08 Dept. Affected: Corrections
Title: "Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU: Population Management
Sponsor: Representatives: Holmes, Gara, Dahlstrom, Fairclough, Johnson, Bi Component: Institution Director's Office
Requester: House Judiciary Component Number: 524

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	0.0	71.7	143.4	215.1	
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Contractual	0.0	0.0	806.7	3,009.4	6,049.2	9,273.3	11,396.9	
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL OPERATING	0.0	0.0	806.7	3,009.4	6,120.9	9,416.7	11,612.0	

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

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
1004 GF	0.0	0.0	806.7	3,009.4	6,120.9	9,416.7	11,612.0	
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL	0.0	0.0	806.7	3,009.4	6,120.9	9,416.7	11,612.0	

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	0	0	0	0	1	2	3
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will have an impact on the Department of Corrections.

The department has calculated costs associated with the potential increase in mandays based on a blended rate (average of in-state and out-of-state daily bed rates) of \$85.00 per day.

(See page 2)

Prepared by: Sharleen Griffin, Director
Division: Administrative Services
Approved by: Dwayne Peepies, Deputy Commissioner
Department of Corrections

Phone: (907) 465-3339
Date/Time: 3/13/08 2:00 PM
Date: 3/13/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB307-DOC-IDO-03-13-08

ANALYSIS CONTINUATION

One additional Adult Probation Officer position with support costs will be necessary when the total crime legislation increases the offender population by 80. The estimated cost for each required position is \$85,600.

Offender population is based on the Courts information reflecting 250 misdemeanor crimes that have the potential to become felony cases. In FY2007, the Courts reflected a 76% conviction rate of felony cases.

The Department of Corrections anticipates an impact of approximately 190 cases annually. This reflects an increase of the offender population with passage of this legislation as:

Anticipated offender growth impact :
Increased manydays :

	2009	2010	2011	2012	2013	2014
Total Annual Offender Count :	0	26	97	194	298	366
Increased Mandays :	0	9,490	35,405	71,004	108,770	133,590

*First year is -0- ... offender would have been incarcerated under existing legislation.
These offenders would carry forward 2nd year of sentencing.*

Estimated annual costs :

Blended Daily bed rate w/o annual adjustment \$85.00

Annual Incarceration Costs :	\$0	\$806,650	\$3,009,425	\$6,035,340	\$9,245,450	\$11,355,150
Probation Officer Costs :	\$0	\$0	\$0	\$85,600	\$171,200	\$256,800
Total Annual Costs :	\$0	\$806,650	\$3,009,425	\$6,120,940	\$9,416,650	\$11,611,950

PO PFT :	0	0	0	1	2	3
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FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: Draft CSHB307 III
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: Alaska Court System
 Title: Crimes of Domestic Violence RDU: Trial Courts
 Component: Trial Courts
 Sponsor: Representative Holmes
 Requester: House Finance Committee Component Number: 768

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services			12.3	31.2	49.4	68.3	74.0
Travel			0.4	1.0	1.7	2.3	2.5
Contractual			10.9	24.2	37.4	50.7	55.1
Supplies			6.0	3.0	3.0	3.0	3.0
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	29.6	59.4	91.5	124.3	134.6

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

1002 Federal Receipts							
1003 GF Match							
1004 GF				59.4	91.5	124.3	134.6
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	59.4	91.5	124.3	134.6

Estimate of any current year (FY2008) cost: _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Draft CSHB 307(FIN) will make a misdemeanor, domestic violence, physical crime against a person (assault in the fourth degree) a class C felony if the defendant has been convicted two or more time of DV crimes against a person within the past ten years. The predicate crimes include assault crimes under AS 11.41.100 - 289 (excluding the non-physical crimes), most municipal assault cases, stalking in the first degree, and most sexual assault crimes under AS 11.41.410 - 125.

Continued on page 2.

Prepared by: Doug Wooliver, Administrative Attorney
 Division: Alaska Court System
 Approved by: Stephanie Cole
Administrative Director

Phone: 907-463-4750
 Date/Time: 3/13/08 10:16 AM
 Date: 3/13/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. Draft CSHB 307 III

ANALYSIS CONTINUATION

Our records show that had this law been in place in calendar year 2007 the court would have seen approximately 250 misdemeanor crimes charged as felonies. Because felony crimes are more expensive and time-consuming than misdemeanor crimes, this bill will impact the court system.

This bill is prospective in that the only prior convictions that will apply will be those that occur on or after the effective date of this Act. Based on a study of their current population, the Department of Corrections estimates that the criminal justice system will see approximately 14% of these new felony offenders in FY 2010, 23% in FY 2011, 27% in both FY 2012 and 2013, and 6% in FY 2014.

This fiscal note reflects the cost of additional superior court judicial and clerical time as well as additional juror costs.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: HB307-LAW-CRIM-02-20-08
Bill Version: HB307
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: LAW
Title An Act relating to crime: of domestic violence. RDU Criminal
Component Criminal Justice Litigation
Sponsor REPRESENTATIVE(S) HOLMES
Requester HOUSE FINANCE Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	132.2	0.0	132.2	132.2	132.2	132.2	2
Travel	2.2		2.2	2.2	2.2	2.2	2.2
Contractual	2.5		1.0	1.0	1.0	1.0	1.0
Supplies							
Equipment	6.5		0.0	0.0	0.0	0.0	0.0
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	142.9	0.0	135.4	135.4	135.4	135.4	135.4

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match.							
1004 GF	142.9	0.0	135.4	135.4	135.4	135.4	135.4
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	142.9	0.0	135.4	135.4	135.4	135.4	135.4

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	1.0	0.00	1.0	1.0	1.0	1.0	1.0
Part-time							
Temporary							

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

Prepared by: Robert Meiners, Administrative Services Manager
Division: Administrative Services Division
Approved by: Talis Colberg, Attorney General
Department of Law

Phone: 907.465.5427
Date/Time: 2/20/08 11:45 AM
Date: 2/20/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB307

ANALYSIS CONTINUATION

HB 307 would make a third misdemeanor domestic violence crime against a person a class C felony if the defendant has already been convicted of two or more domestic violence crimes against a person.

This bill will have a fiscal impact upon the Department of Law. HB 307 makes any chapter 41 misdemeanor domestic violence, a C felony, if a person has committed two or more crimes against a person which are also domestic violence crimes. There is no limitation in HB 307 on how far back in time these domestic violence crimes occurred. The bill indicates it will have a retroactive effect. HB 307 applies to domestic violence crimes.

This bill increases the classification of the offense to a C felony. C felony cases are generally more expensive than misdemeanor cases. The Department of Law believes the fiscal impact for the Department will be \$142.9.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 307
() Publish Date: _____

Identifier (file name): HB307-DPS-DET-02-19-08 Public Safety
Title "An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU Alaska State Troopers
Component AST Detachments
Sponsor Representative Holmes
Requester House Finance Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	0.0

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

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*
This bill imposes enhanced penalties for certain domestic violence offenses under AS 11.41. If a person has been previously convicted on two or more separate qualifying offenses, then the crime and penalty are increased to a class C felony.

Passage of this legislation will not increase the number of arrests made or cases referred for prosecution. This bill will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial Phone 907-269-5591
Division: Alaska State Troopers Date/Time 2/19/08 3:47 PM
Approved by: Walt Monegan, Commissioner Date 2/19/2008
Department of Public Safety

**Representative
Lindsey Holmes**

Capitol Room 405
465-4919
465-2137 fax



MEMORANDUM

Date: 14 March 2008

To: Representative Kevin Meyer, Co-Chair
House Finance

From: Rep. Lindsey Holmes

RE: **HB 307 Changes in new CS**

I would like to clarify the changes that have been made in the new CS of the bill. These changes were made to address the concerns of some finance committee members, as well as the Department of Law, the Public Defender Agency and the Office of Public Advocacy.

- The bill is now prospective only, this means all three convictions would need to occur after the effective date of the bill.
- The bill now has a 10 year lookback, so all three convictions will need to occur within 10 years of each other.
- Due to the 10 year lookback, we have added language to clarify the date on which a conviction is considered to have occurred (the date sentence is imposed).
- Now the first two "strikes" need to be convictions of felonies or 4th degree physical assaults. This eliminates "fear" assaults, reckless endangerment and other misdemeanors as "strikes".
- The mechanism of the bill has changed slightly. Instead of the third strike making 4th degree assault a felony, the bill now makes the third strike an assault in the 3rd degree, which is already a felony.

- The bill now counts convictions in other jurisdictions as "strikes". This will allow municipal assault convictions to count as strikes now.
- We have limited the definition of a household member (which is defined in AS 18.65.990[5]) to exclude "adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law." The fourth degree of consanguinity would include cousins and great uncles, for example, which is too broad.

If you have any questions, please let us know. Thank you.

adopted 3/14/08 N/D

25-LS1236K
Luckhaupt
3/12/08

CS FOR HOUSE BILL NO. 307()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES HOLMES, GARA, DAHLSTROM, FAIRCLOUGH, JOHNSON, BUCH, HARRIS AND DOLL, Lynn, Salmon, Ramras, Samuels, Edgmon, Crawford, Doogan, Gardner, Olson, Gatto, Kerttula, LeDoux, Kawasaki, Nelson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to penalizing certain misdemeanor domestic violence assaults as
2 felonies."

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 INTENT. It is the intent of the legislature that, before accepting a plea, a court shall
7 make a factual finding that the defendant in a domestic violence case subject to an enhanced
8 penalty under AS 11.41.220(a)(5), added by sec. 2 of this Act, was the perpetrator of the
9 crime and not an innocent victim of domestic violence.

10 * **Sec. 2.** AS 11.41.220(a) is amended to read:

11 (a) A person commits the crime of assault in the third degree if that person
12 (1) recklessly

13 (A) places another person in fear of imminent serious physical
14 injury by means of a dangerous instrument;

1 (B) causes physical injury to another person by means of a
2 dangerous instrument; or

3 (C) while being 18 years of age or older

4 (i) causes physical injury to a child under 10 years of
5 age and the injury would cause a reasonable caregiver to seek medical
6 attention from a health care professional in the form of diagnosis or
7 treatment;

8 (ii) causes physical injury to a child under 10 years of
9 age on more than one occasion;

10 (2) with intent to place another person in fear of death or serious
11 physical injury to the person or the person's family member makes repeated threats to
12 cause death or serious physical injury to another person;

13 (3) while being 18 years of age or older, knowingly causes physical
14 injury to a child under 16 years of age but at least 10 years of age and the injury
15 reasonably requires medical treatment; [OR]

16 (4) with criminal negligence causes serious physical injury under
17 AS 11.81.900(b)(56)(B) to another person by means of a dangerous instrument; or

18 (5) commits a crime involving domestic violence that is a violation
19 of AS 11.41.230(a)(1) or (2) and, within the preceding 10 years, the person was
20 convicted on two or more separate occasions of crimes involving domestic
21 violence under

22 (A) AS 11.41.100 - 11.41.170;

23 (B) AS 11.41.200 - 11.41.220, 11.41.230(a)(1) or (2),
24 11.41.280, or 11.41.282;

25 (C) AS 11.41.260 or 11.41.270;

26 (D) AS 11.41.410, 11.41.420, or 11.41.425(a)(1); or

27 (E) a law or ordinance of this or another jurisdiction with
28 elements similar to those of an offense described in (A) - (D) of this
29 paragraph.

30 * Sec. 3. AS 11.41.220 is amended by adding new subsections to read:

31 (e) In (a)(5) of this section, when considering whether a conviction has

1 occurred in the preceding 10 years, the date that sentence is imposed is the date that a
2 previous conviction has occurred.

3 (f) In (a)(5) of this section, when determining whether a person has committed
4 a crime involving domestic violence or has been previously convicted of crimes
5 involving domestic violence. "household member" means

6 (1) adults or minors who are current or former spouses;

7 (2) adults or minors who live together or who have lived together;

8 (3) adults or minors who are dating or who have dated;

9 (4) adults or minors who are engaged in or who have engaged in a
10 sexual relationship;

11 (5) adults or minors who are related or formerly related by marriage;

12 (6) persons who have a child of the relationship; and

13 (7) minor children of a person in a relationship that is described in (1) -
14 (6) of this subsection.

15 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 APPLICABILITY. AS 11.41.220(a)(5), added by sec. 2 of this Act, applies to
18 offenses committed on or after the effective date of this Act. References to previous
19 convictions apply to convictions for offenses committed on or after the effective date of this
20 Act.

AMENDMENT 1

OFFERED IN THE HOUSE
TO: CS HB 307, Version 25-LS1236NE

BY REPRESENTATIVE MEYER

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Page 2, line 8

Delete all material

Insert "applies to convictions on or after the effective date of this Act."

2/28/08
KM MOVED
BS OBJECTED
KM WITHDREW
for modification



State of Alaska
Department of Public Safety
Council on Domestic Violence & Sexual Assault

Sarah Palin, Governor
Walter Monegan, Commissioner

February 8, 2008

Representative Lindsey Holmes
State Capitol, Room 405
Juneau, Alaska 99801-1182

Subject: Support for HB 307

Dear Representative Holmes and HB 307 Sponsors:

Thank you for introducing HB307, Domestic Violence Offenses, a bill that will hold the most serious repeat domestic violence offenders accountable for their actions.

We must turn the tide of Alaska's chronically high rates of interpersonal violence. To accomplish that, victims must be kept safe and perpetrators must know that they will be appropriately punished for their actions. We believe the legislation you propose sends a strong message that our state will not tolerate the levels of domestic violence that currently exist.

This bill's welcome message is that "serial battering" is a serious crime that Alaska will not accept. When repeat offenders are held to a higher standard of accountability, the message to both victims and perpetrators is that the recurrence of harm to an individual matters. We expect the classification of such behavior as a felony to act as a deterrent and, if not, then it would provide a heavier consequence to include prison time and oversight by Department of Corrections upon release.

As you probably know, as of 2005, at least 26 states have also taken a stand on this issue by enacting some type of enhanced penalty for repeat domestic violence offenders. We encourage Alaska to join them and appreciate the opportunity to support this legislation.

Sincerely,

Chris Ashenbrenner
Executive Director

"Public Safety through Public Service"

Domestic Violence Defined in Statute

Sec. 18.66.990. Definitions.

(3) "domestic violence" and "crime involving domestic violence" mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member:

- (A) a crime against the person under AS 11.41;
- (B) burglary under AS 11.46.300 - 11.46.310;
- (C) criminal trespass under AS 11.46.320 - 11.46.330;
- (D) arson or criminally negligent burning under AS 11.46.400 - 11.46.430;
- (E) criminal mischief under AS 11.46.475 - 11.46.486;
- (F) terrorist threatening under AS 11.56.807 or 11.56.810;
- (G) violating a protective order under AS 11.56.740 (a)(1); or
- (H) harassment under AS 11.61.120 (a)(2) - (4);

(5) "household member" includes

- (A) adults or minors who are current or former spouses;
- (B) adults or minors who live together or who have lived together;
- (C) adults or minors who are dating or who have dated;
- (D) adults or minors who are engaged in or who have engaged in a sexual relationship;
- (E) adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;
- (F) adults or minors who are related or formerly related by marriage;
- (G) persons who have a child of the relationship; and
- (H) minor children of a person in a relationship that is described in (A) - (G) of this paragraph;

Misdemeanor Crimes Against Persons

Sec. 11.41.230. Assault in the fourth degree.

(a) A person commits the crime of assault in the fourth degree if

(1) that person recklessly causes physical injury to another person;

(2) with criminal negligence that person causes physical injury to another person by means of a dangerous instrument; or

(3) by words or other conduct that person recklessly places another person in fear of imminent physical injury.

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

Sec. 11.41.250. Reckless endangerment.

(a) A person commits the crime of reckless endangerment if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

(b) Reckless endangerment is a class A misdemeanor.

Sec. 11.41.270. Stalking in the second degree.

(a) A person commits the crime of stalking in the second degree if the person knowingly engages in a course of conduct that recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member.

(b) In this section,

(1) "course of conduct" means repeated acts of nonconsensual contact involving the victim or a family member;

(2) "family member" means a

(A) spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt, nephew, or niece, of the victim, whether related by blood, marriage, or adoption;

(B) person who lives, or has previously lived, in a spousal relationship with the victim;

(C) person who lives in the same household as the victim; or

(D) person who is a former spouse of the victim or is or has been in a dating, courtship, or engagement relationship with the victim;

(3) "nonconsensual contact" means any contact with another person that is initiated or continued without that person's consent, that is beyond the scope of the consent provided by that person, or that is in disregard of that person's expressed desire that the contact be avoided or discontinued; "nonconsensual contact" includes

(A) following or appearing within the sight of that person;

(B) approaching or confronting that person in a public place or on private property;

(C) appearing at the workplace or residence of that person;

(D) entering onto or remaining on property owned, leased, or occupied by that person;

(E) contacting that person by telephone;

(F) sending mail or electronic communications to that person;

(G) placing an object on, or delivering an object to, property owned, leased, or occupied by that person;

(4) "victim" means a person who is the target of a course of conduct.

(c) Stalking in the second degree is a class A misdemeanor.

Sec. 11.41.330. Custodial interference in the second degree.

(a) A person commits the crime of custodial interference in the second degree if, being a relative of a child under 18 years of age or a relative of an incompetent person and knowing that the person has no legal right to do so, the person takes, entices, or keeps that child or incompetent person from a lawful custodian with intent to hold the child or incompetent person for a protracted period.

(b) The affirmative defense of necessity under AS 11.81.320 does not apply to a prosecution for custodial interference under (a) of this section if the protracted period for which the person held the child or incompetent person exceeded the shorter of the following:

(1) 24 hours; or

(2) the time necessary to report to a peace officer or social service agency that the child or incompetent person has been abused, neglected, or is in imminent physical danger.

(c) Custodial interference in the second degree is a class A misdemeanor.

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. 11.41.440. 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. 11.41.460. Indecent exposure in the second degree.

(a) An offender commits the crime of indecent exposure in the second degree if the offender knowingly exposes the offender's genitals in the presence of another person with reckless disregard for the offensive, insulting, or frightening effect the act may have.

(b) Indecent exposure in the second degree before a person under 16 years of age is a class A misdemeanor. Indecent exposure in the second degree before a person 16 years of age or older is a class B misdemeanor.

ALASKA STATE LEGISLATURE



REPRESENTATIVE LINDSEY HOLMES
REPRESENTATIVE NANCY DALHSTROM
REPRESENTATIVE ANNA FAIRCLOUGH
REPRESENTATIVE LES GARA
REPRESENTATIVE JOHN HARRIS
REPRESENTATIVE CRAIG JOHNSON
REPRESENTATIVE BOB BUCH
REPRESENTATIVE ANDREA DOLL

House Bill 307: "Three Domestic Violence Strikes: 3rd misdemeanor conviction will be charged as a felony."

Sponsor Statement

Alaska domestic violence rates are one of the highest in the country. Alaska currently has the highest per capita for female homicide death by a male perpetrator. This continuing cycle of violence needs to stop. Additionally, serious domestic violence cases are sometimes pled down to misdemeanors.

House Bill 307 (HB 307) seeks increased penalties for repeat offenders by making a third misdemeanor case a felony. This bill is narrowly crafted to only pertain for crimes against a person involving domestic violence. These repeat offenders will be subject to a felony charge after their first two misdemeanors. This penalty will act as deterrent for those persons who are repeat offenders. There needs to be a serious deterrent to stop the cycles of violence that are killing our communities.

Domestic Violence harms everyone in a community, not just the victims. Increasing penalties for the offenses is just one part of the solution. According to the National Coalition Against Domestic Violence boys who witness domestic violence are twice as likely to abuse as adults.

Please do not hesitate to contact us if you have any questions or if you need additional information.

ALASKA STATE LEGISLATURE



REPRESENTATIVE LINDSEY HOLMES
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REPRESENTATIVE ANDREA DOLL

House Bill 307: "Three Domestic Violence Strikes: 3rd misdemeanor conviction will be charged as a felony."

Sectional Analysis

Section 1. Adds intent language that establishes the defendant in a domestic violence case subject to an enhanced penalty must be the perpetrator of the crime and not an innocent victim of domestic violence.

Section 2. Adds Chapter 21 to Alaska Statutes that establishes a new policy regarding repeat domestic violence misdemeanor crimes. When a person has been previously convicted on two or more separate occasions the third or next domestic violence crime is increased to a class C felony and the perpetrator is subject to the penalty for such.

Section 3. This section establishes that the new statute will not be applied to previous domestic violence convictions, but previous domestic violence convictions will count as "strikes" for any domestic violence crime committed on or after the effective date.

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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



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Wrangell

Pres. Wrangell Chapter

Scott McCumby, Member
Valdez

Pres. Port of Valdez Chapter

January 24, 2008

Representative Jay Ramras
House Judiciary Committee Chair
State Capitol
Juneau AK 99801-1182

Dear Representative Ramras:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for considering HB 307, an act relating to penalizing certain misdemeanor domestic violence offenses as felonies.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'Angella Long'.

Angella Long
State President

LEGAL SERVICES

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

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


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

MEMORANDUM

January 30, 2008

SUBJECT: Constitutionality of Three Strikes Penalties for Domestic Violence Offenders under *Blakely v. Washington* (HB 307) (Work Order No. 25-LS1236AE)

TO: Representative Lindsey Holmes

FROM: Gerald P. Luckhaupt
Legislative Counsel 

You have asked if sec. 2 of HB 307, which enhances penalties for misdemeanor domestic violence offenders¹ is constitutional under *Blakely v. Washington*, 540 U.S. 1174, 124 S Ct. 1493, 158 L. Ed. 2d 75 (2004). In my opinion it is.

HB 307 provides that a person who commits a crime of domestic violence that is a misdemeanor crime against a person and the person has been previously convicted on two prior occasions of crimes involving domestic violence that are crimes against a person then the current offense becomes a class C felony and the person shall be sentenced for a class C felony. Obviously, to comply with *Blakely* a jury will need to find the necessary facts of the present offense, those being the various elements of the misdemeanor crime against a person with which the person is accused and the fact that the offense constituted a crime of domestic violence -- the victim of the offense was a household member with the accused.² We currently utilize a similar procedure for enhancing a felony sentence based upon the domestic violence aggravating factor.³ This

¹ A "three strikes" law for misdemeanor domestic violence offenses.

² Unless, of course, the accused waives having a jury decide these issues.

³ AS 12.55.155(c)(18) provides:

(c) The following factors shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence above the presumptive range set out in AS 12.55.125:

(18) the offense was a felony

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit made up of those living together in the same dwelling as the defendant;

domestic violence aggravating factor must also be proved to the jury beyond a reasonable doubt.⁴ AS 12.55.155(f).

It is my opinion that proof of the existence of the two prior convictions in HB 307 can be done before a judge without a jury. *Blakely* does not require that proof of prior convictions be made by a jury but allows these decisions to be made by a judge.

Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.

Blakely, supra, 124 S. Ct. at 2536, quoting *Apprendi v. New Jersey*, 530 U.S. 466, (2000) (emphasis added).⁵ See, also, *Stete v. Hermann*, 140 P.3d 895 (Alaska App. 2006); *Milligrock, supra*.

It can be argued that the decision to be made with regard to prior convictions in HB 307 goes beyond a mere finding that the previous convictions exist but requires a finding that the previous convictions were crimes involving domestic violence and it is this finding that must go to the jury. It is still my opinion that *Blakely* does not mandate this result. Other jurisdictions have held that findings by a judge that prior convictions that are otherwise derivative of a defendant's criminal history are not implicated by *Blakely*. *Carson v. State*, 813 N.E. 2d 1187 (Ind. Ct. App. 2004). Furthermore, that these prior convictions are crimes involving domestic violence can be established before the court solely by the record of conviction in at least some cases by the fact of the defendant's prior conviction and by observing that the defendant received an enhanced minimum sentence under AS 12.55.135(c) or (g)⁶ or if the aggravating factor in AS 12.55.155(c)(18) was applied.⁷

⁴ The Alaska Court of Appeals has previously found, in at least two cases, that failure to submit this aggravating factor to the jury is subject to a harmless error analysis and, where the evidence was undisputed that the victim and defendant lived in the same household or were spouses, that failure to submit the issue to a jury was harmless beyond a reasonable doubt. See, *Milligrock v. State*, 118 P.3d 11 (Alaska App. 2005) (lived in same household); *Cloyd v. State*, ___ P.3d ___, 2007 Alas. App. LEXIS 44 (Alaska App. 2007) (spouses).

⁵ *Blakely* built upon the decision in *Apprendi*, which required that a jury decide beyond a reasonable doubt that a hate crime law that increased the statutory maximum for an underlying offense applied to the defendant's conduct.

⁶ Factors that increase a minimum sentence or require imposition of a mandatory minimum sentence do not have to be submitted to a jury under *Blakely*.

⁷ Certainly this will not cover all possible prior offenses but will cover the most common assault in the fourth degree for which a mandatory minimum sentence is imposed under

Finally, in *Shepard v. United States*, 544 U.S. 13, 161 L. Ed. 2d 205, 125 S. Ct. 1254 (2005), the U.S. Supreme Court considered whether a judge may determine under federal law if a defendant's prior conviction for burglary was for a violent crime.⁸ Under federal law only some burglary offenses would satisfy this requirement, but it was not clear from the charging documents or from the conviction itself that Shepard's conviction was of the required type as Shepard had pled guilty to a generic form of burglary and there was nothing in the record to show that Shepard had admitted the facts that made his conviction "violent" for purposes of an enhanced sentence under federal law in his present case. The Court found that this decision had to be made by the jury.

While the disputed fact here can be described as a fact about a prior conviction, it is too far removed from the conclusive significance of a prior judicial record, and too much like the findings subject to *Jones* and *Apprendi*, to say that *Almendarez-Torres* clearly authorizes a judge to resolve the dispute. The rule of reading statutes to avoid serious risks of unconstitutionality [citation omitted] therefore counsels us to limit the scope of judicial factfinding on the disputed generic character of a prior plea, just as *Taylor* constrained judicial findings about the generic implication of a jury's verdict.

Shepard, 544 U.S. at 25 - 26. In light of *Shepard*, even if my opinion that *Blakely* does not apply to findings concerning these prior offenses is incorrect it still does not follow that HB 307 is unconstitutional. There is nothing in HB 307 that prevents the jury from deciding if the victim of these prior offenses was a household member of the offender. There is no reason to think that the prosecutors and the courts will not be able apply this sentencing provision. Submitting the issue of whether the victim of the prior offenses was a household member with the accused would clearly be constitutional under *Blakely* and *Shepard* and while it may not be entirely beneficial to defendants, as the jury may hear evidence of their prior crimes which may not endear the jury to them, there is nothing in HB 307 that prevents the Department of Law and the Alaska Court System from applying HB 307 in this manner if that is what the Department of Law and the courts think that *Blakely* requires.^{9, 10}

AS 12.55.135. In other situations, if *Blakely* applies, the issue of whether these prior offenses were committed against a household member (and therefore are crimes involving domestic violence) could be submitted to the jury.

⁸ This finding increased the maximum sentence that may be imposed on the defendant.

⁹ That HB 307 does not set forth the specific procedures to be utilized with regard to these prior convictions also does not imply unconstitutionality, or that the bill is lacking in any way, as the legislature has also not set forth the procedure to be utilized for these aggravating factors that must be proven to a jury under AS 12.55.155(f). Instead the

A wholly different approach would be to create a different type of enhancement for a current domestic violence offense.¹¹ For example, we could provide that a person who commits a misdemeanor crime of domestic violence shall be sentenced as a class C felon if the person has two prior convictions for any of various felonies or misdemeanors that could constitute domestic violence and that are crimes against persons under AS 11.41.¹² Then we could set up a procedure to allow the judge to not sentence the person as a felon (and only impose the normal misdemeanor penalty for the offense) if the defendant shows the prior convictions were not crimes of domestic violence. There is authority for this approach that places the burden of proof on the defendant.

Apprendi, however, does not apply to the trial court's discretionary decision . . . to strike a prior conviction. . . . *Apprendi* carved out a "narrow exception" for sentence enhancements based on "the fact of a prior conviction." The *Almendarez-Torres* exception was not altered by *Blakely*. . . .

Because the sentence enhancement was based on Stevenson's four prior convictions, the calculation of his sentence falls within the *Almendarez-Torres* exception to *Apprendi*. Furthermore, because the trial judge's

legislature said that those factors "shall be presented to a trial jury under procedures set by the court." AS 12.55.155(i)(2).

¹⁰ The *Shepard* Court considered something similar to this and said:

The dissent charges that our decision may portend the extension of *Apprendi v. New Jersey*, 530 U.S. 466, 147 L. Ed. 2d 435, 120 S. Ct. 2348 (2000), to proof of prior convictions, a move which (if it should occur) "surely will do no favors for future defendants in Shepard's shoes." *Post*, at 38, 161 L. Ed. 2d, at 225. According to the dissent, the Government, bearing the burden of proving the defendant's prior burglaries to the jury, would then have the right to introduce evidence of those burglaries at trial, and so threaten severe prejudice to the defendant. It is up to the future to show whether the dissent is good prophesy, but the dissent's apprehensiveness can be resolved right now, for if the dissent turns out to be right that *Apprendi* will reach further, any defendant who feels that the risk of prejudice is too high can waive the right to have a jury decide questions about his prior convictions.

Shepard, 544 U.S. at 26.

¹¹ An enhancement that is a hybrid between the approach used in HB 323, the Governor's crime bill, and HB 307.

¹² Crimes involving domestic violence are listed in AS 18.66.990(3).

Representative Lindsey Holmes

January 30, 2008

Page 5

consideration of evidence not proved to the jury constituted a discretionary decision not to decrease Stevenson's sentence, *Apprendi* is inapposite. Finding a defendant to be outside the "spirit" of the Three Strikes law is a mitigating factor in sentencing, rather than a prerequisite to imposing an enhanced sentence. Thus, the trial judge's consideration of facts not proved to a jury did not offend Stevenson's constitutional rights under *Apprendi*. . . .

Stevenson v. Lewis, 2004 U.S. App. LEXIS 22511 (9th Cir. Oct. 28, 2004)

GPL:ljw

08-047.ljw



Every Home A Safe Home



DID YOU KNOW?

- ◊ One in every four women will experience domestic violence in her lifetime.¹ One in 33 men have experienced an attempted or completed rape.²
- ◊ An estimated 1.3 million women are victims of physical assault by an intimate partner each year.³
- ◊ The majority (73%) of family violence victims are female. Females were 84% of spousal abuse victims and 86% of abuse victims at the hands of a boyfriend.⁴
- ◊ The cost of intimate partner violence exceeds \$5.8 billion each year. \$4.1 billion of which is for direct medical and mental health services.⁵
- ◊ Boys who witness domestic violence are twice as likely to abuse their own partners and children when they become adults.⁶

CHALLENGES

- The extreme remoteness of many Alaskan communities, (including travelling to access services), remains the major obstacle to providing services to victims in these areas.
- Alaska's statistics on violence against women are among the highest in the nation. Local programs are in dire need of more funding to serve the sheer volume of victims that seek their services.

STATEMENTS FROM SERVICE PROVIDERS

"We are operating on a minimal basis. We have the minimum number of staff to get the job done. We have very little money for program supplies, travel, training, and outreach to the villages. We have been doing more for less for so long its hard to remember what it would look like to have enough."
 -Advocate, Sitkans Against Family Violence⁹

"Increases wouldn't just be nice for programs, they are imperative for them to keep up with utility costs. We have diversified funding sources to the nth degree and overall still have fewer position [to provide victim services] than we did 3 years ago, 5 years ago, 8 years ago."
 -Advocate, Tundra Women's Coalition⁹

DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN ALASKA

- Almost 75% of Alaskans have experienced or know someone who has experienced domestic violence or sexual assault.⁷
- There were over 6,000 reported cases of domestic violence in Alaska in 2005.⁷
- 524 forcible rapes were reported in Alaska in 2005, representing almost 13% of all violent crimes.⁸
- The Alaska rape rate is 2.5 times the national average.⁷
- Child sexual assault in Alaska is almost six times the national average.⁷
- Alaska has the highest rate per capita of men murdering women.⁷
- Almost 30% of Alaskans were not able to access victim services or encourage others to do so because there were no services available in their area at the time.⁷
- Almost 90% of Alaskans would vote to increase funding for victim service programs, and over 90% would support increased penalties for domestic violence and sexual assault perpetrators.⁷

STATE RESOURCES

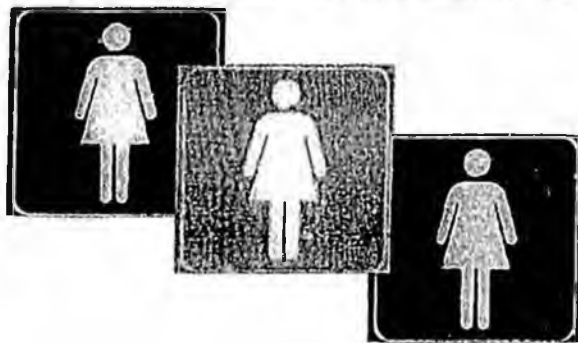
Alaska Network on Domestic Violence and Sexual Assault
www.andvsa.org

- ◊ The Network is a non-profit membership organization that is composed of 21 programs across Alaska. The 21 programs provide victim services for domestic violence and sexual assault, offender services, and crisis intervention services. The Network exists to promote communication and information sharing between programs across the state and to expose and eliminate interpersonal violence in the lives of Alaskan victims.

For more information or to get help, please visit
<http://www.andvsa.org/programs/programs.htm>
 to get local program and hotline information.

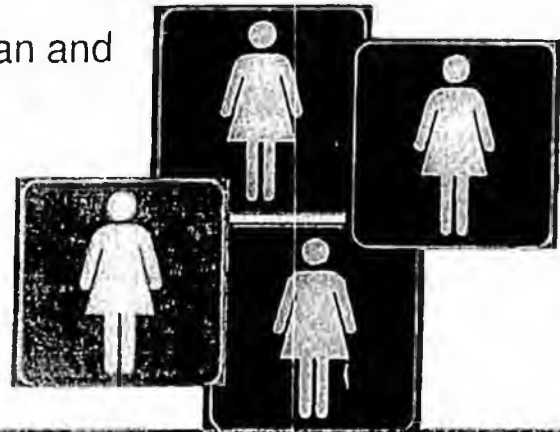
The National Domestic Violence Hotline at 1-800-799-SAFE
The National Sexual Assault Hotline at 1-800-656-HOPE

American Indian and Alaska Native Women



More than 1 out of every 3 American Indian and Alaska Native women will be raped in her lifetime.¹

More than 3 out of every 4 American Indian and Alaska Native women will be physically assaulted in her lifetime.¹



When Men Murder Women²

Alaska ranks first in the nation with the highest homicide rate for female victims killed by a male perpetrator.¹

Number of Females Murdered by Males in Single Victim/Single Offender Homicides and Rates by State in 2003, Ranked by Rate

Ranking	State	Homicide Rate per 100,000
1	Alaska	2.87
2	Nevada	2.64
3 (tie)	Louisiana	2.42
3 (tie)	New Mexico	2.42
5	Tennessee	2.38

SOURCES

¹ Tjaden, P., & Thoennes, N. (2000). *Extent, Nature and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey*. National Institute of Justice and the Centers for Disease Control and Prevention.

² U.S. Department of Justice. (November 1998). "Prevalence, Incidence, and Consequences of Violence Against Women."

³ Centers for Disease Control and Prevention. (2003). *Costs of Intimate Partner Violence Against Women in the United States*. Atlanta, GA: National Centers for Injury Prevention and Control.

⁴ Bureau of Justice Statistics. (June, 2005). *Family Violence Statistics*. U.S. Department of Justice.

⁵ Centers for Disease Control and Prevention. (2003). *Costs of Intimate Partner Violence Against Women in the United States*. Atlanta, GA: National Centers for Injury Prevention and Control.

⁶ Strauss, Gelles, & Smith. (1990). *Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8,145 Families*. Transaction Publishers.

⁷ Alaska Network on Domestic Violence and Sexual Assault. (2006). 2006 Annual Report: Working in Alaska Communities For Safety, Justice, Advocacy and Education, Violence Prevention, Juneau, Alaska.

⁸ Alaska Department of Public Safety. (2005). *Crime Reported in Alaska, 2005*. Uniform Crime Reporting Program. Accessed November 29, 2007 at http://www.dps.state.ak.us/UCRData/UCR_2005.pdf

⁹ Alaska Network on Domestic Violence and Sexual Assault. (December 2005). *Alaska Program Directors Report How They Are Coping With Inadequate Funding*. Accessed November 29, 2007 at <http://www.andvsa.org/pdfs/December%202005%20Quotes%20from%20Directors.pdf>

¹⁰ <http://www.andvsa.org/pdfs/December%202005%20Quotes%20from%20Directors.pdf>

¹¹ Violence Policy Center. (September 2005). *When Men Murder Women*. Accessed November 29, 2007 at <http://www.vpc.org/studies/wmhw2005.pdf>

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE



Every Home A Safe Home

The Public Policy Office of the National Coalition Against Domestic Violence (NCADV) is a national leader in the effort to create and influence Federal legislation that positively affects the lives of domestic violence victims and children. We work closely with advocates at the local, state and national level to identify the issues facing domestic violence victims, their children and the people who serve them and to develop a legislative agenda to address these issues. NCADV welcomes you to join us in our effort to end domestic violence.

FISCAL NOTE

Revised
2/28

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 307
() Publish Date: _____

Identifier (file name): HB307-DOA-PDA-2-25-08 Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies..." RDU: Legal and Advocacy Services
Sponsor: Representative Holmes Component: Public Defender Agency
Requester: _____ Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	106.8	0.0	106.8	106.8	106.8	106.8	106.8
Travel	3.6	0.0	3.6	3.6	3.6	3.6	3.6
Contractual	27.0	0.0	27.0	27.0	27.0	27.0	27.0
Supplies	2.0	0.0	2.0	2.0	2.0	2.0	2.0
Equipment	6.7	0.0	0.7	0.7	0.7	0.7	0.7
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	146.1	0.0	140.1	140.1	140.1	140.1	140.1

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

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF	146.1	0.0	140.1	140.1	140.1	140.1	140.1
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	146.1	0.0	140.1	140.1	140.1	140.1	140.1

Estimate of any current year (FY2008) cost: _____

POSITIONS

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time	1.0	0.00	1.00	1.00	1.00	1.00	1.00
Part-time		0					
Temporary		0					

ANALYSIS: (Attach a separate page if necessary)

This bill elevates a misdemeanor conviction for any crime against a person under A.S. 11.41 to a C felony if the person has been previously convicted on two or more separate occasions of crimes involving domestic violence. The bill is expected to have a fiscal impact on the Agency. According to data generated by the Court System, the Public Defender Agency expects approximately 125 new felony cases. Based upon the increase cost of felony cases over misdemeanor cases, the Agency expects the impact will require an additional attorney position.

Prepared by: Quinlan Steiner, Director
Division: Public Defender Agency
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone 907-334-4414
Date/Time 2/25/08 1:00 PM
Date 2/25/2008

FISCAL NOTE

Replaced

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB307-DOC-IDO-02-27-08
() Publish Date: _____

Identifier (file name): HB307-DOC-IDO-02-27-08 Dept. Affected: Corrections
Title: "Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU: Population Management
Component: Institution Director's Office
Sponsor: Representatives: Holmes, Gara, Dahlstrom, Fairclough, Johnson, Bl
Requester: House Judiciary Component Number: 524

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	143.4	358.5	358.5	358.5	
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Contractual	0.0	0.0	5,584.5	11,196.8	11,269.1	11,233.5	11,238.5	
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL OPERATING	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0	

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
-------------------------------	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	0	0	0	2	5	5	5
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will have an impact on the Department of Corrections.

The department has calculated costs associated with the potential increase in mandays based on a blended rate (average of in-state and out-of-state daily bed rates) of \$85.00 per day.

Prepared by: Sharleen Griffin, Director
Division: Administrative Services
Approved by: Dwayne Poeplis, Deputy Commissioner
Department of Corrections

Phone (907) 465-3339
Date/Time 2/25/08 5:05 PM
Date 2/25/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB307-DOC-DO-02-27-08

ANALYSIS CONTINUATION

One additional Adult Probation Officer position with support costs will be necessary when the total crime legislation increases the offender population by 80. The estimated cost for each required position is \$85,600.

Offender population is based on the Courts information reflecting 550 misdemeanors which were previously identified for the Crime Omnibus bill (HB343 & SB234). Of the 550 cases approximately 50% are identified as having DV indicators. The assumption by Courts is that of the 550 Assault IV cases, statistics will apply to other 11.41 crimes with an anticipation of 225 (1/2 of 550) misdemeanor DV cases which have the potential to become felony cases. In FY2007, the Courts reflected a 76% conviction rate of felony cases.

The Department of Corrections anticipates an impact of approximately 180 cases annually. This reflects an increase of the offender population with passage of this legislation as:

Anticipated offender growth impact :
Increased mandays :

	2009	2010	2011	2012	2013	2014
Increased Offenders :	0	0	180	180	180	180
Carry forward for 2nd Year :	0	180	180	180	180	180
Total Annual Offender Count :	0	180	360	360	360	360
Increased Mandays :	0	65,700	131,400	131,760	131,400	131,400

First year is -0- ... offenders would have been incarcerated under current legislation, but would carry forward for 2nd year of sentencing.

Estimated annual operating costs :
Blended Daily bed rate w/o annual adjustment : \$85.00

Annual Incarceration Costs :	\$0.00	\$5,584,500	\$11,169,000	\$11,199,600	\$11,169,000	\$11,169,000
Probation Officer Costs :	0	\$0	\$171,200	\$428,000	\$428,000	\$428,000
Total Annual Costs :	0	\$5,584,500	\$11,340,200	\$11,627,600	\$11,597,000	\$11,597,000
PO PFT :	0	0	2	5	5	5

FISCAL NOTE

Repaired

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB307
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: Alaska Court System
Title: An Act relating to crimes of domestic violence RDU: Trial Courts
Component: Trial Courts
Sponsor: Representative Holmes
Requester: House Finance Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	84.1	84.1	84.1	84.1	84.1	84.1	84.1
Travel	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Contractual	58.3	58.3	58.3	58.3	58.3	58.3	58.3
Supplies	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	151.0	151.0	151.0	151.0	151.0	151.0	151.0

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

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts						
1003 GF Match						
1004 GF	151.0	151.0	151.0	151.0	151.0	151.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts						
TOTAL	151.0	151.0	151.0	151.0	151.0	151.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time						
Part-time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary	1.0	1.0	1.0	1.0	1.0	1.0

ANALYSIS: *(Attach a separate page if necessary)*
House Bill 307 would make a misdemeanor crime of domestic violence a class C felony if the crime was a crime against a person and the person had two or more prior convictions for DV crimes against a person. Our records show that had this provision been in place in 2007 we would have seen approximately 225 misdemeanor crimes become felonies. Because felony crimes are more expensive than misdemeanor crimes, this bill will impact the court system. This note asks for additional judicial, clerical and jury costs and offsets a portion of those costs by the savings realized by the district court, which will no longer see these cases as misdemeanors.

Prepared by Doug Wooliver, Administrative Attorney Phone 907-463-4750
Division Alaska Court System Date/Time 2/21/08 10:00 AM
Approved by Stephanie Cole, Administrative Director by Doug Wooliver Date 2/21/2008

FISCAL NOTE

Rachael Petro

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 307
() Publish Date: _____

Identifier (file name): HB307-DOA-OPA-2-25-08 Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU: Legal and Advocacy Services
Sponsor: Reps. Holmes, Gara, Dahlstrom, Fairclough, Johnson et al Component: Office of Public Advocacy
Requester: _____ Component Number: 43

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required		Information					
	FY 2009	FY 2010	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	47.7	0.0	47.7	47.7	47.7	47.7	47.7	47.7
Travel	1.6	0.0	1.6	1.6	1.6	1.6	1.6	1.6
Contractual	29	0.0	29.0	29.0	29.0	29.0	29.0	29.0
Supplies	0.9	0.0	0.9	0.9	0.9	0.9	0.9	0.9
Equipment	2.9	0.0	0.7	0.7	0.7	0.7	0.7	0.7
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	82.1	0.0	79.9	79.9	79.9	79.9	79.9	79.9

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

1002 Federal Receipts								
1003 GF Match								
1004 GF	82.1	0.0	79.9	79.9	79.9	79.9	79.9	79.9
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	82.1	0.0	79.9	79.9	79.9	79.9	79.9	79.9

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.4	0.00	0.4	0.4	0.4	0.4	0.4	0.4
Part-time	0.0	0	0	0	0	0	0	0
Temporary	0.0	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will convert misdemeanor crimes under AS 11.41 into C felonies, punishable by up to five years in prison, if the defendant is charged with a crime involving domestic violence and the defendant has two or more prior convictions for crimes involving domestic violence under AS 11.41. Based upon information from the Alaska Court System, the Office of Public Advocacy expects approximately 54 new felony cases as a result of this bill. This is an increase in felony cases roughly equivalent to one-third of an attorney position, and therefore, the agency predicts a fiscal impact of one-third of an attorney plus an increase in contractor costs for cases in areas where we do not have staff offices or due to conflicts of interest.

Prepared by: Joshua P. Fink, Director
Division: Office of Public Advocacy
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone: 907-269-3501
Date/Time: 2/25/08 12:00 AM
Date: 2/25/2008

FISCAL NOTE

Replaced

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB307-DOC-IDO-02-27-08
() Publish Date: _____

Identifier (file name): HB307-DOC-IDO-02-27-08 Dept. Affected: Corrections
Title "Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU Population Management
Sponsor Representatives: Holmes, Gara, Dahlstrom, Fairclough, Johnson, Bl Component Institution Director's Office
Requester House Judiciary Component Number 524

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	143.4	358.5	358.5	358.5	
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Contractual	0.0	0.0	5,584.5	11,196.8	11,269.1	11,238.5	11,238.5	
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL OPERATING	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0	

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

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
1004 GF	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0	
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0	

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	0	0	0	2	5	5	5
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will have an impact on the Department of Corrections.

The department has calculated costs associated with the potential increase in mandays based on a blended rate (average of in-state and out-of-state daily bed rates) of \$85.00 per day.

Prepared by: Sharleen Griffin, Director
Division: Administrative Services
Approved by: Dwayne Peoples, Deputy Commissioner
Department of Corrections

Phone (907) 465-3339
Date/Time 2/25/08 5:05 PM
Date 2/25/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB307-DOC-IDO-02-27-08

ANALYSIS CONTINUATION

One additional Adult Probation Officer position with support costs will be necessary when the total crime legislation increases the offender population by 80. The estimated cost for each required position is \$85,600.

Offender population is based on the Courts information reflecting 550 misdemeanors which were previously identified for the Crime Omnibus bill (HB343 & SB234). Of the 550 cases approximately 50% are identified as having DV indicators. The assumption by Courts is that of the 550 Assault IV cases, statistics will apply to other 11.41 crimes with an anticipation of 225 (1/2 of 550) misdemeanor DV cases which have the potential to become felony cases. In FY2007, the Courts reflected a 76% conviction rate of felony cases.

The Department of Corrections anticipates an impact of approximately 180 cases annually. This reflects an increase of the offender population with passage of this legislation as:

Anticipated offender growth impact :
Increased mandays :

	2009	2010	2011	2012	2013	2014
Increased Offenders :	0	0	180	180	180	180
Carry forward for 2nd Year :	0	180	180	180	180	180
Total Annual Offender Count :	0	180	360	360	360	360
Increased Mandays :	0	65,700	131,400	131,760	131,400	131,400

First year is 0- ... offenders would have been incarcerated under current legislation, but would carry forward for 2nd year of sentencing.

Estimated annual operating costs :

Blended Daily bed rate w/o annual adjustment : \$85.00

Annual Incarceration Costs :	\$0.00	\$5,584,500	\$11,169,000	\$11,199,600	\$11,169,000	\$11,169,000
Probation Officer Costs :	0	\$0	\$171,200	\$428,000	\$428,000	\$428,000
Total Annual Costs :	0	\$5,584,500	\$11,340,200	\$11,627,600	\$11,597,000	\$11,597,000
 PO PFT :	 0	 0	 2	 5	 5	 5

FISCAL NOTE

Repland 4/20

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 307
() Publish Date: _____

Identifier (file name): HB307-DOA-OPA-2-25-08 Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU: Legal and Advocacy Services
Component: Office of Public Advocacy
Sponsor: Reps. Holmes, Gara, Dahlstrom, Fairclough, Johnson et al
Requester: _____ Component Number: 43

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	47.7	0.0	47.7	47.7	47.7	47.7	47.7
Travel	1.6	0.0	1.6	1.6	1.6	1.6	1.6
Contractual	29	0.0	29.0	29.0	29.0	29.0	29.0
Supplies	0.9	0.0	0.9	0.9	0.9	0.9	0.9
Equipment	2.9	0.0	0.7	0.7	0.7	0.7	0.7
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	82.1	0.0	79.9	79.9	79.9	79.9	79.9

CAPITAL EXPENDITURES _____

CHANGE IN REVENUES () _____

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	32.1	0.0	79.9	79.9	79.9	79.9	79.9
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	82.1	0.0	79.9	79.9	79.9	79.9	79.9

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.4	0.00	0.4	0.4	0.4	0.4	0.4
Part-time	0.0	0	0	0	0	0	0
Temporary	0.0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will convert misdemeanor crimes under AS 11.41 into C felonies, punishable by up to five years in prison, if the defendant is charged with a crime involving domestic violence and the defendant has two or more prior convictions for crimes involving domestic violence under AS 11.41. Based upon information from the Alaska Court System, the Office of Public Advocacy expects approximately 54 new felony cases as a result of this bill. This is an increase in felony cases roughly equivalent to one-third of an attorney position, and therefore, the agency predicts a fiscal impact of one-third of an attorney plus an increase in contractor costs for cases in areas where we do not have staff offices or due to conflicts of interest.

Prepared by: Joshua P. Fink, Director
Division: Office of Public Advocacy
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Handwritten signature

Phone 907-269-3501
Date/Time 2/25/08 12:00 AM
Date 2/25/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB307-DOC-IDO-02-27-08
() Publish Date: _____

Identifier (file name): HB307-DOC-IDO-02-27-08 Dept. Affected: Corrections
Title: "Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU: Population Management
Sponsor: Representatives: Holmes, Gara, Dahlstrom, Fairclough, Johnson, B... Component: Institution Director's Office
Requester: House Judiciary Component Number: 524

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	143.4	358.5	358.5	358.5	
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Contractual	0.0	0.0	5,584.5	11,196.8	11,269.1	11,238.5	11,238.5	
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL OPERATING	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0	

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

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	5,584.5	11,340.2	11,627.6	11,597.0	11,597.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	0	0	0	2	5	5	5
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will have an impact on the Department of Corrections

The department has calculated costs associated with the potential increase in mandays based on a blended rate (average of in-state and out-of-state daily bed rates) of \$85.00 per day.

Prepared by: Sharleen Griffin, Director
Division: Administrative Services
Approved by: Dwayne Peoples, Deputy Commissioner
Department of Corrections

Phone: (907) 465-3339
Date/Time: 2/25/08 5:05 PM
Date: 2/25/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB307-DOC-IDO-02-27-08

ANALYSIS CONTINUATION

One additional Adult Probation Officer position with support costs will be necessary when the total crime legislation increases the offender population by 80. The estimated cost for each required position is \$85,600.

Offender population is based on the Courts information reflecting 550 misdemeanors which were previously identified for the Crime Omnibus bill (HB343 & SB234). Of the 550 cases approximately 50% are identified as having DV indicators. The assumption by Courts is that of the 550 Assault IV cases, statistics will apply to other 11.41 crimes with an anticipation of 225 (1/2 of 550) misdemeanor DV cases which have the potential to become felony cases. In FY2007, the Courts reflected a 76% conviction rate of felony cases.

The Department of Corrections anticipates an impact of approximately 180 cases annually. This reflects an increase of the offender population with passage of this legislation as:

Anticipated offender growth impact :

Increased mandays :

	2009	2010	2011	2012	2013	2014
Increased Offenders :	0	0	180	180	180	180
Carry forward for 2nd Year :	0	180	180	180	180	180
Total Annual Offender Count :	0	180	360	360	360	360
Increased Mandays :	0	65,700	131,400	131,760	131,400	131,400

First year is -0- ... offenders would have been incarcerated under current legislation, but would carry forward for 2nd year of sentencing.

Estimated annual operating costs :

Blended Daily bed rate w/o annual adjustment : \$85.00

Annual Incarceration Costs :	\$0.00	\$5,584,500	\$11,169,000	\$11,199,600	\$11,169,000	\$11,169,000
Probation Officer Costs :	0	50	\$171,200	\$428,000	\$428,000	\$428,000
Total Annual Costs :	0	\$5,584,500	\$11,340,200	\$11,627,600	\$11,597,000	\$11,597,000

PO PFT :	0	0	2	5	5	5
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FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 307
() Publish Date: _____

Identifier (file name): HB307-DOA-PDA-2-25-08 Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies..." RDU: Legal and Advocacy Services
Component: Public Defender Agency
Sponsor: Representative Holmes Component Number: 1631
Requester: _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	106.8	0.0	106.8	106.8	106.8	106.8	106.8
Travel	3.6	0.0	3.6	3.6	3.6	3.6	3.6
Contractual	27.0	0.0	27.0	27.0	27.0	27.0	27.0
Supplies	2.0	0.0	2.0	2.0	2.0	2.0	2.0
Equipment	6.7	0.0	0.7	0.7	0.7	0.7	0.7
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	146.1	0.0	140.1	140.1	140.1	140.1	140.1

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

1002 Federal Receipts							
1003 GF Match							
1004 GF	146.1	0.0	140.1	140.1	140.1	140.1	140.1
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	146.1	0.0	140.1	140.1	140.1	140.1	140.1

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	1.0	0.00	1.00	1.00	1.00	1.00	1.00
Part-time		0					
Temporary		0					

ANALYSIS: (Attach a separate page if necessary)

This bill elevates a misdemeanor conviction for any crime against a person under A.S. 11.41 to a C felony if the person has been previously convicted on two or more separate occasions of crimes involving domestic violence. The bill is expected to have a fiscal impact on the Agency. According to data generated by the Court System, the Public Defender Agency expects approximately 125 new felony cases. Based upon the increase cost of felony cases over misdemeanor cases, the Agency expects the impact will require an additional attorney position.

Prepared by: Quinlan Steiner, Director
Division: Public Defender Agency
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone 907-334-4414
Date/Time 2/25/08 1:00 PM
Date 2/25/2008

For Info Only

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: Draft CSHB307 III
() Publish Date: _____

Identifier (file name): CSHB307-DOA-PDA-3-14-08 Dept. Affected: Administration
Title: An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies RDU: Legal and Advocacy Services
Sponsor: Representative Holmes Component: Public Defender Agency
Requester: _____ Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services			35.6	71.2	106.8	106.8	106.8	
Travel			1.2	2.4	3.6	3.6	3.6	
Contractual			9.0	18.0	27.0	27.0	27.0	
Supplies			0.7	1.4	2.0	2.0	2.0	
Equipment			0.2	0.4	0.7	0.7	0.7	
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	46.7	93.4	140.1	140.1	140.1	140.1

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE

1002 Federal Receipts								
1003 GF Match								
1004 GF			46.7	93.4	140.1	140.1	140.1	
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	46.7	93.4	140.1	140.1	140.1	140.1

Draft

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time			1.00	1.00	1.00	1.00	1.00
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Draft CSHB 307(FIN) will make a misdemeanor, domestic violence, physical crime against a person (assault in the fourth degree) a class C felony if the defendant has been convicted two or more time of DV crimes against a person within the past ten years. The predicate crimes include assault crimes under AS 11.41.100 - 289 (excluding the nonphysical crimes), most municipal assault cases, stalking in the first degree, and most sexual assault crimes under AS11.41.410 - 425.

Court System data indicates that had this law been in place in calendar year 2007 the court would have seen approximately 250 misdemeanor crimes charged as felonies. The Agency anticipates 140 new felony cases that would have formerly been charged as misdemeanors. It is anticipated that the fiscal impact will occur over three years beginning in FY 10.

Prepared by: Quinlan Steiner, Director
Division: Public Defender Agency
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone: 907-334-4114
Date/Time: 3/14/08 12:00 PM
Date: _____

HB

307

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/4/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered CS FOR HOUSE BILL NO. 307(FIN)

HB 307 ASSAULTS: REPEAT OFFENDERS

"An Act relating to penalizing certain misdemeanor domestic violence assaults as felonies."

and recommends:

- [] be replaced with [] SCS or [] CS _____
- [X] adopt previous [X] SCS or [] CS HB 307 (Jud)
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

SENATE BILL:	
[]	Same Title
[]	New Title
<hr/>	
HOUSE BILL:	
[]	Same Title
[]	Technical Title Change
[]	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Law	4/7/08		✓		
ADM	4/9/08			✓	
ADM	4/8/08			✓	
CRJ	4/4/08				

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DPS	2/19/08			✓	4

[] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Huggins	✓			
	Nelson	✓			
CO-CHAIR:					
	Stamm	✓			

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB 307(FIN)
(H) Publish Date: 3/18/08

Identifier (file name): HB307-DPS-DET-02-19-08 Public Safety
Title "An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU Alaska State Troopers
Component AST Detachments
Sponsor Representative Holmes
Requester House Finance Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	0.0

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

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

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

This bill imposes enhanced penalties for certain domestic violence offenses under AS 11.41. If a person has been previously convicted on two or more separate qualifying offenses, then the crime and penalty are increased to a class C felony.

Passage of this legislation will not increase the number of arrests made or cases referred for prosecution. This bill will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial
Division: Alaska State Troopers
Approved by: Walt Monegan, Commissioner
Department of Public Safety

Phone 907-269-5591
Date/Time 2/19/08 3:47 PM
Date 2/19/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: HB307SCSCS(JUD)-LAW-CRIM-04-07-08
 Bill Version: SCSCSHB307(JUD)
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: LAW
 Title An Act relating to crimes of domestic violence. RDU Criminal
 Component Criminal Justice Litigation
 Sponsor REPRESENTATIVE(S) HOLMES
 Requester SENATE FINANCE Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

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

Prepared by: Robert Meiners, Administrative Services Manager
 Division: Administrative Services Division
 Approved by: Talis Colberg, Attorney General
Department of Law

Phone 907.465.5427
 Date/Time 4/7/08 11.45 AM
 Date 4/7/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. SCSCSHB307(JUD)

ANALYSIS CONTINUATION

SCSCSHB 307 makes a conviction for Assault in the Fourth Degree (excluding fear assaults) a class C felony if the defendant, within the prior 10 years, has been convicted of two or more crimes against a person. The predicate offenses include homicide, assault, stalking, and first, second, and (in some instances) third degree sexual assault.

The draft also clarifies that a prior conviction would not be counted unless the offense occurred after the effective date of the bill.

The bill increases the classification of the offense (Assault in the fourth degree under the conditions described above) to a class C felony. Felony offenses are generally more expensive than misdemeanor cases; however, it is difficult to predict with any certainty the fiscal impact this bill may have for the department and it should be considered indeterminate at this time.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: Administration
Title "An Act relating to penalizing certain misdemeanor assaults as
as felonies." RDU Legal and Advocacy Services
Sponsor Representative Holmes Component Public Defender Agency
Requester Senate Finance Committee Component Number 1631

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

Prepared by Senator Bert Stedman
Senate Finance Committee, Co-Chair
Senator Lyman Hoffman
Senate Finance Committee, Co-Chair

Phone 3873
Date/Time 4/8/2008/ 1:25 pm
Date 4/8/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor assaults as
as felonies." RDU: Legal and Advocacy Services
Sponsor: Rep. Holmes, Gara, Dahlstrom, Fairclough, Johnson, etc. Component: Office of Public Advocacy
Requester: Senate Finance Committee Component Number: 43

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

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

Prepared by Senator Bert Stedman
Senate Finance Committee, Co-Chair
Senator Lyman Hoffman
Senate Finance Committee, Co-Chair

Phone 3873
Date/Time 4/8/2008/ 1:25 pm
Date 4/8/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: Alaska Court System
Title: Assaults: Repeat Offenders RDU: Trial Courts
Component: Trial Courts
Sponsor: Representative Holmes
Requester: Senate Finance Committee Component Number: 768

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services				23.8	40.9	67.1	94.1	101.4
Travel				0.8	2.3	4.0	5.6	6.0
Contractual				19.7	50.7	86.0	121.5	130.4
Supplies				6.0	3.0	3.0	3.0	3.0
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	50.3	96.9	160.1	224.2	240.8

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF				50.3	96.9	160.1	224.2	240.8
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	50.3	96.9	160.1	224.2	240.8

Estimate of any current year (FY2008) cost: _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 307(JUD) will make a misdemeanor, physical crime against a person (assault in the fourth degree) a class C felony if the defendant has been convicted two or more times of certain crimes against a person within the past ten years. The predicate crimes include assault crimes under AS 11.41.100 - 282 (excluding the non-physical crimes), most municipal assault offenses, stalking in the first and second degree, and first and second degree sexual assault and sexual abuse of a minor in the first, second and third degree.

Continued on page 2.

Prepared by: Doug Wooliver, Administrative Attorney
Division: Alaska Court System
Approved by: Stephanie Cole, Administrative Director
Alaska Court System

Phone: 907-463-4750
Date/Time: 4/4/08 12:55 PM
Date: 4/4/08

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. SCS CSHB 307(JUD)

ANALYSIS CONTINUATION

Court records show that had this law been in place in calendar year 2007 the court would have seen approximately 600 misdemeanor crimes charged as felonies. Because felony crimes are more expensive and time-consuming than misdemeanor crimes, this bill will impact the court system.

This bill is prospective in that the only prior convictions that will apply will be those that occur on or after the effective date of this Act. Based on a study of their current population, the Department of Corrections estimates that the criminal justice system will see approximately 14% of these new felony offenders in FY 2010, 23% in FY 2011, 27% in both FY 2012 and 2013, and 6% in FY 2014.

This fiscal note reflects the cost of additional superior court judicial and clerical time as well as additional juror costs.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB307SCS CS (JUD)-DOC-PM-04-04-08
() Publish Date: _____

Identifier (file name): HB307-DOC-IDO-02-07-08 Dept. Affected: Corrections
Title: "An Act relating to penalizing certain misdemeanor assaults
as felonies." RDU: Population Management
Sponsor: Representative Holmes Component: Institution Director's Office
Requester: Senate Finance Component Number: 524

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
Miscellaneous
TOTAL OPERATING

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

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

Estimate of any current year (FY2008) cost: _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will have an impact on the Department of Corrections:

The department has calculated costs associated with the potential increase in mandays based on a blended rate (average of in-state and out-of-state daily bed rates) of \$85.00 per day.

(See page 2)

Prepared by: Sharleen Griffin, Director
Division: Administrative Services
Approved by: Dwayne Peoples, Deputy Commissioner
Department of Corrections

Phone: (907) 465-3339
Date/Time: 4/4/08 3:10 PM
Date: 4/4/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB307SCS CS (JUD)-DOC-PM-04-04-08

ANALYSIS CONTINUATION

One additional Adult Probation Officer position with support costs will be necessary when the total crime legislation increases the offender population by 80. The estimated cost for each required position is \$85,600..

Offender population is based on the Courts information reflecting 600 Assault IV cases which have the potential to become felony cases. In FY2007, the Courts reflected a 76% conviction rate of felony cases.

Based on the information provided by the Courts, the Department of Corrections anticipates an impact of up to approximately 456 offenders annually. The department is also estimating that each offender will be incarcerated for 18 months.

The following reflects the impact of the increased offender population with passage of this legislation as:

Anticipated offender growth impact :						
Increased mandays :						
	2009	2010	2011	2012	2013	2014
Total Annual Offender Count :	0	63	192	312	395	457
Total 6 Month Offender Count :			63	192	312	395
Increased Mandays :	0	22,995	81,546	149,136	200,959	238,695
Estimated annual costs :						
Blended Daily annual bed rate :	805.00					
Annual Incarceration Costs :	\$0	\$1,954,575	\$6,931,410	\$12,676,560	\$17,081,515	\$20,289,075
Probation Officer Costs :	\$0	\$0	\$0	\$85,600	\$256,800	\$513,600
Total Annual Costs :	\$0	\$1,954,575	\$6,931,410	\$12,762,160	\$17,338,315	\$20,802,675
PO PFT's :	0	0	0	1	3	6
Data from Offender Tracking Information System reflecting the percentage of time from 1st to 3rd conviction :						
	Months	Offenders	Percentage			
	0 - 12	75	13.86%			
	13 - 24	153	28.28%			
	25 - 36	142	26.25%			
	37 - 48	98	18.11%			
	49 - 60	55	10.17%			
	61 - 67	18	3.33%			
		541	100.00%			

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): HB307SCSCS(JUD)-DOA-OPA-4-08-08 Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor assaults as felonies." RDU: Legal and Advocacy Services
Component: Office of Public Advocacy
Sponsor: Reps. Holmes, Gara, Dahlstrom, Fairclough, Johnson, etc.
Requester: _____ Component Number: 43

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services			20.2	53.5	92.5	131.5	144.5	
Travel			0.7	1.8	3.1	4.4	4.8	
Contractual			8.5	22.6	39.0	55.5	61.0	
Supplies			0.4	1.0	1.7	2.5	2.7	
Equipment			1.2	3.3	5.7	8.1	2.2	
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	31.1	82.1	142.0	201.9	215.2

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

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF	0.0	0.0	31.1	82.1	142.0	201.9	215.2
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	31.1	82.1	142.0	201.9	215.2

Estimate of any current year (FY2008) cost: _____

POSITIONS

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time	0.0	0.00	0.00	0.00	0.00	0.00	1.00
Part-time	0.0	0	0	0	0	0	0
Temporary	0.0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will convert the class A misdemeanor crime of assault in fourth degree (physical crime against a person) into a class C felony for criminal defendants previously convicted two or more times of certain crimes against a person within the past ten years. The predicate crimes include assault crimes under AS 11.41.100 -282 (excluding the non-physical crimes), most municipal assault offenses, stalking in the first and second degree, and first and second degree sexual assault and sexual abuse of a minor.

Continued on page 2

Prepared by: Rachel Levitt, Acting Director Phone 907 269 3504
Division: Office of Public Advocacy Date/Time 4/8/08, 8:30 a.m.
Approved by: Macnael Petro, Deputy Commissioner Date 4/8/2008
Department of Administration

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB 307

ANALYSIS CONTINUATION

The Alaska Court System's records show that had this law been in place in calendar year 2007, there would have been 600 misdemeanor crimes charged as felonies. Because felony cases are more expensive and time consuming than misdemeanors, and because a number of these cases would otherwise be handled by municipal defenders rather than OPA, this bill will impact the Office of Public Advocacy. Although this bill is prospective, based upon numbers from the Department of Corrections, we believe that by 2014, the Agency will receive appointments in 130-180 new felony cases each year. This will result in the need for 1 new attorney position. We also anticipate increased contractual costs to pay for representation of clients in areas where OPA does not have staff attorneys or due to conflicts of interest.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): HB307SCSCS(JUD)-DOA-PDA-4-08-08 Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor assaults as felonies." RDU: Legal and Advocacy Services
Component: Public Defender Agency
Sponsor: Representative Holmes
Requester: Senate Finance Committee Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services			107.1	214.2	321.3	321.3	321.3
Travel			2.6	5.2	7.7	7.7	7.7
Contractual			19.1	38.2	57.2	57.2	57.2
Supplies			1.7	3.4	5.0	5.0	5.0
Equipment			6.7	13.4	20.1	20.1	20.1
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0		137.2	274.4	411.3	411.3	411.3

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

1002 Federal Receipts							
1003 GF Match							
1004 GF			137.2	274.4	411.3	411.3	411.3
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	137.2	274.4	411.3	411.3	411.3

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time			1	2	3	3	3
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 307(JUD) will make a misdemeanor, physical crime against a person (assault in the fourth degree) a class C felony if the defendant has been convicted two or more times of certain crimes against a person within the past ten years. The predicate crimes include assault crimes under AS 11.41.100 - 282 (excluding the non-physical crimes), most municipal assault offenses, stalking in the first and second degree, and first and second degree sexual assault and sexual abuse of a minor in the first, second and third degree.

Continued on page 2

Prepared by: Quinlan Steiner, Director
Division: Public Defender Agency
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone: 907-334-4414
Date/Time: 4/8/08 8:35 AM
Date: 4/8/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. CSSB 234(JUD)

ANALYSIS CONTINUATION

Court records show that had this law been in place in calendar year 2007 the court would have seen approximately 600 misdemeanor crimes charged as felonies. Because felony crimes are more expensive and time-consuming than misdemeanor crimes, this bill will impact the Agency.

This bill is prospective; only prior convictions that will apply will be those that occur on or after the effective date of this Act. The Agency expects as many as 300-425 new felony cases. The Agency anticipates the need for two new attorney positions and one law office assistant position due to the expected additional cases and to the increased complexity of cases that would have formerly been processed as misdemeanors.

ALASKA STATE LEGISLATURE



Representative Lindsey Holmes
Representative Nancy Dahlstrom
Representative Anna Fairclough
Representative Les Gara
Representative John Harris
Representative Craig Johnson
Representative Bob Buch
Representative Andrea Doll

**House Bill 307: "Three Domestic Violence Strikes:
3rd misdemeanor conviction will be charged as a felony."**

Sectional Analysis

Section 1. Adds intent language that establishes the defendant in a domestic violence case subject to an enhanced penalty must be the perpetrator of the crime and not an innocent victim of domestic violence.

Section 2. Amends Alaska Statute 11.41.220, assault in the third degree, to provide that when a person has been previously convicted on two or more separate occasions in the preceding 10 years of a domestic violence felony or of domestic violence assault in the fourth degree, then that person's third or next domestic violence assault in the fourth degree is increased to assault in the third degree and punished as a class C felony.

Section 3. Clarifies the date on which a conviction is understood to have occurred for purposes of the 10 year lookback. Defines "household member" for purposes of proving that a crime involved domestic violence.

Section 4. This section establishes that the new statute is prospective only and will not be applied to previous domestic violence convictions.

LEGAL SERVICES

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

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

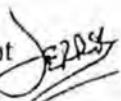
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 8, 2008

SUBJECT: May prior convictions that have occurred before the effective date of a new offense be used to aggravate the offense or a sentence imposed for the new offense? (Work Order No. 25-LS1236/E)

TO: Representative Lindsey Holmes

FROM: Gerald P. Luckhaupt 
Legislative Counsel

Question Presented: May prior convictions that have occurred before the effective date of a new offense be used to aggravate the offense or a sentence imposed for the new offense?

Answer: Yes. The ex post facto¹ clause of the United States and Alaska Constitutions² do not prevent the use of prior convictions to aggravate or enhance an offense, or the punishment for that offense.³ The use of prior convictions to aggravate or enhance an offense, or punishment for that offense, is not an attempt to recriminalize or further punish the prior criminal activity but to punish the current criminal conduct in a manner that accurately reflects the defendant's recidivism.

This issue was settled in Alaska in 1980 in *Danks v. State*, 619 P.2d 720 (Alaska 1980). In *Danks*, the defendant argued that he should not be subject to a mandatory three year revocation of his driver's license for his third drunk driving conviction. Danks argued that his prior convictions predated the statute that mandated the three year revocation and that application of the revocation period to his current offense would be an unconstitutional ex post facto law. The Alaska Supreme Court rejected Danks' argument:

¹ An ex post facto law is "[a] law passed after the occurrence of a fact or commission of an act, which retrospectively changes the legal consequences or relations of such act or deed." *Black's Law Dictionary*.

² The United States Constitution provides that the states may not enact "any ex post facto law." Art. I, § 10. The Constitution of the State of Alaska provides that "[n]o bill of attainder or ex post facto law shall be passed." Art. I, § 15.

³ Sometimes this argument is also framed in terms of double jeopardy, that being, that punishment is being exacted twice for the same conduct. Framing the argument in this manner has not resulted in any more success than an ex post facto approach.

Danks also argues that the three-year revocation provision of AS 28.15.210(c), if applied to him, would be unconstitutional as an ex post facto law, because his first two OMVI offenses took place prior to the 1974 enactment of section 210(c). But the United States Supreme Court has rejected a similar attack on application of a habitual offender statute, providing enhanced punishment for a fourth felony conviction, when one of the prior convictions was obtained before the statute was passed. In *Gryger v. Burke*, 334 U.S. 728, 92 L. Ed. 1683, 68 S. Ct. 1256 (1948), the Court rejected Gryger's ex post facto argument summarily:

Nor do we think the fact that one of the convictions that entered into the calculations by which petitioner became a fourth offender occurred before the Act was passed, makes the Act invalidly retroactive or subjects the petitioner to double jeopardy. The sentence as a fourth offender or habitual criminal is not to be viewed as either a new jeopardy or additional penalty for the earlier crimes. It is a stiffened penalty for the latest crime, which is considered to be an aggravated offense because a repetitive one.' (citations omitted).

334 U.S. at 732, 68 S. Ct. 1258, 92 L. Ed. at 1687. *Gryger* is dispositive of any claim based on the federal constitution, and we see no reason for us to interpret Alaska's constitutional provision differently.

Danks, supra, at 724 - 725. Since that decision the Alaska Court of Appeals has consistently ruled that the ex post facto provision of our Constitution is not implicated by a statute that enhances a crime or increases the punishment for a crime based upon the existence of prior offenses, regardless of whether those offenses have occurred before or after the statute was enacted. For example, in *Westby v. State*, 2006 Alas. App. LEXIS 150 (Alaska Ct. App. 2006), the court said:

Westby argues that *Danks* is distinguishable because it involved a license revocation proceeding, not a criminal conviction. But the reasoning in *Danks* applies equally in Westby's case, and we have previously relied on *Danks* to uphold a statute that increased a defendant's punishment for a crime based on convictions that were entered before the statute was enacted. Accordingly, we reject Westby's constitutional claim.

And, in *Lemon v. State*, 654 P.2d 277, 278 (Alaska Ct. App. 1982), the defendant argued that Alaska's former habitual criminal law was unconstitutional as applied to him because it allowed his sentence to be increased based upon two prior convictions that occurred before the law was enacted. The court rejected the defendant's argument stating:

Lemon argues that two of the convictions which the court relied upon in sentencing him as a habitual criminal occurred prior to enactment of the habitual criminal statute so that using them to enhance his sentence violated state and federal constitutional prohibitions against ex post facto laws and placing a defendant twice in jeopardy. This precise claim was rejected by the United States Supreme Court in *Gryger v. Burke*, 334 U.S. 728, 92 L. Ed. 1683, 68 S. Ct. 1256 (1948). Similar claims were rejected by our supreme court in *Danks v. State*, 619 P.2d 720 (Alaska 1980) and by this court in *Carter v. State*, 625 P.2d 313, 315 (Alaska App. 1981). We find no error.

And finally, in *Petersen v. State*, 930 P.2d 414, 433 - 434 (Alaska Ct. App. 1996), the Alaska Court of Appeals considered the situation where a prior offense is used as an element of a greater offense to increase the offense to a higher level of crime and the statute creating the greater offense was enacted after the prior offense was committed. The court quoted from *Gryger* and *Danks* and held that the same rule applies:

This is the accepted view on this matter, both as to increased punishments and to new offenses that include, as an element of the crime, proof that the defendant was previously convicted of an offense:

If the defendant commits crime A at a time when there is no habitual criminal statute, then such a statute is passed imposing increased punishment for a second offense, and then the defendant commits crime B, it is not within the ex post facto prohibition to apply the habitual criminal statute to crime B. No additional punishment is prescribed for crime A, but only for the new crime B, which was committed after the statute was passed. *Similarly, it is permissible to define a crime as limited to certain conduct engaged in by persons who have theretofore been convicted of some other offense and to apply the statute to one whose earlier offense and conviction predated the enactment of this [new] statute.*

Wayne R. LaFare and Austin W. Scott, Jr., *Substantive Criminal Law* (1986), § 2.4, Vol. 1, p. 139 (emphasis added by the court).

Petersen's case is slightly different: his offense became first-degree stalking, not strictly because of his prior criminal conviction, but because he was on probation from that prior conviction and because one of his conditions of probation forbade him from having contact with R.H. Compare AS 12.55.155(c)(20) (for purposes of presumptive sentencing, an offense is aggravated if "the defendant . . . was on parole or probation for another felony"). Nevertheless, the same rule applies: the legislature

Representative Lindsay Holmes

February 8, 2008

Page 4

can validly enhance the degree of a defendant's crime based on the defendant's pre-existing conditions of probation or based on a restraining order previously entered against the defendant. We therefore reject Petersen's contention that there was any illegality in convicting him of first-degree stalking because he violated a condition of probation imposed before the stalking law took effect. This did not constitute a retroactive application of the stalking law.

GPL:ljw

08-077.ljw

LEGAL SERVICES

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

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FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

January 30, 2008

SUBJECT: Constitutionality of Three Strikes Penalties for Domestic Violence Offenders under *Blakely v. Washington* (HB 307)
(Work Order No. 25-LS1236\E)

TO: Representative Lindsey Holmes

FROM: Gerald P. Luckhaupt
Legislative Counsel 

You have asked if sec. 2 of HB 307, which enhances penalties for misdemeanor domestic violence offenders¹ is constitutional under *Blakely v. Washington*, 540 U.S. 1174, 124 S. Ct. 1493, 158 L. Ed. 2d 75 (2004). In my opinion it is.

HB 307 provides that a person who commits a crime of domestic violence that is a misdemeanor crime against a person and the person has been previously convicted on two prior occasions of crimes involving domestic violence that are crimes against a person then the current offense becomes a class C felony and the person shall be sentenced for a class C felony. Obviously, to comply with *Blakely* a jury will need to find the necessary facts of the present offense, those being the various elements of the misdemeanor crime against a person with which the person is accused and the fact that the offense constituted a crime of domestic violence -- the victim of the offense was a household member with the accused.² We currently utilize a similar procedure for enhancing a felony sentence based upon the domestic violence aggravating factor.³ This

¹ A "three strikes" law for misdemeanor domestic violence offenses.

² Unless, of course, the accused waives having a jury decide these issues.

³ AS 12.55.155(e)(18) provides:

(c) The following factors shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence above the presumptive range set out in AS 12.55.125:

(18) the offense was a felony

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit made up of those living together in the same dwelling as the defendant;

domestic violence aggravating factor must also be proved to the jury beyond a reasonable doubt.⁴ AS 12.55.155(f).

It is my opinion that proof of the existence of the two prior convictions in HB 307 can be done before a judge without a jury. *Blakely* does not require that proof of prior convictions be made by a jury but allows these decisions to be made by a judge.

Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.

Blakely, supra, 124 S. Ct. at 2536, quoting *Apprendi v. New Jersey*, 530 U.S. 466, (2000) (emphasis added).⁵ See, also, *State v. Hermann*, 140 P.3d 895 (Alaska App. 2006); *Milligrock, supra*.

It can be argued that the decision to be made with regard to prior convictions in HB 307 goes beyond a mere finding that the previous convictions exist but requires a finding that the previous convictions were crimes involving domestic violence and it is this finding that must go to the jury. It is still my opinion that *Blakely* does not mandate this result. Other jurisdictions have held that findings by a judge that prior convictions that are otherwise derivative of a defendant's criminal history are not implicated by *Blakely*. *Carson v. State*, 813 N.E. 2d 1187 (Ind. Ct. App. 2004). Furthermore, that these prior convictions are crimes involving domestic violence can be established before the court solely by the record of conviction in at least some cases by the fact of the defendant's prior conviction and by observing that the defendant received an enhanced minimum sentence under AS 12.55.135(c) or (g)⁶ or if the aggravating factor in AS 12.55.155(c)(18) was applied.⁷

⁴ The Alaska Court of Appeals has previously found, in at least two cases, that failure to submit this aggravating factor to the jury is subject to a harmless error analysis and, where the evidence was undisputed that the victim and defendant lived in the same household or were spouses, that failure to submit the issue to a jury was harmless beyond a reasonable doubt. See, *Milligrock v. State*, 118 P.3d 11 (Alaska App. 2005) (lived in same household); *Cloyd v. State*, ___ P.3d ___, 2007 Alas. App. LEXIS 44 (Alaska App. 2007) (spouses).

⁵ *Blakely* built upon the decision in *Apprendi*, which required that a jury decide beyond a reasonable doubt that a hate crime law that increased the statutory maximum for an underlying offense applied to the defendant's conduct.

⁶ Factors that increase a minimum sentence or require imposition of a mandatory minimum sentence do not have to be submitted to a jury under *Blakely*.

⁷ Certainly this will not cover all possible prior offenses but will cover the most common assault in the fourth degree for which a mandatory minimum sentence is imposed under

Finally, in *Shepard v. United States*, 544 U.S. 13, 161 L. Ed. 2d 205, 125 S. Ct. 1254 (2005), the U.S. Supreme Court considered whether a judge may determine under federal law if a defendant's prior conviction for burglary was for a violent crime.⁸ Under federal law only some burglary offenses would satisfy this requirement, but it was not clear from the charging documents or from the conviction itself that Shepard's conviction was of the required type as Shepard had pled guilty to a generic form of burglary and there was nothing in the record to show that Shepard had admitted the facts that made his conviction "violent" for purposes of an enhanced sentence under federal law in his present case. The Court found that this decision had to be made by the jury.

While the disputed fact here can be described as a fact about a prior conviction, it is too far removed from the conclusive significance of a prior judicial record, and too much like the findings subject to *Jones* and *Apprendi*, to say that *Almendarez-Torres* clearly authorizes a judge to resolve the dispute. The rule of reading statutes to avoid serious risks of unconstitutionality [citation omitted] therefore counsels us to limit the scope of judicial factfinding on the disputed generic character of a prior plea, just as *Taylor* constrained judicial findings about the generic implication of a jury's verdict.

Shepard, 544 U.S. at 25 - 26. In light of *Shepard*, even if my opinion that *Blakely* does not apply to findings concerning these prior offenses is incorrect it still does not follow that HB 307 is unconstitutional. There is nothing in HB 307 that prevents the jury from deciding if the victim of these prior offenses was a household member of the offender. There is no reason to think that the prosecutors and the courts will not be able apply this sentencing provision. Submitting the issue of whether the victim of the prior offenses was a household member with the accused would clearly be constitutional under *Blakely* and *Shepard* and while it may not be entirely beneficial to defendants, as the jury may hear evidence of their prior crimes which may not endear the jury to them, there is nothing in HB 307 that prevents the Department of Law and the Alaska Court System from applying HB 307 in this manner if that is what the Department of Law and the courts think that *Blakely* requires.^{9, 10}

AS 12.55.135. In other situations, if *Blakely* applies, the issue of whether these prior offenses were committed against a household member (and therefore are crimes involving domestic violence) could be submitted to the jury.

⁸ This finding increased the maximum sentence that may be imposed on the defendant.

⁹ That HB 307 does not set forth the specific procedures to be utilized with regard to these prior convictions also does not imply unconstitutionality, or that the bill is lacking in any way, as the legislature has also not set forth the procedure to be utilized for those aggravating factors that must be proven to a jury under AS 12.55.155(f). Instead the

A wholly different approach would be to create a different type of enhancement for a current domestic violence offense.¹¹ For example, we could provide that a person who commits a misdemeanor crime of domestic violence shall be sentenced as a class C felon if the person has two prior convictions for any of various felonies or misdemeanors that could constitute domestic violence and that are crimes against persons under AS 11.41.¹² Then we could set up a procedure to allow the judge to not sentence the person as a felon (and only impose the normal misdemeanor penalty for the offense) if the defendant shows the prior convictions were not crimes of domestic violence. There is authority for this approach that places the burden of proof on the defendant.

Apprendi, however, does not apply to the trial court's discretionary decision . . . to strike a prior conviction. . . . *Apprendi* carved out a "narrow exception" for sentence enhancements based on "the fact of a prior conviction." The *Almendarez-Torres* exception was not altered by *Blakely*. . . .

Because the sentence enhancement was based on Stevenson's four prior convictions, the calculation of his sentence falls within the *Almendarez-Torres* exception to *Apprendi*. Furthermore, because the trial judge's

legislature said that those factors "shall be presented to a trial jury under procedures set by the court." AS 12.55.155(f)(2).

¹⁰ The *Shepard* Court considered something similar to this and said:

The dissent charges that our decision may portend the extension of *Apprendi v. New Jersey*, 530 U.S. 466; 147 L. Ed. 2d 435, 120 S. Ct. 2348 (2000), to proof of prior convictions, a move which (if it should occur) "surely will do no favors for future defendants in Shepard's shoes." *Post*, at 38, 161 L. Ed. 2d, at 225. According to the dissent, the Government, bearing the burden of proving the defendant's prior burglaries to the jury, would then have the right to introduce evidence of those burglaries at trial, and so threaten severe prejudice to the defendant. It is up to the future to show whether the dissent is good prophesy, but the dissent's apprehensiveness can be resolved right now, for if the dissent turns out to be right that *Apprendi* will reach further, any defendant who feels that the risk of prejudice is too high can waive the right to have a jury decide questions about his prior convictions.

Shepard, 544 U.S. at 26.

¹¹ An enhancement that is a hybrid between the approach used in HB 323, the Governor's crime bill, and HB 307.

¹² Crimes involving domestic violence are listed in AS 18.66.990(3).

Representative Lindsey Holmes

January 30, 2008

Page 5

consideration of evidence not proved to the jury constituted a discretionary decision not to decrease Stevenson's sentence, *Apprendi* is inapposite. Finding a defendant to be outside the "spirit" of the Three Strikes law is a mitigating factor in sentencing, rather than a prerequisite to imposing an enhanced sentence. Thus, the trial judge's consideration of facts not proved to a jury did not offend Stevenson's constitutional rights under *Apprendi*. . . .

Stevenson v. Lewis, 2004 U.S. App. LEXIS 22511 (9th Cir. Oct. 28, 2004)

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Every Home A Safe Home



DID YOU KNOW?

- ◊ One In every four women will experience domestic violence in her lifetime.¹ One In 33 men have experienced an attempted or completed rape.²
- ◊ An estimated 1.3 million women are victims of physical assault by an intimate partner each year.²
- ◊ The majority (73%) of family violence victims are female. Females were 84% of spousal abuse victims and 86% of abuse victims at the hands of a boyfriend.⁴
- ◊ The cost of intimate partner violence exceeds \$5.8 billion each year, \$4.1 billion of which is for direct medical and mental health services.³
- ◊ Boys who witness domestic violence are twice as likely to abuse their own partners and children when they become adults.⁶

CHALLENGES

- The extreme remoteness of many Alaskan communities, (including travelling to access services), remains the major obstacle to providing services to victims in these areas.
- Alaska's statistics on violence against women are among the highest in the nation. Local programs are in dire need of more funding to serve the sheer volume of victims that seek their services.

STATEMENTS FROM SERVICE PROVIDERS

"We are operating on a minimal basis. We have the minimum number of staff to get the job done. We have very little money for program supplies, travel, training, and outreach to the villages. We have been doing more for less for so long its hard to remember what it would look like to have enough."

-Advocate, Sitkans Against Family Violence⁹

"Increases wouldn't just be nice for programs, they are imperative for them to keep up with utility costs. We have diversified funding sources to the nth degree and overall still have fewer position [to provide victim services] than we did 3 years ago, 5 years ago, 8 years ago."

-Advocate, Tundra Women's Coalition²

DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN ALASKA

- Almost 75% of Alaskans have experienced or know someone who has experienced domestic violence or sexual assault.⁷
- There were over 6,000 reported cases of domestic violence in Alaska in 2005.⁷
- 524 forcible rapes were reported in Alaska in 2005, representing almost 13% of all violent crimes.⁸
- The Alaska rape rate is 2.5 times the national average.⁷
- Child sexual assault in Alaska is almost six times the national average.⁷
- Alaska has the highest rate per capita of men murdering women.⁷
- Almost 30% of Alaskans were not able to access victim services or encourage others to do so because there were no services available in their area at the time.⁷
- Almost 90% of Alaskans would vote to increase funding for victim service programs, and over 90% would support increased penalties for domestic violence and sexual assault perpetrators.⁷

STATE RESOURCES

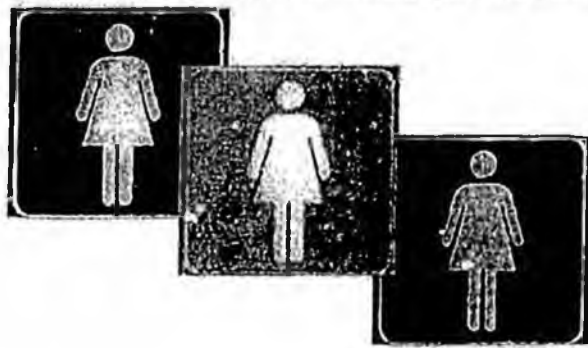
Alaska Network on Domestic Violence and Sexual Assault
www.andvsa.org

- ◊ The Network is a non-profit membership organization that is composed of 21 programs across Alaska. The 21 programs provide victim services for domestic violence and sexual assault, offender services, and crisis intervention services. The Network exists to promote communication and information sharing between programs across the state and to expose and eliminate interpersonal violence in the lives of Alaskan victims.

For more information or to get help, please visit
<http://www.andvsa.org/programs/programs.htm>
 to get local program and hotline information.

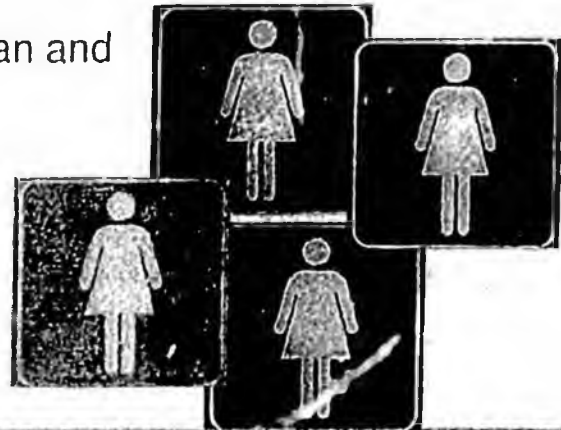
The National Domestic Violence Hotline at 1-800-799-SAFE
 The National Sexual Assault Hotline at 1-800-656-HOPE

American Indian and Alaska Native Women



More than 1 out of every 3 American Indian and Alaska Native women will be raped in her lifetime.¹

More than 3 out of every 4 American Indian and Alaska Native women will be physically assaulted in her lifetime.¹



When Men Murder Women¹⁰

Alaska ranks first in the nation with the highest homicide rate for female victims killed by a male perpetrator.¹

Number of Females Murdered by Males in Single Victim/Single Offender Homicides and Rates by State in 2003, Ranked by Rate

Ranking	State	Homicide Rate per 100,000
1	Alaska	2.87
2	Nevada	2.64
3 (tie)	Louisiana	2.42
3 (tie)	New Mexico	2.42
5	Tennessee	2.38

SOURCES

¹ Tjaden, P. & Thoennes, N. (2000). *Extent, Nature and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey*. National Institute of Justice and the Centers for Disease Control and Prevention.

² U.S. Department of Justice. (November 1998). "Prevalence, Incidence, and Consequences of Violence Against Women."

³ Centers for Disease Control and Prevention. (2003). *Costs of Intimate Partner Violence Against Women in the United States*. Atlanta, GA: National Centers for Injury Prevention and Control.

⁴ Bureau of Justice Statistics. (June, 2005). *Family Violence Statistics*. U.S. Department of Justice.

⁵ Centers for Disease Control and Prevention. (2003). *Costs of Intimate Partner Violence Against Women in the United States*. Atlanta, GA: National Centers for Injury Prevention and Control.

⁶ Strauss, Ulfes, & Smith. (1990). *Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8145 Families*. Transaction Publishers.

⁷ Alaska Network on Domestic Violence and Sexual Assault. (2006). 2006 Annual Report. Working in Alaska Committee for Safety, Justice, Advocacy and Education, Violence Prevention. Juneau, Alaska.

⁸ Alaska Department of Public Safety. (2005). *Crime Reported in Alaska, 2005: Uniform Crime Reporting Program*. Accessed November 29, 2007 at http://www.dps.state.ak.us/CRIM/UCR_2005.pdf

⁹ Alaska Network on Domestic Violence and Sexual Assault. (December 2005). *Alaska Program Directors Report How They Are Coping With Inadequate Funding*. Accessed November 29, 2007 at <http://www.alnadv.org/pdfs/December%202005%20Quotes%20from%2006report.pdf>

¹⁰ Violence Policy Center. (September 2005). *When Men Murder Women*. Accessed November 29, 2007 at <http://www.vpc.org/studies/wmmw2005.pdf>

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE



The Public Policy Office of the National Coalition Against Domestic Violence (NCADV) is a national leader in the effort to create and influence Federal legislation that positively affects the lives of domestic violence victims and children. We work closely with advocates at the local, state and national level to identify the issues facing domestic violence victims, their children and the people who serve them and to develop a legislative agenda to address these issues. NCADV welcomes you to join us in our effort to end domestic violence.

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ALASKA PEACE OFFICERS ASSOCIATION

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Valdez
Pres. Port of Valdez Chapter

January 24, 2008

Representative Jay Ramras
House Judiciary Committee Chair
State Capitol
Juneau AK 99801-1182

Dear Representative Ramras:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for considering HB 307, an act relating to penalizing certain misdemeanor domestic violence offenses as felonies.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'Angella Long'.

Angella Long
State President



State of Alaska
Department of Public Safety
Council on Domestic Violence & Sexual Assault

Sarah Palin, Governor
Walter Monegan, Commissioner

February 8, 2008

Representative Lindsey Holmes
State Capitol, Room 405
Juneau, Alaska 99801-1182

Subject: Support for HB 307

Dear Representative Holmes and HB 307 Sponsors:

Thank you for introducing HB307, Domestic Violence Offenses, a bill that will hold the most serious repeat domestic violence offenders accountable for their actions.

We must turn the tide of Alaska's chronically high rates of interpersonal violence. To accomplish that, victims must be kept safe and perpetrators must know that they will be appropriately punished for their actions. We believe the legislation you propose sends a strong message that our state will not tolerate the levels of domestic violence that currently exist.

This bill's welcome message is that "serial battering" is a serious crime that Alaska will not accept. When repeat offenders are held to a higher standard of accountability, the message to both victims and perpetrators is that the recurrence of harm to an individual matters. We expect the classification of such behavior as a felony to act as a deterrent and, if not, then it would provide a heavier consequence to include prison time and oversight by Department of Corrections upon release.

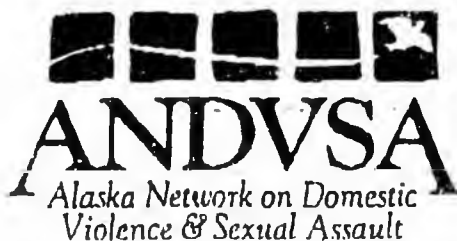
As you probably know, as of 2005, at least 26 states have also taken a stand on this issue by enacting some type of enhanced penalty for repeat domestic violence offenders. We encourage Alaska to join them and appreciate the opportunity to support this legislation.

Sincerely,

Chris Ashenbrenner
Executive Director

"Public Safety through Public Service"

Juneau Office
130 Seward St #209
Juneau, Alaska 99801
Phone: (907) 586-3650
Fax: (907) 463-4493
www.andvsa.org



Sitka Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907) 747-7547

February 20, 2008

Representative Lindsey Holmes
Members of House Finance

Dear Rep. Holmes and members of HFIN Committee:

The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) supports the intention of this legislation 1000%. At first glance it would seem that this bill is something ANDVSA would wholeheartedly support because the criminalization of such behavior sends the message that domestic violence is a serious crime and one that is not easily tolerated in Alaska. Moreover, the bill targets repeat offenders with multiple convictions and those who have multiple victims. However, we have a few concerns we'd like addressed/discussed before passage of such a bill.

As was made clear during the CJS Summit, Senator French stated that we don't have all the information we need to make informed decisions on juveniles being referred to the criminal justice system, and therefore we need an improved method of tracking people who progress through the system. We don't know how many crimes of domestic violence are charged in the first place; we know convictions. We don't know how many are plead down to disorderly conduct or 4th degree assault. If we are not currently charging/convicting domestic violence, and we then increase the penalty to a felony, are we merely giving perpetrators more to bargain with? Perpetrators have a knack for using the criminal justice system against victims. We want some assurances that the system can accommodate this law, and we want to make sure we have the tools to judge its efficacy. If perpetrators are not being convicted of the crimes they are charged with, how are we determine efficacy?

We are also concerned about how this legislation will affect victims who are arrested, especially in rural Alaska where anecdotal evidence suggests that women who are arrested are unlikely to contest charges because they want to get back home and be reunited with their children or who don't want to cause 'any more problems' to the perpetrator. National research does suggest that battered women are more likely to accept plea bargains in order to be with their children ("The Impact of Arrests and Convictions on Battered Women" *National Clearinghouse for the Defense of Battered Women, 2006*). In House Judiciary we heard the testimony of a father on behalf of his daughter who saw first-hand how her boyfriend manipulated the system into getting her arrested.

Having said all of the above, again, we support the intent of this bill. We also urge you to continue to ask questions which address these unintended consequences to victims who must navigate our court system in areas of Alaska where it's not always beneficial for them to do so. We want our laws to reflect our values - that if you continue to commit a crime of domestic violence, there will be dire consequences. I want to thank Representative Holmes and all of the other sponsors for their commitment to protecting victims. Let's make sure that our good intentions don't re-victimize them.

Sincerely,

Peggy Hiron
Executive Director, ANDVSA

Member Programs

Anchorage AWAIC, AWRC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE
Fairbanks IAC Homer SPHH Juneau AWARE Kenai SeaShore Center Ketchikan WISH Kodiak KWRC
Kotzebue MFCC Nome HSWG Seward SCS Sitka SAFV Unalaska USAFV Valdez AVV

HB

310

(FILE 1)

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: January 16, 2008

FURTHER REFERRALS:

Date of Committee Action: 2/28/08

The FINANCE Committee considered:

HB 310

HOUSE BILL NO. 310

APPROP: OPERATING BUDGET/LOANS/FUNDS

"An Act making appropriations for the operating and loan program expenses of state government, for certain programs, and to capitalize funds; making supplemental appropriations; and making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska; and providing for an effective date."

Recommends it be replaced with HCS or CS for HB 310 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ | Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
<small>*Assigned by Chief Clerk's Office</small>				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>[Signature]</i>	Hawker	*			
<i>[Signature]</i>	KELLY			X	
<i>[Signature]</i>	CRAWFORD			X	
<i>[Signature]</i>	Jank			X	
<i>[Signature]</i>	Thomas	✓			
<i>[Signature]</i>	Maris			X	
<i>[Signature]</i>	STARRE	X			
<i>[Signature]</i>	Gara				✓
Chair: <i>[Signature]</i>	Meyer	✓			
Chair: <i>[Signature]</i>	Chenault	✓			

2/21/08

adopted M/C

25-GH2015M
Bailey
2/20/08

CS FOR HOUSE BILL NO. 310(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act making appropriations for the operating and loan program expenses of state
 2 government, for certain programs, and to capitalize funds; making supplemental
 3 appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the
 4 State of Alaska; and providing for an effective date."

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

6 (SECTION 1 OF THIS ACT BEGINS ON PAGE 2)

1 * **Section 1.** The following appropriation items are for operating expenditures from the
 2 general fund or other funds as set out in section 2 of this Act to the agencies named for the
 3 purposes expressed for the fiscal year beginning July 1, 2008 and ending June 30, 2009,
 4 unless otherwise indicated. A department-wide, agency-wide, or branch-wide unallocated
 5 reduction set out in this section may be allocated among the appropriations made in this
 6 section to that department, agency, or branch.

	Appropriation	General	Other
	Allocations	Items	Funds
	Funds	Funds	Funds
	*****	*****	
	***** Department of Administration *****		
	*****	*****	
12	Centralized Administrative	66,652,600	12,968,300
13	Services		53,684,300
14	The amount appropriated by this appropriation includes the unexpended and unobligated		
15	balance on June 30, 2008, of inter-agency receipts appropriated in sec. 1, ch. 28, SLA 2007,		
16	page 2, line 12, and collected in the Department of Administration's federally approved cost		
17	allocation plans.		
18	Office of Administrative	1,419,600	
19	Hearings		
20	DOA Leases	1,314,900	
21	Office of the Commissioner	870,300	
22	Administrative Services	2,216,000	
23	DOA Information Technology	1,189,300	
24	Support		
25	Finance	8,161,400	
26	State Travel Office	2,322,600	
27	Personnel	15,077,600	
28	Labor Relations	1,247,800	
29	Purchasing	1,157,800	
30	Property Management	931,200	
31	Central Mail	2,925,000	

		Appropriation	General	Other
	Allocations	Items	Funds	Funds
1				
2				
3	Centralized Human Resources	281,700		
4	Retirement and Benefits	13,648,800		
5	Group Health Insurance	13,000,400		
6	Labor Agreements	50,000		
7	Miscellaneous Items			
8	Centralized ETS Services	338,200		
9	Leases	43,482,900	45,800	43,437,100
10	The amount appropriated by this appropriation includes the unexpended and unobligated			
11	balance on June 30, 2008, of inter-agency receipts appropriated in sec. 1, ch. 28, SLA 2007,			
12	page 3, line 9, and collected in the Department of Administration's federally approved cost			
13	allocation plans.			
14	Leases	42,319,500		
15	Lease Administration	1,163,400		
16	State Owned Facilities	12,784,300	1,237,300	11,547,000
17	Facilities	10,711,400		
18	Facilities Administration	1,318,100		
19	Non-Public Building Fund	754,800		
20	Facilities			
21	Administration State	1,538,800	1,468,600	70,200
22	Facilities Rent			
23	Administration State	1,538,800		
24	Facilities Rent			
25	Special Systems	1,828,100	1,828,100	
26	Unlicensed Vessel	50,000		
27	Participant Annuity			
28	Retirement Plan			
29	Elected Public Officers	1,778,100		
30	Retirement System Benefits			
31	Enterprise Technology Services	45,093,000	7,149,100	37,943,900
32	Enterprise Technology	45,093,000		
33	Services			

		Appropriation	General	Other
	Allocations	Items	Funds	Funds
1				
2				
3	Information Services Fund	55,000		55,000
4	Information Services Fund	55,000		
5	This appropriation to the Information Services Fund capitalizes a fund and does not lapse.			
6	Public Communications Services	1,122,200	3,898,500	1,223,700
7	Public Broadcasting	54,200		
8	Commission			
9	Public Broadcasting - Radio	2,469,900		
10	Public Broadcasting - T.V.	527,100		
11	Sate'lte Infrastructure	2,071,000		
12	AIFRES Grant	100,000	100,000	
13	AIRRES Grant	100,000		
14	Risk Management	36,884,300		36,884,300
15	Risk Management	36,884,300		
16	Alaska Oil and Gas	5,230,900		5,230,900
17	Conservation Commission			
18	Alaska Oil and Gas	5,230,900		
19	Conservation Commission			
20	The amount appropriated by this appropriation includes the unexpended and unobligated			
21	balance on June 30, 2008, of the receipts of the Department of Administration, Alaska Oil and			
22	Gas Conservation Commission receipts account for regulatory cost charges under AS			
23	31.05.093 and permit fees under AS 31.05.090.			
24	Legal and Advocacy Services	37,168,000	35,976,900	1,191,100
25	Office of Public Advocacy	18,667,000		
26	Public Defender Agency	18,501,000		
27	Violent Crimes Compensation	2,078,600		2,078,600
28	Board			
29	Violent Crimes Compensation	2,078,600		
30	Board			
31	Alaska Public Offices	1,085,900	1,085,900	
32	Commission			
33	Alaska Public Offices	1,085,900		

	Appropriation		General	Other
	Allocations	Items	Funds	Funds
1				
2				
3	Commission			
4	Motor Vehicles	14,111,500		14,111,500
5	Motor Vehicles	14,111,500		
6	General Services Facilities	39,700		39,700
7	Maintenance			
8	General Services Facilities	39,700		
9	Maintenance			
10	ITG Facilities Maintenance	23,000		23,000
11	ETS Facilities Maintenance	23,000		
12	*****		*****	
13	***** Department of Commerce, Community, and Economic Development *****			
14	*****		*****	
15	Executive Administration	4,949,700	1,294,800	3,654,900
16	Commissioner's Office	696,600		
17	Administrative Services	4,253,100		
18	Community Assistance &	11,767,700	2,335,300	9,432,400
19	Economic Development			
20	Community and Regional	9,213,000		
21	Affairs			
22	Office of Economic	2,554,700		
23	Development			
24	Revenue Sharing	19,600,000		19,600,000
25	Payment in Lieu of Taxes	6,426,600		
26	(PILT)			
27	National Forest Receipts	9,573,400		
28	Fisheries Taxes	3,600,000		
29	Qualified Trade Association	4,205,100	4,205,100	
30	Contract			
31	Qualified Trade Association	4,205,100		
32	Contract			
33	QTA Independent Traveler	893,200	720,000	173,200

	Appropriation		General	Other
	Allocations	Items	Funds	Funds
1				
2				
3	Grants			
4	QTA Independent Traveler	893,200		
5	Grants			
6	Investments		4,299,200	4,299,200
7	Investments	4,299,200		
8	Alaska Aerospace Development Corporation		28,252,000	28,252,000
9				
10	The amount appropriated by this appropriation includes the unexpended and unobligated			
11	balance on June 30, 2008, of the federal and corporate receipts of the Department of			
12	Commerce, Community, and Economic Development, Alaska Aerospace Development			
13	Corporation.			
14	It is the intent of the legislature that the Alaska Aerospace Development Corporation fully pay			
15	its portion of the DOA and DCCED cost allocation plans.			
16	Alaska Aerospace	4,078,100		
17	Development Corporation			
18	Alaska Aerospace	24,173,900		
19	Development Corporation			
20	Facilities Maintenance			
21	Alaska Industrial Development and Export Authority		7,784,200	7,784,200
22				
23	Alaska Industrial	7,547,200		
24	Development and Export			
25	Authority			
26	Alaska Industrial	237,000		
27	Development Corporation			
28	Facilities Maintenance			
29	Alaska Energy Authority		31,631,400	31,332,600
30	Alaska Energy Authority	1,067,100		
31	Owned Facilities			
32	Alaska Energy Authority	3,146,500		
33	Rural Energy Operations			

		Appropriation	General	Other
		Allocations	Items	Funds
			Funds	Funds
1				
2				
3	Alaska Energy Authority	100,700		
4	Technical Assistance			
5	Alaska Energy Authority	26,760,000		
6	Power Cost Equalization			
7	Statewide Project	557,100		
8	Development, Alternative			
9	Energy and Efficiency			
10	Alaska Seafood Marketing		18,378,700	625,000
11	Institute			17,753,700
12	Alaska Seafood Marketing	18,378,700		
13	Institute			
14	The amount appropriated by this appropriation includes the unexpended and unobligated			
15	balance on June 30, 2008, of the receipts from the salmon marketing tax (AS 43.76.110), from			
16	the seafood marketing assessment (AS 16.51.120), and from program receipts of the Alaska			
17	Seafood Marketing Institute.			
18	Banking and Securities		3,019,600	3,019,600
19	Banking and Securities	3,019,600		
20	Community Development Quota		230,500	230,500
21	Program			
22	Community Development Quota	230,500		
23	Program			
24	Insurance Operations		6,283,500	6,283,500
25	Insurance Operations	6,283,500		
26	The amount appropriated by this appropriation includes up to \$1,000,000 of the unexpended			
27	and unobligated balance on June 30, 2008, of the Department of Commerce, Community, and			
28	Economic Development, division of insurance, program receipts from license fees and service			
29	fees.			
30	Corporations, Business and		10,289,700	10,289,700
31	Professional Licensing			
32	Corporations, Business and	8,387,700		
33	Professional Licensing			

	Appropriation	General	Other
	Allocations	Funds	Funds
1			
2			
3	The amount appropriated by this appropriation includes the unexpended and unobligated		
4	balance on June 30, 2008, of the Department of Commerce, Community, and Economic		
5	Development, division of corporations, business and professional licensing, receipts from the		
6	fees under AS 08.01.065(a), (c), and (f) - (i).		
7	Office of Consumer Affairs	1,902,000	
8	& Investigations		
9	Regulatory Commission of	7,745,200	7,745,200
10	Alaska		
11	Regulatory Commission of	7,745,200	
12	Alaska		
13	The amount appropriated by this appropriation includes the unexpended and unobligated		
14	balance on June 30, 2008, of the Department of Commerce, Community, and Economic		
15	Development, Regulatory Commission of Alaska receipts account for regulatory cost charges		
16	under AS 42.05.254 and AS 42.06.286.		
17	DCED State Facilities Rent	1,052,700	585,000
18	DCED State Facilities Rent	1,052,700	467,700
19	Alaska State Community	3,277,800	104,400
20	Services Commission		3,173,400
21	Alaska State Community	3,277,800	
22	Services Commission		
23	*****	*****	
24	***** Department of Corrections *****		
25	*****	*****	
26	Administration and Support	8,086,600	7,975,200
27	Office of the Commissioner	1,302,900	
28	Correctional Academy	959,800	
29	Administrative Services	2,572,400	
30	Information Technology MIS	1,820,200	
31	Research and Records	458,700	
32	DOC State Facilities Rent	289,900	
33	Prison System Expansion	682,700	

		Appropriation	General	Other
		Allocations	Funds	Funds
1				
2				
3	Population Management	202,935,100	179,381,400	23,553,700
4	Facility-Capital	524,600		
5	Improvement Unit			
6	Facility Maintenance	12,280,500		
7	Offender Habilitation	3,835,200		
8	Programs			
9	Community Jails	6,115,400		
10	Classification and Furlough	1,606,100		
11	Out-of-State Contractual	21,464,700		
12	Institution Director's	780,700		
13	Office			
14	Prison Employment Program	2,370,800		
15	The amount allocated for Prison Employment Program includes the unexpended and			
16	unobligated balance on June 30, 2008, of the Department of Corrections receipts collected			
17	under AS 37.05.146(c)(81).			
18	Inmate Transportation	1,986,500		
19	Point of Arrest	628,700		
20	Anchorage Correctional	23,725,200		
21	Complex			
22	Anvil Mountain Correctional	5,153,100		
23	Center			
24	Combined Hiland Mountain	9,860,500		
25	Correctional Center			
26	Fairbanks Correctional	10,344,500		
27	Center			
28	Ketchikan Correctional	3,752,000		
29	Center			
30	Lemon Creek Correctional	7,924,300		
31	Center			
32	Matanuska-Susitna	3,821,200		
33	Correctional Center			