

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1355 HHESS HB 268 - HB 293

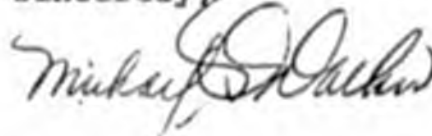
I am informed by our mayor, John Morris, that the City of Hydaburg is presently emphasizing the Village Public Safety Officer program and presently has two trainees. I am gratified that Trooper Anderson from Craig has been stationed here on a "temporary duty" basis, in essence, half-time. However, this arrangement still leaves us half-time unprotected. The trooper must be available to attend community events such as basketball games and dances to guarantee potentially violent drunk-and-disorderlies that they will be taken into custody immediately, effectively, and legally.

Teaching is a taxing job which cannot be done effectively under a pall of fear for personal safety. We must not fail to recognize that an aura of fear over an extended period will cause even the most dedicated teachers to decide not to renew their contracts for next year: some have already openly admitted they have considered leaving mid-year!

Won't you please help provide for the full-time safety of our citizens, for the continuity of our long-in-coming quality instructional program, and gain a debt of gratitude from your constituents? Please use the considerable influence of your office to expedite the stationing of a full-time state trooper in Hydaburg at the earliest possible date.

If you have questions or need help in coordinating action locally in this regard, please write or call me at 285-3591. I appreciate your consideration and anxiously await your response.

Sincerely,



Michael G. Walker
Principal

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 268
 Title An Act relating to the protection of the health & safety of teachers and other
 Requested by House Hess Date 4/10/81 employee

II. FISCAL DETAIL

Agency Affected Department of Education
 Program Category Affected Elementary and Secondary Education
 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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	-0-

TOTAL

FUNDING (Thousands of Dollars)

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

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						


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

No fiscal impact.

IV. DATE 4/10/81

PREPARED BY Steve Hole
 AGENCY Department of Education
 PHONE 465-2800

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



HB 268 - Safety of Teachers

* Do local Sch. Board carry special insurance for this.

Blackboard jungle -

Hostility -

What was the aggravating cause -

What does local community re-action \Rightarrow

Not safe for children as well as teachers.

Hydaburg - -

almost prohibition.

Village Police - New local alcohol laws.

Racial?

Hal Rowman - Chugiack - -

Deane Anderson - NEA - Wash.

Not racial

Not law enforcement

} problem.

4-2-82

HB 268

Dianna Anderson, NEA, Inc

1 Tea. att. by edum

Judo Polo - Kasai 12 yrs.

HB

279

COMMITTEE REPORT

HOUSE

3/6/81

FURTHER: FINANCE

(5)

Date: April 2, 1981

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had HB 279

"An Act relating to state aid for school construction."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 279 same title
 new title
- and recommends _____
- ND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
[Signature]
[Signature]
[Signature]

[Signature]
CHAIRMAN

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99801

March 24, 1981

The Honorable Donald E. Clocksin
Chairman
House Health, Education and Social
Services Committee
Room 112 - Capitol Building
Juneau, Alaska

Dear Mr. Clocksin:

Re: House Bill No. 279

House Bill No. 279, an Act relating to state aid for school construction, was introduced in the House on March 6, 1981 and was referred to the House Health, Education and Social Services and Finance Committees.

For the consideration of the House Health, Education and Social Services Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Anselm Staack, Treasury Comptroller, Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Samuel R. Cotten
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 279
 Title Relating to state aid for school construction
 Requested by House Health, Education & Social Services Committee Date 3/6/81

II. FISCAL DETAIL

Agency Affected Department of Education
 Program Category Affected General Fund
 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)

→ MILLIONS ←

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
80 % Portion		83.0	50.6	51.4	45.8	30.7
20 % Portion		20.8	12.7	12.9	11.4	7.7
TOTAL		103.8	63.3	64.3	57.2	38.4

FUNDING (~~THOUSANDS~~ of Dollars)

→ MILLIONS ←

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		103.8	63.3	64.3	57.2	38.4
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

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

This bill would have the state pay 100% of local debt service related to school construction as well as cash payments made for construction. Payments would be accelerated to the year after, vs. a two year lag as it is now.

Above includes bond issues outstanding as of 12/31/80 only and does not include cash payments that may have been made unrelated to debt service as they are unknown. FY 82 includes FY 80 and FY 81 amounts for "catch-up"; FY 83 shows debt service paid for FY 82, etc. The "80%" portion is as the current law is written; the "20%" portion shows the incremental effect of this bill. No future bond issues have been factored in as they are indeterminate.

IV. DATE March 24, 1981

PREPARED BY Anselm C. Staack, Treasury Comptroller
 AGENCY Dept. of Revenue/Treasury
 PHONE 465-2351

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

Steve Holt, Administrator
 Dept. of Education, 465-2884

Alaska State Legislature



PAT CARNEY
DISTRICT 8
WASILLA, ALASKA 99667
POUCH V
JUNEAU, ALASKA 99811

COMMITTEE
FINANCE

House of Representatives

MEMO

To: House HESS Committee
From: Representative Pat Carney
Date: March 25, 1981

Subject: Recommended Changes to Proposed CSHB 279

I would like to see the following changes made to Section 2 of the proposed Committee Substitute for House Bill 279. See pages 3 and 4 of the CS, specifically lines 3-25 of page 4.

1. All past construction costs--whether bonded or cash--shall be paid at 100% up to July 1, 1981.
2. All future construction costs, if approved under AS 14.07.020(11), are to be paid by the State at 100%, beginning July 1, 1981.
3. All payments made in the two fiscal years preceding the effective date of this act are to be paid at 100% during fiscal year 1982.
4. Delete reference on page 5, line 5, to "which exceed \$25,000", in order not to discriminate against smaller school districts.

have generally broadened their criteria of voluntariness by looking beyond the formal requisites of protest and determining more appropriately whether duress may be implied from the circumstances surrounding the payment. Under the old rule, duress did not exist unless a loss of life, limb, or liberty were threatened. Now courts may find duress from a payment made to prevent potentially great loss of property or the imposition of substantial penalties. State v. Wakefield Fisheries, Inc., Sup. Ct. Op. No. 779 (File Nos. 1397, 1398), 495 P.2d 166 (1972).

"Business compulsion" standard of duress. — Under the "business compulsion" standard of duress, which the supreme court endorses, the taxpayer need

not be threatened with imminent incarceration or other disastrous consequences before he may claim duress by business compulsion. The standard is satisfied if, under the circumstances, a reasonably prudent businessman would find it necessary to pay taxes in order to preserve or protect his property. State v. Wakefield Fisheries, Inc., Sup. Ct. Op. No. 779 (File Nos. 1397, 1398), 495 P.2d 166 (1972).

Am. Jur. and ALR references. — 51 Am. Jur., Taxation, §§ 967, 1179 to 1182

Right to interest on tax refunds, 57 ALR 57; 76 ALR 1012; 112 ALR 1183.

Retrospective operation of statute enlarging or shortening period for claim of tax refund, 163 ALR 778.

Chapter 18. State Aid to Local Governments.

Article

1. Aid for Miscellaneous Municipal Purposes (§§ 43.18.010 — 43.18.050)
2. Aid for School Construction (§ 43.18.100)
3. Community Facilities Grants (§ 43.18.300)
4. Sports Facilities Grants (§§ 43.18.400 — 43.18.460)

Revisor's note (1969). — In ch. 95, SLA 1969, AS 43.18 was incorrectly numbered AS 43.78.

Article 1. Aid for Miscellaneous Municipal Purposes.

Section

10. State aid to local governments
12. Area cost-of-living differential
20. Construction and implementation of chapter
30. Local tax levy reduction

Section

40. Regulations
45. Unification, merger or consolidation of municipalities
50. [Repealed]

Sec. 43.18.010. State aid to local governments. (a) During each fiscal year the state shall pay to a city or organized borough of any class which has power to provide the following services and exercises that power

(1) \$12 per capita to cities and boroughs providing police protection, subject to the conditions of this paragraph and (g) of this section;

(A) municipal police protection shall be available 24 hours a day;

(B) municipal police officers shall be U.S. citizens who are at least 19 years of age and who have not been convicted of a crime involving moral turpitude within the past 10 years;

(2) \$7.50 per capita to cities and boroughs providing fire protection;

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(B) in municipal facilities sewage to

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(C) if municipa staff pl planning

(A) fire protection includes, but is not limited to, fire protection provided by a volunteer fire department registered with the state fire marshal which has official recognition and financial support from the city or borough in which it is located;

(B) in addition to the grants authorized under this section, the state shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized borough or a city a sum for protection purposes equal to \$7.50 per capita for the population served by the department, as determined by the state fire marshal using the latest figures of the United States Bureau of the Census or other reliable data; grants shall be made on the same basis to facilitate the organization of volunteer fire departments in an area not in an organized borough or a city, upon application of the proposed fire protection group to the state fire marshal and approval of applications according to standards of organization and service prescribed by regulations promulgated by the state fire marshal;

(3) \$2 per capita to cities and boroughs providing air or water pollution control or both;

(A) in order to qualify for air pollution control aid the municipalities shall be either engaged in comprehensive study of an air pollution control program or implementation of an air pollution control program;

(B) in order to qualify for water pollution control aid the municipalities shall either have primary or secondary sewage treatment facilities under construction or be providing primary or secondary sewage treatment;

(4) \$2 per capita to cities and boroughs providing land use planning, subject to the conditions of this paragraph;

(A) the municipalities shall be in the process of preparing or updating a comprehensive land use plan or be implementing a comprehensive land use plan through exercise of zoning powers; and

(B) if the municipality has a population of fewer than 12,000 persons, the municipality shall qualify for aid under this paragraph by availing itself of planning assistance through either:

(i) a staff planner charged with the primary responsibility of land use planning and plan implementation; or

(ii) an annual contract with a recognized planning firm to provide land use planning and plan implementation on a consulting basis with a work program outline approved by the Department of Community and Regional Affairs; or

(iii) the state's continuing planning advisory service program through the Department of Community and Regional Affairs;

(C) if a municipality has a population over 12,000 persons, the municipality, to qualify for aid under this paragraph, shall employ a staff planner charged with the primary responsibility for land use planning and plan implementation;

(5) \$5 per capita to cities and boroughs providing for parks and recreation; and

(6) \$5 per capita to cities and boroughs providing transportation facilities or services limited to municipally-operated small boat harbors, ports, airports, or transit systems.

(b) During each fiscal year the state shall pay to a city or organized borough of any class which has power to provide for road maintenance and exercises the power a sum equal to \$1,500 a mile for each mile of road, street or highway maintained by the local government, excluding the official state highway system, roads, streets or highways not dedicated to public use, any roads, streets or highways maintained under the local service road program (AS 19.30.111 — 19.30.251), and alleyways, in accordance with regulations adopted by the Department of Highways. No payments may be made for maintenance of roads not used by automotive equipment. Frozen waterways and connections from inhabited areas to the waterways which may be safely used for public transportation by automotive equipment and are so used during a portion of a year are eligible for payments of \$900 per mile if the waterways and connections are maintained during the period of use by a municipality or combination of municipalities. The Department of Community and Regional Affairs, after consultation with the Department of Highways, shall determine which waterways and connections qualify and, where the waterways or connections lie outside the corporate limits of a municipality, which municipality is eligible for the shared revenue unless the municipalities involved have agreed in writing to a particular distribution.

(c) For purposes of this section, population shall be determined by the latest figures of the United States Bureau of the Census or other reliable population data, including but not limited to public school enrollment figures, public utility connection, registered voters or certified employment payrolls.

(d) If a borough exercises the powers in (a) of this section in the borough area outside cities only, or in a service area only, the grants authorized under this section shall be based on the population of the borough area outside cities or the service area respectively.

(e) If the services in (a) and (b) of this section are provided by a service area, the borough shall give to the service area an amount equal to the funds provided by the state for the services provided by the service area.

(f) Funds received by a city, borough or service area under this section may be expended for any public purpose for which it has power to expend public funds, except as provided in (h) of this section.

(g) If a city within an organized borough provides police protection services, the borough may not qualify for aid under (a) (1) of this section unless

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(1) police protection services are provided in the borough area outside cities, or if limited to a service area, in the service area, through borough contract with a city or the state; or

(2) the borough assumes and exercises power to provide police protection services on an areawide basis in the manner provided by law.

(h) During each fiscal year the state shall make payments as follows:

(1) \$2 per capita to a municipality which has the power to provide health facilities and services and in which a hospital is located;

(2) in addition to the payment made under (1) of this subsection

(A) the state shall make payments to a municipality which has the power to provide hospital facilities and services and which exercises the power on the basis of \$1,000 per bed for each bed actually used for patient care limited to the number of beds provided for in the construction design of the hospital, or \$75,000 a hospital for those hospitals with 10 or more beds, or \$25,000 a hospital for those hospitals with less than 10 beds, as the municipality may elect; funds received under this subparagraph may be used only for hospitals and shall be apportioned among qualifying hospitals as the municipality determines;

(B) the state shall make payments on the basis set out in (A) of this paragraph to a municipality for nonprofit hospitals not operated by a municipality if the municipality first certifies to the department that the hospital is in compliance with all standards for hospitals which have been adopted by the municipality; in the absence of this certification the funds which would have gone to the hospital lapse into the state general fund; payments to the municipality shall be transferred to the hospital in accord with the basis by which the entitlement was generated by the hospital and shall be applied to the annual cost of operation and maintenance of the hospital or for the provision of health care service at the hospital as the directors of the hospital determine;

(C) a hospital may not receive payment under both (A) and (B) of this paragraph;

(3) \$1,000 per bed to an organized borough or city outside an organized borough in which a health facility is operated for each bed actually used for patient care, limited to the number of beds provided for in the construction design of the health facility, or \$4,000 per health facility as the local government may determine;

(4) funds received by a municipality under (1) or (3) of this subsection shall be used for expenses of health services or operation and maintenance of facilities as the municipality determines;

(5) before funds may be distributed under this subsection, the commissioner of health and social services shall certify to the distributing agency that any accumulation of assets by nonprofit corporations or other recipients under this subsection are dedicated irrevocably to a public purpose.

(i) In (h) and (j) of this section

(1) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general hospital; the term excludes facilities operated or wholly supported by the state or the federal government;

(2) "health facility" means public health centers, maternity homes and community mental health centers, facilities for the mentally or physically handicapped, nursing homes and convalescent centers which are licensed, when required, by the state under AS 18.20.010 — 18.20.130 and are owned or operated or both by a local government or by a nonprofit corporation or other nonprofit sponsor; the term excludes facilities operated or wholly supported by the state or the federal government.

(j) If construction of a facility began after January 1, 1968 and state matching aid for construction approved for payment to the local government or other facility sponsor constitutes less than 25 per cent of the total project cost, the state shall pay to the local government or other facility sponsor each fiscal year a sum equal to \$2,500 a bed for the maximum number of beds provided for in the construction design of the facility. State aid provided for in this subsection shall continue until the local government or other facility sponsor has received an amount which, combined with state matching money for construction of the facility, equals 25 per cent of the total project cost. No funds received for construction shall be used for any other purpose.

(k) A city or borough may not receive state shared revenue based on the population residing on that portion of a military reservation annexed to a city or borough after January 1, 1973, except as provided in this subsection. If a military reservation is located within a city or borough, the city or borough is limited in its entitlement to state shared revenue, based on the population residing on the reservation, as follows: 50 per cent of the amount paid per capita for police protection under (a)(1) of this section; 25 per cent of the amount paid per capita for parks and recreation under (a)(5) of this section; and 50 per cent of the amount paid per capita for transportation facilities or services under (a)(6) of this section. (§ 10 ch 95 SLA 1969; am §§ 1 — 4 ch 194 SLA 1970; am § 3 ch 84 SLA 1971; am §§ 1, 2 ch 127 SLA 1971; am § 43 ch 71 SLA 1972; am §§ 3, 4 ch 200 SLA 1972; am § 6 ch 32 SLA 1973; am § 1 ch 87 SLA 1973; am §§ 1, 2 ch 43 SLA 1974; am § 44 ch 127 SLA 1974; am § 1 ch 45 SLA 1975; am § 1 ch 100 SLA 1975; am § 2 ch 265 SLA 1976)

Revisor's note (1970). — In ch. 194, SLA 1970, AS 43.18.010 (i) referred to health facility licensing under AS 18.20.130. Since that is a definition section rather than a licensing section, the citation has been corrected to read "AS 18.20.010 — 18.20.130."

Effect of amendments. — The first 1973 amendment added subsection (k).

The second 1973 amendment rewrote subsections (h) and (i).

The first 1974 amendment substituted "\$12" for "\$10" in the introductory language of subsection (a)(1) and added the language beginning "including but not limited to public school enrollment figures" to the end of subsection (c).

The second 1973 amendment substituted "a municipal municipality" for "a municipality" in subsection (h)(4).

The first 1974 amendment substituted "\$7.50" for "\$7.00" in the language of paragraph (a) and in subsection (b).

The second 1974 amendment substituted "third and fourth" for "third" in subsection (b).

Sec. 43.18.012
to a city or borough
volunteer fire department
cost-of-living index
sum of per capita
or organized
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department
provisions
to be applied
the base amount
(b) The
designated
December
proclamation

Sec. 43.18.013
This chapter
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*Effect of
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Sec. 43.18.014
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The second 1974 amendment substituted "a municipality" for "an organized municipality" near the end of subsection (h)(4).

The first 1975 amendment substituted "\$7.50" for "\$5" in the introductory language of paragraph (2) of subsection (a) and in subparagraph (B) of that paragraph.

The second 1975 amendment added the third and fourth sentences of subsection (b).

The 1976 amendment rewrote paragraphs (1), (2) and (4) of subsection (h).

Legislative committee reports. — For report on ch. 71, SLA 1972 (HCSHB 383 am H), see 1972 House Journal, p. 898. For report on ch. 87, SLA 1973 (CSHB 42 [Finance] am S), see 1973 House Journal, p. 189. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Sec. 43.18.012. Area cost-of-living differential. (a) State payments to a city or an organized borough or to an unorganized borough volunteer fire department under § 10 of this chapter shall reflect area cost-of-living differentials. Amounts distributed shall be based upon the sum of per capita, per mile and per bed or facility grants due each city or organized borough or volunteer fire department multiplied by the appropriate area cost-of-living differential. The area cost-of-living differential for each city and organized borough or volunteer fire department shall be determined annually by election district under the provisions of AS 39.27.030; however, the area cost-of-living differential to be applied shall not result in an amount to be distributed less than the base allocation.

(b) The election districts used in (a) of this section are those designated by the proclamation of reapportionment and redistricting of December 7, 1961, and retained for the house of representatives by proclamation of the governor September 3, 1965. (§ 1 ch 95 SLA 1974)

Sec. 43.18.020. Construction and implementation of chapter. (a) This chapter may not be construed so as to create a debt of the state.

(b) The special municipal services account is established. Funds to carry out the provisions of § 10 of this chapter may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of each local government's or other recipient's share authorized under § 10 of this chapter, such funds as are available shall be distributed pro rata among eligible local governments and other recipients.

(c) Money in the special municipal services account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this chapter reverts to the general fund. (§ 10 ch 95 SLA 1969; am § 2 ch 208 SLA 1976)

Effect of amendment. — The 1976 amendment in the third sentence of subsection (b), inserted "or other recipient's" preceding "share" and added "and other recipients" to the end.

Sec. 43.18.030. Local tax levy reduction. (a) The intent of this chapter in authorizing state aid for municipal purposes is that local governments which levy property taxes reduce those levies in

reasonable proportion to the amount of state aid received by a local government for a given fiscal year.

(b) The governing body shall furnish the following notice with tax statements mailed for the fiscal year for which aid is received under this chapter:

"NOTICE TO TAXPAYER

For the current fiscal year the (city) (borough) has been allocated the following amount of state aid for school and municipal purposes under the Public School Foundation Program (Alaska Statutes 14.17) and the revenue sharing provisions of Alaska Statutes 43.18:

SCHOOL AID	\$
AID BASED ON MUNICIPAL SERVICES FURNISHED	\$
(fire protection, police protection, air or water pollution control, land use planning, road maintenance, parks and recreation, transportation facilities and services, hospital operation)	

Total Aid \$

The millage equivalent of this state aid, based on the present dollar value of a mill in the municipality, is mills." (§ 5 ch 194 SLA 1970)

Editor's note.—Sections 4, 7 ch. 120, SLA 1977, effective July 1, 1978, amended this section to read as follows: "(a) The intent of §§ 10 — 100 of this chapter in authorizing state aid for educational purposes and municipal services is that municipalities which levy taxes reduce those levies in reasonable proportion to the amount of state aid received by the municipality for a given fiscal year.

"(b) If the municipality levies and collects real or personal property taxes, the governing body shall furnish the following notice with tax statements mailed for the fiscal year for which aid is received under AS 14.17 and §§ 10 — 100 of this chapter:

"NOTICE TO TAXPAYER

For the current fiscal year the (city) (borough) has been allocated the following amount of state aid for school and municipal purposes under the public school foundation program (Alaska Statutes 14.17), the municipal services revenue sharing program of Alaska Statutes 43.13.610 — 43.14.050, and the program of state aid for retirement of school construction debt (Alaska Statute 43.16.100):

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	\$
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT	\$
AID BASED ON MUNICIPAL SERVICES FURNISHED (fire protection, police protection air or water pollution control, land use planning, road maintenance, parks and recreation, transportation facilities and services, hospital operation)	\$
Total Aid	\$

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

MILLAGE EQUIVALENT	
PREVIOUS YEAR	THIS YEAR
PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	... MILLS ... MILLS
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT	... MILLS ... MILLS
AID BASED ON MUNICIPAL SERVICES FURNISHED	... MILLS ... MILLS
TOTAL MILLAGE EQUIVALENT	... MILLS ... MILLS

"(c) If it collects only body shall pr the form set providing no council or su millage equ equivalent s categories of (b) of this se "(1) by general circ

Sec. 43 Regional purposes minimum each ser demonstr allowed v prescribe 1974; am

Revisor's 43.18.040 : 43.18.100(c) 43.18.300(e) conflict wit it seems lik only to A Article 1).

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Sec. 4 Repe

Editor's derived fr ch. 127, S

Section 100. Stat cor

"(c) If the municipality levies and collects only a sales tax, the governing body shall provide a notice substantially in the form set out in (b) of this section. In providing notice under this subsection, the council or assembly shall substitute for the millage equivalency its estimate of the equivalent sales tax rate for each of the categories of financial assistance set out in (b) of this section. Notice shall be provided

"(1) by publishing in a newspaper of general circulation within the municipality

a copy of the notice once each week for a period of three successive weeks, with first publication to occur not earlier than 45 days before the first day of the municipality's fiscal year; or

"(2) if there is no newspaper of general circulation in the municipality, by posting a copy of the notice for at least 20 days in at least two public places within the municipality, with posting to occur not earlier than 45 days before the first day of the municipality's fiscal year."

Sec. 43.18.040. Regulations. The Department of Community and Regional Affairs shall adopt regulations necessary to carry out the purposes of §§ 10 — 9^a of this chapter. The regulations shall include minimum standards required to qualify a municipality for grants for each service and provisions for a performance report adequate to demonstrate to the department that each service for which credit was allowed was actually performed by the municipality, at least at the prescribed minimum level. (§ 2 ch 87 SLA 1973; am § 45 ch 127 SLA 1974; am § 1 ch 208 SLA 1976)

Revisor's note (1973). — Since AS 43.18.040 appears to conflict with AS 43.18.100(c) and 43.18.100(g)(1) and with AS 43.18.300(c) and 43.18.300(h)(1), and may conflict with AS 43.18.450 and 43.18.460(1), it seems likely that it was intended to apply only to AS 43.18.010 — 43.18.099 (i.e. Article 1).

Effect of amendments. — The 1974 amendment inserted "§§ 10 — 99 of" near the end of the present first sentence.

The 1976 amendment added the second sentence.

Legislative committee report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Sec. 43.18.045. Unification, merger or consolidation of municipalities. If a borough and the cities within the borough merge, consolidate or unify in accordance with AS 29.68, the amount of revenue sharing to which the successor municipality is entitled shall be computed for the first year and each year thereafter as if the merger, consolidation or unification had not occurred, and the successor municipality shall receive not less than the amount so computed. (§ 1 ch 265 SLA 1976)

Sec. 43.18.050. Specific expenditures.

Repealed by § 3 ch 265 SLA 1976, effective July 1, 1976.

Editor's note. — The repealed section derived from § 2, ch. 87, SLA 1973; § 46, ch. 127, SLA 1974.

Legislative committee report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Article 2. Aid for School Construction.

Section
100 State aid for retirement of school construction debt

Sec. 43.18.100. State aid for retirement of school construction debt.

(a) During each fiscal year the state shall allocate to an organized borough or a city which is a school district one-half, or if school construction is for vocational education facilities as determined by the commissioner three-quarters, of the following sums:

(1) payments made by the borough or city during the fiscal year two years prior for the retirement of principal and interest on bonds, notes, or other indebtedness incurred to pay costs of school construction;

(2) the amount of payments that would have been expended by a borough or city two years prior for the retirement of principal and interest on bonds, notes, or other indebtedness incurred to pay costs of school construction had the borough or city issued bonds, notes, or other indebtedness of 10 years duration bearing interest at the rate of six per cent a year to finance the costs rather than paying those costs through taxes or other local sources;

(3) cash payments made by the borough or city during the fiscal year two years earlier to pay costs of school construction.

(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140.

(c) The school construction account is established. Funds to carry out the provisions of this section may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of providing the share to which a borough or city is entitled under this section, those funds that are available shall be distributed pro rata among the eligible local governments.

(d) Money in the school construction account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this section reverts to the general fund.

(e) The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section.

(f) The provisions of (a)(2) of this section apply only to payments made before July 1, 1971. The provisions of (a)(3) of this section apply to payments made after June 30, 1971.

(g) In this section, unless the context requires otherwise,

(1) "commissioner" means the commissioner of education;

(2) "costs" means the cost of construction of public buildings which is not limited to the cost of architectural materials, but includes the cost of sale of bonds, notes, or other indebtedness incurred to pay costs of school construction.

Revisor's
of this section
in ch. 28, SI
114. How
subsection
pre-1973 and
that subsection
amendment
24.30.060(a)
Uniform
Drafting
whether the
clerical error
amendment

Effect of
amendment
"exclusive"
or "derivative"
costs" from
language
paragraph
present sentence
inserted
sentence
"those" from
subsection
(f), redesignated
subsection
requires
language
"including"
secondary
paragraph
deleted
paragraph

The 1971
inserted
otherwise
and subsection
secondary
is not
limited"
Editor
1977, and
subsection
fiscal year
organized
school

(2) "costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping or furnishing of public elementary and secondary school buildings and includes but is not limited to the cost of acquisition of sites, legal, engineering, fiscal, architectural and other fees of specialists or consultants, costs of labor, materials, equipment and supplies, costs of authorization, issuance and sale of bonds, notes, or other evidences of debt. (§ 1 ch 249 SLA 1970; am § 1 ch 98 SLA 1971; am § 2 ch 137 SLA 1972; am § 1 ch 28 SLA 1973; am § 47 ch 127 SLA 1974)

Revisor's note (1973). — Subsection (g) of this section is set out here as it appears in ch. 21, SLA-1973, derived from HCSSB 114. However, since that definition subsection is virtually identical to the pre-1973 subsection (f), and the changes in that subsection did not follow the amendment method required by AS 24.30.060(a), Rule 12 of the Legislature's Uniform Rules, and the Legislative Drafting Manual, it is not entirely clear whether the changes were inadvertent clerical errors or intentional legislative amendments.

Effect of amendments. — The 1973 amendment deleted the language "exclusive of any funds received from State or Federal sources for school construction costs" from the end of the introductory language of subsection (a), added paragraph (3) to that subsection, added the present second sentence in subsection (b), inserted "second" in the present third sentence of that subsection, substituted "those" for "such" and "that" for "as" in subsection (c), added the present subsection (f), redesignated former subsection (f) as subsection (g), deleted "unless the context requires otherwise" from the introductory language of that subsection, substituted "including" for "of public elementary and secondary school buildings and includes" in paragraph (2) of that subsection, and deleted "is" following "but" in that paragraph.

The 1974 amendment, in subsection (g), inserted "unless the context requires otherwise" in the introductory language and substituted "of public elementary and secondary school buildings and includes but is not limited" for "including but not limited" in paragraph (2).

Editor's note. — Section 1, ch. 120, SLA 1977, effective July 1, 1978, amended subsection (a) to read: "(a) During each fiscal year, the state shall allocate to an organized borough or a city which is a school district, the following sum:

"(1) payments made by the borough or city during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred before July 1, 1977 to pay costs of school construction, and cash payments made by the borough or city before July 1, 1976 to pay the cost of school construction;

"(2) 50 per cent of

"(A) payments made by the borough or city during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after July 1, 1977 to pay costs of school construction;

"(B) cash payments made after July 1, 1977 by the borough or city during the fiscal year two years earlier to pay costs of school construction."

Section 2 of ch. 120, effective July 1, 1978, amended subsection (b), to read: "(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall

"(1) offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140;

"(2) require the borough or city to provide, with its application, a certified copy of the notice to taxpayers required by sec. 30 of this chapter."

Section 2 of ch. 120, effective July 1, 1978, amended subsection (e) to read: "(e)

The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section, including but not limited to, the amount of state aid paid on a per capita and per student basis and the resultant effect on the rate of levy of taxes by the municipality for educational purposes."

Legislative committee reports. — For report on ch. 28, SLA 1973 (HCSSB 114), see 1973 Senate Journal, p. 312. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Article 3. Community Facilities Grants.

Section

300. Civic, convention and community recreation centers

Sec. 43.18.300. Civic, convention and community recreation centers. (a) Within the limits of legislative appropriations for the purpose, the state shall make matching grants to local governments or their nonprofit designee equal to 50 per cent of the estimated reasonable costs of land acquisition, planning, and construction of municipal civic, convention and community recreation centers and 50 per cent of the cost of feasibility studies relating to these facilities, in accordance with the provisions of this section.

(b) Grants for only one study and one project may be awarded to a local government under this section. Applications for grants shall be made in a form prescribed by the commissioner. A grant shall be allotted according to an agreement made between the commissioner on behalf of the state and the local government receiving the grant. The agreement may include any provision agreed upon by the parties and shall include in substance the following provisions:

(1) estimates of reasonable costs of a study or project as approved by the commissioner after consultation with the Department of Public Works;

(2) a schedule of grant disbursements, if, as determined by the commissioner, a grant is to be disbursed other than in one sum;

(3) agreement by the local government to

(A) proceed with and complete the proposed study or project expeditiously;

(B) not discontinue operation or dispose of all or part of a project for which it receives a grant without the approval of the commissioner;

(C) apply for, and make reasonable efforts to secure, federal assistance which may be available for the study or project, subject to any conditions the commissioner may require in order to maximize the amounts of that assistance received or to be received for all projects in the state;

(D) provide for payment of the local government's share of the cost of the study or project;

(4) agreement by the local government that, if federal assistance for a study or project becomes available to the local government which was not included in the calculation of the amount of a grant authorized and

disbursed under this section shall be ascertained by the commissioner. The balance of the grant shall be paid by the local government.

(5) provision for the study or project and the agreement between the local government and the commissioner.

(6) provision for the study or project which would be paid by the local government. This section shall apply to grants for the construction of community recreation centers which would be paid by the local government.

(c) If funds are available under this section for the study or project, the grant shall be applied for and established in accordance with the provisions of this section.

(d) This section shall apply to grants for the construction of community recreation centers which would be paid by the local government.

(e) The agreement between the local government and the commissioner shall include in substance the following provisions:

(1) estimates of reasonable costs of a study or project as approved by the commissioner after consultation with the Department of Public Works;

(2) a schedule of grant disbursements, if, as determined by the commissioner, a grant is to be disbursed other than in one sum;

(3) agreement by the local government to

(A) proceed with and complete the proposed study or project expeditiously;

(B) not discontinue operation or dispose of all or part of a project for which it receives a grant without the approval of the commissioner;

(C) apply for, and make reasonable efforts to secure, federal assistance which may be available for the study or project, subject to any conditions the commissioner may require in order to maximize the amounts of that assistance received or to be received for all projects in the state;

(D) provide for payment of the local government's share of the cost of the study or project;

(4) agreement by the local government that, if federal assistance for a study or project becomes available to the local government which was not included in the calculation of the amount of a grant authorized and

Cross reference: See also ch. 180, § 180.010, which provides for the cost of civic, convention and community recreation centers, which are authorized.

disbursed under this section, the value of the federal assistance shall be ascertained and subtracted from the total value of the project and the balance shall be equally divided between the state and local government;

(5) provision for alteration or modification of an approved study or project and for remedies in case of failure to perform the agreement between the parties or noncompliance with regulations promulgated by the commissioner under this section;

(6) provision for alteration or modification of an existing facility which would have qualified under this section as a civic, convention or community recreation center at the time of initial construction if this section had been in effect and provision for remedies in case of failure to perform the agreement between the parties or noncompliance with regulations promulgated by the commissioner under this section.

(c) If funds appropriated by the legislature to provide grants under this section are not adequate to satisfy amounts required by approved grant applications, funds shall be allocated on the basis of priority established by the Department of Economic Development by regulations promulgated to carry out the provisions of this section.

(d) This section does not require that a local government receiving a grant for a feasibility study under this section must proceed with construction of a project, notwithstanding the project is determined to be feasible.

(e) The commissioner shall require in the negotiations and agreements with the local government that continued maintenance of the facility is the responsibility of the local government and the local government must show the feasibility of this before authorization of state funds.

(f) The commissioner shall provide an annual report to the legislature with respect to grants made under this section.

(g) The commissioner may promulgate regulations to carry out the purpose of this section.

(h) In this section

(1) "commissioner" means the commissioner of economic development;

(2) "local government" means a city of any class or a borough having power to implement the studies or projects for which grants are authorized in this section. (§ 1 ch 114 SLA 1971; am § 44 ch 71 SLA 1972)

Cross reference. — As to bond issues to pay the cost of capital improvements for civic, convention and community recreation centers, which were rejected by the voters, see ch. 180, SLA 1972 and ch. 2, SLA 1973.

Temporary and Special Acts and Resolutions 1972 and 1973.

Legislative committee report. — For report on ch. 71, SLA 1972 (HCSSB 323 am H), see 1972 House Journal, p. 898.

H B
283

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 283
 Title An Act Relating to State Aid to School Districts for School Construction
 Requested by House HESS Date 3/24/81

II. FISCAL DETAIL

Agency Affected Department of Education
 Program Category Affected Elementary and Secondary Education
 BRU, Program, or Subprogram(s) Affected Financial Support Programs Districts
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This is not a zero fiscal note. It is just not possible to estimate the prospective capital expenditures of REAA school districts.

IV. DATE 3/24/81 PREPARED BY Steve Hole
 AGENCY Department of Education
 PHONE 465-2800

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

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

March 24, 1981

The Honorable Donald E. Clocksin
Chairman
House Health, Education and Social
Services Committee
Room 112 - Capitol Building
Juneau, Alaska

Dear Mr. Clocksin:

Re: House Bill No. 283

House Bill No. 283, an Act relating to state aid to school districts for retirement of school construction debt, was introduced in the House on March 6, 1981 and was referred to the House Health, Education and Social Services and Finance Committees.

For the consideration of the House Health, Education and Social Services Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Anselm Staack, Treasury Comptroller, Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Samuel R. Cotten
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 283

Title Relating to state aid to school districts for retirement of school construction debt.

Requested by House Health, Education & Social Services Committee Date 3/6/81

II. FISCAL DETAIL

Agency Affected _____

Program Category Affected General Fund

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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill would allow payments for state aid to school construction to be made to a "school district" as well as to a borough or city. This would allow REAA's to receive payments, who are not presently covered under existing language.

This bill makes no change in the present payment formula therefore no additional fiscal impact is indicated.

Anselm C. Staack

IV. DATE March 23, 1981

PREPARED BY Anselm C. Staack, Treasury Comptroller

AGENCY Dept. of Revenue/Treasury Division

PHONE 465-2351

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

H B

287

COMMITTEE REPORT

HOUSE

3/9/81

FURTHER: JUDICIARY

(5)

Date: April 7, 1981

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had HB 287

"An Act relating to domestic violence."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 287 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
 CHAIRMAN

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

JAY S. HAMMOND, GOVERNOR

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

March 26, 1981

The Honorable Donald E. Clocksin
Chairman, Health, Education and
Social Services Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Re: House Bill 287

Dear Representative Clocksin:

We are writing in response to a recent request from your staff for a position paper concerning House Bill 287, An Act Relating to Domestic Violence. Having worked closely with you last session in insuring passage of strong domestic violence legislation, we support HB 287 as it clarifies several ambiguities in the law that was enacted last year. We do, however, offer the following comments for your committee's consideration.

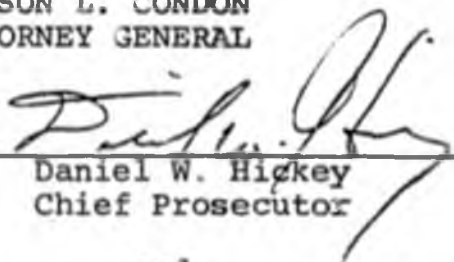
1. We question why the definition of "domestic violence" has been restricted in new paragraphs (A) - (F) of secs. 09.55.640, 12.30.025(b) and 18.65.520(c). Rather than expand the protection provided by the law to members of the same household as the assailant, the categories of persons set forth in paragraphs (A) - (F) limit the application of the domestic violence statutes. For example, under HB 287 a mother-in-law under 65 or a cousin who is living with the assailant would not be protected under the special provisions of the domestic violence laws. Additionally, a person who is assaulted by a person he or she is living with would not be protected unless it can be shown that the two engaged in sexual relations.
2. We strongly support sections 6 and 7 of the bill which makes it clear that a violation of an order under AS 09.55.600(b) directing a respondent to vacate the home of the petitioner falls within the purview of the criminal trespass statutes and that a violation of an order prohibiting communications may constitute the crime of harassment. These amendments will also serve to resolve questions concerning the arrest authority of law enforcement officers.

3. On a relatively minor point, we wonder: why the term "peace officer" has been substituted for the term "police officer" in AS 18.65.520. If the intent of this amendment is to change existing law, the committee report accompanying this legislation should so state.

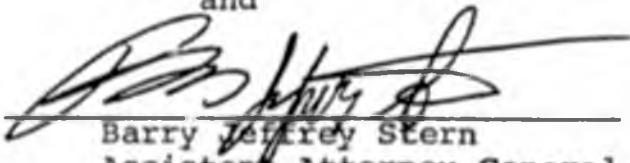
If you have any questions or if we can be of further assistance to your committee in this subject, please let us know.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Daniel W. Hickey
Chief Prosecutor

and


Barry Jeffrey Stern
Assistant Attorney General

BJS:dm

cc: Art Peterson
Assistant Attorney General

Larry R. Weeks
District Attorney
Anchorage



Alaska Network on Domestic Violence and Sexual Assault

February 1981 in Anchorage

28 petitions were filed. We have information on 24 of them:

AWAIC, Inc.
Anchorage
Shelter
274-4561
Community Office
279-9581
Male Awareness Project
279-9581

AWARE, Inc.
Juneau
586-6623

Arctic Women's Group
Barrow

Bering Sea Women's Group
Nome
443-5444

Family Violence Counselor.
Police Dept.
Kodiak
486-3221

Kenai-Soldotna
Women's Resource Center
Soldotna
262-9378

Kodiak Women's Resource Center
Kodiak
486-5038

WKCA, Inc.
Fairbanks
452-2293

Women in Safe Homes
Ketchikan, Alaska
225-2730

Tundra Women's Coalition
Bethel
543-3455

13 married

4 separated

3 divorced

2 living together

2 ex-boyfriends

1 family widow being assaulted by her teen-age son

5 incidents involved weapons

15 incidents resulted in injuries

21 incidents included threats by the respondent

Of the 24 petitions that we have information on:

5 were denied emergency treatment and no further date was set

2 proceeded on to divorce and were either withdrawn or consolidated

1 withdrawn because the petitioner also pursued criminal charges and the respondent had a bail condition ordering no contact

1 respondent was not served

1 petitioner requested withdrawal because the respondent entered both alcoholic and psychiatric counseling

4 petitioner withdrew without explanation

10 went to a full hearing:

4 married

2 divorced

2 separated

1 living together

1 family



Alaska Network on Domestic Violence and Sexual Assault

AWAIC, Inc.
Anchorage
Shelter
274-4561
Community Office
279-9581
Male Awareness Project
279-9581

AWARE, Inc.
Juneau
586-6623

Arctic Women's Group
Barrow

Dering Sea Women's Group
Nome
443-5444

Family Violence Counselor,
Police Dept.
Kodiak
486-3221

Kenai-Soldotna
Women's Resource Center
Soldotna
262-9378

Kodiak Women's Resource Center
Kodiak
486-5038

WICCA, Inc.
Fairbanks
452-2293

Women in Safe Homes
Ketchikan, Alaska
225-2730

Tundra Women's Coalition
Bethel
543-3455

March 1st through March 24, 1981 in Anchorage

15 petitions were filed. We have information on 11:

4 married

4 separated

3 living together

8 incidents resulted in injuries

11 incidents involved threats by the respondent

Of the 11 that we have information on:

6 are scheduled for hearings

2 emergency requests were denied and no date was set

1 the petitioner was allowed to dismiss because she moved out and did not expect to have further contact with him

1 the petitioner filed petition but did not walk it through, no date was set

1 married went to a full hearing



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Public Safety	Sponsor (Principal)	Bill Number HB287
Department Position		
Division Director T.R. Anderson	Date 3/19/81	Commissioner William R. Nix

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting)	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill
3. Program Effects of Bill	

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

HB 287 (domestic violence) extends the effective date for orders issued in domestic violence cases from 45 to 90 days in non-emergency cases and from 10-20 days for emergency orders. I can't think of any advantage to the police and it just seems to extend their responsibility for a longer period. There has always been a constitutional question concerning these ex parte emergency orders, where the respondent is deprived of due process without a hearing for even 10 days, and this new provision just aggravates this problem area.

(continued on page 2)

Another section does clarify who is protected is a "household member" in that he or she must be a spouse or former spouse, or related to the person committing the domestic violence, unless he is a child under 18 year or a person 65 years or older. In other words two guys living together would not be considered as members of the same household unless they had sexual relations with each other! In that case one could file against the other.

This bill also amends the criminal code so that it is trespass if you enter or remain on the premises in violation of an order, and harassment if you communicate directly or indirectly with the petitioner in violation of the order. The trespass provision will allow arrests at the scene and clarifies this problem area.

A new section changes police officer to peace officer and defines him as a "public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders." AS22.20.130 was also amended to allow the Commissioner to designate a "peace officer" not just State Troopers, to serve and execute process. If these two changes were put in there in an attempt to force APD to serve domestic violence orders, it was poorly done.

Finally, for some reason the author repealed the section which provides for a criminal charge of false swearing if someone files a petition against someone which is untrue.



Alaska Network on Domestic Violence and Sexual Assault

AWAIC, Inc.
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274-4561
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Kodiak
486-5038

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Fairbanks
452-2793

Women in Safe Homes
Ketchikan, Alaska
225-2730

Tundra Women's Coalition
Bethel
543-3455

COMMENTS ON HOUSE BILL 287

Section 1. We support this amendment.

Section 2. This amendment would extend the initial duration of the restraining order to 90 days and provides that an extension could be obtained of those provisions which govern the degree of contact between the parties. The issues of child custody and visitation cannot be extended. We agree that the initial order should last more than 45 days. We also feel that all the orders should be co-extensive. Therefore we recommend that the statute allow for an initial order of 120 days and that there be no provision for an extension of any of the provisions. This would allow sufficient time for the parties to stabilize and make decisions and would not give rise to the confusion of having an order that once covered the whole family but has been extended to only cover half.

Section 3. We support this amendment. We believe that 20 days will provide time for the respondent to be served and for a hearing to be set. We do not believe that there are any due process problems as the respondent can call a hearing to modify or dissolve the emergency order.

Section 4. We support this section.

Section 5. This section defines the relationships which must exist for a person to apply for injunctive relief. We think that the proposed definition is more limiting than the present definition and we believe that persons seeking to use the process will find it confusing. We need a definition that will provide access to the civil injunctive process to all persons who are not safe due to abuse by family members. We are becoming increasingly aware of the magnitude of elderly abuse in this state. We suggest a definition which would include persons who are related by either blood or marriage, and ex-spouses, and household members. If it is felt that the scope of 'related by blood or marriage' is too broad, it could be limited to persons within the third degree of consanguinity (this would include aunts, uncles, nieces and nephews)

Section 6 and Section 7 of the bill suggest two ways in which some 'teeth' can be put into the enforcement of the restraining orders.

Section 6. This section proposes an amendment of AS 11.46 to specify that the word 'unlawfully' in the term of art 'enters or remains unlawfully' encompasses entering or remaining in violation of an order

issued under the Domestic Violence Act. Our problem with this section is that it specifically limits the enforcement to a situation where the respondent has been ordered to vacate the home of the petitioner. A good proportion of the persons involved are already living apart and the courts order of "no contact" implicitly means that the respondent is not to enter or remain at the premises of the petitioner. Therefore we believe that this section should be expanded to cover a person who 'enters or remains' in violation of any provision of the restraining order. We also suggest that the section be expanded past 'premises' and also include 'propelled vehicle' so that a person lurking in the womans car in violation of an order not to contact her would also be culpable.

Section 7. This section proposes addressing the issue of the 'no contact' provision by including it as a possible element of Harrassment. The problem of using this section is that the preliminary language of the statue establishes 'intent to harrass or annoy' as a threshold element. When the respondent is ordered by the Superior Court not to contact the petitioner in any manner, that order extends to all forms of contact regardless of intent. This amendment would not cover the respondent who contacts the petitioner with the intent to reconcile or to send flowers, and yet this action is not only a violation of the order, and an indication that the respondent is not willing/able to exercise self-control, but it also subjects the petitioner to danger since the respondent may become violent when offers of reconciliation are rebuffed.

Another problem with the lead in language is that by establishing Intent as the culpable mental state and this is the one culpable mental state that can be avoided due to intoxication.

Section 8. See comments to section 5.

Section 9. We support this provision

The following are suggested alternative amendments; if adopted they would replace the need for sections 6 and 7 (discussed on page 2) and they would clarify the arrest powers of peace officers when they are responding to an apparent violation of an order.

First we suggest that we create a law which simply makes it a misdemeanor to violate any provision of an order issued pursuant to this act (other than the support provisions). We feel that an appropriate place for the section would be in AS 11.51 which delineates Crimes against the family.

The suggested cite and language is as follows:

AS 11.51.150 Criminal Contempt.

A person commits the crime of criminal contempt when they knowingly violate any provision of an order issued pursuant to AS 09.55.600 or AS 09.55.610.

Second we suggest that this above crime be cross referenced to the 'misdemeanor' arrest provisions of AS 12.25.030. so that peace officers have clear power to arrest the respondent.

Additional suggestions: We feel that AS 12.55.135 be amended to reflect the recent changes in the criminal assault laws which provide for 4 degrees of assault; the present provision sets a minimum of 10 days incarceration if a person is convicted of a felony assault. This needs to be changed so that the minimum attaches to a conviction for a misdemeanor assault.



Alaska Network on Domestic Violence and Sexual Assault

AWAIC, Inc.
Anchorage
Shelter
274-4561
Community Office
279-9581
Male Awareness Project
279-9581

AWARE, Inc.
Juneau
586-6623

Arctic Women's Group
Barrow

Denig Sea Women's Group
Nome
443-5444

Family Violence Counselor,
Police Dept.
Kodiak
486-3221

Kena Soldatna
Women's Resource Center
Soldotna
262-9376

Kodiak Women's Resource Center
Kodiak
486-3038

WCCA, Inc.
Fairbanks
452-2293

Women in Safe Homes
Ketchikan, Alaska
225-2730

Tundra Women's Coalition
Bethel
343-3455

January 1981 in Anchorage

15 petitions were filed:

9 married

1 separated

2 divorced

2 household

1 family (daughter was petitioner against father)

2 incidents involved weapons

11 incidents resulted in injuries

15 incidents included threats by the respondent

of the 15 petitions filed;

3 were denied emergency treatment and no further date was set

2 both parties absent at hearing

2 were withdrawn because of reconciliation

3 the petitioner was present but there had been no return of service on respondent.

5 went to full hearing

1 was the daughter/father both represented themselves

2 were divorced from each other

2 were married to each other

One of these was dismissed because the woman's attorney informed the court that the USAF has flown her home.

POSITION PAPER
ON
HOUSE BILL NO. 287

"An Act relating to domestic violence."

The Department of Health and Social Services supports the amendments to House Bill No. 287. During the 1980 legislative session, the Department supported House Bill No. 392 which eventually became the present statute. Since that time, the local programs of Domestic Violence and Sexual Assault have coordinated closely with the public safety and police officers of each major community. The Alaska Network on Domestic Violence and Sexual Assault has assisted in preparing training for police officers at the Academy; and victims of domestic violence are beginning to use the right for restraining orders. Each of the domestic violence programs has had an increase in number of clients during the year; perhaps some of this has been due to the obligation now placed on a police/public safety officer to inform a victim of the availability of a protected environment.

It has become evident with the use of the current statute that complex living situations do exist in Alaska and that violence frequently occurs within those interrelated "families" - no matter what the definition of family. According to the publication "Crime in Alaska," published by CJPA, in 1980, of 39 murders in the state, 12 victim/offenders were family members.

The Department is also aware that for many women a period of 45 days to "solve her problems" and make decisions about life decisions is frequently too short a time; if the perpetrator chooses to seek help, in order to help solve the relationship problem, a period of 45 days is by no means long enough to help him learn new methods and techniques of handling stress. Therefore, the Department supports the extension of the restraining order.

Recommended by: Elizabeth Muktarian
Elizabeth Muktarian
Director
Div. of Adult and
Aging Services

Date: 3/24/81

Approved by: Helen D. Beirne
Helen D. Beirne
Commissioner
Dept. of Health and
Social Services

Date: 3/24/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 287

Title "An Act Relating to domestic violence."

Requested by _____

Date March 17, 1981

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Social & Economic Assistance for the General Population

BRU, Program, or Subprogram(s) Affected Division of Adult & Aging Services - Adult 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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-				

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Zero Impact

IV. DATE

3-17-81

PREPARED BY Dorothy Walt

AGENCY Division of Adult and Aging Services

PHONE 465-3250

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval _____

Date 3/17/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 287
 Title "An Act relating to domestic violence."
 Requested by Representative Clocksin Date March 17 1981

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice/General Government
 BRU, Program, or Subprogram(s) Affected Prosecution/Legal 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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

The proposed bill, in Sec. 9, speaks to services already provided by the Department's Criminal Division. Likewise, the Department's Civil Division is already providing legal services for the Division of Social Services to such extent as that division may be involved in protecting minor children as provided by Sec. 2 of the proposed Act. Therefore, no additional fiscal impact will be felt by the department by the enactment of this legislation.

IV. DATE March 18, 1981 PREPARED BY Richard I. Pegues, Admin. Officer
 AGENCY Department of Law

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

MEMORANDUM

March 27, 1981

TO: Members of the Health, Education and Social
Services Committee, Alaska House of Representatives

FROM: Grant Callow
General Counsel, Alaska Court System

SUBJECT: HB 287 - Domestic Violence

Proposed changes by the Alaska Court System:

(1) Substitute "or" for "and" on page 2, line 16,
and delete subsections (D), (E) and (F).

Same change for Sec. 8, page 3, and Sec. 10, page 4.

(2) Amend criminal law statutes relating to:

- a) Harassment (AS 11.61.120) (already
included in HB 287)
- b) Custodial interference (AS 11.41.320-.330)
- c) Criminal trespass (AS 11.46.320, .330, .350)
- d) Criminal nonsupport (AS 11.51.120)

Amendments to these statutes should provide that violations
of certain relevant provisions of court orders will be criminal
violations under these statutes.

(3) Amend Sec. 11, page 5, lines 10 and 12, to make
it clear that process shall be promptly served under section 600
of the Domestic Violence Act as well.

GC



Sec. 11.61.120. Harassment. (a) A person commits the crime of harassment if, with intent to harrass or annoy another person, he

(1) insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response;

(2) telephones another and fails to terminate the connection with intent to impair the ability of that person to place or receive telephone calls;

(3) makes repeated telephone calls at extremely inconvenient hours;

(4) makes an anonymous or obscene telephone call or a telephone call that threatens physical injury; or

(5) subjects another person to offensive physical contact.

(b) Harassment is a class B misdemeanor. (§ 7 ch 166 SLA 1978)

For case construing former AS Ct. Op. No. 732 (File No. 1231), 489 P.2d 11.45.035 relating to illegal use of 1012 (1971).
telephones, see *Anniskette v. State*, Sup.

(Effective January 1, 1980)

Sec. 11.41.320. Custodial interference in the first degree. (a) A person commits the crime of custodial interference in the first degree if he violates § 330 of this chapter and causes the victim to be removed from the state.

(b) Custodial interference in the first degree is a class C felony. (§ 3 ch 166 SLA 1978)

ALR and C.J.S. references. — Fiction of authority of, parent or one in loco parentis, 77 ALR 317.
loss of services as condition of action for abduction of child, 72 ALR 847. 51 C.J.S., Kidnapping, § 1 et seq.
Kidnapping or other criminal offense by taking or removal of child by, or under

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 he has no legal right to do so, he takes, entices, or keeps that child or incompetent person from his lawful custodian with intent to hold him for a protracted period.

(b) Custodial interference in the second degree is a class A misdemeanor. (§ 3 ch 166 SLA 1978)

Sec. 11.16.320. Criminal trespass in the first degree. (a) A person commits the crime of criminal trespass in the first degree if he enters or remains unlawfully

(1) on real property with intent to commit a crime on that real property; or

(2) in a dwelling.

(b) Criminal trespass in the first degree is a class A misdemeanor. (§ 4 ch 166 SLA 1978)

Cross reference. -- As to trespass on or injury to state land, see AS 38.05.360.

Am. Jur., ALR and C.J.S. references. -- 22 Am. Jur., Forcible Entry and Detainer, §§ 53 to 56; 34 Am. Jur., Malicious Mischief, § 1 et seq.; 52 Am. Jur., Trespass, §§ 84 to 86.

Right to use force to obtain possession of real property to which one is entitled. 141 ALR 273.

36 C.J.S. Forcible Entry and Detainer § 1 et seq.; 54 C.J.S. Malicious Mischief § 1 et seq.; 87 C.J.S. Trespass §§ 140 to 165.

Sec. 11.16.330. Criminal trespass in the second degree. (a) A person commits the crime of criminal trespass in the second degree if he enters or remains unlawfully

(1) in or upon premises; or

(2) in a propelled vehicle.

(b) Criminal trespass in the second degree is a class B misdemeanor. (§ 4 ch 166 SLA 1978)

Sec. 11.16.350. Definition. (a) As used in §§ 300 — 350 of this chapter, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so; or

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge.

(b) For purposes of this section, a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so unless

(1) notice against trespass is personally communicated to him by the owner of the land or some other authorized person; or

(2) notice against trespass is given by posting in a reasonably conspicuous manner under the circumstances. (§ 4 ch 166 SLA 1978)

3

Sec. 11.51.120. Criminal nonsupport. (a) A person commits the crime of criminal nonsupport if, being a person legally charged with the support of a child under 18 years of age, he fails without lawful excuse to provide support for the child.

(b) As used in this section "support" includes necessary food, care, clothing, shelter, medical attention, and education. There is no failure to provide medical attention to a child if he is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.

(c) Criminal nonsupport is a class A misdemeanor. (§ 5 ch 166 SLA 1978)



Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Donald E. Clocksin, Chairman
465-3797
465-3777

Pouch V
State Capitol
Juneau, Alaska 99811

TO: House HESS Members
FROM: Hollie Ploog, Staff Counsel
RE: Proposed Amendments HB 287
DATE: April 2, 1981

1. Sec. 2 page 1 line 14: Length of order - delete language from, "However" on line 14 thru "days" on line 24. Change 90 to 120 days in line 14.
2. Sec. 5 page 2 lines 12 - 27 and Sec. 8 lines 7 - 22: Definition of domestic violence - Keep former definition and add the following language after "respondent" on line 27 and line 22: "...or is related to the person who committed the crime by marriage or blood with the second degree of consanguinity."
3. Sec. 6 page 2 line 28: Add AS 11.46.320.330. Page 3 line 1: End sentence after 9.55.610.
4. Sec. 7 page 3 line 3 - 6: Eliminate intent as culpable mental state.
5. Add new sections to include crimes of: Custodial Interference - AS 11.41.320-330, Criminal Nonsupport AS 11.51.120 or create crime of Contempt in Violation of 9.55.600-610 as AS 09.50.025.
6. Cross reference all crimes with AS 12.25.030 (power to arrest).
7. Sec. 11 page 5 line 10: Add AS 09.55.600 after word under.

Proposed Amendments HB 287 - Continued.

8. Sec. 13 page 5 line 24: Repeal since violation already covered by contempt statute AS 09.50.010; if changed to require verified statement, violation would be perjury, a class B felony, rather than a fine of \$100 - \$300 as is.
9. Add new section to AS 12.55.135 changing assault in the third degree to assault in the fourth degree.

3 27-81

WB 287

Karla Huntington att. (VISTA att.)
with Pope-Lentz

Arthur Brown, Federal officer gone,

Jim Vaden
Grant Callum

H B

293

WHAT HB 293 DOES

I. Establishes New Parole System.

II. Sets Release Dates for Offenders
Who Committed a Crime before
July 1, 1981.

WHY CHANGE CURRENT SYSTEM

- I. Certainty in length of sentence served.
- II. "Just Desserts" theory of punishment.
- III. Rehabilitative programs are more effective.
- IV. Public's "right to know."

HIGHLIGHTS OF HB 293

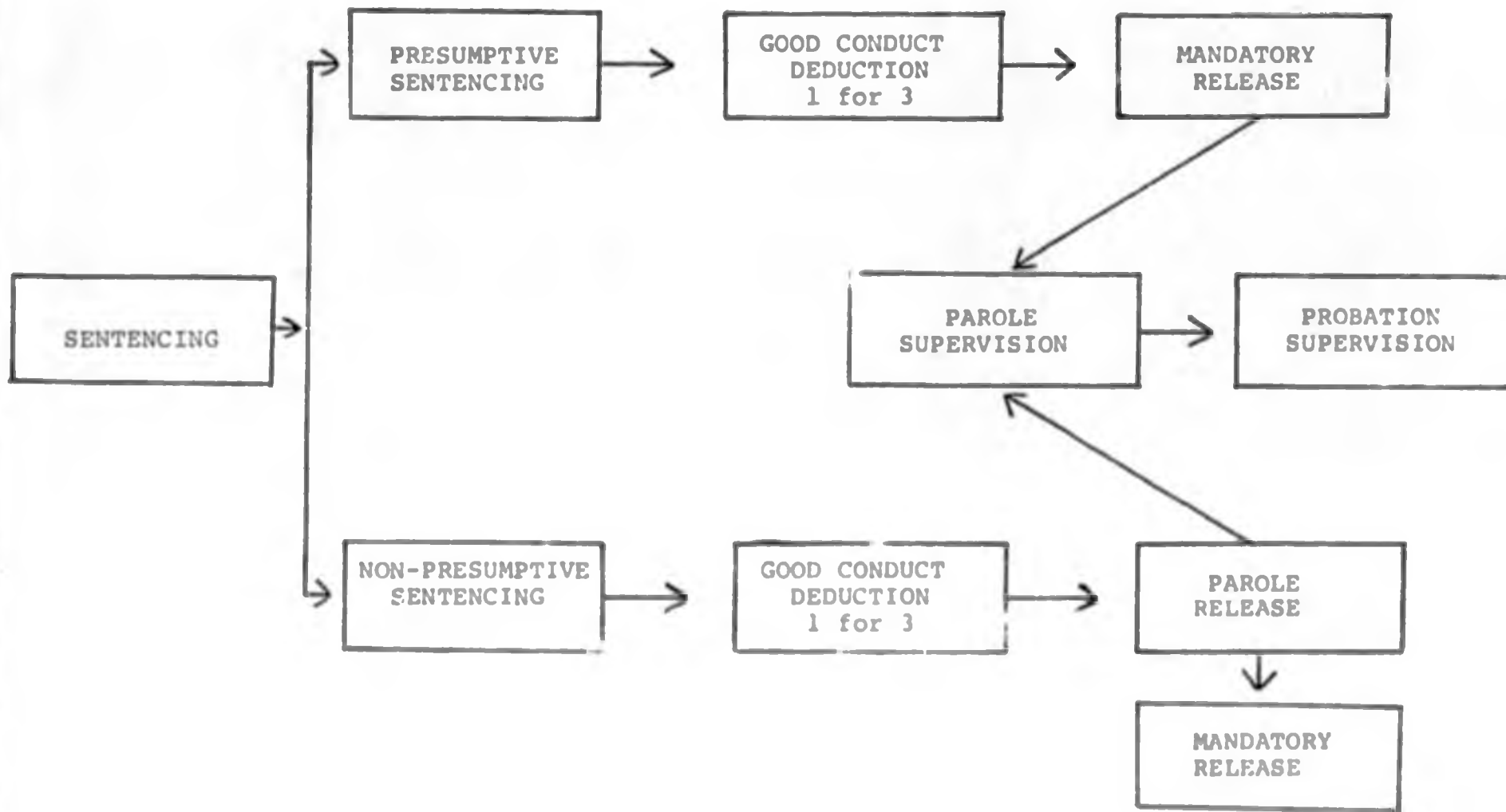
- I. Parole Board Sunsets July 1, 1981.

- II. Interim Sentence Review and Parole Commission
For Offenders Who Committed a Crime Before
July 1, 1981.

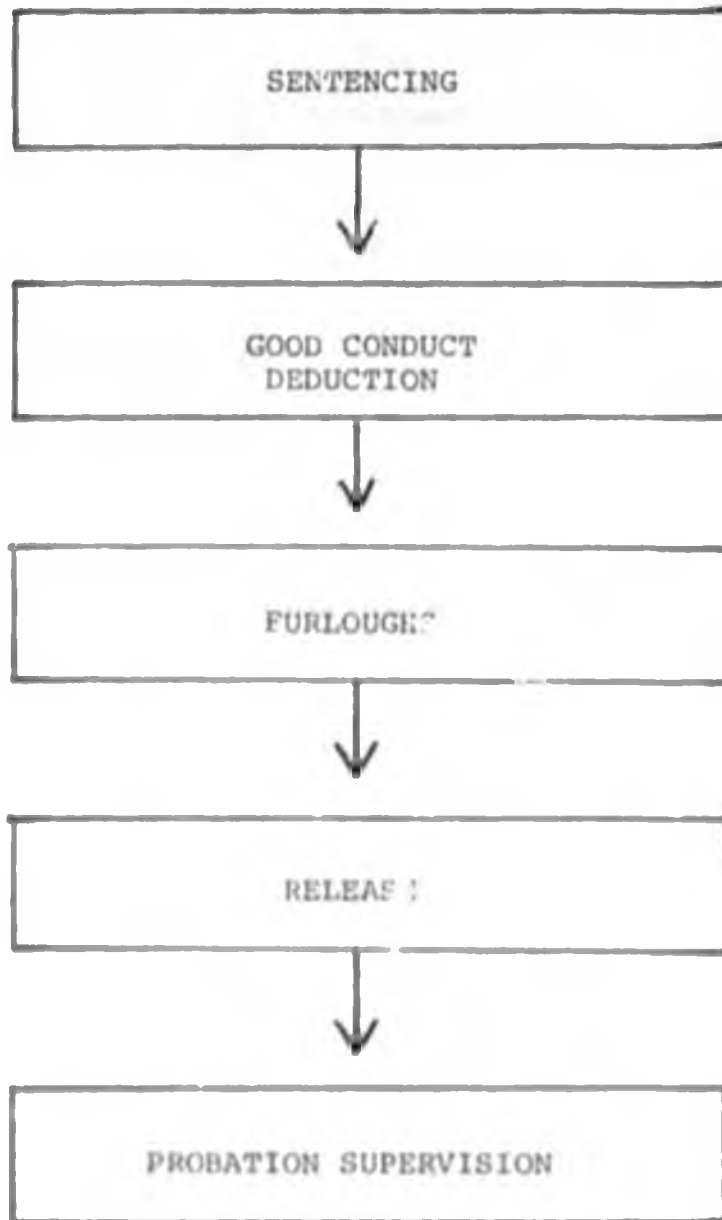
- III. New Parole System -- Good Conduct Deductions
Plus Furlough Programs.

- IV. Presumptive Sentencing for First Felony Offenders.

CURRENT PAROLE SYSTEM



PAROLE SYSTEM - HB 293



SUMMARY OF HB 293

I. AS 33.16. PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY.

- A. Interim Sentence Review and Parole Commission.
- B. Parole of persons who commit crimes after 7/1/81.
- C. Supervision of prisoners released - probation.
 - 1. Length
 - 2. Conditions
 - 3. Formal/Open
- D. Defendant informed of release date at sentencing.

II. AS 33.30. CORRECTIONAL FACILITIES AND PROGRAMS.

- A. Establishment, Control and Management.
 - 1. Duties of Commissioner
 - 2. Custody of offenders
- B. Programs and Furloughs.
 - 1. Designation of facilities
 - 2. Designation of programs
 - 3. Furloughs
 - a. Types
 - i. Pre-release
 - ii. Short-duration
 - b. Eligibility
- C. General Provisions - Permanent fund dividend eligibility.

III. AS 12.55. SENTENCING.

- A. Probation amendments.
- B. Presumptive sentencing.

INTERIM SENTENCE REVIEW AND
PAROLE COMMISSION

- A. Three member commission lasts two years.

- B. Sets parole release dates for prisoners who are or will be eligible for parole; and
 - 1. committed a crime before 7/1/81; and
 - 2. sentenced before 1/1/83.

- C. Hearing required where prisoner has a right to present evidence and cross-examine witnesses.

- D. Considerations in setting parole release date include:
 - 1. Whether there was unjustified disparity in sentence imposed; and
 - 2. Whether sentence deviated substantially from sentence under revised criminal code.

GOOD CONDUCT DEDUCTION

I. Computation

- A. One-quarter of sentence if
 - 1. Presumptive sentence for repeat felony; or
 - 2. Murder I, II, or Kidnapping;
 - 3. Life Sentence = 99 years.
- B. One-third of sentence for all other crimes.

II. Forfeiture of Deduction

- A. 90 days maximum for major incidents of bad conduct.
- B. 30 days maximum for minor incidents of bad conduct.
- C. Vesting of 90 days per year for incident-free conduct.

PRE-RELEASE FURLOUGH ELIGIBILITY

- I. If sentence of 5 years or less, eligible after serving one-third of sentence.

- II. If sentence of more than 5 years, eligible after serving one-third of sentence, or within 3 years of release, whichever is later.

TYPES OF FURLOUGHS

1. Obtain drug or alcohol treatment or counselling.
2. Vocational training.
3. Secure or engage in employment.
4. Attend school.
5. Prepare for release.
6. Other rehabilitative programs.

PRESUMPTIVE SENTENCING

	<u>FIRST</u>	<u>SECOND</u>	<u>THIRD</u>
A	2-1/2 - (5) - 20 4 - (8) - 20	5 - (10) - 20	7-1/2 - (15) - 20
B	0 - (2) - 10	0 - (4) - 10	3 - (6) - 10
C	0 - (1) - 5	0 - (2) - 5	0 - (3) - 5

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 293

Title An Act Establishing a Parole System and Relating to Correctional Facilities, etc...

Requested by Rules Committee by Request of the Governor Date 3/9/81

II. FISCAL DETAIL

Agency Affected Health & Social Services

Program Category Affected Offender Confinement, Reformation & Supervision

BRU, Program, or Subprogram(s) Affected Adult Confinement

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		126.0	152.9	62.6	68.2	803.1
200 TRAVEL		1.6	1.8	-0-	-0-	14.0
300 CONTRACTUAL		148.5	43.6	825.0	1,251.9	220.6
400 COMMODITIES		2.6	4.3	4.2	6.0	233.1
500 EQUIPMENT		1.4	-0-	1.7	-0-	20.0
600 LAND & STRUCTURES		5,520.0	-0-	-0-	-0-	-0-
700 GRANTS CLAIMS ETC						42.8
TOTAL	-0-	5,800.1	622.6	893.5	1,329.1	1,333.6

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	5,800.1	622.6	893.5	1,329.1	1,333.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	1	4	2	2	19
PART TIME						
TEMPORARY						

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

A. Four specific areas within the Division of Adult Corrections will be impacted as a result of passage of House Bill 293. These are Adult Confinement, Major Medical, Director's Office and, for two-year period, Institutional Counseling. Individual analysis of each area follows:

1. Adult Confinement

As a result of presumptive sentencing, it is anticipated that the prison population will increase by 80 persons. This increase is assumed to occur at a uniform rate of 16 persons per year for five years.

In order to accommodate this increase in the prison population, construction of 80 beds would be requested in FY 1982. These beds would be added to a request for a 200 bed facility already anticipated. The capital funds identified represent the cost of the dormitory space for 80 beds. With funds

IV. DATE 4/9/81 PREPARED BY Jege C. Luge
 AGENCY Health & Social Services / Div. of Corrections
 PHONE 465-4376

Original Legislative Finance
 cc: Budget and Management
 Prime Sponsor (Must Legitimate Name) P&B Approval Date _____

appropriated in FY 1982, an opening date of July 1985 for the new beds would be anticipated. At that time, 17 staff positions would be needed to provide for security and program supervision of the 80 bed wing.

Contractual costs for housing the additional prisoners out-of-state would be necessary until July 1, 1985. Computation of these costs are, as follows:

<u>Fiscal Year</u>	<u>Full-Year Equivalents</u>	<u>Average Cost Per Day</u>	<u>Days</u>	<u>Total Cost</u>
1982	8	\$45.53	365	\$132,948
1983	24	49.63	365	434,759
1984	40	51.09	366	791,878
1985	56	58.96	365	1,205,142

2. Major Medical

With the increase in prisoner population, medical expenses related to these prisoners will result in a budgetary need. Costs were developed using an average of 8 prisoners for FY 1982, with an increase of 16 in each of the subsequent fiscal years. The FY 1982 budget figure of \$573.47 per prisoner year cost of medical care was used to compute estimated need.

Inflation for medical costs were estimated to be 11% per year for each of the successive fiscal years. The yearly cost of medical care per prisoner was multiplied by the estimated average prisoner population resulting from this legislation. The yearly costs were computed, as follows:

<u>Fiscal Year</u>	<u>Full-Year Equivalents</u>	<u>Average Cost Per Year</u>	<u>Total Cost</u>
1982	8	\$573.47	\$4,588
1983	24	653.76	15,690
1984	40	745.28	29,811
1985	56	849.62	47,579
1986	72	968.57	69,737

3. Director's Office

Section 33.30.131 - Furlough Involving Employment - stipulates that "when a prisoner is employed outside a correctional facility as a part of a furlough program, his earnings shall be sent by his employer to the commissioner." It is assumed the administrative responsibilities regarding these earnings will be delegated by the Commissioner to the Division of Adult Corrections.

With a large number of offenders in the furlough program, a sizable accounting responsibility for the earnings will result. To accomplish the accountability and disbursement of earnings as specified, an Accountant I position is identified to be hired January 1, 1982 and an Accounting Clerk to be hired July 1, 1983.

The cost of this activity, by fiscal year, is estimated to be

<u>Fiscal Year</u>	<u>Amount</u>
1982	\$18,100
1983	36,400
1984	71,800
1985	76,400
1986	83,400

4. Institutional Counselors

It will be necessary to provide additional staff to prepare all pre-parole hearing reports. It is assumed that all inmate cases must be reviewed so that the inmate could be seen within a two-year period. In order to accomplish this additional increment of activity, it is estimated that 3 new Institutional Counselor positions (Probation Officer II classification) will be needed. The location and costs are, as follows:

<u>Position</u>	<u>Location</u>	<u>Cost - FY 1982</u>
1 P.O. II	Anchorage Central Office (Federal Bureau of Prisons inmates)	\$39,664
1 P.O. II	Eagle River/Palmer	39,664
1 P.O. II	Fairbanks	<u>45,202</u>

Total position cost (includes equipment, office space, etc) 124,530

These positions are requested for FY 1982 and FY 1983. During this period, the Institutional Counselors identified will prepare the pre-parole hearing reports for all individuals who committed a crime before July 1, 1981. Upon completion of this task, the specific function will no longer be needed.

It is noted, however, that additional staff is anticipated after June 30, 1983 as a result of several systems of good time calculations being in place. It will be extremely important that these calculations be kept current so that inmates are released at the appropriate time. No costs are included in this fiscal note for this activity increment.

- B. Inflation of 9% per year was used to carry forward all expenditure categories with the exception of medical costs at 14%, as noted above.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. #293
Title An Act establishing a parole system, etc.
Requested by Governor Date March 19, 1981

II. FISCAL DETAIL

Agency Affected Health and Social Services
Program Category Affected Offender confinement, reformation, and supervision
BRU, Program, or Subprogram(s) Affected Parole Board

(Note: If more than one budget component is affected, set rate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		220.7	210.0	(168.4)	(183.6)	(200.1)
200 TRAVEL		72.0	17.2	(53.2)	(58.0)	(63.2)
300 CONTRACTUAL		32.1	35.0	(16.6)	(18.1)	(19.7)
400 COMMODITIES				(2.5)	(2.7)	(3.0)
500 EQUIPMENT		4.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 OTHER (COMPENSATION)		(23.7)	(23.7)	(23.7)	(23.7)	(23.7)
TOTAL		305.4	268.5	(264.4)	(286.1)	(309.7)

FUNDING (Thousands of Dollars)

	(1)	(2)
GENERAL FUND	305.4	268.5
FEDERAL FUNDS		
OTHER (Specify Fund Source)		

POSITIONS

	(1)	(2)
FULL TIME	3	3
PART TIME		
TEMPORARY		

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

- (1) Impact of new commission over and above current Parole Board
- (2) Negative impact of no commission or Parole Board

IV. DATE March 19, 1981 PREPARED BY Samuel H. Trivetto
AGENCY Parole Board
PHONE 465-3385
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) H&B Approval Date 3/23/81

ASSUMPTIONS

Base in Anchorage

Anchorage - Must be able to secure space in Court House for hearings every other month.

Fairbanks
and Juneau- Same as above.

A. PERSONAL SERVICES

a) Members - Range 26	=	4,819 x 3	=	\$ 14,457
				x 12
				173,325
				x 1.27
				\$220,325

- b) Executive Director
- c) Parole Board Officer
- d) Two (2) Clerk Typist III's

Salaries from FY-82 Budget =	\$141,660
Total Salary and Benefits:	\$361,925

B. TRAVEL

Five trips to Juneau for three members lasting five days

266 x 5 =	1,330
67 x 25 =	1,675
Misc. =	150
	1,155 x 5 = \$15,775

Five trips to Fairbanks for three members lasting five days

152 x 5 =	760
67 x 25 =	1,675
Misc. =	150
	2,585 x 5 = \$12,925

Four trips to F.B.P. for three members lasting 5 days

800 x 5 =	4,000
65 x 25 =	1,625
Misc. =	200
	5,825 x 4 = \$23,300

Member Travel Total: \$52,000 x 1.15 = \$59,800

Miscellaneous travel for Executive Director, P.O. II, meet with Executive Clemency Advisory Committee, etc., for training and assistance to institutions:

Two 2 day trips to Fairbanks and Juneau

1 x 152 =	152
1 x 266 =	266
67 x 4 =	268 603
Misc. =	270
	686 x 1.15 = \$789

Sub-Total Travel: \$60,589

Assume two Board members will be employed from areas of the State other than Anchorage and will have to move to Anchorage.

2 x \$10,000 = \$20,000

Office moving expenses:

a) move files, cabinets, desks etc. to Anchorage \$ 5,000

Staff moving expenses:

a) Two professional staff	2 x \$10,000	\$ 20,000
b) Two clerical staff	2 x \$ 6,000	\$ 12,000

Total staff and office moving expenses \$ 37,000

Total Moving and Travel \$117,589

C. CONTRACTUAL

a) FY-82 Request = \$14,000

b) Office Space = \$22,050

The Board will need to contract for office space. Current Board office has about 380 sq. ft. in Alaska Office Building. Assume 150 sq. ft. per employee.

Anchorage - 7 x 150 sq. ft. = 1,050 sq. ft.

c) "Time served" data update = \$10,000

Reassess data already collected to identify most recent information on time served by offenders in specific crime categories.

Total Contractual \$46,050

D. COMODITIES

FY-82 Request \$ 2,100

E. EQUIPMENT

Three Double pedestal desks (plain) @ \$534.56 = \$1,603.68

Three Executive Swivel Chairs w/arms @ \$235.54 = \$ 706.62

Two Printing Calculators @ \$273.97 = \$ 547.94

One Lanier Dictating Machine = \$ 582.93

One Lanier Transcribing Machine = \$ 582.93

\$4,024.10

Tom Master

PAROLE DECISION-MAKING

Parole policies and practices have an direct an effect on corrections as do court actions in pretrial release and sentencing decisions. Parole policies determine, within statutory and judicially determined limits, the length of time a sentenced inmate serves in prison, and the type of conditions that are imposed on his or her parole. The criteria used by the Alaska Parole Board in its decision-making shape the manner in which the Division of Corrections utilizes its institutional and community supervision resources.

As previously stated, if a sentencing guidelines model is adopted, eventually the need for parole as a means of adjusting for sentencing disparities may well disappear, and at this point it will become necessary to consider the statutory abolishment of parole decision-making. However, one must differentiate between paroling decisions and the reintegrative services offered by the Division of Corrections to parolees. Such "parole" services should not be discontinued; whether releasees are released through Parole Board action or at the end of a sentence determined by statute and guidelines, most will continue to require some type of "depressurization" to help them adjust to life in their home communities. Prerelease programs operated by the Division, such as work release and furlough, will become even more critical if parole is abolished. At this juncture, it may also prove to be necessary to statutorily provide for some portion of the

end of every sentence to incarceration to be served under community supervision (similar to the mandatory release law now in effect).

However, it is not likely that parole decision-making will be abolished in Alaska in the near future, since such a step would require a thorough reexamination of the revised Criminal Code, and concerted efforts to develop a guidelines matrix for sentencing decisions which could eliminate the need for Parole Board sentence adjustments. In addition, all inmates sentenced under old sentencing statutes will continue to be eligible for parole for some time to come. Therefore, given that the Parole Board will continue to function in Alaska for the foreseeable future, it is important that the Parole Board's policies and practices are consistent with the state's overall corrections philosophy, and that the Board is provided with sufficient resources and authority to efficiently accomplish its responsibilities. This section describes the current operations of the Board, comparing it with ACA standards, and suggests actions which could be taken to improve the Board's functioning and to enhance coordination between the Board and the Division of Corrections.

Operations of the Alaska Parole Board have attracted limited attention in recent years; the controversy which has surrounded other criminal justice decision-making areas (especially sentencing and correctional

classification) has been largely absent from Alaska's parole decision-making process. Although nationally the fairness of parole decision-making has come under attack from many sources (inmates, corrections agencies, the courts, researches), this has not been echoed in Alaska. This may in part be due to the fact that Alaska's Parole Board has observed the controversies in other parts of the nation, and has reacted with efforts to prevent such conflicts before they arise. In examining the Board's operations, as this section will illustrate, it is apparent that in most respects it meets or even exceeds national standards for adult paroling authorities. In addition, the Board received a grant from the National Institute of Corrections in 1978 to develop a parole guidelines model for Alaska, and work on this task has already commenced. In general, there seems to be a desire to professionalize the operations of the Board, so as to further ensure that decisions will be made in accordance with court requirements and national standards.

ORGANIZATION OF THE PAROLE BOARD

For the most part parole decision-making in most jurisdictions in the United States remains in the traditional pattern, dependent upon the judgments of individual board members augmented only by due process procedures imposed by the courts. This is also presently the situation in Alaska. The Alaska Parole Board is composed of 5 part-time members appointed by the Governor for staggered terms of 4 years; as of July 1, 1978 they are paid \$50 a day plus travel expenses when on official

business. The Board is administratively located in the Department of Health and Social Services, but is separate and apart from the Division of Corrections. It has a staff of 3 persons: an Executive Director, a Parole Board Officer, and a clerk. The office is located in Juneau.

The Board has jurisdiction over parole release, rescissions and revocations. The Parole Board is also responsible for processing mandatory release violators. The Board's Executive Director, in addition to performing the administrative work of the Board, is an advisor to the Governor's Executive Clemency Advisory Board and handles administrative duties for the Advisory Board, including investigations and recommendations.

The Board meets every three months at the institutions in Anchorage, Fairbanks and Juneau. At Anchorage hearings are held at Eagle River, and eligible applicants from Third Avenue, Sixth Avenue and Nome are transported to Eagle River for personal appearances. Hearings are also held at Ridgeview and Palmer. At Juneau, The Board also hears the cases of eligible applicants from Ketchikan, who are transported there for this purpose. Every six months two board members or one board member and one staff member travel to federal institutions, to conduct hearings for Alaska prisoners boarded in those institutions. At each institution counselors prepare reports for the use of the Board, assist inmates in the preparation of applications, counsel inmates, and work with community services offices in connection with

arrangements for releases on parole.

The board hears about 300 cases annually, although there may be a considerable variation in number by quarter, from about 60 to 100 or more. On the average, prisoners serve nearly half of their terms before being released on parole. While perhaps half of the applications (the proportion varies by quarter) are denied or continued for future consideration at their initial hearings, approximately two-thirds are eventually granted parole. At any one time there are about 200 offenders on parole, throughout the state.

Under current law prisoners serving more than an 180-day sentence must serve one-third of their maximum sentences (for lifers, 15 years) before becoming eligible for parole; however, the court can increase this one-third minimum up to the maximum sentence length. Under the new sentencing law, to become effective January 1, 1980, only first-time felony offenders will be eligible for parole consideration within the above limits. Under the new code, good time is computed at a ratio of one day off the sentence for every three served with good conduct.

As a result of parole hearings the Board may issue one of three alternative decisions in individual cases: (1) parole denied with no provision for further review (under which the prisoner will serve his full time minus good time), (2) parole granting deferred end date set for a future review, or (3) a grant of parole to an approved release plan.

OPERATIONS OF THE BOARD

The work of the Board can perhaps best be examined by reviewing the recommended standards of the ACA's Accreditation Commission and comparing them with actual practice in Alaska. The organization of the Alaska Board is generally consistent with these recommendations of the "Manual of Standards for Adult Parole Authorities", which indicate that the Board should have full statutory authority for parole decision-making, it should be autonomous, it should be administratively independent of field services, and it should have the authority to impose general and specific parole conditions. The last recommendation in this section, which permits the use of hearing examiners, is not applicable to Alaska due to the relatively small workload in comparison to other states, excepting where the Board uses parole administrative staff for preliminary revocation hearings.

As suggested by the ACA Commission, the Alaska Board "has power to grant or deny parole and does not serve merely as an advisory body to another official or agency." The Board also "has the statutory power to cause the arrest of parolees and the power to revoke parole," and it has "the statutory power to secure prompt and full information... from institutional staff, parole field staff, and those responsible for the administration of part-way programs, such as halfway houses and furloughs" (although it should be noted that under current practice the use of

halfway houses and furloughs in Alaska is very minimal). The recommendation that written policy should set forth "the roles, functions, duties and responsibilities of the hearing examiners" is implemented in Alaska to the extent that Parole Board staff may conduct preliminary revocation hearings.

The Alaska Board does not have the "statutory power to discharge from parole" which is recommended by the ACA standards. It does have the authority to discharge parolees from supervision, but they must remain in parole status until the end of their terms, minus earned good time.

The seven ACA standards on planning and coordination are only partially implemented in Alaska. The Board does not have "a written set of long-range goals and policies which are developed continuously and reviewed annually..." and does not "document the existence of practical and specific plans to move toward the realization of these long-range goals and policies." The Board does participate "through the agency of which it is a part... in criminal justice planning efforts," but it does not "meet at least annually with representatives of relevant criminal justice agencies...to develop means of coordinating programs, to undertake joint planning, and to agree on means of implementing and evaluating such plans." Nor do members of the Board "meet at least semi-annually with the directors of institutions from which parolees are granted and/or with the head of the jurisdiction's correctional agency" for the same purpose. A mechanism of this kind seems

particularly appropriate and necessary.

The standards recommend similar meetings of Board members with field service staff, but in Alaska this is not done on any formal basis. Also, Board members are to "visit all institutions and a representative sample of the partway facilities in their jurisdiction at least annually, specifically for the purpose of gaining first-hand information about the operations and programs in these facilities from both staff and inmates/residents." The Alaska Board does meet on a quarterly basis at several institutions, but these meetings are exclusively for the purpose of holding hearings.

The last standard states that there should be "documentation that the parole authority promotes and enhances communication with field parole staff through such means as visits, conferences, and seminars at field parole offices." The Executive Director of the Alaska board does visit field offices from time to time to provide advice and some measure of training, although this interaction is limited due lack of time on the part of the Director.

In connection with all of the foregoing recommendations regarding planning and coordination, it is essential to point out that the Board's less-than-perfect compliance with these standards is due primarily to lack of sufficient staff to carry out all these activities. Moreover, it is frequently difficult for part-time Board members to find time to attend the quarterly

institutional hearings, let alone participate in supplementary meetings, visitations, conferences and seminars as recommended by the standards.

The Manual's section on administration and budget has 15 standards, the implementation of which in Alaska is also impeded by the organization of the Board and the lack of adequate staffing. The Board does have a "clearly defined budget" but is not a system "which allows it to weigh the costs of the various functions carried out and thereby plan effectively for the wise allocation of resources". However, the operation of the Board cannot be said to be so elaborate as to require a system of this kind.

The standards provide that the Chairman of the Board should be responsible for the preparation of the budget, that Board members and staff participate in this process, and that the Chairman participates in budget hearings. In Alaska, all of these functions are carried out by the Executive Director, who is not required to consult with the Chairman of the Board members (although such communication usually does occur). The Board does not have the staff needed to carry out "the variety of administrative tasks which are required of it," and while its "space and equipment" is adequate for the present number of staff, the space and equipment, as well as the staff, are not sufficient to meet the requirements of an "effective and efficient processing of the authority's business."

One of the standards recommends that "all current procedures and policies of the parole authority are written and available for public review." The Board does have two manuals which set forth procedures and policies, but these manuals have been modified and supplemented over the years by a variety of memoranda, which are not readily available for public review. As recommended in another standard, the Board does have "skilled legal assistance" available through the Attorney General's office, but it shares this attorney with the Division of Corrections, and occasionally other state agencies as well. The standards stress that "with present-day demands on parole authorities, sufficient and effective legal staff must be available on a continuous basis"; therefore, it is essential that the responsibility of the Assistant Attorney General assigned to work with the Board be clearly defined.

The Board is in general compliance with the standard recommending that the staff be covered by a merit system. However, the staff is not large enough that the recommendations providing for the grouping of tasks, for clear lines of demarcation between administrative personnel, and a supervision ratio of six to one, have any significant relevance.

The Board only recently drafted "a manual of administrative procedures which specifies the operating procedures of the parole authority's administrative staff." The standards also recommend that "all employees of the parole

authority attend staff meetings at least quarterly, where they participate in shaping policies which affect their work." The staff is so limited in numbers and works so closely together that it can virtually be said that they are in continuous staff meeting. The last standard, recommending at least 40 hours of training annually for "all staff who relate to offenders in either a decision-making or a supervisory capacity" would appear to apply to the Executive Director and the Parole Board Officer, but under current circumstances these two persons simply do not have time for this training, nor does the Board have the funds.

The ACA Commission makes a number of recommendations affecting the appointment of Parole Board members:

- members should be chosen through a statutorily or administratively defined system, with explicitly defined criteria, which results in the merit appointment of parole authority members.
- at least two-thirds of the members of the parole authority should have at least a B.A. or B.S. degree in one of the social or behavioral sciences or related fields.
- at least two-thirds of the members should have at least three years experience in a responsible criminal justice or juvenile justice position, or equivalent experience in a relevant profession, such as law or clinical practice.
- both sexes are represented among parole board members, as well as members of the racial and ethnic

groups which are represented significantly in the population of the jurisdiction.

- members of the parole authority do not seek or hold partisan elected office while a member of the authority.
- positions on the parole authority are full-time.
- tenure is no less than 5 years.
- if a fixed term of office is used, the terms of the members are staggered.
- salaries of parole board members are comparable to those paid judges of courts of general jurisdiction (or highest trial court).
- the Board consists of no less than three members.

In Alaska there is no merit system for the appointment of parole board members, nor any statutory requirement as to education and experience. There is a woman on the Board, and the major ethnic groups are represented. The statute does not prohibit members from seeking elective office. The five Board positions are part-time, and tenure is for four years, on a staggered basis. The salary rate, for the time worked, is not comparable to that of a Superior Court judge (which averages about \$200 per day statewide). Obviously, to meet accepted standards, some changes in the method of appointment and status of the Board members are warranted.

The standards also provide for the designation of one of the members as the Chairman, with the

responsibility for coordinating the work of members, acting as official spokesperson for the Board, directing the work of staff, and involving colleagues and staff in the formulation of policy. In Alaska, the Board does have a Chairman, who functions chiefly in that capacity at parole hearings. Due to the part-time status of the Board's members, the other functions are carried out by the Executive Director.

Three other standards, relating chiefly to hearing examiners are not currently applicable to Alaska. However, the last of these, which recommends that Parole Board members receive at least 40 hours of relevant training and education annually, is not in effect in Alaska. Again, considering the part-time status of members and the difficulty they have in finding time even for parole hearings, it would not be feasible to comply with this standard under current circumstances.

The first standard in the ACA Manual relating to management information systems recommends that the Parole Board have "available to it an organized system of information retrieval and review, which is part of an overall research capacity." The discussion on this standard states:

"A parole authority can neither chart new policies, control the applications of old ones, nor even be aware of their consequences without an organized system of information retrieval and review. Not only is such a system important in terms of controlling applications of policy, but also in providing

a base for evaluating different kinds of policy options. It is crucial that parole authority members have competent research personnel who are available to work with them in designing data to be collected and interpreting results."

Three other standards also recommend that the Parole Board should (1) maintain parole outcome measures, such as those developed by the Uniform Parole Reports, (2) receive at least quarterly summaries of the population characteristics and statuses of inmates in the correctional institutions and part-way programs from which paroles are granted, and (3) receive at least quarterly summaries of the population characteristics and statuses of parolees under supervision.

The Board does collect data on parolees, and has available to it the statistics prepared and analyzed by the research staff of the Division of Corrections. But the system is not as elaborate, as organized, nor as structured as the Accreditation Commission's standards call for. The Board itself does not have the staff and resources to develop and operate an information-gathering system on the scale recommended.

The limitations of the Board in this respect also impede its ability to comply with the standard recommending that the Board "receives management information from the institutions and field authorities pertinent to parole policy, that it puts aside regular time for study of this information, and that the authority demonstrate that management

information is considered and acted upon where appropriate." The Board does comply to some extent with the standard recommending that it "or the larger agency of which it is part collaborates with criminal justice and human service agencies in programs of information gathering, exchange, and standardization." As a participant since 1976 in the Uniform Parole Reports program sponsored by the National Council on Crime and Delinquency Center, the Board has enacted the standard recommending that "the parole authority or the larger agency of which it is a part participates in national data collection efforts."

The Board does not have a research capability, but as it moves to carry out its parole guidelines project under the National Institute of Corrections grant, the recommendations of the Accreditation Commission in its section on research would appear to apply. The completion and adoption of the proposed guidelines would implement the recommendation that "statistical and research data are used by parole authority members in decision-making and policy development," as well as the recommendation that "parole authority members participate with researchers in shaping the nature of data to be gathered, the form of its presentation, and the types of questions which are to be addressed." The Commission recognizes that "it is impractical for a parole agency to carry out

internally all research needed," and recommends that in addition to internal research, the parole authority "permits, encourages, and utilizes...research conducted by outside professionals." The Board, as a matter of course, recognizes the principle of the last standard in this research section, which states that "the privacy and interests of offenders, their families and other persons" should be safeguarded.

The Board has substantially implemented the standards in the section on scheduling and information. One of the Board's manuals sets forth "the criteria which are employed...in its decision-making," but whether or not these criteria "are specific enough to permit consistent application to individual cases" is questionable. The fact that the Board applied to the National Institute of Corrections for a grant to develop parole guidelines would suggest to the contrary. However, once developed and adopted, the guidelines would fulfill this recommendation.

In Alaska, offenders are not "scheduled automatically for hearing and review by the parole authority when they are first legally eligible for parole consideration, or within one year after being received in a correctional institution." Offenders must apply for parole, but this requirement would not appear to violate the intent or spirit of this recommendation. Similarly, although Alaska procedure differs, the Board's practice would appear to be consistent with the recommendation that:

"At the first hearing, the parole authority sets a tentative release date. If circumstances prevent the setting of a tentative release date at the first hearing, a subsequent hearing is held within one (1) year for the purpose of setting a tentative release date. In any event, the parole authority gives reasons in writing for any deferral of decision."

At the first hearing, the Board may deny a parole, with no further review, set a date for a future review, or grant a parole to an approved release plan. It also gives the applicant the reasons for a denial of parole or deferral of a decision until a future review date; these reasons are stated in writing and are specific and clear.

A further standard provides that "inmates are not held beyond tentative release dates once fixed, except upon a hearing by the authority at which time the reasons for deferral of parole are articulated in writing." This standard would appear to apply to Parole Boards which fixed advanced parole dates early in the term of sentence; this is not the practice in Alaska. Delays in releasing Alaska prisoners granted parole are infrequent and usually consistent with the standard's observation that "temporary delays may be required because of circumstances surrounding a specific release plan or situation."

The standard providing that "inmates are released earlier than initially anticipated, according to law and in

conformity with the authority's previously established and written criteria" would not appear to be fully applicable to Alaska. The Board may authorize a release earlier than scheduled for various reasons, but not as a result of "the behavior of the inmate in a work-release program, particularly meritorious efforts while in the institution, or a mutually agreed upon program contract." However, one of the Board's manuals does provide that applicants at initial hearings may present "the goals they hope to achieve while incarcerated, and the approximate length of time it will take to achieve them." This would appear to carry out the substance of the Commission's recommendation.

The Board does have "available in writing information about an offender's prior history, his current situation, events in his case since any previous hearing, information about the inmate's future plans, and relevant conditions in the community." Also, the materials in the Board's case files "are appropriately classified, organized, and identified according to the authority's established procedures." However, it does not appear that these materials "are clearly identified as to source, verification and confidentiality," although the Board's instructions as to their preparation include these considerations.

The Board is in substantial compliance with the recommendation that "in those cases which in the opinion of parole authority members require an

examination and opinion by psychiatrists or psychologists, certified members of the appropriate professions are available for such examination and review." For example, under Alaskan law, an offender convicted of lewd and lascivious acts towards a child cannot be parole "until the paroling authority receives a report from a reputable psychiatrist stating the mental condition of the person and stating that the person was under observation while confined in prison." It is the Board's policy that it will not review the case of an applicant who has not been seen by a psychiatrist, and at the time of the hearing the Board must have available to it a recent psychiatric report and a parole progress report in which appropriate attention has been given to this consideration.

The final recommendation in this section states that "the parole authority and the agency of which it may be a part have a written policy regarding the confidential nature of individual case information, and have promulgated specific rules as to the persons who may have access to such information, and the staff who are responsible for the release of that information." While the Board apparently does not have a written policy of this kind, it is reflected in section 302 of the proposed institutional manual of the Division of Corrections. Inasmuch as the Division has custody of the primary case files, the proposed regulation and its detailed procedures would appear to conform to the Commission's recommendation.

The practice of the Board are reasonably consistent with most of the Accreditation Commission's recommendations in the section on hearings. However, the Board's practice does not conform to the Commission's recommendation that "the person conducting the hearing records and preserves a summary of the major issues and findings in the hearing." In this connection the Commission comments:

"It is essential that a record of the events of the hearing be kept for the purpose of subsequent review. It is particularly important for future hearings to be able to review the record of a hearing, and have an awareness of the issues which had been raised previously. The use of dictating equipment is quite appropriate for this purpose."

The Board does not record the hearing or prepare a summary. However, during the hearing, notes are taken.

The Board's practice is generally consistent with the Commission's recommendations on conditions of parole.

However, the Board's practice is in conflict with one standard in this section which recommends that "general conditions for release which apply to all parolees and mandatory releases under supervision are limited to requirements that a parolee observe the law, maintain appropriate contact with the parole system, and notify the parole agency of

changes in residence." The Board's general conditions for parolees and mandatory releasees are rather numerous. However, in view of the trend toward increasing litigation in the corrections field, the Board's practice can be supported. Offenders should be fully advised of the rules and regulations that will be expected of them, so that they cannot charge that the correctional authority failed to inform them. Another standard in this section recommends that "the offender is given an opportunity to present his or her views to the parole authority about specific parole conditions which may be imposed on him or her." While this process is not formally reflected in written policy or procedure, it is informally carried out during the course of the hearing.

The Board's policies and procedures are for the most part in compliance with the standards in the manual on arrest and revocation. These standards discuss procedures for issuance of arrest warrants, use of pretrial release for arrested parolees, the timing and nature of preliminary hearings, and revocation procedures.

However, state law does not permit compliance with the recommendation that "in reimprisonment of the parolee, the parole authority's written policies provide for credit to the parolee for time served on parole in the community," with the Commission noting in this respect:

"Careful review of individual cases is required in reaching the decision on provision of credit to the parolee for time served in the community

when the parolee is reimprisoned for a parole violation. Written policy should state specific criteria for allowing or disallowing credit for time served in the community."

In Alaska, when parole is revoked, the parolee loses all credit for the time spent on parole, and he or she must serve the remainder of his term, less good time credits.

The Parole Board does not have the statutory authority to implement either of the two ACA recommendations concerning discharge from parole. The first of these provides that "The parole authority uses its power to provide both release from active parole supervision, and to grant complete discharge to offenders," with the comment:

"The powers to provide for no active supervision and the discharge of offenders are essential to the parole authority. These powers should be employed frequently. It is both uneconomical, and an unnecessary intrusion in the lives of offenders, to continue active supervision when it is no longer required. It is important that parole authorities look for opportunities to use means other than active parole supervision in individual cases."

The other standard suggests that parolees are not continued under active supervision after two years unless, consistent with the parole authority's written policy, good reasons exist to show that such continued supervision is

required," with the comment:

"There is evidence that the number of violations of parole decline after the first two years under supervision. There is also a tendency for parole systems to continue to exercise active supervision over cases when there is no longer a necessity to do so. A policy should exist stating that continued active supervision of an individual after two years under supervision requires a specific affirmative justification."

Alaska statutes do authorize the Board to adopt rules and regulations for discharge from supervision but do not provide for complete discharge from parole statutes. Under the Board's written policy a parolee may petition the Board for a conditional discharge from parole supervision. The parolee must discuss this request with the supervising parole officer, and receive a favorable recommendation from that officer. The Board hears these requests at its regularly scheduled quarterly meetings, and to be considered, the parolee must usually have served at least one year on parole with satisfactory performance. If the parolee is granted early discharge from supervision, he or she is no longer supervised but remains under the jurisdiction of the Board until his or her sentence expiration date, less good time. If the unsupervised parolee violates the conditions of parole, his or her parole may be revoked; alternatively if it is later determined that he or she requires parole supervision, the parolee may be reinstated to active supervision for the

remainder of his or her sentence. Thus, many cases not actively supervised remain on the paper caseload of the Board, some for many years; this may in part account for the relatively high percentage of murder convictees observed among parolees (see survey data).

The Parole Board is not sufficiently staffed to carry out as fully as might be desirable the remaining four recommendations of the Accreditation Commission, related to public legislative relations:

- The parole authority provides evidence of a public information program, which includes the development and distribution of information about the authority, its philosophy and operations.
- The parole authority publishes a report, at least biennially, which conveys the major work of the authority, and describes trends in parole release, revocation and discharge, along with similar information.
- The parole authority has a written policy which assures that accurate and timely information on cases is disseminated to the public (including written policy as to who is to provide such information and how it is to be provided).
- The parole authority maintains regular liaison with appropriate legislative committees, during at least each regular session of the legislature, for the purpose of offering advice and opinions on appropriate

legislative matters.

The Board does not collect basic information and data concerning its operations, but these are not analyzed and presented in the structured and systematic way apparently contemplated by these standards. However, when requested to do so with reference to particular issues, the Executive Director of the Board does work closely with appropriate legislative committees.

Summary of Recommendations

As can be seen from the foregoing, the Alaska Parole Board is doing nearly all that it can within its current capabilities and limitations to operate a professionally competent parole authority. With some organizational changes and minor increases in staff it can do even better. However, the relatively small size of the Alaskan corrections system--in terms of the number of prisoners and parolees--will continue to dictate some compromises with the recommendations of the Accreditation Commission. The present status of the Alaska Parole Board presents an excellent base upon which to build, and it would appear highly desirable to undertake those additional steps which would improve the professional capability and efficiency of the Board.

For professional decision-making and operations, the Parole Board should be reorganized. While the current members of the Board are doing as well as can be expected under the circumstances that exist, the members are

reportedly hard-pressed to find time for their parole duties since Parole Board business requires 40 to 60 days annually of a member's time and there is an excessive turnover among members. Also, while under the current structure, the overburdened Executive Director is capably directing the work of the Board with its limited resources, the arrangement under which he in effect must perform the duties that normally would be assigned to the Board Chairman is somewhat awkward. Alaska should have a professionally qualified and structured board.

It is therefore recommended that legislation be enacted providing that:

- a. the Alaska Board of Parole be composed of three full-time members.
- b. appointments be made by the Governor from a panel of candidates submitted by the Commissioner of Health and Social Services, preferably with the aid of an inter-governmental committee.
- c. candidates for appointment to the Board should have a background of education and experience in the social or behavioral sciences, criminal justice, the law or clinical practice.
- d. the Board should represent the major ethnic and minority groups found in Alaska.
- e. the salary of Board members should provide adequate compensation for their work.

f. the Board members should be located in Juneau.

g. the Governor should designate one of the members as Chairman, who would serve as the operational head of the Board.

The caseload of the Parole Board is not sufficient to require the then full-time members of the Board to spend all of their time in parole decision-making. However, under the direction of the Chairman there are numerous other essential activities that could more than occupy their available time: (1) formulation of Parole Board policy, (2) budget preparation, (3) development of manuals (administrative, rules and regulations), (4) coordination with other criminal justice agencies, (5) public information and liaison, (6) their own training and the training of Parole Board and parole field services personnel, (7) review of appeals, and (8) information-gathering visitations to the facilities, both institutional and community-based, of the Division of Corrections.

The staff of the Board should be reorganized and augmented. With the Chairman directing the work of the Board, the position of Executive Director should be reconstituted as that of Staff Director, reporting directly to the Chairman. Another administrative assistant should be appointed, making a total of two, and the clerical staff increased to a total of 3. These personnel would assist the members of the Board in carrying out their respective responsibilities, as assigned by the Chairman. The

additional staff would make it possible for the Board to undertake tasks that are not now within its capabilities, particularly in the areas of research, report preparation, manual preparation and updating, and the increasingly detailed procedures that are being imposed upon modern paroling authorities. It is essential that the staff be enlarged, even if Board members are full-time appointees.

The Board should also have an Assistant Attorney General assigned to assist in the formulation of its policy and procedure, to review legal issues raised in individual cases, and to provide advice to Board members to assure that its work is carried out in accordance with the Constitution, as reflected in the mandates of the U. S. Supreme Court, and with the laws of the State of Alaska. The Attorney General's office presently provides such services, but it would be desirable for one AAG to be assigned to work exclusively with the Parole Board and the Division of Corrections. Parole boards elsewhere are becoming more heavily involved in litigation, as parole policies, rules and regulations are challenged in the courts, and such a designation would help to ensure that the assigned AAG would have sufficient time to work both to minimize such litigation and to facilitate the handling of litigation when actions are filed against the Board.

With the appointment of a full-time three-member Board, hearing procedures should be changed to

provide for parole grant and revocation hearings to be conducted by a two-member panel of Board members, composition of the panels alternating among the three members as directed by the Chairman; at present hearings are attended by three to five members of the Board. Also, one of the members should be designated to conduct the hearings; at present, the Executive Director of the Board performs this function. Preliminary hearings should be conducted by a single Board member.

All hearings--parole, parole rescission, parole revocation--should be recorded. This can be done electronically. The recordings need not be transcribed, but should be filed for availability in connection with appeals and litigation. At the conclusion of the hearing in individual cases, a Board member should dictate a short summary of the proceedings according to a format prescribed by the Board. These summaries should be transcribed by Board staff, and made a part of Parole Board records.

With a three-member Board, it is not possible to establish a procedure for considering an appeal by members who were not involved in the decision being appealed from. However, as a compromise the appeal should initially go to the Board member who was not a part of the two-member panel who made the decision. This member should be authorized to deny the appeal on his or her own signature. However, if he or she feels there are grounds for a different decision, the appeal

may be sent to the other two Board members together with the recommended decision and reasons for it, and if one of these members concurs, the original decision will be changed as recommended. If neither concurs, the original decision would stand and the appeal would be denied.

The adoption of a parole guidelines or matrix system similar to that in use in the federal system, Oregon and Michigan should be considered a long-range effort. Guidelines in use elsewhere cannot be applied to the Alaska prisoner population without considerable modification and research. While the guidelines in use in various jurisdictions have some common elements, the prisoner population differs in some respects from one jurisdiction to another, and this would particularly appear to be the case in Alaska. For example, guideline models usually includes a factor taking into consideration whether the offender was unemployed at the time of his crime or for a period of time prior to the crime. In Alaska, it would seem that the unemployment of a native offender who resides in a remote area in a subsistence economy would not have the same significance as unemployment would for a Caucasian in an urban area.

To develop a guidelines model in Alaska will require extended research into the decisions made by the Board in the past, and a trial run and an in-depth evaluation for a period of time on a sample of the Alaskan

either by parole or by mandatory release (the latter in effect a denial). Prisoners with maximum terms of more than five years would be heard at least a month prior to the completion of their minimum terms, also for the purpose of setting a presumptive release date, either by parole or by mandatory release, setting an effective date of parole, or setting a future date for a reconsideration hearing.

Where presumptive release dates have been set, the case should be reviewed administratively by a Parole Board member two to three months prior to the presumptive release date, to determine whether the conditions of the presumptive release date have been satisfied. Upon the basis of his or her findings, the member should be authorized to approve the parole date, advance or retard the parole date for good cause, or refer the case to a two-member panel for a rescission hearing at the next regularly scheduled quarterly meeting of a panel at the institution where the offender is confined.

The actual provisions of a proposal of this kind should be much more detailed. However, under this general procedure prisoners would be much more aware of their parole status than they presently are during the course of their confinement. Also, the Division of Corrections, with a similar awareness of prisoners' parole status, would be in a more informed position to make decisions concerning the prisoner such as custody classification

and assignment to community-based programs (halfway houses, furloughs and work, educational or vocational training release). It would give the prisoner, the Division of Corrections, and the Parole Board a mutual understanding of what would be expected of the offender during his or her imprisonment, and could facilitate joint programming and release preparation programming decisions.

A mechanism should be established within the Department of Health and Social Services to assure that the Board of Parole and the Division of Corrections function under a common correctional philosophy and policy. At present there appears to be some difference in the goals of these two organizations. As indicated in other sections of this master plan, for example, the Division of Corrections makes virtually no use of the community-based programs that are useful for pre-parole testing and preparation. Also, the Board has a very limited role in training parole supervision personnel, other than the occasional participation of the Executive Director. Joint meetings of Division of Corrections and Parole Board personnel should be established on a regular basis, to evaluate programs affecting parole readiness and to work out procedures under which, for example, the Parole Board may, in its decisions in individual cases, require that applicants be sent to halfway house or prerelease center for a period of time before the parole date becomes effective. Such considerations involve the use of personnel and funds of both agencies, and management policies and decisions affecting them should be worked out on a mutual basis.

<u>Position</u>	<u>Location</u>	<u>Cost - FY 1982</u>
1 P.O. II	Anchorage Central Office (Federal Bureau of Prisons Location)	\$39,664
1 P.O. II	Eagle River	\$39,604
1 P.O. II	Palmer	\$40,406
1 P.O. II	Fairbanks	\$45,202
1 P.O. II	Juneau	\$39,964

Total Position cost (includes
equipment, office space, etc.) \$203,840

It is assumed that there will be a constant 9% inflation rate through FY 1986. This percentage was applied to the applicable FY 1982 costs in computing subsequent fiscal year estimates.