

Handwritten text at the bottom of the page, likely bleed-through from the reverse side. The text is partially obscured and difficult to decipher, but appears to contain a date and possibly a name or location.

1621
HB

553 -
HB

576
HB

4-Wheel Drive
Accessories

or come by
7521 Old Seward
* Installation Available

1976 CAPRI Hatchback, 6-cyl.
AT, \$2700; 24-6952
1971 DATSUN 510 sedan, auto.
runs fair, looks fair, \$895 or best
offer; 248-2020, 248-3051



Pirate

Microwave Antenna, Inc.

Susan Randall 276-5148
Myron Ace 243-3722
Harold Wills 276-5148

611 RASPBERRY ROAD
ANCHORAGE, ALASKA 99502

YANKEE INGENUITY DOES IT AGAIN!

If you own a Television Set or TV Monitor you will want to know more about this product.

We have a new product for use in the American Home that is so advanced and ingenious that we have been stopped from advertising the capabilities of this unbelievable device.

Big Corporations have tried to prevent us from bringing this product to you THE AMERICAN PUBLIC.

HOWEVER... in the tradition of the "FREE ENTERPRISE SYSTEM," it has been ruled in court that this product is Legal to Manufacture and sell.

PIRATE MICROWAVE ANTENNA, INC.

Ph. 276-9224

You Can Watch Those Secret TV Channels

— a complete MDS receiving system

Good-bye, commercials!

Jim Barber K8JB
Rt. 1, 22318-97th Ave. North
Rogers MN 55374

Jevon Lieberg K8FQA
Rt. 1, 12285 Geneva Place
Rogers MN 55374

Did you know that there are two secret TV channels? Nobody advertises them, and you can't even buy a TV set that has these channels.

How long have you been complaining about all the commercials while watching your favorite program

or a late night movie? Well, here is the answer to your prayers—these channels don't even have commercials!

The programming on these channels consists of movies (P-, PG-, and R-rated), nightclub acts, and sporting events. They

are allocated to Multipoint Distribution Service (MDS). The existence of these channels was written up in 73 last November!

If you have heard of MDS via other amateurs, friends, or magazine articles, your curiosity has probably urged you to be on the lookout for a receive system you could build yourself! If this is true, read on!

The MDS Receive System

In this article we will give complete construction details on how to build a cheap and simple MDS receive system. This system will include the antenna, mixer, local oscillator, i-f amplifier, power supply, and complete mechanical layout.

The frequencies of the two microwave MDS video channels are 2154.75 MHz for channel 1 and 2160.75 MHz for channel 2. The audio is 4.5 MHz below the video. For more detailed information about microwave TV, read *A Vidiot's Guide to Microwave TV* by Paul Shuch!

Locating the MDS Transmitter

If you have seen a

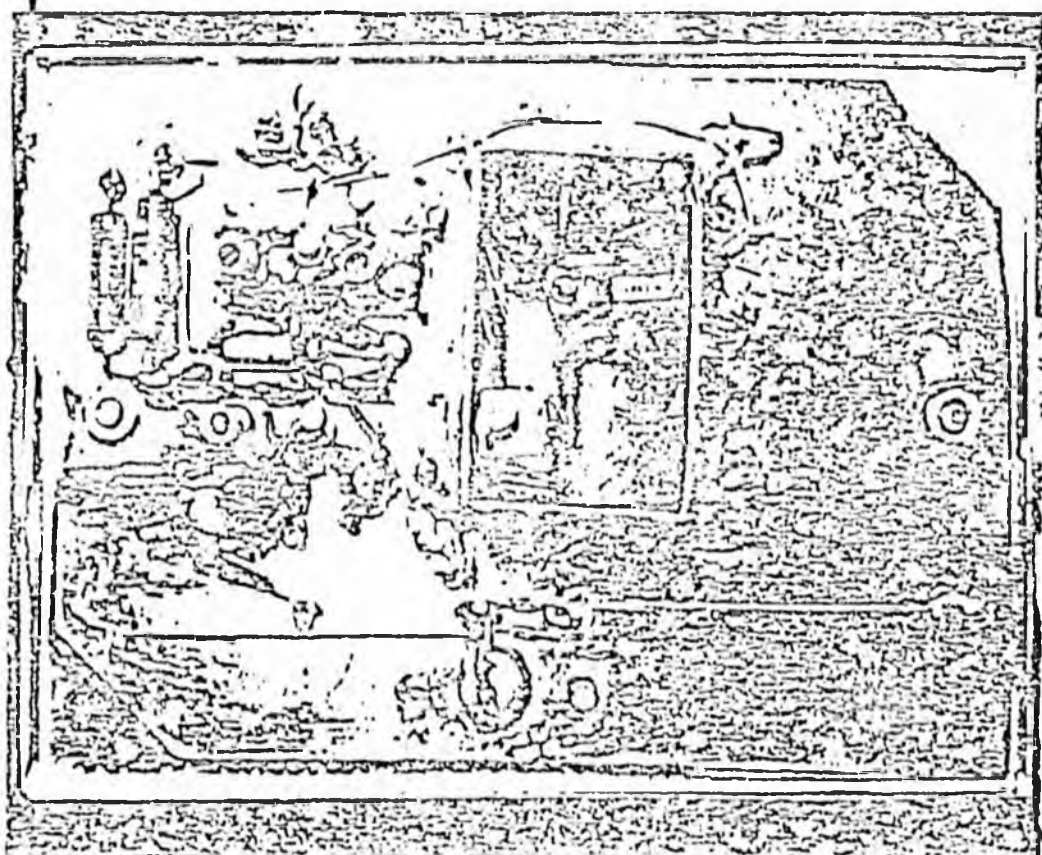


Photo A. This is a close-up of the downconverter showing i-f amplifier, mixer, and the local oscillator in its brass box with the cover removed. The piece of angle aluminum used to mount the box to the mast can also be seen.

Pirate Finds Unburied Treasure

Sells Devices to Catch Pay-TV Airwave Signals

By RICHARD WEST
Times Staff Writer

MacKenzie Davis and John Sampson are entrepreneurs as bold and swashbuckling as the names of their respective companies—Pirate TV and Pirate Electronics.

They make no bones about their businesses: Davis' company sells in Southern California devices that Sampson's concern manufactures in Phoenix for the pirating of pay-TV airwave signals.

There are many of this kind of buccaneer doing business in the Southland these days, but all except Davis operate covertly. Davis is the first to advertise the product that pay-TV companies say is illegal.

In last Sunday's Times, Davis ran an ad that included the name of his company, a picture of a bearded freebooter with eyepatch and telephone numbers in Los Angeles and Orange counties for ordering the devices.

"They come with six-month warranties," Davis said Wednesday. "That's probably 90 days longer than the warranties on most TV sets."

Sampson, a UCLA-educated historian and former teacher at Santa Monica City College, boasted in a telephone interview that his 10-month-old company is the largest in its field, selling the pirating devices all over the nation.

"We operate 48 hours a day and eight days a week," the 44-year-old manufacturer said, using the exaggeration to emphasize the demand for his product.

According to the latest Federal Communications Commission figures, Sampson said, there are 86 licensed

pay-TV signal broadcast stations in as many cities, most of them in the Midwest and the East, and permits have been issued for the construction of an additional 131 stations.

So the market for his product has barely been tapped, he indicated.

Davis, who has a "mutual agreement" with Sampson to sell the devices in California, Oregon, Washington, Alaska and Hawaii, said he has not had time to expand his operations out of the Southland yet because of the great demand for the devices here.

But he added that he hopes to open a Northern California outlet in Sacramento soon.

Davis said the box-device to bring

Suits have been filed to halt sale and manufacture of the boxes.

in the ON-TV system signal sells for \$450 and the microwave antenna to pull in the Theta Cable's Z Channel signal sells for \$350. The ON-TV device is more complicated, he explained.

Regular customers of ON-TV and Z Channel pay installation charges and monthly fees of about \$20.

ON-TV is suing 16 firms and individuals in Los Angeles—not Pirate TV, though—for selling pirating devices. And Tele-features, another subscription TV company in Phoenix, is suing Pirate Electronics there in an attempt to halt its operations.

Arthur Greenberg, one of the lawyers representing ON-TV in its Los Angeles suit, has described the legal action as one to "stamp out pirate procedures."

Sampson and Davis scoff at the suits, noting that FCC officials have said that the law is so ambiguous on this type of pirating operation that there is no way now to halt the use of such devices.

"These microwaves are being broadcast into my building, into my office . . . everywhere," Sampson said. "There is no way to shut them off. They penetrate into our very eyes 24 hours a day."

Sampson said these signals are part of the public domain and that there is no law to prevent people from using devices to pick them up.

The section of the Communications Act of 1934, which attorneys for the pay-TV companies contend is being violated by the pirates, was actually written to prevent wiretapping, Sampson said and has nothing to do with airwave signals.

Cable television, where the signal is carried by a line directly to the TV set, is something else, Sampson said.

"We feel that cable is sacred," Sampson said. "People who steal cable signals are stealing a signal that is the result of heavy investment, a lot of physical labor and long-term planning. Cable TV makes a contribution of income to the city where it operates."

But the "signal people," Sampson went on, "don't have that kind of commitment. No big capital investment is required. A station costs

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PIRATE OF PAY TV

Continued from Third Page
maybe \$30,000 more or less."

The "signal people" simply buy their movies, sporting events and other shows from a company like Home Box Office in New York, have them beamed to their areas by satellite and then pay a television station \$90 an hour to broadcast the signal to a multi-distribution station so that it "rains down on all of us."

Companies like his and Davis', Sampson said, are actually "performing a public service," as they are "putting a lid on what the pay-TV stations can charge."

Davis added to this argument: "Guys like us have kept (subscription TV) prices from going higher. They

want a monopoly on the market. We offer them a little competition."

Both Sampson and Davis emphasized that they are going after a particular market for their devices—affluent people who can afford to come up with \$350 to \$450 to buy the apparatus.

There will probably always be a bigger market for the people who can only afford to dole out \$20 or so a month to the subscription TV companies for their services, they said.

Sampson said that the quality of the devices his company makes is so high—it had only a 3% to 5% failure rate—that other electronic pirates are beginning to pirate his pirate product.

He may have to bring suit, too, to halt this pirating of his equipment.

By Stan Crock

Staff Reporter of THE WALL STREET JOURNAL

NESMITH, S.C.—Most television viewers here have slim pickings. Four of the five "local" stations are about 100 miles away, reception is lousy and the population is too sparse to attract cable television.

But John Wellman and his wife, Chotsie, can tune their seven TV sets to two dozen channels. They can watch everything from cable-TV movies and ice-skating specials to the offerings of commercial stations in Atlanta and San Francisco.

The difference is a big, round, white "dish" nestled on the lawn of the Wellmans' 19th Century plantation home. It is a receiver that plucks TV signals off a satellite orbiting 22,300 miles above the earth.

"We get a real clear picture," says Mr. Wellman, a textile manufacturer and hog raiser. "There's so much to choose from at any time, and on most channels there are no commercials." What's more, it's free.

The Wellmans are one of only a few hundred families in the U.S. who own such private earth stations, which generally are 10 feet to 16 feet in diameter. Their ranks could grow substantially, however, spurred in part by a Federal Communications Commission ruling last year that owners of the dishes don't need federal licenses. "It's a very embryonic industry that's just taking off," asserts John Bacon of Scientific-Atlanta Inc., a leading producer of satellite dishes.

Bouncing Around

Dialing with dishes works like this: TV signals from cable networks, religious networks and some commercial TV stations are beamed up to satellites, then bounced down to cable-TV companies that send them through cables to subscribers. But the satellite beams can be picked up anywhere in the country by a receiver aimed at the satellite.

Dishes, like cable TV, offer a wide variety of programs and improved reception. A Lake Barkley, Ky., man says he bought one so he can videotape movies and "complete my Humphrey Bogart series," which currently includes 31 of the actor's 75 films. A Riverton, Wyo., dish owner says he watches "just about all the sports." Laura Dabney of Ft. Mill, S.C., has a friend who is buying a dish, and she says she's eager to view cable-TV coverage of the U.S. House of Representatives. "At times," she says, "that ought to be exciting."

But TV addicts soon learn that a satellite fix is expensive. Just the basic dish runs \$10,000 or more. Neiman-Marcus Inc.'s most recent Christmas catalog offered shoppers one they could aim by remote control to bring in 100 channels—all for just \$36,500.

The buyer of a dish also risks running

afoul of a local landscaping committee or a zoning ordinance when he tries to mount the thing in his backyard. One owner in California found he had to file an environmental-impact statement before he could proceed. It was decided that he could put up the dish if he painted it green to blend with the lawn.

Equine Interference

A dish owner near Bozeman, Mont., didn't need government approval, but he had his own qualms about the aesthetics of his receiver. So he put it in a corral he had behind his house. But that created another problem: His horse ate a cable connected to the dish.

Birds also like to nest in the dishes. And some owners are annoyed by sightseers who stop to gawk.

The biggest hurdle for dish owners, though, may turn out to be legal. While it is perfectly legal to own a dish, it may be illegal to use it to snare cable-TV signals without paying for them.

Right now the legal picture is blurry. "I think it is illegal," declares Wallace Briscoe, executive vice president of Houston-based Gardiner Communications Inc., a Burnup & Sims Inc. subsidiary that makes and sells dishes. "Unauthorized use of the programming is just like you tapping my telephone line," says Mr. Briscoe, who alerts customers to the potential problem.

Who Will Know?

Fredric Hopengarten, another dish seller in Lincoln, Mass., disagrees. He likens someone who picks up cable-TV signals to a listener who legally picks up shortwave radio signals. Mr. Hopengarten, who runs Channel One Inc. out of his home, also questions how anyone could prove what programs dish owners are watching.

"Detection is the problem," concedes Linda Davis, a spokeswoman for Time Inc.'s Home Box Office Inc., a pay-cable operation. (Pay cable provides commercial-free programs, such as recent movies, for an extra charge above the monthly cable-TV fee.) Such companies say they can do little about satellite viewers at the moment. The courts haven't ruled on the issues yet, and the FCC is still studying them.

Meantime, most dish owners couldn't pay for the programming even if they wanted to. Although cable-TV companies that distribute some dishes are collecting fees from individuals, pay-cable companies say they are prevented by contract from leasing movies directly to individuals or accepting money from them.

If the problems can be worked out, the outlook for dish sales is bright. "People want entertainment," says Winston Hunsworth, a telecommunications analyst for Salomon Brothers. In addition, he says, to some people a dish is "viewed as a rather visible status symbol."

Expansion will depend to a large extent on the development of cheaper and smaller dishes. Japan is experimenting with a satellite system using dishes only two or three feet in diameter. Officials say the receivers, which currently are used primarily on a community-wide basis in remote areas, could be mass-produced to sell for as little as \$500. Such small dishes, however, generally can't receive signals from existing sat-

ellites, which aren't powerful enough. The Japanese launched their own satellite to transmit programs especially produced for the experiment.

Comsat Proposal

Future growth of satellite reception similarly is expected to depend heavily on the development of direct satellite-to-dish programming that offers dish owners attractive alternatives to their current TV fare.

Communications Satellite Corp. has proposed a satellite-to-home network in the U.S. It would launch a special, more powerful satellite, and subscribers would buy a three-foot-diameter dish, pay monthly fees and get a decoder to unscramble coded satellite signals. The network would carry first-run movies, sports, children's shows and other programs. A plan to market the system with Sears, Roebuck & Co. recently fell through, and Comsat currently is looking for another partner.

Until such systems become a reality, satellite dishes are likely to remain a luxury of the few. Atlanta TV entrepreneur Ted Turner, who has a dish at his home, plans to buy dishes for two Washington, D.C., residents—Daniel Schorr, senior correspondent of Mr. Turner's Cable News Network, and George Watson, who is vice president and managing editor. The newsmen currently can't watch the network at home because there isn't any cable TV in Washington.

Mr. Turner, anxious to have his 24-hour news network seen by political leaders, also has offered to buy dishes for the White House and Congress. The House of Representatives is exploring possible sites to install a receiver. But Peter Vesey, CNN's Washington bureau chief, says Carter administration officials have "a few aesthetic problems" with putting a big round dish on the White House grounds.

Pirate' Films Sell Antenna To Take 'Pay' Out Of Pay TV

FRANCE W. MCGARRY ANGELES (UPI) — The take no crossbones about "Pirate TV" is the name taking the "pay" out of pay TV is the game. by home entertainment those monthly ser- s," read the newspaper isements, decorated with ait of a grim buccaneer, epatch and bandanna ess.

Pirate TV offers is ent to receive pay TV, which usually carry e movies and special events, without the aster's knowledge — ess paying the company

TV broadcasters are sing their unhappiness his turn of events by lawsuits, but the pirate ss is booming, say John on and MacKenzie Davis. pson's Pirate Electronics enix, Ariz., manufactures ent that is sold in l states by Davis' Pirate the Los Angeles suburb ura.

"I see nothing unethical or in their business. subscription TV compa- oadcast on a microwave ncy "that our antenna ppend to receive," noted on, who calls the dispute ter of freedom of the us that cuts both ways. y're sending those waves hrough all of our bodies mes, right through our ough we can't see them t the right equipment. ey're free to broadcast hings right through us, uld be free to do what with them while they're g through." argument draws scorn Robert Cahill, one of the rs of the National

Association of Subscription Television Operators.

"That's like saying it's legal for a burglar to break into my house if I can't protect myself," says Cahill, a vice president of ON-TV of Los Angeles.

"I was administrative assist- ant to three chairmen of the FCC, I helped write the subscription TV regulation and I know what they're doing. It's illegal.

"We have over \$40 million investe in this, and these pirates think they can steal our product and get a free ride. What they're doing is illegal and it's immoral and we'll pursue them down every legal avenue, in every community they appear in, until we drive them out of business.

"We believe the federal government will enter the picture and they will be prosecuted, and the people who buy these devices will be the losers."

Meanwhile, Pirate Electron- ics has grown in two years from a garage workshop to a \$900,000-a-year business with 15 employees and a factory on the east side of Phoenix.

"Business is very, very good," said Davis, who also has offices in New Orleans and Florida and sells equipment elsewhere too. He has a three week backlog of orders for the antennas and converters, "which anyone can install themselves."

The equipments costs about \$400 — a one time cost against the pay TV expense of an installation charge plus a monthly fee of \$15 to \$40.

"There's some 100 cities where this (microwave) system is in use and maybe I'll give it a go in all of them. If I'm going to get sued for selling antennas,



PHOENIX, Arizona — John Sampson's Pirate Electronics manufactures equipment that takes the "pay" out of pay TV by receiving signals without broadcaster's knowledge. Pay TV broadcasters are expressing their unhappiness over this turn of events by filing lawsuits, but business is booming, says Sampson. UPI

"I might as well get sued for selling a million of them."

Davis is not being sued. "But there's lots of lawsuits, against about 12 other guys here in L.A. alone, and I think everybody's just waiting to see what the judge's ruling is..."

Sampson's manufacturing company is currently involved in four suits, in California, Oklahoma, Florida and Arizona. He credits a court actor with giving the company its buccaneer trademark.

"We were in court in Phoenix a year and a half ago when one of our people remarked that 'Everybody keeps calling us pirates, so we ought to name this company Pirate Electronics.'

"The name is almost as big an asset now as the good antenna we make. I have a dozen pirate t-shirts in my wardrobe."

Eventually, Davis said, "the FCC or the Supreme Court better sit down and clarify this, but as long as the ambiguity lasts, I'm going to capitalize on it."

A major problem, they complained, is with other dealers who set up shop "as Pirate something or other" and market shoddy equipment, damaging their reputation.

They wish those guys would stop pirating the pirate name. adv for July 27 or thereafter

Sampson and Davis maintain that the federal law cited by the pay-TV firms prohibits only wiretapping, not monitoring broadcast signals, and they religiously abstain from aiding those who would tap the line of a cable TV company.

"That cable is sacred," said Sampson. "Those cable companies put a lot of money and work into stringing those lines and it would be wrong to interfere with their use of their own property."

Both argue that by offering

competition to the companies, they are "providing a public service" by preventing establishment monopoly." The broad market will always have a rather make low payments than buy the ment outright for a price, they maintain.


"We've met with the Communications Commission and the Justice Department in Washington and they don't have any interest in us," Davis said. "If we're doing something wrong, it's not wrong for them to bother with

Odds And Ends

DETECTIVE: It's not author who can celebrate ation of a book with some very characters it por- s, but that's what biogra- verly Linet managed to nday in New York. Shel- nters and Howard DaSil- oved up to help her ch her new paperback, "A Hollywood Tragedy," ostarred with Alan Ladd heyday as a matinee idol, g opposite him in the 1949 n of "The Great Gatsby," was screened at the pub- on party. Another Linet bi- hy — of Susan Hayward dy to roll. And who's

if I can ever solve the mys- tery." Young apparently murdered his 31-year-old wife, Kim Schmidt, the ne committed suicide in Oct. 1974 in New York.

AMSTERDAM, Holland (UPI) — Some 1,000 old sailing ships from Holland and around the world are expected to take part in "Sail Amsterdam 1980" from Aug. 10 to Aug. 12. The ceremonies will include races on a va l displays and other special events including a mock seattle betw een two fleets when, instead of cannon and musket fire, the entire port will



STEAK 'N' RICE

the eyelet bedskirt and a scattering of
A penny-bright brass
added twinkling w

We
Lunch
Lounge.
Dinner

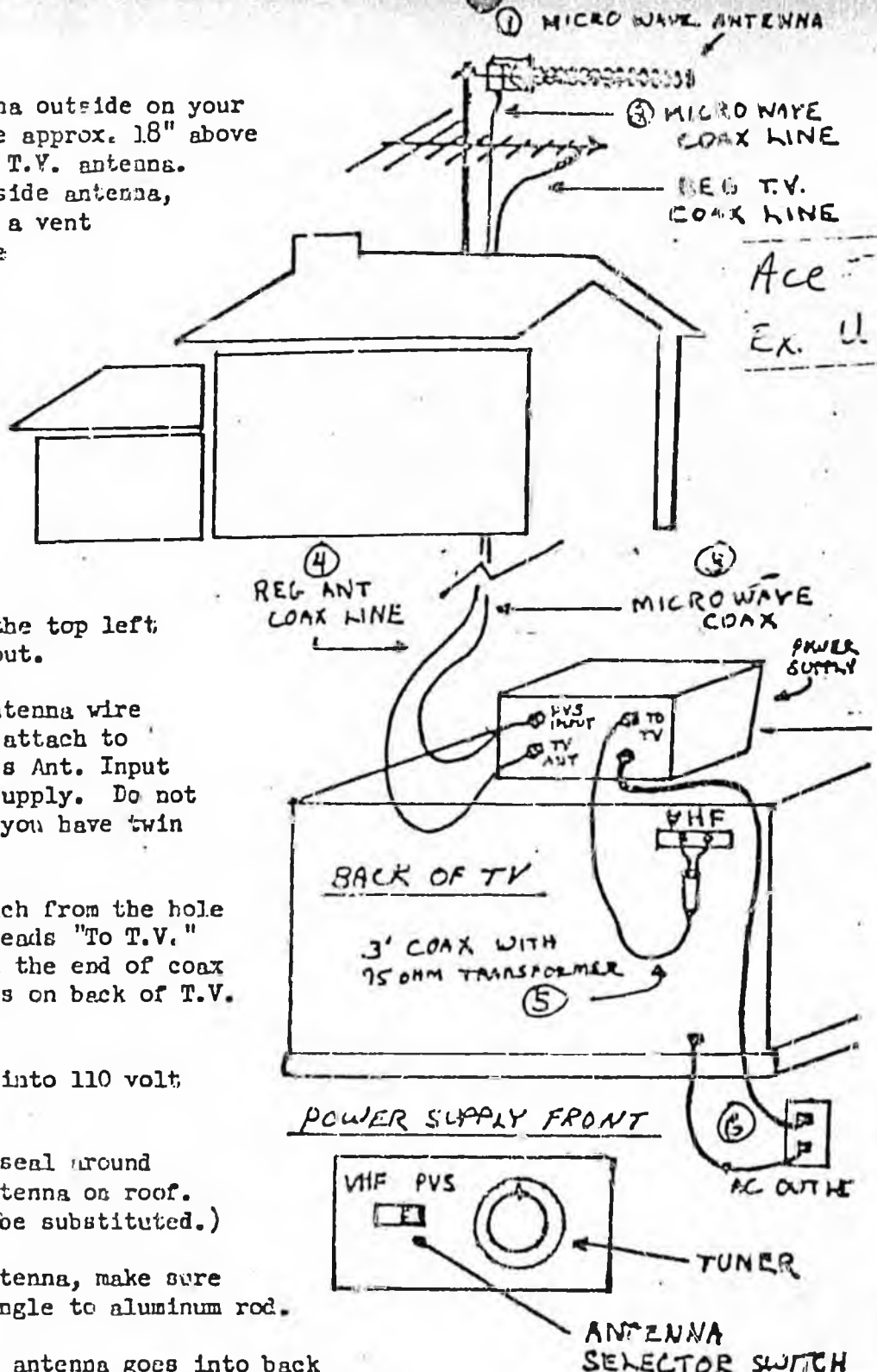
INSTALLATION INSTRUCTIONS

8

Mount the microwave antenna outside on your existing T.V. antenna pole approx. 18" above or 18" below your regular T.V. antenna. If you do not have an outside antenna, mount a pole on roof with a vent clamp and attach microwave antenna.

- 2) Attach long coax cable to microwave antenna.
- 3) Bring microwave coax down and into the house. Attach the microwave coax to the back of the little power supply box that came with the antenna. Attach microwave coax to the top left hole that reads P.V.S. Input.
- 4) Disconnect regular T.V. antenna wire from the back of T.V. and attach to bottom left hole that reads Ant. Input on the back of the power supply. Do not attach to back of T.V. if you have twin lead coax.
- 5) Use the 3 ft. coax to attach from the hole on the power supply that reads "To T.V." Put a 75ohm transformer on the end of coax if you have screw terminals on back of T.V. that read V.H.F.
- 6) Plug the power supply box into 110 volt outlet. Do this last.
- 7) Make sure you put silicon seal around coax where it goes into antenna on roof. (Clear bathtub sealer can be substituted.)
- 8) Check screen on back of antenna, make sure it is standing up at 90° angle to aluminum rod.
- 9) Make sure your existing TV antenna goes into back of power supply not onto back of TV. If you have flat lead coax, you will need a PVS-35A to connect it. (Available through your distributor.)
- 10) Antenna gets pointed like a rifle at the signal you want to receive (if you looked through the screen then all of the rings you receive would transmit theoretically).
- 11) If the aluminum rings are bent when you get your receiver, just gently bend them back into shape.
- 12) Some areas are vertical polarization, some are horizontal. 75% are vertical and this is the way the antenna was shipped to you. If it has snow, check by moving the "U" bolt on the mast to the other set of holes or check with your local distributor.

NOTE: FAILURE TO FOLLOW #7 OF THESE INSTRUCTIONS WILL VOID WARRANTY.



Ace
Ex. U

Dear Customer;
We believe that this microwave antenna is the best on the market today but to receive your 90 day warranty, please fill out this card and mail it today to the place of purchase.

month day year

Name _____

Address _____

AUTOMOTIVE

1977 FORD Granada, 3 Alaskan licenses otherwise a Jolt! Auto, PS (recently aligned), PB (newly relined) low book is \$2520, will sell next week only for \$2200 cash; eyes 277-9156

1984 TOYOTA, 24 mpg, needs paint job, \$650; 344-3815; **GOWLING AUTO SALES!**

1978 BuCamio SS AT, PB, PS, 350, custom paint, 2000, 2000s and runs good, 2000; 333-2201 C

1972 DUSTER, 66,000 miles, 6-cyl, 3-spd, 18 mpg, \$1200; 333-498 days

1970 CHEVY, 1973 Caprice, 1972 240Z, 1971 LTD, \$750, \$600, \$1500, \$250 or best; 338-3196

1984 OLDS DeMont 88, body sound, engine runs, best offer; 349-1363 evenings

PARTING OUT 1972 Pinto Sedan, parts or \$200 takes all; 272-5781

1971 and 1972 Vega, also parts one runs, one doesn't, make offer or both; 344-2853 after 3pm

1973 CHEVY 4x4, cabover camper, V8, AT, PS, PB, \$2650; 243-8846

1973 CHEVY Wagon, AT, radial tires, snow tires, winterized, nice dependable car, \$1450; 337-2833

1976 OLDSMOBILE Regency 98 fully loaded, exc cond, 35,000 miles, \$4500; 344-2040

1972 OLDS Toronado, 3900 or best offer; 273-2303

1975 FORD Granada, white with moonroof, great gas mileage, with 3 spd trans, 52,000 miles, 4 radial tires, looks sharp, a body garage, runs good, \$2000 or best offer; 274-4746 after 5:30pm

1970 CHEVELLE, good body, exc engine, good tires; 694-4083 after 5pm

1972 SAATCHI 1200, rebuilt engine, 5000; 273-9155

1978 3/4-ton pickup with 390, 6-cyl, 2750; 272-5639

1978 ROADRUNNER, perfect body, 31, 4-spd, wide tires, needs body work, \$1200; 243-2291

1978 MUSTANG, 4-cyl, 2300cc, 100,000 miles, all tune-up, 4924 Ext 43rd D3 home even, daytime

MISCELLANEOUS

1973 RIVIERA; 1979 Dodge Van, fair cond; antique phonograph; RCA color console, not working, make offer; after 5pm, Carl, 272-5662

GAS BURNING boiler, used for residential heating by means of baseboard heat, make offer; Jon 272-6662, 277-0988

RECORD PLAYER with 8-track, \$50; 40-gal elec hot water heater, \$50; 6'x8'x24" door, \$20; 2 closet doors with rollers, \$10; four 1500 watt elec wall heaters, \$10 each; pair ice skates, \$15; pair roller skates, \$10; 344-9306 C

D.M.S.O. SOLVENT \$18 for 8-oz, prompt shipment! Send check or money order to: AK Outlet, P.O. Box 6628, Anchorage, AK 99502 C

DAN'S SECOND HAND, 3447 Mountain View Drive, 277-5442, furniture, appliances, televisions and more, open Tuesday through Saturday 9am-6pm B

BUYING A new camera? I'll buy your old one! Alaska Camera Exchange, 283 Muldoon; 338-2722 B

EXCESS FUTURE Liquidation, appare, store clearing excess items including: clothing racks, various sizes, in chrome and wood; metal and wood shelving; sturdy wood table with drawers and formica covering; various size chrome bars; trace steamer with steam boiler and motor much more; 279-6522 for appointment

WE BUY CAMERAS: Dan's Camera Repair: Headquarters for your photographic needs, has used cameras and equipment for sale. We buy cameras and equipment for resale and parts. 135 West Fourth Avenue, Anchorage, AK ZD

NORTH MT. VIEW, Cooks have you ever tried Watkins products? If not, you should! Come or call, 609 N. Price St. 277-3016 D

TOPSOIL. Shredded, screened, mixed, exc garden lawn soil. Clean fill sand and gravel. U-haul or delivered, reasonable rates! See our ad this issue.

A&A SERVICES 272-8711 277-3278

LEARN TO PAINT! Oils or acrylics, small class, individual at

FURNITURE

THREE PIECE Danish modern furn, with matching glass end table and coffee table, plus traditional end tables and coffee table, dining room table with 2 leaves and 6 chairs, queen size waterbed frame and misc items; 349-7428

ROLL-TOP writing desk, \$125; almost new dining room set, \$195; humidifier, \$15; chest of drawers, \$75; rocking chair, new, in crate, \$65; bed frame and headboard, \$10; kitchen chairs, \$5; color TV, good picture, \$200; AC DC B&W TV, \$95; refrig-freezer, \$135; refrig, older style, \$60; Goodyear, \$45; elec range, \$95; pet kennel, \$7.50; dog house, large, \$20; box-springs and mattress, \$35; 3941 E. 9th (near Brazow) C

NOW REGISTERING FOR Fall and winter classes, Alaska School of the Arts, 36th and C, Plaza Mall, landscape painting, materials and techniques of the landscape artist in the studio and on location, weather permitting, 15-wk course instructed by 30 yr Alaskan landscape artist, Richard Orr; 274-ARTS, 243-3724 24 hour phone

SELL & BUY used furniture, living and bedroom sets, bunkbeds, other household furniture, TVs, antiques; 2603 Arctic Blvd, 274-5914 ZD

KITCHEN table with four chairs, \$20, 349-5019 after 5pm

DINING ROOM table with 6 upholstered chairs and matching hutch, \$550; executive office swivel chair, \$35; 333-2692

GREEN TWEED loveseat, \$40; 344-5997

ANTIQUES, smoke stand, \$75; cherry-wood gossip bench, 1920-30, \$350; carved wood clock, with porcelain, 1900, \$2150; black walnut maple top plant stand, \$120; marble top wash stand, \$250; German high chair, 4-1, \$100; will accept bids; 349-3283 C

WELL MADE, sturdy maple couch, like new, fabric brown and orange, \$200; 333-9731, eyes 343-7217

WALNUT BUNKBEDS, with mattresses, \$100; twin boxspring mattress, \$45; chest, \$25; Singer sewing machine, in walnut cabinet, like

SPORTING GOODS

REMINGTON 870 12-gauge mag, 30" VR, full choke, never used, \$300; 337-2500, leave message

6-WHEEL DRIVE Argo ATV, for hunting and fishing, good shape, \$1600 or trade; 349-5637 B

ATV Amphi-cat, \$1000; also Atlas ATV, \$1200 or best offer; 243-2307

8-MM MAUSER Model 1893 modified sniper rifle, \$150; 745-4767 B

OLYN Mark 4 s 150's and 175 Buzzards and size 8 Nordicas, good cond, best offer; 333-7724

TROPHY ALASKA Taxidermy, Mile 20 Old Glenn: shop for quality first; 688-3534 L

MODEL 97 12-gauge, 2 1/2", \$150; 333-7224 after 5pm

NEW RUGER 22 rifle with Weaver scope, \$100; Winchester single shot shotgun, like new, \$50; also gun rack, \$10; 337-6987 B

SMITH & WESSON pistol, 8"-3/8" barrel, 22 Winchester magnum, complete with 100 rounds of ammo, like new, \$230; Pete, 752-5173, or 5176 C

WEATHERBY Vanguard 300 Winchester mag with Weatherby 3x9 Premier wide angle scope, new in hard carrying case, \$475 or best offer; Ruger Blackhawk .357 mag, new cond, \$175 or best offer; 349-2722 after 6pm

PIZZA HUT HAS PENNYSAVERS!

AUTO PARTS

BRONCO 1979, parts only, 351 engine, AT, front and rear axles, 18,000 miles; 349-1382, 344-3605

4-57D TRANS, fits Ford pickup; tire and wheels, slotted mags for Chevy car; 4-spd close ratio trans rebuilt; 279-3658 B

SELLING AUTO PARTS for most cars, motor and body; also two flatbed trailers. Also have cars that run, 344-3000 D

TRANS. TROUBLE? We will rebuild most U.S. transmissions for \$275 and up, exchange. A 3-month or 4000-mile guarantee with each rebuild; 349-1382, 344-3605

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POLARIS Gemini snowmo; 344-0808

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SECTIONAL ANALYSIS OF CSHB553 AND
COMPARISON OF CSHB553 TO ORIGINAL HB553

I.

Explanation of Deletions from Original
HB553 by Bill Section.

Sections 1-4. These were deleted because they are already covered in HB575, which has passed the House of Representatives.

Section 5. This was deleted because it is understood that the question of criminalizing sale or use of microwave television interception devices is under consideration in other legislation at this time.

Section 6. This was covered in HB573, which has passed the House.

Section 7. This is exactly the same as Section 7 of the CS.

Section 8. This was covered in HB577, which has passed the House.

Section 9. This is exactly the same as Section 8 in the CS.

Section 10. This is exactly the same as Section 9 in the CS.

Section 11. This is exactly the same as Section 10 in the CS.

Section 12. This is substantially the same as Section 11 in the CS, including the language about computer programs, etc. The only change is to include domestic pets and livestock under the definition of "property." See the analysis of Section 9 of the CS in part II.

Section 13. This is exactly the same as Section 12 in the CS.

Section 14. This is deleted from the CS as it is understood that it is to be covered in other legislation at this time.

Section 15. This is deleted from the CS, as this amendment to the post conviction bail statute is covered in the following bills already:

SB190am H re-engrossed
HB578
SB545

Section 16. This appears as Section 15 of the CS, and has been rewritten to make it clear that the enhancement for

"possessing a firearm" only occurs if the possession is at the scene of the crime. Also, other changes are made to include manslaughter with the other class A felonies which will receive the presumed sentence of eight years. At the present time, manslaughter is not included in the six year presumptive term for the first offense, and as a consequence a number of persons convicted for manslaughter (for drunk driving) have not been covered under this Section, resulting in some Suspended Imposition of Sentence cases and other suspended sentences.

Section 17. This appears as Section 16 of the CS, and was rewritten to make it clear that the minimum term is for a Fourth Degree Assault for violating a Domestic Violence Order. Also, the change increases the minimum term from 10 days to 20 days.

Section 18. This appears as Section 20 of the CS and was only rewritten to specify "fingerprints" instead of "thumbprints."

Section 19. This is exactly the same as Section 21 in the CS.

Section 20. This appears as Section 22 in the CS and was rewritten to add a (20), the (19) not being changed. It is covered in the analysis of Section 21 of the CS in part II.

Section 21. This Section, referring to Title 28, is deleted because of the Separate Subject Matter Rule.

Section 22. This is repeated in Section 23 of the CS. In addition, AS 12.55.025(e) and AS 12.55.155(d)(a) are also repealed. That is discussed in the Analysis of the CS Section in part II.

II.

Section Analysis of CSHM553

Page & Line

Analysis

1;10 Sections 1 and 2. These Sections amend the manslaughter statute and criminally negligent homicide statute, respectively, to make it clear that the convicted killer will receive a sentence for each death for which he is responsible. This is necessary because of two Alaska Supreme Court decisions, Thessen v. State 508 P2d 1192 (Alaska Supreme Court 1973) and State v. Souter, 606 P2d 399 (Alaska Supreme Court 1980). Thessen held, notwithstanding that the defendant was convicted of killing 14 people in a hotel arson fire, he could only be sentenced for one of those deaths.

Some years later, in a multiple death from a D.W.I. case, the Supreme Court reaffirmed that single sentence rule. These amendments to the statutes would remedy that problem.

1;18 Section 3. This is a rewrite of the Assault in the Second Degree Statute, primarily to insert subsection (2), which would make it Assault in the Second Degree to cause physical injury to a peace officer if the defendant had reasonable notice that the victim was a peace officer. Otherwise, the rewrite conforms this statute to the previous rewrite in HB575, which has passed the House.

1;29 Section 4. This Section amends the Criminal Mischief in the Third Degree Statute, to include under this statute at (5) the striking of a police dog which at the time was on official police duties.

2;3 Section 5. Housekeeping.

2;6 Section 6. This section increases joyriding from a A misdemeanor to a C felony if the person was previously convicted of (a) (2) - Joyriding and had been previously convicted of Joyriding.

The enhancement factor would not apply to any other subsection of criminal mischief in the Third Degree.

2;10 Section 7. This amends the Justification by Necessity Statute, as specified by the Department of Law in original HB553, to make it an Affirmative Defense.

2;13 Section 8. This adds a section to the Criminal Code, establishing the Affirmative Defense of what is basically a "plea of insanity." Under present law, the prosecution must prove beyond a reasonable doubt that the defendant was either:

1. Not suffering from a mental disease or defect, or
2. If so, that he nevertheless had substantial capacity to both:
 - a. appreciate the wrongfulness of his act, and
 - b. conform his actions to law. This last part is sometimes described as the "policemen at the elbow" test -- whether he would still have pulled the trigger if the policemen at the elbow had warned him not to do so,

if the defendant had presented any evidence of insanity. The wording of this Section is exactly

as requested by the Department of Law in original HB553, and the CS includes the repeal of the present "insanity statute," AS 12.45.083.

- 2;23 Section 9. Exactly as in the original HB553, this alters the definition of "intentionally," as specified by the Department of Law.
- 2;29 Section 10. Exactly as in the original HB553, this alters the definition of "organization" to include "government" as requested by the Department of Law.
- 3;5 Section 11. As in the original HB553, this redefines "property" to include property "including data or information stored in the computer program, system or network." However, the CS definition also includes under property "domestic pets and livestock regardless of value" to remedy the present law where these are not strictly specified and must be interpreted into "property" by the court. The phrase "regardless of value" is included to avoid the necessity of proving the value of a domestic pet where one is accused of killing or damaging a pet belonging to another person. It would still be necessary to show the value of the pet if theft were charged and a degree of theft requiring a certain value were specified in the charge.
- 3;16 Section 12. This is exactly the same as the amendment to the definition of "serious physical injury" in the original HB553, as specified by the Department of Law.
- 3;26 Section 13. This Section significantly amends AS 12.55.025 (g) and (h).
- 3;27 1. At (g), specify that a convicted defendant must be sentenced consecutively for separate convictions. This presents concurrent or merged sentences, which are sometimes given even when the crimes were of a different character, occurred at different places and times, and different victims were involved.
- 4;3 2. At (h), allows the court to sentence concurrently for non-violent crimes which are part of "a single continuous criminal episode" or "violate similar societal interests," unless there was a substantial change in the nature of the

criminal objective or if the crime was during an escape [Present statutory law]. The "similar societal interests" test is from current Alaska case law.

4;17

Section 14. This Section amends AS 12.55.088(a). That part of the sentencing law was drastically amended in 1978 to allow a judge to reduce a sentence at any time during the term of imprisonment. Recent cases have occurred where this has been abused. E.g., one where four years after sentencing, after the sentencing judge had died, and just prior to time for the first Parole Board Application, the prisoner moved under this section for a reduction to be considered by another judge.

The abuse possible under Section 088 is obvious, and this amendment would restrict the judges to reducing their sentences within a 60 day period after the original sentencing. It is thought that, considering the detail "Presentence Reports" and great consideration put into an original sentencing hearing, that the courts in most instances give a "correct sentence" on the actual sentencing day, and prisoners should not be allowed to move for a reduction of a sentence after some considerable period of time has passed, the publicity on the original sentence has died down, and the judge may not recall all of the nuances of the crime as brought out during the trial.

Of course this does not restrict the court from reducing or altering any sentence that was "illegal" at the time given. That provision, constitutional in any event, is still found at Criminal Rule 35(a).

4;23

Section 15. Here, AS 12.55.05(c)(1) -- the statute setting the presumptive term for the first A felony is amended. As specified by the Department of Law and original HB553, the term is increased to eight years from the present six. However, the CS section makes these changes from the original bill:

1. Manslaughter is clearly covered, allowing this presumptive term to be used in D.W.I. -- manslaughter cases, which is not true under either present law or the original HB553.

2. The words "possessed or used" are used in the CS, instead of "possessed a firearm," and the terminology "dangerous instrument" is used, since that would include motor vehicles but the original language of "deadly weapon" would not.

3. The wording changes make it clear that the possession of the firearm must have occurred "during the commission of the offense," a distinction that was not clear in the original wording.

4;29

Section 16. As in the original bill, this section changes the present law from Assault in the Third Degree to Fourth Degree, and pertains to violation of Domestic Violence Orders. This is set out more clearly in the CS section and also the section in the CS increases the minimum term from 10 days to 20 days imprisonment for violation of such Domestic Violence Orders by committing Fourth Degree Assault.

5;11

Section 17. This is a considerable rewrite of present AS 12.55.145 and basically makes the following changes:

5:14

1. Under present Section 145, the court cannot consider a prior felony or misdemeanor conviction if "a period of seven or more years has elapsed between the date of the defendant's unconditional discharge on the immediately preceding offense on commission of the present offense." This section at (a)(1) changes that to increase the period to 10 years and exclude the application to unclassified or class A felonies. In other words, the court would always be able to consider a previous conviction for an unclassified or class A felony, regardless of the time frame.

5;22

2. A "single continuous criminal episode" is re-stated at (3) to exclude crimes where persons are injured, assaulted, or killed. Incidents of escape are already excluded from the definition of present law, and this is not changed. However, there is the additional specification at A [line 25] that for criminal incidents to be considered a "single continuous criminal episode, there must have been no substantial changes in the nature of the criminal objective, including the specific property which was subject to the crimes or the particular person who ultimately suffered as a result of the crime."

This would make it quite clear that, for example, a person who committed kidnapping, rape and murder all within a short period of time and with one person as the object of those crimes, could not be consecutively sentenced. Also, it would make it more clear than under present law that, for example, a burglar or trespasser going from office to office or from apartment to apartment within one building and within a short period of time could not be given the benefit of consecutive sentencing.

- 6;17 Section 18. Amends AS 12.55.145(b) to increase the notice requirement from 10 days to 20 days, for the prosecutor to serve authenticated copies of court records on the defense attorney, if the defendant did not expressly admit to prior convictions.
- 6;11 Section 19. Amends AS 12.55.145(c) to increase the period from 5 days to 10 days prior to the sentencing for the defense attorney to put the prosecutor on notice of denial of the authenticity of the court document, or any other of the sentencing allegations which are presently in Section 145 and are repeated at Section 19 of the bill.
- 6;24 Section 20. Amends AS 12.55.145 to add a new subsection, (h) requiring the defendant in a felony conviction to place his fingerprints on the judgment of conviction open court, on the record, at the time of sentencing. This is the same as specified by the Department of Law in the original bill, except that "the thumbprints" is changed to "fingerprints." It is understood that the District Attorney from Fairbanks has suggested this procedure to avoid disputes about whether a particular defendant is the same one named in a previous judgment of conviction.
- 7;1 Section 21. As specified by the Department of Law in the original bill this reworded existing aggravating factor (8).
- 7;4 Section 22. As specified by the Department of Law in the original bill, this adds additional aggravating factor (19), pertaining to juvenile conduct.
- 7;8 Also, this Section adds another additional aggravating factor (20) that the defendant was on felony probation, felony parole, or furlough from prison at the time he committed the crime. Under present AS 12.55.155(a)(12) the court may at the time

of a felony sentencing consider the fact that a defendant was released on bail or a personal recognizance at the time he committed the felony. However, the court cannot consider as an aggravating factor the fact that the defendant was on parole, probation, or furlough at the time he committed the felony.

7;10

Section 23. As indicated previously, this repeals the present "insanity" statute, AS 12.45.083, as in the original bill.

Also, this section of the CS would repeal AS 12.55.155(d)(8), a mitigating factor that states that the court shall consider mitigating the sentence down if "a prior felony considered for the purpose of invoking the presumptive terms this chapter was of a less serious class of offense in the present offense." In effect, that wording rewards a criminal for "moving up" in crime, committing more serious crimes each time, so that the previous ones would be considered as mitigation.

7;11

Section 24. Notes that the change in AS 12.55.088(a) [SECTION 14] has the effect of changing Criminal Rule 35.

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

March 25, 1982

Document# 115-82

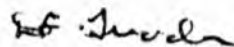
The Honorable Ramona L. Barnes
Chairperson
House Judiciary Committee
Pouch V
Juneau, Alaska 99811


Dear Ms. Barnes:

House Bill No. 553 is identical to the original Senate Bill No. 535. As a result of the size of the department's fiscal note on SB 535, the Senate Judiciary Committee adopted a committee substitute which, among other amendments, deleted section 16 which would increase presumptive sentence length from six years to eight years for a first felony conviction while using a firearm or deadly weapon. That action reduced the department's fiscal note from \$3,808,800 to zero.

We thought this information may be of use to your committee in its deliberations.

Sincerely,



 Helen D. Beirne
Commissioner

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. House Bill No. 553
 Title "An Act relating to the criminal laws of the state."
 Requested by Judiciary Committee Date March 24, 1982

II. FISCAL DETAIL
 Agency Affected Department of 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						1,160.4
200 TRAVEL						16.8
300 CONTRACTUAL						236.5
400 COMMODITIES						212.3
500 EQUIPMENT						28.0
600 LAND & STRUCTURES			3,808.8			
700 GRANTS, CLAIMS, ETC.						52.4
TOTAL	-0-	-0-	3,808.8	-0-	-0-	1,706.4

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	-0-	3,808.8	-0-	-0-	1,706.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	3,808.8	-0-	-0-	20
PART TIME						
TEMPORARY						

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

Assumptions:

1. The only section with significant fiscal impact on the Division of Adult Corrections is Section 16 amending AS 12.55.125 (c)(1).
2. The presumptive sentence length has been taken as the mean sentence for all offenders sentenced under AS 12.55.125 (c)(1).
3. The impact of this legislation will not be experienced for 4 1/2 years from the date of effect. At the present time, an average of 32 persons are convicted of first offense felonies with the use of a firearm. The current flat time sentence is 4 1/2 years. Under the proposed legislation the flat time served would be six years. Therefore, the population of inmates for which the Division of Adult Corrections is responsible would

IV. DATE March 24, 1982 PREPARED BY Roger C. Lange
 AGENCY Division of Adult Corrections
 Original: Legislative Finance PHONE 465-3376

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

House Bill No. 553

"An Act relating to the Criminal laws of the state."

March 24, 1982 - (Continuation)

increase by 48 persons in the fifth and sixth years that the increased sentence length is in effect.

4. Capital budget projections are based on statewide average costs for the addition of 48 beds to be on line in FY '87. Based on current costs estimated to be \$69,000 per bed x 48 beds plus 15% inflation for one year = \$3,808,800.
5. It is estimated that a facility of this size would require a minimum staff of twenty. Other costs are related to direct prisoner care and operation of the physical plant.

Rapist slapped with long sentence

By SHEILA TOOMEY
Daily News reporter

An Anchorage Superior Court judge Friday sentenced rapist Joseph Contreras to three consecutive jail terms that will keep the 38-year-old escape artist behind bars until he is well past 50 years of age.

In a courtroom bristling with extra security, Judge Douglas Serdahely sentenced Contreras to 15 years for robbing, assaulting and terrorizing an Anchorage couple in August, 1980. Contreras also drew terms of six years each for two short-lived escape attempts. The convict also is known as David Ziegler.

In a court appearance last year, Contreras leaped over the defense table and dashed through the judge's exit door, leading troopers on a two-block chase until he was recaptured.

Ketchikan District Attorney Mary Ann Henry, who handled the prosecution, appeared for the state and asked for a 48-year sentence. "He taunted the victims and he put them through an extended period of terror," Henry said as both victims listened from the rear of the courtroom.

According to testimony at his July trial, Contreras broke into the couple's apartment and waited until they returned from a night of dancing. He met them at the door, his face hidden behind a ski mask and a pistol in his hands. Contreras sexually assaulted the woman and threatened to kill the man, holding the gun to his head and telling him, "You're about three-eighths-inches from death. You have two seconds to live."

The man eventually wrested the gun from Contreras, sustaining a minor gunshot wound in the process.

Contreras lived to be tried only because the gun he used that night failed to fire when his victim tried to shoot him in the head with it.

Contreras was convicted on nine different counts connected with the incident. Henry asked that separate jail terms be imposed on most of the counts, to be served one after the other.

According to testimony at his July trial, Contreras broke into the couple's apartment and waited until they returned from a night of dancing. He met them at the door, his face hidden behind a ski mask and a pistol in his hands. Contreras sexually assaulted the woman and threatened to kill the man, holding the gun to his head and telling him, "You're about three-eighths-inches from death. You have two seconds to live."

The man eventually wrested the gun from Contreras, sustaining a minor gunshot wound in the process.

Contreras lived to be tried only because the gun he used that night failed to fire when his victim tried to shoot him in the head with it.

Contreras was convicted on nine different counts connected with the incident. Henry asked that separate jail terms be imposed on most of the counts, to be served one after the other.

But Public Defender Brant McGee argued successfully that all the counts were part of a single criminal transaction. Although Serdahely imposed a total of 68 years, he ruled that all the lesser terms could be served concurrently with the longest single sentence given, which was 15 years.

Serdahely then took advantage of the two

See Page C-3, RAPIST



Anchorage Daily News/Paul Brown

An Alaska state trooper escorts convicted rapist Joseph Contreras from court Friday.

escape convictions to almost double Contreras' jail time by imposing the maximum six-year sentence for each of the two counts.

Under the state's presumptive sentencing for felons with prior convictions, Contreras will have to serve three-quarters of his sentence, or nearly 21 years, behind bars before becoming eligible for parole. "It is clear that Mr. Contreras is going to be a middle-aged man before he sees daylight again," McGee said.

Everyone who entered the fourth-floor courtroom for

Friday's sentence hearing was met at the door by two security guards who ran metal detectors over each person's body and searched pocket-books and briefcases.

Inside the courtroom, one uniformed and three plain-clothes Alaska State Troopers watched the slight, shackled defendant throughout the proceeding.

Contreras, who has three felony convictions in other states, still faces trial for kidnapping, rape and assault of another Anchorage couple. That trial has been held up pending the outcome of a legal dispute over the admissibility of evidence from previously hypnotized witnesses.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 553

Title "An Act relating to the criminal laws of the state."

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected Administration of Justice

BRU, Program, Or Subprogram(s) Affected Alaska State Troopers

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact is anticipated.

IV. DATE April 5, 1982

PREPARED BY *MLM* Marcia Lynn McKenzie

AGENCY Department of Public Safety

Original: Legislative Finance

PHONE 465-4349

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill No. 553
 Title An Act revising certain criminal laws of the state
 Requested by House Judiciary Committee Date April 1, 1982

II. FISCAL DETAIL

Agency Affected Alaska Court System
 Program Category Affected Administration of Justice
 BRN, Program, Or Subprogram(s) Affected Trial Courts
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	FEDERAL FUNDS	OTHER (Specify Source)	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87

POSITIONS

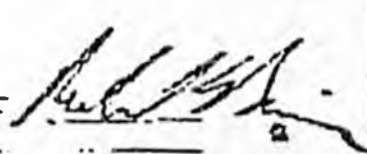
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section II)

There is a possibility that this Act might result in increased workload for the judiciary. Since the likelihood and volume of any increase are speculative at this time, fiscal impact cannot be projected.

iv. DATE April 2, 1982

PREPARED BY Richard F. Barrier
 AGENCY Alaska Court System
 PHONE 264-0565



Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

H B

5 5 6

SB4 2 1

Page 1, line 29, add the following:

The pawnbroker shall give notice of any funds due the pledgor by certified mail within ten days of the sale for the pledged property. If no response from the pledgor is received by the pawnbroker within ninety days after the notice is mailed under this subsection, then the entire amount received for the property shall vest in the pawnbroker.

HCSCSSB 421

Page 1 - Line 29, add the following:

The pawnbroker shall give notice of any funds due the pledgor by mail within ten days of the sale of the pledged property. If no response from the pledgor is received by the pawnbroker within ninety days after the notice is mailed under this subsection, then the entire amount received for the property shall vest in the pawnbroker.

Sofa

Original sponsor: Judiciary Committee

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 421 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to pawnbrokers."

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

8 * Section 1. AS 06.20.330 is amended to read:

9 Sec. 06.20.330. EXEMPTIONS. (a) This chapter does not apply to
10 any person doing business under and as permitted by any law of the
11 state or of the United States relating to banks, savings banks, trust
12 companies, building and loan associations, or credit unions [, PAWN-
13 BROKERS OR LOAN SHOPS WHERE SEPARATE AND INDIVIDUAL LOANS DO NOT EXCEED
14 THE SUM OF \$100].

15 (b) This chapter does not apply to individual loans by pawnbrokers
16 or loan shops where separate and individual loans do not exceed \$200.

17 * Sec. 2. AS 08.76 is amended by adding a new section to read:

18 Sec. 08.76.040. DISPOSITION OF UNREDEEMED PROPERTY. (a) If
19 property bought or received in pledge by a pawnbroker is not redeemed
20 by the pledgor within the redemption period, the pawnbroker shall give
21 notice to the pledgor by mail to his last known address that the
22 redemption period has expired. If the property is not redeemed within
23 ²¹~~30~~ days from the date of mailing of the notice, the title and interest
24 of the pledgor in the property vest in the pawnbroker subject to (b) of
25 this section.

26 (b) If a pawnbroker sells property bought or received in pledge
27 and not redeemed within 30 days after the date of mailing notice under
28 (a) of this section, the pawnbroker shall pay the pledgor one-half of
29 the amount in excess of \$400 received for the property.

1 (c) In this section "redemption period" means the period agreed
2 to in writing by the pledgor and pawnbroker for the holding of property
3 by the pawnbroker without sale to a third party or, in the absence of a
4 written agreement, 60 days.

5 * Sec. 3. AS 45.09.104 is amended by adding a new paragraph to read:

6 (13) to loans by pawnbrokers which do not exceed \$200.
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Introduced: 5/7/81
Referred: Judiciary

1 IN THE HOUSE

BY BROWN AND PHILLIPS
BY REQUEST

2 HOUSE BILL NO. 556

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to pawnbrokers."

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

8 * Section 1. AS 08.76 is amended by adding a new section to read:

9 Sec. 08.76.040. DISPOSITION OF UNREDEEMED PROPERTY. (a) If
10 property bought or received in pledge by a pawnbroker is not redeemed
11 by the pledgor within the redemption period, the pawnbroker shall give
12 notice to the pledgor by (certified) mail to his last known address that
13 the redemption period has expired. If the property is not redeemed
14 within 10 days from the date of mailing of the notice, the title and
15 interest of the pledgor in the property vest in the pawnbroker.

16 (b) In this section "redemption period" means the period agreed
17 to in writing by the pledgor and pawnbroker for the holding of property
18 by the pawnbroker without sale to a third party or, in the absence of a
19 written agreement, 60 days.
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21 days
Need
%
interest
limit

May 17, 1981.

Gentlemen:

The Klondike Palace strongly protests House Bill # 556 as it puts a huge burden on the small pawnbroker.

For Example, here are the Klondike Palace Loans given in February 1981..

Total Loans -----	110
Picked up before 30 Days -----	44
Picked up after 30 Days -----	17
<u>Total Loans Picked Up -----</u>	<u>61</u>

Put Into Inventory After 40 Days -----	39
Still In Pawn At this Date -----	10
(Of Intrest Due, See Enclosed Card)	
Notification Cards Sent in March-----	59
" " " " April-----	11
" " " " May -----	6
<u> Total Cards Sent-----</u>	<u>76</u>

Total Cost of Post Cards @ .12¢ ----- \$9.12

Thus the total Cost of Certified Mail would Be, (3\$1.50 Ea.) approximately, \$114.00 !! Plus paid employee time at the Post Office.

In Addition, Example: Loan # 240 Dated May 28, 1980.

If the Pawnee was late paying Interest each month, I would have, at this time a Total of 11 Certified Letters sent out on this particular Pawn Ticket which is still CURRENTLY IN PAWN and this, I'm sure you will concur, hardly seems fair....

I would appreciate if you would forget about House Bill 556 and support Senate Bill # 421.

Thanking you for your time, attention, and courtesy, I am,

Sincerely Yours,

Doris Howarth

Mrs. Doris Howarth, Prop..
Klondike Pawn Palace
711 West 4th. Avenue
Anchorage, Alaska 99501
Telephone : 276-3946

APR 25 1981

ANCHORAGE PAWN SHOP
212 West 5th Avenue
Anchorage, Alaska 99501

April 21, 1981

State Congressman
State of Alaska
Juneau, AK 99811

Congressman *Fred Brown*

I am writing this letter in ~~desparity~~. *desperation*

We in the pawn shop business in the State of Alaska have been placed in the same category as banks and other lending institutions such as Beneficial Finance, etc. We simply cannot exist under these laws (a copy enclosed). We have been in business for over forty years and were exempt from the laws governing other lending institutions. However, the Consumers Protection Agency is trying to force pawn shops to follow the same laws that govern these other lending institutions.

It is my sincere hope that you will take the time to look over the order that Judge Carlson has handed down which will, in fact, close our doors.

The Judiciary Committee has drawn up document Senate Bill 421. This bill will exempt pawn shops from the laws that govern other lending institutions. Our only hope is to have SB 421 pass and made into law.

Thank you.



Walter L. Corey, Mgr.
212 West 5th Avenue
Anchorage, AK 99501

P.S. Time does not permit to write to each of you personally; therefore, I am forwarding copies of this letter to each.

THE ALL AMERICAN SMOKE SHOP
402 Second Avenue
Fairbanks, Alaska 99701

MAR 21 1981

March 12, 1981

The Honorable Fred Brown
Member of the House of Representatives
Pouch V
Juneau, Alaska 99811
(Mail Stop 3100)

Subject: Opinion and Decision of Judge Carlson and a Proposed Bill

Dear Fred:

I am enclosing herewith an opinion and decision of Judge Carlson, which, in a way, is self-explanatory; and also a proposed Bill, which I shall ask you to sponsor, prevailing on as many colleagues as you feel will be interested in the passage of such Bill; to vote on such.

While the opinion written by Judge Carlson is a very learned and enlightening thesis, yet it accomplishes nothing, due to the fact that I believe Judge Carlson misconceives the function and the practical operation of the pawnbroker's business.

I made a rather exhaustive study of the subject starting way back with the origin of pawnbroking, during the Roman period when such originated with the House of the Medicis, who implemented the Institution of Pawnbroking, as signified by the 'three balls', signifying the family escutcheon.

The pawnshop is essentially a 'poor man's banker'. As you may understand it, it generally serves to fill in the gap for the small man, in the event of a delay in receiving a paycheck or unemployment security check, thus bridging the hiatus for household essentials of which a householder may be deprived of by virtue of the lateness in receiving such payments. As you will observe, the limitations on loans in pawnshops is \$100., hardly a fulfillment of a familie's needs in these inflationary periods.

However, as a public representative, you can readily see that a small amount is more critical to the 'man-on-the-street', than a substantial loan is to an upper-class-borrower.

The present pawnbroker's guidelines are sketchy, vague and very uncertain. Judge Carlson has set forth a series of conditions and has made a finding that: A compliance with the law would have to follow the requirement contained in the Small Loan Act; particularly with respect to Notice of Default; Notice of Sale; Publication and numerous other conditions, as you'll see set forth in the opinion.

My experience of 25 years in the pawnbroker's business would easily demonstrate that; statistically, the average loan ranges from \$40. to \$60. The machinery needed to set up with such compliance contained in the Small Loan Act would be cumbersome, costly and actually bring about

an end or incentive to engage in the pawnbroker's business. A decree to close the door of all pawnshops would be tantamount to an attempt to comply with the decision.

In discussing the results of the opinion with Doug Baily, resolves the question that the only solution would be to pass the enclosed Bill which Mr. Baily drafted, instead of any effort to amend, modify, revise or otherwise alter the present chaotic legislation and decisions governing pawnshops.

I, in concert with some of the shops in Fairbanks, are in accord with the sentiments suggested by Mr. Baily, and I am sure would join me in urging the passage of the enclosed Bill.

Should you need any other data material or informative facts, please do not hesitate to call me for such help.

Very sincerely yours,


Lazar Dworkin

LD:mhh

enclosures

cc. to Members of the Legislature

Copy of Proposed Bill

Copy of MEMORANDUM AND DECISION AND ORDER

Copies of Letter to Fred Brown to Members of Legislature

H

B

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72

TO: The House Judiciary Committee

FROM: Suzanne Lombardi
Client Service Coordinator
Valley Womens Resource Center

RE: Testimony for House Bills on Sexual Assault and Violent Crime

The Valley Womens Resource Center has been serving victims of sexual assault and domestic violence in the Matanuska-Susitna Borough for the last year. I would like to thank the Judiciary Committee for this opportunity to express our opinions on the following bills:

HB 473 Regarding Sexual Assault

We are grateful to see that the Task Force has recognized the serious effects of these crimes and are pleased to see this legislation that will enforce stiffer penalties.

We would like to suggest that along with longer sentences that there be mandated treatment programs as well as funds appropriated for treatment not only within the prison system, but for outside as well.

We have found that assailants convicted of sexual assault are usually sentenced to time without parole, and therefore, upon release there is no treatment and no hold upon them. As a result the recidivism rate for this particular crime is extremely high.

HB 572 Domestic Violence/Emergency Injunctive Relief or TRO

We are pleased to see that the breakdown has been recognized between victims being informed of the TRO and the actual carrying through of this process.

At this time we are not sure that more legislation, or more paperwork will solve this gap. The problem in our area seems to be with the original bill. To our knowledge, some women have not been informed of either the Resource Center or the option of filing a TRO.

It is our opinion that more would be accomplished if the original HB 287 was more effectively enforced.

If the victims were made aware of the existence of the Center, and if possible, a call made at the scene of the incident to our advocates, the trained staff would be able to follow through with the action and accompany the person throughout the legal system. This would cut down on police time as well as put the victim in direct contact with the Resource Center for further support systems.

We would emphasize that our situation in the Valley may differ substantially from more inaccessible areas.

CONTINUED OVER →

I would also like to address the difficulty in the process of servicing the assailants. We would like to suggest that legislation be passed that makes it mandatory that all peace officers ^{be} required to serve process so the victims can be protected and not find out upon his appearance that in fact this has not occurred.

HB 573 Tampering with a witness - making this a Class C Felony

We support this bill as in crimes such as domestic violence and sexual assault the only witness is the victim. It is not uncommon to have an assailant threaten or actually assault the victim again in order to have them revoke their testimony.

HB 578 Release on bail after certain crimes

We support this bill as many times victims are reluctant to press charges for fear of retaliation in the time before sentencing or pending appeal. Experience attests to the fact that the victims are in extreme danger, and the crime committed again, before they appear for trial.

HB 576 Regards the videotaping or the exclusion of the public during testimony of young victims of sexual assault or abuse.

We firmly support this bill for the fact that young victims are often traumatized by public testimony.

We would like to suggest that this bill be amended to include all victims of sexual assault.

In addition to this we would ask that crimes of this nature be given first priority on the court calendar.

We have found that both public testimony as well as long, protracted trials traumatize not only the victim under 16, but all victims of sexual assault and/or abuse.

CITY OF KOTZEBUE

P.O. BOX 46
KOTZEBUE, ALASKA 99752

KOTZEBUE POLICE DEPARTMENT
907-442-3351

September 22, 1981

Representative Ramona L. Barnes, Chairman
House Judiciary Committee
P.O. Box 3382
Anchorage, Alaska 99510

Dear Representative Barnes:

I regret I cannot attend personally but would like to present my written comments to the House Judiciary Committee.

☆

I would like to lend my support to all but one of the proposals. I would especially give my highest recommendation to the Governors Drug Bill, House Bill #180, It is badly needed.

My one reservation is in regard to House Bill # 572 on Domestic Violence.

Most often the Police Officer answering domestic dispute calls is acting as an arbitrator and/or mediator. Injecting the Officer further into the dispute by requiring the Officer to assist one party or the other will remove their "impartial" stature and make their job harder in the future as the Officer will be viewed as an adversary by the other party involved.

The Court must be presented the documents before service and I feel the court is the proper place for assistance to be rendered the party seeking injunctive relief.

Donald E. Buehler
DONALD E. BUEHLER
Chief of Police

cc: AS Revisions file
Sgt Jones
Sgt Wallace

DEB/dew

"GATEWAY TO NORTHWEST ALASKA"

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT

INFORMATION AND INSTRUCTIONS FOR COMPLETING THE PETITION
FOR INJUNCTIVE RELIEF FROM DOMESTIC VIOLENCE

I. Who may file a petition for help?

The Domestic Violence Act applies only to conduct among the following people:

- (a) spouses, whether they are living together or not;
 - (b) former spouses, whether they live together or not;
- and
- (c) people who live together in the same household, regardless of their relationship to each other.

II. What is domestic violence?

The types of activities that may constitute domestic violence are those which are crimes under another Alaska statute (AS 11.41.100-530). These are:

- (a) Homicide (murder, manslaughter);
- (b) Assault and Reckless Endangerment (physical injury, threats of injury, or acting in such a way as to create a risk of injury);
- (c) Kidnapping and Custodial Interference (taking and/or holding someone against their will or taking and/or holding a child or ward without a legal right);
- (d) Sexual offenses (rape, other sexual contact by force or threats, sexual abuse of a minor, incest); and
- (e) Robbery, Extortion and Coercion (taking of property by physical force or threats of physical injury or other harm, or making a person do some act by threatening physical or other harm).

III. What can you do?

If you believe you are the victim of domestic violence, you may ask the court for help. You can do this by filing a paper with the court which is called a petition. There is a petition form enclosed with these instructions. You do not need an attorney to file this form or to represent you in court. You may have an attorney if you wish to hire one. You will be called the petitioner. The person you are complaining about will be called the respondent.

IV. What kind of help can the court give you?

In the petition form you can ask the court to issue an order called an injunction. An injunction is a court order that requires a person to do certain things or to behave in a certain way. If the person does not obey this order, he or she can be held in contempt of court. There are two types of injunctions. One is for emergencies and one is for non-emergency situations. The petition form enclosed with these instructions can be used to request either kind of injunction.

V. What kind of orders can a judge make in an injunction?

The judge can make different types of orders depending upon the type of help you may need. For example, the judge can order the respondent to do one or all of the following:

- (a) Not to touch you or in any way harm you;
- (b) Not to communicate with you in any way;
- (c) To leave your home;
- (d) To pay reasonable amounts for your support if he or she already has an obligation to do so;
- (e) To pay reasonable amounts for the support of your children if he or she already has an obligation to do so;
- (f) To pay the medical costs caused by the domestic violence.

The judge may also:

- (g) Give you temporary custody of your child or children; and
- (h) Order that a peace officer help enforce any order of the court.

VI. What court can you go to for help?

If you live in a place that has a superior court, the petition must be filed in that court. However, if you believe your problem is an emergency and you do not live within 50 road miles of a superior court, you can file the petition with a district court. If you believe your problem is an emergency and you do not live within 50 road miles of a district court, you can file your petition with a magistrate.

VII. What does the respondent need to be told about the petition?

A. At the time of filing the petition

(1) Emergency. If you are seeking emergency relief from the court, you must try to tell the respondent that you are seeking emergency help from the court unless it is likely that you would be in danger by even contacting the respondent. You need not contact the respondent in person; you may telephone the respondent or have a friend tell the respondent what you intend to do. (If you use a friend, you should bring that friend to court with you when you file the petition.) If you do not tell the respondent that you are seeking help from the court, the judge will ask you to give the reasons why you were not able to do so, or why it was not safe.

(2) Non-emergency. If you are not in immediate danger and are not asking for an emergency hearing, your hearing will be scheduled for a date several days in the future.

The respondent will then have to be given a copy of your petition and a notice of the hearing. The law requires that the respondent receive ten days notice of the hearing. The judge, however, has the power to shorten the time for notice and to set the hearing sooner than ten days after service of the notice if there is a good reason for doing so.

The court will instruct the troopers or other peace officers to serve the respondent with the petition and notice of hearing. You will have to fill out the form in the packet entitled "Instructions for Service". These instructions will go to the troopers to help them serve the respondent.

B. When the court issues an order

If the court issues an order, the respondent must be notified of it; that is, it is necessary that the respondent be made aware of what the order requires him or her to do or not do. If a hearing is held to decide whether your petition will be granted, and the respondent is present for the hearing and the judge's order, then the respondent will have "notice" of the order. If an order is made without a hearing or if the respondent is not present at the hearing, then the respondent will have to be given a copy of the court's order. The court will request the police or state troopers to give this copy to the respondent, BUT YOU MUST FILL OUT THE FORM TITLED "INSTRUCTIONS FOR SERVICE" which the court will give to the peace officers to help them in this task.

C. Papers you file after you file the petition

Copies of other completed papers that you file with the court after the initial petition and order (such as a Request for Extension of Time) must also be given or mailed to the respondent. These copies may be delivered by a responsible person or sent by regular mail.

VIII. How long can the court orders last?

A. If you have asked for emergency help, the order will normally last for 10 days. The order can be extended by the court for more time if there is a good reason to do so. To get an extension of the order, you must file a request with the court, before the original 10 days are over, asking for an extension. The forms for making this request can be obtained from the clerk.

B. If you have asked for an order in a non-emergency situation, the order can last for 45 days. That order can also be extended by the court for an additional 45 days if there is a good reason. If you want to request the court to extend the order, you must file a request with the court before the original 45 days are over. The forms for making this request can be obtained from the clerk.

IX. How do you ask the court for an extension?

Whether your request is for emergency or regular injunctive relief, you will need to fill out the form in this packet labeled "Request for Extension of Order", and file it with the court. If you do this, you must make sure that a copy of the completed form which you file with the court is given or mailed to the respondent.

X. What will happen after you file the petition?

A. Emergency request

- (1) The court may or may not hold a hearing. The court may decide to grant or deny your request for help on the basis of the petition without talking to you. You will be told by the court personnel whether a hearing will be held.

- (2) If a district court judge or magistrate does issue an emergency order before the respondent has been notified, a superior court hearing will have to be held to review that order. The respondent will have to be given copies of all the completed forms and have 10 days notice (or less if the judge orders it) before the hearing. If the superior court hearing date is after the expiration date of the emergency order, you should ask the court for an extension of the emergency order until the later hearing date by filling out the form entitled "Request for Extension of Time". You can get this form from the court.
- (3) Procedures for holding the hearing will vary in different areas. Court personnel will tell you what procedure will be used in your area.
- (4) If you do not appear at the superior court hearing or request an extension of time, the order you already have will be dissolved (not be in effect any longer).
- (5) The respondent will have the right to ask the court to modify any order that you get. If the respondent makes such a request, however, he or she must give you notice of the request at least two days before the judge decides.

B. Non-emergency request

After you file your petition:

- (1) The court will schedule a hearing;
- (2) The respondent must receive notice of the hearing 10 days before the hearing. (The judge may order that the respondent be given less notice if necessary);
- (3) At the hearing, the superior court judge will listen to both sides and then decide whether to issue an order.

XI. Is the filing of this petition the only kind of help you can ask for?

NO. This kind of petition is a civil action. You can also file criminal charges. To do so, you should discuss the matter with the police or district attorney.

XII. Is there a fee charged for filing this petition?

YES. The fee is \$50. If you cannot afford to pay this fee, you must fill out the form in the packet titled "Request for Exemption of Payment of Fees". The form requests information about your financial situation. The clerk will accept your petition without the fee if you also file the Statement of Indigency." If the court at some later time determines that you are able to pay the fee, it can order you to do so. If such an order is made, you must pay the fee within 30 days after you are told of the order or the court may dismiss the action.

XIII. Instructions for filling out the petition form.

- A. If you have decided to ask for help, you must fill out at least two forms enclosed with these instructions. There may be forms included in the packet that you will not use, or that you may wish to use later. THE ONLY FORMS YOU MUST FILL OUT IN ORDER TO ASK FOR RELIEF ARE THE "PETITION" AND THE "INSTRUCTIONS FOR SERVICE".
- B. Fill in the name of the city or village where you are filing the petition on the heading of the petition. If you are not sure which court it is, the clerk can tell you.
- C. READ THE ENTIRE PETITION FORM CAREFULLY. Mark the box or boxes that best describe your situation with an X. Where you see two words together with a / between them, black out the side that does not apply to you (Example: his/her). YOU MUST ANSWER ALL QUESTIONS TRUTHFULLY AND AS BEST YOU CAN. If you don't know the answer to a question, write "Don't know." Remember, you are the petitioner and the person you believe is hurting you or threatening to hurt you is the respondent.
- D. DO NOT fill in the blanks marked "case no.". The clerk will do that.
- E. You may either type or hand write the petition. If you hand write the petition, write clearly and use ink.
- F. No one at the clerk's office or in the court system will be able to advise you of your rights or on how to fill out the petition. However, the clerk will be able to tell you what court you are filing in if you do not know.
- G. Give the completed petition form and completed "Instructions for Service" to the clerk, along with the filing fee of \$50.00. If you cannot pay this fee without substantial financial hardship, fill out the form entitled "Request for Exemption of Payment of Fees" and "Statement of Indigency". The court will then decide if you may file the petition by paying a reduced fee or no fee at all.
- H. Make sure that you fill out the form in the packet entitled "Instructions for Service". You should give the completed form to the clerk at the time you give the clerk your completed petition.
- I. If you know you will not be able to attend a hearing, that has been scheduled, YOU MUST TELL THE COURT IMMEDIATELY. If for any reason you decide you do not want the court to hold a hearing on your petition YOU MUST TELL THE COURT IMMEDIATELY.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

AT _____

_____,)
Petitioner)
vs.)
_____,)
Respondent)

Case No. _____ DV

PETITION FOR INJUNCTIVE RELIEF
DOMESTIC VIOLENCE

Local Case No. _____ DV

_____, the petitioner, states the following in support of his/her claim for relief:

1. I have been a victim of acts of violence committed by _____ (the respondent).

2. My address is: (if you believe you may endanger yourself by giving your address, write in an address where you could be reached on short notice in the space marked "Message")

a. Mailing: _____

b. Message: _____

3. The respondent's address is:

a. Mailing: _____

b. Residence: _____

4. The respondent and I are:

Married Brothers and/or sisters

Separated Parent/child

Divorced Other (please explain): _____

Living together _____

5. The respondent committed or has threatened to commit the following acts of violence upon me: (Include date and address of incident(s), and any injuries suffered.)

6. As a result of injuries, I have bills for medication, doctors', nurses', and/or hospital services that have not been paid for. Yes No

Type of medical service: _____ Amount _____

7. I have a place to stay where I will be safe. Yes No
7a. If yes, how long can you stay there? _____

8. I believe I need emergency help from the court. Yes No
8a. If yes to #8, please state the reason(s):

8b. If yes to #8, has the respondent been told that you are filing this petition? Yes No
8c. If yes, describe how. If no, please explain why not.

9. There have been children born either of our marriage or of our relationship. Yes No (If no, go to #10)

9a. These children's names and dates of birth are:

Names	Date of Birth	How long in Alaska	Residence Address
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If giving your children's address might endanger your children, indicate that on the lines above)

9b. There is a custody order over our children.
Yes No Do Not Know
(1) I have legal custody (by court order) or the following children:

(2) The respondent has legal custody (by court order) of the following children:

10. I need financial assistance from the respondent to help support myself and/or our children. Yes No
(If you answered no, go on to question #11).

10a. I am employed. Yes No
Place of employment: (If you believe answering this question might endanger you, please indicate that instead.)

10b. My monthly income is:	10c. My monthly expenses are:
Sources: Amount:	Food _____
_____	Housing _____
_____	Other _____
Total _____	Total _____

10d. Respondent's monthly income is _____.
Source: _____.

11. I request an order from the court directing:

- the respondent not to physically abuse or threaten me.
- the respondent to move out of our house.
- the respondent to not communicate or attempt to communicate with me.
- the respondent to pay support for our children in the amount of _____ per _____ (week/month).
- the respondent to help support me by paying me the amount of _____ per _____ (week/month).
- that I be given temporary custody of my children.
- the respondent to pay for medical expenses incurred as described in #6.
- Other: _____

12. I have filed a petition like this one with the court before. Yes No

12a. If yes, where was it filed? _____

12b. If yes, was an order obtained? Yes No

12c. Is the respondent in this petition the same person named in the earlier petition(s)? Yes No

I promise that I have answered all of the above questions truthfully and to the best of my ability.

Date

Petitioner (signature)

(print your name)

NOTICE: Any person who intentionally lies or attempts to mislead the court in this application may be charged with the crime of unsworn falsification which may result in a jail term of up to one year and a fine of \$5,000.00. AS 11.56.210.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

AT _____

_____,)
 Petitioner)
 DOB: _____)
 vs.)
 _____)
 Respondent)
 DOB: _____)

Case No. _____ DV

INSTRUCTIONS TO PEACE OFFICERS FOR SERVICE

Local Case No. _____ DV

1. Please complete service immediately.
2. Please serve the following documents:

- | | |
|---|--|
| <input type="checkbox"/> Petition for Injunctive Relief | <input type="checkbox"/> Notice to Respondent |
| <input type="checkbox"/> Order on Emergency Petition | <input type="checkbox"/> Order on Petition for Injunctive Relief |
| <input type="checkbox"/> Order for Extension | |
| <input type="checkbox"/> Notice of Hearing | <input type="checkbox"/> _____
(Any other judge's order) |

3. Serve the documents on:

Name: _____
 Address: _____
 Phone: _____

4. Identifying characteristics (If known): Date of Birth: _____
 Sex _____ Race: _____ Height: _____ Eyes: _____ Hair: _____
 Social Security No.: _____ Weight: _____
 Driver's license No.: _____ - State: _____

5. Occupation: _____
6. Place of Business: _____
7. Work telephone: _____

8. Persons who might know the whereabouts of the person to be served:
 (1) _____
 (2) _____

9. Other locations where person to be served might be found:
 (1) _____
 (2) _____

10. The respondent may have access to a dangerous weapon. Yes No
 Type of weapon(s): _____ location(s): _____

 DATE _____
Petitioner

 Petitioner's phone #

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

AT _____

_____,)
)
 Petitioner)
)
 vs.)
)
 _____,)
)
 Respondent)
)

Case No.: _____ DV

NOTICE OF HEARING

Local Case No. _____ DV

TO: _____

ADDRESS: _____

The petitioner has filed a civil action against you under Domestic Violence Act AS 09.55.600 et seq. A copy of the petition is attached.

PLEASE TAKE NOTICE THAT a hearing will be held on _____, 19____, at _____m. The hearing will be before the Honorable _____ in the courthouse at _____, Alaska.

DATE

CLERK/MAGISTRATE/JUDGE

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

AT _____

_____,)
)
 Petitioner)
)
 vs.)
)
 _____,)
)
 Respondent)
)
 _____)

Case No. _____ DV

NOTICE OF ISSUANCE OF ORDER
UNDER AS 09.55.610

TO: ALL LAW ENFORCEMENT AGENCIES AND PERSONNEL

The attached order was issued pursuant to AS 09.55.610 on

_____, 19__ at ____ .m.

You are instructed to serve the respondent with the attached order, notice and petition.

Respondent was served with the attached order on _____, 19__.

DATE

CLERK/MAGISTRATE/JUDGE

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

AT _____

_____,)
)
 Petitioner)
)
 vs.)
)
 _____,)
)
 Respondent)
 _____)

Case No. _____ DV

NOTICE TO RESPONDENT OF ORDER GRANTING INJUNCTIVE RELIEF DOMESTIC VIOLENCE

Local Case No. _____ DV

TO: _____

ADDRESS: _____

The petitioner has filed a civil action against you under the provisions of the Domestic Violence Act, AC 09.55.610. An order called an injunction has been issued against you. An injunction is a court order which requires that a person do certain things or behave in a certain way. The terms of that injunction can be found in the attached copy of the court's order. The injunction becomes effective when you are served with this notice and a copy of the petition and order.

Should you wish to change or terminate this order, you have the right to ask the court to hold a hearing. The petitioner must be given two days notice of the hearing unless the judge orders a shorter time. A form is available from the clerk of the court for your use in requesting a change or termination of the court order. The Court is located at _____.

DATE

CLERK/MAGISTRATE/JUDGE

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

AT _____

_____,)
Petitioner)
vs.)
_____,)
Respondent)

Case No. _____ DV
ORDER ON EMERGENCY PETITION

Local Case No. _____ DV

A Petition for Emergency Injunctive Relief having been filed in this court pursuant to the Domestic Violence Act, AS 09.55.610 on _____, 19____, this court makes the following Findings and Order:

FINDINGS

1. The Petitioner is: the respondent's spouse.
 the respondent's former spouse.
 a member of the social unit comprised of those living together in the same household.
 none of the above.
2. The Petitioner (has) (has not) been the victim of domestic violence as alleged in the petition and as defined in AS 09.55.640.
3. An emergency (does) (does not) exist.
4. a. Respondent was notified of the filing of the petition.
 Yes No
b. A hearing was held at which both parties appeared.
 Yes No
c. Notice has been given to Respondent prior to the issuance of this order. Yes No
d. Notice was not given to Respondent prior to the issuance of this order, for the reasons stated below:

e. There (is) (is not) a substantial likelihood of immediate danger from the Respondent to the health, safety or welfare of the Petitioner or of a minor child in the care of the Petitioner. This finding is based on:
 1. Allegations in the petition
 2. Testimony of petitioner
5. Other: _____

ORDER ON EMERGENCY INJUNCTIVE RELIEF

IT IS HEREBY ORDERED THAT:

- 1. Petitioner's petition for emergency injunctive relief is DENIED.
 - 2. Petitioner's petition for emergency relief is GRANTED and respondent is ordered to:
 - a. Refrain from committing further acts of domestic violence upon the Petitioner.
 - b. Vacate the home of the Petitioner.
 - c. Not to contact, communicate with, or attempt to contact the Petitioner by any means, written or oral.
 - d. Pay the sum of \$ _____ per _____, for the support and maintenance of the Petitioner.'
 - e. Pay the sum of \$ _____ per _____, for each minor child of the parties, for a total of \$ _____ per _____.
 - f. Pay _____% of the medical bills, if any, incurred by the Petitioner as a result of the domestic violence of the Respondent.
 - 3. Petitioner shall have temporary custody of the following minor children: _____
 - 4. Other. _____
5. The above emergency injunctive order shall be in effect for (10) days from the date of its issuance, unless extended for good cause.
- 6. A hearing will be scheduled by the superior court on the petitioner's request for injunctive relief because this petition was granted without notice to the respondent.
 - a. Notice of the hearing will be provided to the parties.
 - b. The hearing will be at:
Address: _____
Date and Time: _____

WRIT OF ASSISTANCE

Peace officers shall use every lawful means to enforce the provisions of the above order. This order shall be served on respondent before enforcement.

THE RESPONDENT MAY REQUEST THAT THE SUPERIOR COURT CANCEL OR CHANGE THE PROVISIONS OF THIS ORDER.

Date

JUDGE/MAGISTRATE

Time

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

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CITY OF KOTZEBUE

P.O. BOX 46
KOTZEBUE, ALASKA 99752

KOTZEBUE POLICE DEPARTMENT
907-442-3351

September 22, 1981

Representative Ramona L. Barnes, Chairman
House Judiciary Committee
P.O. Box 3382
Anchorage, Alaska 99510

Dear Representative Barnes:

I regret I cannot attend personally but would like to present my written comments to the House Judiciary Committee. ☆

I would like to lend my support to all but one of the proposals. I would especially give my highest recommendation to the Governors Drug Bill, House Bill #180, It is badly needed.

My one reservation is in regard to House Bill # 572 on Domestic Violence.

Most often the Police Officer answering domestic dispute calls is acting as an arbitrator and/or mediator. Injecting the Officer further into the dispute by requiring the Officer to assist one party or the other will remove their "impartial" stature and make their job harder in the future as the Officer will be viewed as an adversary by the other party involved.

The Court must be presented the documents before service and I feel the court is the proper place for assistance to be rendered the party seeking injunctive relief.

Donald E. Buehler
DONALD E. BUEHLER
Chief of Police

cc: AS Revisions file
Sgt Jones
Sgt Wallace

DEB/dew

"GATEWAY TO NORTHWEST ALASKA"

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 573
 Title An Act Relating to the Crime of Tampering with a Witness
 Requested by House Judiciary Committee Date 1/8/82

II. FISCAL DETAIL
 Agency Affected Alaska Court System
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____
 (Note: if more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 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-

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)

The reclassification of this offense from a misdemeanor to a felony will create additional cases for the superior court and reduce the workload of the district court. This shift should not require any additional resources for the Alaska Court System.

IV. DATE 1/12/82 PREPARED BY Richard P. Barrier
 AGENCY Alaska Court System
 PHONE 264-0545
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

FISCAL NOTE.

I. REQUEST House Bill No. 573
 Bill/Resolution No. _____
 Title "An Act relating to the crime of tampering with a witness."
 Requested by Representative Barnes Date January 8, 1982

II. FISCAL DETAIL
 Agency Affected Health and 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

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

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

The Division of Adult Corrections anticipates no fiscal impact if H.B. 573 were to be enacted.

IV. DATE January 11, 1982

PREPARED BY Roger C. Lange

Roger C. Lange

AGENCY Division of Adult Corrections, H&SS

Original: Legislative Finance
 cc: Budget and Management

PHONE 465-3376

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

*Joanne C. Clark, Acting Director
 Division of Management & Budget*

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 573

Title An Act relating to the crime of tampering with a witness

Requested by House Judiciary Committee Date 1/7/82

II. FISCAL DETAIL

Agency Affected Department of Law

Program Category Affected Administration of Justice

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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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 Source)						

POSITIONS

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

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

This legislation raises the penalty for tampering with a witness from a class A misdemeanor to a class C felony. Approval of this bill will not result in any additional costs or expenditures.



IV. DATE January 8, 1982

PREPARED BY Daniel W. Hickey, Chief Prosecutor

AGENCY Department of Law

Original: Legislative Finance

PHONE 465-3429

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF ADMINISTRATIVE SERVICES

POUCH K - JUNEAU 99811

January 8, 1982

465-4338

Bill Cook
Legislative Counsel
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

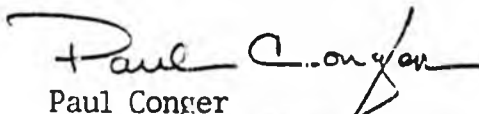
Dear Mr. Cook:

Re: Fiscal Notes - HB 180, HB 473, HB 573, HB 577

Per your request for fiscal notes on the above-referenced Bills, this is to notify you that HB 473, HB 573, HB 577, if enacted, would have no fiscal impact on the Department of Public Safety.

In regard to HB 180, I have requested that a fiscal note be prepared on this bill and upon receipt of this information, I will forward it to your office immediately.

Sincerely,


Paul Conger
Legislative Liaison Aide

TO: The House Judiciary Committee

FROM: Suzanne Lombardi
Client Service Coordinator
Valley Womens Resource Center

key page



RE: Testimony for House Bills on Sexual Assault and Violent Crime

The Valley Womens Resource Center has been serving victims of sexual assault and domestic violence in the Matanuska-Susitna Borough for the last year. I would like to thank the Judiciary Committee for this opportunity to express our opinions on the following bills:

HB 473 Regarding Sexual Assault

We are grateful to see that the Task Force has recognized the serious effects of these crimes and are pleased to see this legislation that will enforce stiffer penalties.

We would like to suggest that along with longer sentences that there be mandated treatment programs as well as funds appropriated for treatment not only within the prison system, but for outside as well.

We have found that assailants convicted of sexual assault are usually sentenced to time without parole, and therefore, upon release there is no treatment and no hold upon them. As a result the recidivism rate for this particular crime is extremely high.

HB 572 Domestic Violence/Emergency Injunctive Relief or TRO

We are pleased to see that the breakdown has been recognized between victims being informed of the TRO and the actual carrying through of this process.

At this time we are not sure that more legislation, or more paperwork will solve this gap. The problem in our area seems to be with the original bill. To our knowledge, some women have not been informed of either the Resource Center or the option of filing a TRO.

It is our opinion that more would be accomplished if the original HB 287 was more effectively enforced.

If the victims were made aware of the existence of the Center, and if possible, a call made at the scene of the incident to our advocates, the trained staff would be able to follow through with the action and accompany the person throughout the legal system. This would cut down on police time as well as put the victim in direct contact with the Resource Center for further support systems.

We would emphasize that our situation in the Valley may differ substantially from more inaccessible areas.

CONTINUED OVER →

I would also like to address the difficulty in the process of servicing the assailants. We would like to suggest that legislation be passed that makes it mandatory that all peace officers^{be} required to serve process so the victims can be protected and not find out upon his appearance that in fact this has not occurred.

HB 573 Tampering with a witness - making this a Class C Felony

We support this bill as in crimes such as domestic violence and sexual assault the only witness is the victim. It is not uncommon to have an assailant threaten or actually assault the victim again in order to have them revoke their testimony.

HB 578 Release on bail after certain crimes

We support this bill as many times victims are reluctant to press charges for fear of retaliation in the time before sentencing or pending appeal. Experience attests to the fact that the victims are in extreme danger, and the crime committed again, before they appear for trial.

HB 576 Regards the videotaping or the exclusion of the public during testimony of young victims of sexual assault or abuse.

We firmly support this bill for the fact that young victims are often traumatized by public testimony.

We would like to suggest that this bill be amended to include all victims of sexual assault.

In addition to this we would ask that crimes of this nature be given first priority on the court calendar.

We have found that both public testimony as well as long, protracted trials traumatize not only the victim under 16, but all victims of sexual assault and/or abuse.

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FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 575
 Title An Act relating to culpable mental states for the crime of assault
 Requested by House Judiciary Committee Date 1/7/82

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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)

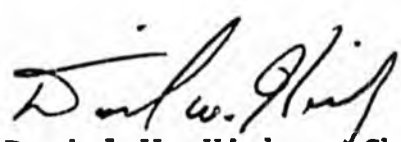
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

This legislation makes several amendments to the crime of assault to eliminate the possibility that the defendant's state of intoxication can be used as a defense to the crime. No additional costs or expenditures will result from approval of this legislation.



IV. DATE January 8, 1982 PREPARED BY Daniel W. Hickey, Chief Prosecutor
 AGENCY Department of Law
 Original: Legislative Finance PHONE 465-3429
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

CITY OF KOTZEBUE

P.O. BOX 46
KOTZEBUE, ALASKA 99752

KOTZEBUE POLICE DEPARTMENT
907-442-3351

September 22, 1981

Representative Ramona L. Barnes, Chairman
House Judiciary Committee
P.O. Box 3382
Anchorage, Alaska 99510

Dear Representative Barnes:

I regret I cannot attend personally but would like to present my written comments to the House Judiciary Committee.

☆

I would like to lend my support to all but one of the proposals. I would especially give my highest recommendation to the Governors Drug Bill, House Bill #180, It is badly needed.

My one reservation is in regard to House Bill # 572 on Domestic Violence.

Most often the Police Officer answering domestic dispute calls is acting as an arbitrator and/or mediator. Injecting the Officer further into the dispute by requiring the Officer to assist one party or the other will remove their "impartial" stature and make their job harder in the future as the Officer will be viewed as an adversary by the other party involved.

The Court must be presented the documents before service and I feel the court is the proper place for assistance to be rendered the party seeking injunctive relief.

Donald E. Buehler
DONALD E. BUEHLER
Chief of Police

cc: AS Revisions file
Sgt Jones
Sgt Wallace

DEB/dew

"GATEWAY TO NORTHWEST ALASKA"

H

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SENATOR
PATRICK M. RODEY
3271 MONTCLAIRE COURT
ANCHORAGE, AK 99503



SENATE MAJORITY LEADER
CHAIRMAN
SENATE JUDICIARY COMMITTEE
CHAIRMAN
SENATE SPECIAL COMMITTEE
ON BANKING

ALASKA STATE LEGISLATURE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3717

March 8, 1982

Mr. Paul Conger
Department of Public Safety
Pouch N
Juneau, AK 99811

Dear Paul:

I have recently received the attached fiscal note from your department. There would appear to be no actual fiscal impact on your department since the testimony would be recorded under the auspices of the court system, not Public Safety.

I suggest you have your analyst review the bill again.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin K. Bruce", written over a horizontal line.

Kevin K. Bruce

KKB/ds

cc: Representative Barnes, House Judiciary
Senator Parr

I. - REQUEST

Bill/Resolution No. CS for Senate Bill No. 485 (Judiciary)

Title "An Act permitting...videotaping of testimony...sexual offenses."

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected Administration of Justice

BRU, Program, Or Subprogram(s) Affected Alaska State Troopers

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES	-0-	.1	.1	.1	.1	.2
500 EQUIPMENT		36.0				10.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	36.1	.1	.1	.1	10.2

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	36.1	.1	.1	.1	10.2
FEDERAL FUNDS						
OTHER (Specify Source)						

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

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

The Division review of the potential impact of this Bill upon its operations indicates the needs to provide videotape equipment in each of the five Alaska State Trooper detachments located throughout the State. Each location would require a portable color camera and recorder plus accessories totalling approximately \$7,200.00. Partial replacement of the equipment would be estimated to be needed by FY'87, assuming the Bill became effective in FY'83. The commodities noted above would cover the estimated cost of the video cassette tapes.

IV. DATE March 1, 1982

PREPARED BY Francis C. Allan

AGENCY Department of Public Safety

Origin Legislative Finance

PHONE 269-5691

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (rev. 12/81)

1 PROPOSED COMMITTEE SUBSTITUTE

2 SENATE BILL 576

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA: *(Better of Intent)*
Senate Task 02/1

11 * Section 1. DECLARATION OF LEGISLATIVE PURPOSE. The legislature finds
12 that the public interest in enhancing and protecting the health and safety of
13 children requires the vigorous prosecution of persons alleged to have com-
14 mitted sexual assaults against young children. The legislature recognizes
15 that the testimony of the victim of the alleged assault is usually required
16 in order to successfully prosecute and that there is a substantial likelihood
17 that the child victim will suffer severe emotional distress, humiliation, and
18 psychological damage if required to testify in open court at trial. The
19 legislature further finds that fear of this distress by the child or his
20 parents, discourages the reporting, investigation and prosecution of sexual
21 assaults against children. The legislature finds that this severe emotional
22 distress to the child victim can be substantially decreased, although not
23 eliminated, by the videotaping of the testimony of the child or the exclusion
24 of the public from the courtroom while the child testifies in person. The
25 legislature concludes that these practices will encourage the reporting,
26 investigation and prosecution of sexual assaults against children, and result
27 in the greater protection of the physical and emotional welfare of young
28 children and the reduction of sexual assaults against children in the future.

29 * Sec. 2. AS 12.45 is amended by adding new sections to read:

1 Sec. 12.45.047. VIDEOTAPING OF TESTIMONY BY YOUNG VICTIMS OF SEX-
2 UAL ASSAULT. (a) Upon application by the prosecuting attorney and
3 notice to the defendant, the court shall order that the state be per-
4 mitted to videotape the testimony of a child who is the alleged victim
5 of a crime for which sexual penetration or sexual contact as defined in
6 AS 11.81.900(b)(51) and (52) is an element of the offense and who is 16
7 years of age or younger at the time of the videotaping. ^{under}

8 (b) The trial judge shall preside at the videotaping proceeding
9 and shall rule on all questions as if at trial. The defendant shall be
10 afforded all rights applicable to defendants during trial, including the
11 right to an attorney and the right to confront and cross-examine the
12 witness.

13 (c) Videotaped evidence taken in accordance with this section is
14 admissible in evidence in the criminal trial of a defendant charged with
15 a crime or crimes for which sexual penetration or sexual contact as de-
16 fined in AS 11.81.900(b)(51) and (52) is an element of the offense.

17 Sec. 12.45.048. EXCLUSION OF PUBLIC FROM TRIAL DURING TESTIMONY BY
18 YOUNG VICTIM OF SEXUAL ASSAULT. (a) After notice to the defendant, the
19 state may apply to the court for an order excluding the public from the
20 courtroom during the testimony of a child who is the alleged victim of
21 a crime for which sexual penetration or sexual contact as defined in
22 AS 11.81.900(b)(51) and (52) is an element of the offense. The order
23 shall be granted if the court finds that the child is 16 years of age or
24 younger at the time of the trial.

25 (b) In the event the public is excluded from the trial during the
26 testimony of a child victim, immediately following the conclusion of the
27 child's testimony, the content of the testimony shall be made available
28 to the public upon request. The content of the testimony shall be made
29 available in the form of a taped or written transcript.

1 (c) In this section "public" means all persons except:

2 (1) the judge presiding over the trial;

3 (2) the members of the jury;

4 (3) the defendant and his attorney and an investigator;

5 (4) counsel for the state and an investigating officer;

6 (5) the parents or legal guardians of the child;

7 *Break these down* (6) a guardian ad litem ^{or attorney} for the child, or ⁽⁷⁾ an adult for whom
8 the child has developed a significant emotional attachment and who can
9 provide emotional support for the child during his testimony.

10 (7) court personnel essential for the taking of the testi-
11 mony.

(8) Add process → Folio → Awareness group

12 * Sec. 3. AS 12.35.047 added by sec. 2 of this Act has the effect of
13 changing Rule 804, Alaska Rules of Evidence by adding the videotaped evidence
14 of a child who is 16 years of age or younger at the time of the trial and who
15 is the alleged victim of any crime for which sexual penetration or sexual
16 contact as defined in AS 11.81.900(b)(51) and (52) is an element of the of-
17 fense to the list of exceptions to the hearsay rule.

18 *Awareness → Susceptibility should be attached.*

30-9-16. Testimony; limitations; in camera hearing.

Section is not unconstitutional on its face. *State v. Herrera*, 92 N.M. 7, 582 P.2d 384 (Ct. App.), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978).

The fact that this section attempts to regulate practice and procedure in district courts in regard to a victim's past sexual conduct does not mean that the legislation is unconstitutional in that it violates the provisions for separation of governmental power. *State v. Herrera*, 92 N.M. 7, 582 P.2d 384 (Ct. App.), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978).

Section not in conflict with rules. — The procedures in this section do not conflict, but rather are consistent, with Rule 36, N.M.R. Crim. P., regarding pretrial hearings. *State v. Herrera*, 92 N.M. 7, 582 P.2d 384 (Ct. App.), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978).

The balancing approach to be applied in admitting evidence concerning past sexual conduct under this section does not conflict, but rather is consistent, with Rule 403, N.M.R. Evid. *State v. Herrera*, 92 N.M. 7, 582 P.2d 384 (Ct. App.), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978).

Once a showing sufficient to raise an issue as to relevancy of past sexual conduct is made, the balancing test of this section and of Rule 403, N.M.R. Evid. is to be applied in determining admissibility.

State v. Herrera, 92 N.M. 7, 582 P.2d 384 (Ct. App.), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978).

There is no conflict between this section and Rule 405, N.M.R. Evid., regarding methods of proving character, because the balancing approach of Rule 403, N.M.R. Evid. is also applicable to evidence admissible under Rule 405, N.M.R. Evid. *State v. Herrera*, 92 N.M. 7, 582 P.2d 384 (Ct. App.), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978).

Section is not limited to sex by consent; rather, its unlimited wording applies to all forms of past sexual conduct, so that a prior rape is past sexual conduct within the meaning of this section. *State v. Montoya*, 91 N.M. 752, 580 P.2d 973 (Ct. App.), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978).

Victim's past sexual conduct in itself indicates nothing concerning consent in particular case. *State v. Herrera*, 92 N.M. 7, 582 P.2d 384 (Ct. App.), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978).

Am. Jur. 2d, A.L.R. and C.J.S. references.

Modern status of admissibility, in forcible rape prosecution, of complainant's prior sexual acts, 94 A.L.R.3d 257.

Modern status of admissibility, in forcible rape prosecution, of complainant's general reputation for unchastity, 95 A.L.R.3d 1181.

30-9-17. Videotaped depositions of alleged victims who are under sixteen years of age; procedure; use in lieu of direct testimony.

A. In any prosecution for criminal sexual penetration or criminal sexual contact of a minor, upon motion of the district attorney and after notice to the opposing counsel, the district court may, for a good cause shown, order the taking of a videotaped deposition of any alleged victim under the age of sixteen years. The videotaped deposition shall be taken before the judge in chambers in the presence of the district attorney, the defendant and his attorneys. Examination and cross-examination of the alleged victim shall proceed at the taking of the videotaped deposition in the same manner as permitted at trial under the provisions of Rule 611 of the New Mexico Rules of Evidence. Any videotaped deposition taken under the provisions of this act [this section] shall be viewed and heard at the trial and entered into the record in lieu of the direct testimony of the alleged victim.

B. For the purposes of this section, "videotaped deposition" means the visual recording on a magnetic tape, together with the associated sound, of a witness testifying under oath in the course of a judicial proceeding, upon oral examination and where an opportunity is given for cross-examination in the presence of the defendant and intended to be played back upon the trial of the action in court.

C. The supreme court may adopt rules of procedure and evidence to govern and implement the provisions of this act [this section].

D. The cost of such videotaping shall be paid by the state.

E. Videotapes which are a part of the court record are subject to a protective order of the court for the purpose of protecting the privacy of the victim.

History: 1953 Comp., § 40A-9-27, enacted by Laws 1978, ch. 98, § 1.

It is unlawful for any person, knowing that a criminal trial, an official proceeding, or an investigation by a duly constituted prosecuting authority, a law enforcement agency, a grand jury or legislative committee, or the Judicial Qualifications Commission of this state is pending or knowing that such is about to be instituted, to endeavor or attempt to induce or otherwise cause a witness to:

- (a) Testify or inform falsely; or
- (b) Withhold any testimony, information, document, or thing.

Amended by Laws 1975, c. 75-298, § 44, eff. Oct. 1, 1975.

[See main volume for text of (2) and (3)]

Laws 1975, c. 75-298, rewrote subsec.

Index to Notes

In general 1
Indictment and Information 2

In general

There was no such crime as attempted tampering with a witness. *Hestor v. State*, App., 303 So.2d 26 (1975).
Witnesses have personal right to either invoke or not invoke Fifth Amendment and may waive such right. *Lawry v. State*, App., 330 So.2d 791 (1976).
Covering two codefendants, as part of plea bargain, to invoke Fifth Amendment rights and not give testimony, which might have been exculpatory, if subpoenaed by defendant under threat of imposition of greater sentences by court in pending cases against codefendants and under threat of prosecution for other crimes if they testified

amounted to suppression of evidence by State and required reversal of defendant's conviction and defendant's discharge since improper plea bargain would infect new trial to same degree that it infected first one. *Id.*

2. Indictment and Information

Charge of causing witness to be placed in fear was not required to allege that defendant knew that trial proceeding or investigation was pending but was defective for failure to allege that defendant knew that victim was a witness and to allege some connection between defendant's actions and victim's status as witness. *State v. Murray*, App., 349 So.2d 707 (1977).

Information charging conspiracy to tamper with witness was not insufficient because alleged material time was period between September 9 and September 23, nor because nature and description of the "official proceeding or investigation" in which named witness was to testify were not set forth. *State v. Burkett*, App., 341 So.2d 862 (1977).

918.15 Repealed by Laws 1980, c. 80-75, § 4, eff. July 1, 1980.

Laws 1980, c. 80-75, § 4, repealed provisions designated in Fla.St.1979 as § 918.15(1) as well as Fla.St.1979, § 918.15 as amended by Laws 1979, c. 79-336 and c. 79-337. Section 918.15 was added by Laws 1977, c. 77-312, § 4.

For provisions pertaining to mental competence to stand trial, see, now, § 916.12.

918.16 Sex offenses; testimony of person under age 16; courtroom cleared; exceptions

In the trial of any case, civil or criminal, when any person under the age of 16 is testifying concerning any sex offense, the court shall clear the courtroom of all persons except parties to the cause and their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters, and court reporters.
Laws 1977, c. 77-312, § 28, eff. July 1, 1977.

Law Review Commentaries
Raising issue of competency to stand trial: Procedures and consequences. *Michalski, H. Kapp*, 52 Fla.Bar J. 49 (1978).

Library References
Criminal Law § 636.
C.J.S. Criminal Law § 963.

918.17 Sexual battery or child abuse cases; videotaping of testimony of victims under age 12 permitted

(1) Upon application to the court and reasonable notice to the defendant, the state may apply for an order to videotape out of open court the testimony of a child 12 years of age or younger who has been the victim of a sexual battery under s. 794.011 or to videotape the testimony of a child 12 years of age or younger who has been the victim of aggravated child abuse under s.

827.03 or child abuse under s. 827.04.

The court may grant an order to videotape testimony as provided herein only if it finds that:

- (a) The victim of the offense is a child 11 years of age or younger; and
 - (b) There is a substantial likelihood that such child will suffer severe emotional or mental strain if required to testify in open court.
- (2) The trial judge shall preside at such proceeding and shall rule on all questions as if at trial.
- (3) The application referred to in subsection (1) shall be made prior to trial, and the videotaping of the testimony shall be made only after the trial has commenced. The videotaped testimony shall be admissible as evidence in the trial of the cause.

Laws 1979, c. 79-09, §§ 1 to 3, eff. May 22, 1979.

Laws 1979, c. 79-09, § 3, provides:
"Rule 3.190(J), Florida Rules of Criminal Procedure, is hereby repealed insofar as it is inconsistent with the provisions of this act."

Cross References
Motion to take deposition to perpetuate testimony, see Criminal Procedure Rule 3.190(J).

CHAPTER 919. CONDUCT OF JURY

919.01 to 919.22 Repealed by Laws 1970, c. 70-339, § 180

For superseding provisions contained in 1972 Florida Rules of Criminal Procedure, see, now, Rules 3.370, 3.391 et seq.

CHAPTER 921. SENTENCE

Sec. 921.143 Appearance of victim to make statement at sentencing hearing; submission of written statement (New).	Sec. 921.241 Felony judgments; fingerprints required in record (New).
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921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence

(1) Separate proceedings on issue of penalty.—Upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (5) and (6). Any such evidence which the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or his counsel shall be permitted to present argument for or against sentence of death.

(2) Advisory sentence by the jury.—After hearing all the evidence, the jury shall deliberate and render an advisory sentence to the court, based upon the following matters:

- (a) Whether sufficient aggravating circumstances exist as enumerated in subsection (5);

FLORIDA STATUTES

278 § 16A PROCEEDINGS IN CRIMINAL CASES

§ 16A. Exclusion of public from trial for sex offenses involving minors under age of eighteen

At the trial of a complaint or indictment for rape, incest, carnal abuse or other crime involving sex, where a minor under eighteen years of age is the person upon, with or against whom the crime is alleged to have been committed, or at the trial of a complaint or indictment for getting a woman with child out of wedlock, or for the non-support of an illegitimate child, the presiding justice shall exclude the general public from the court room, admitting only such persons as may have a direct interest in the case.

Historical Note

St. 1923 c. 251.

St. 1931 c. 205.

Law Review Commentaries

Right to public trial. 17 Annual Survey of Mass. Law, Boston College, p. 263 (1970).

Library References

Criminal Law C-635.
C.J.S. Criminal Law § 963.
Comments.

Sequestration of witnesses, see M. P.S. vol. 19, Hughes, § 109.

Exclusion of public from certain trials, M.P.S. vol. 30, Smith, § 1031.

Notes of Decisions

In general 2
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Validity 1

ty. Com. v. Marshall (1969) 253 N.E.2d 333, 356 Mass. 432, 39 A.L.R.3d 848;
Com. v. Blondin (1949) 87 N.E.2d 455, 324 Mass. 564.

3. Requisites of proceedings

Trial in chambers of three defendants for rape and abuse of female child under 16 years of age, by jury, with testimony taken in their presence and complete stenographic record available to them and without exclusion of any person whom any defendant desired to have present did not deny defendants any rights under the state constitution. Com. v. Blondin (1949) 87 N.E.2d 455, 324 Mass. 564.

4. Persons with a direct interest

Under this section providing that court may exclude general public, admitting only such persons as may have a "direct interest" in trial for crime involving sex, committed against minor

1. Validity

This section does not violate due process of law clause of federal Constitution. U.S.C.A. Const. Amend. 14. Melanson v. O'Brien (CA.1951) 191 F.2d 963.

This section does not violate the provision of the state constitution prohibiting defendant from being deprived of his life, liberty or estate but by law of the land. Com. v. Blondin (1949) 87 N.E.2d 455, 324 Mass. 564.

2. In general

This section is to be strictly construed in favor of general principle of public-

Monday, November 30, 1981

Should Minor's Testimony Be Secret?

Court Faces Rape Victim Privacy Issue

By DAVID LAUTER

National Law Journal Staff Reporter

WASHINGTON — The issue of how much privacy to give the victims of rape — one of the most onerous questions a newspaper editor faces — has been placed before the Supreme Court.

The court has agreed to hear a challenge to a Massachusetts law that mandates closed courts during the testimony of rape victims who are minors. The case gives the court an opportunity to clear up what many lawyers consider serious contradictions between two earlier press freedom cases.

As interpreted by the Massachusetts Supreme Judicial Court, the commonwealth's law mandates closure of the court to press and public during testimony of a minor in rape cases and gives the trial judge discre-

tion to close the rest of the trial and to seal the trial transcript. The Supreme Court has agreed to take jurisdiction in an appeal by the Globe Newspaper Co., publisher of the Boston Globe, from a decision by the Massachusetts high court upholding the constitutionality of the law. *Globe Newspaper Co. v. Superior Court for the County of Norfolk*, 81-811.

More Supreme Court News:
See Page 20

In two recent cases, the Supreme Court has ruled that the Sixth Amendment does not guarantee press access to pretrial hearings but that the First Amendment may guarantee access to trials. The Globe maintains that both amendments should be read to forbid a law that orders courts closed without a hearing regardless of whether the

that the two decisions are hard to reconcile. Although Gannett concerned only pretrial proceedings, many reporters and attorneys have concluded that the court's ruling eliminated any hope that the press could sustain a Sixth Amendment claim of access to trials. But Globe attorney James F. McHugh of Boston's Bingham, Dana & Gould, said he disagreed with that impression, and the Globe has pressed both First and Sixth Amendment claims.

Press attorney Floyd Abrams of New York's Cahill Gordon & Reindel agreed with Mr. McHugh's decision. "The jurisprudential underpinnings of Gannett have been so eroded by *Richmond* that I think it was a sound decision," Mr. Abrams said.

Mr. Abrams ascribed the apparent

contradictions in the court's opinions to the lack of "a perfect fit under either the Sixth Amendment or the First Amendment." On the other hand, he said, the justices appear to agree that "the notion that courts may routinely be closed is anathema to our history and is unacceptable in practical terms."

The nature of the Globe's arguments should allay the fears of many in the press that in appealing to the current Supreme Court the Globe may be jeopardizing the rights the press already has established, Mr. Abrams said.

The Globe has not challenged a judge's right to close rape trials in some cases, but has concentrated its argument on the mandatory nature of

the Massachusetts law, arguing that the law must at least provide for a hearing to consider whether other methods short of closing the court could be used to protect victims' privacy and further the state's interest in encouraging rape victims to testify.

The Massachusetts high court accepted state arguments that hearings inevitably would become detailed "side trials" that would subject the potential witnesses to exactly the sort of pressure the law was designed to avoid. The Globe has argued that such extensive hearings would not be required in all cases. Mr. McHugh conceded that the nature of the hearings the Globe would consider sufficient will need more clarification.

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County of Norfolk, 81-611.

In two recent cases, the Supreme Court has ruled that the Sixth Amendment does not guarantee press access to pretrial hearings but that the First Amendment may guarantee access to trials. The Globe maintains that both amendments should be read to forbid a law that orders courts closed without a hearing regardless of whether the defendant or the victim desires closure. Attorneys for both the Globe and the state agree that the mandatory aspect of the Massachusetts law appears to be unique.

In the case that gave rise to the Globe's challenge, Albert T. Aladjem Jr. was charged with raping and sodomizing three high school girls, aged 15, 16 and 17, in Wellesley, Mass. *Commonwealth v. Aladjem*, 73102-9. The entire trial, in which Mr. Aladjem was acquitted, was closed by Judge Robert V. Mulkern. Defense counsel noted exceptions to the judge's order excluding the public, and the district attorney in the case said, after consulting with the alleged victims, that the state would waive its rights to exclude the press.

A Personal Right

Exactly what rights the press and public have to attend trials has remained unclear despite two previous Supreme Court rulings. In 1979, in *Gannett v. DePasquale*, 443 U.S. 368, the court held that the Sixth Amendment's guarantee of a "public trial" is a personal right of the defendant that can be waived and that the press cannot invoke to gain access to pretrial hearings. But in 1980, in *Richmond Newspapers v. Virginia*, 448 U.S. 555, the court ruled that the right to attend criminal trials was, at least in most cases, guaranteed by the First Amendment.

No opinion commanded a majority in the Richmond case, and the court did not clarify the circumstances under which a judge could close a trial. Moreover, although *Richmond*, which concerned trials, did not overrule *Gannett*, which concerned pretrial hearings, many press attorneys find



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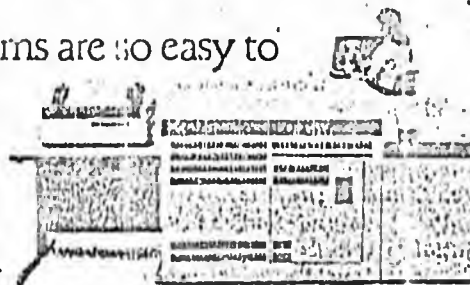
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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 576
 Title An Act Permitting the Videotaping of Testimony
 Requested by House Judiciary Committee Date 1/8/82

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

	FY 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-

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)

HB 576 allows the use of video taped testimony in certain cases, or the exclusion of the public during certain testimony. Neither of these elements should have a fiscal impact on the Alaska Court System. However, the District Attorney or other agencies choosing to utilize videotaped testimony should budget for the necessary cameras, recorders, and playback equipment.

IV. DATE 1/12/82 PREPARED BY Richard P. Barrier
 AGENCY Alaska Court System
 PHONE 264-0545
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 576
 Title Videotaping of testimony of victims of sexual assault
 Requested by House Judiciary Committee Date 1/7/82

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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)

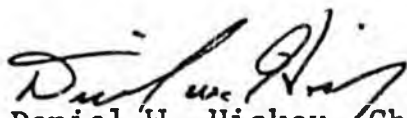
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

This bill authorizes the videotaping of the testimony of a young victim of a sexual assault outside the presence of the jury for playback at a criminal trial. The bill also permits the public to be excluded from a criminal trial under limited circumstances when a young victim of a sexual assault testifies in person. The bill should not result in any additional expenditures.

IV. DATE January 8, 1982 PREPARED BY  Chief Prosecutor
 AGENCY Department of Law
 Original: Legislative Finance PHONE 465-3429
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

JAY S. HAMMOND, GOVERNOR

POUCH N
ROOM 312, GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811

PHONE:

March 11, 1982

The Honorable Ramona Barnes
House of Representatives
Pouch V
Juneau, Ak. 99811

Dear Representative Barnes:

The Council on Domestic Violence and Sexual Assault would like to express their strong support of legislation which will permit young victims of sexual assault to have their testimony videotaped instead of having such victims be further traumatized by appearing in a public court.

Because of the trauma of such an experience for a young victim, the Council has determined that videotape legislation is of the highest priority.

Your assistance will be appreciated.

Sincerely



Betsey W. McGuire
Executive Director

BWMc

Proposed change to Sec. 14, line 23, page 9.

*Sec. 14, AS 28.35.032 is amended by adding new subsections to read:

(f) Refusal to submit to a chemical test of breath under (a) of this section is a class B misdemeanor. It shall be a bar to prosecution under this subsection that the defendant agreed to and submitted to a chemical test of his blood under (h) of this section.

Proposed insertion at line 22, page 1

Sec. AS 12.25.033 is amended to read:

Sec. 12.25.033. A peace officer may arrest a person without a warrant, whether or not the offense is committed in the presence of the officer, when the officer has probable cause to believe that the person to be arrested has committed the crime of operating a motor vehicle in violation of AS 28.35.030, AS 05.25.060(b), or a similar city or borough ordinance, if the violation is alleged to have occurred less than eight hours before the time of arrest.

Sec. AS 05.25.060 is amended to read:

Sec. AS.25.060. Prohibited operation. (a) A person may not operate a watercraft whether for recreational purposes or any other purpose or manipulate water skis, a surfboard, or a similar device on the waters of the state in a reckless or negligent manner so as to endanger the life or property of another person.

(b) A person may not operate a watercraft whether for recreational purposes of any other purpose or manipulate water skis, a surfboard, or a similar device on the waters of the state [WHILE UNDER THE INFLUENCE OF ANY INTOXICATING LIQUOR, NARCOTIC DRUG, BARBITUATE OR MARIJUANA.]

(1) While under the influence of intoxicating liquor, depressant, hallucinogenic, stimulant, or narcotic drugs, as defined in AS 17.10.230(13) and AS 17.12.151(3);

(2) when there is 0.10 percent or more by weight of alcohol in his blood or 100 milligrams or more of alcohol per 100 milliliters of his blood, or when there is 0.10 grams or more of alcohol per 210 liters of his breath; or

(3) while he is under the combined influence of intoxicating liquor and another substance.

(c) For the purpose of (b) of this section, AS 28.35.033 shall apply to calculation of the amount of alcohol in breath or blood.

*Sec. AS 05.25.090 is amended to read:

Sec. 05.25.090. Penalties. A person who violates any provision of this chapter is guilty of [a] an A misdemeanor [AND IS PUNISHABLE BY A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT OF NOT MORE THAN SIX MONTHS, OR BY BOTH, FOR EACH VIOLATION].

Questions to settle in sub-committee on HB438:

1. What shall the minimum period be for first offense - considering "good time"? "120 consecutive hours" in present draft, pg. 6, line 18.
2. Shall 3rd, 4th, 5th, etc. be a C felony? It is in present draft, pg. 6, line 15.
3. What shall minimum sentence be for the felony? 120 days (90 w/good time) in present draft, pg. 7, line 1.
4. Shall the "B misdemeanor" rule for B.A. refusal apply to all cases where defendant was D.W.I? Present draft, pg. 9, line 24 does
5. Shall blood seizures be allowed for any case where defendant was D.W.I? Present draft, pg. 10, line 6.
6. Shall prosecution of "B misdemeanor" for B.A. refusal be barred if blood sample willingly given?

Proposed change to Sec. 14, line 23, page 9.

*Sec. 14, AS 28.35.032 is amended by adding new subsections to read:

(f) Refusal to submit to a chemical test of breath under (a) of this section is a class B misdemeanor if the crime charged is a result of the event is a violation of AS 28.35.030. It shall be a bar to prosecution under this subsection that a chemical test of the defendant's blood was administered under (h) of this section and admitted into evidence at a criminal trial of the charge under AS 28.35.030.

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

JAY S. HAMMOND, GOVERNOR

POUCH N
ROOM 312, GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811

PHONE:

February 1, 1982

The Honorable Ramona Barnes, Chair
Judiciary Committee
House of Representatives
Pouch V
Juneau, Ak. 99811

Dear Representative Barnes,

The Council on Domestic Violence and Sexual Assault has reviewed HB 576, An Act "permitting the videotaping of, or the exclusion of the public during, testimony of young victims".

While the Council totally supports the concept of the bill, in order to protect the constitutionality of the legislation, it would prefer that the bill be separated into two bills. If they are separated and challenges occur, then the whole concept would not be lost.

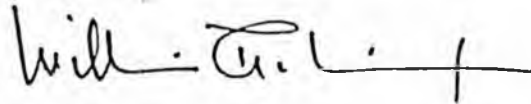
HB 576 gives a great deal of discretion to the Courts which is questionable for full protection of all victims and Page 1, Section 1(a)(2) does not eliminate the stress for the young victim as in order to make a determination of "suffering severe emotional stress", the victim would probably have to be diagnosed by a psychiatrist or psychologist, which once again creates trauma by having to repeat the story again.

Page 3, Sec.1(b)(5), line 1, indicates that "counsel for the child" could be at the hearing; does this mean an Attorney, a Guardian ad litem or is it intended to mean a friend of the child? Clarification is needed.

It is also important that not only sexual assault be included in this legislation, but it is also important that incest be specifically referred to in the title.

If you have any questions, please feel free to call Betsey W. McGuire, Executive Director for the Council at 465-4356.

Sincerely



William R. Nix, Chair