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SB

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SB 717

Office of the Attorney  
General

Pouch K - State Capitol  
Juneau 99811

March 25, 1976

The Honorable Robert Ziegler  
Chairman  
Senate Judiciary Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: 1975 Uniform Probate Code  
amendments

Dear Senator Ziegler:

In my role as a Uniform Law Commissioner for Alaska, and knowing of your interest in the Uniform Probate Code (UPC), I am sending to you for your committee's consideration and possible introduction the amendments to the UPC promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 1975. A bill proposing enactment of these amendments in Alaska is attached, as is a copy of the amendments and "official commentary" as distributed by the NCCUSL.

You may find the information in this letter and in the attached sheets sent to me by Professor Richard V. Wellman, educational director for the Joint Editorial Board for the Uniform Probate Code, helpful in preparing a committee report to be printed in the Senate Journal. Such a report, including reference to the NCCUSL official commentary, would provide an indication of legislative intent and a guide to future interpretation.

In preparing the attached bill, I have omitted or modified some of the sections included in the attached NCCUSL draft, as follows:

1. AS 13.11.045(a)(2) (U.P.C. section 2-109) is not proposed for amendment in this bill because the NCCUSL change was intended to provide an option for states which had enacted the Uniform Parentage Act (promulgated by the NCCUSL in 1973). Alaska has not enacted that Act. (That,

March 25, 1976

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incidentally, is another matter which your committee may wish to consider; I have information available should you wish to see it at this time.)

2. AS 13.11.225 (U.P.C. section 2-602) was amended in 1973, adopting the same change now promulgated by the NCCUSL. See ch. 56 SLA 1973; 1973 Senate Journal Supplement No. 9; and 1973 House Journal, page 819.

3. AS 13.11.255 (U.P.C. section 2-608) is not proposed for change here because an intent statement in your committee report should suffice. The NCCUSL change would merely have reorganized the existing language of the section to forestall a possible interpretation question. I assume that Alaska would agree with the interpretation intended by the NCCUSL.

4. AS 13.11.270 (U.P.C. section 2-611) is not proposed for amendment because the proposed change is also one merely intended to provide an option for states which have enacted the Uniform Parentage Act.

5. AS 13.11.300 (U.P.C. section 2-802) was amended in 1973 in the manner suggested by the NCCUSL (see item 2, above).

6. In AS 13.16.030 (U.P.C. section 3-106), I have slightly changed the NCCUSL wording for clarity; no substantive difference from the intent expressed by the NCCUSL is intended.

7. AS 13.16.105(b) (U.P.C. section 3-306) is offered for legislative consideration, although the NCCUSL merely presents it as an optional provision.

8. The following statutes were amended in 1973 in the way currently recommended by the NCCUSL (see item 2, above), and therefore are not proposed for amendment in the attached bill:

AS 13.16.470 (U.P.C. section 3-805)  
AS 13.21.055 (U.P.C. section 4-301)  
AS 13.26.035 (U.P.C. section 5-202)  
AS 13.26.040 (U.P.C. section 5-203)  
AS 13.26.120 (U.P.C. section 5-306)  
AS 13.26.300 (U.P.C. section 5-428)  
AS 13.26.320 (U.P.C. section 5-432)

The Honorable Robert Ziegler  
Senate Judiciary Committee

March 25, 1976

- 3 -

In addition to the statutory amendments proposed by the NCCUSL in the attached material, that organization is proposing additions to the "official commentary" accompanying the U.P.C. See the last few pages of the attached material.

Yours truly,

Arthur H. Peterson  
Assistant Attorney General  
Uniform Law Commissioner  
for Alaska

AHP:md

Uniform Probate Code  
1975 Technical Amendments

After approval and promulgation of the Uniform Probate Code in 1969, the National Conference of Commissioners on Uniform State Laws and The Real Property, Probate and Trust Law Section of the American Bar Association formed the Joint Editorial Board composed of five Commissioners and five representatives of the Section. Since the Fall of 1971, the Board has monitored the legal literature concerning the Code, searched reports about the Code by various bar and legislative study committees and examined the eleven enactments to date of the Code, for ways of strengthening and improving the Code. As changes and corrections were considered and approved by the Board, the text was released for the guidance of others then known by the Board to be considering the Code in preparation for partial or total enactment. Consequently, when West Publishing Company published the 1974 Edition of the Code, it was able to include an Appendix of recommendations concerning changes as previously released by the Board, and fifteen of the thirty-one changes approved by the National Conference in 1975 were included in this Appendix. Several of these, plus others that were not released by the Board before the 1975 annual meeting of the National Conference in Quebec City, already have been incorporated into the Code in one or more of the eleven full enactments.

The thirty-one changes recently approved by the National Conference are aptly described as technical amendments for none reflect any pulling back from, or marked extension of, any of the principles or provisions of the Code. Nineteen of the thirty-one changes involve

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL  
JUNEAU 99811

JAY S. HAMMOND, GOVERNOR

*file on bill*

April 30, 1976

The Honorable Terry Gardiner  
Chairman  
House Judiciary Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: SB 717 (Uniform Probate  
Code amendments)

*Terry*  
Dear Representative Gardiner:

Since I will be out of the state for three weeks, I wanted to send you this little written reminder of my interest in having the legislature pass SB 717 which is presently residing in your committee. The bill makes technical amendments to the Uniform Probate Code, as recommended by the National Conference of Commissioners on Uniform State Laws at their 1975 meeting. I am supporting this bill in my role as a Uniform Law Commissioner for Alaska.

Senate Journal Supplement No. 9 (April 1, 1976) contains both my March 25, 1976 letter to Senator Robert Zeigler, discussing this bill, and a general description of these amendments prepared by Professor Richard V. Wellman, Educational Director for the Joint Editorial Board for the Uniform Probate Code. A copy of that supplement is attached. In addition, the Senate Judiciary Committee has a copy of the "official commentary" prepared by the National Conference explaining each one of these amendments. The only comments on this bill that I have heard from private law practitioners have been in support.

Your favorable consideration of this matter will be appreciated. Thank you.

Yours truly,

*Art*  
Arthur H. Peterson  
Assistant Attorney General  
Alaska Commissioner on  
Uniform State Laws

AHP:md

cc: The Honorable Mike Bradner  
Speaker of the House

THE PRECEDING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

SB

724

"An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes."

# COMMITTEE REPORT

4/12/76

HOUSE

Mr. Speaker:

Date May 20, 1976

The Committee on JUDICIARY has had SB 724

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>Terry Lindholm</u>	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

Terry Lindholm Chairman

Terry: we have a problem -  
I won't ask you to solve it  
but I want you to agree (I won't  
ask because I know you are irritated with  
me).

Keith will offer an amendment  
to SB724 Levison's Bill to  
add an immediate effective date  
to SCS HB 863 Forest Protection.

Randy Berry & Art Peterson  
agree with the amendment and  
with putting it on this bill.

The reason we need the immediate effective

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 30, 1976

SUBJECT: "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes."  
(W.O. #2446)

TO: Legislative Council

FROM: Randolph Berry, Revisor of Statutes

This bill was prepared by the Revisor of Statutes under AS 01.05.-036. The proposed amendments are designed to accomplish the following purposes: (1) correction of citations; (2) cleanup to make provisions consistent with other law or to recognize more recently enacted law; and (3) miscellaneous clarification and correction.

It is suggested that this explanatory memorandum accompany the bill through its legislative course.

SECTIONAL ANALYSIS

Section 1 updates a citation to the current statutory section in the municipal code (AS 29) which was based on and replaced AS 29.10.396.

Section 2 makes a correction in the language of the section for internal consistency.

Sections 3 and 4 correct citations to AS 29.58.345, enacted by ch. 137, SLA 1975, made necessary by the change in the AS number of that section to avoid duplication.

Section 5 adds the name of the Alaska Royalty Oil and Gas Development Advisory Board to the section, as "board" is not defined in AS 38.05.

Section 6 repeals AS 38.05.347, since that section expired by its own terms in 1967.

Section 7 substitutes the word "or" for "and" in the section, since biologist and technician are two separate positions.

Section 8 is included to clarify the correction of an error of a typographical nature in the citation to AS 39.37.030 occurring in FCCS HCSSB 404 and sec. 8, ch. 205, SLA 1975, as that Act was initially enrolled.

Section 9 repeals 43.05.150(e) which is duplicated by AS 37.10.-075(d).

Sections 10 and 11 update the language of AS 43.75.130 and 43.75.-135 to correspond to the current classification of cities in the municipal code (AS 29).

Section 12 corrects a citation to AS 43.33.150.

Section 13 repeals a reference to the Board of Examiners of Basic Sciences which was repealed by sec. 1, ch. 87, SLA 1970.

Section 14 updates the language of AS 45.55.130(12), since the Commodity Futures Trading Commission (7 USCA sec. 4a) has replaced the Commodity Exchange Authority of the United States Department of Agriculture.

Section 15 reinserts the word "not" which was omitted in AS 45.-55.140(b)(7)(B) when AS 45.55.140(b) was amended in other respects by sec. 12, ch. 86, SLA 1972.

Section 16 deletes a reference to the Alaska Mineral Lease Bonus Permanent Fund, since HB 324 (1975) which would have established that fund was vetoed by the governor and the veto was sustained.

Sections 17 to 117 update references to the Department of Commerce, the commissioner of commerce, the Department of Economic Development and the commissioner of economic development to conform to sec. 9, ch. 207, SLA 1975.

RB/sm

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: SENATE BILL NO. 724

Page 37, line 24: add a new section to read:

\* Sec. 118. AS 16.05.221 is amended to read:

Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes of the conservation and development of the fishery resources of the state, there is created the Board of Fisheries composed of seven members appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The appointed members shall be residents of the state and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the Board of Fisheries, but shall be ex officio secretary.

(b) For purposes of the conservation and development of the game resources of the state, there is created a Board of Game composed of seven members appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The appointed members shall be residents of the state, and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the Board of Game, but shall be ex officio secretary.

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*Adopted*

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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99801

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RB/sm

SCR

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Criminal Procedures <sup>SCR</sup>  
File on criminal code

PROPOSED AMENDMENT TO CODE OF CRIMINAL PROCEDURE

X An order finally denying a Motion to Suppress Evidence ?  
may be reviewed upon an appeal from any ensuing judgment  
of conviction notwithstanding the fact that such judgment is  
entered upon a plea of guilty. The sentencing judge shall not  
inquire as to the defendant's intention to appeal, nor may  
such intention be considered in any way in the sentencing  
procedure.

COMMENT:

Much judicial time and legal effort is currently wasted because the defendant automatically waives his rights to challenge unlawful police conduct in searches, seizures or wire-tappings if he pleads guilty after the Superior Court denies an initial motion to suppress evidence. Subsequently, if his search and seizure issue appears meritorious, despite an adverse determination by the lower court, the defendant will insist on an expensive, faultless and wasteful trial, since under the present law this is the only way he can take his search and seizure appeal to the Supreme Court.

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AN ACT CREATING A COMMISSION ON CORRECTIONS

It is recognized by the legislature that the present system of jails and corrections has largely been a failure in terms of reducing recidivism regardless of the good faith efforts that have been expended. It is believed by the legislature that this failure has resulted primarily from the lack of effective disposition of the convicted criminal in terms of the avowed and mandated goals of rehabilitation, integration and re-integration into our society. The legislature specifically finds that it is desirable to integrate the offender into society rather than isolate him from it. It is also the opinion of the legislature that the Scandinavian concept of small local community institutions and work dormitories has proved successful and is worth investigating further for possible implementation in the State of Alaska. Accordingly, the legislature does hereby establish a Commission on Corrections which shall be charged with the duty to investigate the Scandinavian system of corrections and other such alternative methods and report to the legislature one year from the effective date of this act. The Commission shall be funded in the amount of \$\_\_\_\_\_ . The Commission members, including a chairman, shall be appointed by the Attorney General and shall consist of not less than three (3) members

Comment:

Funding will be necessary for an office, one full-time staff member, one secretary, per diem, travel and the Commission members should be paid for their time.

ACTS RELATING TO PRIVACY

The legislature takes notice that the people of the State of Alaska have passed an amendment to the State Constitution which provides:

Section 22. Right of Privacy. The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

Accordingly, the legislature is taking the following action with respect to implementation:

1) The Alaska Criminal Justice Information System Act is amended as follows:

a) The Alaska Criminal Justice Information System shall not be interconnected with any other system which does not provide at least the same safeguards of individual privacy that ACJIS does.

b) The legislature directs the Attorney General's office to be in charge of the enforcement of the present security regulations of ACJIS. The Attorney General is further directed to make an annual report to the legislature concerning the implementation and enforcement of these security regulations.

2) In conjunction with AS 11.60.290 (eavesdropping) the following statute is adopted:

It is unlawful for a telephone company to eavesdrop or to permit the use of their equipment, either intentionally or negligently, for the act of eavesdropping as defined in AS 11.60.290. Telephone utilities have the duty to police

their operations in this regard. A person who is injured by an act of eavesdropping which occurred upon telephone utility equipment shall have a cause of action against the telephone company for treble damages; in no event will the damages awarded be less than \$10,000.

3) Any person, organization, company or corporation which provides credit information concerning others shall be held to strict accountability for the accuracy of their reports. If a credit report for any person is false, inaccurate, or misleading, then the injured person has a cause of action against the credit reporter for treble damages; however, in no event shall the damages awarded be less than \$10,000.

4) In conjunction with AS 11.60.359 (deprivation of rights under color of law) a person whose right, privilege or immunity granted by the Constitution or laws of the State of Alaska are so violated negligently or intentionally, shall have a cause of action against the perpetrator for treble his actual damages; however, in no event shall the damages awarded be less than \$10,000.

5) It is recognized by the legislature that private security officers require regulation in order that the public be adequately protected. The Attorney General is directed to establish regulations for the licensing of private security officers within one year from the effective date of this act.

All activities of a private security officer shall be subject to the same constitutional limitations that are imposed upon public officers, including, but not restricted to, the admissability of evidence in criminal proceedings.

6) In conjunction with AS 23.10.037 no person who is required to, or is subject to Alaska Workmens Compensation Act (Chapter 30, Title 23) may, as a condition of employment, or requirement thereof, inquire into any matters relating to an applicant or employee's personal life, including, but not limited to, personal relations, political affiliation or views, religious affilitation, marital status or sexual activities unless the requirements of the job necessarily require such inquiry. The purpose of this law is to protect the privacy of the citizens from unconstitutional and unnecessary intrusion. Accordingly, the Human Rights Commission is directed to enforce this provision. Any person who violates this provision is guilty of a misdemeanor.

7) No person may employ the use of a dog or other animal for the purpose of detecting contraband in any luggage, package, freight, or any other such item of personalty without first obtaining a warrant, to be issued only upon a showing of probable cause from a court of competent jurisdiction. The use of any evidence so obtained without a warrant in any criminal proceeding is prohibited. The violation of this statute is a misdemeanor.

8) It is recognized that the public law is not properly used when it seeks to enforce standards of morality upon

adult persons who have consented to certain prohibited acts.  
Accordingly, the following statutes are repealed:

11.40.010	Adultery
11.40.030	Guilt of a Married Man
11.40.040	Cohabitation in the state of Adultery or Fornication
11.40.050	Polygamy
11.40.070	Seduction
11.40.120	Unnatural Crimes
11.40.160	Display, Sale, Offer, Distribution, Lending or Giving Away of Objectionable Comic Books
11.40.220	Prostitution
11.40.230	Solicitation
11.40.240	Receiving for Purposes of Prostitution
11.40.260	Keeping a Bawdy House
11.50.010	Criminal Syndicalism
11.50.030	Assembly to Advocate Criminal Syndicalism
11.50.040	Permitting Use of Place for Assemblage
11.60.210	Vagrancy

AN ACT RELATING TO THE COMMISSIONER OF PUBLIC SAFETY

It is recognized by the legislature that the Attorney General is and should be the chief law enforcement officer in the State of Alaska. The Commissioner of Public Safety, the Department of Public Safety, and their functions are ancillary to his jurisdiction. Article 3 of Title 22 is amended accordingly.

*too autonomous  
civilian control*



X

AN ACT RELATING TO DECREASING DRUG USE

The legislature recognizes that the first priority in law enforcement is to prevent crimes of violence upon the individual. The legislature feels that there has been a tendency in the past to overemphasize criminal offenses in which there is private and personal possession and use of prohibited drugs. The legislature recognizes that in most cases a medical problem as well as a legal problem exists. The medical problem, if dealt with properly, will serve the public interest. Accordingly, the Commission on Corrections is directed to propose to the legislature alternatives to the present process of the criminalization of drug users.

Council forms & committee

- 6 AB member
- 7 Judge member (SC)
- 8, 9. Regs member (New Grant) Est. - 2000
- Reg. Council - Chairman
- 5 trial Reg. member
- 4 Pub Safety
- 3 H+SS (Chairman) ~~100,000~~ in Budget
- 2 small members
- 1 PA (ex) ~~100,000~~ in Budget (200,000)

Consultant (100,000) in Budget  
 full time AG last  
 (100,000 as per)  
 salary (100,000)

100 K = 100,000

100 K = 100,000

AG - staff  
Council - "

Harry Sullivan

2  
25  
50  
1,250

Consultant

AH  
+  
Sec

- 
1. A.G.
  2. S.C.
  3. trial Bar - Wendell Kay
  4. Public Safety
  5. Corrections
  6. Social workers
  7. D.A. - *Monroe Clayton*  
Kathy Chandler
  8. Ziegler
  9. Brown/Tarr

May 28, 1975

TO: Senator Genie Chance  
FROM: Terry Gardiner  
SUBJECT: Criminal Code Revision

I would like to suggest that we consider placing John Havelock on our committee for the revision of the criminal code. With his background and as director of legal studies and director of criminal justice studies for the University, I think he could be a great asset to the entire project. Mr. Havelock mentioned that with his five staff positions, one of whom will be a director of research, his program could possibly provide us research and staff help on the criminal code revision. Please let me know what you think about this idea.

SCR

15

SENATOR GENIE CHANCE

SEXUAL ASSAULT LEGISLATION

SENATE CONCURRENT RESOLUTION NO. 15 - ASSIGNMENT OF POLICEWOMEN TO REPORTED INCIDENTS OF RAPE

Rape victims believe that female officers would be more sensitive to their needs and that more policewomen should be available to respond to calls from rape victims. This concurrent resolution recommends that local law enforcement agencies undertake an affirmative assignment program to place more policewomen in positions which will enable them to respond to rape victims. It states that special efforts should be made to assign female officers to night duty when most rapes occur.

SENATE CONCURRENT RESOLUTION NO. 16 - MEDICAL EXAMINATIONS OF VICTIMS  
SEXUAL ASSAULT

Emergency medical facilities provide inadequate treatment for rape victims. A woman who has been raped is often beaten and traumatized. The extent of the medical treatment is frequently limited to a vaginal examination for the purpose of gathering potential evidence.

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Chapter 11 is amended by adding two new sections. Section 11.15.125 Petty Sexual Assault and 11.15.127 Aggravated Sexual Assault. The purpose of these new sections is to define categories of sexual contact or sexual intercourse where one of the parties is unable to consent or does not consent to the sexual act.

Sec. 11.15.125 Petty Sexual Assault defines a situation in which a person who has sexual contact with another, not his spouse, or causes the other to have sexual contact with him, without consent, is guilty of petty sexual assault if (1) he knows that the contact is offensive to the other person; (2) he knows that the other person suffers from a mental disease or defect rendering him incapable of appraising the nature of his conduct; (3) he knows that the other person is unaware that a sexual act is being committed; (4) the other person is less than 16 years old; (5) he has substantially impaired the other person's power to appraise or control his conduct by administering or employing without the other's knowledge drugs, intoxicants or other means for the purpose of preventing resistance; or (6) the other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him. The offense of petty sexual assault is a misdemeanor. In this section "sexual contact" is any touching of the genitals of the person for the purpose of arousing or gratifying sexual desire.

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SCR

17

To: Rep. Gardiner  
 From: Rep. H. Beirne

file

We believe that House Bill No. 107 and Senate Concurrent Resolutions No. 16 and No. 18 will encourage more reporting of incidents of rape and reduce trauma to rape victims. We support immediate passage.

NAME	ADDRESS
Amy Kollerbach	2222 Raspberry, Anch 99502
Paul Frasure	Apt 64 8042 Blair Grassy Anchorage Ak
Annely Girard	1504 W. 36 <sup>th</sup> "
RN Brewley	732 N Flower " "
L. R. Lent	508 W 20 <sup>th</sup> " "
Bertei Andersen	7149 Perimithy St. "
Rene Mulcahy	Box 1740 STAA Anch 99507
<del>John T. ...</del>	4320 Checkmate #11 " 99504
Miriam Caston	919 Birch Ct. Anch. 99504
Susan Rolander	1911 Aleutan Anch 99504
Jon Baker	2952 Sunflower " 99504
Anne Chapman	334 N. Hoyt Anch. 99504
Kathy Lewis	3604 Williams Anch 99504
Mike Pajot	8550 E. 12 <sup>th</sup> Ct. Anchorage Ak. 99504
Shirley Palmer	1403 W 40 <sup>th</sup> Anch AK 99503
Nancy Sumford	5348 E. 24 <sup>th</sup> Anch AK 99504
Robert Harper	6110 CARIBOU Rd Anch. Ak 99504
Ingridon Thueson	2627 Karluk Anch AK 99504
Bonnie E. Harris	1137 E. 68 <sup>th</sup> Anch Ak 99502

We believe that House Bill No. 187 and Senate Concurrent Resolutions No. 15 and No. 16 will encourage more reporting of incidents of rape and reduce trauma to rape victims. We support immediate passage.

NAME	ADDRESS
Harold A. Hart	8149 E. 5TH AVE., ANCHORAGE 99504
Alice W. Stakeford	2412 Capt. Cook Rd., Anchorage, AK.
Noel W. Woodard	7007 Mink (Apt. A) Anchorage, AK.
Jo. B. Day	4023 Mt. View Dr. #8, Anch., AK.
Dennis R. Boulder	1303 W. 25 <sup>th</sup> St. Anch., AK.
Vera W. Angaran	384 E 6th S.R.A.
Donna Whitman	808 W. 29 <sup>th</sup> place #8 Anchorage, Alaska
Gloria Beckley	400 N. Lane Apt 10 Anchorage AK
Mary R. Kling	3630 W. 79 <sup>th</sup> St. Anch., AK.
Karen M. Primus	4023 North Court Rd. Anch., AK
William F. Primus	8426 E Duben Av. Anchorage, AK.
Arnold Woodard	8426 E Duben Av. Anchorage, AK.
Nancy R. Zeltner	7007 Mink Apt #A
F. H. Woodard	7007 Mink Apt B Anchorage, AK
Virgil M. Keto	7129 Old Harbor Rd. Anchorage, 99504
Taylor Jackson	2340 Popson Drive Anchorage, Alaska 99504
Katherine Carr	112 E. 24 <sup>th</sup> Apt 108 Anchorage 99503 -
	1734 Cache Anch. Ak 99507

## SEXUAL ASSAULT LEGISLATION

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SCR

19

Relating to special investigative units for cases involving sexual offenses.

# COMMITTEE REPORT

5/5/75

HOUSE

Mr. Speaker:

Date 5/11/75

The Committee on JUDICIARY has had CSSCR 19

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

"and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

Members NOT concurring in the Majority report:

<u>[Signature]</u>	recommends: <u>none</u>
_____	recommends:
_____	recommends:
_____	recommends:
_____	recommends:

[Signature] Chairman

SENATOR GENE CHANCE

SEXUAL ASSAULT LEGISLATION

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Throughout Chapter 11, "rape" is deleted and aggravated sexual assault is inserted in the following sections:

Sec. 11.05.150. Imposing Less than Prescribed Penalties

Sec. 11.15.010 First Degree Murder

Sec. 11.15.160. Assault with Intent to Kill or Commit Rape or Robbery

Sec. 11.15.295 Use of Fire Arms during the Commission of Certain Crimes

Sec. 11.30.040(b)

Chapter 11 is amended by adding two new sections. Section 11.15.125 Petty Sexual Assault and 11.15.127 Aggravated Sexual Assault. The purpose of these new sections is to define categories of sexual contact or sexual intercourse where one of the parties is unable to consent or does not consent to the sexual act.

Sec. 11.15.125 Petty Sexual Assault defines a situation in which a person who has sexual contact with another, not his spouse, or causes the other to have sexual contact with him, without consent, is guilty of petty sexual assault if (1) he knows that the contact is offensive to the other person; (2) he knows that the other person suffers from a mental disease or defect rendering him incapable of appraising the nature of his conduct; (3) he knows that the other person is unaware that a sexual act is being committed; (4) the other person is less than 16 years old; (5) he has substantially impaired the other person's power to appraise or control his conduct by administering or employing without the other's knowledge drugs, intoxicants or other means for the purpose of preventing resistance; or (6) the other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him. The offense of petty sexual assault is a misdemeanor. In this section "sexual contact" is any touching of the genitals of the person for the purpose of arousing or gratifying sexual desire.

Sec. 11.15.127 Aggravated Sexual Assault defines a situation in which a person who has sexual intercourse with another person, not his spouse, is guilty of aggravated sexual assault if (1) the other person is compelled to submit by force or by threat of imminent death, serious bodily injury, extreme pain or kidnapping, to be inflicted on anyone; (2) the person substantially impairs the other person's power to appraise or control his conduct by administering or applying, without his knowledge or consent drugs, intoxicants or other means for the purpose of preventing resistance; (3) the other person is unconscious; or (4) the other person is less than 16 years old. Aggravated sexual assault is a felony. For the purpose of this section, sexual intercourse includes intercourse by means of the mouth, vagina, or rectum, with some penetration however slight; emission is not required.

Chapter 11 is amended by repealing AS 11.14.120 - 11.14.134 and AS 11.40.120. These amendments create a category of crime called "sexual assault". There are two degrees of crime under sexual assault: Petty Sexual Assault and Aggravated Sexual Assault. Victims of these crimes either do not consent to the sexual act described under the sections or are incapable of consenting to the act. Sexual acts between consenting adults are legal regardless of whether they are for the purposes of arousal or intercourse and involve either oral, anal, or vaginal sex.

SCR

62

Delaying the implementation of a periodic motor vehicle inspection program in the state by annulling certain administrative regulations adopted by the Department of Public Safety.

# COMMITTEE REPORT

HOUSE

4/8/76

Mr. Speaker

Date

May 26, 1976

The Committee on JUDICIARY has had CS SCR 62 an

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR None AND THAT

CS FOR \_\_\_\_\_ DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>Tony Sheridan</u>	<u>NO REC</u>	_____
<u>Paul S. ...</u>	<u>" "</u>	_____
<u>Joseph ...</u>	<u>" "</u>	_____

Members NOT concurring in the Majority report:

_____	recommends: <u>None</u>
_____	recommends:
_____	recommends:
_____	recommends:
_____	recommends:

Tony Sheridan Chairman

Offered: 3/8/76  
Referred: Rules

Original sponsor: Huber and Kerttula

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE CONCURRENT RESOLUTION NO. 62 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 Delaying the implementation of a periodic  
6 motor vehicle inspection program in the  
7 state by annulling certain administrative  
8 regulations adopted by the Department of  
9 Public Safety.

10 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 WHEREAS, under authority of AS 28.05.030(4) and AS 28.35.210, the Depart-  
12 ment of Public Safety has adopted regulations establishing a periodic motor  
13 vehicle safety program in response to federally mandated requirements; and

14 WHEREAS the announcement of the vehicle inspection program has produced  
15 widespread concern throughout the state that the objectives, procedures, and  
16 minimum requirements of the program had not been adequately studied or  
17 evaluated; and

18 WHEREAS, although the presence of mechanically defective vehicles on the  
19 state's roads and highways is recognized as a valid highway safety concern,  
20 the periodic inspection of motor vehicles has not been proved a valid method  
21 of ensuring that the state's roads and highways will be free from these  
22 vehicles; and

23 WHEREAS the Governor has rightfully acknowledged the necessity for delay  
24 in implementing the federally mandated vehicle inspection program in this  
25 state so that further study and evaluation may be undertaken to seek a course  
26 of action with respect to the effect of mechanically defective motor vehicles  
27 on the state's highway safety program and the implementation of periodic  
28 motor vehicle inspections that will best serve and protect the interests of  
29 Alaskans; and

1           WHEREAS under AS 44.62.320 the Legislature, by concurrent resolution  
2 adopted by a vote of a majority of the members in each of both houses, may  
3 annul a regulation of an agency or department, and the annulment of these  
4 administrative regulations is the only statutorily authorized procedure that  
5 will enable suspension of the periodic motor vehicle inspection program  
6 pending further evaluation of that program called for by the Governor and  
7 endorsed by the Legislature;

8           BE IT RESOLVED by the Alaska State Legislature that administrative  
9 regulations 13 AAC 06.060 - 13 AAC 06.090 are annulled; and be it

10           FURTHER RESOLVED that the Alaska State Legislature endorses the Gover-  
11 nor's action in suspending operation of the periodic motor vehicle  
12 inspection program while undertaking further study and evaluation of that  
13 program; and be it

14           FURTHER RESOLVED that the Governor is respectfully requested to direct  
15 the Department of Public Safety to strictly enforce the vehicle safety equip-  
16 ment requirements of the state Motor Vehicle Code (AS 28) and the regulations  
17 promulgated under it and is urged to accomplish and monitor improved vehi-  
18 cular safety under its existing enforcement procedures.

IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

A M E N D M E N T #1

TO: CSSCR 62am

On page 2, line 9, after "regulations", insert: "13 AAC 06.040(d),"

On page 2, line 9, strike out "13 AAC 06.090", and insert:

"13 AAC 06.080 and 13 AAC 06.090(c) - (e)"

Feb 20, 1976

Dear John -

I know you are as busy as a cat on a tin roof - so I have addressed an envelope and put in a paper for a quick scribbled reply -

What is the status of that lousy Auto Inspection Bill - ?

I hear about land withdrawals off shore leases, 200 mile limit etc etc - but in a way they are all pretty abstract -

This inspection is a gut issue with me -

If you have time just jot down a line or two o

All the best. -

John M<sup>c</sup>Cauley  
1138 Park Drive

January 26, 1976

Senator John Huber  
Pouch V  
State Capitol  
Juneau 99811

Dear John:

I heard on the radio this morning that you are attempting to give the motor vehicle inspection law the deep-six--bravo !

Not only will the program cost the state a fortune to operate as it stands, but it is subject to all sorts of manipulation and favoritism. It hits the average citizen and gives special dispensations to others. It requires inspections of vehicles in urban areas but exempts "some remote areas" as determined by the Commissioner of Public Safety. How does he do this? You can get killed by a car with bum brakes in Angoon just as effectively as in Anchorage--although I'll grant you that your odds of survival would be more attractive in Angoon.

What is particularly annoying about the law is that it applies, initially, to "noncommercial vehicles in Anchorage, Fairbanks and Juneau that are under 10,000 pounds gross vehicle weight, such as passenger cars, station wagons, van and sports vehicles." Only later--and we don't know what "later" means--does it apply to "other areas and commercial and heavier vehicles, school buses, Etc." So the law does not apply to all of us equally--residents of Anchorage, Fairbanks and Juneau have to comply--but nobody else has to yet. Also, why should the state play favorites and let the trucking industry (particularly gravel trucks in Anchorage) get off the hook? And then there's the special consideration for so-called "fleet stations." They can inspect

vehicles owned or leased by an individual business--with the public stations for everybody else except governmental vehicles. Will the so-called "fleet" vehicle really get the same scrutiny as the car of the average citizen?

If I understand it correctly, some guy who owns a fleet of pizza trucks can inspect his own vehicles. Pretty convenient. Meanwhile, the average Joe has to get in line at the corner gas station and submit his vehicle to the mercy of some pump-jockey who might not know the steering wheel from the spare tire. Just think of all the opportunity this opens up for some hanky-panky.

I'm not against vehicle inspection per se--lord knows there's enough wrecks on our roads that need attention--but if the state is going to implement a mandatory inspection program, then it should equally apply to all of our citizens and all of our motor vehicles--regardless of whether or not you qualify as a "fleet" operator.

John, I have been editor of "Alaska Construction & Oil" magazine and of the weekly newsletter, "Alaska from the Inside." I would appreciate anything you might send my way for the newsletter, regarding legislation or anything in the political arena. I won't quote you if you wish.

Good luck in your efforts against the motor vehicle inspection farce. If anybody disagrees with you on this, let your St. Bernards bite them on the ass.

Sincerely,



Bob Yaskell  
P.O. Box 1096  
Anchorage 99510

Box 873  
Delta Junction, Alaska 99737  
February 12, 1976

Sen. John Huber  
Pouch V  
State Capitol Building  
Juneau, Alaska 99801

Dear Senator Huber,

Congratulations on fighting the auto inspection fiasco.

I am not alone in saying "we" are getting pretty sick and disgusted with all the federal government blackmail threatening to withhold funds for not complying with dictatorial rules. I wonder if any of the idiots down there realize just whose money they are trying to withhold.

Congratulations also to Sen. Kerttula. I hope you can make some progress on this.

Sincerely,

*Leigh B. Dennison*

Leigh B. Dennison

POB 80687

College, Alaska 99701

25 Jan. 1976

Senator John Huber  
The State Legislature  
Juneau, Alaska

Dear Senator Huber:

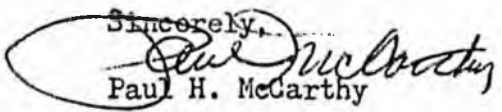
I applaud your efforts to eliminate mandatory state vehicle inspection for Alaska at this time. I would like to make several points in support of this proposed elimination.

First, I think a program of this magnitude and impact ought to be adopted only after review by the legislature rather than by Executive fiat. Also, I am unconvinced that Alaska needs this type of legislation at this time. It is my contention that the severe weather coupled with the good sense of most Alaskans dictates that they keep their vehicles in good condition. In spite of an inspection program there is no assurance that a careless car owner will maintain the vehicle the rest of the year.

Coming, some 12 years ago, from a state that did have vehicle inspection I see the program as a source of corruption and a rip-off of many car owners. The proposed fee can hardly insure more than the briefest of inspections particularly when most auto shops are now charging about \$ 25. per hour for shop time. Typically, some shops promote unneeded repairs while others quickly pass vehicles of steady customers.

Alaska, like most states ought to be at the point of examining the cost/benefit of federal programs that are being offered to us. While we do stand to lose some federal funding if we eliminate the inspection program I think it is about time we stop being "jerked" around by unwarranted federal demands. Ironically, it seems that we are hardly able to keep up with the roads we have, much less build additional ones. I am concerned that the inspection program will have no rational way of dealing with glass damage that just is a part of living and driving around Fairbanks. We will surely end up changing front windshields on an annual basis - a boon to glaziers, a hassle for the ordinary citizen and surely little contribution to safety.

Sincerely,

  
Paul H. McCarthy

cc. Fairbanks delegation

PHYSICAL PLANT

Work in the heating plant and borrowed  
a sheet of paper.



UNIVERSITY OF ALASKA  
FAIRBANKS, ALASKA 99701

Jan 31, 1976

Dear John

I wrote you about Jan 23rd or 24th voicing my objection to this auto inspection program. I am not convinced that it pays to write ones representatives because on Monday 26th there it was in the News-Miner - "Huber attacks auto inspections." You sure acted fast!

Seriously - I hope this nuisance law is repealed. I am shocked at our local government in Juneau - putting such a thing on us - who exactly is responsible for this? You know the arguments pro & con - so do I so I will not take up your time as I stated some of them in my first letter - I have never been so incensed as I am at this thing! Whoever has done this is like Faust selling his soul to the devil or Judas getting his 30 pieces of silver - Please keep on this thing - throw it back to Big Brother in Washington - No doubt you read the Jan 28th Editorial in the News-Miner. Keep up the good work! Mrs & Mrs John M. Cauley  
Fairbanks 1133 Park Drive

CRT MESSAGE REC'D 1/28/76 4:30 pm

TO: FAIRBANKS DELEGATION  
FROM: GERALD VOGELSANG, SR BOX 61148, FAIRBANKS, AK 99701

I AM NOT IN FAVOR OF ANY COMPULSORY AUTOMOBILE INSPECTION LAW IN ALASKA. I'VE PERSONALLY BEEN THROUGH IT IN WEST VIRGINIA SOME YEARS AGO, AND FOUND IT TO BE A BIG RIP-~~OF~~ NOT IN THE INTERESTS OF THE AUTOMOBILE OWNER.

GERALD VOGELSANG LA21

SR Box 20020  
Fairbanks, Ak. 99701  
February 9, 1976

Senator John Huber  
State Senate  
Pouch V  
Juneau, Alaska 99801

Dear Mr. Huber:

We support your stand on the Vehicle Inspection Act. In the event it cannot be defeated we would prefer a compromise where only the following would be inspected: brakes, lights, windshield wipers, steering, and perhaps tires. These items are directly associated with the safety of other motorists. We object to the principle behind all the other things to be inspected -- namely, that of protecting us from ourselves.

Sincerely

T. E. Osterkamp

*T. E. Osterkamp*

Joan Osterkamp

*Joan Osterkamp*

109 Signatures

January 30, 1976

Ray Morgan  
1514 Cushman, RM 303  
Fairbanks, AK 99701

Senator John Huber  
Pouch V  
Juneau, AK 99701

Dear Senator Huber:

Enclosed you will find a petition that was not promoted to any large extent in Fairbanks, about twenty more copies are circulating. No one has refused to sign. We will forward the rest to you as soon as they are returned. We had a copy of the regulations attached to the petition. As for myself a three car family with five drivers, the regulation would put all three of my cars off the road, or force me to buy a new car(s), which I can not afford. None of us are pipeline workers but are caught in the inflation. One neighbor attempting to get some auto body work done, cannot find any shop who will do the work before April. We therefore urge you to do something to ammend the present regulations.

Sincerely,

*Ray Morgan*

Ray Morgan

9 SIGNATURES

Andrew Stoffa  
2003 Mercer St.  
Fairbanks, Alaska  
99701

Jan 27, 1976

Sen. John Huber  
Juneau, Alaska

Dear Senator,

We are in agreement with your attack on the auto inspection program. We have talked to many people and have yet to find anybody that was in favor of this program.

Sincerely Yours,  
Andrew Stoffa  
Charles Donahue  
William R. Redinger  
Brocko Hansen  
Howard Edmunds  
Cuncan J. MacDonald  
James Douglas  
W. G. Oskerman  
Paula P. P. P.

P.S. If we had enough time, we think we could probably get all of Fairbanks, Alaska

SR<sup>2</sup>, Box 31071  
Fairbanks, Alaska 99701  
November 22, 1975

Fred Brown, Rep.  
Box 1718, F  
Fairbanks, Alaska 99701

Dear Mr. Brown:

Inspection rip-off

P.O. Box 333  
Delta Junction, Alaska  
Nov. 13, 1975

Dear Editor:

I wish to congratulate you on the editorial opposing mandatory automobile inspection which recently appeared in the News-Miner.

This letter is to assure you, we 100 per cent of those with whom have discussed the matter also oppose the inspections and recognize it as the rip off that it is.

We all recognize that a vehicle certified in a safe condition during an inspection is as likely to suffer brake failure during the next few days as one that has not been inspected.

There are laws on the books now prohibiting the willful operation of vehicles known to be defective or unsafe.

If my elected representative in Juneau lets this automobile inspection become law then he is not representing me nor the vast majority of his constituents.

If he isn't representing us, then just who is he representing if he allows this rip off to become law?—

Lee McNeil

The above letter to the editor, published in the Thursday, November 20, 1975 edition of the Fairbanks Daily News-Miner represents my opinion exactly.

Furthermore, it is virtually impossible for a defective vehicle to "make it" for long in this hostile environment. We certainly have no need to imitate the blunders of the Lower 48 in this matter.

Sincerely,  
Rebecca E. Long

November 6, 1975

Mr. Mike Bradner  
Alaska House of Representatives  
Speaker of the House  
Box 2183  
Fairbanks, Alaska 99707

Dear Mr. Bradner:

After reading the copy of the proposed vehicle inspection program I find that some of the items are subjective to the judgement of the vehicle examiner and will cause the vehicle owners considerable hardship and money. These items include: steering and suspension, exhaust and muffler systems, exhaust emission system and body components. Furthermore, I find that since the procedures for inspection are not spelled out, garage owners could easily require vehicle owners unnecessary and costly "service" requirement changes.

It is my opinion that the other items are important for safe driving; however, I feel it quite redundant since vehicle motor laws already have on the statutes laws which prohibit operating vehicles without proper lights, mirrors, windshield wipers etc. and then - have to institute another set of requirements which are the same (in the proposed vehicle inspection) seems rather a lot of bureaucratic redundancy.

Another item I would like clarification on is the windshield and glass clause in the proposed inspection. Because of unpaved and poorly maintained roads in this state; and due to the extensive and often high speed traffic from heavy commercial vehicles, it is close to impossible for a person who drives anywhere other than city streets to maintain a crack or chip free windshield. The cost of annually replacing your vehicle(s) windshields would - as you can well see - amount to a considerable cost and would also give another opportunity for "price gouging" on the part of local vehicle maintenance businesses. Therefore, unless the state can (1) maintain adequate paved roads and (2) restrict heavy commercial traffic on these roads, I feel it is act of cruelty on the motoring public to enforce windshield codes.

The examination for these proposed safety items, if enforced, will be regulated by local garages in Fairbanks. It has been my experience, and that of my friends and associates, that most garages in this town are neither competent, nor are of a high enough integrity to judge vehicle inspection without making a high profit margin or "incorrect" diagnosis of vehicle needs. An example of my point is that I feel it is not safe to have your tire changed at many stations for fear that it will fall off as you proceed down the road - due of course to poor tightening of lug nuts (an experience I can personally attest to) - much less having these same garages interfere or "work" on my brakes.

Still another aspect of the proposed vehicle inspection that bothers me is that heavy commercial vehicles are excluded from these requirements when those vehicles are the very ones which usually cause serious/fatal type accidents; and the drivers are able to do very little about the maintenance of their vehicles since they are usually company owned. I would be very interested on obtaining any statistics you may have concerning these heavy commercial vehicles and accidents caused by them.

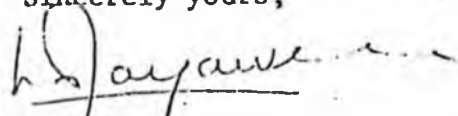
Page Two  
November 6, 1975

Finally, I feel the major causes of accidents with motor vehicles in Alaska is not with poor cars, but rather with poor environmental and physical conditions such as - snow, ice, icefog, and persons operating motor vehicles either recklessly or while intoxicated (OMVI).

I trust, therefore, that the state legislature will take proner action to stop yet another example of bureaucracy that will cause undue hardship and expense on non-violator motorist... and that these legislatures will instead, seek to have present laws enforced which set vehicle requirement standards. I feel that if it is necessary to have such a regulation; then it is democratic to put it to the ballot and seek the judgement of the residents of Alaska. Residents should decide how many bad examples we are going to take from other states!

I will be looking forward to both your reply, and any further information you will be receiving on this proposed inspection.

Sincerely yours,



Dr./K.O.L.F. Jayaweera  
Geophysical Institute  
University of Alaska  
Fairbanks, Alaska 99701

KJ/rh  
CC:

Senators:

John Butrovich - 1039 Fifth Street, Fairbanks  
Terry Miller - P.O. Box 80869, College, Alaska  
John Hubner - Box 2591 - Fairbanks, Ak.

Representatives:

Fred Brown - Box 1718 - Fairbanks  
Steve Cowper - 210 Nerland Building, Fairbanks  
Glen Hackney - 1136 Sunset Drive - Fairbanks  
Tim Wallis - 318 Baranoff Street- Fairbanks  
Charlie Parr - 6½ Mile Chena Hot Springs Road - STR 50599 - Fairbanks

Governor:

Jay Hammond - Juneau Alaska

Mr. Ross Rommell - Alaska Traffic Safety Bureau - Pouch N - Juneau

IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

A M E N D M E N T #1

TO: CSSCR 62am

On page 2, line 9, after "regulations", insert: "13 AAC 06.040(d),"

On page 2, line 9, strike out "13 AAC 06.090", and insert:

"13 AAC 06.080 and 13 AAC 06.090(c) - (e)"