

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86 / 2

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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. Existing law in this area is not sufficiently serious nor comprehensive. This provision extends the protection of the law to all children under age 18, and raises the classification of the conduct to a B felony level, punishable by up to ten years in prison.

AS 11.41.438, Sexual Abuse of a Minor in the Fourth Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Fourth 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 level. Class C felonies are punishable by up to five years in prison.

The contributing statute now applies to defendants who are 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 defendant and the victim excludes consensual sexual contact between teenagers of approximately the same age.

Section 3. AS 11.41.440, Sexual Abuse of a Minor in the Fifth 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 three or more years younger, and makes such contact a class A misdemeanor.

The three year age difference requirement is included to ensure that a child who engages in sexual play with another child of approximately the same age may 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 for a child to prey upon a much younger child is to establish the violation of a law which would allow

intervention by the juvenile courts or social service 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 4. 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 or anus 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 Disorderly Conduct, a class B misdemeanor offense with a maximum penalty of ten days in jail. (The current disorderly conduct statute also prohibits the intentional exposure of the female breast; this bill deletes that language.)

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 gradually increase the seriousness of their conduct to sexual contact or penetration. Current law treats sexual exposure, especially to young 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 5. AS 11.41.470, Definitions.

This section amends the definition of "without consent" to remove the requirement that the death or kidnapping with which the defendant threatens the victim 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 6. AS 12.10.020, Specific Time Limitation.

This section creates an exception to the general five year statute of limitations for prosecution for a crime (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 7. AS 12.55.125(i), Sentences of Imprisonment for Felonies.

This section amends existing penalty provisions to conform to the change in the title of the offense described in new AS 11.41.432, Sexual Abuse of a Minor in the First Degree. Under current law this conduct is labelled Sexual Assault in the First Degree and is included in AS 11.41.410(a)(3) and (4).

Sections 8 and 9. AS 01.05.031(c), Use of Personal Pronouns.

In 1982 the legislature passed ch. 58, SLA 1982, which required the revisor of statutes to alter the language of statutes to avoid the use of personal pronouns denoting masculine or feminine gender. These changes are to be made both when new laws are enacted, and when the printed pamphlets of statutes are scheduled for reprinting. This directive, as it applies to the criminal code, is merely a matter of form, as all criminal laws, including those relating to sexual assault and sexual abuse of a minor, are "sex neutral." See AS 01.10.-050 and the Legislative Commentary to the Criminal Code.

In many criminal statutes, including some amended in this bill, the complete elimination of the use of personal pronouns cannot be accomplished without rewriting the statutes. This rewriting raises the potential for unintentional alteration of the meaning of a provision and a change in the way the law is interpreted by a court. There is a well established rule of statutory interpretation (called the "rule of lenity") which establishes that any ambiguity in a criminal statute must

be construed against the state and in favor of the defendant. Criminal statutes are also subject to constitutional challenge of the statutory language is vague, or fails to give clear notice of what conduct is prohibited.

Because the elimination of personal pronouns accomplishes no substantive purpose (the code is already sex neutral), and may cause obscurity or ambiguity in the statutory language which could hamper the effective enforcement of the laws, sections 7 and 8 of the bill amend the law to allow the continued use of personal pronouns in Titles 11 and 12, the Criminal Law and Criminal Procedure Codes.

#### Section 10. AS 18.66.900(6), Definitions

This section amends the definition of "sexual assault" as used in the violent crimes compensation law to include the crime of Unlawful Exploitation of a Minor (making child pornography). It also deletes a reference to AS 11.51.-130(a)(4), which is repealed by this bill. The content of that statute has been included in the new AS 11.41.438.

#### Section 11. Repealed sections.

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

COMMENTARY AND SECTIONAL ANALYSIS  
FOR CSSB 74 (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, rather than coercing the victim through the use of threats, the defendant has not committed Sexual Assault in the Second Degree. The amended language establishes that any sexual contact with a person without that 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. This section adds four new statutes to the Criminal Code, as described below.

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 10. It also prohibits a person 18 years of age or older from engaging in sexual penetration with a person under 10 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.

Under current law, sexual penetration of a child under age 13 (or under age 18 if the adult is the child's parent or guardian) is called Sexual Assault in the First Degree, and is an unclassified felony. (See present AS 11.41.410(a)(3) and (4).) This bill divides this conduct

into two offenses entitled Sexual Abuse of a Minor in the First or Second Degree. The classification of the offense depends upon whether the victim is under 10 years of age, or is age 10 through 12. Sexual Abuse of a Minor in the First Degree (victim under age 10) is an unclassified felony. It carries a maximum sentence of up to 30 years in prison and a presumptive term of eight years upon conviction for a first offense.

AS 11.41.434, Sexual Abuse of a Minor In the Second Degree.

As discussed above, this section creates a new classification of offense, Sexual Abuse of a Minor in the Second Degree. The section prohibits a person 16 years of age or older from engaging in sexual penetration with a person who is age 10, 11 or 12. It also prohibits a person 18 years of age or older from engaging in sexual penetration with a person age 10-18 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 takes a portion of the conduct which is currently labelled Sexual Assault in the First Degree (present AS 11.41.410(a)(3) and (4)) and moves it to this new section entitled Sexual Abuse of a Minor in the Second Degree. 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.

It is important to remember that the forcible sexual penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree, an unclassified felony.

AS 11.41.436, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Third 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 level. In subsection (a)(1) the requirement that the defendant be at least four years older than the victim has been added. 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. Existing law in this area is not sufficiently serious nor comprehensive. This provision extends the protection of the law to all children under age 18, and raises the classification of the conduct to a B felony level, punishable by up to ten years in prison.

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	Current Law	Proposed CS for SB 74	Original Version SB 74
age, has sexual with another per- t consent	Sexual Assault Second Degree (limited coverage) B Felony	Sexual Assault Second Degree B Felony	
age, has sexual with person from mental dis- is incapacitated	Sexual Assault Third Degree C Felony	Sexual Assault Second Degree B Felony	
or older, has etration with r 13	Sexual Assault First Degree Unclassified Felony	Sexual Abuse of a Minor in the First Degree A Felony	
or older, has etration with ghter under 18	Sexual Assault First Degree Unclassified Felony	Sexual Abuse of a Minor in the First Degree A Felony	
or older, has etration with 15 and more than nger	Sexual Abuse of a Minor C Felony	Sexual Abuse of a Minor in in the Second Degree B Felony	Sexual Abuse of a Minor in the Second Degree C Felony
or older, has tact with person d more than nger	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
or older, has tact with son or der 18	Not fully covered Child: 0-12, Sexual Abuse of a Minor, class C Felony 13-15, Contributing to Delin- quency of a Minor, class A Misdemeanor 16-17, Harrassment, class B Misdemeanor	Sexual Abuse of a Minor in the Second Degree B Felony	

	Current Law	Proposed CS for SB 74	Original Version SB 74
19 or older, induces 16 or older to perform obscene or pornographic movies, 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
19 or older, has sexual contact with person 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	
19 or older, has sexual contact or penetration with a person under 13 and 3 years younger	Not covered	Sexual Abuse of a Minor in the Fourth Degree A Misdemeanor	
19 or older, 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,  
through clothing, by the defendant of the victim's  
genitals, anus, or female breast; or (B) the defendant's inten-  
tionally causing the victim to touch, directly or through  
the defendant's or victim's genitals, anus, or female  
breast. (AS 11.81.900(b)(51))

"Sexual penetration" means genital intercourse, cunnilingus,  
anal intercourse, or an intrusion, however slight, of  
the penis 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

COMMENTARY AND SECTIONAL ANALYSIS  
FOR CSHE 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 11.41.442, 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.

MEMORANDUM

TO: Vic  
FROM: Nan   
DATE: May 11, 1983  
RE: Marital Rape Exemption

Sixteen states have no marital rape exemptions.

1. Nebraska
2. Iowa
3. New Jersey
4. Oregon
5. California
6. Minnesota
7. Massachusetts
8. Florida
9. New Hampshire
10. Connecticut
11. Wisconsin
12. Virginia
13. North Dakota
14. Wyoming
15. Kansas
16. Washington

In the last four states listed above, laws repealing their marital rape exemptions were passed within the last month.

Legislation on the same subject is also pending in Texas, Pennsylvania, Illinois and Vermont.

California's law was effective in January, 1980. The following is California's statistics on marital rape from January, 1980 through February 17, 1983. (These were obtained from the National Clearinghouse on Marital Rape.)

- 57 cases were investigated
- 52 cases were arrested
- 44 charged with marital rape
- 3 acquitted
- 22 convicted of rape
- 19 were convicted of lessor offenses





1 IN THE SENATE

BY THE JUDICIARY  
COMMITTEE

2 CS for SENATE BILL NO. 74 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act revising the laws relating to sexual abuse of  
7 a minor, sexual assault, and indecent exposure;  
8 extending the time limitation for prosecution of  
9 sexual offenses; and <sup>allowing the use of masculine or feminine</sup> ~~amending AS 01.05.031(a) and~~  
10 ~~AS 4 ch 58, SLA 1982~~ <sup>Repealed in Title 11 and 12.</sup> "

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

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

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

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

18 (2) sexual penetration with a person who he knows

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

24 (B) is incapacitated.

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

26 \* Sec. 2. AS 11.41 is amended by adding new sections to read:

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

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

1 (1) being 16 years of age or older, he engages in sexual  
2 penetration with a person who is under 10 years of age or aids, in-  
3 duces, causes, or encourages a person who is under 10 years of age to  
4 engage in sexual penetration with another person; or

5 (2) being 18 years of age or older, he engages in sexual  
6 penetration with a person who is under 10 years of age and who

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

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

10 (b) Sexual abuse of a minor in the first degree is an unclassi-  
11 fied felony and is punishable as provided in AS 12.55.

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

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

15 (1) being 16 years of age or older, he engages in sexual  
16 penetration with a person who is 10, 11, or 12 years of age or aids,  
17 induces, causes, or encourages a person who is 10, 11, or 12 years of  
18 age to engage in sexual penetration with another person; or

19 (2) being 18 years of age or older, he engages in sexual  
20 penetration with a person who is under 16 years of age but 10 years of  
21 age or older and who

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

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

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

27 Sec. 11.41.436. SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE.

28 (a) A person commits the crime of sexual abuse of a minor in the  
29 third degree if

1 (1) being 16 years of age or older, he engages in sexual  
2 penetration with a person who is 13, 14, or 15 years of age and at  
3 least four years younger than he, or aids, induces, causes or encour-  
4 ages a person who is 13, 14, or 15 years of age and at least four  
5 years younger than he to engage in sexual penetration with another  
6 person;

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

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

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

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

6 (4) being 16 years of age or older, he aids, induces,  
7 causes, or encourages a person who is under 16 years of age to engage  
8 in conduct described in AS 11.41.455(a)(2) -- (6).

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

11 Sec. 11.41.438. SEXUAL ABUSE OF A MINOR IN THE FOURTH DEGREE.

12 (a) A person commits sexual abuse of a minor in the fourth degree if,  
13 being 16 years of age or older, he engages in sexual contact with a  
14 person who is 13, 14, or 15 years of age and at least four years  
15 younger than he.

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

18 \* Sec. 3. AS 11.41.440 is repealed and reenacted to read:

19 Sec. 11.41.440. SEXUAL ABUSE OF A MINOR IN THE FIFTH DEGREE.

1 (a) A person commits sexual abuse of a minor in the fifth degree if,  
2 being under 16 years of age, he engages in sexual penetration or  
3 sexual contact with a person who is under 13 years of age and at least  
4 three years younger than he.

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

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

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

3 (b) Indecent exposure before a person under 16 years of age is a  
4 class A misdemeanor. Indecent exposure before a person 16 years of  
5 age or older is a class B misdemeanor.

6 \* Sec. 5. AS 11.41.470 is amended to read:

7 Sec. 11.41.470. DEFINITIONS. For purposes of AS 11.41.410 --  
8 11.41.470, unless the context requires otherwise,

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

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

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

16 (A) with or without resisting, is coerced by the use  
17 of force against a person or property, or by the express or  
18 implied threat of [IMMINENT] death, imminent physical in-  
19 jury, or [IMMINENT] kidnapping to be inflicted on anyone; or

1 (B) is incapacitated as a result of an act of the  
2 defendant.

3 \* Sec. 6. AS 12.10.020 is amended to add a new subsection to read:

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

0 \* Sec. 7. AS 12.55.125(i) is amended to read:

1 (i) A defendant convicted of sexual assault in the first degree  
2 or sexual abuse of a minor in the first degree may be sentenced to a  
3 definite term of imprisonment of not more than 30 years, and shall be  
4 sentenced to the following presumptive terms, subject to adjustment as  
5 provided in AS 12.55.155 -- 12.55.175:

6 (1) if the offense is a first felony conviction and does  
7 not involve circumstances described in (2) of this subsection, eight  
8 years;

9 (2) if the offense is a first felony conviction, and the  
10 defendant possessed a firearm, used a dangerous instrument, or caused  
11 serious physical injury during the commission of the offense, 10  
12 years;

13 (3) if the offense is a second felony conviction, 15 years;

14 (4) if the offense is a third felony conviction, 25 years.

15 \* Sec. 8. AS 01.05.031(c) is amended to read:

16 (c) Except in AS 11 and 12, the [The] revisor shall edit and  
17 revise the laws as they are enacted by the legislature, without chang-  
18 ing the meaning of any law, so as to avoid the use of pronouns denot-  
19 ing masculine or feminine gender.

1 \* Sec. 9. Section 4, ch. 58, SLA 1982 is amended to read:

2 Sec. 4. Except in AS 11 and 12, the [The] revisor of statutes is  
3 directed to avoid the use of pronouns denoting masculine or feminine  
4 gender in the printed pamphlets of the Alaska Statutes as they are  
5 scheduled for reprinting.

6 \* Sec. 10. AS 18.66.900(6) is amended to read:

7 (6) "sexual assault" means a crime specified in  
8 AS 11.41.410 -- 11.41.455 [11.41.450 OR AS 11.51.130(a)(4)];

9 \* Sec 11. AS 11.41.410(a)(3) and (4), AS 11.41.430, AS 11.51.130(a)(4),  
10 and AS 11.61.110(a)(7) are repealed.

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B

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SENATE JUDICIARY COMMITTEE LETTER OF INTENT RE SENATE BILL 86

February 23, 1983

Mr. President:

The Judiciary Committee has had Senate Bill 86 under consideration. The Committee recommends that SB 86 do pass.

Under existing law, the Violent Crimes Compensation Board, established in 1972, may not award compensation if the victim of a violent crime is, or was at the time of the crime, a relative of the offender, a member of the offender's family or household, or maintaining a sexual relationship with the offender.

SB 86 would eliminate these restrictions or disabilities, and permit the Board to award compensations in all cases which the Board, operating under standards set forth in AS 18.67.080, finds fitting (within the limitations of the legislature's annual appropriation for this purpose).

The need for SB 86 was demonstrated by testimony before the Committee. Under existing law, a minor living in the household of the offender, whose parent is murdered by the offender, may not be compensated even though the minor was economically dependent upon the parent. In that case -- an actual one -- the Violent Crimes Compensation Board was barred by existing law from awarding compensation; a case-by-case analysis by the board would be preferable.

Concern was expressed lest SB 86 be a basis for awards to a person involved in a sexual relationship with the offender, where the victim explicitly or implicitly consented, as a matter of lifestyle and repeated behavior patterns, to the offender's violent conduct. Since the Violent Crimes Compensation Board has limited resources, and a demand under existing law which is greater than the funds available to the Board, members of the Judiciary Committee felt that the Board should exercise care, if SB 86 becomes law, to avoid having to deny compensation to victims who are strangers to their offenders because of the Board's compensation of newly eligible victims who have consented to violent conduct by offenders with whom the victims have lived.

On this point, the Committee received reassurance from a representative of the Board, who pointed out that SB 86 would require all victims receiving compensation to give "reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the offender for the crime resulting in personal injury." Moreover, existing law (AS 18.67.080(c)), requires the Board to consider "all circumstances determined to be relevant, including provocation, consent or any other behavior of the victim which directly or

indirectly contributed to the injury or death", and to consider such factors as the prior case history, or social history, of the victim.

In summary, SB 86 would broaden the discretion of the Violent Crimes Compensation Board to make awards, within the limit of available funds, without the limitations and restrictions of existing law where the victim has been a relative of the offender or a member of the offender's household, or involved in a sexual relationship with the offender. At the same time, the Board could weigh such factors as the victim's conduct, history, or express or implied consent, in determining whether an award should be made.

The Committee would expect the Board to consider these factors with care. SB 86 would also require the victim's cooperation with law enforcement agencies' efforts to apprehend and convict the offender.

---

Senator Bill Ray  
Chairman

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SR 86 Date on Bill: 1-27-83  
 Title: An Act Relating To Compensation for Victims of Violent Crimes  
 Sponsor: Senators Kertulla and Fischer  
 Requestor: Senate Judiciary

1. Estimated fiscal impacts on:

a. Expenditures:

		(Thousands of Dollars)			
		FY 83	FY 84	FY 85	FY 86
Capital					
Operating			341.1	349.9	371.0
Total			341.1	349.9	371.0

b. Revenues:

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

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

Not Identified by Sponsors of Bill.

3. Assumptions:

If the proposed legislation is enacted it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation, and we would receive 10 death claims and 5 would be awarded, including 2 claims with one dependent per incident and 3 claims with multiple dependents. There will be additional hearings as with the change in statute, the Board will want to be certain the offender will not receive any of the compensation.

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: Nola K. Capp Phone: 465-3040  
 Division: Violent Crime Compensation Board Date: \_\_\_\_\_

Approved by Commissioner: Robert J. Sundberg *RJS by TPH* Date: 2/15/83  
 Department: Public Safety

5. Distribution:

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

2/15/83

FISCAL NOTE DETAIL  
 BILL NO. SB 86

EXPENDITURES		FY 83	FY 84	FY 85	FY 86
100	Personal Services		26.6	28.2	29.9
200	Travel		7.9	8.4	8.9
300	Contractual		17.1	9.1	9.7
400	Commodities				
500	Equipment		2.5		
600	Land & Structures				
700	Grants, Claims, etc.		287.0	304.2	322.5
800	Miscellaneous				
TOTAL			341.1	349.9	371.0
FUNDING					
General Fund			341.1	349.9	371.0
Federal Funds					
Program Receipts					
Inter-Agency Receipts					
Other					
POSITIONS					
Full Time			1	1	1
Part Time/Seasonal					
Non-Perm					
Months					

ANALYSIS:

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation. The average award is \$4500.00 per claim so 26 claims would total \$117,000. It is estimated the program would receive 10 death claims and 5 would be awarded: 2 claims at one dependent per incident would be \$50,000 and 3 claims for multiple dependents would be \$120,000 for a total estimated grant money of \$287,000.

Because there will be an increase of claims, it is determined it will be necessary to have one more board meeting at a cost of \$1500.00. Because of the repeal of the statute it is anticipated there would be 8 hearings at \$800 for travel per hearing. The reason for more hearings is because of the change in the statute, the Board will want to be certain the offender will not receive any of the compensation and because of circumstances in some cases, they may order a hearing prior to a final determination by the Board.

The current staff for the Violent Crimes Compensation Board consists of two persons. This change in the statute would necessitate the addition of a clerk typist (range 8) and associated costs, including equipment.

(continued)

Under contractual services, there would be a need for a terminal only for the IBM displaywriter at \$3000.00 per year. There would be the cost of hearing officers' fees for 8 hearings at \$700 per hearing and a total cost of \$5600. Since this will be a major change in the statute, the public must be made aware through TV spots, radio and newspapers. Production of the TV spots will be a one time expense as will the radio spots. These spots should cost around \$6500 plus another \$1000 for public notices in newspapers around the state.

The costs are assumed to begin 7/1/83.

1.	POSITION TITLE Clerk-Typist III				RANGE/STEP 8B	BARC. UNIT G	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	<p>The number of claims received annually by the Violent Crimes Compensation Board has doubled since 1976 and is projected to double again during the two-year period ending 6/30/84. Yet the program has only the same two-person staff it had in 1973.</p> <p>It is anticipated the change in the statute will increase the number of claims by 50. This increase, on top of the existing understaffing, will necessitate the addition of a clerk-typist and associated costs, including equipment.</p> <p>Since this is a major change in the statute, all the applications, brochures and posters will have to be redone. The public must be made aware of the changes through TV, radio and newspapers, again much clerical work. There will be an increase in hearings, which must be transcribed verbatim.</p> <p>The equipment costs include a desk, chair, file cabinet, table, calculator and transcriber.</p>					
	1		2	3						
	PERSONAL SERVICES									
5.	Salary		19,176							
6.	Benefits		3,367							
7.	Supplemental Benefits		1,175							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01	26,598						
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04							
13.	Equipment		05	2,484						
14.	Other									
15.	TOTAL COST			29,082						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts. 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		29,082						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&H USE ONLY										
4A KEY NUMBER -----										

**13** REQUEST FOR  
NEW POSITION

AGENCY Department of Public Safety  
PROGRAM Crime Identification & Apprehension  
BRU Violent Crimes Compensation Board  
COMPONENT \_\_\_\_\_

**FY 84**

Page 1 of 1  
Revised Date 2/2/83



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Public Safety	Sponsor (Principal) Kerttula	Bill Number SB86
Department Position Support		
Division Director Nola K. Capp	Date 1/31/83	Commissioner's Signature <i>Robert L. Perry</i> TP# Date 2-3-83

GOVERNOR'S OFFICE USE

Comments:

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

1. a) Related Bills (Similar or Conflicting) HB 104	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

This bill would add a new paragraph which would enable the Board to pay the provider directly for services provided as a result of the personal injury or death of the victim. The bill also provides a new paragraph which would enable the Board to deny a claim if the claimant refuses to give reasonable cooperation to law enforcement agencies in their efforts to apprehend and convict the offender for the crime resulting in the personal injury, unless good cause for the refusal is shown the Board. The bill also would repeal the section of the Act which now excludes relatives and victims living with offenders.

4. Fiscal Impact:  None  Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

The Board supports adding the paragraph in Section 18.67.080(a)(4), as many times in the past the provider has not been paid because the service had to be paid in a joint warrant and this warrant did not always get sent to the provider. This would also be less of a hassle for the claimant as they could be notified when the provider was paid, but would not have to mail the warrant to the provider. The Board also supports adding paragraph (5) to Section 18.67.130(b), as they feel there are a few cases where the claimant is justified in fearing retribution from the offender. The Board also supports repealing the Section 18.67.130(b)(1) and (2), as they feel many people in the bush and outlying areas are truly innocent victims, but are not included in the present act because they are living in the same residence as the offender. This repeal would also mean innocent dependent children could receive loss of support when one spouse killed the other spouse and left the children homeless.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF PUBLIC SAFETY

POUCH N  
JUNEAU, ALASKA 99811

### VIOLENT CRIMES COMPENSATION BOARD

(907)465-3040

February 1, 1983

The Honorable Robert H. Ziegler  
Alaska State Senate  
Juneau, Alaska

Re: SB 86  
An act relating to compensation  
for victims of violent crimes

Dear Senator Ziegler:

The Violent Crimes Compensation Board supports SB 86 and believes it will improve our statute and make it possible to assist innocent victims who have been denied due to the current statute.

This bill would add a new paragraph which would enable the Board to pay the provider directly for services provided as a result of the personal injury or death of the victim. Many times in the past, the provider has not been paid because the service was paid in a joint warrant and this warrant did not always get sent to the provider. One example is a hospital that did not get their money as the claimant received the check and left the state without forwarding it to the provider and we were unable to contact the claimant.

The bill also provides a new paragraph which would enable the Board to deny a claim if the claimant refuses to give reasonable cooperation to law enforcement agencies in their efforts to apprehend and convict the offender for the crime resulting in the personal injury, unless good cause for the refusal is shown the Board. The Board always considers the claimant's attitude and cooperation but there are a few cases where the claimant was justified in fearing retribution from the offender and his family and would not prosecute.

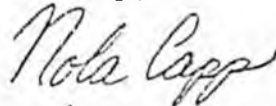
The bill repeals the section of the Act which now excludes relatives and victims living with offenders. The Board supports repealing these two sections as they feel many people in the bush and outlying areas are truly innocent victims, but are not included in the present act because

2/1/83

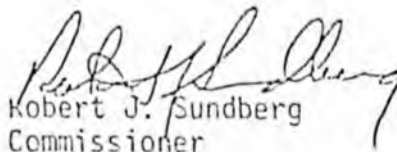
they are living in the same residence as the offender. One example was of a murderer who killed several people including his step-daughter. Because they were related, funeral expenses could not be paid. Another example of a truly innocent victim, is the little eleven-year-old boy who watched as his father killed his mother. The father was convicted and the little boy went to live with his grandparents, who were much older and living on a very limited income. The boy was deprived of both parents, had to move to a new area and needed counselling, none of which could be compensated under the present statute.

These amendments to the statute would be beneficial to many innocent victims in Alaska.

Sincerely,



(Mrs.) Nola K. Capp  
Administrator



Robert J. Sundberg  
Commissioner

NKC:sj

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

FILE WITH  
SB86

P.O. BOX 809

JUNEAU, ALASKA 99802  
586-3650

## POSITION PAPER

SB86: An Act relating to compensation for victims of violent crimes

The Alaska Network on Domestic Violence and Sexual Assault supports SB86.

Violent crimes compensation programs represent a new commitment to helping people recover from the effects of crime. Some see the programs as an obligation of the state for the failure to provide adequate protection. Others view victims' compensation as a humanitarian duty. Whatever the rationale for such programs, the exclusion of victims who had a relationship with the offender is unfair and inconsistent with the goals of compensating victims of violent crimes.

Other states have recognized the injustice of a provision which excludes victims who knew the offender. California, Delaware, Florida, Indiana, and Michigan permit awards to victims who live with or are related to the offender. The widespread support for not excluding similarly situated victims is evidenced by recommendations made by the President's Task Force on Victims of Crime (December 1982), from which the following is excerpted:

"Another issue is whether victims who are related to, or are living with, the offender should be excluded from payment eligibility. The states' desire to minimize fraud is laudable; however, many innocent victims of violence in the home are being unfairly ignored. Some states have successfully experimented with allowing flexibility in this area as long as the award will not unjustly benefit the offender. A blanket exclusion can be particularly devastating to child victims of intra-family abuse who, as a result, are denied adequate treatment."

Without the amendments included in SB63, the State of Alaska will continue to deny awards to those who may need help the most: under the current statute, a child may receive nothing even if one parent kills another.

The Network feels strongly that victims of crime should not be further victimized by the system that exists to protect and serve them. Further, we feel that victims of the crimes of domestic violence and sexual assault should be afforded the same compensation as victims of any other violent crime.

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.

## SB 86: BACKGROUND

State compensation for victims of violent crimes was a response to the growing concern that while an offender's rights were protected the rights of the victim were often overlooked. California was the first state to address this issue and in 1965 enacted a Victim Compensation Program. As of January 1, 1983, thirty-four states plus the District of Columbia had established similar programs.

AS 18.67, establishing a Violent Crimes Compensation Board, was adopted by the state legislature in 1972. The purpose of this legislation is:

to facilitate and permit the payment of compensation to innocent persons injured, to dependents of persons killed, and to certain other persons who by virtue of their relationship to the victim of a crime incur actual and reasonable expense as a result of certain serious crimes or in attempts to prevent the commission of crime or to apprehend suspected criminals. AS 18.67.010.

The Violent Crimes Compensation Board is in the Department of Public Safety. The Board is composed of three members appointed by the governor. It is the duty of the board to review and rule on all applications received. Payment of compensation can be ordered if personal injury or death resulted from:

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of a crime; or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: murder in any degree, manslaughter, criminally negligent homicide, assault in the first or second degree, kidnapping, sexual assault in any degree, sexual abuse of a minor, robbery in any degree, contributing to the delinquency of a minor under AS 11.15.130(a)(4), or threats to do bodily harm. AS 18.67.101.

Victim compensation covers reasonable expenses incurred; loss of earnings power due to incapacibility; job retraining or employment - oriented rehabilitative services; pecuniary loss to the dependents of the deceased victim; and other reasonable loss determined by the board. AS 18.67.110.

Presently compensation is made payable to or for the benefit of the injured person; to a person responsible for the maintenance of the victim; or to the dependent of a deceased victim. AS 18.67.080. The total amount of compensation is limited to \$25,000 per victim per incident for losses and expenses not covered by collateral sources. Life insurance proceeds are not treated as a collateral source AS 18.67.090. However, in the case of the death of a victim who has more than one eligible dependent compensation may not exceed \$40,000. AS 18.67.130.

Additional limitations exist under the current state statute. No compensation may be awarded unless an application to the board for compensation was made within two years after the date of the incident and the incident was reported to the police within five days of its occurrence or within five days of the time when a report could reasonably have been made. AS 18.67.130.

Presently no compensation may be awarded if the victim:

- (1) is a relative of the offender;
- (2) is, at the time of the personal injury or at the time of the injury which results in the death of the victim living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender or with a member of the offender's family;
- (3) violated a penal law of the state, such violation caused or contributed to his injuries or death; or
- (4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to injure or kill the victim.

The bill as introduced would revise the statutes affecting the Violent Crimes Compensation Board as follows:

- (1) AS 18.67.080 would be amended by adding a new paragraph, which would allow compensation to be paid directly to the provider of the service.

Result: The victim receives necessary services and the provider is ensured of payment with a minimal amount of red tape.

Argument for: In situations where the provider has given services to the victim without charge the board must make joint payment to the victim or his representative and the provider. Nola Capp, administration to the board, has encountered numerous cases where payment never reached the provider. With the addition of this new paragraph the administrative procedures will be reduced.

Argument against: The only possible argument against this addition might be the concern that victims who paid for the service would not be reimbursed. This can be countered with the administrative safeguard already in existence. The Board requires receipts of all expenses paid by the victim and also notifies the provider that if payment has already been made then the award of compensation is to be passed on to the victim.

- (2) The bill repeals AS 18.67.130(b) (1) and (2), which deny compensation to the victim if he or she is a relative of the offender, member of the offender's household, maintaining a sexual relationship with the offender or with a member of the offender's family.

Result: The purpose of AS 18.67.10 - AS 18.67.130, "to facilitate and permit the payment of compensation to innocent persons injured" will only be achieved if all "innocent victims" are treated equally.

Arguments for: The relation between the victim and the offender should not work as a financial disadvantage if the victim is innocent, reports the crime and cooperates with the local law enforcement officials. Each case that comes to the board is investigated completely and a determination is made as to whether or not compensation should be awarded. Thus we already have sufficient safeguards in existence to weed out any fabricated stories. Also, since compensation only covers those reasonable expenses incurred as a result of the personal injury nothing is to be gained. The present restriction primarily denies compensation for victims of domestic violence and incest. Rural Alaska presents another problem due to the fact that the population is sparse, housing is often limited and many people are distantly related.

Arguments against: If relatives are allowed to be

compensated for injuries sustained as a result of criminal activity the offender is benefiting from his/her misconduct. Counter: Only reasonable expenses incurred are compensated, thus no financial gain.

Victims of domestic violence will get compensated but might not file charges. Counter: the crime must now be reported under AS 18.67.130, and if this bill passes in its entirety, the victim would be required to aid in the apprehension and conviction of the offender. Once again, the board carefully scrutinizes each case.

Relatives or members of same household are more likely to conspire for financial gain. Counter: where is the gain if only expenses incurred are compensated?

- (3) AS 18.67.130(b) would be amended by adding a new paragraph. No compensation may be awarded if the victim:
- refuses to give reasonable cooperation to state or local law-enforcement agencies in their efforts to apprehend and convict the offender for the crime resulting in the personal injury, unless good cause for the refusal is shown the board.

Result: Although the victim must presently report the incident within five days of its occurrence, this would strengthen the amount of assistance imposed on the recipient of compensation.

Arguments for: This provides the local law enforcement agency with additional support in the apprehension and conviction of offenders. In many ways this is already required because of the reporting requirement. Even a hostile victim/witness can be subpoenaed by the prosecution. More importantly this additional requirement would counter the argument that relatives or members of a household, if eligible for compensation, would conspire to defraud the state through collusion.

Arguments against: Certain victims might argue that this is an unreasonable requirement, particularly if further mental anxiety would occur. However, each case is reviewed individually and the amendment gives the board the discretion to determine whether "good cause" is shown for noncompliance.

Defense attorneys might use this compensation/cooperation requirement to impeach the credibility of a victim/witness with a "bought" testimony argument. The counter argument is that the victim/witness only is reimbursed for reasonable expenses incurred as a result of the perpetrator's criminal conduct. No real financial gain.

## Final Note

A victim is a victim and if innocent should be treated as such.

In 1982 the basic provisions of this bill were introduced in the House by Halford and Clocksin (HB 889) and in the Senate, by Bradley (SB 620).

SB 620 restricted compensation if at the time of "application for compensation (the victim) was living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender."

This provision only speaks to the time of making application and nothing prevents reconciliation, if that was the point to be made. Because of this I find this provision to be without real merit.

### Supporters of the Bill

- \*Council on Domestic Violence and Sexual Assault
- \*Laren Robinson, speaking for the Network on Domestic Violence and Sexual Assault
- \*Nola Capp, administrator of the Violent Crimes Compensation Board
- \*Katie Hurley, speaking for the Commission on the Status of Women

*Research*

NATIONAL CONFERENCE OF STATE LEGISLATURES

STATE PROFILES

\*\*\*\*\*

STATE VICTIM COMPENSATION PROGRAMS

ALASKA.....Year Effective: 1972  
 Source of Revenue: General Tax  
 Maximum Award: \$25,000 Minimum Award: --  
 Financial Needs Test: No Police Rept. Req.: 5 days  
 File with Commission: 2 years Son of Sam Provision: Yes  
 Out of State Residents Covered: Yes

.....

CALIFORNIA...Year Effective: 1965  
 Source of Revenue: Penalty Assessments  
 Maximum Award: \$23,000 Minimum Award \$100  
 Financial Needs Test: Yes Police Rept. Req.: Yes  
 File with Commission: 1 year Son of Sam Provision: No  
 Out of State Residents Covered: No

.....

COLORADO.....Year Effective: 1982  
 Source of Revenue: Penalty Assessments  
 Maximum Award: \$1,500 Minimum Award: \$25  
 Financial Needs Test: No Police Rept. Req.: 72 hrs  
 File with Commission: 6 mos Son of Sam Provision: No  
 Out of State Residents Covered: No

.....

CONNECTICUT..Year Effective: 1979  
 Source of Revenue: Penalty Assessments  
 Maximum Award: \$10,000 Minimum Award: \$100  
 Financial Needs Test: No Police Rept. Req.: 5 days  
 File with Commission: 2 yrs Son of Sam Provision: No  
 Out of State Residents Covered: Yes\*\*

.....

DELAWARE.....Year Effective: 1975  
 Source of Revenue: Penalty Assessments  
 Maximum Award: \$10,000 Minimum Award: \$25  
 Financial Needs Test: No Police Rept. Req.: Yes  
 File with Commission: 1 yr Son of Sam Provision: No  
 Out of State Residents Covered: Yes

.....

FLORIDA.....Year Effective: 1978  
 Source of Revenue: General Tax OR Penalty Assessments  
 Maximum Award: \$10,000 Minimum Award: --  
 Financial Needs Test: Yes Police Rept. Req.: 72 hrs  
 File with Commission: 1 yr Son of Sam Provision: No  
 Out of State Residents Covered: No

.....

HAWAII.....Year Effective: 1967  
 Source of Revenue: General Tax  
 Maximum Award: \$10,000 Minimum Award: --  
 Financial Needs Test: No Police Rept. Req.: Yes  
 File with Commission: 15 mos Son of Sam Provision: No

Maximum Award: \$25,000 Minimum Award: \$100  
Financial Needs Test: No Police Rept. Req.: 5 days  
File with Commission: 1 yr Son of Sar Provision: Yes

.....  
MISSOURI.....Year Effective: 1982  
Source of Revenue: Penalty Assessments  
Maximum Award: \$10,000 Minimum Award: \$200  
Financial Needs Test: No Police Rept. req.: 48 hrs  
File with Commission: 1 yr Son of Sar Provision: No  
Out of State Residents Covered: Law is silent

.....  
MONTANA.....Year Effective: 1978  
Source of Revenue: Penalty Assessments  
Maximum Award: \$25,000 Minimum Award: --  
Financial Needs Test: No Police Rept. Req.: 72 hrs  
File with Commission: 1 yr Son of Sar Provision: Yes  
Out of State Residents Covered: YES

.....  
NEBRASKA.....Year Effective: 1979  
Source of Revenue: General Tax  
Maximum Award: \$10,000 Minimum Award: --  
Financial Needs Test: No Police Rept. Req.: 3 days  
File with Commission: 2 yrs Son of Sar Provision: Yes  
Out of State Residents Covered: Yes

.....  
NEVADA.....Year Effective: 1981  
Source of Revenue: Penalty Assessments  
Maximum Award: \$5,0000 Minimum Award: \$100  
Financial Needs Test: Yes Police Rept. Req.: 5 days  
File with Commission: 1 yr Son of Sar Provision: Yes  
Out of State Residents Covered: No

.....  
NEW JERSEY...Year Effective: 1971  
Source of Revenue: General Tax OR Penalty Assessments  
Maximum Award: \$10,000 Minimum Award: \$100  
Financial Needs Test: No Police Rept. Req.: 3 mos  
File with Commission: 1 yr Son of Sar Provision: No  
Out of State Residents Covered: Yes

.....  
NEW MEXICO...Year Effective: 1981  
Source of Revenue: General Tax  
Maximum Award: \$12,500 Minimum Award: --  
Financial Needs Test: No Police Rept. Req.: 30 days  
File with Commission: 1 yr Son of Sar Provision: No  
Out of State Residents Covered: No

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NEW YORK.....Year Effective: 1986  
Source of Revenue: General Tax  
Maximum Award: \$20,000 plus unld. Medical Expenses--  
Minimum Award: --  
Financial Needs Test: Yes Police Rept. Req.: 1 wk  
File with Commission: 1 yr Son of Sar Provision: Yes

Out of State Residents Covered: Yes

.....  
N DAKOTA.....Year Effective: 1975

Source of Revenue: General Tax  
Maximum Award: \$25,000      Minimum Award: \$100  
Financial Needs Test: No      Police Rept. Req.: 72 hrs  
File with Commission: 1 yr      Son of Sam Provision: --  
Out of State Residents Covered: Yes

.....  
OHIO.....Year Effective: 1976

Source of Revenue: Penalty Assessments  
Maximum Award: \$50,000      Minimum Award: --  
Financial Needs Test: No      Police Rept. Req.: 72 hrs  
File with Commission: 1 yr      Son of Sam Provision: No  
Out of State Residents Covered: Yes

.....  
OKLAHOMA.....Year Effective: 1981

Source of Revenue: Penalty Assessments  
Maximum Award: \$10,000      Minimum Award: --  
Financial Needs Test: No      Police Rept. Req.: 72 hrs  
File with Commission: 1 yr      Son of Sam Provision: Yes  
Out of State Residents Covered: Yes

.....  
OREGON.....Year Effective: 1978

Source of Revenue: General Tax  
Maximum Award: \$23,000      Minimum Award: \$250  
Financial Needs Test: No      Police Rept. Req.: 72 hrs  
File with Commission: 6 mos      Son of Sam Provision: No  
Out of State Residents Covered: Yes

.....  
PENNSYLVANIA.....

Year Effective: 1977  
Source of Revenue: Penalty Assessments  
Maximum Award: \$25,000      Minimum Award: \$100  
Financial Needs Test: No      Police Rept. Req.: 72 hrs  
File with Commission: 1 yr      Son of Sam Provision: No  
Out of State Residents Covered: Yes\*\*

.....  
TENNESSEE.....Year Effective: 1976

Source of Revenue: Penalty Assessments  
Maximum Award: \$10,000      Minimum Award: \$100  
Financial Needs Test: No      Police Rept. Req.: 48 hrs  
File with Commission: 1 yr      Son of Sam Provision: No  
Out of State Residents Covered: Yes

.....  
TEXAS.....Year Effective: 1980

Source of Revenue: Penalty Assessments  
Maximum Award: \$50,000      Minimum Award: --  
Financial Needs Test: Yes      Police Rept. Req.: 72 hrs  
File with Commission: 180 days      Son of Sam Provision: Yes  
Out of State Residents Covered: No

.....  
VIRGINIA.....Year Effective: 1976

Source of Revenue: Penalty Assessments

Maximum Award: \$10,000 Minimum Award: \$100  
Financial Needs Test: Yes Police Rept. Req.: 48 hrs  
File with Commission: 6 mos Son of Sam Provision: No  
Out of State Residents Covered: Yes\*\*

.....  
W VIRGINIA...Year Effective: 1981

Source of Revenue: Penalty assessments  
Maximum Award: \$20,000 Minimum Award: --  
Financial Needs Test: No Police Rept. Req.: 72 hrs  
File with Commission: 2 yrs Son of Sam Provision: No  
Out of State Residents Covered: Yes

.....  
WISCONSIN...Year Effective: 1977

Source of Revenue: General Tax  
Maximum Award: \$12,000 Minimum Award: --  
Financial Needs Test: No Police Rept. Req.: 5 days  
File with Commission: 2 yrs Son of Sam Provision: No  
Out of State Residents Covered: Yes

.....  
Maximum Award includes medical expenses, lost earnings, and funeral expenses.

\*\* \$25,000 per victim; \$40,000 if there are 2 or more surviving dependents.  
\* If victim is a resident of a state that compensates out-of-state residents.

\*\*\*\*\*  
\* NCSL STAFF CONTACT: Mindy GAYNES \*  
\* 303/555-6600 \*  
\* REV. DATE: 01/15/82 292- \*  
\*\*\*\*\*

\*\*\*\*\* ARTICLES \*\*\*\*\*

TITLE: ALTERNATIVE SENTENCING: A WAY OUT?  
AUTHOR: GREENHOUSE, L.  
PERIODICAL: STATE LEGISLATURES.  
VOLUME INFORMATION: VOL. 5, NO. 2  
DATE 02/01/79  
SCOPE  
CA DC FE GE IL MA ND TN VA  
ABSTRACT

-----  
THIS ARTICLE PRESENTS THE NOTION THAT BOTH ECONOMY AND JUSTICE ARE WELL SERVED BY FORMS OF PUNISHMENT OTHER THAN PRISON. IT CONTENDS THAT POLICIES THAT INCREASE THE DURATION AND FREQUENCY OF PRISON SENTENCES ARE BY FAR THE MOST EXPENSIVE WAYS TO DEAL WITH THE CRIME PROBLEM, SO IT IS SURPRISING THAT NEW SENTENCING LAWS AND THE PRISON BUILDING BOOM HAVE SO FAR ESCAPED PROPOSITION 13 FEVER. THEIR IMMUNITY FROM THE FISCAL SCYTHE IS NOT DUE TO ANY GREAT PUBLIC OR LEGISLATIVE SATISFACTION WITH THE PRISON SYSTEM, WHICH MANY BELIEVE HAS FAILED MISERABLY TO REHABILITATE PRISONERS OR DETER CRIMES. ILL. INCLUDED.  
NCSL IDENTIFICATION NUMBER: ART7900041

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 26 Date on Bill: 1-27-83  
 Title: An Act Relating To Compensation for Victims of Violent Crimes  
 Sponsor: Senators Vertulla and Fischer  
 Requestor: State Judiciary

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating		341.1	349.9	371.0
Total		341.1	349.9	371.0

b. Revenues:

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

Not Identified by Sponsors of Bill.

3. Assumptions:

If the proposed legislation is enacted it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation, and we would receive 10 death claims and 5 would be awarded, including 2 claims with one dependent per incident and 3 claims with multiple dependents. There will be additional hearings as with the change in statute, the Board will want to be certain the offender will not receive any of the compensation.

4. Disclaimer:

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

Prepared By: Nola K. Capp Phone: 465-3040  
 Division: Violent Crime Compensation board Date: \_\_\_\_\_

Approved by Commissioner: Robert J. Sundberg *RJS by TPIT* Date: 2/18/83  
 Department: Public Safety

5. Distribution:

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

2/18/83

FISCAL NOTE DETAIL  
BILL NO. SB 86

EXPENDITURES		FY 83	FY 84	FY 85	FY 86
100	Personal Services		26.6	28.2	29.9
200	Travel		7.9	8.4	8.9
300	Contractual		17.1	9.1	9.7
400	Commodities				
500	Equipment		2.5		
600	Land & Structures				
700	Grants, Claims, etc.		287.0	304.7	322.5
800	Miscellaneous				
TOTAL			341.1	349.9	371.0
FUNDING					
General Fund			341.1	349.9	371.0
Federal Funds					
Program Receipts					
Inter-Agency Receipts					
Other					
POSITIONS					
Full Time			1	1	1
Part Time/Seasonal					
Non-Perm					
Months					

ANALYSIS:

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation. The average award is \$4500.00 per claim so 26 claims would total \$117,000. It is estimated the program would receive 10 death claims and 5 would be awarded: 2 claims at one dependent per incident would be \$50,000 and 3 claims for multiple dependents would be \$120,000 for a total estimated grant money of \$287,000.

Because there will be an increase of claims, it is determined it will be necessary to have one more board meeting at a cost of \$1500.00. Because of the repeal of the statute it is anticipated there would be 8 hearings at \$800 for travel per hearing. The reason for more hearings is because of the change in the statute, the Board will want to be certain the offender will not receive any of the compensation and because of circumstances in some cases, they may order a hearing prior to a final determination by the Board.

The current staff for the Violent Crimes Compensation Board consists of two persons. This change in the statute would necessitate the addition of a clerk typist (range 8) and associated costs, including equipment.

(continued)

Under contractual services, there would be a need for a terminal only for the IBM displaywriter at \$3000.00 per year. There would be the cost of hearing officers' fees for 8 hearings at \$700 per hearing and a total cost of \$5600. Since this will be a major change in the statute, the public must be made aware through TV spots, radio and newspapers. Production of the TV spots will be a one time expense as will the radio spots. These spots should cost around \$6500 plus another \$1000 for public notices in newspapers around the state.

The costs are assumed to begin 7/1/83.

1.	POSITION TITLE Clerk-Typist III				RANGE/STEP 8B	BARC. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	EST. STAFF.	
2.	TYPE OF POSITION PPP	STATE POSITIS 12	RP NUMBER	OPEN NUMBER	ORG PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	U.C.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE				AMOUNT						
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		19,176								
6.	Benefits		3,367								
7.	Supplemental Benefits		1,175								
8.	Fixed Benefits		2,880								
9.	TOTAL PERSONAL SERVICES		01		26,598						
10.	Travel		02								
11.	Contractual		03								
12.	Commodities		04								
13.	Equipment		05		2,484						
14.	Other										
15.	TOTAL COST				29,082						
16.	RECEIPT CODE	FUNDING SOURCE									
17.		Federal Receipts 1002									
18.		G.I. Hatch 1003									
19.		General Funds 1004		29,082							
20.		I-A Receipts 1005									
21.		Program Receipts 1028									
		Other									
FOR BSA USE ONLY											
4A KEY NUMBER											

The number of claims received annually by the Violent Crimes Compensation Board has doubled since 1976 and is projected to double again during the two-year period ending 6/30/84. Yet the program has only the same two-person staff it had in 1973.

It is anticipated the change in the statute will increase the number of claims by 50. This increase, on top of the existing understaffing, will necessitate the addition of a clerk-typist and associated costs, including equipment.

Since this is a major change in the statute, all the applications, brochures and posters will have to be redone. The public must be made aware of the changes through TV, radio and newspapers, again much clerical work. There will be an increase in hearings, which must be transcribed verbatim.

The equipment costs include a desk, chair, file cabinet, table, calculator and transcriber.

AGENCY Department of Public Safety

PROGRAM Crime Identification & Apprehension

BRU Violent Crimes Compensation Board

COMPONENT

FY 84

13 REQUEST FOR  
NEW POSITION

Page 1 of 1

Revised Date 2/2/83

AS18.67.110 DOCUMENT= 1 OF 1 PAGE = 1 OF 2  
CHAPTER = 18.67  
SECTION = 18.67.110  
TITLE = 18

HEADINGS TITLE 18.  
Health and Safety.  
CHAPTER 67.  
Violent Crimes Compensation Board.

CITATION Sec. 18.67.110.

CATCH LINE

NATURE OF THE COMPENSATION.

TEXT The board may order the payment of compensation under this chapter for

- (1) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;
- (2) loss of earning power as a result of total or partial incapacity of the victim, and reasonable expenses of job retraining of or similar employment-oriented rehabilitative services for the victim;
- (3) pecuniary loss to the dependents of the deceased victim; and
- (4) any other loss resulting from the personal injury or death of the victim which the board determines to be reasonable.

HISTORY (Sec. 1 ch 203 SLA 1972; am sec. 7 ch 132 SLA 1975)

HEADINGS TITLE 18.  
Health and Safety.  
CHAPTER 67.  
Violent Crimes Compensation Board.

CITATION Sec. 18.67.130.  
CATCH LINE

LIMITATIONS ON AWARDING COMPENSATION.

TEXT

(a) No order for the payment of compensation may be made under AS 18.67.080 unless the application has been made within two years after the date of the personal injury or death, and the personal injury or death was the result of an incident or offense listed in AS 18.67.101 which had been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within five days of the time when a report could reasonably have been made.

(b) No compensation may be awarded if the victim

(1) is a relative of the offender;

(2) is, at the time of the personal injury or at the time of the injury which results in the death of the victim living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender or with a member of the offender's family;

(3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or

(4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to injure or kill the victim.

(c) No compensation may be awarded under this chapter in an amount in excess of \$25,000 per victim per incident. However, in the case of the death of a victim who has more than one dependent eligible for compensation, the total compensation which may be awarded as a result of that death may not exceed \$40,000. The board may prorate the total awarded among those dependents according to relative need. All payments shall be made in a lump sum.

(d) Orders for payment of compensation under this chapter may be made only as to injuries or death resulting from incidents or offenses occurring on and after July 1, 1971.

HISTORY

(Sec. 1 ch 203 SLA 1972; am secs. 9, 10 ch 132 SLA 1975; am sec. 4 ch 35 SLA 1979)

AS18.67.080 DOCUMENT= 1 OF 1 PAGE = 1 OF 3  
CHAPTER = 18.67  
SECTION = 18.67.080  
TITLE = 18

HEADINGS TITLE 18.  
Health and Safety.  
CHAPTER 67.  
Violent Crimes Compensation Board.

CITATION Sec. 18.67.080.

CATCH LINE

AWARDING COMPENSATION.

TEXT

(a) In a case in which a person is injured or killed by an incident specified in AS 18.67.101(1), or by the act of any other person which is within the description of offenses listed in AS 18.67.101(2), the board may order the payment of compensation in accordance with the provisions of this chapter:

(1) to or for the benefit of the injured person;

(2) in the case of personal injury or death of the victim, to a person responsible or who had been responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury or death; or

(3) in the case of death of the victim, to or for the benefit of one or more of the dependents of the victim.

(b) For the purposes of this chapter, a person is considered to have intended an act notwithstanding that by reason of age, insanity, drunkenness, or otherwise, he was legally incapable of forming a criminal intent.

(c) In determining whether to make an order under this section, the board shall consider all circumstances determined to be relevant, including provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, his need for financial aid, and any other relevant matters.

(d) An order may be made under this section whether or not a person is prosecuted or convicted of an offense arising out of the act which caused the injury or death involved in the application. Upon application made by an appropriate prosecuting authority, the board may suspend proceedings under this chapter for a period it considers appropriate on the ground that a prosecution for an offense arising out of the act which caused the injury or death involved in the application has been commenced or is imminent.

HISTORY

(Sec. 1 ch 203 SLA 1972; am sec. 5 ch 132 SLA 1975; am sec. 3 ch 35 SLA 1979)

ss

ss





# BIG BROTHERS / BIG SISTERS OF JUNEAU, INCORPORATED

Ken McQuade  
Executive Director

March 14, 1983

Senator Bill Ray  
Honorary Chairman

Board Presidents:  
Eeverly Koski, 1983  
Brenda Knapp, 1982  
Howard Gile, 1981  
Kevin Ritchie, 1979-80

Mr. Patrick Sharrock  
A.B.C. Board  
201 E. Ninth Avenue  
Anchorage, Alaska 99501

Dear Mr. Sharrock:

I am writing to have input into hearings which you will conduct April 13 and 14 regarding parental consent for a child to enter the premises of an establishment where alcohol is served under supervision of an adult who is not the parent or legal guardian.

I am strongly in favor of "implied consent" or some option which does not require the submission of a parental permission slip for every visit. In my work with Big Brothers/Big Sisters of Juneau, I help arrange relationships between volunteer adults in the community and children from single-parent families. We have a thorough screening process before accepting these adults. We involve the child's parents or legal guardians in the formation of this relationship. There are over 50 such relationships in Juneau, over 70 in Anchorage, and about 20 in Sitka. Often, the adults take their little brother or sister to a local restaurant for a meal during their weekly activity. With the current method of enforcement, the volunteer must get a special permission slip from the parent each time he may plan to stop for a meal. A large majority of the eating establishments in Juneau have a beer and wine or liquor license and would require the permission slip.

In addition, I coach a youth basketball team for our local Parks and Recreation Department. I have done this for four years and enjoy taking the kids once or twice during the season for pizza. I know most other volunteer coaches for football, baseball, swimming, and other sports like to treat the kids at least once a year. Several weeks ago, I took my team to two local pizza restaurants, and we were denied service at both establishments because I did not have written consent. The kids were very disappointed, and I was quite angry that I had to get written consent from each of the parents in order to treat the kids the following week.

Mr. Patrick Sharrock  
March 14, 1983  
Page 2

I really believe that the A.B.C. Board should change the procedure so that volunteers in the community who want to do something special with a kid or group of kids will not have to submit written permission each time. I, too, am concerned about the welfare of our community's youth. I am involved with Juneau's Board of Education and National Council on Alcoholism to plan alcohol and drug abuse prevention programs which are directed to young people. However, I believe that the system requiring written parental permission is too cumbersome and restricts community efforts to do something positive and enjoyable with our young people.

I will be happy to testify at your public hearing. I hope the A.B.C. Board will find a solution to this problem, keeping in mind the efforts of Boy Scouts, volunteer coaches, Big Brothers/Big Sisters, and many other community programs helping our youth.

Sincerely,

Ken McQuade, M.S.W.  
Executive Director

KM/bc

bcc: Larry Caudle  
Bill Adair  
✓ Senator Bill Ray



BIG BROTHERS / BIG SISTERS  
OF JUNEAU, INCORPORATED

Ken McQuade  
Executive Director

Senator Bill Ray  
Honorary Chairman

March 14, 1983

Board Presidents:  
Beverly Koski, 1983  
Brenda Knapp, 1982  
Howard Gile, 1981  
Kevin Ritchie, 1979-80

Mr. Bill Adair  
Bullwinkles  
9309 Glacier Highway, #200  
Juneau, Alaska 99801

Dear Bill:

Enclosed is a copy of the letter I sent to Patrick Sharrock of the A.B.C. Board regarding the issue of parental permission for minors to enter premises where alcohol is sold and consumed.

I did meet with Senator Ray on this matter back on March 3. He understands my concern about its impact on volunteers with programs such as Big Brothers/ Big Sisters or Parks & Recreation, and he assured me that he is working with them to reach a resolution which better fulfills the intent of the law.

Please let me know if I can help on April 13 or 14 by testifying at the hearing.

Sincerely,

Ken McQuade, M.S.W.  
Executive Director

KM/emc  
Enclosure

→ cc: Senator Bill Ray  
Larry Caudle

# Municipality of Anchorage



POUCH 6-650  
ANCHORAGE, ALASKA 99502-0650  
(907) 264-6730

TONY KNOWLES,  
MAYOR

COMMISSION ON YOUTH  
825 L Street

February 22, 1983

Senator Tim Kelly  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Dear Senator Kelly:

Recently I received some of the new bills, pertaining to youth, that have been introduced into the legislature this session. The Anchorage Commission on Youth and myself are currently reviewing the bills and we will be making responses on some of them in the near future.

On bill in particular that I am personally interested in and am in favor of is, SB 88. If my understanding of this bill is correct, it proposes to allow 16 year olds and older to enter an establishment that serves alcohol, for the sole purpose of dining, without an adult present. I feel this will answer the many questions I am asked by young people in Anchorage.

Many times, in visiting the local high schools, the students will ask if anything is or will be done to allow them into a nice restaurant to eat. As a youth it is very discouraging when you're out Prom Night, or friends and you go to a restaurant to have a nice dinner (with no intention of drinking) and are told you are not old enough to come in. Currently, some restaurants let them "slide", letting them know that they will not be served alcohol, and other's obey the law. The youth that I have come in contact with are in support of a bill of this nature.

Something that should be kept in mind if a bill like this becomes law is, that the establishment understands this does not allow them to let the young people "slide" and have "just one" drink. It is important that if it happens the owners and employees should be held responsible in some way. This, hopefully, will discourage any abuse of the law.



"YOUNG PEOPLE HELPING YOUTH"

Senator Tim Kelly  
State Capitol  
February 18, 1983  
Page 2

The Commission on Youth will take action on this bill in the next few weeks and I hope that you and your colleagues will take our response under consideration.

If you have any questions, please feel free to contact me at the number or address above. I hope that myself and the Commission can be of service in the future.

Sincerely,

A handwritten signature in cursive script that reads "Mark Begich". The signature is written in dark ink and is positioned above the printed name.

Mark Begich  
Youth Programs Coordinator

MB/ej

STATE OF ALASKA

MEMBER

TENTH ALASKA LEGISLATURE  
ELEVENTH ALASKA LEGISLATURE  
TWELFTH ALASKA LEGISLATURE  
THIRTEENTH ALASKA LEGISLATURE



SENATOR TIM KELLY

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3822

283 HULDOON ROAD  
STATION BOX 76  
ANCHORAGE, ALASKA 99804  
(907) 333-1178

TO: Members of the Senate Judiciary Committee  
FROM: Senator Tim Kelly  
SUBJECT SB 88

As AS 04.16.049 now reads, a person under the age of 19 years may not knowingly enter premises that serve alcoholic beverages unless accompanied by a parent, guardian, spouse 19 years or older, or by a person 19 years or older and with the consent of the person's parent or guardian.

SB 88 would allow a person at least 16 years of age to dine, that is, to be served food only, in a restaurant that is licensed to serve alcoholic beverages. The only restriction is that the restaurant may exclude a person under 19 years from an area on the premises that is used primarily for the consumption of alcoholic beverages.

After phone calling restaurants listed in the Anchorage Yellow Pages, it was determined that all but one restaurant in Eagle River had an alcoholic beverage license. This is the only restaurant (other than fast food places) a person under 19 years of age may legally dine unless accompanied by a parent or guardian.

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 88 Date on Bill: 1/28/83  
 Title: An Act authorizing persons 16 years of age or older to be present in  
 Sponsor: Sen. Kelly certain premises that serve alcohol.  
 Requestor: Senate Judiciary

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	FY 83	FY 84	FY 85	FY 86

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: 465-4338  
 Division: Administrative Services Date: 2/16/83  
 Approved by Commissioner: *Robert L. Kelly* Date: 2-22-83  
 Department: Alaska Public Safety

5. Distribution:

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

2/15/83

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 88 Date of Bill: 1 28 83  
 Title: an act authorizing persons 16 years of age or older to be present in certain premises that  
 Sponsor: serve alcoholic beverages. Sponsor: Kelly  
 Requestor: Senate Judiciary

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

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

b. Revenues:

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

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 therefore does not represent the final estimate of fiscal impact.

Prepared By: Mary Kelyfield From: 465-2300  
 Division: Comm. office Date: 3/3/83  
 Approved by Commissioner: [Signature] Date: 3/3/83  
 Department: Revenue

5. Distribution:

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

2/15/83

AS04.16.049 DOCUMENT= 1 OF 1 PAGE = 1 OF 3  
CHAPTER = 04.16  
SECTION = 04.16.049  
TITLE = 04

HEADINGS TITLE 4.  
Alcoholic Beverages.  
CHAPTER 16.  
Regulation of Sales and Distribution.  
ARTICLE 1.  
Prohibited Acts.

CITATION Sec. 04.16.049.

CATCH LINE

ACCESS OF PERSONS UNDER THE AGE OF 19 TO LICENSED PREMISES.

TEXT

(a) A person under the age of 19 years may not knowingly enter or remain in premises licensed under AS 04.06.010 - 04.21.080 unless

(1) accompanied by a parent, guardian or spouse who has attained the age of 19 years;

(2) accompanied by a person over the age of 19 years and with the consent of the person's parent or guardian if the premises are designated by the board as a restaurant for the purposes of this section and the persons enter and remain only for dining.

(b) Notwithstanding (a) of this section, a licensee, his agent, or employee may refuse entry to a person under the age of 19 years to that part of licensed premises in which alcoholic beverages are sold, served or consumed, may refuse service to a person under the age of 19 years, or may require a person under the age of 19 years to leave the portion of the licensed premises in which alcoholic beverages are sold, served, or consumed.

(c) Notwithstanding this section, a person between 16 and 19 years of age may enter and remain within the licensed premises of a hotel, restaurant, or eating place in the course of his employment if (1) the employment does not involve the serving, mixing, delivering, or dispensing of alcoholic beverages; (2) the person has the written consent of a parent or guardian; and (3)

an exemption from the prohibition of AS 23.10.355 is granted by the Department of Labor. The board, with the approval of the governing body having jurisdiction and at the licensee's request, shall designate which premises are hotels, restaurants or eating places for the purposes of this subsection.

HISTORY (Sec. 3 ch 131 SLA 1980; am sec. 16 ch 28 SLA 1981)

TO: Billy Berrier, Director  
Legal Services

FROM: John Gabrielli, Counsel  
Senate Judiciary Committee

DATE: March 8, 1983

RE: SB 88 -- Authorizing persons 16 yrs of age or older to  
be present in certain premises that serve  
alcoholic beverages.

I am providing you with the attached minutes of our 3/4/83 committee hearing to give you an idea of the topics and concerns regarding SB 88 raised and discussed therein.

After the hearing Senator Ray proposed the following general language and provisions to be included in a committee substitute that he would like drafted as soon as possible:

Alcoholic beverage dispensary licensees whose applications have been submitted and reviewed and, after an inspection of the premises, are determined to be bona fide purveyors of food by the Alcoholic Beverage Control Board, with prior notice to and the consent of the appropriate local governing bodies, shall be permitted, at their exclusive discretion, to allow minors to enter their licensed premises for the purpose of dining only. In exercising their discretion to admit or exclude minors, said licensees shall not violate any other applicable federal or state constitutional provision, law or regulation, and said licensees shall be solely responsible for the safe and orderly conduct of business on their licensed premises.

Although I am responsible for structuring the above language, the key phrases and words are Senator Ray's and the committee substitute should retain as many of them as possible. Of course, we expect you to structure the committee substitute in whatever manner you deem appropriate, with the key elements of provisions being the following:

- 1) Only already licensed applicants;
- 2) Must apply:

The intent here is that the application be as simple as possible; e.g., basic

identifying information plus an affidavit that primary business is food, rather than the sale of alcoholic beverages. Best example of intended establishments is pizza parlors that serve beer and wine. But would also like to include hotel (e.g., Latchstring), motel and airport restaurants.

Query: Define "Bona fide purveyor of food" as primary business thereof;

3) ABC Board must:

- (a) Fully review applications;
- (b) Do on site inspection;
- (c) Give prior notice to appropriate local governing bodies;
- (d) Determine that establishment is bona fide purveyor of food;

4) Local governing bodies must:

- (a) Be given prior notice and opportunity to be heard;
- (b) Consent;

5) Approved licensees shall have

- (a) Exclusive discretion as to admission or exclusion of minors; however, there is some concern about civil rights violations and it is suggested that some limiting language be inserted in this regard;
- (b) Sole responsibility for safe and orderly conduct of operations on premises;

6) Purpose for entering must be dining only, rather than dancing or playing machines, etc.; however, there is no intent to exclude other activities in conjunction with dining.

Of course, I will be glad to answer any questions and work whoever will be drafting the committee substitute. My extension is 4451 or 4452.

cc: Senator Ray

S

B

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COMMITTEE REPORT

SENATE

1/31/85

FURTHER:

Date: 2/11/85

Mr. President:

The Committee on JUDICIARY has had SENATE BILL NO. 95

Requiring that certain legislative officers file statements of financial interests; eff. date

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

CHAIRMAN

2.10.83 met w/ Robinson, Aid  
to Bennet

SB-95

ADDs folks to filing def  
they head major divisions w/  
heavy public obligations.

Title 24.20.050 Leg Finance

Leg Svcs. / Leg Info check duties  
under LAA

Resub Title 24.20.261 only auditor <sup>offices</sup>  
24.20.291 conflict of interest  
Fiscal Analysis  
24.20.221(b) Leg. Fin. Staff

Conflicts of Interest -

39.50.010 et al

SENATE COMMITTEE ON JUDICIARY  
MEETING MINUTES

February 14, 1983

The meeting was called to order at 1:33 p.m. by Senator Bill Ray, Chairman.

Members present were Senator Ray, Josephson, Eliason, Pettyjohn and Ziegler.

The following bills were assigned for sub-committee work:

SB 12i	Authorizing capital punishment, classifying murder in the first degree as a capital felony, and establishing sentencing procedures for capital felonies.	Ray
SJR 1	Relating to the proposal by Congress of an Equal Rights Amendment	Ray

The first order of business was Senate Bill 95 - Requiring that certain legislative officers file statements of financial interests. Senator Bennett, testified briefly stating that in the last two years as co-chairman of the Senate Finance Committee, he has found that both analysts and auditors of the legislative finance divisions have as much influence in the budgetary process, than perhaps any legislator who does not have a vote on the finance committee, these employees have as much influence on the general public, as does the director and the directors of divisions, of the Legislative Affairs Agency. Therefore, the legislative positions named in this bill to the Alaska's "Conflict of Interest" Statutes is appropriate.

Senator Josephson, stated he was in support of the bill and cited from AS 24.20.291, and suggested that this statute be the vehicle to be used to police the revisions in Senate Bill 95.

Senator Josephson moved that the bill be reported out of committee "Do Pass", Senator Ziegler, objected to the motion, requesting that the bill be passed out of committee with Individual Recommendations. Senator Ray, than asked that the bill be passed out of committee with individual recommendations.

Senator Ray, asked for a status report from the sub-committee chairmen on the bills which were priviously assigned to them in committee.

There being no further business the meeting was adjourned at 1:50 p.m.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

February 7, 1983

TO: Senator Bill Ray  
Chairman, Senate Judiciary  
Committee

FROM: Gerald L. Wilkerson, CPA *GLW*  
Legislative Auditor

SUBJECT: Request for response to  
Senate Bill No. 95

In the spirit of accountability in government and to help insure public confidence in public officials, I feel subjecting of the Legislative Auditor position and other Legislative positions named in this bill to the Alaska's "Conflict of Interest" Statutes is appropriate and would result in little if any additional cost to the State.

M E M O R A N D U M

February 8, 1983

To: Senator Bill Ray  
From: John C. Gabrielli, Counsel  
Subject: SB 95 - Financial Disclosure

Mort Charney, Director of Legal Services, will send Fiscal Note.

Milt Parker, acting Director of Legislative Finance Division (ext. 3635) had the following things to say about the Bill:

Personally, he has no problems with it and generally favors it -- he doesn't want to testify or submit any written materials.

Disclosure of confidential information should be no problem because most Directors come up through Government service and don't have former private clients to worry about.

He suggests that we may want to wait to see if SCR 2 (Establishing a Special Committee on Legislative Reform) passes as this may be a matter they would want to take up.

He also suggests that we may want to extend the disclosure requirements to the Administrative Director level of the Judicial Branch of state government.

Gerald L. Wilkerson, C.R.A., Legislative Auditor (ext. 3830) said that he has no comment on the Bill, but he will probably send a note over to us about it.

You have already been in touch with the sponsor, Senator Bennett, who will testify.

Let me know what else you want done on this.

THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTIETH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 05  
 Title An Act requiring that certain legislative officers file statements of  
Reported financial interests: a.d. Date 2-8-83  
 Requested by: Senate Judiciary Committee

II. FISCAL DETAIL

Agency Affected Legislature - Executive Branch - Municipalities  
 Program Category Affected General Government  
 BRU, Program, Or Subprogram(s) Affected Legislature - Executive Branch  
 (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-				

FUNDING (Thousands of Dollars)

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

POSITIONS

None

FULL TIME						
PART TIME						
TEMPORARY						

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

It is estimated that no additional fiscal impact will result from this bill.

IV. DATE 2-8-83

PREPARED BY W. J. Harrison, Director, Admin. Svcs.  
 AGENCY Legislative Affairs Agency

Original: Legislative Finance  
 cc: Budget and Management

PHONE 665-3850

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

REQUEST  
 Bill/Resolution No. SB 73  
 Title An Act classifying murder in the first degree as a capital felony,  
 Requested by Sen. Fischer Date 1/20/81  
and establishing sentencing procedures for capital felonies."

II. FISCAL DETAIL

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

Unknown

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

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

This bill requires imposition of capital punishment for the crime of first degree murder in the presence of certain aggravating factors enumerated in section 12.55.180 of the bill. Obviously, should these factors be present, a most vigorous and lengthy defense can be expected from defendants' counsel. The amount of state resources required to prosecute capital cases is unquantifiable at this time. It is bound, however, to be considerable, both at the trial and appellate levels. Recent experience in other states suggests that very protracted and expensive litigation may be necessary to implement the provisions of the Act. The Territorial Legislature abolished the death penalty in Alaska in 1957, and we simply do not have any historic data upon which we can make an accurate projection.

*Richard I. Peques*

IV. DATE January 21, 1981 PREPARED BY Richard I. Peques, Dir. Admin. Service  
 AGENCY Department of Law  
 PHONE 465-3695  
 Original: Legislative Finance  
 Budget and Management  
 Prime Sponsor (First Legislator Named)

SB 95

Dept of Admin -  
AK Public Offices Commission

LEGISL AFFAIRS Agency -

won't take a position

~~Mr. [unclear]~~  
~~[unclear]~~

~~RECEIVED~~

2/7 : 3795  
MILT BARKER, LEGISL FIN DIV, LEGISL  
AFFAIRS Agency

WILL ADVISE IF THEY WANT  
ANY INPUT

GERALD L WILKERSON 3830

NO COMMENT ON IT  
WILL SEND SOMETHING OVER, MAYBE

2/8 Murt Chorney will send FISCAL NOTE OVER

2/8 - MILT BARKER : GAVE ME HIS  
VIEWS ON IT (see memo to BR)

2/8 - ADVISED SPONSOR of hearing Date + Time

S

B

101

# COMMITTEE REPORT

## SENATE

FURTHER:

3/15/33

Date: \_\_\_\_\_

Mr. President:

The Committee on JUDICIARY has had SB 101

relating to the issuance of citations for fish and game violations

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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CHAIRMAN