

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2317 SHESS ○ SB 72 - SB 77 ○ 2317

This bill provides that the Department of Public Safety, in conjunction with the Department of Law and the Department of Health and Social Services shall develop and distribute a uniform sexual assault examination kit. The bill further provides that these departments shall develop a manual of protocols governing the distribution and use of the sexual assault examination kit.

The Department of Law will have primary responsibility for developing the manual of protocols. Some preliminary work in this project has already been accomplished as an outgrowth of the establishment of specialized sexual assault prosecution units and the use of victim/witness assistance paralegals in several of the department's District Attorney offices. In addition to developing protocols that enhance the preservation and protection of evidence, and writing protocols that deal with victims in a sympathetic and supportive manner, the department believes that it will be necessary to develop training packages for police officers. These training packages would then be incorporated into the regular police training curriculum and be available to Village Public Safety Officers, local police agencies and the Alaska State Troopers.

The biggest single obstacle to be cleared in making the sexual assault examination kit program work is the training of health care providers and private medical practitioners who examine and treat rape victims, in the preservation of evidence and the handling of victim/witnesses. There is no mechanism to command the attendance of health care providers at standardized training courses, nor would such a mechanism be a practical solution. Consequently, the department believes that this critical link in the chain of evidence can be best assured by providing on-site training and consultation to health care providers on a recurring basis. Recurrent on-site training will also be of vital importance for the staffs of the Department of Health and Social Services and the Council on Domestic Violence and their contractors who assist victims of sexual assault and particularly victims of child sexual abuse.

The Department of Law therefore requests sufficient funds to hire an Associate Attorney II who will be responsible for writing and revising the protocols for the distribution and use of the sexual assault examination kit. This position will also be responsible for developing police agency training packages and the position will develop and provide ongoing training for health and social services care providers. Funds are also requested for the printing of training materials and protocol manuals.

The Associate Attorney will be located with the Violent Crimes/Sexual Assault supervisor in the Office of the Chief Prosecutor.

FISCAL ANALYSIS - SSSB 72

This analysis is based upon establishing an Associate Attorney II position at Juneau. It provides for usual position support cost. Travel is set at a higher than usual level to allow for the training of rural health care and social services care providers. Ongoing costs include \$400 per month for communications and copying, and \$250 per month for office and library supplies. One-time expenses include \$1,500 in new position office commodities and \$1,500 in new position equipment. Another one-time expense is for the printing of protocol manuals, as well materials for and printing of training manuals. These costs are estimated at \$20,000, in the first year, and \$5,000 per year, thereafter. These costs have been estimated on the basis of similar projects requiring training efforts such as the criminal code revision. Costs beyond FY 85 include a 6% inflation factor.

1st Year Costs (FY 85)

	Associate Attorney II
Personal Services	49.6
Travel	7.5
Contractual	
Communications & Copying	4.8
Protocol/training materials	20.0
Commodities - ongoing	
Office Supplies	1.8
Library Materials	1.2
Commodities - single time	
New position supplies	1.5
Equipment - single time	
New position equipment	1.5
	<hr/>
Total	87.9

1.	POSITION TITLE ASSOCIATE ATTORNEY II			RANGE/STEP 19A	DARG. UNIT PX	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2		3					
	PERSONAL SERVICES								
5.	Salary	3,193/mo.	38,316						
6.	Benefits		6,284						
7.	Supplemental Benefits		2,349						
8.	Fixed Benefits		2,630						
9.	TOTAL PERSONAL SERVICES		01	49,579					
10.	Travel		02	7,500					
11.	Contractual		03	24,800					
12.	Commodities		04	4,500					
13.	Equipment		05	1,500					
14.	Other								
15.	TOTAL COST			87,900					
16.	RECEIPT CODE	FUNDING SOURCE							
17.		Federal Receipts 1002							
18.		G.F. Match 1003							
19.		General Funds 1004		87,900					
20.		I-A Receipts 1005							
21.		Program Receipts 1020							
		Other							
FOR O&M USE ONLY									
4A KEY NUMBER _____									

This position is required to develop and revise protocols for the distribution and use of a sexual assault examination kit. The position will also develop and write training guides for police officers to be incorporated in various training programs used by the Village Public Safety Officers, local police departments, and the Alaska State Troopers. The position will also provide recurrent on-site consultation for health care and social services care providers who assist the victims of sexual assault, particularly the victims of child sexual abuse. The position will interpret the legal requirements for safeguarding the evidence of sexual assault by health care and social services care providers such as hospitals, private medical practitioners, domestic violence shelters and village health aides.

AGENCY DEPARTMENT OF LAW
PROGRAM DUE PROCESS
BRU PROSECUTION

13 REQUEST FOR
NEW POSITION

Page 1 of 1

FY 85

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

FEB 17 1984

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSSSB72(MESS)
Title: "An act relating to sexual
assault investigation."
Sponsor: Senator Kerttula
Requestor: Senate Finance
Date of Request: 2-15-84

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		5 0				
200 TRAVEL		70 0				
300 CONTRACTUAL		38 0				
400 SUPPLIES		9 0				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		122 0	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		122 0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691

Date: 02/06/84

Approved by Commissioner: Robert J. Sundberg
Agency: Public Safety

Date: 2/6/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

FEB 2 1984

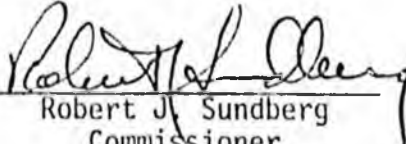
DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - CS SS SB 72 (HESS)

Support

February 6, 1984

CS SS SB 72 (HESS) - "An Act relating to sexual assault investigations."

By making the sexual assault examination kits universal and by providing sufficient training in their use, a significant increase in the number of sexual assault convictions is expected.


Robert J. Sundberg
Commissioner

CSSSSB 72 (HESS)
FISCAL NOTE
FY'85

100 -	<u>Personal Services</u> - 10 hours of overtime per month for a Alaska State Trooper, Sergeant, 78K (Note - Much of this training involving the legal implications of sexual assault investigations will need to be provided by a lawyer from the Department of Law.)		\$ 4,979
200 -	<u>Travel</u>		
	a) Travel & Per Diem must be provided for the Registered Nurse who will train Medical Institutions throughout the state in the use of the sexual assault kits.	\$14,000	
	b) Travel & Per Diem must be provided for a three man team which will train all state and local law enforcement officers with training in witness/victim interviews, victim sensitivity, crisis intervention and serological and biological evidence gathering.	<u>\$56,000</u>	\$ 70,000
300 -	<u>Contractual</u> - Personal Services contract with Registered Nurse to train Medical Facilities throughout the state in the use of the sexual assault examination kits.		\$ 38,000
400 -	<u>Commodities</u> - We would need approximately 600 kits the first year to replace all of the kits now in use and for training purposes. The cost is estimated to be about \$15.00 for each kit.		<u>\$ 9,000</u>
		Total	\$121,979

Note - These costs are needed in the first year only. Replacement costs for the kits are budgeted in the operating budget of the Crime Lab.

POSITION PAPER

SENATE BILL NO. 72

"An Act relating to free emergency medical examinations of victims of sexual offenses."

This Bill adds a new section to the statute governing the Violent Crimes Compensation Board which provides that the victim of sexual assault or, in the case of a minor, a victim of sexual abuse may request and shall receive free emergency medical examination at a public or private hospital or other emergency medical facility so that evidence may be gathered to assist in the possible prosecution of the offender. The Bill also provides that the Board may reimburse the hospital or emergency facility for the reasonable costs of the examination. It further provides for retroactive payment to the victim or parent if the victim agrees to aid in the prosecution of the offender.

The Department of Health and Social Services endorses measures which assist in law enforcement. Costs of examinations for victims are coverable under the state's Medicaid program at present and under many health insurance programs. We have no means to estimate how this Bill would affect the costs to the Violent Crimes Compensation Board. We do not anticipate any increased costs to the medical assistance programs administered by this Department.

It is noted that no provision is made for reimbursement of costs to physicians or other health care providers who may be involved in such examinations.

Recommended by: E. S. Rabeau, M.D.
E. S. Rabeau, M.D., Director
Division of Public Health

Date: Feb. 10, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 2/14/83

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

110 SEWARD #13 JUNEAU ALASKA 99801
(907)585-3550

POSITION PAPER: SSSB72 AN ACT RELATING TO SEXUAL ASSAULT INVESTIGATIONS

The Alaska Network on Domestic Violence and Sexual Assault, representing twenty member programs statewide providing services to victims of domestic violence and sexual assault, supports sponsor substitute for Senate Bill 72, An Act Relating to Sexual Assault Investigations.

The Network's primary area of concern is provision of comprehensive, sensitive, and timely services to victims. In cases of sexual assault, this concern involves assuring the victim that all necessary evidentiary information will be gathered in order to facilitate a successful prosecution. For that reason, it is imperative that uniform kits are provided for use statewide, that protocols be developed for use and distribution of the kits, that protocols address needs of both rural and urban areas, and that training be provided in both the use of the protocol and the kit to peace officers, District Attorneys, other appropriate law enforcement agencies, health care providers, and sexual assault program personnel.

Uniformity of kits is necessary in order to insure that evidence is gathered properly and that all necessary materials are available for a complete and thorough examination.

The development of protocols that address that unique and specific needs of rural areas is necessary because the level of health care provision may differ from that available in urban areas and because law enforcement personnel may not be immediately available.

It is the Network's position that training in the protocol and the use of the kit is primary. Availability of the kits is incidental if health care providers and criminal justice personnel are unaware of their availability and untrained in their use. Sexual Assault examinations can be an additional trauma to the victim, and so should be done in a sensitive and efficient manner. Training in performing sexual assault examinations is necessary in order to accomplish this aim.

In cases of sexual assault investigation and prosecution, collection of evidence plays a crucial role. In the opinion of the Network, more efficient, timely, and sensitive performance of sexual assault examinations can be accomplished by the provision of uniform kits, development of protocols, and provision of training to involved personnel in their use.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

POUCH N
ROOM 312, GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811

PHONE: 465-4356

November 4, 1983

Elizabeth J. Hickerson
Senior Advisor
Senate Advisory Council
1024 W. 6th Avenue, Suite 203
Anchorage, Alaska 99501

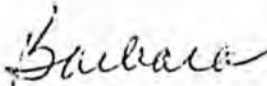
Dear Elizabeth:

I just received your letter and am planning to be out of town for the beginning of next week for regional provider meetings, so I wanted to contact you regarding rape kits. For your information, I have attached some research Susan McInnis in Fairbanks did on the status of rape kits in the Fairbanks area.

I certainly am not locked into developing any sort of task force and am anxious to explore other options. However, I want to state that I feel the Council is not the appropriate group to develop specific rape kit materials and protocols. The development of those items will require legal, medical and law enforcement expertise not present on the Council. I agree that we are the appropriate agency to oversee coordination of other agencies with specific expertise as that is mandated in our legislation. I also think it is appropriate that we establish and implement a system to assure humane and adequate collection of evidence.

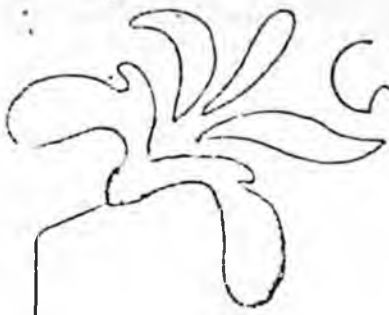
I will call you when I return to the office, so we can discuss possibilities. Now that I am more aware of what is happening statewide, I should be of more help.

Sincerely,



Barbara Miklos
Executive Director

Enclosure



WICCA

OCT 28 1983

Barbara Miklos
CDVSA
Pouch N
Jureau, Alaska
99811

October 24, 1983

Dear Barbara,

Enclosed you'll find comments from the Troopers, D.A.'s office, and Alaska Native Health Service doctors. I called each, asked how well they felt medical rape exams were being performed; asked about problems encountered and possible solutions. You'll be interested, I'd think, in the responses. I paraphrased in most cases, caught a quote or two, and tried to preserve the integrity of the responses throughout.

Interesting assignment. If notes from these people inspire more questions, I have permission from each to call again. Feel free to ask.

I'd be interested in your and Elizabeth's thoughts after reading the enclosed. I passed copies to Ruth.

Stay well.

Susan McInnis

Handwritten note:
Perhaps Barbara, you'll notice that the different points of view are integrated 'nicely' differently. I suspect - need get differing points of view from any number of people queried.

Troopers:

First Sergeant Close, in Fairbanks; supervisor for Interior Troopers.

There are health clinics in all sub-regional centers (eg: Galena, Tok, Ft. Yukon, etc.). Staffed by physician, health aide, physician's assistant, or paramedic. For the most part Close thinks they do a pretty good job. Troopers know which health aides are capable of doing the work and which are not --because they work with them daily. When the health aide (p.a., paramedic, etc) is incapable, Troopers do their best to get the victim to a better staffed clinic. Not always possible. Where there is no clinic, Troopers will try to get the victim to a subregional center where she can receive an exam.

Troopers responsible (DPS is) for cost of rape exam, for providing rape kits, for securing the evidence and transporting it to Fairbanks. Because chain of evidence is their responsibility, they try to assure an effective exam.

Close feels reporting is pretty good overall in the bush. Lots of attempted reports, and of child sexual assault. Fewer actuals. Attempteds and child sexual assaults may not necessitate exams as often as sexual assault 1.

Says their greatest problems are weather and funding. A man died in Huslia the other day --from a gunshot wound to the head-- because Troopers could not get in to airvac him. Autopsy shows he probably would have died anyway, but it shows that AST is crippled by adverse weather conditions. Had Huslia had the proper equipment for guiding a plane, they might have been able to land. Same problem besets them when there is a reported sexual assault. May always be a problem in rural Alaska. Here, funding (for equipment) might help; might not.

Because AST is responsible for securing evidence, the lack of sufficient funding for rape kits is a real problem. If they can't afford to make up the kits, they can't oversee proper collection of evidence. ... As well, transportation of victims to a clinic or hospital, and paying for the exam when it's done, are both stymied by insufficient funds.

District Attorney's office:

Terry Foster, past Assistant D.A. in charge of the special assault unit.

Medical Exams from the bush are simply not up to snuff. There are logistical, emotional and training problems not encountered in urban areas. These prohibit uniform and effective collection of medical evidence. In Terry's opinion, a new law won't help.

Some of the problems:

There is much late reporting in bush communities. A sexual assault may be reported 2, 3, 4 days after taking place. Community education, a concerned and effective medical/law enforcement team could increase timely reports.

Police officers (both troopers and VPSOs) tend to minimize the importance of the rape exam. Don't effectively oversee thorough exam.

eg: If a victim says, "Hey, I'm fine. I don't need to go see the doctor (especially if seeing the doctor requires a trip to town). I just want to go home and take a bath," the p.o. is likely to let her go home. Often this is out of a desire to be sensitive to her needs, but it thwarts the collection of evidence.

eg: She related a case where the p.o. had the woman go into another room and clip her own pubic hair. Undoubtedly out of modesty or sensitivity to her modesty, but it again thwarted the collection of legal evidence. ...Another sample case, the p.o. asks the woman to brush off her own coat for evidence. Just doesn't work legally.

There is often more violence associated with a sexual assault in the bush. When this is the case, the medical exam often takes a lower priority than necessary attention to other injuries. It is excluded or only partially completed.

Health aides, paramedics, doctors, and physician's aides in the bush just aren't as sophisticated as their urban counterparts. They may do the vaginal smear, but not know to have the woman undress over a sheet of paper to catch falling fibers, blood, etc. May not do pubic combings, nail clipping, etc. This is a problem of ignorance and of staff turnover. One MD (health aide, etc.) may be very well trained, but may only stay 6 months. Replacement never receives adequate training.

In areas where there is no clinic or where it is felt that the clinic personnel cannot do a good exam, the victim may not receive an exam. She may be transported to an urban or subregional clinic. In this case, AST faces weather problems, and the problem of separating the woman from her support group at a time she most needs support. Here the state faces a dilemma: separation from her support group may

create problems for the victim but guarantee legal evidence. Not separating her from her support group means a loss of evidence for the case. Transporting the victim can also mean a delay in time which will mean loss of evidence.

Another example of the problems created by distance and weather: A woman was assaulted in Kaltag shortly after Terry became a p.a. At the time she wanted to report, she had support from the community. Troopers were called, but it took them two days to get there. Meanwhile supportive villagers were protecting the victim from the assailant, but "that maniac was still running around loose and by the time they got there the evidence was lost."

In Terry's mind, sexual assault and child sexual assault in the bush "are the prime unmet issues in law in Alaska." Because of the idiosyncracies in the bush, no system can be effectively applied over time. Each case must be dealt with individually.

Nonetheless, she would oppose new laws. Laws, she says, are to enforce what the people refuse to do on their own. Law enforcement officers, health aides, etc., are not refusing to do their job. They don't know what to do... Or they don't know why they are being asked to do it. (Terry says the latter may be the greatest problem. The explanation sheet with the exam tells what to do --it doesn't tell the officer or medical person WHY he/she is being asked to do it. So, they get lax). In some cases an experienced person (eg: Trooper) is frustrated in his/her work by an inexperienced person (generally the health aide, p.a., md, etc.) No law will rectify that situation.

Finally, emotional ties in the bush often preclude effective exams. The health aide is the assailant's aunt... has a bit of a feud going with the victim's family... has been told to steer clear of either family, etc.... Small bush communities are family-oriented communities. Where that creates a problem for effective medical exams or collection of evidence, no law will offer a solution.

Terry does agree that a simplified protocol which could be followed by a partially educated medical person or law enforcement officer might help. Standardized rape kits, readily available and understood by police and medical personnel would help. Education about sexual assault generally, legal aspects, emotional aspects, medical aspects --in the community and particularly for those legally involved--would help. Laws won't do it.

Pat Duggan, Assistant District Attorney, Fairbanks. In charge of the Barrow area.

Pat feels that medical rape exams are done pretty well. No significant problems.

He does encounter a bureaucratic problem with the Public Health Service from time to time. They have been reluctant in certain cases to do rape exams to collect evidence. Most recently, doctors' supervisors have been reluctant to have the physicians, physician and patient records subpoenaed. He has worked with them and settled the problem.

Non-native patient/victims may be a problem. Although the Barrow hospital is the only available health service, it is a native facility and non-natives can be refused service such as a rape exam. (Pat hadn't any specific problems or complaints in this area --was simply saying that it could be a problem).

No, says Duggan, a law would not help the effectiveness of rape exams. In Barrow, as in all Indian Native Health Service communities, the staff is made up of federal employees. No state statute would govern their provision of care. They now perform rape exams at the request of the state --but exams for the purpose of collecting evidence would not be considered a medical service.

Pat believes that where there is reluctance to collect evidence, it would be exacerbated by a state law. The federal facility might just refuse.

At this point he usually speaks with a new physician, discusses the state's needs and gains the doctor's willingness to assist. Good rapport between the government agencies seems the better route. *report*

Dr. Tom Gould; Director of Patient Care Services. Supervises health aides in 28 villages.

Referred me to Dr. Pete Marshall, but did give the following comments:

Villages of a size to have a health aide would usually transport the patient to a subregional center for the exam. By and large they are not trained in gyn: pelvics, pa. etc.

Dr. Gould suspects there is little call for rape exams in health-aide staffed villages. He believes he would be getting calls from health aides seeking assistance or to check on their work were there more exams being given.

When asked if the health care system in villages should be upgraded to include training and protocol for rape exams, he said: It would be reasonable, but must take into account the varying levels of sophistication among health aides, and the family ties in villages. Any confrontation requiring medical assistance places the health aide in jeopardy. "A health aide would rather 'beat off' from all that to protect herself." Giving a rape exam could be a sign of taking sides in a confrontation which also included sexual assault.

Dr. Peter Marshall --Alaska Native Health Service; Clinical Director (over health care in regional/subregional centers)

Dr. Marshall sees that the bureaucratic system is in place: things flow well from village to subregional or regional center --but it doesn't work. He does not feel that laws or regulations will help it function any better.

In Marshall's experience and belief, there is an "incredible range of assaults and abuses taking place, but no complaints."

"You can see why when you know what happens when someone does complain..." In Stevens Village, for example, a woman was raped by two men. The health aide reported the incident and the woman was transported to Fairbanks (regional center for S.V.). The men were identified, taken to Fbx for arraignment, and released on bail within 24-hours. They returned to Stevens Village to threaten the health aide for having reported the incident. In addition to threats, the men shot at her house with a rifle. She has since (because of that and other incidents) resigned and left the village.

Marshall believes that the reality of the village situation lags far behind the hopes of anyone who wants to improve care (legal/medical) to individuals there. There is an intense distrust of any interference in local relationships or problems.

'We recognize the rights of the accused (and have a system to protect him/her, as well as the victim and the state), but you can't convince small villages of that. 110 people living in a scattered cluster of cabins spread over a remote area are totally interdependent. When one of those people commits what we see as a crime, even when we protect his/her rights, we are still seen as ripping him away from his people and his position in the community. To the villagers, the person who complains is at fault --and at risk of retribution.'

Indirectly, I think Dr. Marshall is making a bid for education and altered services over any laws you might propose. He suggests --as concerns the whole range of child abuses-- that the system be decriminalized. The state or feds could 'encourage people to come forth because the act in question is not good for the people or for the village. Then help them work out an in-place solution.' When asked if he suggests that same altered system when it comes to sexual assault of adults, he said: "We're not getting anywhere with the current system. A changed one might work better."

Marshall

He cited the example of the state regs re child abuse (etc.): They allow the state to remove children from a home which neglects or abuses them. The federal regs now require that children of Natives be returned to the immediate family, extended family or tribe as soon as possible. The difference between the two laws puts health care providers in a bind. As a result, he says, they have had to take a closer look at counseling/working with the families, in order to facilitate a speedy return of the child. In cases where the state has been able to make a good placement (in a native home) of the abused/neglected child, and give excellent counseling to the problem parent --as well as other family members-- they are finding that the family can recover and change.

He feels that if the state concentrates on the possible consequences of laws (more laws regarding reporting would result in an uproar --and danger to those who would report, collect evidence, etc.), and on improving the outcome for people, there may be a better result.

At this point, however, he agrees with Terry Foster that matters having to do with crimes in villages will have to be taken case by case --suspending system to work with the idiosyncracies of village life.

Dr. Marshall had some thoughts on alcohol during the conversation. Venetic is and has been a dry community. In the four years Dr. M. has been traveling to Ft. Yukon and its near villages, "the worst thing that ever happened in Venetic was when a Ft. Yukon man came in, beat up old Mr. Christian (who was 90) and killed him." In Stevens Village --a wet village-- assaults and abuses, and murders, happen all the time. People are drunk all the time. "In Venetic, people live normal lives. There is very little violence." It's a tangent, but a thoughtful one, yes?

SB 72: BACKGROUND INFORMATION

It appears that payment for emergency medical examinations for victims of sexual offenses has at times varied throughout the state. The following supports this statement.

Anchorage, Bethel, Barrow, Fairbanks and Juneau police departments were asked how these exams were paid for in their areas. The following is information gathered from these departments.

Anchorage - When a victim of sexual assault is taken by the city police to the hospital and an exam is administered, the police department pays for the exam with department funds which essentially come from the Municipality of Anchorage.

Bethel - In Bethel the police department stated that the majority of sexual offense victims in their area are native and would be taken to the native hospital in Bethel where there would be no charge to the native victim (hospital is federally funded). But in the case of a nonbeneficiary (non-native) the victim would be personally responsible for the payment of the exam.

Barrow - In Barrow the same standards are followed as in Bethel.

Fairbanks - The police department in Fairbanks stated that if the city police take a sexual assault victim to the hospital and the victim undergoes an exam, the expense of the exam is the responsibility of the investigating agency, in this case the city police department would pay for the exam with funds from their operating budget. In a case outside of the city limits where the State Troopers were called, the exam would be paid by the State Troopers with state funds which come from the Department of Public Safety.

Juneau - As far as the Juneau police department knew, the victims of sexual assault would be responsible for the expense of an exam given.

Nola Capp, administrator to the Violent Crimes Compensation Board, stated that awards of compensation for emergency medical examinations have been made both to a provider via the victim and also to the victim who had previously paid at the time of the exam.

According to the Network on Domestic Violence and Sexual Assault, the payment for these examinations have been a problem in past years. It seems that on occasions an examination would not be administered unless payment was made. This seems to have been generally corrected. Incest victims, however, have been treated differently. According to the Network often the incest victim must be reimbursed through the board which causes financial hardship.

Given the different procedures utilized throughout the state for these examinations, it is in the best interest of the state to enact a uniform law.

SB 72 adds a new section to AS 18.67 "Violent Crimes Compensation Board" and provides that emergency examinations for victims of sexual offenses will be provided at no cost to the victim when the purpose of the examination is to gather evidence to assist in the possible prosecution of the offender.

As the evidence gathered is used only for the benefit of prosecution there is no justification for a victim having to pay for this examination, even if later reimbursed by the board.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 72 Date on Bill: 1/25/83
 Title: "An Act relating to free emergency medical examinations of victims of sexual offenses"
 Sponsor: Sens. Kerttula, V. Fischer and Josephson
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	0	0	0		
Operating			0	0	0	0		
Total			0	0	0	0		

b. Revenues:

Revenue								
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It not represent the policy of the Sheffield Administration or the final estimate of impact.

Prepared By: Dean Tirador Phone: 465-3090
 Division: Public Health Date: 2-10-83

Approved by Commissioner: Robert Gordon Ameli Date: 2/14/83
 Department: Health and Social Services

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

Medical people attending
meetings on SSSB 72

Walter Johnson - health aide prog
Cindy Shabler - Providence
Ilona Wright - Humana
Mary Snowball - AANHS
Elizabeth Ward

S

B

7

4

As requested, I am forwarding the message below for your consideration.

To: Senator Bettye Fahrenkamp
Fm: The Fairbanks Inter-Agency Child Sexual Assault Task Force
Re: CS for Senate Bill #74 (Judiciary)

The following are points we feel should be considered regarding Seante Bill #74:

1) We would suggest including another group of people to whom this law should apply. This subsection would apply to any "caretaker or adult household member in a position of authority or control over the child".

The highest percent of sexual abuse cases involving children are cases in which the child is abused by a member of their household or a caretaker who is not technically their legal custodian or step-parent, but who has assumed the same parenting or caretaker role and who is, therefore, in a position of natural authority over the child. This would include a parent's boyfriend or girlfriend, any relative such as a grandfather, uncle, cousin, older sibling or a babysitter.

2) It seems arbitrary to make the victim's age the deciding factor in determining if the abuse is an unclassified felony or a class B felony. It becomes a matter of when the victim's birthday occurs.

Victims between the age of 13 or 18 are as much or more emotionally damaged, from our experiences, by sexual abuse as a younger victim, yet they do not have the same protection.

The judge should have the authority to take the circumstances of each case into consideration at sentencing. Factors such as the child's age, special physical or emotional needs and the relationship of the offender and the victim would all warrant the judge's consideration.

3) Many child sexual abuse cases do not include penetration. Is it worse for a victim to be subjected to penetration or to have to perform fellatio? Often sexual contact other than penetration is equally as damaging.

4) Section 11.41.440 could fail the requirement of proof that the juvenile has committed an act which would have been criminal if committed by an adult (ie: no adult can commit sexual assault in the fifth degree).

5) Regarding presumptive sentencing this allows no discretion on the part of the judge and may discourage or prevent treatment for the offender.

Thank you for your consideration and for distributing this to all senators and representatives for us.

June 15, 1983

Virginia Moll 452-9307
Room 407, 604 Barnette Street
Fairbanks, AK 99701

RECEIVED

JUN 2 1983

Josephson,

"IT TAKES LESS ENERGY TO BE FREE AND FLOWING THAN TO BE LOCKED UP IN STRESS"

NEXT MEETING
 Thursday, March 1, 1984
 7:00 - 9:00 P.M.
 Wendy's Downstairs Conference Room
 Airport Road

The speaker will be Patrick J. Molloy, Ph.D. Dr. Molloy will discuss the functions and purposes of schizophrenia; the reorganization process of the psyche that takes place in schizophrenia; the developing personality and how this process has potential for expanding personality and the things that interfere with that process.

What are the positives in this negative situation?

The Chinese Auction added \$28.00 to the FAMI bank account and a SMURF thermos to our guest's household. We'll hold another at this month's meeting.

INSANITY "DEFENSE"

Dr. Irvin Rothrock's talk on the history of the insanity plea filled in many gaps. Of particular interest was the Michigan study which followed up on patients found Guilty but Mentally Ill. Eighty percent had received no significant degree of treatment and had been sent to jail. There is no correctional system with adequate treatment. Dr. Rothrock stated that at one time the State considered a 60-bed psychiatric correctional unit, fully staffed, in Seward. However, this never came about.

Prisons are no place for the mentally ill. It will take major reforms to enable more

mentally ill to receive appropriate treatment and protection in a medical rather than a correctional setting. (See H.B. 606 and H.B. 493 under Legislative Update.)

THE NETWORK

What happens when people who have never met become a "we"?

"We" move into a new posture, requiring an entirely different way of looking at things. The solitary frustration is over.

Consider this from THE AQUARIAN CONSPIRACY, by Marilyn Ferguson:

"Effective informal internal networks often succeed in changing the emphasis in [society's] official philosophy; they bring in more innovative speakers for programs, run for office, and otherwise break the hold of the thinking of the old guard. The collusion is so low-key that no one notices, and there is usually no significant struggle among network members for offices or honors."

A new perspective tends to trigger change. The attitude toward mental health needs new avenues of thrust; new lines of demarcation.

"Can 'we' etch in new forms?"

Legislative Update - Alaska

H.B. 606 provides for issuance of \$60 million in general obligation bonds to pay for a prison in Seward. (Will it have a psychiatric unit?)

Legislative Update (continued)

S.B. 303 addresses the licensing of social workers, and establishing the Board of Social Worker Examiners. FAMI reviewed and approves of this bill. It sets out strict requirements for licensing of social workers, establishes procedures for disciplinary sanctions, and would require two years of supervised experience in the area of chronic mental illness before specialization in that field would be allowed. At present, Alaska has a Board of Barbers and Hairdressers but lacks a Board of Social Worker Examiners. Is the hair more precious than a life?

S.B. 334 establishes three Health Service Areas and designates regional health resources organizations for each "H.S.A.". In Fairbanks this resource organization is the Northern Alaska Health Resource office which was instrumental in planning "Programs for Progress" presented to the Borough this past year. (Note. A copy of FAMI's concept plan for a living facility was recently brought to NAHRA's office for evaluation and input.) Our letters should encourage continued funding of this office.

S.B. 312 would set up a new Office of Public Advocacy. We have many questions about this bill as it duplicates the activity of the Public Defender's office. It addresses commitment proceedings, guardianship, guardian ad litem services, etc. The bill comes from the Dept. of Administration (Governor's office). We should look into the expense of setting up an office that mirrors the functions of an existing office. More study needed on this bill.

S.B. 346 relates to amendments to the commitment act. We understand "civil rights" proponents are opposing these amendments. More letters are needed which

point out the right to treatment is being overlooked.

S.B. 457 would set requirements for mental health insurance coverage. This is a very important bill for us and could use all of our support!

Of interest:

S.B. 455 would appropriate \$306,000 for a community health building in Homer.

S.B. 461 would expand functions of Medicaid Rate Commission to include providing for rates charged by health facilities.

S.B. 477 would relax the law for officers making arrests in cases of domestic violence. (Should be read as many of our calls for help are construed as domestic violence cases and patients taken to jail instead of the hospital).

S.B. 484 relating to social services fund and eligibility requirements.

S.B. 493 would require that alcoholics and intoxicated people not be criminally prosecuted for consumption of alcoholic beverages; calls instead for treatment. (Should be read for comparative purposes.)

Copies of all these bills may be obtained at:

Legislative Information Office
315 Barnette St., Suite 101
Fairbanks, Alaska 99701

452-4448

Diminished Capacity

Many of us have noticed an apparent diminished capacity for thinking among some of the most seriously mentally ill. It seems to resemble mental retardation. This problem also frustrates the mentally ill themselves when simple tasks such as tooth brushing or drawing a glass of water become overwhelming.

In an article entitled Intellectual Assessment of Young Adult Chronic Patients, by Barbara Feitel, Ph.D. and Mary Sano, M.A., Hospital and Community Psychiatry, December 1983, the authors discuss the relationship of this lowering of the IQ to readmissions to hospitals.

The authors' suggest that much of the recidivism experienced by the young adult patient is due to an inadequate understanding of these patients' deficits. Often clinicians fail to first conduct diagnostic tests of both psychological and intellectual functioning. Without adequate information concerning intellectual capacity on which to base treatment plans, the pressure of such plan may force the patient into retreat.

"For instance, clinicians frequently do not know if limitations in cognitive abilities or intellectual functioning could be hampering a former inpatient's success in a training program. Limited achievement that has led to illiteracy could make it difficult for a patient to benefit from any services."

The patients studied were between the ages of 18 and 35. They have lived in an era of deinstitutionalization since the onset of their illness. Their rapid return to the community, without remedial education included in a treatment plan, results in chaos -- confusion for the patient.

The authors stated:

"The majority of [the patients studied] had below normal IQs (83%) and more than half were found to be functionally illiterate."

The method of study and the results are well documented in this article.

Even the most gifted individual seems to function with diminished capacity at times, unable to read or write successfully. "Thus, given currently available rehabilitation services, they appear to be doomed to failure in any attempts to return to the community."

"Perhaps not enough attention has been paid to the functional retardation that afflicts many young adult chronic patients. Further research efforts should be directed toward evaluation of the intellectual and social functioning of the patients, so that precise and appropriate methods for rehabilitation can be developed."

(Copies of this article are available to FAMI members. Request that it be brought to the family sharing meeting.)

SCHIZOPHRENICS IN TRANSITION
POETRY CONTEST

The SIT Poetry Contest, which was reported in our May, 1983 Newsletter, netted \$550 after expenses for this San Diego group, whose focus is on rehabilitation. A report from SIT

F.A.M.I.
Fairbanks Alliance for the
Mentally Ill
Page 4

Box 30754
Fairbanks, Alaska 99701
907) 452-3733

Poetry Contest (continued)

states 352 poems were submitted, from Italy, England, Canada and 35 states in this country. A jury selected 100 poems for publication. The SECRET SONGS II collection is now available for a \$5 tax-deductible donation. All funds received will help finance other rehabilitation projects. For copies of this book of poems, send to:

SIT Corporation
301 Hidden Pines Road
Del Mar, California 92014

Book Review

The Disordered Mind: What We Now Know about Schizophrenia, by Patrick O'Brien; Prentice-Hall, Englewood Cliffs, New Jersey, 1978, 304 pages.

This book is a thorough and open-minded overview of the diagnosis, etiology, course, prognosis, and treatment of the "Schizophrenic-type disorders." It is for the general reader and specialist alike. There is a summary section at the end of each chapter for the reader who wants a brief overview; there are excellent notes and references for the reader who wants further information. The only thing missing is a glossary of terms.

What is most delightful about this book is the author's deep respect for the individual with schizophrenia and for the variety and importance of "individual differences." He is very frank about the limitations of our current knowledge. He gives the reader the necessary information to evaluate "skeptically" the current theories. At the same time, he is willing to admit the possibility of a range of

disorders, and therefore the possibility that different treatments may benefit different sub-groups of patients. I highly recommend this book to both professionals and their patients and families.

(This review was done by Mary E. Woesner, M.D., for Hospital and Community Psychiatry, October, 1983.)

- CONVENTIONS AND CONFERENCES -

May 4 - 5, Fairbanks

"Coping with Mental Illness", a family seminar, has been made possible for FAMI by several generous donations from Fairbanks service groups. The tentative dates for this local, two-day seminar, being handled by Conferences & Institutes are May 4 and 5, 1984. Fliers will be forthcoming. Mark your calendars now.

May 29 - 31

Region X Community Support Conference
Anchorage, Alaska

July 5 - 8

NAMI ANNUAL CONFERENCE

University of California, Irvine.
Deposits of \$25 per person now accepted. (We expect 1000 - we have only 600 spaces for dormitory rooms.)
Send reservations to

Helen Teisher
5820 Yorkshire Avenue
La Mesa, CA 92041

Conventions & Conferences (continued)

The planning committee of the National Alliance for the Mentally Ill Annual Conference, 1984, keeping in mind the theme: SURVIVING THE MENTAL ILLNESSES: FAMILIES FACE THE CHALLENGES is designing an intensive three-day conference. We will learn from the best neuroscientists and researchers in the world today. We will also have a chance to choose from a wide variety of workshops. We will enjoy a variety of recreational activities, including a Mexican dinner with mariachi band, and a barbeque with Country and Western music.

Editors Note: There have been a series of family crises recently, and it isn't even Spring -- our historically "crucial" period. This has meant a hold-up in some committee work; a backlog in some of our duties; all understandable. We continue to persevere.

FAIRBANKS ALLIANCE FOR THE MENTALLY ILL
Membership Application

The Fairbanks Alliance for the Mentally Ill recognizes that mental illness is a handicapping condition. The alliance works toward the eradication of the effects of mental illness and toward improving the quality of life of its victims.

The sole support of FAMI at this time is from membership dues.

ANNUAL DUES

*General Membership	\$12.00	Name _____
*Associate Membership	\$10.00	Mailing Address _____
Newsletter Only	\$ 5.00	City _____
		State _____ Zip _____

Please make checks payable to: FAMI
and send to: Treasurer, FAMI, SR Box 30754
Fairbanks, Alaska 99701

I enclose \$ _____ for _____ memberships. _____
Date

- *From FAMI Code of Bylaws, Article Two:
- Sec. 1. Classes of Members. The members of the corporation shall be divided into two (2) classes: General Membership; and Associate Membership.
- Sec. 2. General Membership. General Membership shall be available only to mental health service consumers, their families and guardians. Each General Member shall have one vote.
- Sec. 3. Associate Membership. Associate membership is open to anyone.

APPENDIX II

State-by-State Information on Marital Rape Exemption Laws

by Joanne Schulman

*Staff Attorney with the National Center
on Women and Family Law, Inc.*

A husband's rape of his wife is not a crime in most states. This legal right of wife rape is known as the "marital rape exemption," and is included in most states' rape statutes.

There are many types of marital rape exemption. This state-by-state summary divides the exemptions into the following categories.

CATEGORY

- 1 *Absolute Exemption.* A husband can never be prosecuted for rape of his wife so long as the parties are married. The exemption still applies even if the parties are separated by court order. The exemption only ends when the parties are divorced; when the man is no longer *legally* the victim's husband.
- 2 *Partial Exemption.* A husband can be prosecuted for rape of his wife in some circumstances. Some states allow prosecution if the rape occurred after one spouse filed papers in court to end the marriage, or when the parties were not living together. The event or circumstance that ends the exemption differs from state to state.
- 3 *Cohabitant Exemption.* A man who is living with a woman that he is not legally married to cannot be prosecuted for raping her. Often this exemption is stated as a "defense," rather than a bar to prosecution. Thus, the district attorney may institute rape charges against the man, but he cannot be convicted of rape if he can prove he was living with the victim.
- 4 *Voluntary Social Companion Exemption.* This exemption may apply to husbands, cohabitants and social companions (i.e., dates). There is no requirement that the rapist live or have lived with the victim. Most states that have this type of exemption require that there have been past voluntary sexual relations between the defendant and victim in order for the exemption to apply. However, West Virginia does not require any past sexual activity.

CATEGORY	
5	<i>Silent Statute.</i> The law does not mention whether husbands may or may not be prosecuted for rape of their wives. It has been assumed, until recently, that husbands could <i>not</i> be prosecuted because of Hale's alleged "common law" marital rape exemption. However, recent lawsuits in New Jersey, Massachusetts and Florida have held that no "common law" exemption exists. Thus, it is not clear if husbands can be prosecuted for marital rape in these "silent" states. Whether marital rape is a crime in these states will depend on future judicial decision, or legislative interpretation of the statutes.
<i>No Exemption</i>	The marital rape exemption has been abolished; husbands can be charged with rape of their wives in all or most cases.
<i>Rape Degrees</i>	In some states, there are different "types" of rape, murder, assault, etc. In most states, the criminal laws punish rape more or less severely depending on the circumstances of the rape (e.g., whether a weapon was used; age, mental and/or physical condition of the victim; whether the assault involved illegal sexual penetration, conduct, contact or use of a foreign object). These differences in the law are called "degrees." It is not possible to give a uniform definition for each "degree" as each state bases its rape degrees on different factors. (The fact that the marital rape exemption may apply in some rape degrees and not others has political and practical significance. The law is saying that it will tolerate certain violence by husbands against their wives that it will not tolerate between strangers. Practically, the different application of the exemption, based on the degree of rape charged, may decide whether marital rape cases will ever be prosecuted or what, if any, penalty will be imposed.)
<i>Gender-Neutral Statutes</i>	Traditionally, the law defined rape as a crime only men could commit. Thus, only husbands were granted the "immunity" or protection of the marital rape exemption. Today, many states have rewritten their laws in gender-neutral terms. Under these new rape laws, women can also be prosecuted for rape and the immunity granted under the marital rape exemption is extended to both spouses. The following chart does not incorporate these gender-neutral changes since it is intended to reflect reality rather than pure "legalese."

These categories are general, and states may fall into more than one category. In addition, considerable legislation and litigation has been occurring over the last two years, and therefore the following chart only reflects the law as of July 1, 1981.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Alabama	1, 3	Husbands and cohabitators can <i>never</i> be charged with rape of mate.	Title 13A-6-60(4), 13A-6-61
Alaska	2	Husband can only be charged with rape of wife if parties were living apart or he caused	Stat § 11.41.445(a)

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW severe physical injury (besides the rape).	CITATIONS*
Arizona	2	Husband cannot be charged with wife rape while parties are living together.	R.S. § 13-1404-06
Arkansas	5	Statute only exempts husbands in statutory rape cases. Whether marital rape is a crime will depend on judicial decision or legislative interpretation of "common law" exemption.	Stat. § 41-7803, <i>et seq.</i>
California	<i>No Exemption</i>	Husband can be charged with crime of "spousal rape." Thirty-day reporting requirement.	Pen. C. § 262
Colorado	2	Husband cannot be charged with rape of wife while parties live together.	R.S. § 18-3-409
Connecticut	<i>No Exemption to First-Degree Rape; 1, 3</i>	Spouse/cohabitators can be charged with first degree rape; marital and cohabitor exemption for all other sexual assaults.	Pen. Code § 53a-67(b), as amended by H.3-5247
Delaware	3, 4	"Voluntary social companion" of victim cannot be charged with first degree rape; this may exempt husbands, cohabitators and "dates." Cohabitators (and spouses living together) cannot be charged with rape of mate.	D.C.A. §§ 761-764, 772(b)
District of Columbia	5	Not known if "common law" exemption applies, making marital rape legal.	R.S.D.C. § 22-2801
Florida	<i>No Exemption</i>	Husbands can be charged with rape of wife, the same as a stranger. (<i>State v. Larry Smith</i>)	S.A. § 794.011
Georgia	5	Statute only exempts husbands in statutory rape cases. Marital rape may be legal under "common law" exemption; will	C.A. § 26.2001, 2018

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW depend on judicial deci- sion or legislative inter- pretation of statute.	CITATIONS*
Hawaii	4, 2	"Voluntary social com- panion" of victim can- not be charged with forcible (first degree) rape; this may exempt husbands, cohabitators and "dates." Husbands cannot be charged with "lesser" sexual assaults of wife while parties are living together.	R.S. § 707-730 to 732
Idaho	2	Husband cannot be charged with rape of wife <i>unless</i> parties have been living apart at least 180 days or legal action for divorce or separation started (petition filed).	C. § 18-6107
Illinois	1	Husband can <i>never</i> be charged with rape of wife.	A.S. Ch. 38 § 11-1
Indiana	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	S.A. § 35-42-4-1(b)
Iowa	<i>No Exemption to First- and Second-Degree Rape; 3</i>	Husbands <i>can</i> be charged with first and second degree rape of wife. Husbands and cohabi- tors <i>cannot</i> be charged with third degree sexual abuse of mate.	C.A. § 709.2 to 709.4
Kansas	1	Husband can <i>never</i> be charged with rape of wife.	S.A. § 21-3502
Kentucky	2	Husbands and cohabitators cannot be charged with rape of spouse <i>unless</i> court order of separa- tion.	R.S. § 510.010 (3)
Louisiana	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	R.S.A. § 14.41

*The citation is included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Maine	2, 3	Husbands and cohabitants cannot be charged with rape of mate while parties living together.	R.S.A. Title 17A § 251, 252
Maryland	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	A.C. § 27-464D
Massachusetts	<i>No Exemptions</i>	Husbands can be charged with rape of wife same as a stranger (no exemption). (<i>Commonwealth v. Chretien</i>)	A.L. Ch. 265 § 22; Ch. 277 § 39
Michigan	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	M.S.R.C.C. Ch. 23 § 2340
Minnesota	<i>No Exemption</i>	Husbands can be charged with rape of wife under most circumstances.	S.A. § 609.349
Mississippi	2, 5	Husband cannot be charged with "sexual battery" of wife <i>unless</i> parties living apart. Separate "rape" statute does <i>not</i> exempt husbands; unknown if marital rape is a crime.	MCA § 97-3-95 to 103, (Supp. 1980)
Missouri	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	A.S. § 566.010:2
Montana	2, 3	Husbands/cohabitants cannot be charged with rape of mate while parties are living together.	R.C. § 45-5-506
Nebraska	<i>No Exemption</i>	Husband can be charged with rape of wife the same as a stranger.	R.S. § 28-319, 320
Nevada	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	R.S. § 200.373

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Rhode Island	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	G.L. § 11-37-1
South Carolina	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	C. § 16-3-658
South Dakota	1	Husband can <i>never</i> be charged with rape of wife.	C.L.A. § 22-22-1
Tennessee	2	Husband cannot be charged with rape <i>unless</i> court action for divorce or separation started (petition filed).	C.A. § 39-3702
Texas	1, 3	Husbands and cohabitor can <i>never</i> be charged with rape of wife/mate.	§ 21-02(a) § 21-12
Utah	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	Crim. C.A. § 76-3-402 407
Vermont	1	Husband can <i>never</i> be charged with rape of wife.	S.A. Title 13 § 3252
Virginia	1	Unknown if marital rape is a crime.	Code 18.2-61, <i>et seq.</i> (effective 7/1/81)
Washington	1	Husband can <i>never</i> be charged with rape of wife.	R.C.A. Ch. 9A.44.010, <i>et seq.</i> (Supp., 1979)
West Virginia	1, 3, 4	Husbands and cohabitants can <i>never</i> be charged with rape of mate. "Voluntary social companion" cannot be charged with 1st degree sexual assault (date-rape exemption).	Code § 61-8B-1
Wisconsin	2	Husband cannot be charged with rape of wife <i>unless</i> parties live apart and court action for divorce or separation started (petition filed).	S.A. § 940.225(6)
Wyoming	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	S.A. § 6-4-307

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
New Hampshire	<i>No Exemption</i>	Husband <i>can</i> be charged with rape of wife under most circumstances.	RSA 632-A:5 (H.B. 516, effective 8/81)
New Jersey	<i>No Exemption</i>	Husbands <i>can</i> be charged with rape of wife, same as a stranger (no exemption).	S.A. § 2C:14-5(b)
New Mexico	2, 3	Husbands/cohabitants cannot be charged with rape of their mates <i>unless</i> parties living apart or legal action for divorce or separation started (petition filed).	Stat. § 30-9-10, 11
New York	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	Pen. L. § 130.00
North Carolina	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation or spouses living apart pursuant to written agreement.	G.S. § 14-27.8
North Dakota	2	Husbands cannot be charged with rape of wife <i>unless</i> court order of separation.	C.A. § 12.1-20-01, 02, 03
Ohio	2	Husband cannot be charged with rape of wife <i>unless</i> parties live apart and court action started (petition filed) or written separation agreement entered into.	ORC § 2907.01, 02
Oklahoma	1	Husband can <i>never</i> be charged with rape of wife.	S.A. Title 21 § 1111
Oregon	<i>No Exemption</i>	Husbands can be charged with rape of wife same as a stranger.	R.S. § 163.305
Pennsylvania	2, 3	Husbands/cohabitants cannot be charged with rape of mates <i>unless</i> parties living apart or written separation agreement entered into.	S.A. Title 18 § 3103

*The citations are included so interested readers can more easily obtain full details of these laws.

**ALASKA NETWORK ON DOMESTIC
VIOLENCE AND SEXUAL ASSAULT
P.O. BOX 809
JUNEAU, ALASKA 99802
586-3650**

POSITION PAPER

SB74: An Act relating to sexual abuse of a minor

The Network maintains that, in cases involving sexual abuse of a minor, sexual contact and penetration are equally serious offenses that should be incorporated under the same felony classification.

The Network would strongly support a comprehensive overview of current statutes governing the prosecution, sentencing and treatment of persons convicted with sexual abuse of a minor.

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of twenty-one programs statewide that provide domestic violence, sexual assault, and adult crisis intervention services to members of their respective communities. Network programs are funded in part through grants and contracts awarded by the Council on Domestic Violence and Sexual Assault.

The Network was established in 1978, and has as one of its primary focuses the elimination of domestic violence and sexual assault through provision of shelter, advocacy, and education/prevention services.

COMMENTARY AND SECTIONAL ANALYSIS
FOR THE PROPOSED 1983 AMENDMENTS TO ALASKA'S LAWS
RELATING TO SEXUAL ASSAULT AND SEXUAL ABUSE OF A MINOR

Section 1. AS 11.41.410, Sexual Assault in the First Degree.

This section repeals paragraphs (a)(3) and (4) of the Sexual Assault in the First Degree statute. These subsections are reclassified in section 3, below, as Sexual Abuse of a Minor in the First Degree.

Section 2. AS 11.41.420, Sexual Assault in the Second Degree.

This section accomplishes two things. It amends the current Sexual Assault in the Second Degree statute to define the crime as "sexual contact with another person without consent of that person." The amended language is consistent with that used in the Sexual Assault in the First Degree statute, which prohibits sexual penetration without consent. Under the current Sexual Assault in the Second Degree law the prosecutor must prove that the victim was "coerced" to submit to the sexual contact by the express or implied threat of imminent death, imminent physical injury, or imminent kidnapping. Technically, the defendant's use of force without any threats may not be sufficient to establish this crime; felony charges have been lost through a literal application of these terms.

The second change which this section makes is to raise the current class C felony offense of Sexual Assault in

the Third Degree, penetration with a person who is suffering from a mental defect or is incapacitated, to Sexual Assault in the Second Degree, a class B felony punishable by up to ten years in prison.

Section 3. AS 11.41.430. Sexual Abuse of a Minor In the First Degree.

This section creates a new classification of offense, Sexual Abuse of a Minor in the First Degree. The section prohibits sexual penetration with a person who is under the age of 13 and at least three years younger than the actor. It also prohibits sexual penetration with a person under 18 who is entrusted to the actor's care by authority of law or because the person is his son or daughter, including illegitimate or adopted children and stepchildren.

Basically, this provision covers conduct which is currently classified as Sexual Assault in the First Degree, but the language here adds the requirement of a three year age difference between the actor and the victim. This requirement is added to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a felony. (Such behavior may in some circumstances be cause for parental concern, but it is not considered appropriate or useful to classify it as a crime.) Forcible sexual penetration of

any person, including a child, would continue to be punishable as Sexual Assault in the First Degree (AS 11.41.410), an unclassified felony.

The language in this section addresses a problem which has arisen under the present sexual assault laws by deleting the requirement that the actor be 16 years of age or older. The provisions of the law are thus made applicable to juvenile offenders. This is important; studies of adult sexual offenders indicate that many convicted offenders began to commit sexual assaults in their early teen years. Early identification and treatment of juvenile sexual offenders may ultimately decrease the number of adult offenders.

Sexual Abuse of a Minor in the First Degree is a class A felony offense. It carries a maximum sentence of up to 20 years in prison, and a presumptive term of five years upon conviction for a first offense.

Section 4. AS 11.41.435, Sexual Abuse of a Minor in the Second Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Second Degree. It includes the offenses found in the current Sexual Abuse of a Minor statute (AS 11.41.440), with the addition of the requirement that the

actor be at least three years older than the victim. This language exempts teenagers who have consensual sexual relations with other teens near their own age (a 17-year-old boy and his 15-year-old girlfriend, for example) from prosecution. As in Section 3, above, the amendment deletes the requirement that the actor be 16 years of age or older, thus making the statute applicable to juvenile offenders who assault children much younger than themselves--the babysitter/toddler situation, for example.

Paragraph 3 creates a new offense to address an omission in the current law. Under current law sexual contact by a parent or guardian with his own child is prohibited only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). Since fondling of a child's genitals or breasts by a parent is a serious violation of the trust and authority relationships within a family, and is often the precursor of a more serious assault, this provision raises to the age of 17 those children who are protected under the law. This conduct is a class B felony offense, punishable by up to ten years in prison.

Section 5. AS 11.41.440, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Third Degree. Basically, this is the current Contributing to the Delinquency of a Minor statute raised from its present classification as an A misdemeanor to a class C felony offense. Class C felonies are punishable by up to five years in prison.

Section 6. AS 11.51.130(a)(4), Contributing to the Delinquency of a Minor.

Section 6 repeals the "sexual contact" paragraph of the present Contributing to the Delinquency of a Minor statute. The seriousness of this conduct has been increased in Section 5, above, to Sexual Abuse of a Minor in the Third Degree, a class C felony.

Section 7. AS 11.41.460, Indecent Exposure.

This section creates a new crime entitled Indecent Exposure, which is the intentional exposure of a person's genitals, buttock, anus or female breast to another person with reckless disregard for the offensive, insulting or frightening effect that the exposure that might have on the other person. Under current law this conduct is considered "Disorderly Conduct", a class B misdemeanor offense with a maximum penalty of ten days in jail. Some recent studies indicate that exposure

is sometimes the first step for sex offenders who later increase the seriousness of their conduct to sexual contact or penetration. The current law treats this behavior much too leniently. This section raises the classification of Indecent Exposure to an A misdemeanor level if the object of the exposure is a child under the age of 16. The offense remains a B misdemeanor if the witness to the exposure is an adult.

Section 8. AS 11.41.470, Definitions.

This section removes the requirement in the definition of "without consent" that an express or implied threat of death or kidnapping be "imminent". Threats to inflict harm of this magnitude are inherently coercive, and the prosecution should not have to prove exactly when the defendant intended to cause the death or kidnapping. A threatened physical injury must still be "imminent" to fit within the definition.

Section 9. AS 11.61.110(a)(7), Disorderly Conduct.

Section 9 repeals the current "exposure" paragraph of the Disorderly Conduct statute. This conduct is included in the Indecent Exposure provisions set out in section 7.

Section 10. AS 12.10.020, Specific Time Limitation.

This section creates an exception to the general five year statute of limitations (AS 12.10.010) to allow prosecution for a sexual offense against a child to be commenced within one year after the child reaches the age of 16, or reports the crime to a law enforcement officer, whichever occurs first. The period of limitation cannot be extended by more than ten years, however.

This change is necessary because sexual offenses against young children (especially intrafamilial abuse) are frequently not discovered until the child reaches sufficient maturity to realize the wrongfulness of the conduct and to identify those adults to whom the conduct may safely be reported. A child of 12, 13 or 14 will often report for the first time sexual abuse which has been occurring since he or she was 4 or 5 years old. While the most recent assaults may be prosecuted, these offenses may be classified as less serious than the earlier ones, because of the child's older age. In those situations where the sexual abuse has been a continuing course of conduct which spans several years of a child's life the trier of fact should be entitled to reach and consider all aspects of the adult's conduct.

Act	Current Law	Proposed CS for SB 74	Original Version SB 74
person, 16 or older, induces person under 16 to perform acts for pornographic movies, pictures, etc.	Sexual Abuse of a Minor C Felony	Sexual Abuse of a Minor in the Second Degree B Felony	Sexual Abuse of a Minor [First Degree] B Felony
person, 16 or older, has sexual contact with person 13-15 and more than 3 years younger	Contributing to the Delinquency of a Minor (actor must be 19 or older) A Misdemeanor	Sexual Abuse of a Minor in the Third Degree C Felony	
person, under 16, has sexual contact or penetration with person under 13 and more than 3 years younger	Not covered	Sexual Abuse of a Minor in the Fourth Degree A Misdemeanor	
person, any age, intentionally exposes genitals, etc.	Disorderly Conduct B Misdemeanor (maximum sentence: 10 days)	Indecent Exposure A Misdemeanor (if witness is under 16), B Misdemeanor (if witness is 16 or older)	

DEFINITIONS

"Sexual contact" means (A) the intentional touching, directly or through clothing, by the defendant of the victim's genitals, anus, or female breast; or (B) the defendant's intentionally causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast. (AS 11.81.900(b)(51))

"Sexual penetration" means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body. (AS 11.81.900(b)(52))

MAXIMUM SENTENCES:

Unclassified felony (Sexual Assault 1st Degree)	30 years (8)
Class A felony	20 years (5)
Class B felony	10 years
Class C felony	5 years
Class A misdemeanor	1 year
Class B misdemeanor	90 days

Act	Current Law	Proposed CS for SB 74	Original Version SB 74
person, any age, has sexual <u>contact</u> with another person without consent	Sexual Assault Second Degree (limited coverage) B Felony	Sexual Assault Second Degree B Felony	
person, any age, has sexual <u>penetration</u> with person suffering from mental disorder or who is incapacitated	Sexual Assault Third Degree C Felony	Sexual Assault Second Degree B Felony	
person, 16 or older, has sexual <u>penetration</u> with person under 13	Sexual Assault First Degree Unclassified Felony	Sexual Abuse of a Minor in the First Degree A Felony	
person, 18 or older, has sexual <u>penetration</u> with son or daughter under 18	Sexual Assault First Degree Unclassified Felony	Sexual Abuse of a Minor in the First Degree A Felony	
person, 16 or older, has sexual <u>penetration</u> with person 13-15 and more than 3 years younger	Sexual Abuse of a Minor C Felony	Sexual Abuse of a Minor in the Second Degree B Felony	Sexual Abuse of a Minor in the Second Degree C Felony
person, 16 or older, has sexual <u>contact</u> with person under 13 and more than 3 years younger	Sexual Abuse of a Minor C Felony	Sexual Abuse of a Minor in the Second Degree B Felony	Sexual Abuse of a Minor [First Degree] B Felony
person, 18 or older, has sexual <u>contact</u> with son or daughter under 18	Not fully covered Child: 0-12, Sexual Abuse of a Minor, class C Felony 13-15, Contributing to Delinquency of a Minor, class A Misdemeanor 16-17, Harrassment, class B Misdemeanor	Sexual Abuse of a Minor in the Second Degree B Felony	

February 24, 1983

MEMORANDUM

TO: Senator Joe Josephson, Chairman
Senate HESS Committee

RE: Senate Bill No. 74

As a member of the Juneau Child Sexual Assault Task Force, I would like to bring to your attention our concern regarding the amendment to State Bill No. 74.

Sec. 11.41.442 Sexual Abuse of a Minor in the Second Degree appears to discriminate against the 13-15 year old minor.

Sec. 11.41.440 states that sexual abuse to a minor under 13 years of age is a crime in the first degree. We contend that the person committing the crime of sexual abuse to a minor is committing a crime of the same degree whether that minor be 13-15 years of age or under 13 years of age. We hope that you will consider this point in your committee review of this bill.

You are welcome to contact the task force for further information or questions regarding child sexual assault. Our contact person is Shelly Burns, 586-3585.

Thank you for your attention to this matter.

Sincerely,

Wendy White

Wendy White
Member, Child Sexual Assault Task Force

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 74 Date on Bill: 1/26/83
 Title: An Act relating to Sexual Abuse of a Minor
 Sponsor: Sen. Petty John
 Requestor: Senate HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 269-5691
 Division: Division of Administrative Services Date: 2/22/83

Approved by Commissioner: *James D.* Date: 2/23/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

Joe, Vic, Paul, Pappy

May 16, 1983

SB 74

Susan Clark

marital rape exemption.

16 states do not exempt spouse

Dr Elaine Schroeder - sexual abuse coordinator

Caren Robinson - AWARE

Rocky Patrick-Weller - Council of Domestic Violence

Jim Lear LAA legal

repeal?

common law would come into play if
provision is repealed.

AS 11.41.445 (a) In a prosecution under AS 11.41.410 -
11.41.440 it is not a defense that, at the time
of the alleged offense, the victim was the
legal spouse of the defendant.
delete (1) and (2)

May 11, 1983

Jae, Paul, Vic, Pappy, Rick

SB 74 - Sexual assault/abuse minors

1. page 2, line 7 change Class "A" felony to an unclassified felony
2. use of male pronoun perpetrator - victim

unmarital rape

eliminate exception - 16 states

4 states have legislation

Calif. Jan 1980 - Feb 1983

57 cases investigated

32 arrests

28 convicted of rape

3 acquitted.

Rick Is there any middle ground?

Burden of proof.

aff. defense

physical injury "pain or impairment of physical condition" in criminal code.

Wed - May 4

May 4, 1983
SB 74

Joe, Rick, Pappy

Gail Haretski - Dept. of Law

CS encompasses attempt of 74 but does
it better - breaks statute into

- 4 degrees of seriousness
- pulls in conduct scattered in other parts
of the code
- sec. 2 - lowers sexual assault in
the second degree from Class A to B felony.

forcible sexual assault is still an
unclassified felony

Sec 1.-

sexual contact - against the law "threats
imminent injury, kidnapping, death"
does not include force.

Current law - original bill - CS SB 74

Nancy
Notes
5/4/83

SENATE
IN THE ~~HOUSE~~

SENATE 74
CS for ~~House~~ BILL NO. ~~127~~ (Judiciary)

H.E.S.S.
BY THE JUDICIARY
COMMITTEE

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act revising the laws relating to sexual assault
and sexual abuse of a minor."

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

* Sec. 1. AS 11.41.420 is repealed and reenacted to read:

Sec. AS 11.41.420. SEXUAL ASSAULT IN THE SECOND DEGREE. (a) A
person commits the crime of sexual assault in the second degree if he
engages in

(1) sexual contact with another person without consent of
that person; or

(2) sexual penetration with a person who he knows

(A) is suffering from a mental disorder or defect
which renders him incapable of appraising the nature of the
conduct under circumstances in which a person who is capable of
appraising the nature of the conduct would not engage in sexual
penetration; or

(B) is incapacitated.

(b) Sexual assault in the second degree is a class B felony.

* Sec. 2. AS 11.41 is amended by adding a new section to read:

Sec. AS 11.41.432. SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE.

(a) A person commits the crime of sexual abuse of a minor in the
first degree if

(1) being 16 years of age or older, he engages in sexual
penetration with a person who is under 13 years of age or aids,
induces, causes, or encourages a person who is under 13 years of age

DRAFT

Class A because policy decision (Medical Law)
in some circumstances family intervention
may be able to salvage the family unit -
quit a child from putting family member
away.

1 to engage in sexual penetration with another person; or

2 (2) being 18 years of age or older, he engages in sexual
3 penetration with a person who is under 18 years of age and who

4 (A) is entrusted to his care by authority of law; or

5 (B) is his son or daughter, including an illegitimate
6 or adopted child, or a stepchild.

7 (b) Sexual abuse of a minor in the first degree is a class A
8 felony. *unclassified??*

9 * Sec. 3. AS 11.41 is amended by adding a new section to read:

0 Sec. 11.41.434. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE.

1 (a) A person commits the crime of sexual abuse of a minor in the
2 second degree if

3 (1) being 16 years of age or older, he engages in sexual
4 penetration with a person who is aged 13, 14, or 15, and more than
5 three years younger than he, or aids, induces, causes or encourages a
6 person who is aged 13, 14, or 15, and more than three years younger
7 than he to engage in sexual penetration with another person;

8 (2) being 16 years of age or older, he engages in sexual
9 contact with a person who is under 13 years of age and more than three
0 years younger than he, or aids, induces, causes, or encourages a
1 person under 13 years of age and more than three years younger than he
2 to engage in sexual contact with another person;

3 (3) being 18 years of age or older, he engages in sexual
4 contact with a person who is under 18 years of age and who

5 (A) is entrusted to his care by authority of law; or

6 (B) is his son or daughter, including an illegitimate
7 or adopted child, or a stepchild; or

8 *Sex. Exploitation (Child Pornography)* (4) being 16 years of age or older, he aids, induces,
9 causes, or encourages a person who is under 16 years of age to engage

in conduct described in AS 11.41.455(a)(2) -- (6).

(b) Sexual abuse of a minor in the second degree is a class B felony.

* Sec. 4. AS 11.41 is amended by adding a new section to read:

Sec. 11.41.446. SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE.

(a) A person commits sexual abuse of a minor in the third degree if, being 16 years of age or older, he engages in sexual contact with a person who is aged 13, 14, or 15, and more than three years younger than he.

(b) Sexual abuse of a minor in the third degree is a class C felony.

* Sec. 5. AS 11.41 is amended by adding a new section to read:

Sec. 11.41.448. SEXUAL ABUSE OF A MINOR IN THE FOURTH DEGREE.

(a) A person commits sexual abuse of a minor in the fourth degree if, being under 16 years of age, he engages in sexual penetration or sexual contact with a person who is under 13 years of age and more than three years younger than he.

(b) Sexual abuse of a minor in the fourth degree is a class A misdemeanor.

* Sec. 6. AS 11.41 is amended by adding a new section to read:

Sec. 11.41.460. INDECENT EXPOSURE. (a) A person commits the crime of indecent exposure if he intentionally exposes his genitals, buttock, anus, or female breast to another with reckless disregard for the offensive, insulting, or frightening effect the act may have on that person.

(b) Indecent exposure is a class A misdemeanor if the person before whom the exposure is made is under 16 years of age; otherwise it is a class B misdemeanor.

* Sec. 7. AS 11.41.470 is amended to read:

1 Sec. 11.41.470. DEFINITIONS. For purposes of §§ 410 - 470 of
2 this chapter, unless the context requires otherwise,

3 (1) "incapacitated" means that a person is temporarily
4 incapable of appraising the nature of his conduct and is physi-
5 cally unable to express unwillingness to act;

6 (2) "victim" means the person alleged to have been subject-
7 ed to sexual assault in any degree or sexual abuse of a minor;

8 (3) "without consent" means that a person

9 (A) with or without resisting, is coerced by the use
10 of force against a person or property, or by the express or
11 implied threat of [IMMINENT] death, imminent physical
12 injury, or [IMMINENT] kidnapping to be inflicted on anyone;
13 or

14 (B) is incapacitated as a result of an act of the
15 defendant.

16 * Sec. 8. AS 12.10.020 is amended to add a new subsection to read:

17 (c) Even if the general time limitation has expired, a prosecu-
18 tion under AS 11.41.410 -- 11.41.455 for an offense committed against
19 a person under the age of 16 may be commenced within one year after
20 the crime is reported to a peace officer or the person reaches the age
21 of 16, whichever occurs first. In no case does this provision extend
22 the period of limitation by more than 5 years.

23 * Sec 9. AS 11.41.410(a)(3) and (a)(4), 11.41.430, 11.41.440,
24 11.51.130(a)(4) and AS 11.61.110(a)(7) repealed.

COMMENTARY AND SECTIONAL ANALYSIS
FOR CSHB 117 (JUDICIARY)

Section 1. AS 11.41.420, Sexual Assault in the Second Degree.

This section does two things. It amends the current Sexual Assault in the Second Degree statute to define the crime as "sexual contact with another person without consent of that person." The amended language is consistent with that used in the Sexual Assault in the First Degree statute, which prohibits sexual penetration without consent. Under the current Sexual Assault in the Second Degree law the prosecutor must prove that the victim was "coerced" to submit to the sexual contact by the express or implied threat of imminent death, imminent physical injury, or imminent kidnapping. Technically, if a defendant physically forces a person to have sexual contact with him, and does not make any threats toward the person, the defendant's actions may not be sufficient to constitute this crime. The amended language makes clear that any sexual contact with a person without the other person's consent is a class B felony.

The second change which this section makes is to raise the current class C felony offense of Sexual Assault in the Third Degree, penetration with a person who is suffering from a mental defect or is incapacitated, to Sexual Assault in the Second Degree, a class B felony (punishable by up to ten years in prison). The language describing the crime has not been altered.

Section 2. AS 11.41.432, Sexual Abuse of a Minor In the First Degree.

This section creates a new classification of offense, Sexual Abuse of a Minor in the First Degree. The section prohibits a person 16 years of age or older from engaging in sexual penetration with a person who is under the age of 13. It also prohibits a person 18 years of age or older from engaging in sexual penetration with a person under 18 who is entrusted to the adult's care by authority of law or is his son or daughter, including illegitimate or adopted children and stepchildren.

Basically, this provision covers conduct which is currently considered Sexual Assault in the First Degree, contained in subsections (a)(3) and (a)(4) of present AS 11.41.-410. The conduct is re-classified from an unclassified to a class A felony level; it carries a maximum sentence of up to 20 years in prison, and a presumptive term of five years upon conviction for a first offense. Forcible sexual penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree, an unclassified felony.

Section 3. AS 11.41.434, Sexual Abuse of a Minor in the Second Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Second Degree. It includes all three types of conduct now prohibited in the Sexual Abuse of a Minor statute (AS 11.41.440), but raises the classification of the crime from a C to a B felony. The section also adds the requirement that the actor be at least three years older than the victim. This language would exempt from prosecution those teenagers who have consensual sexual relations with other teens near their own age (a 17-year-old boy and his 15-year-old girlfriend, for example).

Paragraph 3 creates a new offense to address an omission in existing law. Under current law, sexual contact by a parent or guardian with his own child is a crime only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). Fondling of a child's genitals or breasts by a parent is a serious violation of the trust and authority relationships within a family, and is often the precursor of a more serious assault. The existing law in this area is not sufficiently serious or comprehensive. This provision extends the law's protection to all children under age 18, and raises the classification of the conduct to a B felony offense, punishable by up to ten years in prison.

Section 4. AS 11.41.446, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Third Degree. Basically, this is the current Contributing to the Delinquency of a Minor statute (AS 11.51.130(a)(4)) raised from its present classification as an A misdemeanor to a class C felony offense. Class C felonies are punishable by up to five years in prison.

The contributing statute now applies to persons 19 years of age or older. The threshold age in this provision has been dropped to 16 to be consistent with the other sexual abuse provisions, but the requirement that there be at least a four year age difference between the actor and the victim will exempt from prosecution consensual sexual contact between teenagers of approximately the same age.

Section 5. AS 11.41.448, Sexual Abuse of a Minor in the Fourth Degree.

This section creates a new provision to address a problem which has arisen under the present sexual assault laws.

Virtually all of the statutes which deal with sexual offenses against children require that the actor be 16 years of age or older. Unfortunately, prosecutors and social workers have discovered numerous instances where an older child has sexually mistreated a much younger child, often while "babysitting" the younger child. This section prohibits all sexual contact or penetration between a child under 16 and another child who is 4 or more years younger, and makes such contact a class A misdemeanor.

The four year age difference requirement is included to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a crime. Such behavior may in some circumstances be cause for parental concern, but it is not generally considered appropriate or useful to classify it as a crime. The purpose of making it a misdemeanor crime for a child to prey upon much a younger child is to establish the violation of a law which would allow intervention by the juvenile courts or social workers. This intervention could be important; studies of adult sexual offenders indicate that many convicted offenders began to commit sexual assaults in their early teen years. Early identification and treatment of juvenile sexual offenders may ultimately decrease the number of adult offenders.

Section 6. AS 11.41.460, Indecent Exposure.

This section creates a new crime entitled Indecent Exposure, which is the intentional exposure of a person's genitals, buttock, anus or female breast to another person with reckless disregard for the offensive, insulting or frightening effect that the exposure that might have on the other person. Under current law this conduct is considered "Disorderly Conduct", a class B misdemeanor offense with a maximum penalty of ten days in jail.

Some recent studies indicate that it is not uncommon for sex offenders to begin their assaultive behavior by exposing themselves to young children, and to later increase the seriousness of their conduct to sexual contact or penetration. The current law treats sexual exposure, especially to children, much too leniently. This section raises the classification of Indecent Exposure to an A misdemeanor level (maximum sentence of one year) if the object of the exposure is a child under the age of 16. The offense remains a B misdemeanor (maximum sentence of 90 days in jail) if the witness to the exposure is an adult.

Section 7. AS 11.41.470, Definitions.

This section amends the definition of "without consent" to remove the requirement that an express or implied threat of death or kidnapping be "imminent". Threats to inflict harm of this magnitude are inherently coercive, and the prosecution should not have to prove exactly when the defendant intended to cause the death or kidnapping. A threatened physical injury must still be "imminent" to fit within the definition.

Section 8. AS 12.10.020, Specific Time Limitation.

This section creates an exception to the general five year statute of limitations (AS 12.10.010). If the five year limitation period has expired, this provision would allow prosecution for a sexual offense against a child to be commenced within one year after the child reaches the age of 16, or reports the crime to a law enforcement officer, whichever occurs first. In no case will the period of limitation be extended by more than five years, however.

This change is necessary because sexual offenses against young children (especially intrafamilial abuse) are frequently not discovered until the child reaches sufficient maturity to realize the wrongfulness of the conduct and to identify those adults to whom the conduct may safely be reported. A child of 12, 13 or 14 will often report for the first time sexual abuse which has been occurring since he or she was 4 or 5 years old. While the most recent assaults may be prosecuted, these offenses may be classified as less serious than the earlier ones, because of the child's older age. In those situations where the sexual abuse has been a continuing course of conduct which spans several years of a child's life the trier of fact should be entitled to reach and consider all aspects of the adult's conduct.

Section 9. Repealed sections.

This section repeals those statutes whose content has been incorporated into the provisions discussed above.

\$148,000 Statewide for treatment.

(3 yrs)
Human Creek, Eagle Riv. (1 yr) FIBX8 (1 yr.)

14% of all in jail in Ak. are sex offenders

problem of program is that after judge orders treatment, the Classification Committee determines where they go; and then treatment is voluntary.

Long Mander, Psychologist, says he needs 5 yrs of treatment to have effect.

3/4 of sex offenders were sexually abused as children. 860% increase in juvenile in reported sexual abuse. most offenders begin age 13 to 15 with "peeping", "flashing", child molesting.

juvenile treatment programs very important. They need rigid programs to guarantee responsibility, need 5 yrs counseling - facility separate from other offenders.

Massachusetts (50 yr program) has a 10% return rate.

Joe Depart. of Law give Statistics on recidivism rates, Costs of treatment program compared to repeated incarceration -> expense of State to Law Suits for lack of treatment.

Vic hold will hear from Depart. of Law

As 11.81.900

modify by gender??

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 74 Date on Bill: 1/26/83
 Title: An Act relating to Sexual Abuse of a Minor
 Sponsor: Sen. Petty John
 Requestor: Senate HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
---------	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 269-5691
 Division: Division of Administrative Services Date: 2/22/83

Approved by Commissioner: *James H.* Date: 2/23/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

Sentenced to 17 years for murder of Ba

mit," said Superior Court Judge Seaborn Buckalew in sentencing Yvette Richards. "An unarmed, intoxicated, defenseless man was shot down for no apparent reason."

Details of the murder revealed in court records and

attorneys' statements indicate that Richards, 22, pulled a gun from her purse and shot Johnny "Gin Gin" Ahtaungaruk, 24, on the sidewalk in front of the Elbow Room bar early in the morning of Sept. 1. An argument and tussle preceded the shooting, eye-

itnesses said.

Last December, Richards agreed to a plea bargain in which she pleaded no contest to second-degree murder, which carries a penalty of from five to 99 years.

During her sentencing, Assistant District Attorney Rob-

ert Bundy advocated a substantial jail sentence, saying "If you shoot someone down in these streets, (people know that) you're going to jail for a long time doesn't matter whether you're male or female or rich or poor. (Ahtaungaruk) di-

court report

ks arrests

Saturday after a fight that involved two pickup trucks on Anchorage police, a truck driver, 24, and William Wultz, 24, were charged with third-degree assault after hitting beer bottles at another truck's back window. The truck with the bottles was parked in a parking lot near Fifth Avenue and its occupants fought with Wultz. Wultz was armed with a knife, and the two were charged with third-

jured

A man was injured and arrested Saturday afternoon in a fight at the Stratton Hotel, police said. The man was charged with first-degree assault. The man was Tim Walunga, 24.

arged with theft

Two men who work for a retail affairs employees have been charged with theft of government property and a boat. The men are Riley Meganack, 44, and another man. They are alleged to have stolen a boat, gasoline, a space heater and a television set. Meganack was the crew chief and the other man was a mechanic.

accident

A pickup truck left the Knik River, Alaska, on Thursday with two passengers escaped with injuries. The accident Thursday was Melvin Douglas H. Reich, 19, and another man. Reich managed to escape the accident at Valley Hospital in Anchorage. The elder Reich one and another man were in the truck. Efforts to revive him were

Woman sentenced for welfare fraud

An Anchorage woman will spend 20 days in jail and the next three years repaying the state more than \$11,000 she admitted obtaining under false pretenses. Yvette Wilson Montgomery pleaded no contest Friday to 80 counts of welfare fraud. Investigators said she held three different jobs while collecting welfare, Medicaid payments and food stamps over a 23-month period. The mother of five must repay the state at \$25 per month.

Pair sentenced for having sex with child

A man and woman have been sentenced to jail terms for having sex with a 4-year-old boy. Eldon Gibson, 46, and Susan Meehan, 21, received jail terms of eight years and six years, respectively, for a first-degree sexual assault of a child. Meehan reported they had observed through Meehan's trailer's window. Two years of Meehan's sentence are to be spent on probation. "The facts are so shocking and appalling," said prosecutor Elizabeth Sheley, "that if you told them to people on the street they wouldn't believe it." Judge Seaborn Buckalew called the crime "barbaric."

Warrant dismissed

California has decided not to extradite a man on a felony drunken driving charge, a prosecutor told an Anchorage District Court judge Friday. The state had earlier extended the time on a fugitive warrant against Franz Baum to await a decision by Santa Cruz, Calif., prosecutors whether to ship him to California to be tried for what Baum's lawyer called a minor-injury accident. The warrant was dismissed Friday.

Trial in tailor's killing stalled

An ongoing problem between defense and state attorneys over the trial date for two men who have been charged with the alleged contract killing of Korean tailor Hiu Yi remains unresolved as a judge substituting for a vacationing trial judge deflected the question back to the trial judge. The trial of Daniel Mozzetti and Timothy Arnold is presently scheduled to start late next month, but defense attorney Phillip Paul Weidner asked for more time to prepare Mozzetti's defense. Weidner said he returned from a out-of-state trip to find 410 pages of investigative grand jury transcripts, a new attorney for Arnold and rumors of an inconclusive FBI ballistics report that he said the state refused to discuss.

Warrant issued

A Superior Court bench warrant was issued for a man who police say they found drunk in the brother's death is under the warrant.

Psychiatric analysis

A convicted robber went to court for a psychiatric analysis but Palmer Superior Court Judge Seaborn Buckalew sentenced him and, instead of a psychiatric analysis, Prosecutor Robert Bundy had Taylor receive a sentence. Gearing's sentence of three years and 20-year-olds robbed an Oa 1982. Cutler said she agreed to similar sentences, but was not sure the incident was just some of revelry or whether Taylor

Man charged with

A 37-year-old man has been charged with 10 counts of first-degree sexual assault. The man sexually assaulted a young woman. The man's name was Lopez and he was set at \$25,000 per month as a custodian and additional charges were issued.

Men admit to cocaine

Two men pleaded guilty to cocaine charges during a trial at Anchorage Superior Court. The men admitted to possessing cocaine, manufacturing, and Sean Ma delivering cocaine to an unnamed man. Thomas Jr., 26, pleaded no contest to cocaine. Three others also pleaded guilty to possession of cocaine. The men will be dismissed if they accept a diversion program. The men are Matika, 31, and James Mee-

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THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 77

Title Alaska Senior Citizen Employment Team Program and Fund

Requested by _____ Date 1/27/83

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected Social and Economic Assistance for the Aged

BRU, Program, Or Subprogram(s) Affected Older Alaskans Commission

(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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	- 0 -	1,272.8	1,347.1	1,428.2		

FUNDING (Thousands of Dollars)

GENERAL FUND	- 0 -	1,272.8	1,347.1	1,428.2		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 1/27/83

PREPARED BY [Signature]

AGENCY Older Alaskans Commission

PHONE 465-3250

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: David Gentry

W. Hunter

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

SECTIONAL ANALYSIS
SENATE BILL NO. 77

Section 1 - FINDINGS AND INTENT. Finds that older Alaskans constitute a valuable state resource and that the intent of the legislature to develop this resource be developed in order to improve the general welfare of the people of the state.

Section 2 - PURPOSE. States purpose of SB 77 is to eliminate human, social, and environmental problems in Alaska by encouraging and enabling older Alaskans to perform meaningful and constructive service and to find a job.

Section 3 - PROGRAM ESTABLISHED. Establishes the Alaska senior citizen employment team program (ASCET) under the Older Alaskans Commission (OAC) Department of Administration. The ASCET program director is the director of OAC.

Section 4 - FUND ESTABLISHED. ASCET fund is established in the Department of Administration and consists of money appropriated to it by the legislature. Fund shall be administered by the director to 1) reimburse participating employers for wages paid to and expenses incurred by, an enrollee and 2) to employ or contract for necessary staff and services to carry out this Act.

Section 5 - ENROLLEES. Director shall recruit, select and enroll residents 60 years of age and older to work full-time and/or part-time in eligible programs. The director is authorized to provide for short-term training if necessary.

Section 6 - CONTRACTS FOR EMPLOYMENT OF ENROLLEES. Authorizes the director to contract for employment of an enrollee by any employer in the state.

Sec. 6 (a) outlines contract procedures requiring:

- enrollee is paid a wage of not less than \$5 per hour
- contract can provide for part-time, full-time, job sharing and/or "flex-time"
- allows on-the-job training with guarantee of employment upon completion
- that employer establish a grievance procedure for employee
- that enrollee not replace an employee who is not an enrollee
- that employer pay wages and benefits required by state and federal law
- that employer provide enrollee written description of job duties
- that employer not discriminate with respect to the program because of age, race, creed, color, national origin, sex, sexual orientation, marital status, parental status, physical disability, or political affiliation.
- the Director, upon request, shall provide enrollee with a copy of enrollee's contract of employment.

Sec.6 (b) - provides that employer is eligible to receive reimbursement of all or a portion of wages paid to enrollee, and expenses authorized by director and incurred on behalf of an enrollee, in amounts specified by the contract and in a manner prescribed by regulations adopted by the director.

Sec. 6 (c) - Requires director to assign an enrollee to work in enrollees community of residence, or nearby, unless the enrollee agrees to serve elsewhere.

Section 7 - AUDIT. Makes program or business employing an enrollee under this Act subject to legislative audit division audit.

Section 8 - ANNUAL REPORT. Requires director to submit yearly performance report to legislature in January.

Section 9 - REGULATIONS. Requires director to issue regulations necessary to accomplish purposes of Act.

Section 10 - DEFINITIONS.

Section 11 - Sunsets this act on June 30, 1988

Section 12 - Effective date, July 1, 1983



Alaska State Legislature

Senator Vic Fischer - Pouch V - Juneau, Alaska 99811 - (907) 465-4954

January 25, 1983

PRESS RELEASE ** PRESS RELEASE ** PRESS RELEASE ** PRESS RELEASE

For Release: January 25, 1983

Contact: Ginger Bain, 465-4954

From: Senator Vic Fischer, Chair
Senate State Affairs Committee

Re: Alaska Senior Citizen Employment legislation.

JUNEAU, AK — A bill creating a job training and employment program for Alaska's senior citizens was introduced in the State Senate today by Anchorage Democrat Vic Fischer.

If enacted, the Fischer bill would create an Alaska Senior Citizen Employment Team (ASCET) program under the Older Alaskan Commission of the Department of Administration. The program would provide job training, and help place Alaskans 60 years of age and older in full and part-time jobs in both the public and private sectors. As currently written, the bill also provides for a minimum \$5.00 an hour for senior citizens employed under the program.

" I think all of us in the legislature recognize that the wealth of experience, expertise, and wisdom of older Alaskans constitutes a valuable state resource", Fischer said today. " The intent of this legislation is to develop this resource in order to address the needs and problems of Alaskans, to enable older Alaskans to earn a reasonable wage, and to improve the general welfare of the people of the state."

The bill also seeks to establish program funding in the Department of Administration in an amount to be appropriated by the legislature.

Under the terms of the proposed legislation, senior citizens would enroll in the ASCET program for job training or placement. The executive director of the Older Alaskans Commission would then contract with employers throughout the state for the employment of an enrollee. A portion of the program funding would then be used to reimburse employers for all or a portion of the wages paid to an enrollee and expenses authorized by the program director and incurred on behalf of an enrollee in amounts specified in the contract of employment and consistent with regulations adopted by the ASCET director.

Any program or business employing an enrollee under ASCET would be subject to audit by the legislative audit division. Enrollees will be placed in their own communities, a nearby community, or, if the enrollee agrees, elsewhere in the state.

To be eligible for the program, an Alaskan must be 60 years of age or older, and must have maintained a permanent residence in the state for the preceding 12 consecutive months.

A "sunset clause" repeals the legislation on June 30, 1988 unless the legislature votes to extend the ASCET program.

"There is so much that our senior citizens have to offer us", Fischer said, "it's a shame that a program like this hasn't existed at the state level before now. Hopefully, it will be used as a model for programs in other states", he concluded.

I. REQUEST

Bill/Resolution No. SS SB799

Title An Act establishing the senior Alaskans volunteer enterprises program

Requested by _____ Date 3/25/82

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected Social & Economic Assistance for the aged

BRU, Program, or program(s) Affected Older Alaskans Commission

(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			178.8	196.7	216.4	238.0
200 TRAVEL			16.6	18.2	20.	22.
300 CONTRACTUAL			22.1	24.4	26.8	29.5
400 COMMODITIES			3.0	3.3	3.6	4.0
500 EQUIPMENT			2.5	0	0	0
600 LAND & STRUCTURES			0	0	0	0
700 GRANTS, CLAIMS, ETC.			2,139.8	2,353.8	2,589.2	2,848.1
TOTAL			2,362.8	2,596.4	2,856.	3,141.6

FUNDING (Thousands of Dollars)

GENERAL FUND					
FEDERAL FUNDS					
OTHER (Specify Fund Source)					

POSITIONS

FULL TIME			5	5	5	5
PART TIME						
TEMPORARY						

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

Funds for administrative support are included for the following five positions:

Project Coordinator (R18); Project Field Representative II (R15); Administrative Assistant I (R12); Accounting Technician I (R12); and a Clerk Typist III.

Travel includes that necessary for enrollee training, for program development and implementation, monitoring of worksites and enrollees, program evaluation and modification.

Inflation is computed at 10% per year except for equipment, one time only purchase.

(Continued on attached page.)

IV. DATE March 25, 1982 PREPARED BY [Signature]

AGENCY Older Alaskans Commission

PHONE 465-3250/9

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) SN [Signature]

III. ANALYSIS

To select a targeted number of enrollees to be serve in this program, a determination of the number of older worker available to work is necessary. This information is available from job service centers. It should be noted, however, that most older workers have become discouraged, and no longer apply at employment centers. Of those that do apply, only 12% are placed in jobs. The number of those that apply could then be considered the minimum number of persons available to work. In the case of applicants 60 and up, it is 1,211. In order to narrow the target group it was determined to use figures for only the economically disadvantaged applicants although this is not an eligibility requirement for the program. Of those applicants 60 years of age and other.

Therefore, it was decided to use the number 200 as the enrollees to be served by the basic budget described herein. Because President Reagan's budget has allocated "0" dollars for the Title V program planning to eliminate it, this program cannot be considered an "add-on" and must be self-supporting administratively. Because of its similarity to Title V, the projected Title V budget for FY'83 with minor modifications is being used. Should the Title V program not be eliminated, then there would be some savings in the Personal Services category of the budget.

The following assumptions have been made:

- (1) the average hours to be worked is 25 hours per week, although they may work part or full time
- (2) the average wage is \$6.86 per hour (the current rate paid on Title V)
- (3) 20% of the average wage is to cover required fringe benefits, training, and other work-related necessities.

Thus, the cost per person is as follows:

25 hours x (\$6.86 per hour + 20%) x 52 weeks = \$10,699

The grants/contract component is:

200 persons x \$10,699 per person = \$2,139,800

The total budget for 200 is \$2,418,000.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Department of Admin. Older Alaskans Commission	Sponsor (Principal) Sen. Fischer	Bill Number SSSB799
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Department Position
The Older Alaskans Commission supports the establishment of an Alaskan senior citizen employment team program and endorses this bill with some housekeeping amendments as recommended.

Division Director <i>B. Steyer</i>	Date 3/26/82	Commissioner	Date
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GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting)	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill Older Alaskans Commission Older Person Action Group	2. b) Organizational Opposition to Bill Unknown

3. Program Effects of Bill
This bill is similar to current Federal programs which are to be phased out. SSSB799 has a broader scope than our current Title V program as it imposes no income limitation on eligibility. However, it also has a higher criteria of 60 rather than 55 years. The Administrative capability to operate such a program is already in place. The program would require a moderate increase of staff.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:
See attached

6. Comments:
See attached

Provide for participation by employers in # salary of enrolled

1. Change the word "volunteer" to "enrollee" when referring to a person who is to be employed by the program and delete "volunteer" when used in the context of community service.
2. Change age 60 to ~~45-55~~ for purposes of employment. _____ ?
3. Under Sec. 4 (b) (1), add the phrase "and other authorized related employment or training expenses" in front the phrase "under terms of this Act:"
4. Under Sec. 5. delete "older Alaskans service".
5. Under Sec. 6 (a), change to read "...the employment of a volunteer by a non-profit organization, local units or branches of government, or to a small business enterprise, preferably those serving or operated by Alaskan senior citizens, to accomplish a purpose of this Act." *enrollee*
6. Under Sec. 6 (b) at the end of line 20, change the word "contract" to "the Alaska senior citizen employment team".
Change line 22 and 23 to read, "for a enrollee to use for the resolution of alleged grievances with the".
7. Page 3, line 2, change "director" to "employer". Line 3, change "contract of employment" to "job description".

6. Comments.

Each item number below is the same as the amendment number to which it refers under "5. Amendments Proposed".

1. Recommend changes in terminology to conform with standard nomenclature used in other employment and volunteer programs throughout the country.

Volunteer: is very misleading as it denotes a person who performs services, usually without compensation. Nationwide volunteer programs under ACTION, sometimes give a stipend - a nominal amount to cover out-of-pocket expenses in connection with the volunteer work. The stipend is not a wage and not declarable for Income Tax purposes as income.

Although the person is actually an employee, this term would not distinguish him from other employees under the same employer. Other terms that might be more suitable are enrollee, participant, older worker, or enlistee. Enrollee is used in Title V. Participant is often used for the recipient of services rather than the person providing services within the program. Although older worker is also descriptive of the positions, enrollee and enlistee retain the concept of volunteerism in that persons enroll or enlist voluntarily as opposed to being drafted, forced or coerced.

Community services are exactly what the name implies whether or not they are performed by volunteers or paid workers.

2. There are several reasons for recommending the younger age although the older age could still be given preference.
 - a. There are many jobs that require the greater strength and better health, especially those providing home chores services to seniors, such as woodcutting, waterhauling, cooking and cleaning, etc.
 - b. Changing to age 55 would be the same as Title V.
 - c. At age 55, more people are looking and needing career changes or new careers such as displaced homemakers.
 - d. Social security is not available (unless disabled) until age 62.
3. Wages to be paid will be the principal expenditure but not the only expenditure. In other sections of the act fringe benefits according to federal and state law must be paid, training may be provided, and other incidental expenses necessary to operate an employment program.
4. This phrase is redundant and not all inclusive. By referring to "eligible programs under sec. 6" and then listing the types of eligible programs in section 6, this redundancy is eliminated and makes it unnecessary to change both sections should the types of programs listed under section 6 be changed.
5. Limiting the employment to service programs under AS 47.65 would result in very few job opportunities as this is only one type of funding used for older Alaskans service programs and is a relatively small portion of the total. There are many more programs under Title III, IV, etc. There are also many other organizations serving the elderly who may not have applied for these particular funds or may not have received funding due to federal cutbacks who should also be eligible for a position under this employment program.

The phrase "to persons engaged in small business matters" is not very clear but is probably meant to mean a small business enterprise. The idea relates to the use of former business executives under the volunteer organization "SCORE" who assist small businesses with their expertise. Employing an appropriate person for this purpose would be of great benefit to a small struggling business and would make good use of an older person as a resource.

6. A grievance procedure is usually established by the organization in charge of the program and may then become a part of each contract.
7. Each employer should be required to supply his employee with his own job description. These should not have to come from the organization in charge of the entire program. Also, since the contract is with the employer and concerns other items required of the employer, it is not supplied to each employee. What each employee does need is a copy of his job description and he may also want a copy of his application which would show his job assignment, rate of pay, and other pertinent facts.

I. REQUEST

Bill/Resolution No. SS SB 799

Title An Act establishing the senior Alaskans volunteer enterprises program

Requested by _____ Date 4/5/82

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected Social & Economic Assistance for the Aged

BRU, Program, or Subprogram(s) Affected Older Alaskans Commission

(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			113.3	124.6	137.1	150.8
200 TRAVEL			12.0	13.2	14.5	16.0
300 CONTRACTUAL			10.6	11.7	12.9	14.2
400 COMMODITIES			3.0	3.3	3.6	4.0
500 EQUIPMENT			2.0	0	0	0
600 LAND & STRUCTURES			0	0	0	0
700 GRANTS, CLAIMS, ETC.			1,069.9	1,176.9	1,294.6	1,424.1
TOTAL			1,210.8	1,329.7	1,462.7	1,609.1

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND			1,210.8	1,329.7	1,462.7	1,609.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME			3	3	3	3
PART TIME						
TEMPORARY						

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

This type of program necessitates detailed planning and development, accounting and clerical functions as well as on-site monitoring and evaluation.

Funds for administrative support are included for the following three positions:

- Project Coordinator (R18);
- Administrative Assistant I (R12); and an
- Accounting Technician I (R12).

Travel includes that necessary for enrollee training, for program development and implementation, monitoring of worksites and enrollees, program evaluation and modification.

Inflation is computed at 10% per year except for equipment, one time only purchase.

(Continued on attached page.)

IV. DATE April 5, 1982

PREPARED BY Eileen Richmond

AGENCY Older Alaskans Commission

PHONE 465-3250

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

ATTACHMENT TO FISCAL NOTE SSB799

III. ANALYSIS (continued)

To select a logical number of enrollees to be funded on this program, a determination of the number of older workers available to work is necessary. Since most older workers have become discouraged, they no longer apply at employment centers and of those that do apply, only 12% are placed in jobs. The number of those that apply should then be considered as an absolute minimum of persons available to work. In the case of persons 55 and up, it is 2,528 applicants; and of those applicants 60 and up, it is 1,211. In order to narrow the target group it was determined to use figures for only the economically disadvantaged applicants as those having the greatest need although this is not an eligibility requirement for the program. For the group 55 and up, this would be 676 persons and for those 60 and up, it would be 294 persons.

It was decided to use the number 100 as the enrollees to be served by the basic budget described herein. Because President Reagan's budget has allocated "0" dollars for the Title V program planning to eliminate it, this program cannot be considered as "add-on" and must be self-supporting administratively. Because of its similarity to Title V, the projected Title V budget for FY '83 with minor modifications is being used.

The following assumptions have been made:

- (1) the average hours to be worked is 25 hours per week, although they may work part or full time.
- (2) the average wage is \$6.86 per hour (the current rate paid on Title V)
- (3) 20% of the average wage is to cover required fringe benefits, training, and other work-related necessities.

Thus, the cost per person is as follows:

$$\underline{25 \text{ hours}} \times (\$6.86 \text{ per hour} + 20\%) \times \underline{52 \text{ weeks}} = \underline{\$10,699}$$

The grants/contract component is:

$$\underline{100 \text{ persons}} \times \$10,699 \text{ per person} = \$1,069,900.$$

The total budget for 100 is \$1,210,800.



G
 Box 315
 Kodiak, Alaska
 99615
 Dennis Murray
 Project Director
 Tel. 486-6181

3-25-82

Senator Bob Mulcahy
 Pouch V
 Juneau, Ak. 99811

Re: A Resolution of the Senior
 Citizens of Kodiak, INC.

Dear Bob:

I certainly enjoyed my recent visit with you in Juneau. The experience of legislative process had a lasting impact on me. I learned alot, and feel I know more about how democracy works.

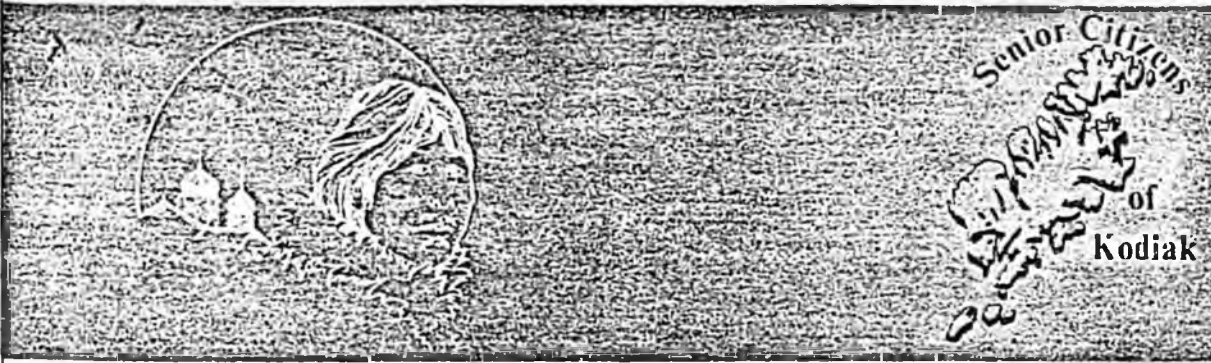
At the last regular meeting of the board of directors of the Senior Center information from the Older Alaskans Commission was shared. The board discussed the proposed reduction in Title III federal funding, the elimination of Title V--Senior Employment, and the reduction by the House Finance Committee of the Governor's proposed budget for AS 47.65.

As you are aware, our programs have relied heavily on the availability of federal funding for their operation. (The center receives \$114,000 in Title III and \$29,000 in Title V.) A 12%--16% reduction in these funds will certainly have an adverse effect on the center's ability to provide services. However, it was hoped that the State of Alaska would assist our project by providing additional funding to offset the federal reductions. I am sure that it was with this in mind that the administration proposed to both Houses an expanded AS 47.65 budget request. I believe that it is important to note that the Older American's Act programs have relied and depended upon federal funds for a 10 year period. Last year was the first time our agency received any State funds to assist in its operation. To me that means that our ; project and the other similarly funded projects in Alaska have not made undue demands on the state for assistance. Rather, they have, by and large, tried to implement and develop programs in a 'good steward' fashion.

It appears that the reduction in federal committment comes at a time when the Alaska State Legislature is also faced with an anticipated shortfall in anticipated revenue. It would certainly be unfortunate that the programs which provide so many needed services and facilities to the elderly would be one of the 'victims' of the squeeze. The board and I have passed a resolution which addresses the matter of funding. I and the board are hopeful that you will give it full consideration in the Senate.

Sincerely,
Joseph F. Terry
 Joseph Terry, Pres.

cc. Members of the Senate, Representative Zharoff, Representative Sutcliffe
 Ms. Hazel Heath, Chairperson--Older Alaskans Commission
 Mr. Jon Wolfe, Director of " " "



Box 315
Kodiak, Alaska
99615
Dennis Murray
Project Director
Tel. 486-6181

SENIOR CITIZENS OF KODIAK, INC.

DIRECTED TO: Senator Bob Mulcahy, Representative Fred Zharoff, Representative Eric Sutcliffe

RESOLUTION # 82-5

A resolution of the board of directors of the Senior Citizens of Kodiak, Inc. regarding the Governor's proposed FY 83 budget for the Older Alaskans Commission and the proposed reduction passed by the House Finance Committee

Whereas, the board of directors of the Senior Citizens of Kodiak, Inc. has received information from the Older Alaskans Commission that the State can anticipate a reduction in federal funding by 12% of the current year funding for Title III programs (please find this information attached), and

Whereas, the House Finance committee has proposed a reduction in the same budget of \$1,140,000 which represents a 62% cutback in the level of funding recommended by the governor to the legislature, and

Whereas, either proposed reduction would substantially diminish and impede the ability of senior programs to provide facilities and services for Alaska's Elderly Citizens. Further, both reductions together would severely affect aging programs in Alaska creating hardship for those individuals with the least ability to find alternatives, and

Whereas, every study commissioned by the State of Alaska to survey the needs and desires of its elderly population has conclusively stated that elderly persons wish to remain in their own homes and apartments, in their own community and near their friends and relatives, and

Whereas, the senior programs (particularly--multi-purpose senior centers) enhance and facilitate the desires of the elderly to remain in their familiar surroundings providing whatever level of assistance necessary to maintain the individual's highest level of independence, and

Whereas, it is the senior centers which act as the focal point in many communities for the elderly to obtain information and assistance concerning other worthwhile programs sponsored by local, state and federal government including:

- 1) Alaska Longevity Bonus
 - 2) Social Security and SSI Benefits
 - 3) Medicare and Medicaid
 - 4) Property Tax Exemption and Renter's Rebate
 - 5) Pioneer Homes
 - 6) Sales Tax Exemptions and reductions on municipal utilities
 - 7) Adult Public Assistance, Housing Subsidies,
 - 8) Home Energy Audits, Energy Assistance
- And the List goes on

Page 2

Resolution # 82-5

"Funding for Senior Programs"

Now Therefore Be It Resolved, That

The Senior Citizens of Kodiak, Inc. strongly urges you, our area legislators, to speak with your colleagues about this situation; and to argue on our behalf that the programs the Senior Center represents are important to your constituents, and

Further Be It Resolved, That

The full Houses of the Alaska State Legislature restore the entire amount of the governor's request for the Older Alaskans Commission.

Passed this 17th day of March, 1982

Attest:

James F. Ranney
Mr. James Ranney, Secre.-Treas.

(11)

OLDER ALASKANS COMMISSION

Regional State and Federal Fund Allocations

Region	Current Fiscal Year 1982 Grant Awards		Projected Fiscal Year 1983 Fund Availability	
	Federal	State	Federal	Governor's Budget Request
Anchorage	\$1,001,007	\$ 173,664	\$ 611,549	\$ 595,967
Southcentral	689,942	183,480	433,180	315,512
Southeast	1,150,101	238,678	713,474	350,569
Northwest	391,689	-0-	229,331	87,642
Southwest	178,530	80,576	101,925	122,699
Interior	572,387	289,400	356,737	280,455
Statewide	163,000	159,700	101,925	92,256
Total	\$4,146,656	\$1,125,498	\$2,548,121	\$1,845,100

The above chart indicates regional allocations of Federal and State funds for senior citizen programs for the current fiscal year and projections for fiscal year 1983.

Federal funds awarded to grantees in Fiscal year 1982 included funds carried over from fiscal year 1981 as well as those appropriated for fiscal year 1982. Federal projections for 1983 do not include prior year funds.

Regional allocations for state funds are based on area population of persons 60 years of age and older. These funds may be decreased. As of this date, the House Finance Committee has recommended decreasing the Governor's Budget Request of \$8,367,000 for the Older Alaskans Commission grants program by \$1,140,000. This recommendation is expected to be accepted by the House for referral to the Senate.

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



NATIONAL
RETIRED
TEACHERS
ASSOCIATION



AMERICAN
ASSOCIATION
OF RETIRED
PERSONS

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March 16, 1983

The Honorable Victor Fisher
State Capitol
Pouch V
Juneau, AK 99811

Dear Senator Fisher:

The Alaska State Legislative Committee of the American Association of Retired Persons, in the interest of our 1983 legislative priorities; to establish employment and training programs for middle-age and older workers, would like to assure you of our support for S.B. ??.

Thank you.

Sincerely,

Maxine Race

Maxine Race
Vice Chairman
AARP Alaska State
Legislative Committee

Margaret Moore
President NRTA

Olof J. Koosa
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