

ALASKA LEGISLATURE COMMITTEE FILES 1901-1902

1697 SJ SB 485 - SB 535

**Health, Education and  
Social Services Committee**



Official Business

Charlie Parr, Chairman  
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Mike Colletta

Pouch V  
State Capitol  
Juneau, Alaska 99811  
465-4907  
465-4908

**Alaska State Legislature**  
**Senate**

May 3, 1981

MEMORANDUM

TO: Senator Pat Rodey  
Chairman, Senate Judiciary Committee

FROM: Senator Charles H. Parr *CHP*  
Chairman, Senate HESS Committee

SUBJECT: Senate Bill No. 485

RECEIVED

MAY 11 1981

The HESS Committee has passed out SB 485, which has a further referral to the Judiciary Committee. Also in the Judiciary Committee is SB 547, dealing with the same subject, but which the President did not give a HESS Committee referral. The HESS Committee recommends that the Judiciary Committee consider the following three points when acting on SB 485:

- 1 - Allowing the videotaping of a victim of sexual assault of any age; or, secondarily, raising the age in the bill to 18.
- 2 - Adding to the offenses for which videotaping is permissible, incest and sexual exploitation of a minor.
- 3 - Adding a provision for a priority in court calendaring.

CHP:vc

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 485  
Title VideoTaping of Testimony  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Alaska Court System  
Program Category Affected Administration of Justice  
BRU, 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		5.6	6.0	6.6	7.2	8.0
400 COMMODITIES						
500 EQUIPMENT		55.9				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		61.5	6.0	6.6	7.2	8.0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND						
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)

SB 485 envisions the State producing video recordings for playback at trials. As the bill now stands, and with the current Court System policy about purchasing video equipment, the Court will be required to provide the necessary cameras and playback units in at least all the Superior Court locations, as well as the locations where Superior Court cases are frequently held, such as Barrow or Palmer. This will require a minimum of 13 complete video units at a cost of \$4,300 each. The annual maintenance cost is estimated at \$5,600. The first year cost will therefore be \$61,500, with ongoing costs of \$5,600 plus inflation.

IV. DATE 2/22/82 PREPARED BY Richard P. Barrier 

AGENCY Alaska Court System

Original: Legislative Finance PHONE 264-0545

cc: Budget and Management

Prime Sponsor (First Legislator Named)



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

JANUARY 29, 1982

Zutrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

SB 535 - "An Act relating to the criminal laws of the state."

SB 485 - "An Act permitting the videotaping of testimony of young victims of sexual assault or sexual abuse of a minor; and changing Rule 804, Alaska Rules of Evidence relating to exceptions to the hearsay rule."

SB 547 - "An Act permitting the videotaping of, or the exclusion of the public during, testimony of young victims of sexual assault or sexual abuse of a minor; and changing Rule 804, Alaska Rules of Evidence relating to exceptions to the hearsay rule."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, and Parr. Senators Hohman and Bennett were absent.

The first item on the agenda was CSSB 485. Mr. Bruce explained the committee substitute draft. Mr. Victor Krumm, Department of Law testified in favor of this committee substitute.

Senator Ray moved that CSSB 485 pass from committee with a do pass. There was not objection and the bill was signed out of committee.

Chairman Rodey next brought CSSB 547 before the committee. Mr. Bruce explained the committee substitute. Mr. Victor Krumm, Department of Law testified in favor of CSSB 547.

Senator Ray moved to make the following amendment: Pg. 1, Line 15, add "under" before the word "16"; delete "or younger" between the words "age" and "at". On Pg. 2, Line 5, add "including those" before the word "essential". There was not objection to the amendment and it was adopted.

Victor Krumm suggests having the bill include court discretion to exclude the public from testimony of minors who are testifying.

Senator Bennett enters the room and his presence was noted for the record.

Senator Ray refers to Mr. Krumm's suggestion and suggests putting it in another bill to avoid any problems.

Chairman Rodey next called Ms. Paula Haley, testifying for the Alaska Network on Domestic Violence, before the committee. She stated that the Network was in support of CSSB 547.

Senator Ray moved that CSSB 547, as amended, be moved from committee. There was no objection and the bill was signed from committee.

Chairman Rodey next brought CSSB 485 before the committee for reconsideration. Senator Ray moved that on Pg. 1, Line 16, the word "under" be added before the word "16" and "or younger" between the words "age" and "at" be deleted. There was no objection to the amendment and it was adopted.

Senator Ray moved that CSSB 485, as amended, be passed from committee. There was no objection and the bill was passed.

The last item on the agenda was CSSB 535.

Testimony was heard from Barry Stern, representing the Department of Law. He relayed to the committee the Department's recommendations.

After having discussion on the bill, Chairman Rodey held CSSB 535 over and adjourned the meeting at 2:35 P.M.

SB485, SB5477

3460 Barry Stein / Vic Krumm - Attorney General's  
5030 NINA KINNEY - DEPT. ASS  
86-6623 GREEN ROBINSON - WOMAN'S CENTER  
586-2977 JANA VARETTI - ~~WOMAN'S~~ AWAKE  
DEBORAH KELLER - WOMEN'S RESOURCE CENTER  
4338 PAUL CONGER - DEPT. OF PUBLIC SAFETY  
279-7541 BOB STOKES - PUBLIC DEFENDER

SB 535

3460 Barry Stein - Dept. of Law  
4338 PAUL CONGER - DEPT. PUBLIC SAFETY  
GOEDEN EVANS - BIRTH-ABUSE  
279-7541 BOB STOKES - PUBLIC DEFENDER COUNCIL  
279-2526 NICK WHEATLES - AK JUDICURE COUNCIL  
264-0550 DIK DEPLAINE (SP?) - AIRCRAFT CONTROL SYSTEM  
CALLED FOR INFO 1-18-82



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

JANUARY 20, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SB 545 - "An Act relating to release after conviction of an offense."
- SB 547 - "An Act permitting the videotaping of, or the exclusion of the public during, testimony of young victims of sexual assault or sexual abuse of a minor; and changing Rule 804, Alaska Rules of Evidence relating to exceptions to the hearsay rule."
- SB 485 - "An Act permitting the videotaping of testimony of young victims of sexual assault or sexual abuse of a minor; and changing Rule 804, Alaska Rules of Evidence relating to exceptions to the hearsay rule."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:40 P.M. Committee members present were: Senator Rodey, Bennett, Ray, and Parr. Senator Hohman was absent.

First on the agenda was SB 545. Barry Stern, Department of Law, reported back to the committee on the instances of offenders released on bail prior to sentencing and subsequently apprehended for similar felonies.

The next witness called was James Sterling, Anchorage Police Department Employees Association. He reported his association was strongly in favor of this bill as written.

Senator Ray moved that the bill be amended to read that, Pg. 1, Line 12 between the word "kidnapping" and the phrase "a Class A felony", insert the word "or" and to delete the phrase "or a Class B felony". There was no objection to the amendment and it was adopted.

Senator Bennett moved that the bill be passed from committee. Members had the following recommendations: Chairman Rodey, do pass; Senator Bennett, do pass; Senator Ray, do pass; Senator Parr, no recommendation.

Senator Bennett was excused from the meeting due to Finance Committee meetings.

Chairman Rodey then took up Senate bills 485 and 547. Senator Bradley, prime sponsor of SB 547, was the first witness. He gave an overview of his legislation and explained the differences between the two bills. Senator Parr, sponsor of SB 485, also discussed the differences and a history of the proposed legislation.

The next witness was Barry Stern, Department of Law. He indicated the administration's support of both bills. He requested that the committee consider three changes to the legislation: 1.) He felt that the order allowing videotaping should be automatic rather than necessitating a hearing on the matter. 2.) He was concerned that the bill only spoke to a sexual assault and felt that additional offenses could be covered. 3.) The committee should consider expanding the use to young witnesses as well as victims.

James Sterling, APDEA, testified that the association was in full support of both bills and that they would like to see this provision applied to all victims of sexual assault.

Deborah Keller, parent of abused child, supported the legislation, but wanted to eliminate the presence of the defendant while the testimony was recorded.

John Pugh, Department of Health and Social Services, testified that the Department's position was favorable to both bills. He suggested the committee delineate which persons could be present during the videotaping of testimony.

Sarah Felix, AWARE attorney, testified in favor of both bills. Her written testimony is attached.

Chairman Rodey directed staff to work with the Department of Law and have a committee substitute ready for the following week. The bills were laid on the table and the meeting was adjourned.

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-

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.

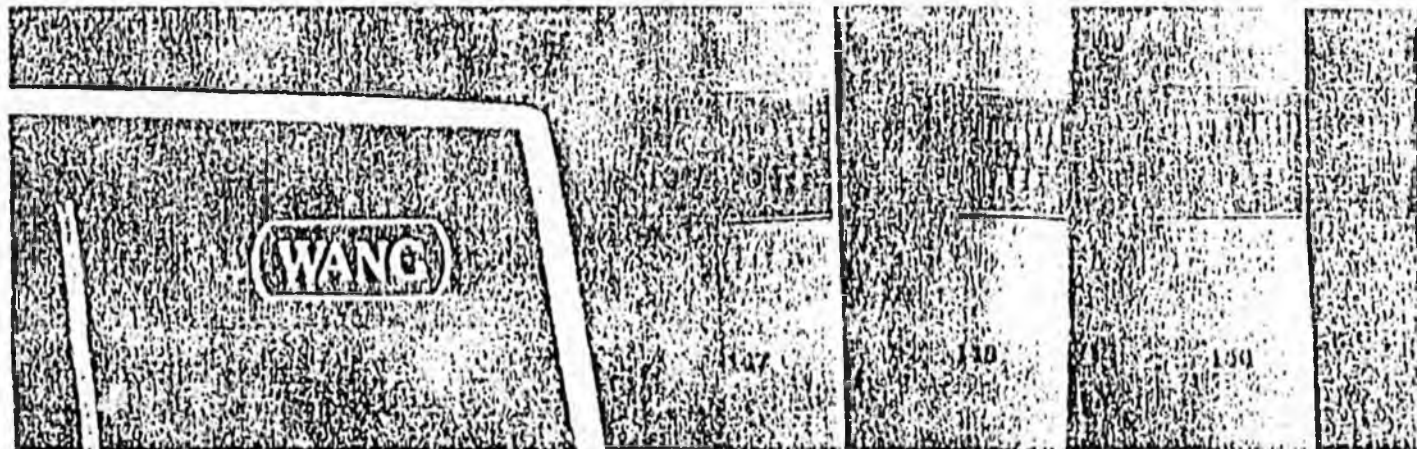
The Massachusetts high court accepted state arguments that hearings inevitably would become detailed "side trials" that would subject the potential witnesses to exactly the sort of pressure the law was designed to avoid. The Globe has argued that such extensive hearings would not be required in all cases.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

More Supreme Court News:  
See Page 20

on to close the rest of the trial and to seal the trial transcript. The Supreme Court has agreed to take jurisdiction on 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*, 81-611.

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 law that orders courts closed without hearing recognition of what

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...onality of the law. *Globe News-  
Paper Co. v. Superior Court for the  
County of Norfolk*, 81-611.

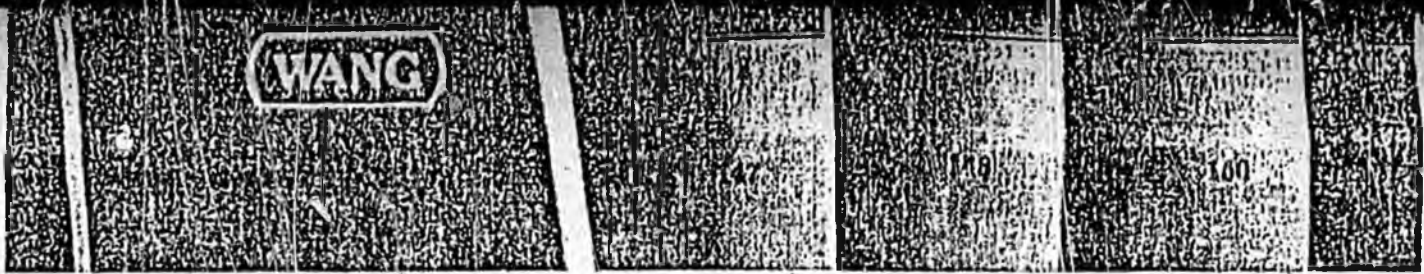
In two recent cases, the Supreme Court has ruled that the Sixth Amendment does not guarantee press access to pretrial hearings but that the First Amendment may guarantee access to trials. The Globe maintains that both amendments should be read to forbid a law that orders courts closed without a hearing 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 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, *Gannett v. DePasquale*, 443 U.S. 501, 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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Telephone \_\_\_\_\_



# Alaska Network on Domestic Violence and Sexual Assault

P.O. Box 3356, ANCHORAGE, ALASKA 995\_0

## POSITION PAPER: Senate Bills 547 and 485

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of 17 domestic violence, sexual assault, and adult crisis intervention programs throughout the State. Network programs are funded in part through grants and contracts awarded by the recently established Council on Domestic Violence and Sexual Assault in the Department of Public Safety.

Network programs have had extensive experience dealing with the issue of sexual assault: programs are usually contacted directly by the victim after an assault, and program counselors and advocates participate in the entire reporting and judicial process. Additionally, some programs have established court monitoring programs in order to evaluate both judges' sentencing practices and convictions by jurors. Network programs also provide services to victims who choose not to report sexual assaults.

Based on experience with the issue and concern for the treatment of sexual assault victims and experience with the criminal justice system, the Network offers the following remarks regarding SB 547 and SB 485.

### A. SB 547

1. The Network supports the purpose and principle of SB 547 to protect young victims of sexual assault or sexual abuse of a minor from the emotional distress of repeated or public testimony regarding the crime committed against her or him for the following reasons:
  - a. Legislation of this kind protects a young victim of sexual assault from having to repeatedly re-live the experience of the sexual assault;
  - b. This type of legislation protects the victim from suffering the initial feelings of shock experienced after the assault;
  - c. Legislation of this kind generally mitigates the increased suffering from rape trauma syndrome which occurs as a result of the telling and re-telling of the story of the assault; and
  - d. This kind of legislation makes the criminal proceedings less of a public humiliation and ordeal for the victim.
2. The Network also believes that such legislation fairly and intelligently balances the rights of the defendant and the rights of the victim. It offers a degree of protection to the victim of the assault, while leaving intact the defendant's rights to cross-examine and confront the victim.
3. This legislation will facilitate reporting and prosecution of sexual assault by providing the victim with necessary protection and lessening the trauma associated with criminal proceedings.
4. The Network believes that SB 547 is timely legislation which will be found to be constitutional. Other states have enacted similar legislation:

- i. New Mexico
- ii. Florida; and
- iii. Massachusetts

Although the Massachusetts statute is presently being constitutionally challenged, SB 547 is distinguishable since it does not require mandatory closed hearings as the Massachusetts statute does.

5. Although the Network supports the concept behind SB 547, there are certain specific areas requiring further legislative attention. These include:
- a. The crime of Incest (AS 11.41.450), a class C felony, is not included in either the videotaping of the exclusion of the public sections of the bill. Incest victims are often children and they should be afforded the same protection as sexual assault and sexual abuse of a minor victim.
  - b. SB 547 uses, as part of the standard for exclusion of the public or for videotaping testimony, the age of the child at the time of the assault. The Network suggests that the age of the victim at the time of testimony at the criminal proceedings be determinative, since this is the time when the victim will be subjected to the trauma and invasion of privacy associated with testimony. Further, we recommend that the age limit should be 18 years of age, rather than 16 years, since 18 years is the age of majority.
  - c. The Network would like to see a definition of "severe emotional distress" included in SB 547 since this is an amorphous concept and is used as part of the standard for both exclusion of the public and for videotaping testimony and we would be happy to work with committee staff to develop such a definition, if you so desire.
  - d. The presumption in Secs. 12.45.047 (a) (2) and 12.45.048 (a) (2) that a child who is under age 16 will suffer severe emotional distress if required to testify in open court should be omitted. Instead, the decision should be within the judge's discretion. This will lessen the possibility of constitutional challenges and still protect the victim.
  - e. Sec. 12.45.047 (a) (2) concerns videotaping, yet it appears that it also deals with exclusion of the public (page 1, line 27). Is there a dual purpose in this section? Does the bill give the judge the flexibility to order videotaping plus a closed courtroom or simply videotaping a victim's testimony which will be shown later in an open courtroom? The Network suggests the following persons be present during the videotaping and trial:
    - i. Judge;
    - ii. Defendant and counsel;
    - iii. Counsel for the state;
    - \* iv. Advocate for the child (i.e., victim-witness assistance person, attorney or rape crisis center staff person);
    - v. Parents or guardian of child; and
    - vi. Court personnel essential for taking of the testimony.

VII. JURY

PAGE W. NOW PART OF SECTION IV.

- f. Because SB 547 may be subject to a successful constitutional challenge, the Network advocates addition of a severability clause to the bill, which would provide that if one section of the statute were found unconstitutional, it could be eliminated, while the rest of the statute would remain in effect. The severability clause is especially important if the presumption language in Secs. 12.45.047 (a) (2) and 12.45.048 (a) (2) is retained.
- g. Regarding Sec. 12.45.048 Exclusion of Public, (b) on line 25. The Network suggests that the definition of "public" be expanded to include the advocate for the child as stated earlier in this testimony regarding videotaping. We believe it is especially important for child victims of sexual assault to have emotional support throughout the criminal proceedings. Their advocates from rape crisis centers or victim-witness assistance programs who have worked with them throughout the crisis should be present during the proceedings. This is very important in incest situations where the non-offending parent is often suffering from tremendous personal stress and trauma and may be unable to adequately support their child.
- \* h. Concern has been expressed within the Network over disposition of the videotape. To mitigate the invasion of privacy the victim suffers, we recommend that the tape be transcribed into a written record and be destroyed after the defendant has exhausted the appeals process; or that the tape be ordered sealed by the judge.

1. The comments regarding SB 547 are applicable to SB 485, the only difference in the bills being that the exclusion factor is not present in SB 485.

### 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 975 (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 chastity, 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: . 953 Comp., § 40A-9-27, enacted by Laws 1978, ch. 98, § 1.

and provided further, that the defendant in such trial by a written statement waives his right to a public trial for those portions from which spectators are so excluded. Added by St.1978, c. 316.

1978 Enactment. St.1978, c. 316, was approved June 30, 1978.

Library References  
Criminal Law §635.  
C.J.S.Criminal Law § 363.

§ 17. Repealed by St.1979, c. 344, § 43B

St.1979, c. 344, § 43B, an emergency act, repealing this section, was approved June 30, 1979, and by section 51 made effective July 1, 1979.

Prior to repeal, this section was amended by St.1978, c. 478, § 301.

See, now, c. 277, § 47A; Mass.R.Crim.P. Rule 13.

§ 18. Appeals in criminal cases to jury-of-six sessions; recognizance.

Whoever is found guilty of a crime before a justice in a district court, or in the municipal court of the city of Boston, having filed the written waiver of trial by jury in the first instance provided by section twenty-six A of chapter two hundred and eighteen, may appeal the finding of guilty or the sentence imposed thereon to a jury-of-six session in accordance with section twenty-seven A of chapter two hundred and eighteen, and at the time of such finding of guilty or sentencing shall be notified of his right to take such appeal. The case shall be entered in the jury-of-six session on the return day next after the appeal is taken, and the appellant shall be released on personal recognizance or committed, in accordance with the procedures set forth in section fifty-eight of chapter two hundred and seventy-six, until he recognizes to the commonwealth, in such sum and with such surety or sureties as the court requires, with condition to appear at said jury session on said return day and at any subsequent time to which the case may be continued, if not previously surrendered and discharged, and so from time to time until the final sentence, order or decree, and not depart without leave, and in the meantime to keep the peace and be of good behavior. If the appellant is not released on personal recognizance and is committed for failure to recognize, the superior court shall thereupon have jurisdiction of the case only for the purpose of revising the amount of bail required as aforesaid. The appellant shall not be required to advance ~~any~~ upon claiming his appeal or in prosecuting the same. Notwithstanding any other provision of law, a defendant after a finding of guilty, jury-waived, in a district court, or the municipal court of the city of Boston, may appeal therefrom and shall thereafter be entitled to a trial de novo in a jury-of-six session in accordance with said section twenty-seven A.

Amended by St.1973, c. 657; St.1974, c. 167; St.1978, c. 478, § 302.

1973 Amendment. St.1973, c. 657, approved Aug. 20, 1973, in the first sentence, inserted "the finding of guilty or the sentence imposed thereon" and "or may appeal to and claim a jury of six in a district court in accordance with section twenty-seven A of chapter two hundred and eighteen"; in the second sentence, substituted "released on personal recognizance or committed, in accordance with the procedures set forth in section fifty-eight of chapter

two hundred seventy-six" for "committed to abide the sentence of said court"; in the third sentence, inserted "is not released on personal recognizance and"; deleted the former fourth sentence; and added the last sentence.

1974 Amendment. St.1974, c. 167, approved May 2, 1974, substituted "found guilty" for "convicted" and "such finding of guilty or sentencing" for "conviction" in the first sentence.

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Superior Court (1980) 401 N.E.2d 360, 1980 Mass. Adv. Sh. 485.

5. Public trial

In prosecution for four counts of rape of a child under 16 years of age, where defendant claimed that he was denied his right to public trial because judge excluded public from his entire trial, burden was on defendant to demonstrate that public was excluded from trial after minor victims testified, but defendant was not obligated to demonstrate that he was prejudiced by closing of balance of his trial. *Com. v. Williams* (1980) 401 N.E.2d 376, 1980 Mass. Adv. Sh. 515.

Defendant did not demonstrate his trial on four counts of rape of a child under 16 years of age was improperly closed, but remand was necessary for a determination of extent to which trial was closed to public, and, if it was, for consideration whether defendant properly waived his right to public trial, through his actions or actions of his counsel. *Id.*

7. Stage of proceedings

This section providing for exclusion of public from trial for sex offenses involving minors under age of 18 mandatorily requires closure of trial during victim's testimony. *Globe Newspaper Co. v. Superior Court* (1980) 401 N.E.2d 360, 1980 Mass. Adv. Sh. 485.

In sex offenses involving minors under age of 18, Commonwealth bears burden of showing necessity for a closure of parts of trial other than victim's testimony or foreclosure of entire trial. *Id.*

In case in which this section providing for exclusion of public from trial for sex offenses involving minors under age of 18 applies, Commonwealth may move for closure of parts of trial other than victim's testimony or foreclosure of entire trial. *Id.*

This section providing for exclusion of public from trial for sex offenses involving minors under age of 18 relates to closure of trial only during victim's testimony. *Id.*

8. Objections

Public need not receive prior notice of closure hearing for sex offenses involving minors under age of 18; however, court should hear a person who in timely fashion informs court of his desire to object to closure. *Globe Newspaper Co. v. Superior Court* (1980) 401 N.E.2d 360, 1980 Mass. Adv. Sh. 485.

Any person to be excluded from the trial of sex offenses involving minors under age of 18 other than during victim's testimony should have opportunity to state objections to order; such person need not file formal motion to intervene. *Id.*

9. Findings

On conclusion of hearing requesting exclusion of public from trial for sex offenses involving minors under age of 18 during other than victim's testimony, judge should make findings of fact as appropriate and should rule on necessity for closure. *Globe Newspaper Co. v. Superior Court* (1980) 401 N.E.2d 360, 1980 Mass. Adv. Sh. 485.

§ 16B. Exclusion of public from trial of criminal proceeding involving husband and wife

1. In general

Only in most extreme situations if at all, may state court constitutionally forbid newspaper or anyone else to report or comment on happenings in and about proceedings which have been held in open court; a similar rule applies to court files otherwise unrestricted. *Ottaway Newspapers, Inc. v. Appeals Court* (1977) 362 N.E.2d 1189, 372 Mass. 839.

"General principle of publicity" is applicable in regard to record in a case; it is only in a clearly meritorious case that impoundment can be contemplated. *Id.*

Statutes which limit or authorize limitation of access to court proceedings and official records do not preclude exercise by judges of a sound discretion to impose reasonable closure, including impoundment, in other cases when found necessary. *Id.*

§ 16C. Exclusion of public from trial involving crime of incest or rape

To protect the parties involved at a trial arising from a complaint or indictment for incest or rape, the trial judge may exclude all spectators from the courtroom in which such trial is being held, or from said courtroom during those portions of such trial when direct testimony is to be presented; provided, that either of the parties requests that all spectators be so excluded at the trial or portions thereof;

3B547

dicts finding defendant guilty of murder in the second degree and not guilty of armed robbery were not inconsistent. *Id.*

#### 12.5 Instructions

Evidence in prosecution for armed robbery, did not require instruction on issue of defendants' guilt of lesser included offenses of unarmed robbery, larceny, or assault. *Com. v. Hogg* (1974) 311 N.E.2d 63, 365 Mass. 290.

Evidence in prosecution for, *inter alia*, larceny of a motor vehicle did not require instruction on issue of defendant's guilt of

lesser included offense of use of motor vehicle without authority. *Id.*

Where defendant was charged with forcible rape of female under 15, but judge considered that evidence would have permitted finding either of forcible rape or of statutory rape as lesser included offense and instructed accordingly, he should have further instructed jury to specify offense should they find defendant guilty. *Com. v. Franks* (1974) 309 N.E.2d 879, 365 Mass. 74, appeal after remand 341 N.E.2d 660, 369 Mass. 608, appeal after remand 362 N.E.2d 895, 372 Mass. 866.

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

#### Supplementary Index to Notes—

Findings 9  
Objections 8  
Purpose of law 2.5  
Stages of proceedings 7

#### 2. In general

If closing all or part of trial for sex offenses involving minors under age of 18 were necessary to assure availability of evidence of fresh complaint, judge would be justified in ordering closure. *Globe Newspaper Co. v. Superior Court* (1980) 401 N.E.2d 360, 1980 Mass. Adv. Sh. 485.

Although this section providing for exclusion of public from trial for sex offenses involving minors under age of 18 is mandatory only as to victim's testimony, it is possible that trial judge might close other parts of trial; such decision to close any part of trial other than victim's testimony or to close entire trial is matter within judge's sound discretion. *Id.*

Because of the policy favoring publicity, an agreement between prosecution and defense to close a trial should not justify closure or even be relevant to judge's determination of necessity for a closure of trial for sex offenses involving minors under age of 18. *Id.*

Issue at a hearing on Commonwealth's motion to close parts or all of trial for sex offenses involving minors under age of 18 shall be whether such closure is necessary to preserve evidence required for just conviction. *Id.*

Only in most extreme situations, if at all, may state court constitutionally forbid newspaper or anyone else to report or comment on happenings in and about proceedings which have been held in open court; a similar rule applies to court files otherwise unrestrictd. *Ottaway Newspapers, Inc. v.*

*Appeals Court* (1977) 362 N.E.2d 1189, 372 Mass. 539.

"General principle of publicity" is applicable in regard to record in a case; it is only in a clearly meritorious case that impoundment can be contemplated. *Id.*

Statutes which limit or authorize limitation of access to court proceedings and official records do not preclude exercise by judges of a sound discretion to impose reasonable closure, including impoundment, in other cases when found necessary. *Id.*

#### 2.5 Purpose of law

Main purpose of this section, which provides for exclusion of general public from courtroom in trials involving sex crimes if the victim is under 18 years of age, is to assure that Commonwealth's case will not be destroyed by reason of witnesses' reluctance to testify before a miscellaneous audience. *Com. v. Leo* (1979) 393 N.E.2d 410, 1979 Mass. Adv. Sh. 2245.

Defendant, who was convicted of committing sexual offenses against 14-year-old girl, could not complain of an alleged violation of this section, in light of fact that such statute was not intended to benefit criminal defendants. *Id.*

#### 3. Requisites of proceedings

Judge should hold hearing before entering order closing parts of trial other than victim's testimony under this section providing for exclusion of public from trial for sex offenses involving minors under age of 18. *Globe Newspaper Co. v. Superior Court* (1980) 401 N.E.2d 360, 1980 Mass. Adv. Sh. 485.

#### 4. Persons with a direct interest

The press does not have a sufficiently "direct interest" to be exempt from this section providing for exclusion of public from trial for sex offenses involving minors under age of 18. *Globe Newspaper Co. v.*

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under 18 years of age, quoted phrase must be interpreted broadly and is not limited to parties, but includes counsel, witnesses, stenographers and usual court attendants; and it does not exclude a parent, husband, wife or guardian of defendant, or even a friend, whose presence defendant desires and who might give him legitimate assistance or comfort without interfering with trial. *Com. v. Blondin* (1940) 87 N.E.2d 455, 324 Mass. 504.

#### 5. Public trial

The guarantee to an accused of "public trial" is a safeguard against any attempt to employ courts as instruments of persecution, and knowledge that every criminal trial is subject to contemporaneous review in the form of public opinion is an effective restraint on possible abuse of judicial power. In *re Oliver* (1948) 68 S.Ct. 499, 333 U.S. 257, 92 L.Ed. 682.

Defendant whose counsel had requested that witnesses be sequestered and who had not asked his counsel to arrange to have particular available per-

sons, friends, or relatives present at trial was not entitled to new trial on theory that he had been denied right to public trial. *Com. v. Wells* (1971) 274 N.E.2d 452, — Mass. —.

Excluding mother, sister, brother, and friend of defendant during trial for sex crimes was violation of Sixth Amendment which provides that in all criminal prosecutions accused shall enjoy the right to a speedy and public trial. *Com. v. Marshall* (1969) 258 N.E.2d 333, 356 Mass. 432, 39 A.L.R.3d 848.

Under Fourteenth Amendment, Sixth Amendment right to a public trial was applicable to defendant's trial for sex crimes in state court. *Id.*

#### 6. Habeas corpus

C petition for writ of habeas corpus brought by a petitioner who had been convicted in Massachusetts court of rape and carnal abuse of a female child, evidence did not establish that commonwealth prevented petitioner's wife from testifying in behalf of petitioner at petitioner's trial. *Melanson v. O'Brien* (C.A.1053) 203 F.2d 934.

### § 16B. Exclusion of public from trial of criminal proceeding involving husband and wife

The presiding justice of a district court may exclude the general public from the court room during the trial of any criminal proceeding involving husband and wife.

Added by St.1949, c. 302.

#### Library References

Criminal Law § 635.  
C.J.S. Criminal Law § 903.  
Comments.

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

Sequestration of witnesses, see M. P.S. vol. 10, Hughes, § 100.

#### Notes of Decisions

##### 1. In general

Section 16A of this chapter providing that court may exclude general public admitting only such persons as may

have a direct interest in trial, is to be strictly construed in favor of general principle of publicity. *Com. v. Blondin* (1940) 87 N.E.2d 455, 324 Mass. 504.

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. 275.

Law Review Commentaries

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

Library References

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

Sequestration of witnesses, see M.L.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  
Habeas corpus 6  
Persons with a direct interest 4  
Public trial 5  
Requisites of proceedings 3  
Validity 1

ty. Com. v. Marshall (1969) 233 N.E.2d 333, 350 Mass. 432, 39 A.L.R.3d 848; Com. v. Blondin (1949) 87 N.E.2d 455, 324 Mass. 504.

3. Requisites of proceedings

Trial in chambers of three defendants for rape and abuse of female child under 10 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. 504.

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 (C.A.1951) 191 F.2d 903.

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. 504.

2. In general

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

918.14 Tampering with witnesses

(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. 75-208, § 44, eff. Oct. 1, 1975.

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

Laws 1975, c. 75-208, rewrote subsec. (1).

Index to Notes

In general 1  
Indictment and Information 2

1. In general

There was no such crime as attempted tampering with a witness. *Hestor v. State*, App., 363 So.2d 26 (1978).

Witnesses have personal right to either invoke or not invoke Fifth Amendment and may waive such right. *Lawley v. State*, App., 330 So.2d 784 (1976).

Coercing 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 case, 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., 348 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. Murkett*, App., 344 So.2d 868 (1977).

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

Laws 1979, c. 80-76, § 4, repealed provisions designated in Fla.St.1979 as § 918.16(4) as well as Fla.St.1979, § 918.16 as amended by Laws 1979, c. 70-336 and c. 79-400. Section 918.16 was added by Laws 1977, c. 77-312, § 4.

For provisions pertaining to mental competence to stand trial, see, now, § 910.12.

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, § 2A, eff. July 1, 1977.

Law Review Commentaries

Raising issue of competency to stand trial: Procedures and consequences. *Marshall D. Kapp*, 62 *Fla. Bar J.* 49 (1978).

Library References

Criminal Law § 685.  
C.J.F. Criminal Law § 683.

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 11 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 11 years of age or younger who has been the victim of aggravated child abuse under s.

§27.03 or child abuse under s. §27.04. 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. 79-40, §§ 1 to 3, eff. May 22, 1979.

Laws 1979, c. 79-69, § 1, 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, § 100

For superseding provisions contained in 1972 Florida Rules of Criminal Procedure, see, now, Rules 3.370, 3.301 et seq.

CHAPTER 021. 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].

021.141 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. 776.082. 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 convene 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 013 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 the 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

FROM  
SENATOR  
CHARLIE  
PARR

§18.17 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 11 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 11 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.

History.—s. 1, 2, ch. 79-89.

Note.—Section 3, ch. 79-89, repeals Rule 3.190(j), Florida Rules of Criminal Procedure. "... insofar as it is inconsistent with the provisions of this . . . section."

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. Senate Bill No. 547  
 Title Videotaping of Testimony of Young Victims of Sexual Assault  
 Requested by Senators Parr and Fischer Date 4/20/81

II. FISCAL DETAIL  
 Agency Affected Department of Public Safety  
 Program Category Affected Administration of Justice  
 BRU, Program, or Subprogram(s) Affected Detachment and CIB  
 (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		.1	.1	.1	.1	.2
500		36.0				10.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>36.1</b>	<b>.1</b>	<b>.1</b>	<b>.1</b>	<b>10.2</b>

FUNDING (Thousands of Dollars)

GENERAL FUND		36.1	.1	.1	.1	10.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

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

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

The Division's review of the potential impact of this Bill upon its operations indicates the need 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'86 assuming the bill became effective in FY'82. The commodities noted above would cover the estimated cost of the video cassette tapes.

DATE May 10, 1981 PREPARED BY [Signature]

POSITION PAPER

SENATE BILL NO. 485

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

Senate Bill No. 485 allows for victims of sexual assault who are 16 years of age or younger to provide testimony out of court through videotape means when there is likelihood the child will suffer severe emotional distress if required to testify in open court. It further specifies that the trial judge shall preside at the videotape proceedings and shall rule on all questions as if at trial, and specifies at what point testimony will take place, if granted. In addition, this Bill changes Rule 804, Alaska Rules of Evidence, specifying this as an exception to the hearsay rule.

While the Department supports this provision, it prefers that Senate Bill No. 547 be enacted with recommended changes, because that Bill provides for the exclusion of the public during testimony, as well as providing for the videotaping of the victim's testimony.

RECOMMENDED BY: *J.R. Pugh*  
John R. Pugh, Director  
Division of Family & Youth  
Services

DATE: 1/18/82

APPROVED BY: *H.D. Beirne*  
Helen D. Beirne  
Commissioner

DATE: 1/20/82

THE LEGISLATURE OF THE STATE OF ALABAMA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 485  
 Title 'videotaping of young victims of sexual assault or abuse, changing Rule 804...'  
 Requested by Parr and Fischer Date \_\_\_\_\_

II. FISCAL DETAIL

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

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

Senate Bill No. 485 has no fiscal impact on the Department of Health and Social Services.

IV. DATE 1/18/82 PREPARED BY John R. Pugh John R. Pugh, Director  
 AGENCY Division of Family and Youth Services  
 PHONE 465-3170  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

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# Porn

(Continued from page I-1)

First Amendment right to attend criminal trials. Only "compelling" circumstances could justify closing part or all of a criminal trial, Chief Justice Warren Burger wrote for the court.

Now, in the Globe Newspaper case, the court has an opportunity to explain what such "compelling" circumstances are.

Under a strict Massachusetts law, which lawyers say is the only one of its kind, the trial of Albert Aladjem was closed — even though the prosecution did not request closure and the defense wanted the press and public admitted.

Aladjem was acquitted of the forcible rape of three young girls, two 16-year-olds and one 17-year-old.

The Boston Globe, having protested unsuccessfully before the trial, carried its free press arguments to the highest court in Massachusetts — and lost again. Sparing young victims the embarrassment of publicity and encouraging them to report sexual assaults were more important than unfettered public access to the trial, the court ruled.

Globe lawyers contend that the constitutional right of the press to attend criminal trials means that a courtroom cannot be closed unless the government interest is overriding, there is no alternative to closure and a hearing is conducted first.

The newspaper lawyers also argue that the constitutional promise of a public trial means the courtroom cannot be closed over a defendant's objection unless such closing is "inescapably necessary to safeguard a state interest of the highest order."

Globe lawyers said they were unable to find any other state law that makes exclusion of the press and public mandatory.

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Introduced 4/24/81  
Referred: State Affairs and  
Judiciary

1 IN THE SENATE

BY BRADLEY

2 SENATE BILL NO. 512

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 the registration of motor vehicles;  
7 and providing for an effective date."

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

9 \* Section 1. AS 28.10.181(a) is amended to read:

10 (a) The department shall register unique and special vehicles and  
11 vehicles used for special purposes and issue registration plates as  
12 provided in this section. Notwithstanding other provisions of this  
13 chapter, registration plates issued under this section remain with the  
14 person or organization to whom they are issued when vehicle ownership is  
15 transferred or title or interest in the vehicle is assigned, except for  
16 plates issued under (b), (h), (i), and (j) of this section.  
17 Registration plates issued under this section may not be used on, or  
18 transferred to, a vehicle other than the vehicle for which the plates  
19 are issued without the approval of the department and payment of any  
20 required fees and taxes prescribed in AS 28.10.421(d), 28.10.431 and  
21 28.10.441; however, if the plates issued under (c), (f) and (j) of this  
22 section are transferred to a vehicle for which the registration fee is  
23 more than the fee for the vehicle from which the plates are transferred,  
24 the owner shall pay the difference between the two fees. Registration  
25 plates issued under this section to which a person is no longer entitled  
26 or the transfer of the plates to another vehicle which the department  
27 does not approve shall be returned immediately to the department by the  
28 person or organization to whom the plates were originally issued.

29 \* Sec. 2. AS 28.10.181 is amended by adding a new subsection to read:

1 (1) STREET RODS. An automobile manufactured in the United States  
2 prior to 1959 and subsequently modified may be considered a street rod.  
3 The owner of a street rod may make an application for a special street  
4 rod registration plate. The department, when satisfied that the vehicle  
5 meets the requirements for a street rod registration under regulations  
6 adopted by the commissioner, shall register the vehicle and issue two  
7 permanent registration plates of distinctive design and color and  
8 bearing no date. These plates shall remain with the vehicle as long as  
9 it is registered under this subsection. Vehicles qualifying for regis-  
10 tration under this subsection shall be issued registration plates  
11 numbered in a separate numerical series beginning with "STREET ROD  
12 No. 1". The letters and numbers on these registration plates shall be  
13 in yellow on a blue background. In addition, the plates shall have dis-  
14 played on them the words "NORTH TO THE FUTURE".

15 \* Sec. 3. AS 28.10.421(d) is amended by adding a new paragraph to read:

16 (13) a street rod (one time only upon initial registration  
17 under AS 28.10.181).....\$20.

18 \* Sec. 4. This Act takes effect January 1, 1982.  
19  
20

21 WHY SHOULD THESE PLATES ~~BE~~ HAVE  
22 A ONE-TIME REGISTRATION FEE?

23 HOW ABOUT ESTABLISHING PLATES BUT  
24 CONTINUING REGISTRATION FEE?

25 WHAT IS FISCAL IMPACT?

26  
27 HOW ABOUT CONTINUING REGISTRATION FEE  
28 UNTIL VEHICLE IS 30 YEARS OLD, (LIKE HISTORICAL  
29 VEHICLES) AT WHICH TIME REGISTRATION IS FREE..  
SB 512

**CORRECTION**

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Introduced 4/24/81  
Referred: State Affairs and  
Judiciary

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8 bearing no date. These plates shall remain with the vehicle as long as  
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11 numbered in a separate numerical series beginning with "STREET ROD  
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17 under AS 28.10.181).....\$20.

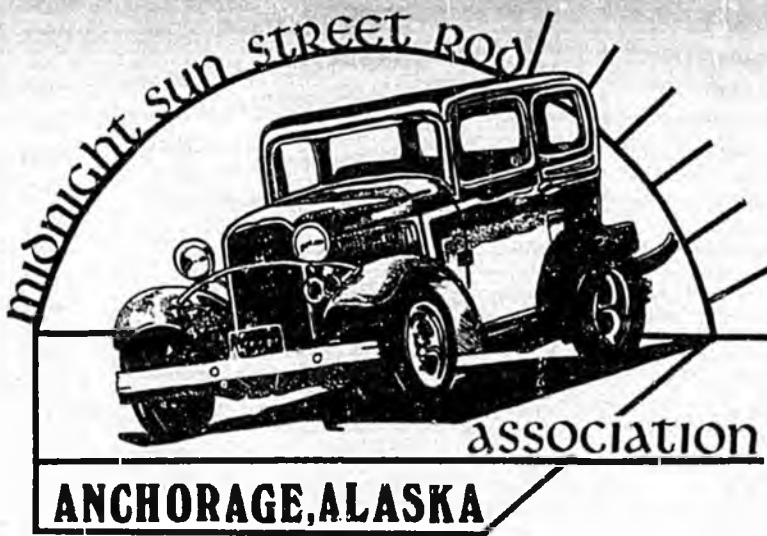
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19  
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29 HOW ABOUT CONTINUING REGISTRATION FEE  
UNTIL VEHICLE IS 30 YEARS OLD, (LIKE HISTORICAL  
VEHICLES) AT WHICH TIME REGISTRATION IS FREE,  
SB 512



January 4, 1982  
P.O. Box 4-2061  
Anchorage, Ak 99509

Honorable Senator Patrick Rodey:  
Pouch V  
Juneau, Ak 99811

Dear Senator Rodey:

After discussing a bill for a Street Rod license plate with the former Senator Bill Sumner and the Department of Public Safety, we submitted a bill to Senator Sumner to introduce to the Legislature in 1980. His bill writers changed the bill to its present form, which is unacceptable. We contacted Senator Bradley for the 1981 Legislative session, and he said he would introduce our bill. When the time came, he couldn't find the corrected version, so he reintroduced the same bill from 1980. It is still unacceptable.

We have enclosed a copy of how we want the bill to read and a package of information to tell you something about us locally and nationally. We realize that the 1982 Legislative session begins next week, but we would like to meet with you and your staff or just your staff if it isn't possible for you to attend.

Please consider this version of the bill to replace in total Senate Bill 512. We thank you for your time and consideration.

Sincerely,

*Edward W. Park*

Edward W. Park  
Chairman,  
Street Rod Legislation Committee

Enclosures

PURPOSE OF STREET ROD PLATES

- (A) To promote safety through self-policing of member vehicles.
- (B) To promote preservation of modified antiques, known as street rods.
- (C) To provide family-oriented recreation.
- (D) To provide recognition for organized automobile hobbyists.
- (E) To provide additional revenue to the State.

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AN ACT

Amending the motor vehicle code; and providing for an effective date.

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\*Section 1. AS 28.10.181(a) is amended to read:

Sec. 28.10.181. REGISTRATION OF UNIQUE AND SPECIAL VEHICLES AND VEHICLES USED FOR SPECIAL PURPOSES. (a) The department shall register unique and special vehicles and vehicles used for special purposes and issue registration plates as provided in this section. Notwithstanding other provisions of this chapter, registration plates issued under this section remain with the person or organization to whom they are issued when vehicle ownership is transferred or title or interest in the vehicle is assigned, except for plates issued under (b), (h), (i) and (l) of this section. Registration plates issued under this section may not be used on, or transferred to, a vehicle other than the vehicle from which the plates are issued without the approval of the department and payment of any required fees and taxes prescribed in §§421(d), 431 and 441 of this chapter; however, if the plates issued under (c), (f) and (j) of this section are transferred to a vehicle for which the registration fee is more than the fee for the vehicle from which the plates are transferred, the owner shall pay the difference between the two fees. Registration plates issued under this section to which a person is no longer entitled or the transfer of the plates to another vehicle which the department

does not approve shall be returned immediately to the department by the person or organization to whom the plates were originally issued.

\*Section 2. AS 28.10.181 is amended by adding a new subsection to read:

(1) If any modified automobile, as defined in (1.) of this subsection, at least twenty (20) years old, hereinafter referred to as a street rod, is duly registered in the State of Alaska, the owner of such street rod may make an application for a special street rod automobile plate under this subsection to be displayed on such street rod in lieu of the standard vehicle registration plate.

Upon receipt of an application for a special street rod plate on a form prescribed under this subsection, the Commissioner shall issue to such applicant a special street rod automobile plate on a permanent basis, and it shall bear the inscription "STREET ROD", and numbered in a separate numerical series beginning with No. 1. This special plate shall be issued for the applicant's use only for such automobile, and in the event of a transfer of title, the transferor shall surrender the special plate to the Commissioner. Said applicants shall, in addition to the prescribed registration validation sticker, be required to display a valid National Street Rod Association, Inc. safety inspection sticker in the lower right-hand corner of the windshield of such vehicle upon which said special plate is displayed.

(1.) modification is a major change to a vehicle that includes but is not limited to special paints (candy, pearl, flake, scallops, flames), shaved door handles, scoops, headlight changes, tail light changes, grill changes, rolled pans, wheelwell changes, engine swaps, interior changes, molded and/or filled fire wall, molded floor pan, molded and/or filled frames, filled seam, suspension changes, chopping, channeling, and sectioning.

\*Section 3. AS 28.10.421(d) is amended by adding a new subsection to read:

(12) a street rod (one time only upon initial registration under §181 of this chapter) plus the fee required for that vehicle under (b) (1) or (2) of this section.....\$20

\*Section 4. Sections 1, 2 and 3 of this Act take effect January 1, 1983.



National Street Rod Association

**DAVID MOCK**  
Alaska State Representative

8136 East 4th Avenue  
Anchorage, AK 99504

**VEHICLE**



**SAFETY DIVISION**

**TOM SNYDER**  
Alaska State Safety Inspector

SRA Box 325F  
Anchorage, AK 99507



**Edward W. Park**  
Royalty Accounting Manager

ALASKA DEPT. OF NATURAL RESOURCES  
DIVISION OF MINERALS  
& ENERGY MANAGEMENT  
555 CORDOVA STREET  
POUCH 7-005  
ANCHORAGE ALASKA 99510  
(907) 276-2653  
TELEX (090) 25-360



ANCHORAGE  
(907) 276-3646

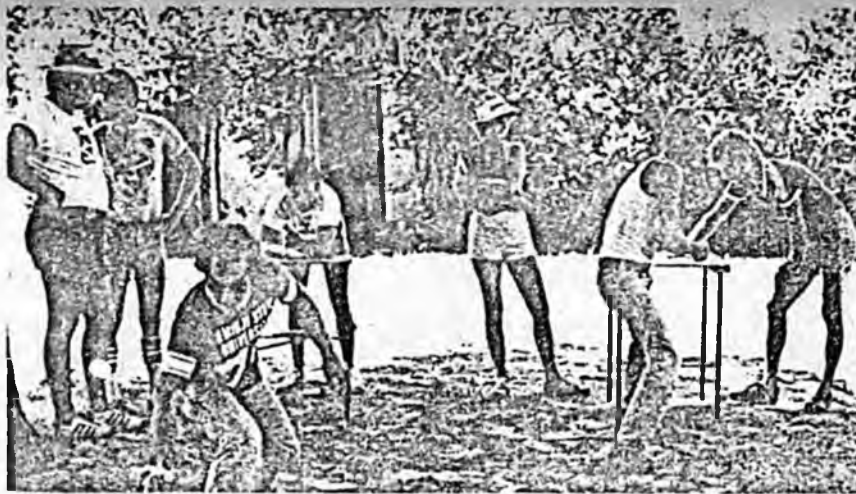
SEATTLE  
(206) 682-0630

**RONALD W. BUNN**  
APPRAISER - MANAGER

**SHORETT & RIELY**  
3201 "C" STREET, SUITE 201  
ANCHORAGE, ALASKA 99503

## CLUB ROSTER

- President - Edward Park, 41 yrs. old, Royalty Manager, Division  
of Minerals & Energy Management
- Vice President - Charles Stennette, 47 yrs. old, Supervisor,  
Civil Service, Elmendorf, AFB
- Secretary - Margaret Hendrickson, 26 yrs. old, Self Employed,  
Secretarial Service
- Treasurer - Wally Graham, 37 yrs. old, Salesman, Stack Steel
- NSRA State Representative - Dave Mock, 41 yrs. old, Major,  
National Guard, Full Time
- NSRA State Safety Inspector - Tom Snyder, 35 yrs. old,  
Engineer, Chugach Electric
- Safety Inspector - Lundy Adkins, 29 yrs. old, Auto Painter,  
Spruce Park Auto Body
- Safety Inspector - Bill Demming, 33 yrs. old, Plumber, Skoglund  
Plumbing
- Safety Inspector - Ron Bunn, 33 yrs. old Manager, Shorett &  
Riely Appraisers
- Member - Martin Borreson, 34 yrs. old, Heavy Equipment Operator,  
City of Anchorage
- Member - Linda Borreson, 34 yrs. old, Homemaker-Beautician
- Member - Ron Owsley, 33 yrs. old, Policeman, City of Anchorage
- Member - Margie Owsley, 27 yrs. old, Homemaker-Secretary
- Member - Jim Arnold, 39 yrs. old, General Foreman, City of  
Anchorage
- Member - Rob Robinson, 41 yrs. old, Warehouseman-Truck Driver,  
Gottstein
- Member - John Payne, 31 yrs old, Oil Rig Supervisor
- Member - Jack Hill, 26 yrs. old, Excavator
- Member - Jennifer Shannon, 35 yrs. old, Services, Sea-Land
- Member - Glen Whitson, 36 yrs. old, Truck Driver, Sea-Land
- Member - Wally Ray, 24 yrs. old, Truck Driver
- Member - Ross Jardine, 55 yrs. ood, Retired Civil Service
- Member - Don Wood, 34 yrs. old, Pilot, U.S. Army
- Member - Harold Rounds, 46 yrs. old, Owner, Harold's Maytag  
Appliances
- Member - Hal Hendrickson, 28 yrs. old, Security, Prudhoe Bay
- Member - Butch Novak, 31 yrs. old, Store Manager, Spenard  
Builders Supply
- Member - George Schaefer, 35 yrs. old, Owner, Portage Glacier  
Lodge
- Member - Mike Bulkeley, 35 yrs. old, Upholsterer, Reeve Aleutian  
Airlines
- Member - Tom Kindred, 23 yrs. old, Mechanic
- Member - Chuck Lyons, 40 yrs. old, Warehouse Supervisor, North  
Slope
- Member - Lois Adkins, 27 yrs. old, Homemaker-Title Search,  
Safeco Title Company



Scenes from the 1980 National Street Rod Association Nationals.

# WHAT IS NSRA?

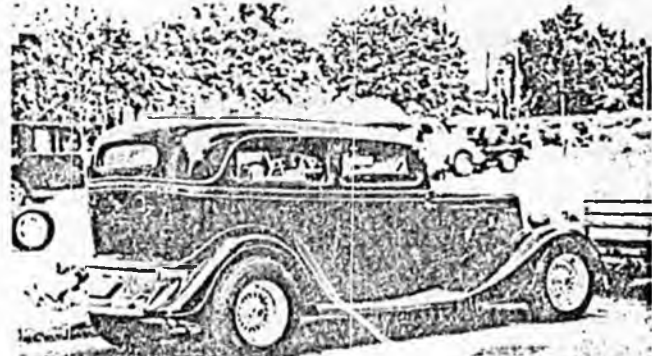
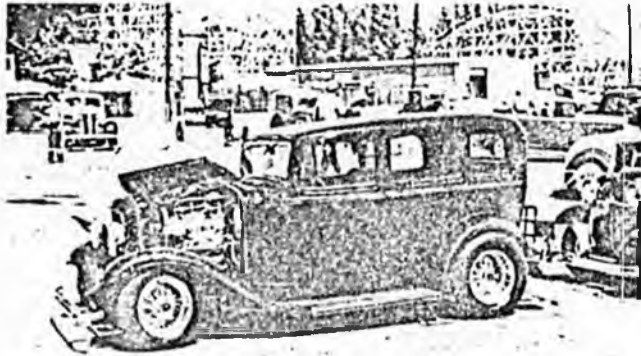
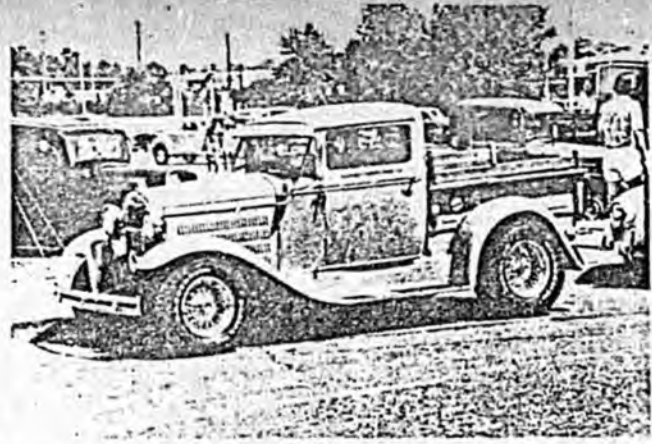


by Joe Mayall, Editor  
StreetScene Magazine

NSRA is the National Street Rod Association. Our slogan for the 80's is: "We put the FUN in FUN WITH CARS". But we are more than just a name and some catchy slogans. NSRA represents the fast growing sport of street rodding, and the people that enjoy it. NSRA is the organizing body that made the sport what it is today, and it

is the reason the growth of street rodding has continued at a steady pace since the association was founded in 1970. The NSRA has enjoyed its growth and prospered, while other similar organizations have tried and failed. NSRA is a solid association, begun on a strong footing and building on a strengthening reputation of service to its members. We provide leadership, guidance, and fun events for enthusiasts who favor driving their specialty cars wherever and whenever they want to. Membership in the National

Street Rod Association exceeded 21,000 members before the association's tenth anniversary last year, and the rate of growth improve's each month. (Membership is now approaching 23,000). We grow because street rodders see what we do, like it, and tell other street rodders about it. NSRA is an organization working for you: in areas of contesting unreasonable motor vehicle legislation which adversely affects the car hobbyist; as an industry liaison; as a car club organizer/helper; and we publish the only news



Just a few of the hundreds of cars at the NSRA Nationals.

monthly magazine in street rodding so that you can be a better informed street rodder. NSRA has a network of state representatives, all street rodders, to assist on a local level and a highly respected vehicle safety inspection program.

On the legislative front, NSRA officials have had great success in getting street rods designated as special interest vehicles needing special considerations. In several states a "Street Rod" license plate is now available and the legislation that brought them into being has given the vehicles a classification of their own so that they can easily be exempted from laws and requirements designed for the masses. The NSRA Vehicle Safety Inspection program has been an important factor in getting such legislation approved, as through it we are showing a genuine interest in "self policing" which is appreciated by law makers and law enforcement agencies.

One of the National Street Rod Association's primary goals was realized in 1980 when a workable Street Rod Insurance program went into effect. Insuring a multi-thousand dollar, modified vintage

automobile had been an insurmountable task for street rodders across the country, but now a complete policy for their cars is available to members of NSRA. The best part about this all-risk insurance is that it is for the full declared value of the vehicle and the carrier is in full understanding of what a street rod is, and is not.

The fun part of NSRA comes in the form of activities. The premier event in all of street rodding is the

NSRA Street Rod Nationals, the world's largest automotive participation event. The Nationals are the backbone of the sport, and nearly 33,000 pre-1949 manufacture street rods have participated in the first 11 years of this event. The Nationals are supplemented with four regional Nationals in the east, south, west and north and a series of Mini-Nats that expands each year to bring the NSRA type

Continued on page 91

### STREETSCENE/NSRA MEMBERSHIP APPLICATION

Mail directly to

### NATIONAL STREET ROD ASSOCIATION

3041 Getwell #103

Memphis, TN 38118 901/362-8352

- One year, \$13
- Two years, \$25  
(Outside the U.S. add \$3 per year)
- Lifetime Membership, \$225
- Check here only if you are renewing

**CHARGE IT!** Please bill my account

number: to VISA®

Account # \_\_\_\_\_

Expiration Date \_\_\_\_\_

Signature (required for credit card users)

I'm with you! I want to support the street rodding sport, so I'm joining NSRA. Enclosed is the correct amount: Start my StreetScene subscription at once, and send me my decals and official membership card.

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State \_\_\_\_\_ ZIP \_\_\_\_\_



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**NSRA** Continued from page 85  
of activity to even more parts of the U.S. The NSRA events are a combination of driving and non-driving games, manufacturers displays and special attractions for participants of all ages and interests. Like the sport itself, NSRA events are geared to family entertainment with something to interest every member of a street rodding family.

NSRA's monthly publication, **StreetScene**, is produced exclusively for the members. Each month **StreetScene** is loaded with information about legislative matters that can effect the sport, reports on rod runs, technical articles, stories about the manufacturers and suppliers and interesting regular columns that are meant to entertain while being informative. There is a free buy-sell-trade section and the most complete listing of coming events to be found anywhere. **StreetScene** is also one of the best source guides for the suppliers of parts and services, as these companies are regular advertisers because they know they will reach the truly active street rodder. Many members feel **StreetScene** magazine is worth more than the annual membership fee, yet it is supplied with each membership.

The National Street Rod Association was founded by street rodders, and it is an association for street rodders. While every staff member of NSRA is a skilled professional in his/her duties, they are also active street rodders, enjoying the sport to the fullest.

That's what NSRA is. An organization interested in street rodding and street rodders. We're here, helping even if you are not a member. But, we can do more for you if you are a member.

There is a membership application in this edition of **Hot Rod Show World**. Use it to join, and you will find that when you become a part of NSRA, the NSRA will become a part of you. If you need any additional information about NSRA, write: National Street Rod Association, 3041 Getwell #103, Memphis, TN 38118, or phone: 901/362-8352.

# Thousands enjoy Midnight Sun's Show and Shine in Anchorage

by Ed Park

Rain, rain, rain! It seemed to do nothing but rain in Anchorage last year. But Alas, the weatherman knew the Second Annual Anchorage Automobile Show and Shine was scheduled for Saturday, July 19th, so the sun was out in all its glory.

The beautiful, hot, sunny day of 75 degrees brought out 140 cars and several thousand spectators to enjoy a nice summer day looking at cars and talking about cars. The show was held on Park Strip and was hosted by the Midnight Sun Street Rod Association.

All Anchorage area car clubs were invited to participate, and everyone had a good time. It was evident that this annual show had become the premier car show of the summer season in Alaska.

In line with its casual atmosphere, the show had no official judging, just fun type awards. In addition to the People's Choice and Mayor's Choice awards given in 1979, two new ones were added for the 1980 show, the Ugly Car award and the Nakoyia Residents' Choice. For People's Choice, sponsored by the Anchorage Corvette As-

sociation, the honor went to a 1928 Dodge antique. The mayor's executive assistant, Joe Fouts, picked the 1954 Ford F-100 custom owned by Terry Defour for Mayor's Choice, while the ugliest car award went to a city fireman and his beat up VW Beetle. Marcus "In the Morning" of Radio Station KFQD sponsored the latter award.

The Nakoyia Health Care Center of Anchorage has a group of car crazy paraplegics, and 15 of them came to the show and chose the car they liked best for the Nakoyia Choice, a 1967 Jaguar coupe owned by Tom Snyder.

Everyone had a fantastic time at the Anchorage show in 1980, and all of you in the lower forty-eight, plus Hawaii, are invited to come and join us in 1981. Look for this year's date to be listed soon in the coming events section.



MSSRA member, Tom Snyder, won the Nakoyia Residents' Choice with his '67 Jag. Tom is NSRA Safety Inspector for Alaska.



Dodge Brothers sedan, built circa 1928, won out over all other cars in the People's Choice balloting.



No doubt about the best unfinished car at the Anchorage Show. It had to be MSSRA member Rob Robinson's 1940 Merc. Send us a photo when it's finished, Bob.



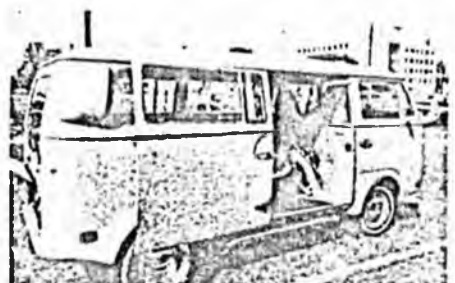
The mayor let his executive assistant do the picking for Mayor's Choice, and Joe Fouts picked this '54 F-100 owned by Terry Defour.



No show is complete without one of the "hot ones." Mark Lewis owns this '57 Chevy Bel Air, so he has every right to lean on it.



This stubby little vehicle is a 1934 Ford pickup, one of the 140 interesting rods at the 1980 Anchorage Show.



What they won't do to a VW bus! This one sports a twin turbocharged 289 ci Ford.



Here's a 1966 Porsche 912 with a 215 hp 215 ci aluminum Olds engine for power.



## Street rod plate for Wheat State rodders

*Kansas House Bill No. 2088 signed by Gov. Carlin*

When Governor Carlin of Kansas signed into law House Bill No. 2088 last April 2nd, that state became the ninth one to give special recognition to street rods.

Chuck Millhuff of Olathe, Kansas, NSRA Chaplain, head of Millhuff Ministries, and active street rodder (he drives a super clean 1940 Chevy), worked out most of the details and did most of the legwork in getting the bill up through the state legislature.

Kansas has had a law on its books for some time now recognizing special interest vehicles, and the new bill establishes the street rod as a category within the special interest vehicle classification. So the new plates will still show "Special Interest" but will have the words "Street Rod" embossed on the lower portion of the plate between the bolt holes.

Street rodders who already have their street rods registered as special interest vehicles will be able to turn them in for replacement plates. The initial cost for the special plate is \$40, \$20 of which is the annual fee and \$20 of which is an original first time only, processing fee. Applicants must also own and have registered one or more vehicles which are used for regular transportation.

The new Kansas law became effective July 1, 1981 and the new plates are expected to become available later this year.

Other states which have passed special legislation for street rods include Colorado, Delaware, Idaho, Louisiana, Maine, Minnesota, Tennessee and Wisconsin. Several other states have such legislation under consideration.

The complete text of the Kansas bill: AN ACT concerning registration of vehicles; street rod vehicles; amending K.S.A. 8-195 and 1-196 and K.S.A. 1980 Supp. 8-194 and repealing the existing sections. *Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1980 Supp. 8-194 is hereby amended to read as follows: 8-194. As used in this act: (a) "Collector" means the owner of one or more special interest vehicles or street rod vehicles who acquires, collects, purchases, trades or disposes of such vehicles or parts therefore for such person's own use in order to restore, preserve and maintain such vehicle or vehicles for historic interest.

(b) "Parts car" means a motor vehicle generally in nonoperable condition which is owned by a collector to furnish parts which will enable the collector to restore, preserve and maintain a special interest vehicle, street rod vehicle or antique vehicle.

(c) "Special interest vehicle" means a motor vehicle which is more than 20 years of age and which has not been altered or

specifications except to assure normal running operation or to meet specific safety inspection requirements on original equipment, or both. "Special interest vehicle" shall also mean and include a motor vehicle manufactured before 1949 that when altered or modified is referred to as a "street rod."

Sec. 2. K.S.A. 8-195 is hereby amended to read as follows: 8-195. (a) Any person who is the owner of a special interest vehicle or street rod vehicle at the time of making application for registration or transfer of title of the vehicle may upon application register the same as a special interest vehicle or street rod vehicle upon payment of an annual fee of \$20 and be furnished each year upon the payment of such fee license plates of a distinctive design in lieu of the usual license plates which shall show in addition to the identification number, that the vehicle is a special interest vehicle or that the vehicle is a special interest vehicle and it meets the qualifications of a street rod, as the case may be, owned by a Kansas collector. The registration shall be valid for one year and may be renewed by payment of such annual fee. Special interest vehicles, including street rod vehicles may be used as are other vehicles of the same type; except that special interest vehicles including street rod vehicles may not transport passengers for hire, nor haul material weighing more than 500 pounds.

(b) Each collector applying for special interest vehicle or street rod vehicle license plates will be issued a collector's identification number which will appear on each plate. Second and all subsequent registrations under this section by the same collector will bear the same collector's identification number followed by a suffix letter for vehicle identification.

(c) A collector must own and have registered one or more vehicles with regular license plates which are used for regular transportation.

Sec. 3. K.S.A. 8-196 is hereby amended to read as follows: 8-196. In addition to the fee in K.S.A. 8-195, as amended, there shall be an original (first time only) processing fee of \$20 to defray the cost of issuing the original collector's special interest vehicle license plates or special interest vehicles with street rod designation license plates and to ensure that each collector will be issued only one collector's identification number.

Sec. 4. K.S.A. 8-195 and 8-196 and K.S.A. 1980 Supp. 8-194 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

you and  
the law

New law includes ID  
and title provisions

## Street rod plate for Colorado

On May 6th Colorado became the eighth state to pass legislation calling for a street rod license plate. The new law, which goes into effect next January 1st, also includes a special provision for the assignment of identification numbers and the issuance of titles to street rods.

The Colorado law defines a street rod as a vehicle manufactured in 1948 or before and subsequently modified for safe road use. The new plates, expected to appear on the streets during the 1982 rod season, will bear the words "Street Rod," but the final design is being left up to the executive director of the Department of Revenue, Motor Vehicle Division.

The unique identification provision allows the motor vehicle department to accept the serial number on the vehicle-- if there is such an ID number. If there is no such number, however, a title will be issued showing the model and year which the "body of such vehicle resembles." A special ID number would be issued by the department. This procedure would be used for titling vehicles reconstructed from salvage parts, other vehicles, or reproduction parts. In effect, a Colorado street rod will no longer be titled as a 1981 (for instance) handbuilt, but rather as the specific model and year it resembles.

The hard work that went into the new law started early last fall when Colorado's NSRA representatives issued a call for all interested street rodders and car clubs to attend a special meeting on a proposal for street rod license plates. Discussion was held as to whether street rodders did indeed want street rod plates, what years should be included, and so forth. Several ideas and suggestions were proposed, doubts and concerns were offered for thought, and a second meeting was scheduled.

At that second meeting the homework had been completed by the NSRA officials. Several pieces of legislation drafts, bills, and state laws from other states were reviewed, reexamined, and restudied to determine what provisions among them would be good for Colorado street rodders, and what provisions would be un-

necessary.

At the third meeting the street rod bill had been drafted and the respective sponsors from the Senate and the House of Representatives had been determined. A few months later the law was on the books of the State of Colorado.

Much of the credit for the bill's passage goes to the street rodders, car clubs, and NSRA representatives in Colorado, notably to Wayne and Pam Taylor, and especially to Quentin Sonnenfeld, Colorado NSRA rep, for their outstanding work.

Other states which have passed special legislation for street rods include Idaho, Delaware, Louisiana, Maine, Minnesota, Tennessee and Wisconsin. Several other states have such legislation under consideration.

The complete text of the Colorado bill:

SECTION 1. 42-3-112.1 (3), Colorado Revised Statutes 1973, as amended, is amended and the said 42-3-112.1 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-3-112.1. *Issuance of personalized plates authorized.* (2.5) (a) "Personalized license plates", as used in this section, includes special license plates which bear the words "street rod" and which may be issued only to a street rod vehicle.

(b) "Street rod vehicle", as used in this section, means

a vehicle manufactured in 1948 or earlier with a body design which has been modified for safe road use, including, but not limited to, modifications to the drive train, suspension, and brake system, modifications to the body through the use of materials such as steel or fiberglass, and any other safety or comfort features.

(3) The personalized license plates shall be the same color and design as regular motor vehicle license plates, shall consist of numbers or letters, or any combination thereof, not exceeding six positions and not less than two positions, and shall not conflict with existing passenger, commercial, trailers, motorcycle, or other special license plate series; EXCEPT THAT PERSONALIZED LICENSE PLATES BEARING THE WORDS "STREET ROD" SHALL BE OF A DESIGN DETERMINED BY THE EX-

ECUTIVE DIRECTOR OF THE DEPARTMENT WHICH DESIGN SHALL BE DIFFERENT FROM THOSE USED BY THE STATE FOR REGULAR MOTOR VEHICLE LICENSE PLATES.

SECTION 2. 42-6-102. Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-6-102. *Definitions.* (11.5) "Street rod vehicle" means

a vehicle manufactured in 1948 or earlier with a body design which has been modified for safe road use, including, but not limited to, modifications of the drivetrain, suspension, and brake systems modifications to the body through the use of materials such as steel or fiberglass, and any other safety or comfort features.

SECTION 3. Part 1 of article 6 of title 42 Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-6-107.5. *Identification number-title-street rod vehicles.* (1) When application is made to the state for a certificate of title for a street rod vehicle, the department shall accept the serial number of such street rod vehicle as its identification number or issue a special identification number as provided in subsection (2) of this section.

(2) Any applicant who applies for a certificate of title for a street rod vehicle that is reconstructed from salvage parts or other motor vehicles or reproduction parts must furnish evidence of ownership, acceptable to the director, of such salvage parts, other motor vehicles, or reproduction components used in reconstruction of such vehicle. In addition, the applicant must also furnish an affidavit stating the facts concerning the reconstruction and affidavit of physical inspection. Such vehicle reconstructed from salvage parts, other motor vehicles, or reproduction parts shall be issued a special identification number from the department. The street rod vehicle will then be titled either as a rebuilt as applicable of design or modified body design.

(3) The year of manufacture which is listed on the certificate of title of a street rod vehicle shall be the model year which the body of such vehicle resembles.

SECTION 4. *Effective date.* This act shall take effect January 1, 1982.

SECTION 5. *Safety clause.* The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

(Ed. note: The above story is based on information provided by NSRA Northwest Division Director Jerry Kennedy, to whom StreetScene expresses its appreciation).

STREETSCENE JULY 1981

you and  
the law

Bill signed into  
law March 30th

## Idaho gets street rod license plate



Idaho's Gov. John V. Evans signs into law House Bill 231, which provides street rodders in that state with a special street rod plate. Looking on, left to right, Ray Parsons, Mel Eggleston and Bill Batchelor, all members of United Street Rods of Idaho, a statewide club devoted to street rod safety and chief promoters of the bill.

Idaho, the state that's more famous for its potatoes than its street rods, now has a street rod license plate.

Gov. John Evans signed into law last March 30th the bill which had been introduced into the House Transportation Committee by Rep. James Golder of Boise and into the State Senate by Ron Beitel-spacher of Grangeville.

As early as September 1979, members of several clubs in Idaho had banded together and formed the United Street Rods of Idaho to promote safety in street rodding and to press for a street rod plate.

The law places very few restrictions on street rods, defining them as "any modernized motor vehicle manufactured prior to the year 1949, or designed and manufactured to resemble such a vehicle." The vehicle must have passed the National Street Rod Association's safety inspection, and the applicant must be a member of the United Street Rods of Idaho.

The new plates will be black with silver letters and will bear the inscriptions "Street Rod" and "Idaho" and, unlike street rod plates in other states, will show the image of a 1929 highboy roadster. Plates will cost the applicant a one-time fee of \$10, plus the annual registration fees

normally charged under the Idaho statutes. The owner of the vehicle must surrender the plate when he sells or relinquishes ownership of the car.

Getting Idaho's street rod law onto the books proved relatively simple, once the street rodders had done their selling job. The House passed the bill with a substantial margin of 47-18 while the Senate vote was even better, 29-0. The Department of Transportation's fears about financing the special plate were alleviated when it became convinced the \$10 fee would cover the cost of production.

That production should start very soon, and it's possible you'll see the new plate on the streets within the next few months. Some 300 or more Idaho street rodders will be eligible for the new plates.

Idaho is the seventh state to pass legislation calling for special recognition for street rods. The others are: Delaware, Louisiana, Maine, Minnesota, Tennessee and Wisconsin.

The complete text of new Section 49-217 of the Idaho Code is as follows:

49-217. STREET ROD PLATES. (1) Any modernized motor vehicle manufactured prior to the year 1949, or designed and manufactured to resemble such a vehicle

and which has been certified as a street rod by an inspector of the United Street Rods of Idaho, may be registered as a street rod under the provisions of this section.

(2) Any street rod shall have all equipment in operating condition which was specifically required by law as a condition for its first sale after manufacture. No law requiring any particular equipment or specifying any standards to be met by motor vehicles shall apply to street rods unless it so specifically states.

(3) Upon receipt of an application on a form prescribed by the director of the department of law enforcement for special street rod automobile plates, accompanied by other documentation required by this section, the director shall issue to the applicant special street rod automobile plates. The registration certificate need not specify the weight of the street rod, and the plates issued shall bear no date but shall bear the inscription "Street Rod," "Idaho," a picture of a 1929 highboy roadster, and the registration number issued for the street rod, and the plates shall be valid upon yearly renewal as long as the vehicle is in existence. The plates will be issued for the applicant's use only for the particular vehicle, and in the event of a transfer of title, the transferer must surrender the plates for the transfer.

(4) In addition to the annual registration fees levied in sections 49-126 and 49-127, Idaho Code, a one (1) time fee for the plates shall be ten dollars (\$10.00), which ten dollars (\$10.00) shall be paid into the motor vehicle account.

(5) Applicants shall, along with the application for annual registration, provide satisfactory proof that the street rod and its owner are registered in the United Street Rods of Idaho, and satisfactory proof of passage of a safety inspection for the vehicle and possession of a valid National Street Rod Association safety inspection sticker to be applied in the lower right-hand corner of the windshield of the vehicle upon which the special plates are to be displayed. The inspection may be accomplished in accordance with a safety inspection form supplied by the National Street Rod Association, by designated National Street Rod Association inspectors.

(6) The director has the power to revoke any registration issued under this section for cause shown for failure of the applicant to comply with the provisions of this section. A violation of the registration provisions of this section shall be a misdemeanor and punishable as provided in section 18-113, Idaho Code.

*(Ed. note: If you or your club would like more information on Idaho House Bill 231, write to Mel Eggleston, 2165 Bruneau Dr., Boise, Idaho 83709.)*

STREETSCENE JUNE 1981



# NATIONAL STREET ROD ASSOCIATION VEHICLE SAFETY INSPECTION



The National Street Rod Association vehicle safety inspection is valid until expiration date\* shown below, unless voided by modifications or deterioration of any system components. A new inspection can be requested at any time and is recommended if modifications are made to the vehicle or any of its components. Certification sticker is not transferable.

Owner: \_\_\_\_\_ Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Make of Vehicle: \_\_\_\_\_ Year: \_\_\_\_\_ Body Style: \_\_\_\_\_

NSRA Membership Number: \_\_\_\_\_ License Number \_\_\_\_\_

**REQUIRED EQUIPMENT:**

1.  HORN: Electric only.
2.  SPEED INDICATOR: Speedometer or calibrated tachometer at 55 mph.
3.  REAR VIEW MIRROR: One inside or outside on driver's side of vehicle.
4.  GLASS: Must be safety plate.
5.  LIGHTING: \_\_\_\_\_ Hi-beam; \_\_\_\_\_ low-beam; \_\_\_\_\_ tail; \_\_\_\_\_ brake; \_\_\_\_\_ license;
6.  WINDSHIELD WIPER: Electric or vacuum operated.
7.  AUTOMATIC TRANSMISSION LOCKOUT: Neutral and/or park start only.
8.  TIRES: Minimum 3/32 tread acceptable. Must meet D.O.T. specifications.
9.  STEERING: No excessive "play" (2" radius max.) or binding; system must be safely mounted.
10.  THROTTLE LINKAGE: Must not travel past center, return spring required.
11.  FUEL SYSTEM: CHECK VENT ON TRUNK AND INTERIOR MOUNTED TANKS, no clear, plastic lines allowed. No leaks.
12.  EXHAUST SYSTEM: NO LEAKS, Must pass rear edge of front door and exit exhaust away from vehicle.
13.  SELF-ALIGNING ROD END BEARINGS: Check for fractures, insert sloppiness or binding.
14.  SHOCK ABSORBERS: One per wheel, no leaks, 2" travel in each direction.
15.  BRAKES: Four-wheel brakes, no leaks, check brake pedal travel, no copper tubing, check length of flexible lines.

**RECOMMENDED EQUIPMENT: Not reason for failure.**

16.  SHIFT PATTERN: Shift pattern should be visible except on 3 speed standard column shift.
17.  WINDSHIELD: Should be AS-1.
18.  SCRUB LINE: No components should be below this line.
19.  FUEL LINES: Should be safely mounted and routed.
20.  PARKING BRAKE: Should be activated independent of vehicle's primary system. LINE-LOCK is not recommended.
21.  SELF-ALIGNING ROD END BEARINGS: Ball should have 1/8 inch spacer on each side of the ball if there is any misalignment. Rod ends should not have more than 10° misalignment. ROD ENDS and 4 BAR-PARALLEL RADIUS ROD SYSTEM rubber bushed ends should have a safety washer at least the same outside diameter as the housing or larger.
22.  BRAKE LINES: Should be safely mounted and routed.
23.  CHASSIS FASTENERS: Self-locking nuts, lockwashers, safety wire, or cotter pins.

VEHICLE INSPECTION RATING     Approved     Not approved

If not approved, inspector's comments (indicated by number of item referred to):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of inspection: \_\_\_\_\_ Place \_\_\_\_\_ Division \_\_\_\_\_

Completion of the NSRA vehicle inspection warrants only that the vehicle hereon identified complies with equipment requirements recommended by the National Street Rod Association. The National Street Rod Association vehicle safety inspection is only advisory and is not to be construed as an official legal clearance, and the National Street Rod Association, its employees, officers, delegates, agents, or anyone assisting the Association assumes no responsibility for this advisory clearance.

\*This inspection expires - June 1, \_\_\_\_\_

This form must be signed by Vehicle owner \_\_\_\_\_

Inspector \_\_\_\_\_

No SF12395

EXPLANATION-DEFINITION

EXPIRATION DATE: Certification always expires on JUNE 1 of the following year. in other words the sticker becomes void on 12:01 AM, JUNE 2.

OWNER: Must be listed according to the person to whom the title of ownership is registered and on no one else. (IF DRIVER DOESN'T HAVE AN OWNERS CERTIFICATE HE MUST LEAVE THE INSPECTION LINE UNTIL HE OBTAINS IT).

AGE: Age of vehicle owner,.

STREET ADDRESS: Current residence and his/her mailing address.  
( street, city, state, zip code)

PHONE: Car owners telephone number. Optional, not required if individual prefers not to make it available. Explain that our files are kept personal and confidential.  
(DON'T FORGET AREA CODE)

MAKE OF VEHICLE: Manufacture or facimilty (Total T, re: 23 Ford).

V.I.N: Vehicle identification Number, located on registration or title of ownership, Number used to register vehicle with Department of Motor Vehicles.

YEAR: Year of vehicle manufacture, or year assigned to vehicle by DMV. EXAMPLE- 1923 T registered as 1980 Total Performance Pick-up, would be shown as 1980- 23 T on inspection forms.

BODY STYLE: Coupe, Sedan, Roadster, ETC.

NSRA MEMBERSHIP NUMBER: Car owners membership number as shown on membership card along with the expiration date (shown on card). If he/she is a new applicant, simply mark "new". NOTE: Membership in NSRA is not required for inspection of vehicle.

LICENSE NUMBER: Identifying license plate letter or number combination issued to the vehicle (i.e. 72JZWR, MY DEUCE, HOT TUB,ETC.) If vehicle being inspected is newly purchased, the last four digits of the temporary number assigned to the owner by DMV is acceptable.

CURRENT DRIVERS LICENSE NUMBER: Self-explanatory, if car owner does not have a valid current drivers license in his possession at the time of the inspection you must cease any further activity regarding the inspection of the vehicle until such time that the valid license may be produced. This is a state law in all states and behooves us to honor that requirement.

1. INSURANCE:

Question must be asked by the inspector in this procedure. "Are you currently insured? Answer will either be yes or no. If he/she answers yes, then ask "what company?" Mark the company name on the form to the right of the question. Note: The vehicle owner is not required to furnish the inspector with proof of insurance. In the event that the owner answers the question with a "no" all activity must cease. The Federal Government requires that operators of land vehicles provide "2nd party liability" in the event of a collision.

2. SPEED INDICATOR:

Speedometer in working order, or calibrated tachometer is required. This is a trust question, the word of the vehicle owner is accepted provided that one or the other of the instruments is visible. NOTE: If the vehicle has a speedometer, and there is exceptional low milage (EXAMPLE) 00039.7 miles registered on speedometer, and owner lives 127 mile from the road run where vehicle is being inspected I would question the owner closely about this. If the vehicle has a tachometer that is being used as a

MASTER INSPECTION FORM  
EXPLANATION DEFINITION

ed indicator the tach must have a marking on the face of the tach .EXAMPLE: 2500 R.P.M  
55 m.p.h.

REAR VIEW MIRRORS:

Two required, one inside, one outside. Exception to the rule would be as follows.  
lically chopped roof on a vehicle or, a vehicle with blanked rear windows on the rear  
arter panels. EXAMPLE- a 2door sedan converted to a sedan delivery, or an original manu-  
ctured delivery.

SHIFT PATTERN:

Shift pattern must be visible within the area of the shifter lever. A plate such as  
dash plaque permanently affixed to the dash, floor, steering column, etc.

CEPTION TO THE SHIFT PATTERN RULE:

If the vehicle being inspected is equipped with a standard column shifter , and that  
ift lever is connected to a 3speed standard shift transmission there is no need for a  
ift pattern. NOTE: Always check this type of vehicle using the column shifter because  
ese shifters are very often connected to a late model automatic transmission. If the  
hicle is using an automatic transmission connected to the column shifter it will then  
eed a shift pattern. The same principle applies to the original type floor mounted shifter

GLASS:

Automotive safety glazing is usually marked with the manufactures trade make and  
he letters "AS" followed by a number from 1 thru 11. AS1 and/or LEXON (LEXON supersedes  
11 AS glass standards- is aircraft quality) may be used in the windshield and AS2 and/or  
EXON for the rest (sides and rear).

OTE: In soft top convertibles AS1- 2--4- 6- 10\*- or 11\* is acceptable. Check in the  
uidance section of this manual for futher information.

IMPORTANT NOTE:

If the vehicle being inspected doen't have any markings on the glass please use our  
glazing card to check the quality of the glass.

GLAZING CARD INSTRUCTIONS:

1. Hold the glazing card with the long... edge against the windshield. (PLATE)
2. With the bottom of the card against the windshield , hold the top of the card away  
so that the card is now at a 45 degree angle to the glass. make sure the bottom of the  
card is parrelel with the bottom of the windshield frame.
3. Stand at a 45 degree angle to the glass you are inspecting and look down into  
the reflection of the card that appears in the glass at a 45 degree angle.
4. If the line in the reflection passes thru  $\frac{1}{4}$  " or better the glass is AS1 or better  
If the line in the reflection passes thru  $\frac{3}{16}$ " or better it is AS2.

AS1-  $\frac{1}{4}$ " or more on the PLATE SIDE against the glass.

AS2  $\frac{3}{16}$  or more up to  $\frac{1}{4}$ " PLATE SIDE against glass.

6. LIGHTING:

All headlights must have a switch (dimmer etc.) which will lower and raise the  
candlepower of the headlights. Low beam must be strong enough to see approximately  
200 ft. while driving at night. All vehicles must have tail lights, brake lights, and  
license plate light.

NOTE: NSRA Vehicle Inspection has dropped all headlight height requirements.  
This was done because the safety factor of headlights are 1. do they both work together

2. can you see where you are driving at night time.

MASTER INSPECTION FORM  
EXPLANATION-DEFINITION

7. WINDSHIELD WIPER:

All vehicles must have a minimum of one operable wiper. Hand operated wiper(s) will be acceptable, but only if the vehicle was manufactured thusly such as a T-roadster coupe, etc. The operation of the windshield wiper(s) shall be controlled by the driver from within the vehicle.

8. AUTOMATIC TRANSMISSION LOCKOUT:

Required, no exceptions. All vehicles with automatic transmissions must be equipped with a foolproof device. Vehicle must start with the shifter in "PARK" or "NEUTRAL" position. In the case of the early Torqueflite (Chrysler) push-button transmissions no "PARK" position was included, so a neutral only engine start is acceptable. A separate park switch is recommended, and should be brought to the owners attention.

RE: Guidance section

9. TIRES:

D.O.T. (Department of Transportation) specifications required. D.O.T. requires manufactures to market only tires which carry D.O.T. inspection identification. Because of the limited amount of use some street rods get, there are vehicles with tires that were bought before the D.O.T. inspection requirements. Therefore if the tires have a minimum of 3/32" tread or more remaining and if the tires are not labeled "NOT FOR HIGHWAY USE" "FOR FARM USE ONLY", "FOR RACING PURPOSE ONLY", or similar legend the tires are acceptable. Slicks are not acceptable.

RE: Guidance section.

10. SCRUB LINE:

SHEET METAL AND EXHAUST IS NOT REASON FOR REJECTION IN THE SCRUB LINE.

On both the front and rear suspension of a vehicle draw a line with a string(etc) from the bottom of the wheel rim on one side to the bottom of the tire on the other side. (DO THIS TO BOTH SIDES). These two lines will make an X under the front and rear suspension of the vehicle. If any part of the suspension, or chassis components are below the top portion of the X the vehicle will not pass the VEHICLE INSPECTION. When checking the scrub line from front to rear (DO NOT) pass a vehicle that has crossmembers etc. below the line that is to the bottom of the wheel rims.

RE: Guidance section.

11. STEERING:

No excessive play.. two inches will be allowed and no more. The steering box, and steering column must be mounted in a safe and secure manner as to have no extra flex or movement when pressure is applied to the system when making a right or left turn. The steering system cannot have any bind in it or come in contact with the tires, headers, etc when turned to the extreme right or left.

12. THROTTLE LINKAGE:

Every vehicle shall be equipped with an accelerator control system which returns the vehicle throttle to an idle position when the driver removes the actuating force (generally the foot) from the accelerator control position (gas pedal). Check to be sure the linkage doesn't travel past center of the carburetor in a fully depressed position.

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Linkage must be securely attached. If vehicle is equipped with cruise control the device must not interfere with the normal operation of the throttle linkage. Check the accelerator pedal to determine how secure it is mounted and that there are no abstractions that would cause it to stick in the full throttle position.

13. FUEL SYSTEM:

The fuel system has been broken into two inspection procedures.

FUEL SYSTEM-A- consists of checking the fuel system that is under the hood. Check to make sure all lines, or hoses are securely fastened, and there is no leaks. Check to make sure that no lines are close to any exhaust system components which has extreme operating temperatures, or that the lines don't interfere with the safe operation of the vehicle. If you should inspect a vehicle that has a plastic neoprene fuel line (DO NOT APPROVE THE VEHICLE). This plastic neoprene line will deteriorate very quickly and when this happens the fuel pump will pump raw fuel onto the engine compartment, and could cause the vehicle and it's passengers to be destroyed especially when an electric fuel pump is being used.

FUEL SYSTEM-B- Consists of checking the fuel system from the firewall to the fuel tank. All fuel system components such as tank, tubing, hoses, clamps etc. must be securely fastened. FUEL TANK if located inside the trunk area of the vehicle must be vented to the outside of the vehicle, and have a sealed inlet cap. Make sure that you check the venting of the fuel system on the popular T-Buckets which 99.40% are installed in the bed area along with the battery. Also in the roadster vehicles, if the tank is installed in the rumble seat area and the rumble area is used to carry passengers this is reason for failure. In the event of an accident while passengers are in this compartment the results of injury to these passengers would possibly be fatal.

RE: Guidance section.

14. EXHAUST SYSTEM:

The Exhaust System is another area which has been broken into two inspection areas.

EXHAUST SYSTEM-A- Consists of inspecting the exhaust components under the hood. (MOTOR AREA) Check to make sure the exhaust manifolds, or headers are not leaking exhaust fumes into the engine compartment. Make sure the exhaust system doesn't interfere with the safe operation of the vehicle. EXAMPLE- steering etc. NO OPEN ALLOWED. NO EXCEPTION

EXHAUST SYSTEM-B- Consists of checking the routing and mounting of the exhaust pipes. Pipes must not have sloppy fitting connections. This will allow the fumes to escape and be forced into the passenger carrying compartment by the vacuum under the vehicle when traveling on the highways.

TAILPIPE EXIT: The tailpipes of the vehicle must be mounted so that the exhaust is omitted away from the vehicle either to the side, or to the rear in a fashion that the exhaust fumes are not trapped under the chassis at highway speeds. Tailpipes can not end before the passenger carrying compartment.

EXAMPLES: sedan-pipes run under the chassis must go to the side and away from the vehicle. sedan- pipes run under the chassis and cannot stop short of the people carrying compartment. In other words the sedans exhaust under the chassis must not stop short of the rear seat. In the case of the swinger rears that the exhaust is stopped under the center carrier the exhaust pipes must have turn down ends as long as they pass the passenger carrying compartment. Exhaust system cannot enter the passenger carrying compartment of the vehicle.

15. EMERGENCY BRAKE:

Line Loc is not acceptable because it uses the primary systems. Any separate system that is so designed that when once applied they will remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The parking brake shall be equipped to operate on the rear axle. WHEN CHECKING PARKING BRAKE VEHICLE MUST BE PUT IN DRIVE AND THE BRAKE MUST KEEP THE VEHICLE FOR MOVING AT AN IDLE.

MASTER INSPECTION FORM  
EXPLANATION-DEFINITION

16. SELF-ALIGNING ROD END BEARINGS-(HEIM ,ETC)  
4BAR PARALLEL RADIUS ROD SYSTEMS.

All rod end bearings that have any misalignment must have a 1/8" (minimum) spacer on each side of the ball, 1/4" is better and preferred. In addition there must be a safety washer against the spacer and a locking nut and/or lock washer securing the bolt holding the ball in place.

RE: Guidance section.

Maximum 10 degree misalignment allowed, but if the rod end doesn't have any misalignment at all in it's travel to its most negative or positive point the rod end will not require the 1/8 or 1/4" spacer. Never the less the safety washer and locking nut or lock washer and nut will still be required. Also check for cracks in the housings, and wear on inserts. This check on the master sheet and group sheet will also include a check on tie-rod ends. If tie-rod ends have excessive movement and/or cracked housings this will also be cause for rejection.

NSRA VEHICLE INSPECTION PROGRAM will not pass any vehicle that has a ROD-END BEARING that appears to look like a Tie Rod end. This rod end has no way of being secured if the tapered stud should come out of the housing.

(ACTUAL TIE ROD ENDS ARE APPARENTLY OK)

4 bar parallel radius rod systems:

Rubber bushed or microfle. bushed ends that fasten to the FRAME must have a safety washer at least the same outside diameter as the housing or larger.

RE: Guidance section.

17. SHOCK ABSORBERS:

One shock absorber per wheel required and must be operational.(hooked up)  
Shocks should have a 2inch plus and minus travel before bottoming out. When each corner of the vehicle is depressed and released the shock shall stop verticle motion with-in (2) cycles. This system of checking shocks will work better on cars with coil spring, or independent suspended chassis than vehicles with semi-elliptical or transverse leaf springs. Smashed or leaking shocks are cause for rejection.

18. BRAKES:

All vehicles must be equipped with hydraulic brakes acting on all fourwheels.  
NO EXCEPTIONS: All brake lines must be steel or equivalent (AIRCRAFT, ETC), and fastened securly and properly. The inspectors will be checking for telltale damp spots on the lower edge of backing plates, which could mean possible wheel cyclinder leakage. They will also check fluid on disc rotors. If leakage is suspected repairs must be made before any futher inspection is carried out. Brakes are probably the most important part of our inspection program. Do not critize owner of vehicle only point out that the suspected leak is dangerous and should be corrected promptly. It's suggested that a mechanics creeper and a flash light be used in this area whe ever possible.

19. CHASSIS FASTENERS:

Self locking nuts, lock washers, safety wire, cotter pins, or all of the mentioned.  
(see illustration)

NOTE: LOCKTITE will not be accepted when used by itself as a locking device.

RE: Guidance section.

20 HORN:  
All vehicles must be equipped with a horn which is electrically operated and can be heard at least at a distance of 200 ft. in front of the vehicle under clear weather conditions. The switch used to engage the horn must be easily accessible to the driver when operating the vehicle.

REQUIRED EQUIPMENT:

NSRA SAFETY INSPECTION

1. HORN: Electric only.
2. SPEED INDICATOR: Speedometer or calibrated tachometer at 55 MPH.
3. REAR VIEW MIRROR: One inside or one outside on drivers side of vehicle.
4. GLASS: Must be safety plate.
5. LIGHTING: Hi-beam, Low-beam, Tail light, Brake and License.
6. WINDSHIELD WIPER: Electric or vacuum operated.
7. AUTOMATIC TRANSMISSION LOCKOUT: Neutral and/or park start only.
8. TIRES: Minimum 3/32 tread acceptable, must meet DOT specifications.
9. STEERING: No excessive play (2" radius max.) or binding, system must be safely mounted.
10. THROTTLE LINKAGE: Must not travel past center, return spring required.
11. FUEL SYSTEM: No leaks, check vent on trunk and interior mounted tanks, no clear plastic lines.
12. EXHAUST SYSTEM: No leaks, must pass rear edge of front door and exit away from vehicle.
13. SELF-ALIGNING ROD END BEARINGS: No visible fractures, insert sloppiness, or binding allowed.
14. SHOCK ABSORBERS: One per wheel, no leaks, 2" of travel in each direction.
15. BRAKES: Four wheel brakes, no leaks, check brake pedal travel, check length of flexible lines, no copper tubing.

RECOMMENDED EQUIPMENT: Not reason for failure.

16. SHIFT PATTERN: Should be visible except on 3-speed standard column shift.
17. WINDSHIELD: Should be AS-1.
18. SCRUB LINE: No components should be below this line.
19. FUEL LINES: Should be safely mounted and routed.
20. PARKING BRAKE: Should be activated independent of vehicle's primary system. Line-lock is not recommended.
21. SELF-ALIGNING ROD END BEARINGS: Ball should have 1/8 inch spacer on each side of the ball if there is any misalignment. Rod ends should not have more than 10° misalignment. ROD ENDS and 4 BAR-PARALLEL RADIUS ROD SYSTEM rubber bushed ends should have a safety washer at least the same outside diameter as the housing or larger.
22. BRAKE LINES: Should be safely mounted and routed.
23. CHASSIS FASTENERS: Self locking nuts, lockwashers, safety wire, or cotter pins recommended.

VEHICLE INSPECTION  
WORK SHEET

LICENSE NO. \_\_\_\_\_

LAST NAME \_\_\_\_\_

CERTIFICATION NO. \_\_\_\_\_



SAFETY DIVISION

GROUP 1

\* INSURANCE: \_\_\_\_\_  
\* SPEED INDICATOR: \_\_\_\_\_  
\* REAR VIEW MIRRORS: \_\_\_\_\_  
PATTERN: \_\_\_\_\_

\* GLASS: \_\_\_\_\_

\* LIGHTING SYSTEM: \_\_\_\_\_

HIGH ( )

TAIL-STOP LEFT ( )

LOW ( )

RIGHT ( )

\* WIPERS: \_\_\_\_\_

\* AUTOMATIC TRANSMISSION LOCKOUT: \_\_\_\_\_  
( no exception )

THIS AREA IS TO CLARIFY ANY CHANGES THAT NEED TO BE MADE TO THE VEHICLE

THAT DID NOT FIT IN THE ALLOTTED SPACE ABOVE:

ITEM:

\*the above recommendations is only advisory and is not to be construed as an official legal recommendation and the National Street Rod Association assumes no responsibility for this recommendation.





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Lear ✓

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 535 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the criminal laws of the state."

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

8 \* Section 1. AS 11.41.200(a)(1) is amended to read:

9 (1) he recklessly causes [WITH INTENT TO CAUSE] serious  
10 physical injury to another person [, HE CAUSES PHYSICAL INJURY TO ANY  
11 PERSON] by means of a dangerous instrument;

12 \* Sec. 2. AS 11.41.210(a) is repealed and reenacted to read:

13 (a) A person commits the crime of assault in the second degree if  
14 (1) with intent to cause physical injury to another person,  
15 he causes physical injury to ~~another~~ person by means of a dangerous  
16 instrument; or

17 (2) he recklessly causes serious physical injury to another  
18 person.

19 \* Sec. 3. AS 11.41.220(a) is amended to read:

20 (a) A person commits the crime of assault in the third degree if  
21 he recklessly

22 (1) places another person in fear of imminent serious physi-  
23 cal injury by means of a dangerous instrument; or

24 (2) causes physical injury to another person by means of a  
25 dangerous instrument.

26 \* Sec. 4. AS 11.41.230(a)(3) is amended to read:

27 (3) by words or other conduct he recklessly [INTENTIONALLY]  
28 places another person in fear of imminent physical injury.

29 \* Sec. 5. AS 11.81 is amended by adding a new section to read:

1           Sec. 11.81.635. MENTAL DISEASE OR DEFECT EXCLUDING RESPONSIBILITY.

2           (a) In a prosecution for a crime, it is an affirmative defense that  
3 when the defendant engaged in the criminal conduct, that as a result of  
4 a mental disease or defect, he lacked substantial capacity either to  
5 appreciate the wrongfulness of his conduct or to conform his conduct to  
6 the requirements of law.

7           (b) Evidence solely of an abnormality which is manifested only by  
8 repeated criminal or otherwise antisocial conduct is not sufficient to  
9 establish the affirmative defense specified in (a) of this section.

10 \* Sec. 6. AS 11.81.900(b)(49) is repealed and reenacted to read:

11           (49) "serious physical injury" means

12                   (A) physical injury caused by an act performed under  
13 circumstances which create a substantial risk of death; or

14                   (B) physical injury which causes serious and protracted  
15 disfigurement, protracted impairment of health, or protracted loss  
16 or impairment of the function of a body member or organ, or which  
17 unlawfully terminates a pregnancy;

18 \* Sec. 7. AS 12.55.125(c)(1) is amended to read:

19           (1) if the offense is a first felony conviction, other than  
20 for manslaughter, and the defendant possessed [OR USED] a firearm,  
21 used a deadly weapon, or caused serious physical injury during the  
22 commission of the offense, eight <sup>SIXTY-SEVEN</sup> [SIX] years; <sup>AB 2913</sup>

23 \* Sec. 8. AS 12.55.135(c) is amended to read:

24           (c) A defendant convicted of assault in the fourth <sup>THIRD</sup> [THIRD] degree  
25 committed in violation of the provisions of an order issued under AS 09.-  
26 55.600 or 09.55.610 shall be sentenced to a minimum term of imprisonment  
27 of 10 days. The execution of sentence may not be suspended and probation  
28 or parole may not be granted until the minimum term of imprisonment has  
29 been served. Imposition of sentence may not be suspended, except upon

SECRET

1 condition that the defendant be [BY] imprisoned for no less than the  
 2 minimum term of imprisonment provided in this section and the minimum  
 3 sentence provided for in this section may not be otherwise reduced.

4 \* Sec. 9. AS 12.55.155(c)(8) is repealed and reenacted to read:

5 (8) the defendant's prior criminal history includes conduct  
 6 involving aggravated or repeated instances of assaultive behavior;

7 \* Sec. 10. AS 12.55.155(c) is amended by adding a new paragraph to read:

8 (19) the defendant's prior criminal history includes an ad-  
 9 judication as a delinquent for conduct that would have been a felony if  
 10 committed by an adult.

11 \* Sec. 11. AS 12.45.083 is repealed.

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Introduced: 5/1/81  
Referred: Judiciary and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 535

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 the criminal laws of the state."

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

8 \* Section 1. AS 11.41.200(a)(1) is amended to read:

9 (1) he recklessly causes [WITH INTENT TO CAUSE] serious  
10 OK physical injury to another person [, HE CAUSES PHYSICAL INJURY TO ANY  
11 PERSON] by means of a dangerous instrument;

12 \* Sec. 2. AS 11.41.210(a) is repealed and reenacted to read:

13 (a) A person commits the crime of assault in the second degree if  
14 (1) with intent to cause physical injury to another person,  
15 OK he causes physical injury to <sup>another</sup> ~~any~~ person by means of a dangerous instru-  
16 ment; or CREATE THRU HIMSELF

17 (2) he recklessly causes serious physical injury to another  
18 person.

19 \* Sec. 3. AS 11.41.220(a) is amended to read:

20 (a) A person commits the crime of assault in the third  
21 degree if he recklessly  
22 OK (1) places another person in fear of imminent serious physi-  
23 cal injury by means of a dangerous instrument; or  
24 (2) causes physical injury to another person by means of a  
25 dangerous instrument.

26 \* Sec. 4. AS 11.41.230(a)(3) is amended to read:

27 OK (3) by words or other conduct he recklessly [INTENTIONALLY]  
28 places another person in fear of imminent physical injury.

29 \* Sec. 5. AS 11.46.482(a) is amended by adding a new paragraph to read:

Sen. King - N.O.

*Chairman  
DIRECTED TO CHANGE  
LEGISLATION / GOVERNMENT*

(5) he sells, leases, trades, or offers for sale, lease, or trade, any device designed to intercept cable, microwave, subscription, or pay television, or any other telecommunications service, with intent to defraud another of the lawful charges for the service.

*FROM AN IN STATE SOURCE*

\* Sec. 6. AS 11.56.540(b) is amended to read:

(b) Tampering with a witness is a class C felony [A MISDEMEANOR].

\* Sec. 7. AS 11.81.320 is amended to read:

Sec. 11.81.320. JUSTIFICATION: NECESSITY. (a) Conduct which would otherwise be an offense is justified by reason of necessity to the extent permitted by common law when

(1) neither this title nor any other statute defining the offense provides exemptions or defenses dealing with the justification of necessity in the specific situation involved; and

(2) a legislative intent to exclude the justification of necessity does not otherwise plainly appear.

(b) The justification provided in (a) of this section is an affirmative defense.

\* Sec. 8. AS 11.81.400 is repealed and reenacted to read:

Sec. 11.81.400. JUSTIFICATION: USE OF FORCE IN RESISTING OR INTERFERING WITH ARREST. A person may not use force to resist the arrest of himself or interfere with the arrest of another by a peace officer who is known by him, or reasonably appears, to be a peace officer, whether the arrest is lawful or unlawful, unless the force used by the peace officer exceeds that allowed under AS 11.81.370.

\* Sec. 9. AS 11.81 is amended by adding a new section to read:

Sec. 11.81.650. MENTAL DISEASE OR DEFECT EXCUSING RESPONSIBILITY.

(a) In any prosecution for a crime, it is an affirmative defense that when the defendant engaged in the criminal conduct, that as a result of a mental disease or defect, he lacked substantial capacity either to

1 appreciate the wrongfulness of his conduct or to conform his conduct to  
2 the requirements of law.

3 (b) Evidence solely of an abnormality which is manifested only by  
4 repeated criminal or otherwise antisocial conduct is not sufficient to  
5 establish the affirmative defense specified in (a) of this section.

6 \* Sec. 10. AS 11.81.900(a)(1) is amended to read:

7 (1) a person acts "intentionally" with respect to a result  
8 described by a provision of law defining an offense when his conscious  
9 objective is to cause that result; when intentionally causing a parti-  
10 cular result is an element of an offense, that intent need not be the  
11 person's only objective;

12 \* Sec. 11. AS 11.81.900(b)(37) is amended to read:

13 (37) "organization" means a legal entity, including a  
14 corporation, company, association, firm, partnership, joint stock  
15 company, foundation, institution, government, society, union, club,  
16 church, or any other group of persons organized for any purpose;

17 \* Sec. 12. AS 11.81.900(b)(44) is amended to read:

18 (44) "property" means an article, substance, or thing of  
19 value, including money, tangible and intangible personal property  
20 including data or information stored in a computer program, system, or  
21 network, real property, a credit card, choses-in-action, and evidence  
22 of debt or of contract; [,] a commodity of a public utility such as  
23 gas, electricity, steam, or water constitutes property but the supply-  
24 ing of such a commodity to premises from an outside source by means of  
25 wires, pipes, conduits, or other equipment is considered a rendition of  
26 a service rather than a sale or delivery of property;

27 \* Sec. 13. AS 11.81.900(b)(49) is repealed and reenacted to read:

28 (49) "serious physical injury" means

29 (A) physical injury caused by an act performed under

1 circumstances which create a substantial risk of death; or

2 (B) physical injury which causes serious and protracted  
3 disfigurement, protracted impairment of health, or protracted loss  
4 or impairment of the function of a body member or organ, or which  
5 unlawfully terminates a pregnancy;

6 \* Sec. 14. AS 11.81.900(b)(50) is amended to read:

7 (50) "services" includes labor, professional services,  
8 transportation, telephone or other communications services, entertain-  
9 ment including cable, microwave, subscription, or pay television or any  
10 other telecommunications service, the supplying of food, lodging, or  
11 other accommodations in hotels, restaurants, or elsewhere, the use of  
12 a computer program, system, or network, admission to exhibitions, and  
13 the supplying of equipment for use;

14 \* Sec. 15. AS 12.30.040(b) is repealed and reenacted to read:

15 (b) Notwithstanding the provisions of (a) of this section, if a  
16 person has been convicted of an offense which is an unclassified felony  
17 or a class A felony, he may not be released on bail either before  
18 sentencing or pending appeal.

19 \* Sec. 16. AS 12.55.125(c)(1) is amended to read:

20 (1) if the offense is a first felony conviction, other than  
21 for manslaughter, and the defendant possessed [OR USED] a firearm,  
22 used a deadly weapon, or caused serious physical injury during the  
23 commission of the offense, eight [SIX] years;

24 \* Sec. 17. AS 12.55.135(c) is amended to read:

25 (c) A defendant convicted of assault in the fourth [THIRD] degree  
26 committed in violation of the provisions of an order issued under  
27 AS 09.55.600 or 09.55.610 shall be sentenced to a minimum term of im-  
28 prisonment of 10 days. The execution of sentence may not be suspended  
29 and probation or parole may not be granted until the minimum term of

Passage of AS  
190 Drug Disc

OK  
OK

1 imprisonment has been served. Imposition of sentence may not be sus-  
2 pended, except upon condition that the defendant be imprisoned for no  
3 less than the minimum term of imprisonment provided in this section,  
4 and the minimum sentence provided for in this section may not be other-  
5 wise reduced.

6 \* Sec. 18. AS 12.55.145 is amended by adding a new subsection to read:

7 (f) When a defendant is convicted of a felony by a court of this  
8 state he shall place his thumbprints on the judgment of conviction in  
9 open court, on record, at the time of sentencing. The defendant and  
10 the person administering the fingerprinting shall sign their names  
11 under the thumbprints.

12 \* Sec. 19. AS 12.55.155(c)(8) is repealed and reenacted to read:

13 (8) the defendant's prior criminal history includes conduct  
14 involving aggravated or repeated instances of assaultive behavior;

15 \* Sec. 20. AS 12.55.155(c) is amended by adding a new paragraph to read:

16 (19) the defendant's prior criminal history includes an ad-  
17 judication as a delinquent for conduct that would have been a felony  
18 if committed by an adult.

19 \* Sec. 21. AS 28.35.045(c) is amended to read:

20 (c) A person convicted of negligent driving is guilty of an  
21 infraction as provided under AS 28.35.230 [, AND IN ADDITION, THE COURT  
22 MAY LIMIT OR SUSPEND HIS DRIVER'S LICENSE UNDER AS 28.15.220(b)].

23 \* Sec. 22. AS 12.45.083 is repealed.  
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12/9/82

For Marty of Met-Su

SB535 Chapt. 143 - 1982

SOURCES IN LRL (HAVE REQUESTED H. FINANCE MATERIALS - WILL MAIL)

bill history

SENATE

S. Judiciary Committee

minutes

1982 Tapes (minutes)

bill file

#2 1/18

#7 1/29

#20 3/10

#26 3/26

#45 5/13

#46 5/14

SB898 (insanity defense)

1981 { #55 5/29/81

#58 6/5/81

HOUSE

H. Judiciary Committee

Tapes (minutes)

bill file

1982 { #26 4/17

#27 5/18-5/19

#28 5/20-24

#29 5/25-5/26

#30 5/30

#31 5/15 Statewide teleconference

H.J. Supplement #63 (June 1, 1982)

H. L + Commerce

bill file

Tapes (minutes)

file for 4/5/82

54

4/5

see also: RF 7/29/82

letter to Linda Zuckerman



Official Business

# Alaska State Legislature

Senate

Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

JUNE 5, 1981

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

SB 535 "An Act relating to the criminal laws of the state."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, Parr, and Hohman. Senator Bennett was absent.

Dan Hickey, Chief prosecutor, gives overview of SB 535.

Senator Parr: Was concerned that Sec. 4 would criminalize the use of satellite receivers. Mr. Hickey indicated that this would not apply to receivers that were for personal use.

Chairman Rodey requests Senator Parr to draft a letter of intent that would clarify the committee's understanding of this point.

Senator Parr: Questions the need for the amendment in Sec. 7 of the bill. Mr. Hickey says this amendment would make justification and affirmative defense in which the burden of proof by preponderance of the evidence is on the defendant.

Senator Parr: Questions the amendment of Sec. 9, paragraph B. Hickey replies that repeated antisocial acts are not sufficient to establish an insanity defense. Committee discusses at length.

Walt Jones, Div. of Corrections: Has amendment to fiscal note. The fiscal impact in 1984, should read 4.3 million. The department has no position on the bill.

Chairman Rodey laid the bill on the table without further action.

547 - Gordon Evans, representing Multivisions, testified in favor of the committee substitute, but stated that he would like to see Sec. 5 and 7 deleted.

582 - Senator Ray makes the following language change: on Page 2, Line 3, delete [private financial gain] and insert with the intent to defraud a person providing commercial service under Sec. 10. AS 11.81.900(b)(50) and on Page 2, Line 13 delete [private financial gain] and insert with the intent to defraud a person providing commercial service under Sec. 10. AS 11.81.900(b)(50). There was no objection to this change and it was adopted.

528 - Senator Ray moves to pass SB 535 from committee with individual recommendations. There was no objection. SB 535 was passed from committee with Senator Rodey signed do pass, Senators Ray, Parr, and Anderson signed no recommendation.

636 - Chairman Rodey adjourned at 2:45 P.M.

M E M O R A N D U M

TO: All members of the Senate

FROM: Senator Pat Rodey, Chair  
Senate Judiciary

DATE: June 3, 1982

RE: Summary/HCS CSSB 535(2d Jud) am H (efd failed H) relating to criminal law and procedure and amending the revised criminal code; changing Rule 37, Rules of Criminal Procedure; and changing Rule 901, Alaska Rules of Evidence.)

Sec. 1 Amends current law to allow each separate death to be a punishable offense.

No Senate hearings on this section.

Sec. 2,3 4, and 5

Redefines the crime of assault to eliminate intoxication as a defense.

Previously passed the Senate in SB 535 and HB 575

Sec. 6 This section is the beginning of the sections which classifies sexual assault in the first degree as an unclassified felony. The maximum imprisonment for this offense is 30 years with presumptive sentence of 8 years for a first offense.

Previously, the Senate rejected making sexual assault of the first degree an unclassified felony, where the maximum term was 99 years. The Senate adopted the Judiciary Committee Substitute which enacted a 5 year presumptive sentence for all first offenders Class A felonies.

This section has not had Senate or House Committee hearings.

Sec 7 and 8

Makes the second conviction for joyriding a Class C felony.

No Senate hearings on this section.

- Sec. 9  
& 10 Conformative amendments to Section 6 of this bill.
- Sec. 11 Makes the Defense of Necessity an affirmative defense, where the defendant is required to prove by a preponderance of the evidence the necessity of her/his act.
- Previously deleted by the Senate Judiciary Committee from SB 535.
- Sec. 12 Broadens the definition of "intentionally" -- when a crime requires that a defendant act intentionally, the intent specified need not be the defendants' only intent.
- Previously deleted by the Senate Judiciary Committee from SB 535.
- Sec. 13 Adds "government" to definition of organization.
- Senate Judiciary previously deleted from SB 535 during committee deliberations.
- Sec. 14 Amends the definition of property to include "computer programs" and "domestic pets".
- The first amendment was deleted from SB 535 by the Senate Judiciary Committee. The second amendment concerning pets and livestock has not had a Senate hearing.
- Sec. 15 Amends the definition of "Serious Physical Injury".
- Previously passed the Senate in SB 535 and HB 575.
- Sec. 16 Prohibits "own recognizance" release for unclassified and Class A felonies.
- Appears in substantially similar form in HB 633, passed out of the Judiciary Committee but not heard by the Senate.
- Sec. 17 and 18 Authorizes the issuance of telephonic warrants. Also see section 20.
- Previously passed by the Senate in SB 687.
- Sec. 19 Codifies rules relating to execution of Search Warrants. Also see sections 21 and 40.
- Previously passed the Senate in SB 686.
- Sec. 20 Conformative amendment to sections 17 and 18, telephonic warrants.
- Previously passed the Senate in SB 687.

Sec. 21 Amends property disposition law.

Previously passed the Senate in SB 686.

Sec. 22 Substantially changes the defense of insanity in Alaska to limit the defense to persons who are unable to appreciate the nature and quality of their conduct. The defense is made an affirmative defense and the defendant has the burden of proof to establish its elements. A jury verdict is provided for "guilty but mentally ill" which means that the defendant is treated like any other defendant, but receives treatment for his mental illness during the term of any imprisonment imposed.

Similar to measure that passed the Senate in HB 575.

Sec. 23. Establishes use/derivative use immunity as the form of immunity required for witnesses who are compelled to testify in a criminal proceeding.

No Senate hearings on this section.

Sec. 24 Amends current law to require sentences to run consecutively rather than allowing concurrent sentences.

No Senate hearings on this section.

Sec. 25 Allows exemption to provisions in Section 24 to allow concurrent sentences.

The manner in which this section is drafted in effect allows concurrent sentencing for any individual who meets any one of the criteria listed in (1) and (7). The word "or" on line 23 infers that each condition is to be considered separately.

No Senate hearings on this section.

Sec. 26 Conformative amendment to Section 6 regarding sexual assault in the first degree.

Sec. 27 Amends current law regarding modification or reduction of sentences to 60 days rather than allowing modification due to change of circumstances of conditions.

Sec. 28 Amends current law to establish five year presumptive sentences for all first offenders of class A felonies.

This is Senate committee substitute language to HB 473. Passed the Senate in lieu of the original bill by the House.

Sec. 29  
& 30

Conformative amendment to Sec. 6 regarding sexual assault in the first degree. This section establishes the presumptive term of eight years for first offenders. Further provides for

10 year presumptive sentence for offenders that possess a firearm, use a dangerous instrument or cause physical injury.

No Senate hearings on this section.

- Sec. 31 Amendment to increase the minimum term of imprisonment from 10 to 20 days for an assault in violation of a domestic violence injunction. The amendment regarding changing the degree of assault from third to fourth has previously been accomplished by the legislature in HB 287.

No Senate hearings on this section.

- Sec. 32 Repeals and reenacts this section to increase the period of time for considering prior convictions from seven to ten years. Also removes any time limit for considering prior convictions for unclassified or class A felonies.

No Senate hearings on this section.

- Sec. 33 Amends time of serving defendant with authenticated records of prior convictions from 10 to 20 days. See Sec. 32.

No Senate hearings on this section.

- Sec. 34 Amendment increasing the period of time to respond to service of records under Sec. 33 from five to 10 days.

No Senate hearings on this section.

- Sec. 35 Requires court to acquire fingerprint of sentenced defendant on judgement of conviction.

Senate Judiciary Committee previously deleted this section from SB 535.

- Sec. 36  
& 37 Conformative amendment to sexual assault in the first degree provisions.

- Sec. 38 Amends existing aggravating circumstance to consider in sentencing.

Passed the Senate in SB 535 and HB 575.

- Sec. 39 Adds four aggravating circumstances to consider in sentencing.

Paragraph 19 and 22 have passed the Senate in SB 535 and HB 575.

Paragraph 20 and 21 have not had hearings in the Senate.

- Sec. 40 Amends criminal procedure to allow photographic evidence.

Previously passed the Senate in SB 686.

Sec. 41 Conformative amendment to Sec. 6, sexual assault in the first degree provisions.

Sec. 42 Repealers  
AS 12.35.050, 12.35.080 - 12.35.110 are replaced by new AS 12.36 entitled "Disposition of recovered or seized property."

AS 12.45.083 - 12.45.115 are replaced by new AS 12.47 entitled "Insanity and competency to stand trial."

AS 12.55.025(e) repeals section of "sentencing procedures" addressing concurrent and consecutive sentencing.

AS 12.55.155(d)(8) repeals mitigating factor which states -  
"(8) a prior felony conviction considered for the purpose of invoking the presumptive terms of this chapter was of a less serious class of offense than the present offense;"

AS 47.25.280, 47.25.403, 47.25.405, 47.25.600, 47.25.760, 47.25.950, 47.25.983, and 47.25.985(a)(3) are repealed. These statutes prohibit various frauds in public assistance programs. By their repeal, people will be prosecuted under the criminal code.

No Senate hearing on the above repealers.

Sec. 43 Amends Court Rule 37, Rules of Evidence to allow telephonic warrants.

This section is technically unnecessary because the Supreme Court has changed this Rule on April 16, 1982.

Previously passed by the Senate in SB 687.

Sec. 44 Amends Rule 901, Rules of Evidence to allow photographic evidence.

Previously passed the Senate in SB 686.

Sec. 45 Adds new section to require the Code Revision Commission to study and make recommendations to the legislature regarding computer and telecommunication law.

House floor amendment, Senate previously approved similar resolution asking Department of Law to make similar study.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCS for CS for SB 535 (2d Judiciary)

Title AN ACT RELATING TO CRIMINAL LAWS OF THE STATE...

Requested by House Judiciary Committee Date May 31, 1982

II. FISCAL DETAIL

Agency Affected Health and Social Services

Program Category Affected Offender Confinement Reformation & Supervision

SRU, 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		627.6	1,151.3	1,369.2	1,465.1	3,858.9
200 TRAVEL		11.7	21.8	23.8	25.9	45.7
300 CONTRACTUAL		143.9	268.9	307.5	335.2	703.9
400 COMMODITIES		49.6	92.7	133.3	145.2	594.1
500 EQUIPMENT		-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		897.0	6,900.0	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	46.6
TOTAL	-0-	1,729.8*	8,434.7	1,833.8	1,971.4	5,249.2

FUNDING (Thousands of Dollars) \* See assumptions #

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	1,729.8	8,434.7	1,833.8	1,971.4	5,249.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	24	24	29	29	69
PART TIME						
TEMPORARY						

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

A. Bed Space Estimates:

An analysis of HCS for CSSB 535 (2nd Judiciary) indicates there would be a need for an additional 109 beds in the Alaska Correctional System if the bill were enacted. The following gives a section by section estimate for these increased bed needs.

Sections 3 and 4: Multiple Deaths

It is estimated that multiple deaths from manslaughter (Class A felony) or from criminal negligence (Class C felony) will occur one or two times a year each. Therefore, we would expect to average 1 1/2 additional A-felony convictions and 1 1/2 additional C-felony

IV. DATE May 31, 1982

PREPARED BY Roger C. Lange

AGENCY Adult Corrections

Original: Legislative Finance

PHONE 465-3376

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

convictions per year. The additional cumulative time served would be about 9 man years.

$$(1.5 \times 4.5) - (1.5 \times .82) = 7.95.$$

Section 14: Joyriding - Second Offense

It is estimated that there are likely to be between 90 and 100 joyriding convictions per year. Of these 10% are estimated to be repeat offenders. For these 9 or 10 convicted offenders, the law would require sentencing as Class C felons. Therefore, these 9 or 10 would serve approximately 162 additional days on the average (each). The aggregate impact would be about 1,539 added man days or slightly more than 4 man years.

Sections 16, 17, 18 19, and 22: Guilty but Mentally Ill

- a. All persons with mental illnesses who also are charged with criminal offenses are being housed either at Alaska Psychiatric Institution or within one of the state's correctional centers. Therefore, no additional beds will be needed if this legislation is enacted.
- b. Persons in pre-trial status requiring psychiatric evaluation and observation will be placed at the Anchorage Pre-Trial Facility. The anticipated opening date is January 1, 1983, therefore, seven months of funding is identified for this program component, allowing for facility familiarization and training. This will be a 36-bed mental health unit as an integral program within this facility.
- c. Treatment must be provided for persons found guilty but mentally ill. These services will be provided by either staff at the Anchorage Pre-trial Facility or by contract psychiatrists when the mental condition of the inmate has been stabilized to the degree that the inmate is transferred to another state correctional facility. Contract funds will be required to provide these services at facilities other than Anchorage Pre-trial.

Section 23: Multiple Offenses, Consecutive Sentencing

Multiple charges are not rare. Currently prisoners are rarely sentenced to serve consecutive sentences for more than one offense. A recent survey of in-state offenders showed that among 451 convicted persons, 150 or 33% were imprisoned on more than one charge or count. Of these, 48 appeared to qualify for sentencing consecutively under the statute. A very few of these are now serving consecutive sentences, but the majority have received concurrent sentences. If these 48 could be considered representative of the number and type of multiple offender entering the system annually (which is by no means certain), then we can estimate the additional bed spaces needed to provide for the consecutive sentencing provision of this section. We expect to commit about 80 Class A felons per year. Of these, approximately 55 are first offenders and the remainder are repeaters (25). Homicide convictions yield about 12 admissions annually. A flat 10% of all these admissions would suggest about 9 convicted felons entering the system annually may be eligible for the consecutive sentencing practice. We may delete 2 or 3 of these as not having lead to any

injury. Therefore, about 6 or 7 felons will be consecutively sentenced for periods averaging approximately 6 years each, the current sentence for first time A felons using firearms in the commission of a crime. The consecutive provision will add 4.5 years of jail time per person. This produces approximately 30 additional man years of accumulated jail service.

#### Section 26: First Offense Felony With Firearm

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 firearm. The current flat time sentence is 4 1/2 years. Under the proposed legislation, the flat time sentence is 6 years. Therefore, the population of inmates for which the Division of Adult Corrections is responsible would increase by 48 persons in the fifth and sixth years that the increased length is in effect. The inclusion of manslaughter among the offenses identified will raise the number of affected sentences by about 10 cases per year. The additional 1 1/2 years of incarceration times 10 yields 15 man years to be added to the 48 identified above. Therefore, the total impact of this section is estimated to be 63 beds.

#### Section 28: Prior Conviction Within Past 10 Years

The addition of 3 years to the retroactive period during which a convicted offender is in jeopardy changes from 7 to 10 years the span of vulnerability. Since the frequency of recidivism is a monotonically decreasing function, we believe that the effect of this provision will be moderate at most. Our investigations have shown that more than 80% of repeat offenses occur during the first three years after release. If the balance were uniformly spread over the remaining seven years then recidivism could occur in the last three years of a ten year period. Further, if the frequency declined uniformly to zero by the end of the tenth year then only 1.8% of the recidivist population would remain to be convicted after the 7th year. This last value yields an estimated increase in second offender felony convictions of slightly less than 3 per year. These would be spread in a proportionate manner over all classes of felony offenses. The approximate average increase in time served would be about 4.8 years for Class A felons, 1.85 years for Class B and 1.05 years for Class C. If we had one each of A, B, C felons the aggregate man year increase would be approximately 7.7.

#### Section 33

Section 33 adds the defendant's prior criminal history while a juvenile to the list of aggravating or mitigating factors which can be used when sentencing an adult. If, as a juvenile, the defendant was convicted of a crime which would have been considered a felony if committed by an adult, the juvenile offense could be considered as an aggravating factor by the court when determining the sentence.

There will be costs attributable to this section. However, with the information available, no assessment can be made by this Department as to the magnitude of the potential costs.

The aggregate total of increased bed space needs is, therefore, 112.7 (rounded up to 113).

2. Cost Estimates

1. Capital Expenditures

113 beds at an estimated cost of \$69,000 per bed.

113 x \$69,000 = \$7,797,000  
13 requested in FY 1983 (\$897,000)  
100 requested in FY 1984 (\$6,900,000)

2. Operating Expenditures - New Beds

The major impact of portions of this legislation would not occur for approximately 4 years after its effective date. Therefore, most new positions are not requested until FY 1987.

The operating costs were developed using the Juneau Correctional Center budget as a model since their current bed capacity is very similar to the number of new beds required. This results in a new staff of 45 positions.

Five correctional officers to man one post plus some commodities (food, clothing, etc.) and contractual (medical) are identified beginning in FY 1985. Forty additional positions will be needed to man a 100 bed facility to be opened in FY 1987. It is at this time that the major effect of the bill, excluding the guilty but mentally ill provision, will be experienced.

C. Expenditures - Guilty but Mentally Ill

1. Personal Services

A total of 24 positions are required to implement this legislation.

The positions are as follows:

<u>Position Classification</u>	<u>Number Requested</u>
Forensic Psychiatrist R/28F + 5%	1
Mental Health Clinician III (Clinical Psychologist) R/21	1
Mental Health Clinician II (Social Worker) R/19	1
Activity Therapist R/14B	1
Psychiatric Nurse Sup. R/17	1
Registered Nurses I-III R/14B	5
Correctional Officer R/13B	12
Clerk/Typist II R/7B	1
Secretary I R/10B	1
Total	<u>24</u>

Of the 24 positions, 7 are included in the FY 1983 budget request for Alaska Psychiatric Institute and are addressed in a separate fiscal note for API. These positions will be transferred to the Anchorage Pre-Trial Facility and reclassified as:

<u>Position Classification</u>	<u>Number Requested</u>
Correctional Officer II	6
Activity Therapist	1
Total	7

2. Travel

Travel funds are necessary to transport inmates to the treatment unit and, subsequently, to other facilities when they are classified to be ready for a general prison environment.

3. Contractual

Contractual funds are requested to provide psychiatric services to inmates found guilty but mentally ill. This will permit an average of 15 hours of psychiatric medical treatment per month in each of the state's correctional centers.

4. Commodities

The majority of these costs are for pharmaceutical products to be used in the treatment program. Some office supplies are also included.

5. Equipment

Specialized medical equipment will be required for both program components. Equipment will also be needed for the new positions.

D. Inflation

Inflation was considered to be constant over the period covered by the fiscal note, as follows:

Personal Services	7%
Other expenditure categories	9%

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

I. REQUEST

Bill/Resolution No. House 00 for 00 for 00 No. 000 (Artificial)

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

Requested by \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Health and Social Services

Program Category Affected Mental Health & Developmental Disabilities

SRU, Program, Or Subprogram(s) Affected Alaska Psychiatric Institute

(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	-0-	(132.8)	(243.6)	(260.6)	(278.9)	(298.4)
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	(132.8)	(243.6)	(260.6)	(278.9)	(298.4)

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	(132.8)	(243.6)	(260.6)	(278.9)	(298.4)
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	(7)	(7)	(7)	(7)	(7)
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

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

- All persons with mental illnesses who also are charged with criminal offenses are being housed either at Alaska Psychiatric Institute or within one of the state's correctional centers. Therefore, no additional beds will be needed if this legislation is enacted.

IV. DATE 5/27/82

PREPARED BY Gary Schaefer

AGENCY Div. of Mental Health & Dev. Dis.

PHONE 465-3376

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

JCC

2. Persons in pre-trial status requiring psychiatric evaluation and observation will be placed at the Anchorage Pre-trial Facility. The anticipated opening date is January 1, 1983, therefore, seven months of funding are deleted from the API BRU to allow for transfer of seven (7) positions to be Anchorage Pre-trial Facility for staffing of a 36 bed mental health unit within that facility.
3. The Psychiatric security services now being provided at API will be transferred along with these seven (7) positions.



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

JANUARY 29, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

SB 535 - "An Act relating to the criminal laws of the state."

SB 485 - "An Act permitting the videotaping of testimony of young victims of sexual assault or sexual abuse of a minor; and changing Rule 804, Alaska Rules of Evidence relating to exceptions to the hearsay rule."

SB 547 - "An Act permitting the videotaping of, or the exclusion of the public during, testimony of young victims of sexual assault or sexual abuse of a minor; and changing Rule 804, Alaska Rules of Evidence relating to exceptions to the hearsay rule."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, and Parr. Senators Hohman and Bennett were absent.

The first item on the agenda was CSSB 485. Mr. Bruce explained the committee substitute draft. Mr. Victor Krumm, Department of Law testified in favor of this committee substitute.

Senator Ray moved that CSSB 485 pass from committee with a do pass. There was not objection and the bill was signed out of committee.

Chairman Rodey next brought CSSB 547 before the committee. Mr. Bruce explained the committee substitute. Mr. Victor Krumm, Department of Law testified in favor of CSSB 547.

Senator Ray moved to make the following amendment: Pg. 1, Line 15, add "under" before the word "16"; delete "or younger" between the words "age" and "at". On Pg. 2, Line 5, add "including those" before the word "essential". There was not objection to the amendment and it was adopted.

Victor Krumm suggests having the bill include court discretion to exclude the public from testimony of minors who are testifying.

Senator Bennett enters the room and his presence was noted for the record.

Senator Ray refers to Mr. Krumm's suggestion and suggests putting it in another bill to avoid any problems.

Chairman Rodey next called Ms. Paula Haley, testifying for the Alaska Network on Domestic Violence, before the committee. She stated that the Network was in support of CSSB 547.

Senator Ray moved that CSSB 547, as amended, be moved from committee. There was no objection and the bill was signed from committee.

Chairman Rodey next brought CSSB 485 before the committee for reconsideration. Senator Ray moved that on Pg. 1, Line 16, the word "under" be added before the word "16" and "or younger" between the words "age" and "at" be deleted. There was no objection to the amendment and it was adopted.

Senator Ray moved that CSSB 485, as amended, be passed from committee. There was no objection and the bill was passed.

The last item on the agenda was CSSB 535.

Testimony was heard from Barry Stern, representing the Department of Law. He relayed to the committee the Department's recommendations.

After having discussion on the bill, Chairman Rodey held CSSB 535 over and adjourned the meeting at 2:35 P.M.



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE  
OF  
March 15, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

SB 535 - "An Act relating to the criminal laws of the state."

HB 573 - "An Act relating to the crime of tampering with a witness."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:40 P.M. Committee members present were: Senators Rodey, Anderson, and Parr. Senator Bennett and Ray were absent.

004 - Chairman Rodey called the meeting to order.

007 - Chairman Rodey brought HB 573 before the committee.

012 - Barry Stern, Assistant Attorney General, testified in favor of HB 573.

084 - Senator Ray entered the room for the record.

157 - Mr. Stern expressed that if the committee were to simply eliminate the words "testify falsely" in paragraph 1 and didn't make any other changes to the statute that would address the Department's main concern because then they could prosecute people who induce someone to lie; commit perjury in a criminal trial under the general solicitation of perjury statute and they wouldn't have a conflicting provision.

240 - Senator Parr asked if the following would be covered in the bill. If a committee wants to talk to someone from the Department of Education and the Commissioner said that he did not want that person to go to the hearing.

243 - Chairman Rodey stated that to be certain you wanted to use your subpoena powers at that point it would be clear that anyone who interfered with the appearance of that person before your committee would be guilty.

247 - Senator Parr asked if this applied only if the person were subpoenaed.

248 - Chairman Rodey said that it is not clear because even without the subpoena provision, which of course your committee has at its discretion, a person may be guilty of tampering with a witness under the existing criminal code. If you request their appearance, it is an official standing committee of the legislature, and we would want that covered.

254 - Senator Ray suggested that the committee elimi ~~ate~~ the word summoned and put subpoenaed.

256 - Chairman Rodey expressed that there are several points of the statute we will want to deal with seperately. Mr. Stern's first concern, on behalf of the Attorney General, is "tampering" with portion 1 of the statute be a class "C" felony. Chairman Rodey expressed his agreement with this and also stated that the ascending provision which is Sec. 2 appears to be not warranting a class "C" felony.

280 - Senator Anderson stated that in order to clarify the intent, Sec. 11.56.540, additional language should be added to subsection A to prevent future misinterpretation of what is intended.

298 - Senator Ray agreed with Senator Anderson's recommendation and asked when the fine line was when you became a witness.

301 - Mr. Stern said that this had been addressed. The idea of summoning the person is intended to only apply to paragraph 2. He also defined witness as being a person summoned or appearing in an official proceeding, or a person who the defendant believes may be called as a witness in an official proceeding.

331 - Mr. Stern also said that the committee could take out just the arts of testifying falsly and unlawfully withhold testimony and make that a separate crime, and leave everything else a misdemeanor.

339 - Senator Parr stated that maybe the committee should change the definition of witness also.

358 - Chairman Rodey asked Mr. Stern if he meant to delete offering misleading testimony?

362 - Senator Ray had objected.

451 - Chairman Rodey directed staff to work with Mr. Stern and draft a committee substitute to set forth distinctions addressed by members of the committee.

460 - Chairman Rodey laid HB 573 on the table.

479 - The next item on the agenda was SB 535.

487 - Mr. Bruce gives explanation to the committee substitute.



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 26, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SB 535 - "An Act relating to the criminal laws of the state."
- SB 774 - "An Act reducing the fee for a club license to sell alcoholic beverages."
- SB 855 - "An Act repealing the requirement that an applicant for a beverage dispensary license file a bond."
- SB 654 - "An Act relating to alcoholic beverage licenses; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, Parr, Anderson. Senator Bennett was absent.

005 - Call to order.

008 - Chairman Rodey brought SB 535 before the Committee and the amendments which were offered by Senator Fischer: On Page 3, Line 15: Delete "a new paragraph" and insert "new paragraphs"; Page 3, Line 18: Change the period to a semi-colon; Page 3, following Line 18: Insert the following: (20) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, ancestry, or national origin.

039 - Senator Fischer testified in favor of CSSB 535 stating that it would add aggravating factors the judge could consider in sentencing.

111 - Barry Stern, Department of Law, testified stating that the Department is generally supportive of this legislation.

380 - Chairman Rodey set SB 535 aside.

400 - Chairman Rodey next brought SB 774 before the Committee.

433 - Don House, representing himself, testified, stating that it would be ridiculous to drop the fees.