

924

HJ

HB

487

-

HB

532

924



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

To: Legislative Affairs

From: Margaret W. Berch

Date: April 15, 1980

Please put the attached CS for HB 487
by House Judiciary in final version
form.

Thank you.

Original sponsors: Duncan, Brown,
Buchholdt, et al

Offered: 2/22/80
Referred: Judiciary

Judiciary
BY THE HEALTH, EDUCATION AND
~~SOCIAL SERVICES COMMITTEE~~

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 487

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to arbitration in teacher negotia-
7 tions; and providing for an effective date."

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

9 * Section 1. AS 14.20 is amended by adding a new section to read:

10 Sec. 14.20.585. ARBITRATION. (a) If the employee bargaining
11 agency and the school board are unable to reach agreement by March 31 of
12 the current school year or if the final mediation report is rejected by
13 either party, the items at impasse shall be submitted to an arbitrator.
14 Submission shall be by each party separately. Each submission shall
15 state the final offer on each of the items at impasse, and only on those
16 items, and shall be certified by the authorized representative of the
17 employee bargaining agency or of the school board. The arbitrator shall
18 select on an "item by item" basis the offer which he judges to be the
19 most reasonable and equitable, and shall issue an award incorporating
20 the selected offers without modification. The award of the arbitrator
21 is final and binding on both parties. ^{THE EMPLOYEES represented by the bargaining} The award of the arbitrator is ^{agency}
22 subject to judicial vacation only on the grounds specified in AS 09.43.
23 120 and is subject to judicial modification or correction only on the ^{are &} grounds specified in AS 09.43.130. ^{prohibited} ^{from striking}

24 grounds specified in AS 09.43.130. ^{ON grounds of ANY of the item}
25 (b) The arbitrator shall be a person mutually acceptable to both ^{or items submitted to or determined}
26 parties, but if no person is agreed upon within 10 days following ^{by}
27 March 31 or the issuance of the final mediation report, whichever is ^{the}
28 earlier, ^{both parties shall ask within 24 hours A recognized Arbitration Association} ~~the American Arbitration Association shall be asked to name an~~ ^{tion}
29 arbitrator. Within 10 days of the receipt of the request, the American
^{recognized}

If the recognized arbitration association fails to appoint an arbitrator within the 10 day period, the governor shall appoint within 10 days an Alaskan arbitrator.

1 a Arbitration Association ^{MAY} shall appoint an Alaskan resident as arbitrator who shall
2 (INSERT HERE.)
The expenses of arbitration shall be shared equally by both parties. be AN
ALASKAN
resident.

3 (c) The arbitrator may not make an award

4 (1) which will require a municipality to increase its local
5 tax rate to meet the cost of the award or will require an increase in
6 state funding for a regional educational attendance area; ~~and~~ in this paragraph

7 (2) which incorporates union shop security provisions, "tax rate" means
8 including but not limited to union shop or agency shop provisions, the millage
9 unless the right not to join the bargaining organization is granted to rate applicable
10 an employee who has a religious conviction against associating in a personal
11 bargaining organization based on the tenets or teachings of a church or property
12 religious group of which he is a member; if an employee who claims or
13 exemption from membership in the bargaining organization submits the
14 satisfactory evidence of his religious conviction to the labor relations percentage
15 agency, the agency shall declare the employee exempt from membership in rate
16 the bargaining organization; if exempted from membership in the bargain- applicable
17 ing organization, an employee shall pay an amount equal to the regular to sales
18 dues, initiation fees, and assessments of the bargaining organization to transactions,
19 the bargaining organization; failure of an exempted employee to pay and
20 due, fees, or assessments subjects him to the penalty for nonpayment of
21 dues by a member of the bargaining organization; a bargaining organ-
22 ization receiving a payment from a person exempted from membership in
23 the bargaining organization shall contribute an amount equal to the
24 payment to a charity; the charity to which the contribution is made may
25 not be affiliated with a religious, labor or employee association; the
26 bargaining organization shall submit proof of the contribution to the
27 labor relations agency; in this paragraph "labor relations agency" means

28 (A) the council of a city which is a school district;

29 (B) the assembly of a borough or unified municipality;

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or

(C) the Department of Labor, with respect to regional educational attendance areas.

* Sec. 2. AS 14.20.580(c) is repealed.

* Sec. 3. This Act takes effect July 1, 1980.

Version of Charlie's bill

Original sponsors: Duncan, Brown,
Buchholdt, et al

Offered: 2/22/80
Referred: Judiciary

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

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CS FOR HOUSE BILL NO. 487

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

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21 is final and binding on both parties. ^{THE employees represented by the bargaining} The award of the arbitrator is ^{agency} ~~is~~ ^{prohibited}
22 subject to judicial vacation only on the grounds specified in AS 09.43.- ^{from} ~~is~~ ^{striking}
23 120 and is subject to judicial modification or correction only on the ^{on}
24 grounds specified in AS 09.43.130. ^{grounds} ~~is~~ ^{of any}
^{of the} ~~is~~ ^{matters}

OK amended

25 (b) The arbitrator shall be a person mutually acceptable to both
26 parties, but if no person is agreed upon within 10 days following
27 March 31 on the issuance of the final mediation report, whichever is
28 earlier, ^{both parties shall} the American Arbitration Association ^{ask} shall be asked to name an
29 arbitrator. Within 10 days of the receipt of the request, the American

item or items ->

both parties shall ask

agency prohibited from striking on grounds of any of the matters submitted to or determined by the arbitrator

therapeutic

1 Arbitration Association shall appoint ^{an} ~~an Alaskan resident~~ ⁱⁿ as arbitrator, *who shall*
2 *be an Alaskan resident.* The expenses of arbitration shall be shared equally by both parties.

3 (c) The arbitrator may not make an award

4 (1) which will require a municipality to increase its local
5 tax rate to meet the cost of the award or will require an increase in
6 state funding for a regional educational attendance area; ~~and~~ *in this paragraph "tax*

7 (2) which incorporates union shop security provisions, *rate" means the*
8 including but not limited to union shop or agency shop provisions, *millage rate tax rate applicable*
9 unless the right not to join the bargaining organization is granted to *to real or personal*
10 an employee who has a religious conviction against associating in a *property or*
11 bargaining organization based on the tenets or teachings of a church or *sales*
12 religious group of which he is a member; if an employee who claims *4.25% rate transactions;*
13 exemption from membership in the bargaining organization submits *and*

14 satisfactory evidence of his religious conviction to the labor relations
15 agency, the agency shall declare the employee exempt from membership in
16 the bargaining organization; if exempted from membership in the bargain-
17 ing organization, an employee shall pay an amount equal to the regular
18 dues, initiation fees, and assessments of the bargaining organization to
19 the bargaining organization; failure of an exempted employee to pay
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22 ization receiving a payment from a person exempted from membership in
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file copy

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Offered: 2/22/80
Referred: Judiciary

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THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 487
Title An Act relating to arbitration in teacher negotiations
Requested by House Judiciary Date 4/9/80

II. FISCAL DETAIL

Agency Affected Education
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	N/A					
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Due to the proscription contained in (c) (1) of Section 1, this bill has no fiscal impact.

IV. DATE 4/9/80 PREPARED BY William D. Thomas, Deputy Commissioner
AGENCY Education
PHONE 465-2800
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Original sponsors: Duncan, Brown,
Buchholdt, et al

Offered: 2/22/80
Referred: Judiciary

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(C) the Department of Labor, with respect to regional educational attendance areas.

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* Sec. 3. This Act takes effect July 1, 1980.

- ① Def: tax rate (real, personal, sales)
- ② rel exemption - change procedure
- ③ Delete rel exemption clause (Brown)
- ④ Delete right to strike

- ⑤ local option

Check Supreme Court decision Wrangell case, does it affect language in rel exemption clause

HB

526



Trial Courts

State of Alaska
THIRD JUDICIAL DISTRICT
303 K STREET
ANCHORAGE, ALASKA 99501

WILLIAM D. HITCHCOCK
Master, Trial Courts

January 31, 1980

The Honorable Charles Parr
House of Representatives
Pouch V Mail Stop 3100
Juneau, Alaska 99811

Dear Mr. Parr,

I am writing in regard to House Bill #526, introduced on January 14, 1980, and referred to your committee. This bill would amend AS 47.10.080(b)(1) which is the statutory provision dealing with institutional commitment of juveniles.

There are two significant, and I believe deleterious, aspects to this bill. First, the commitment for institutional placement would appear to only be mandatory for juveniles whose immediate dispositions are based on Class A, B or unclassified felonies under Title 11. Second, the Department of Health and Social Services would have almost unlimited discretion to place juveniles in any setting if their crimes are non-felony in nature.

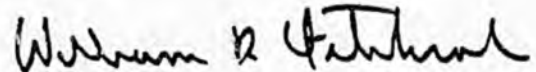
This greatly broadens the administrative discretion of the Department in classifying juveniles institutionalized by the court, and in a large sense gives them the authority to override the findings of the court. As I read the bill, the Department would have unfettered discretion to classify a juvenile deemed by the court to be a danger to society in a non-secure setting so long as his immediate crime is a misdemeanor.

The distinction as to the type of crime is of questionable validity. Most juveniles institutionalized by the court whose immediate appearance is for a misdemeanor-type offense have prior records which involve felonious crimes. To predicate the restrictions

of placement solely on the type of immediate delinquent offense on which the juvenile is before the court is both short sighted and foolhardy.

I strongly urge defeat of this piece of legislation.

Very truly yours,

A handwritten signature in cursive script, appearing to read "William D. Hitchcock".

William D. Hitchcock
Master, Juvenile Court
Third Judicial District

HB

532

News Miner Jan 30, 1980

Bill would let some victims of sex crimes testify on tape

News-Miner Bureau

JUNEAU—A bill to allow children who are victims of sex offenses to give testimony on videotape got a hearing Tuesday.

After a few minor amendments, House Bill 532 was ordered re-drafted as a committee substitute bill, with a fiscal note to be attached.

The bill would allow young victims of sex offenses, under age 16, to give testimony on videotape rather than in court.

Rep. Charlie Parr's House Judiciary Committee examined several legal questions regarding the procedure.

Parr, a Fairbanks Democrat, said the bill is modeled after a recent Florida law.

The thrust of the bill is to protect young victims from the trauma of appearing in a courtroom, and from having to repeat testimony.

By videotaping the testimony, the tape could be played to a jury, and the testimony preserved.

A key to the bill is that the defendant and defense attorney would be present during the videotaping and have full

opportunity to cross examine.

The victim could be called back to give additional testimony, but the original videotaping could help cut the number of times a child is questioned about the incident, the committee was told.

At one point, during a variety of arguments on legal questions, Parr said that while this is a novel approach, "the mere fact that we didn't have TV when bar rules were established" shouldn't preclude videotaping.

The videotaping would be restricted to the judge, the prosecutor the victim, the defendant and the defense attorney.

Among amendments the committee agreed to Tuesday were to increase the age limit to 16, instead of 11 as originally written, and to include sexual abuse of a minor.

That latter amendment would allow children who are sexually molested, but not raped, to testify on videotape.

Representatives from the state Department of Health and Social Services and AWARE, a sex-offense crisis intervention agency, both testified in support of the bill.



Superior Court

State of Alaska

FIRST JUDICIAL DISTRICT
415 MAIN STREET, ROOM 402
KETCHIKAN, ALASKA 99901

January 23, 1980

Chambers of
THOMAS E. SCHULZ, Judge

Hon. Charles Parr
Chairman, Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: H.B. 532

Dear Representative Parr:

I have received a copy of H. B. 532 which authorizes the videotaping of testimony of young sexual assault victims. I think the Bill is an excellent idea and hopefully it can be passed by the Legislature this Session so that Rule 804 of the Rules of Evidence can be changed. I am wondering, however, if Sec. 12.45.047 (c) could be changed to allow the videotaping of the evidence prior to trial. I don't know why the Bill as presently written authorizes the videotaping of such evidence only after the trial has begun, and there may well be valid reasons for that, but trials, despite the best of planning give frequent interruptions in any event, and it seems to me that if we could videotape this evidence prior to trial, it could be presented to the jury in the normal course of events without having another built in interruption. Certainly, it would be more convenient to the jurors involved and probably other witnesses if a hearing could be held sometime shortly before trial to determine whether the videotaping was necessary, and if so, simply do it then, and have the evidence ready for the trial. Other than that, I would urge the Legislature to take affirmative action on this measure.

Very truly yours,

Thomas E. Schulz
Superior Court Judge

TES:ri

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

Sally
53839
Requested
to put in
final form


POUCH Y. STA. E CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

December 19, 1979

SUBJECT: Bill permitting the use of video-taped testimony of young victims of sexual assault (Work Order Number 7548)

TO: Representative Charles H. Parr, Chairman House Judiciary Committee

FROM: Donna Spragg Pegues  3525
Co-Revisor of Statutes

Attached is a draft of the bill requested for the Judiciary Committee relating to the video-taping of the testimony of young victims of sexual assault. I have drafted the bill as an amendment to the Code of Criminal Procedure and have included the required references to the Rules of Court identifying this bill as a change to Rule 804, Rules of Evidence (exceptions to the hearsay rule).

As I noted in my memo of December 5, I am not really certain whether this bill involves a "change" to a rule or the adoption of a "new" rule. As you know, the legislature may change an existing court rule of practice and procedure by a two-thirds vote. (Art. IV, sec. 15, Alaska Constitution). However, the legislature may not adopt a new rule for the court. This request might be construed as initiating an entirely new rule.

However, I am have become convinced that the bill simply "changes" the exceptions to the hearsay rule and this conviction is supported by the language of Rule 802, Alaska Rules of Evidence which provides:

"Hearsay is not admissible except as provided by these rules, by other rules prescribed by the Alaska Supreme Court, or by enactment of the Alaska Legislature."
(Emphasis added.)

DSP:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 5, 1979

SUBJECT: Bill permitting the use of video-taped testimony of young victims of rape. (Work Order Number 7548)

TO: Representative Charles H. Parr, Chairman
House Judiciary Committee
Attn: Margaret W. Berck
Counsel to the House Judiciary Committee

FROM: Donna Spragg Pegues *[Signature]*
Co-Revisor of Statutes

This request has been assigned to me for drafting. I am writing to inform you that I believe the request involves a matter which is subject to court rule.

The manner of taking, preserving and presenting evidence of a witness in a criminal trial is a matter of practice and procedure which would properly be included either in the new court rules of evidence or in the court rules of criminal procedure.

As you know, the legislature may change an existing court rule of practice and procedure by a two-thirds vote. (Art. IV, sec. 15, Alaska Constitution). However, the legislature may not adopt a new rule for the court. This request apparently involves initiating an entirely new rule. See City of Valdez v. Valdez Development Co., 506 P.2d 1279, 1282 (1973), Leege v. Martin, 379 P.2d 447, 450 (1963).

I will not proceed further with this request until I hear from you. If you wish the bill prepared even though it involves court rule, we could consider whether it could be added to Rule of Evidence 804(b) (exceptions to hearsay rule) as a "change" to that rule. (*Requiring 2/3 vote of legislature*)

DSP:ljb

Charlie, I will request this on Dec. 7, 1979. MMB

POSITION PAPER

HOUSE BILL NO. 532

"An Act permitting the videotaping of testimony of young victims of sexual assault; and changing Rule 804, Alaska Rules of Evidence relating to exceptions to the hearsay rule."

House Bill No. 532 allows for victims of sexual assault who are 11 years of age or younger to provide testimony out of court through videotape means when there is likelihood the child will suffer severe emotional distress if required to testify in open court. It further specifies that the trial judge shall preside at the videotape proceedings and shall rule on all questions as if at trial, and specifies at what point testimony will take place, if granted. In addition, this Bill changes Rule 804, Alaska Rules of Evidence, specifying this as an exception to the hearsay rule.

For young children to provide testimony in open court can be a very trying experience, with the potential for long-lasting emotional harm. The provisions of this Bill would enable a child to avoid some of the more traumatic elements of providing testimony. Therefore, the Department of Health and Social Services is supportive of House Bill No. 532.

RECOMMENDED BY: Art Holmberg DATE: 1/23/80
Art Holmberg, Director
Division of Social Services

APPROVED BY: Helen D. Beirne DATE: 1-29-80
Helen D. Beirne, Commissioner
Department of Health and Social Services

RECEIVED
JAN 24 1980

Management and Budget Section

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 532
 Title An Act permitting the videotaping of testimony of young victims of sexual assault:...
 Requested by _____ Date January 23, 1980

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected Social Services
 BRU, Program, or Subprogram(s) Affected Social Services
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0
	0	0	0	0	0	0
	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This Bill has no fiscal impact on the Department of Health and Social Services.

IV. DATE January 23, 1980 PREPARED BY Art Holmberg Art Holmberg
 AGENCY Dept. of Health & Social Services/ Div. Soc. Svcs.
 PHONE 465-3170

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

*Reviewed by Michael Ouelo
 Division of Mgt & Budget
 DHSS 1/24/80*

? Comment
Corrections
? - Comment

Introduced: 1/15/80
Referred: Judiciary

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 HOUSE BILL NO. 532
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act permitting the videotaping of testimony of
7 young victims of sexual assault; and changing Rule 804,
8 Alaska Rules of Evidence relating to exceptions to the
9 hearsay rule."

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

11 * Section 1. AS 12.45 is amended by adding a new section to read:

12 Sec. 12.45.047. OUT-OF-COURT TESTIMONY BY YOUNG VICTIM OF SEXUAL
13 ASSAULT. (a) After notice to the defendant, the state may apply to the
14 court for an order allowing out-of-court videotaping of the testimony of
15 a child who is the alleged victim of sexual assault, in any degree. The
16 order may be granted if the court finds that

17 (1) the child was 11 years of age or younger at the time of
18 the sexual assault; and

19 (2) there is a substantial likelihood that the child will
20 suffer severe emotional distress if required to testify in open court at
21 the trial.

22 (b) If the order is granted, the trial judge shall preside at the
23 out-of-court proceeding and shall rule on all questions as if at trial.

24 (c) Videotaped evidence taken in accordance with this section may
25 be taken only after the trial has begun and is admissible in evidence in
26 the criminal trial for sexual assault in any degree.

27 * Sec. 2. Section 1 of this Act has the effect of changing Rule 804,
28 Alaska Rules of Evidence by adding the out-of-court videotaped evidence of a
29 young victim of sexual assault to the list of exceptions to the hearsay rule.

SEXUAL OFFENSES

CRIME	FORCE	AGE, CAPACITY OR RELATIONSHIP	PENALTY
Sexual Assault I 11.41.410	"Sexual penetration" "without consent"		"A" felony 0-20
	(a) (1) -----		
	(a) (2) Attempted "sexual penetration" "without consent" and "serious physical injury"		
	(a) (3) -----	"Sexual penetration" between defendant 16 or older and victim under 13	
(a) (4)		"Sexual penetration" between defendant 18 or older with victim under 18 who is son or daughter or under his care by law	
Sexual Assault II 11.41.420	"Sexual contact" by threat of, or causing death, "physical injury" or kidnapping or threat to kidnap anyone, regardless of whether victim resists		"B" felony 0-10
Sexual Assault III 11.41.430		Sexual penetration with person "known" to be suffering from mental disorder or defect or is "incapacitated"	"C" felony 0-5
Sexual Abuse of a Minor 11.41.440		"Sexual penetration" between defendant 16 or older with victim 13-16 or "sexual contact" between defendant 16 or older with victim under 13	"C" felony 0-5
Contributing to Delinquency of Minor 11.51.130		"Sexual contact" between def- endant 19 or older with victim 13-16	A Misdemeanor 0-1

BILL ANALYSIS

ASSIGNMENT DATE _____

UNASSIGNED _____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety	Judiciary Committee	HB 532
DEPARTMENT POSITION		
Support		
DIVISION DIRECTOR	DATE	COMMISSIONER
Col. Tom Anderson	1-23-80	for William R. Nix
		DATE
		1-23-80
GOVERNOR'S OFFICE USE		
<input type="checkbox"/> POSITION NOTED	<input type="checkbox"/> POSITION APPROVED	<input type="checkbox"/> POSITION DISAPPROVED
BY:	DATE:	
SUMMARY		
(1) RELATED BILLS (SIMILAR OR CONFLICTING)		
(2) OTHER AGENCIES AFFECTED BY BILL		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL	/ / / / /	(2) b. ORGANIZATIONAL OPPOSITION TO BILL
Unk.		Unk.
(3) PROGRAM EFFECTS OF BILL		
None		
(4) FISCAL IMPACT: <input checked="" type="checkbox"/> NONE <input type="checkbox"/> FISCAL ANALYSIS ATTACHED		
(5) AMENDMENTS PROPOSED:		
None		

(6) COMMENTS:

This bill will alleviate some of the emotional distress on the part of the child when testifying and will probably result in a higher degree of cooperation on the part of the parents, knowing that the testimony will not be taking place in open court.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Legislative Affairs Agency
FROM: Margaret W. Berck, Staff *MMB*
DATE: February 4, 1980
RE: Request for (H) Judiciary Committee CS for HB 532 (Final Version)

Please provide a House Judiciary Committee CS for HB 532 in accordance with the attached mark-up.

Additionally, the Committee has one question for the drafter. The Committee noted that the bill speaks in terms of "out-of-court" testimony and it was pointed out to the Committee that since the testimony would be given in the presence of the judge, that in effect is in-court testimony. Although the Committee determined not to submit an amendment on this point, it did request me to bring this to the attention of the drafter. Should the drafter conclude that this is a problem, the drafter is requested to resolve it in the requested CS. (Feel free to call me if I have not made myself clear on this point.)

*Note to file:
need to prepare
"O" fiscal
note from
court system.*

Introduced: 1/15/80
Referred: Judiciary

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BY THE JUDICIARY COMMITTEE

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14 court for an order allowing out-of-court videotaping of the testimony of
15 a child who is the alleged victim of sexual assault in any degree. *or who is the Alleged victim of sexual abuse of a minor.* The
16 order may be granted if the court finds that

17 (1) the child was ¹⁶ ~~11~~ years of age or younger at the time of
18 the sexual assault; and

19 (2) there is a substantial likelihood that the child will
20 suffer severe emotional distress if required to testify in open court at
21 the trial.

22 (b) If the order is granted, the trial judge shall preside at the
23 out-of-court proceeding and shall rule on all questions as if at trial.

24 (c) Videotaped evidence taken in accordance with this section ~~may~~
25 ~~be taken only after the trial has begun and is admissible in evidence in~~
26 the criminal trial for sexual assault in any degree.

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Original sponsor: Judiciary Committee

Offered: 2/11/80
Referred: Rules

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BY THE JUDICIARY COMMITTEE

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4 ELEVENTH LEGISLATURE - SECOND SESSION

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15 mony of a child who is the alleged victim of sexual assault in any
16 degree or who is the alleged victim of sexual abuse of a minor. The
17 order may be granted if the court finds that

18 (1) the child was 16 years of age or younger at the time of
19 the sexual assault; and

20 (2) there is a substantial likelihood that the child will
21 suffer severe emotional distress if required to testify in open court at
22 the trial.

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24 videotaping proceeding and shall rule on all questions as if at trial.

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26 admissible in evidence in the criminal trial for sexual assault in any
27 degree or for sexual abuse of a minor.

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29 Alaska Rules of Evidence by adding the videotaped evidence of a young victim

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