

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2
3948 SHES SB 263 - SB 264

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tance

1 Sec. 44.47.390. LIMITATIONS ON USE OF HOUSING ASSISTANCE LOAN
2 FUND. The director may not use the money in the housing assistance
3 loan fund to

4 (1) originate a direct loan or purchase or participate in
5 the purchase of a nonconforming or rural housing mortgage loan that
6 exceeds the limitations on mortgage loans purchased by the Federal
7 National Mortgage Association as to principal amount or loan-to-value
8 ratio;

9 (2) originate a direct loan or purchase or participate in
10 the purchase of a loan made for building materials for nonconforming
11 or rural housing

12 (A) that exceeds \$45,000 or exceeds

13 (i) 80 percent of the appraised value of the work
14 completed on the nonconforming or rural housing for which
15 the loan is made if the nonconforming or rural housing is
16 pledged as collateral for the loan; or

17 (ii) 90 percent of the value of other property
18 that is pledged as security for the loan and that is satis-
19 factory to the director as collateral;

20 (B) unless the terms of the loan agreement require
21 inspections and certifications, as required by regulations of the
22 director, at the expense of the borrower; and

23 (C) unless the period of time allowed for repayment of
24 the loan is equal to or less than 15 years;

25 (3) originate direct loans or purchase or participate in
26 the purchase of a nonconforming or rural housing mortgage loan that is
27 secured by real property the marketable title to which is shown in
28 accordance with AS 44.47.420(b)(2) if the total amount of outstanding
29 nonconforming and rural housing mortgage loans held by the division

1 exceeds 10 times the amount of money in the restricted title loss
2 reserve account (AS 44.47.430);

3 (4) originate a direct loan for nonconforming or rural
4 housing or purchase or participate in the purchase of a nonconforming
5 or rural housing mortgage loan, other than a loan for the repair,
6 remodeling, rehabilitation, or expansion of an existing owner-
7 occupied residence, if the borrower has an outstanding housing loan
8 made under a state loan program, other than a loan for nonowner-
9 occupied housing under AS 44.47.520, that bears interest at a rate
10 that was less than the prevailing market interest rate for similar
11 housing loans at the time the loan was made;

12 (5) originate a direct mortgage loan or purchase or partic-
13 ipate in the purchase of a mortgage loan for rental housing unless the
14 borrower agrees not to discriminate against tenants or prospective
15 tenants because of sex, marital status, changes in marital status,
16 pregnancy, parenthood, race, religion, color, national origin, or
17 status as a student;

18 (6) originate, purchase, or participate in a loan to a
19 person who has a past due child support obligation at the time of
20 application.

21 * Sec. 9. AS 45.88.020 is amended by adding a new subsection to read:

22 & (c) The department may not make a loan under this chapter to a
23 person who has a past due child support obligation at the time of
24 application.

25 * Sec. 10. AS 45.89.030 is amended by adding a new subsection to read:

26 (k) The department may not make a loan under this chapter to a
27 person who has a past due child support obligation at the time of
28 application.

Alternative
Technology
Energy
Residential
Energy
Conservation

STATE OF ALASKA

DEPARTMENT OF REVENUE

CHILD SUPPORT ENFORCEMENT DIVISION

In bill file
BILL SHEFFIELD, GOVERNOR

Dept. of Revenue
Child Support Enforcement Division
550 W. 7th, Hunt Bldg., 4th floor
Anchorage, AK 99501
Phone: (907) 276-3441
Toll Free: Zenith 3300

April 4, 1985

Senator Jan Faiks
Pouch V
Juneau, AK 99811

re: SB 263

FAIRBANKS FIELD OFFICE
REGIONAL OFFICE BLDG.
675 7TH AVENUE, STATION G
FAIRBANKS, ALASKA 99701
PHONE: (907) 456-6607

JUNEAU FIELD OFFICE
1111 W. 8TH STREET, ROOM 110
JUNEAU, ALASKA 99801
PHONE: (907) 465-2941

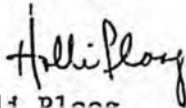
Dear Senator Faiks:

As per Elizabeth Hickerson's request, I have looked at the various options available to Child Support Enforcement to verify child support delinquency information to state agencies administering loan programs. All the fiscal information on a child support case is in our computer system and can be accessed easily. Should we receive a phone call from a loan officer asking for a status report on a particular individual, we would be able to respond to this request in a couple of minutes. Secondly, we can match computer tapes with any agency compatible to the IBM system, a process we currently use with Health and Social Services and the Department of Labor. I discussed this second option with Kerry Romesburg, Director of the Commission on Post-Secondary Education and he felt it would work well with their system. Finally, should an agency need written verification of current obligation status, we mail monthly computerized statements to all absent parents and they can provide a copy of that statement to the loan processing agent upon filing of their application and/or we can verify their obligation in writing upon request.

To illustrate the extent of the problem, as of April 2, 1985, we had an outstanding arrearage balance of \$30,434,052.09 with 8312 cases being enforced by our division out of which 7198 have arrearages.

Thank you for your continued support. If you need additional information, please do not hesitate to call.

Sincerely,



Holli Ploog
Director
Child Support Enforcement Division

APR 7 1985

OFFICE OF THE COMMISSIONER

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 263
 Title: Disqualification for cer-
 tain loans for failure to pay child support
 Sponsor: Faiks
 Requestor: HESS
 Date of Request: 4-2-85

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Child Support
 Enforcement Division
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	2.5	2.5	2.5	2.5	2.5	2.5

FUNDING: (Thousands of Dollars)

GENERAL FUND	.75	.75	.8	.8	.85	.85
FEDERAL FUNDS	1.75	1.75	1.7	1.7	1.65	1.65
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This figure represents one notice per year for each case currently in arrears which includes postage, paper goods, computer time, and photocopy costs.

Prepared By: Holli Ploog Phone: 276-3441
 Division: Child Support Enforcement Division Date: 4-4-85

Approved by Commissioner: [Signature] Date: 4/5/85
 Agency: [Signature]

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 263
 Title: An act relating to disqualification for certain loan programs
 Sponsor: Paiks, Halford et al
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: Alaska Housing Finance Corporation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

SB 263 would not have a fiscal impact on AHFC. The Corporation would require that any loan application must contain verification that there is not a past due child support obligation.

Prepared By: Alfonso P. [Signature]
 Division: Alaska Housing Finance Corporation

Phone: 276-5599
 Date: _____

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor

Office of Management and Budget
 Impacted Agency(ies)

7/1/84

Active and Inactive State Loan Programs

ACTIVE

Agricultural Revolving Loan Fund¹
Alaska Grain Reserve Loan Fund¹
Alaska Housing Finance Corporation (AHFC)²
Alaska Medical Facility Authority²
Alaska Municipal Bond Bank Authority²
Alaska Resources Corporation (ARC)¹
Alaska Industrial Development Authority (AIDA)²
Alaska Power Authority¹
Alternative Technology and Energy Revolving Loan Fund¹
Bulk Fuel Revolving Loan Fund¹
Child Care Facility Revolving Loan Fund¹
Commercial Fishing Revolving Loan Fund¹
Fisheries Enhancement Revolving Loan Fund¹
Historical District Revolving Loan Fund¹
Housing Assistance Loan Fund¹
Medical Malpractice Liability Revolving Loan Fund¹
Mining Loan Fund¹
Relocation Planning Loans¹
Residential Energy Conservation Fund¹
Scholarship Revolving Loan Fund¹
Teacher Scholarship Loan Fund¹

INACTIVE

Alaska Disaster Economic Impact Fund
Alaska Gas Pipeline Financing Authority
Alaska State Housing Authority (ASHA)
Disaster Relief Fund*
Capital City Revolving Loan Fund
Housing Development Revolving Loan Fund
Outdoor, Recreational, Open Space and
Historical Properties Development Fund*
Public Law 92-203 Loan Program
Small Business Revolving Loan Fund**
Tourism Revolving Loan Fund**
Veterans' Revolving Loan Fund**
Water Resources Revolving Loan Fund**

¹These programs are funded through State appropriations.

²These programs are funded, at least in part, through bond sales.

*These programs are funded to make either grants or loans, and make grants rather than loans.

**These programs are inactive but still service some loans.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

<p>REQUEST Bill/Resolution No.: <u>SB 263</u> Title: <u>Disqualification</u> State loan programs: <u>Child Support</u> <u>Development</u> Sponsor: <u>Faiks</u> Requestor: _____ Date of Request: _____</p>	<p>FISCAL DETAIL Agency Affected: <u>Comm. & Econ. Dev.</u> Program Category Affected: _____ BRU, Program or Subprogram(s) Affected: _____ Division of Investments _____</p>
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EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		3.3				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		3.3				
CAPITAL		-0-				
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND		3.3				
FEDERAL FUNDS						
OTHER						
TOTAL		3.3				

POSITIONS:

FULL-TIME		-0-				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

\$3,300 is requested to revise and reprint existing loan application packets for the loan programs affected by this bill. A new credit authorization form will be sent to the Division of Child Support Enforcement, Department of Revenue, prior to application processing.

Prepared By: <u>Paul B. Arnoldt, Director</u>	Phone: <u>465-2510</u>
Division: <u>DIVISION OF INVESTMENTS</u>	Date: _____
Approved by Commissioner: <u>Loren H. Lounsbury</u>	Date: <u>4/19/85</u>
Agency: <u>Commerce and Economic Development</u>	

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

FOUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HESS 4-23-85 3:13pm

TO: BETTYE

FROM: SANDRA

20-0
you

4/19/85

SB 263

FAIKS

SB 263 DISQUALIFICATION FOR CERTAIN STATE LOAN PROGRAMS FOR FAILURE TO PAY CHILD SUPPORT.

PARENTS WHO ARE DELINQUENT IN THEIR CHILD SUPPORT PAYMENTS WOULD BE INELIGIBLE FOR STATE LOANS (OUTSTANDING LOANS WOULD NOT BE AFFECTED). DELINQUENT PAYMENTS ARE MOST OFTEN ENFORCED BY THE CHILD SUPPORT ENFORCEMENT AGENCY (DEPT. REVENUE). IT IS ANTICIPATED THAT THE STATE AGENCY ADMINISTERING THE LOAN WOULD CONTACT C.S.E.A. BEFORE GRANTING A LOAN TO ENSURE THAT PAYMENTS WERE NOT DELINQUENT.

THE BILL DOES NOT PROVIDE FOR RECOVERY OF THE DELINQUENT PAYMENTS. IT SIMPLY PROVIDES A **DETERRENT AGAINST DELINQUENCY.**

QUESTIONS:

1. ARE ALL STATE LOAN PROGRAMS ADDRESSED IN THE BILL? (All those that are active and that are available to individuals: student loans, agriculture, commercial fishing, A.H.F.C., veterans, mining, alternative energy, residential energy.)
2. DOES THE CHILD SUPPORT ENFORCEMENT AGENCY HAVE KNOWLEDGE OF ALL DELINQUENCIES? (No. They act on behalf of clients who report delinquencies to them. Many delinquencies go unreported; some are handled by private attorneys.)

passed out of Senate HESS

4/23/85.

You were a DO PASS.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

S B

2 6 4

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 264

Sponsor: RODEY

Date referred to committee: 3/29/85

Synopsis completed:

Fiscal note:

Further referrals: JUDICIARY

CONTACTS:

* Rodney (Suzanne LaPiere) ~~(Kevin Bruce)~~ 3717 276-6731

* Conectius, Andy Nelson

* Hass - ^{x Mike Price} Norma Lang 3030 "impersonation"

✓ ^{x Hal Brown} Law - Gail Horvitz

✓ ^{x Art Snowden} Karla Forsythe ^{Court 264-8228} ~~264-6134~~

✓ Dana Faber, Public Defender } Dan Henstey
4911

Beth Ballic, PO Box 53035 N. Pole 99705
488-3495

Karen Steinman, Anch. 337-5145

* Sherry Hall 4925

* Ling Hickerson 276-6921

Suzi Tryck - Mun. Anch.

League Women Jobs
* Prudge Kline Kay 786-1725
* Brant McGee, OPA
274-1684

no. cited of crime
but "unjudicated delinquent for an activity"

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

Senate Health Education & Social Services Committee 2/18/86, 1:36pm
" " " " " " 4/17/86, 1:37pm

ALASKA STATE LEGISLATURE
SENATE JUDICIARY COMMITTEE

SENATOR PATRICK RODEY, CHAIRMAN
SENATOR TIM KELLY, VICE-CHAIR
SENATOR JAN FAIKS
SENATOR RICK HALFORD
SENATOR ROBERT ZIEGLER, SR.



file SB 264
JAN 18 1986

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

MEMORANDUM

TO: Senator Bettye Fahrenkamp, Chair
Senate HESS Committee

FROM: Senator Pat Rodey, Chair
Senate Judiciary Committee

DATE: January 14, 1986

RE: SB264 - Juvenile Waiver

Attached you will find a petition forwarded to me by Senator Frank Ferguson from residents of Teller requesting stronger laws against juvenile offenders. Please include this petition in your file on SB264.

Thank you.

PETITION FOR BETTER JUVENILE LAWS

1. All persons 16 years or over charged with an offense designated as a felony (rape, murder, felony assault) shall be prosecuted as an adult.
2. All minors under 16 committing a non-felony offense shall: A. Pay a fine commensurate with the offense and /or do public service if they are a first offenders.
B. Be institutionalized and compelled to do physical work, if they are a second offenders.
3. All juveniles under 16 contained for a felony should be re-evaluated at 18.

NAME	ADDRESS	PHONE	Phone #
1. Karen L. Blodgett	Box 532 Teller Ak.	99778	642-3281
2. Carol A. Howald	Box 502 Teller Ak	99778	
3. Andrew B. Taylor	P.O. Box 585 Teller, Ak.	99778	
4. Millie Lee	Box 562 Teller, AK	99778	
5. Kenny Hughes	Box 586 Teller, AK	99778	
6. Eric Hughes	Box 586 Teller AK	99778	
7. Edward J. Kakaruk Sr	Box 540 Teller, Ak	99778	
8. Betty Kakaruk	"Box 540 Teller Alaska	99778	
9. Irene J. Kakaruk	Box 540 Teller Ak	99778	
10. Ruby Doptok	Box 551 Teller Ak	99778	
11. Rose Okback	Box 504 Teller Ak	99778	
12. Sammie Okback	Box 504 Teller Ak	99778	
13. Donaldine Okback	Box 574 Teller Ak	99778	
14. Theresa Svobak	Box 510 Teller	99778	
15. James Ossiak	Box 507 Teller Ak	99778	
16.			
17.			
18.			
19.			
20.			

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

ADDRESSES
PROPOSED
AMENDMENT

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465 3800

MEMORANDUM

April 27, 1983

SUBJECT: Disclosure of the identity of a minor and the
minor's parents at the court's discretion
(CSSB 127 (Judiciary))

TO: Senator Bill Ray
Chairman, Senate Judiciary Committee
Attn: John Gabrielli

FROM: James H. Lear
Legislative Counsel *JHL*

You have asked our office to prepare a work draft amendment to CSSB 127 (Judiciary) that would provide for disclosure, in the court's discretion, of the identity of a minor and the minor's parents in relation to children's court proceedings. Since the existing law already gives the courts the discretion to decide whether or not to authorize disclosure of the identity of a minor, all that is necessary to comply with your request is to delete certain portions of the bill that appear to conflict with the existing law.

The provisions of AS 47.10.090 address the issue of disclosure of identity. In particular, subsection (b) states:

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause, in certain individual cases, enters an order prohibiting the disclosure.

Rule 26, Rules of Children's Procedure, reiterates that the court has the discretion to decide whether or not to enter

Senator Bill Ray
Page 2
April 27, 1983

an order authorizing disclosure of a minor's identity.
Rule 26 states:

The name or picture of a child under the jurisdiction of the children's court shall not be made available to the public unless authorized by court order accompanied by a written statement reciting the circumstances which support such authorization.

Accordingly, two amendments should be made to reconcile CSSB 127 (Judiciary) to existing law. First, on page 8, lines 9 and 10, delete "the court may not disclose the identity of the minor." This language is in direct conflict with the provisions of AS 47.10.090(b), since the court may enter an order authorizing the disclosure of a minor's identity.

Second, on page 9, line 29, delete the word "prohibiting" and insert the phrase "requiring a court order to authorize". Thus, subsection (d) would read:

The provisions of this section requiring a court order to authorize disclosure of information relating to a minor do not apply to a disclosure to a victim or the victim's parent or guardian under AS 47.10.020(a), 47.10.080(a), and 47.10.140(d).

This amendment would clarify that AS 47.10.090(b) does not prohibit disclosure, but rather, restricts disclosure to instances in which a court order is entered authorizing disclosure.

Hopefully, this information is responsive to your request. If not, do not hesitate to contact our office.

JHL:ljb
16/017

ADDRESSES
PROPOSED
A AMENDMENT



Superior Court
State of Alaska

FIRST JUDICIAL DISTRICT
415 MAIN STREET, ROOM 402
KETCHIKAN, ALASKA 99901

Chambers of
THOMAS E. SCHULZ, Judge

February 24, 1983

The Hon. Bill Ray
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

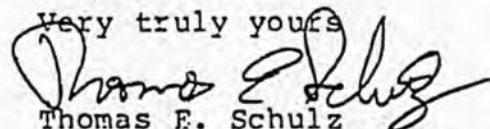
Re: Senate Bill No. 127

Dear Senator Ray:

I wanted to write and express my agreement with Section 2 of Senate Bill 127 which raises the amount recoverable in a civil action against parents of an unemancipated minor from \$2000 to \$5000. That increase is well justified by simply taking into account the effects of inflation over the last several years.

I also wanted to comment on Section 4 which contains an amendment to AS 47.10.020(a). Apparently new language is being added to that section to provide that the victim may obtain information from the court concerning the manner, "in which it (the court) informally adjusted or disposed of the matter. ~~The court may not disclose the identity of the minor.~~" I disagree with a provision prohibiting the court from disclosing to the victim the identity of a minor who has caused damage to that victim's person or property. I think the statute should very clearly allow the court to disclose the identity of both the minor and his parents to the victim so that if restitution orders made by the court are deemed insufficient or inappropriate, the victim has the information available with which he can pursue the civil remedies provided earlier in the statute. It does not make sense to me to keep this information from the victim, and I believe it sends the wrong message to both the minor and his parents in those cases in which kids are involved in doing damage to person or property. Particularly the kids ought to be told up front that the court will not be part of any procedure that inhibits the "accounting", if you will, between them and the victim. I would recommend that that last sentence be removed from Section 4.

Very truly yours


Thomas E. Schulz
Superior Court Judge

Introduced: 2/15/85
Referred: Health, Education &
Social Services, Judiciary and
Finance

Superseded

1 IN THE HOUSE

BY PETTYJOHN, MARTIN AND
PIGNALBERI

2

HOUSE BILL NO. 205

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to minors charged with felonies; and
7 amending the children's proceedings waiver provi-
8 sions."

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

10 * Section 1. AS 12.05 is amended by adding a new section to read:

11 Sec. 12.05.020. JURISDICTION OVER CERTAIN MINORS CHARGED WITH
12 SERIOUS FELONIES. (a) A person 16 or 17 years of age who is charged
13 with an offense designated as an unclassified felony shall be prose-
14 cuted as an adult.

15 (b) If the court has waived children's court jurisdiction over a
16 person under the age of 18 under AS 47.10.060, that person shall be
17 prosecuted as an adult.

18 (c) Unless referred to children's court for disposition after a
19 hearing under AS 12.55.007(b), a person who has been convicted of an
20 offense after being prosecuted as an adult under this section shall be
21 prosecuted as an adult for any subsequent criminal offense.

22 (d) References in this section to a person's age refer to the
23 person's age at the time of the offense.

24 * Sec. 2. AS 12.55 is amended by adding a new section to read:

25 Sec. 12.55.007. SENTENCING OF CERTAIN MINORS. (a) A person
26 subject to the jurisdiction of the court under AS 12.05.020 who is
27 convicted of the offense charged or of any lesser included offense
28 shall be sentenced under the provisions of this chapter, unless re-
29ferred to children's court for disposition after a hearing under (b)

1 of this section.

2 (b) A person subject to the jurisdiction of the court under
3 AS 12.05.020 who is convicted of an offense that is not an unclas-
4 sified felony, and that is lesser than the offense for which chil-
5 dren's court jurisdiction was waived, may petition the court to dis-
6 pose of the offense under AS 47.10.080. The petition for disposition
7 under AS 47.10.080 shall be filed with the court, with a copy to the
8 prosecutor, not less than 30 days before the time set for imposition
9 of sentence. The petition shall state the reasons why disposition
10 under AS 47.10.080 is appropriate. The court shall hold a hearing on
11 the petition. The court may order disposition under AS 47.10.080 if
12 the court finds that the petitioner has proven, by a preponderance of
13 the evidence, that there is a substantial likelihood that the peti-
14 tioner can be successfully rehabilitated under the children's court
15 system. In determining the likelihood of successful rehabilitation
16 under children's court proceedings, the court shall consider the
17 factors set out in AS 47.10.060(b), and comply with AS 47.10.060(c).

18 * Sec. 3. AS 12.55.125 is amended by adding a new subsection to read:

19 (j) Notwithstanding any other provision in this section, a
20 person convicted of a first felony offense while under the jurisdic-
21 tion of the court under AS 12.05.020 is not subject to the mandatory
22 minimum and presumptive sentences required for first offenders.

23 * Sec. 4. AS 12.55.145 is amended by adding a new subsection to read:

24 (f) If a person subject to the jurisdiction of the court under
25 AS 12.05.020 is convicted of a felony offense, the conviction is to be
26 considered a prior conviction for presumptive sentencing purposes in
27 subsequent offenses.

28 * Sec. 5. AS 12.80 is amended by adding a new section to read:

29 Sec. 12.80.060. CONFINEMENT OF CERTAIN MINORS. (a) A person 16

1 or 17 years of age who is charged with an unclassified felony and who
2 is held in custody shall be confined in a facility for juvenile of-
3 fenders until indicted for, held to answer following a preliminary
4 hearing on, or charged by complaint or information following a waiver
5 of indictment for an unclassified felony offense. Following indict-
6 ment, preliminary hearing, or waiver of indictment, the person, if
7 held in custody, shall be confined in a facility for adult offenders.

8 (b) Except as provided in (a) of this section, a person under 18
9 years of age, who is held in custody for an offense that would be a
10 crime if committed by an adult, shall be confined to a facility for
11 juvenile offenders unless children's court jurisdiction over the
12 person has been waived under AS 47.10.060, and the person has been
13 indicted for, held to answer following a preliminary hearing on, or
14 charged by complaint or information following a waiver of indictment
15 for a felony offense. Following indictment, preliminary hearing, or
16 waiver of indictment, the person, if held in custody, shall be con-
17 fined to a facility for adult offenders.

18 (c) If a person under 18 years of age who is subject to the
19 jurisdiction of the court under AS 12.05.020 is confined to custody
20 while awaiting sentencing, or is sentenced to a period of incarcera-
21 tion upon conviction, the person shall be committed to the custody of
22 the Department of Health and Social Services for confinement in a
23 correctional facility for adult offenders. The department shall
24 provide a person confined to custody in an adult facility under this
25 section with sleeping quarters that are separate from the sleeping
26 quarters for adult offenders until the person reaches 18 years of age.

27 * Sec. 6. AS 47.10.010(a) is amended to read:

28 (a) Except as otherwise provided in this chapter and AS 12.05.-
29 020, AS 12.55.007, and AS 12.80.060, proceedings [PROCEEDINGS]

1 relating to a minor under 18 years of age residing or found in the
2 state are governed by this chapter [, EXCEPT AS OTHERWISE PROVIDED IN
3 THIS CHAPTER,] when the court finds the minor

4 (1) to be a delinquent minor as a result of violating a
5 criminal law of the state or of a municipality of the state; or

6 (2) to be a child in need of aid as a result of

7 (A) the child being habitually absent from home or
8 refusing to accept available care, or having no parent, guardian,
9 custodian or relative caring or willing to provide care, includ-
10 ing physical abandonment by

11 (i) both parents,

12 (ii) the surviving parent, or

13 (iii) one parent if the other parent's rights and
14 responsibilities have been terminated under AS 47.10.080 or
15 voluntarily relinquished;

16 (B) the child being in need of medical treatment to
17 cure, alleviate, or prevent substantial physical harm, or mental
18 harm as evidenced by failure to thrive, severe anxiety, de-
19 pression, withdrawal, or untoward aggressive behavior or hostili-
20 ty toward others, and the child's parents are unwilling to pro-
21 vide the medical treatment;

22 (C) the child having suffered substantial physical
23 harm or if there is an imminent and substantial risk that the
24 child will suffer such harm as a result of the actions done by or
25 conditions created by the child's parent, guardian or custodian
26 or the failure of the parent, guardian or custodian adequately to
27 supervise the child;

28 (D) the child having been sexually abused either by
29 the child's parent, guardian or custodian, or as a result of

1 conditions created by the child's parent, guardian or custodian,
2 or by the failure of the parent, guardian or custodian adequately
3 to supervise the child;

4 (E) the child committing delinquent acts as a result
5 of pressure, guidance, or approval from the child's parents,
6 guardian or custodian;

7 (F) the child having suffered substantial physical
8 abuse or neglect as a result of conditions created by the child's
9 parent, guardian or custodian.

10 * Sec. 7. AS 47.10.060 is repealed and reenacted to read:

11 Sec. 47.10.060. WAIVER OF JURISDICTION. (a) Upon motion of the
12 prosecutor, and after a hearing, the court shall waive children's
13 court jurisdiction over a person under 18 years of age if the court
14 finds, based upon the preponderance of the evidence,

15 (1) that there is probable cause to believe that the person
16 has committed an offense which would be a felony if committed by an
17 adult; and

18 (2) that there is no substantial likelihood that the person
19 can be successfully rehabilitated under children's court proceedings.

20 (b) In determining the likelihood of successful rehabilitation
21 under children's court proceedings, the court shall consider

22 (1) the seriousness of the offense;

23 (2) whether the offense constituted a substantial danger to
24 the public;

25 (3) whether the offense was committed in an aggressive,
26 violent, premeditated, or willful manner;

27 (4) the person's role in the commission of the offense;

28 (5) whether the offense is part of a repetitive pattern of
29 delinquent acts, even though previous offenses may have been less

1 serious;

2 (6) the age, maturity, intellectual capacity, educational
3 background, physical and mental health, and degree of criminal sophis-
4 tication of the person;

5 (7) the success of any previous attempts to rehabilitate
6 the person;

7 (8) the person's exhibited or expressed attitudes toward
8 the victims of the crime, the authorities, society, and self;

9 (9) whether children's court jurisdiction over the person
10 can be retained long enough to allow for effective treatment or reha-
11 bilitation;

12 (10) the treatment resources available under children's
13 court proceedings; and

14 (11) whether the protection of the community requires iso-
15 lation of the person beyond that afforded by juvenile facilities.

16 (c) The court shall determine the weight to be given to each of
17 the factors listed in (b) of this section and shall issue a written
18 decision. A finding that there is no substantial likelihood of suc-
19 cessful rehabilitation of the person under children's court proceed-
20 ings may be based on any one or a combination of the factors. If the
21 court waives children's court jurisdiction over a person, the court
22 shall order the children's court proceeding closed and the person
23 shall then be prosecuted as an adult.

24 (d) In this section, "waive children's court jurisdiction" means
25 to order the transfer of a case from a court having jurisdiction over
26 a person who was a minor at the time of the offense to a court that
27 would have had jurisdiction if the person had been an adult at the
28 time of the offense. A waiver of children's court jurisdiction in-
29 cludes the offense charged, lesser included offenses, and other

1 related offenses.

from Maureen Weeks / Sen. Halvorsen's Office
? Composed by Dana Fube, PDA?

Compromise but needs to
be refined
- limit to unclassified felonies
- SIS.

Having done the juvenile waiver hearings on Blanchard and Burris (the taxicab driver killing) and having talked to several people in the office, most notably (who has done several waiver hearings) I wanted to outline a suggestion for new juvenile waiver legislation, which I believe would accomplish each of the following goals better than the present law: Protection of the public, treatment of the juveniles, judicial efficiency, and a more realistic standard.

As you know, AS 47.10.060(d) authorizes the Superior Court to waive a juvenile into adult court if "he probably cannot be rehabilitated by treatment. . . before he reaches 20 years of age." The present law requires the prosecutor to make a relatively quick decision as to whether to seek waiver, a decision frequently based on incomplete psychiatric data. It requires a court to make a prospective and necessarily highly speculative judgment largely based on almost invariably conflicting psychiatric data. The judgment the court must make is so highly speculative that it may involve guessing as to the likelihood of success of four or five years of treatment (Burris, for example, had just turned 15 years of age at the time the cabdriver was killed) of a kid who has never been treated before. Only an arrogant or dishonest person could claim any confidence in such a prediction (which may explain why the disciplines of psychiatry and psychology play such a prominent role in such juvenile proceedings. . .

Here is an outline of the new juvenile legislation I think we should consider proposing to the next legislature:

1. In any case of an unclassified or class A felony offense committed by a juvenile (of any age), the state could decide to initially prosecute that individual as an adult merely by filing a notice of waiver and an information supported by probable cause, filed in Children's Court. The case would then be automatically transferred to the adult system and the juvenile arraigned in District Court. The case would then proceed as would any other adult case up through sentencing.

2. Assuming conviction, the juvenile would remain within the jurisdiction of Health & Social Services after

could do
automatic
waiver for
unclassified
if over age 16

sentencing, just as though he had never been waived into adult court. At sentencing, a hearing before the sentencing judge would automatically be set sometime between the time the defendant turned 19 years and 6 months and 20 years. That hearing would be identical to the present amenability hearing, with several differences. First, and most importantly, the court's determination would be based on a retrospective, rather than prospective, judgment based on far more data - both psychiatric and custodial behavior - than is presently available. Second, the Superior Court would have more flexible jurisdiction and discretion than is presently the case in that it would be given the authority to do the following things: (a) find that the offender is not rehabilitated and reaffirm the original sentence; (b) find that the offender is rehabilitated, vacate the adult judgment and release the offender; (c) find the offender substantially rehabilitated and conditionally vacate the adult sentence (the equivalent of an SIS) by, for example, ordering him to serve one year in an adult facility and be on probation for five years. In other words, this hearing would have elements of both an amenability and a Rule 35 hearing.

3. The standard to be applied by the Superior Court at this pre-twenty amenability hearing would not be whether the juvenile will be rehabilitated but whether the juvenile has been rehabilitated. And I would propose a relatively straightforward definition of "rehabilitation" -- that is, whether, at the time of the amenability hearing, the defendant poses a significant danger to the community.

Here are the advantages I see to this proposed legislation:

1. Achieves better protection of the public by assuring that judgments as to the rehabilitation of potentially dangerous offenders will not be made without adequate time and data.

2. In the case of juveniles who are waived under the present system, the new system would avoid the kinds of lengthy trial delays presently resulting from the waiver hearings and their concomitant appeals.

3. Because Health & Social Services takes the position now that juveniles should not begin treatment until after a decision has been made as to waiver, this new system would significantly speed up treatment. What happens now, as a practical matter, is that juveniles awaiting waiver hearings are held in the MYC detention unit, and cannot go into the treatment unit until after the waiver hearing, assuming that they are not waived. Under the proposed system, there would be no reason to delay treatment of any juveniles sent to McLaughlin since, even if the state did prosecute a particular juvenile offender as an

adult, the juvenile would generally remain at MYC.

3. Substantial prosecutorial and judicial economy would result from the proposed system. Most notably, under the present system, we are required to have a probable cause hearing prior to the amenability hearing, and then, assuming the juvenile is waived, proceed to grand jury. Under the new system, there would be no need for a probable cause hearing since the amenability hearing would occur after judgment.

4. The proposed system would not only minimize the degree of speculation the court would be required to indulge in but could significantly minimize the importance of the psychiatric evidence by giving the court a much firmer base of data -- a significant institutional record, including grades; relationship with staff and peers; and other behavioral data -- than at present.

5. By creating, in essence, a hybrid-system -- where elements of both the adult and juvenile system are combined in the treatment and prosecution of the offender - we give the system greater flexibility in dealing with younger offenders. We avoid having to make harsh black and white decisions based on little more than speculation as to future behavior. For example, the third member of the trio that killed the cabdriver is J.W., Jr., sixteen years old. The psychiatric reports on him were relatively favorable, he was neither the shooter nor the leader, and there was no basis on which I could justifiably seek waiver on him. However, I am far from satisfied that he will not present a significant danger to the community when he is released from McLaughlin by age 20. Under the proposed system, I would have had no reservations about prosecuting him as an adult, and having his progress or lack thereof carefully investigated and evaluated in three and a half years.

6. The Chaney criteria of deterrence and reaffirmation of societal norms will be better served. The community will see that juveniles are being prosecuted as adults for very serious crimes. And the possibility of deterring some juveniles from committing serious crimes should not be overlooked either. (In the Mildred Landesman killing - the old lady who was beaten over the head 13 times with an axe handle - Plumbley, the 18 year old, told Ridgley, the 16 year old, that Ridgley should be the one to club her because he was not yet 18 and wouldn't be prosecuted for it.)

7. The proposed system gives the serious juvenile offender greater incentive to succeed in treatment. Under the present system, before there is any treatment, the serious juvenile offender is told whether he will be released by the age of 20 or whether he will be treated as an adult. In cases where

the juvenile is not waived, his incentives to succeed in treatment are relatively small, since he knows he will be released by age 20 regardless of how poorly he does within the institutional setting. Under the proposed system, he would have every reason to do well.

8. This proposed legislation could be either complimentary to or independent of an automatic waiver system at, say, age 16 -- that is, whether the legislature passed such legislation or not, this proposal would still be useful.

Arguments against the proposed system could include the following: (1) By giving the prosecution the right to decide which serious juvenile offenders would be prosecuted as adults, the privacy rights of some juveniles would be infringed, since, under the present system, those juveniles that the state unsuccessfully seeks to waive still have their privacy rights protected; (2) the new system would give unfettered discretion to the prosecution, without any judicial review, of which juvenile offenders to prosecute as adults, at least in the case of Unclassified and Class A felonies.

As to the privacy concern, one response is that that is a very small price to pay for a system that both insures better treatment of serious juvenile offenders and better protects the public. Also, only a very small number of juveniles would be affected - i.e., those whom we unsuccessfully seek to waive under the present system.

As to the second concern that the new system would give prosecutors more discretion, one response is that prosecutors always have virtually unlimited charging discretion, at least in adult cases. Moreover, it is hard to object to a system which provides for more treatment, and provides greater incentives for rehabilitation.

In summary, the present juvenile waiver system is the least substantial, most speculative standard I have ever had to apply in a court proceeding. The proposed system would, I believe, be an improvement, whether or not an automatic sixteen-year-old waiver bill were enacted by the legislature.



Trial Courts

State of Alaska

THIRD JUDICIAL DISTRICT

303 K STREET

ANCHORAGE, ALASKA 99501

WILLIAM D. HITCHCOCK
Master, Trial Courts

January 8, 1985

The Honorable Patrick Rodey
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey,

Thank you for your letter of November 2, 1984 regarding changes in the Alaska Juvenile Code. I regret that it has taken me so long to respond to it.

There are indeed changes that need to be made in the present code. Two areas which are of great concern to me are: (1) whether the juvenile justice system should be handling serious delinquent offenders; and (2) the system's almost total lack of control over runaways and status offenders.

Various waiver bills have been introduced in the last two legislative sessions as I'm sure you are aware. The debate has centered around whether mandatory "legislative" waiver is needed or whether the situation can be handled by strengthening the language of the statutes governing discretionary waiver. I believe that the only effective answer is the legislative removal of juvenile jurisdiction over certain classes of crime committed by those over 16 years of age. Certainly unclassified felonies should be removed, and possibly even Class A's. Coupled with this must come some legislation to insure that affected minors will be fairly and humanely dealt with in the adult system. A youthful offender incarceration component is vital to the welfare of 16 and 17 year olds transferred to the adult system.

Jurisdiction over nondelinquent runaways is a delicate area. When this population was removed from the restrictive controls of delinquency jurisdiction in 1977, it was my understanding that services would be provided and programs developed within the social services system. For one reason or another this has largely not

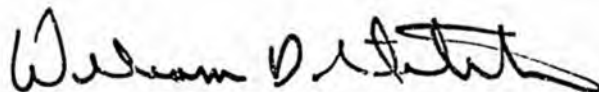
happened. We are confronted today with a system that simply cannot practically intervene and protect these incorrigible "status offenders" who as a result become victimized on the streets and eventually work their way into the system as delinquents.

This is a serious social issue that cannot be cured by a piecemeal approach to legislation such as that which occurred during the 1984 session. I am speaking of various bills that were introduced, primarily in the house, which ranged from eliminating parental support liability for nonabused minors who refused to stay at home to recriminalizing runaway behavior.

Perhaps the best legislative response I can suggest in this area would be the creation of a task force composed of representatives from youth corrections, social services, the legal field and other disciplines to draft appropriate legislation and make independent funding proposals. I realize that it was just such a task force which led to the major revisions of 1977 and that there are certain ills to that process. However, I don't believe we can tackle the problem effectively any other way.

Your interest in this area is appreciated. I hope these thoughts are of some use to you.

Very truly yours,



William D. Hitchcock
Master, Children's Court

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
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"A" Felony	0-20 3-[6]*-20	5-[10]-20	7 1/2-[15]-20
"B" Felony	0-10	0-[4]-10	3-[6]-10
"C" Felony	0-5	0-[2]-5	0-[3]-5

MAXIMUM FINES - PERSONS

Murder or kidnapping - \$75,000
 A, B, or C Felony - \$50,000
 A misdemeanor - \$ 5,000
 B misdemeanor - \$ 1,000
 Violation - \$ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - \$100,000 or
 3 X pecuniary gain
 - whichever is greater

KEY

Number in bracket is presumptive sentence.
 Number to left is lowest mitigated
 sentence. Number to right is highest
 aggravated sentence.

* Six year presumptive term applies if first
 A felony conviction, other than manslaughter,
 and defendant used or possessed a firearm
 during the offense or caused serious physical
 injury.

MAXIMUM TERMS OF IMPRISONMENT
 FOR MISDEMEANORS

A misdemeanor - 1 year
 B misdemeanor - 90 days

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

UNCLASSIFIED FELONIES

Murder in the First Degree
AS 11.41.100
20-99 years

Murder in the Second Degree
AS 11.41.110
5-99 years

Kidnapping
AS 11.41.300
5-99 years

CLASSIFIED FELONIES

2-2

A	B	C
Attempted Murder or Kidnapping AS 11.31.100(d) (1)	Attempted A felony AS 11.31.100(d) (2)	Attempted B felony AS 11.31.100(d) (3)
Solicitation of Murder or Kidnapping AS 11.31.110(c) (1)	Solicitation of A felony AS 11.31.110(c) (2)	Solicitation of B felony AS 11.31.110(c) (3)
Manslaughter AS 11.41.120	Assault II AS 11.41.210	Criminally Negligent Homicide AS 11.41.130
Assault I AS 11.41.200	Sexual Assault II AS 11.41.420	Custodial Interference I AS 11.41.320
Sexual Assault I AS 11.41.410	Unlawful Exploitation of a Minor AS 11.41.455	Sexual Assault III AS 11.41.430

CLASSIFIED FELONIES

A	B	C
Robbery I AS 11.41.500	Robbery II AS 11.41.510	Sexual Abuse of a Minor AS 11.41.440
Arson I AS 11.46.400	Extortion AS 11.41.520	Incest AS 11.41.450
Escape I AS 11.56.300	Theft I AS 11.46.120	Coercion AS 11.41.530
Criminal Possession of Explosives with Intent to Commit Murder or Kidnapping AS 11.61.240(b)(1)	Issuing a Bad Check, \$25,000 or more AS 11.46.280(d)(1)	Theft II AS 11.46.130
	Burglary I AS 11.46.300	Concealment of Merchandise, \$500 or more AS 11.46.220(c)(1)
	Arson II AS 11.46.410	Removal of Identification Marks, \$500 or more AS 11.46.260(b)(1)
	Criminal Mischief I AS 11.46.480	Unlawful Possession (of Altered Property), \$500 or more AS 11.46.270(b)(1)
	Forgery I AS 11.46.500	Issuing a Bad Check, \$500 or more AS 11.46.280(d)(2)
	Scheme to Defraud AS 11.46.600	Fraudulent Use of a Credit Card, \$500 or more AS 11.46.285(b)(1)
	Defrauding Creditors, \$25,000 or more AS 11.46.730(c)(1)	

2-3

CLASSIFIED FELONIES

B

Bribery
AS 11.56.100

Receiving a Bribe
AS 11.56.110

Perjury
AS 11.56.200

Escape II
AS 11.56.310

Intereference with
Official Proceedings ..
AS 11.56.510

Receiving a Bribe by a
Witness or Juror
AS 11.56.520

Criminal Possession of
Explosives with Intent
to Commit A felony
AS 11.61.240(b) (2).

Promoting Prostitution I
AS 11.66.110

C

Obtaining a Credit Card by
Fraudulent Means
AS 11.46.290(a) (1), (2)

Burglary II
AS 11.46.310

Criminal Mischief II
AS 11.46.482

Forgery II
AS 11.46.505

Criminal Possession of Forgery
Device
AS 11.46.520

Criminal Simulation \$500 or
more
AS 11.46.530(b) (1)

Offering a False Instrument
for Recording
AS 11.46.550

Falsifying Business Records
AS 11.46.630

Commercial Bribe Receiving
AS 11.46.660

Commercial Bribery
AS 11.46.670

CLASSIFIED FELONIES

C

Defrauding Creditors, \$500
- \$25,000
AS 11.46.730(c)(2)

Endangering Welfare of Minor
AS 11.51.100

Perjury by Inconsistent State-
ments
AS 11.56.230

Escape III
AS 11.56.320

Permitting an Escape
AS 11.56.370

Promoting Contraband I
AS 11.56.375

Jury Tampering
AS 11.56.590

Misconduct by a Juror
AS 11.56.600

Tampering with Physical Evidence
AS 11.56.610

Hindering Prosecution I
AS 11.56.770

Terroristic Threatening
AS 11.56.810

2-5

CLASSIFIED FELONIES

C

Riot

AS 11.61.100

Misconduct Involving Weapons I

AS 11.61.200

Criminal Possession of Explosives with Intent to Commit
B Felony

AS 11.61.240(b)(3)

Unlawful Furnishings of Explosives

AS 11.61.250

Promoting Prostitution II

AS 11.66.120

Promoting Gambling I

AS 11.66.210

Possession of Gambling Records I

AS 11.66.230

2-6

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

MISDEMEANORS AND VIOLATIONS

A	B	VIOLATIONS
Attempted C Felony AS 11.31.100(d) (4)	Attempted A or B misdemeanor AS 11.31.100(d) (5)	Littering AS 11.46.488
Solicitation of C Felony AS 11.31.110(c) (4)	Solicitation of A or B misdemeanor AS 11.31.110(c) (5)	Failure to Permit Visitation with a Minor AS 11.51.125
Assault III AS 11.41.230	Theft IV AS 11.46.150	Refusing to Assist Peace Officer or Judicial Officer AS 11.56.720
Reckless Endangerment AS 11.41.250	Concealment of Merchandise, less than \$50 AS 11.46.220(c) (3)	Gambling- First Offense (Second offense & each subsequent offense is Class B misdemeanor) AS 11.66.200
Custodial Interference AS 11.41.330	Removal of Identification Marks less than \$50 AS 11.46.260(b) (3)	Selling or Giving Tobacco to a Minor AS 11.76.100
Theft III AS 11.46.140	Unlawful Possession (of Altered Property), less than \$50 AS 11.46.270(b) (3)	
Concealment of Merchandise, \$50-\$500 AS 11.46.220(c) (2)	Issuing a Bad Check, less than \$50 AS 11.46.280(d) (4)	
Removal of Identification Marks \$50 - \$500 AS 11.46.260(b) (2)	Fraudulent Use of a Credit Card, less than \$50 AS 11.46.285(b) (3)	
Unlawful Possession (of Altered Property), \$50 -\$500 (AS 11.46.270(b) (2)		

2-7

MISDEMEANORS

A

B

Issuing a Bad Check, \$50-\$500
AS 11.46.280(d) (3)

Fraudulent Use of Credit
Card, \$50 - \$500
AS 11.46.285(b) (2)

Obtaining a Credit Card by
Fraudulent Means
AS 11.46.290(a) (3)

Criminal Trespass I
AS 11.46.320

Criminally Negligent Burning
AS 11.46.430

Failure to Control or
Report a Dangerous Fire
AS 11.46.450

Criminal Mischief III
AS 11.46.484

Forgery III
AS 11.46.510

Criminal Simulation, \$50-
\$500
AS 11.46.530(b) (2)

Obtaining a Signature by
Deception
AS 11.46.540

Criminal Trespass II
AS 11.46.330

Criminal Mischief IV
AS 11.46.486

Criminal Simulation, less
than \$50
AS 11.46.530(b) (3)

Unlawful Evasion II
AS 11.56.350

Hindering Prosecution II
AS 11.56.780

Impersonating a Public Servant
AS 11.56.830

Disorderly Conduct
AS 11.61.110 (10 day
maximum)

Harrassment
AS 11.61.120

Obstruction of Highways
AS 11.61.150

Misconduct involving
Weapons III
AS 11.61.220

MISDEMEANORS

A

B

Criminal Impersonation
AS 11.46.570

Misapplication of Property
AS 11.46.620

Deceptive Business Practices
AS 11.46.710

Misrepresentation of Use of
a Propelled Vehicle
AS 11.46.720

Defrauding Creditors, \$500
or less
AS 11.46.730

Criminal Nonsupport
AS 11.51.120

Contributing to the Delin-
quency of a Minor
AS 11.51.130

Unlawful Marrying
AS 11.51.140

Receiving Unlawful Gratuities
AS 11.56.120

Unsworn Falsification
AS 11.56.210

Criminal Possession of
Explosives with Intent
to Commit A or B Mis-
demeanor
AS 11.61.240(b)(5)

Prostitution
AS 11.66.100

MISDEMEANORS

A

Escape IV

AS 11.56.330

Unlawful Evasion I

AS 11.56.340

Promoting Contraband II

AS 11.56.380

Tampering with a Witness

AS 11.56.540

Simulating Legal Process

AS 11.56.620

Resisting or Interfering
with Arrest

AS 11.56.700

Compounding

AS 11.56.790

Making a False Report

AS 11.56.800

Tampering with Public
Records

AS 11.56.820

Official Misconduct

AS 11.56.850

Misuse of Confidential
Information

AS 11.56.860

2-10

2-10

MISDEMEANORS

k

Misconduct Involving a
Corpse

AS 11.61.130

Cruelty to Animals

AS 11.61.140

Misconduct Involving Weapons II

AS 11.61.210

Possession of Burglary Tools

AS 11.61.230

Criminal Possession of Ex-
plosives with Intent to
Commit C Felony

AS 11.61.240(b) (4)

Promoting Prostitution III

AS 11.66.130

Promoting Gambling II

AS 11.66.220

Possession of Gambling
Records II

AS 11.66.240

Possession of Gambling
Device

AS 11.66.260

Interference with Consti-
tutional Rights

AS 11.76.110

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

Superseded

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

April 24, 1985

SUBJECT: Sectional Analysis of SB 264

TO: Senator Patrick Rodey
Chairman, Senate Judiciary Committee
Attn: Kevin Bruce

FROM: George W. Edwards *GWE*
Legislative Counsel

This is in response to your request for a sectional analysis of SB 264.

Section 1 AS 12.55.015 is amended by adding a new subsection that provides that when a court sentences a minor over whom children's court jurisdiction has been waived under AS 47.10.060, the court shall order that the minor be confined in a juvenile correctional facility until age 18 and then transferred to an adult facility if more than one year of the person's sentence remains to be served.

Section 2 AS 34.50.020(a) is amended to provide that except as provided in subsection (e) a person, municipal corporation, association, village, school district, or religious or charitable organization may recover civil damages not to exceed \$5,000, rather than the former \$2,000, for willful or malicious destruction of property by a juvenile.

Section 3 AS 34.50.020 is amended by adding new subsections. Subsection (c) provides that for purposes of this section a minor is considered emancipated and the minor's parent, guardian, or legal custodian is not liable for property damage caused by the minor if

(1) the disabilities of minority have been removed under AS 09.55.590;

(2) the minor is a state resident at least 16 years old, living separate from parent, guardian, or legal custodian,

and capable of self-support and management of personal affairs; or

(3) the minor is living separate from parent, guardian, or legal custodian and engages in conduct that results in a judgment under AS 47.10.080(a) of delinquency that is the basis for a civil action for damages to property under this section.

Subsection (d) provides that if a court determines a minor to be emancipated under subsection (c) the minor may be sued civilly as if the minor were an adult.

Subsection (e) provides that the provisions of subsection (a) do not apply when the minor who causes damage is a ward of the state under AS 47.10.080(f).

Section 4 AS 47.10.020(a) is amended to provide that when a court informally disposes of a juvenile matter it shall disclose to the victim, upon request, the manner in which it disposed of the matter. The court may not disclose the identity of the minor under this section.

Section 5 AS 47.10.060(a) is repealed and reenacted to provide that a court may close a juvenile case and permit the minor to be prosecuted as an adult subject to the sentencing provisions of AS 12.55.015(e) if the court finds at a hearing that

(1) the minor was at least 16 at the time of the offense and there is probable cause to believe the minor committed an unclassified felony or class A felony; or

(2) the minor is not amenable to treatment as a juvenile and there is probable cause to believe that the minor is delinquent.

Section 6 AS 47.10.060 is amended by adding a new subsection that provides that if a case is closed under (a)(1) of the section the minor may petition the court within 10 days to reopen the juvenile case. The case must be reopened if the court finds by a preponderance of the evidence that justice would be best served if the minor were prosecuted as a juvenile. In making the finding the court is required to consider

- (1) the criminal history, personal history, and likelihood of rehabilitation of the minor;
- (2) the seriousness of the minor's present offense in relation to former offenses;
- (3) the need to confine the minor to protect the public;
- (4) the circumstances of the offense and the extent of the harm done or danger posed by the minor;
- (5) the deterrent effect of prosecuting the minor as an adult; and
- (6) the best interest of the minor.

Section 7 AS 47.10.080(a) is amended to provide that after disposition of a juvenile case the court must disclose the results to the victim as required in AS 47.10.020(a).

Section 8 AS 47.10.090 is amended by adding a new subsection permit disclosure of that information to a victim or a victim's parents under AS 47.10.020(a), 47.10.080(a), or 47.10.140(d).

Section 9 AS 47.10 is amended by adding a new section 47.10.125:

FINGERPRINTING OF MINORS. Subsection (a) provides that a law enforcement agency or the Department of Health and Social Services may fingerprint a minor only

- (1) with a search warrant;
- (2) when the minor is prosecuted as an adult under AS 47.10.060(a);
- (3) when the minor is in custody for an offense that if committed by an adult would constitute a felony and the fingerprints are needed to further the investigation;
- (4) when the minor is adjudicated a delinquent for commission of an offense that would have been a felony if committed by an adult;

(5) upon consent of both the minor and the minor's parent or legal guardian who have been advised that the fingerprints cannot be taken without their consent; and

(6) by order of the court.

Subsection (b) requires that fingerprints of minors be kept separate from those of adults, kept within the state rather than at a federal central depository, and made available only to public agencies for investigation purposes or to the minor or the minor's attorney.

Subsection (c) requires that fingerprints taken under this section be destroyed by the authority charged with their maintenance when the minor is found not to be under court jurisdiction for the offense charged or the minor is not adjudicated on the offense within two years.

Section 10 AS 47.10.140(d) is amended to require the court to disclose the results of a juvenile probable cause hearing to the victim under AS 47.10.020(a).

Sections 11-12 Rule 24 of the Alaska Rules of Children's Procedure is amended to eliminate the existing court restriction on fingerprinting as proposed in this Act.

Sections 13-14 Children's Rule 24 is amended by adding a new section that provides that a child may not be fingerprinted while in custody except in accordance with AS 47.10.125.

GWE:csh
c4/011

Date: 2/14/86
From: Sandra Schubert
Phone: 465-3834

MEMORANDUM

From the Office of
Senator Bettye Fahrenkamp

To: Interested Persons

MESSAGE:

SB 264 is scheduled for a public hearing
before the Senate HESS Committee at 1:30 p.m.
On Tuesday, February 18, 1986. Senator
Rodey, the bill's sponsor, has asked that
the committee consider the draft attached.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HESS 4-25-85 1:45pm

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate Committee on Health, Education and Social Services

M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, April 25, 1985

DATE: April 25, 1985

Today, Thursday, April 25, at 1:30 pm in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear an additional bill:

SB 264, An Act relating to unlawful conduct of minors; and amending Rule 24 of the Alaska Rules of Children's Procedure.

SB 264 addresses the treatment of minors who have committed unlawful acts. Under current statute, persons under the age of 18 are tried in children's court unless the court determines that the minor is delinquent and not amenable to treatment. Under SB 264, the case would automatically be waived from juvenile to adult court if the minor is 16 or 17 years old and has committed an unclassified or class A felony. Such minors could be fingerprinted, and would be housed in juvenile facilities.

SB 264 also addresses the emancipation of minors for purposes of civil suits and the disclosure of information regarding juvenile matters. Existing law gives the courts discretion in authorizing disclosure of the identity of a minor; the attached bill is marked with a proposed amendment that clarifies that this discretion would be unaffected by the bill.

A sectional analysis of SB 264 is attached.

ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

February 18, 1986

Testimony before the Senate Health Education and Social Services Committee
Hon. Bettye Fahrenkamp, Chair

Madam Chair and members of the Committee:

The Alaska Womens Lobby appreciates the opportunity to come before you once again to oppose legislation which would allow the automatic waiver of juveniles into adult court.

In deciding our legislative priorities for 1986, we would have preferred to have made support for a bill our number one priority. However, our concern over the issue of juvenile waiver is so strong that opposing Senate Bill 264 was deemed the most important.

We believe that an age determinant system rather than a case-specific system will force many of the wrong children into adult court.

Once a child is waived into adult court, the legal procedures needed to permit the return of a case to juvenile court are complex. The quality of legal services provided the child becomes a major factor, rather than simply his behavioral profile.

When a child receives the harsher penalty of the adult court, crime may actually increase over the long run.

We know that our existing prisons do not successfully rehabilitate inmates. Prisons are often places of violence where survival rather than rehabilitation becomes the inmates prime concern. Younger inmates, either by choice or by necessity, adapt to the violence. When they are released, they have learned skills that prepare them not for a trade or profession, but for crime--often more vicious than those originally committed.

We believe that determination on a case-by-case basis remains the best way to balance the interests of the individual and those of the state. The recent case in Anchorage where a 14-year-old girl accused of a heinous crime was waived into an adult facility under the present system demonstrates the courts' ability to take this action when appropriate.

We respectfully submit that no change to the waiver provisions are necessary for justice to be served, and would urge you to take no action on the legislation before you today.

Thank you.

THE ALASKA WOMEN'S LOBBY
Sherrie Goll, Lobbyist

SB 264 JUVENILE WAIVER

CURRENT STATUTE ALLOWS JUVENILES OF ANY AGE TO BE WAIVED TO ADULT COURT FOR ANY CRIME IF CHILD IS NOT AMENABLE TO TREATMENT. BURDEN IS ON PROSECUTOR TO CONVINCING THE COURT.

SB 264 = AUTOMATIC WAIVER FOR 16/17 YEAR OLDS FOR UNCLASSIFIED FELONIES (MURDER, SEXUAL ASSAULT, SEXUAL ABUSE OF MINOR, KIDNAPPING).

1. NO PROVISION FOR REMANDING TO JUVENILE COURT
2. EXEMPT FROM PRESUMPTIVE SENTENCING LAWS
3. HOUSED IN JUVENILE FACILITIES
4. OTHER KIDS COULD BE WAIVED PER THE EXISTING MECHANISM.

BILL ALSO:

1. ALLOWS FINGERPRINTING OF WAIVED MINORS AND MINORS WHO COMMIT FELONY CRIMES.
2. ALLOWS AN EMANCIPATED MINOR TO BE SUED CIVILLY AS IF THE MINOR WERE AN ADULT.

ISSUES:

1. WAIVER SYSTEM IN PLACE CURRENTLY. ISN'T IT WORKING?
2. PHILOSOPHY: REHABILITATIVE NATURE OF JUVENILE SYSTEM VS. PUNITIVE ADULT SYSTEM. 1985 STATE REPORT ON JUVENILE CRIME SHOWS IT'S NOT INCREASING, IS LARGELY NONVIOLENT, AND THAT THE REHABILITATION SYSTEM WORKS.
3. HOUSING: DEPT. HEALTH AND SOCIAL SERVICES WANTS WAIVED JUVENILES HOUSED SEPARATELY FROM OTHER JUVENILES. NO FACILITIES FOR THIS EXIST. WAIVED KIDS ARE CURRENTLY HOUSED WITH ADULTS.
4. FISCAL IMPACT (HOUSING; JURY TRIALS IN ADULT SYSTEM BUT NOT IN JUVENILE).

Changes in C.S.

1. original applied to Class A felonies too
2. provided for remand to juvenile court

SB 264 (RODEY) UNLAWFUL CONDUCT OF MINORS

Superseded

1. AUTOMATIC WAIVER FROM JUVENILE TO ADULT COURT FOR 16 AND 17 YEAR OLDS WHO HAVE COMMITTED UNCLASSIFIED OR CLASS A FELONIES.
2. ALLOW FINGERPRINTING OF THESE INDIVIDUALS.
3. WOULD BE INCARCERATED IN JUVENILE FACILITIES.

CURRENT PROCEDURE: *Is there a problem with the current system?*

CASE CAN BE WAIVED FROM JUVENILE TO ADULT COURT (FOR ANY CRIME AND ANY AGE VICTIM) IF THERE'S GREAT LIKELIHOOD THAT THE CHILD IS DELINQUENT AND IS UNAMENABLE TO TREATMENT.

Forces prosecutor to prove to judge that child belongs in adult system

COURT RULES PROHIBIT FINGERPRINTING OR PHOTOGRAPHING OF MINORS.

UNDER BOTH EXISTING LAW AND SB 264, THERE IS A PROCEDURE FOR REMANDING TO JUVENILE COURT.

CONCERNS: -EMPHASIS OF JUVENILE COURT IS REHABILITATION, NOT PUNISHMENT.
Adult penalties are harsher.
-WHAT ALLOWANCE FOR FIRST TIME OFFENDERS?

-WHERE HOUSED WHILE AWAITING SENTENCING? (KEVIN MAY HAVE AMENDMENT REQUIRING JUVENILE FACILITIES)

POSITION: COURT SYSTEM NEUTRAL; NO FISCAL NOTE.

~~DEPT. HEALTH & SOCIAL SERVICES NEUTRAL; NO FISCAL NOTE~~

PUBLIC DEFENDER OPPOSED

DEPT. LAW HASN'T DEVELOPED POSITION

CORRECTIONS HASN'T DEVELOPED POSITION; ^{NO} FISCAL IMPACT

UNCLASSIFIED FELONIES: MURDER 1st DEGREE, MURDER 2nd DEGREE, KIDNAPPING.

CLASS A FELONIES: ATTEMPTED MURDER OR KIDNAPPING, MANSLAUGHTER, ^{Sex} SEXUAL

ASSAULT 1st, ROBBERY 1st, ARSON 1st

Hein
4/14/86

Original sponsors: Rodey, Faiks,
Abood, et al

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 264 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the waiver of children's court
7 jurisdiction, and to the detention, fingerprinting,
8 and sentencing of minors; and amending Rule 24 of the
9 Alaska Rules of Children's Procedure."

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

11 * Section 1. AS 12.55.015 is amended by adding a new subsection to
12 read:

13 (e) If the court sentences a defendant to a term of imprisonment
14 and the defendant is a minor over whom children's court jurisdiction
15 is waived under AS 47.10.060, the court shall

16 (1) order that the defendant be confined in an institution
17 designated by the Department of Health and Social Services for offend-
18 ers under 18 years of age; and

19 (2) order that the defendant be transferred to an adult
20 correctional facility when the defendant reaches 18 years of age if
21 more than one year then remains of the defendant's term of imprison-
22 ment.

23 * Sec. 2. AS 12.55.125 is amended by adding a new subsection to read:

24 (j) A person convicted of a first felony offense after waiver of
25 children's court jurisdiction under AS 47.10.060 is not subject to the
26 mandatory minimum and presumptive sentences required for first offen-
27 ders.

28 * Sec. 3. AS 47.10.060 is repealed and reenacted to read:

29 Sec. 47.10.060. WAIVER OF JURISDICTION. (a) The court shall

1 order a case closed, and a minor may be prosecuted as an adult, if the
2 court finds at a hearing on a petition

3 (1) that the minor was 16 years of age or older at the time
4 of the offense and that there is probable cause to believe that the
5 minor has violated AS 11.41.100, 11.41.110, 11.41.300, 11.41.410, or
6 11.41.434; or

7 (2) that the minor is not amenable to treatment under this
8 chapter and there is probable cause to believe that the minor is
9 delinquent.

10 (b) In determining whether a minor is amenable to treatment
11 under this chapter, the court shall consider

12 (1) the seriousness of the offense;

13 (2) whether the offense constituted a substantial danger to
14 the public;

15 (3) whether the offense was committed in an aggressive,
16 violent, premeditated, or wilful manner;

17 (4) whether the offense was against persons or against
18 property, greater weight being given to an offense against persons,
19 especially if personal injury resulted;

20 (5) whether the offense is a part of a repetitive pattern
21 of delinquent acts, even though previous offenses may have been less
22 serious;

23 (6) the age, maturity, educational background, and degree
24 of criminal sophistication of the minor;

25 (7) the success of any previous attempts to rehabilitate
26 the minor;

27 (8) whether children's court jurisdiction over the minor
28 can be retained long enough to allow for effective treatment or reha-
29 bilitation; and

1 (9) the treatment resources available under children's
2 court proceedings.

3 (c) The court shall determine the weight to be given to each of
4 the factors listed in (b) of this section and shall issue a written
5 decision. A finding that a minor is not amenable to treatment under
6 this chapter may be based on any one or a combination of the factors.

7 (d) A minor ordered held pending trial or sentencing as an adult
8 under (a) of this section shall be confined in an institution desig-
9 nated by the Department of Health and Social Services for offenders
10 under 18 years of age.

11 * Sec. 4. AS 47.10 is amended by adding a new section to read:

12 Sec. 47.10.125. FINGERPRINTING OF MINORS. (a) A law enforce-
13 ment agency or the Department of Health and Social Services may fin-
14 gerprint a minor only

15 (1) in accordance with a search warrant;

16 (2) if children's court jurisdiction over the minor has
17 been waived under AS 47.10.060(a) and the minor is being prosecuted as
18 an adult;

19 (3) if the minor is adjudicated a delinquent for the
20 commission of an offense that would constitute a felony if committed
21 by an adult;

22 (4) with the consent of the minor and a parent or legal
23 guardian of the minor, both of whom shall have been advised that the
24 fingerprints may not be taken without their consent; or

25 (5) by order of the court.

26 (b) Fingerprints of a minor shall be kept separate from those of
27 adults, shall be kept within the state rather than at a federal cen-
28 tral depository, and shall be made available on request only to the
29 following:

1 (1) a public agency for use in the investigation and prose-
2 cution of criminal offenses for which the fingerprinted minor is a
3 suspect;

4 (2) the minor or the minor's attorney.

5 (c) Fingerprints of a minor taken under this section shall be
6 destroyed by the authority charged with their maintenance

7 (1) if the minor is adjudicated for the offense regarding
8 which the minor's fingerprints were taken and is found not to be
9 within the jurisdiction of the court for the offense; or

10 (2) if the minor is not adjudicated for the offense regard-
11 ing which the minor's fingerprints were taken within two years of the
12 date the fingerprints were taken.

13 * Sec. 5. AS 47.10.130 is amended to read:

14 Sec. 47.10.130. DETENTION. A [NO] minor under 18 years of age
15 who is detained pending hearing may not be incarcerated in a jail
16 unless assigned to separate quarters so that the minor cannot communi-
17 cate with or view prisoners 18 years of age or older except those
18 incarcerated under AS 47.10.100 [ADULT PRISONERS CONVICTED OF, UNDER
19 ARREST FOR, OR CHARGED WITH A CRIME]. When a minor is detained pend-
20 ing hearing, the minor's parent, guardian, or custodian shall be
21 notified immediately.

22 * Sec. 6. AS 47.10.190 is amended to read:

23 Sec. 47.10.190. CONDITIONS GOVERNING DETENTION. When the court
24 commits a minor to the custody of the department, the department shall
25 arrange to place the minor [JUVENILE] in a detention home, facility or
26 another suitable place that [WHICH] the department designates for that
27 purpose. A minor [JUVENILE] detained in a jail or similar institution
28 at the request of the department shall be held in custody in a room or
29 other place apart and separate from prisoners 18 years of age or older

1 except those incarcerated under AS 47.10.100 [ADULTS].

2 * Sec. 7. Rule 24, Alaska Rules of Children's Procedure, is amended to
3 read:

4 No child shall be [FINGERPRINTED OR] photographed while in custo-
5 dy except with the consent of the children's court upon good cause
6 shown. Such cause exists where the child is in custody for a serious
7 offense against persons or property or where identification of the
8 child appears necessary for the safety of the child or others.

9 * Sec. 8. Section 7 amends Rule 24 of the Alaska Rules of Children's
10 Procedure by deleting the reference to fingerprints.

11 * Sec. 9. Rule 24, Alaska Rules of Children's Procedure, is amended by
12 adding a new subsection to read:

13 (b) A child may not be fingerprinted while in custody except in
14 accordance with AS 47.10.125.

15 * Sec. 10. Section 9 amends Rule 24 of the Alaska Rules of Children's
16 Procedure by incorporating the statutory requirements for obtaining finger-
17 prints from a child in custody.

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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST:

Bill/Resolution No.: SB 264
 Title: "An Act relating to unlawful conduct of minors; and amending Rule 24 of the Alaska Rules of Childrens Procedures."
 Sponsor: Senator Rodey
 Requestor: (S) HESS
 Date of Request: April 25, 1985

FISCAL DETAIL:

Agency Affected: DEPARTMENT OF CORRECTIONS
 Program Category Affected: _____
 Administration of Justice
 BRU, Program or Subprogram(s) Affected: Offender Confinement, Reformation and Supervision

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

This legislation will have no fiscal impact on the Department of Corrections.

Prepared By: William W. Ladwig
 Division: Deputy Commissioner - Administration

Phone: 465-3376
 Date: April 25, 1985

Approved by Commissioner: [Signature]
 Agency: DEPARTMENT OF CORRECTIONS

Date: April 25, 1985

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 264
 Title : An Act Relating to Detention
 and Unlawful Conduct of Minors
 Sponsor : Rodey Faiks Aboud
 Requestor : Senate HESS
 Date of Request : 2/26/86

FISCAL DETAIL

Agency Affected : Alaska Court System
 BRU : Trial Courts
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

No fiscal impact. Based on information provided by Department of Health and Social Services, an additional 12-14 juveniles will be waived to adult court for trial. Fiscal impact of additional trials to be absorbed by existing staff.

Prepared by : Robert G. Fisher Phone : 264-8215
 Division : Alaska Court System Date : 2/28/86

Approved by Commissioner : Arthur H. Snowden, II Date : 2/28/86
 Agency : Alaska Court System

Distribution (by Agency preparing fiscal note) :

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

FEB 26 1986

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - CSSB 264 (HESS)

Neutral

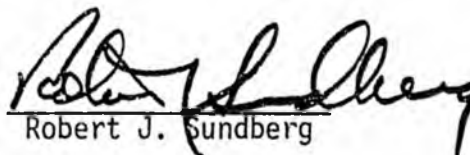
February 21, 1986

The Department supports the provisions of Sections 1 - 7.

Section 8, AS 47.10.125 (g), requires that we maintain files separate from adults. This would serve no practical purpose since our files are kept in a computer. We could keep them in state without a problem and the hard copy could be kept in separate cabinets, but the data from the minutia should be in the computer.

Fingerprints obtained under this section should not be purged.

Prince George County in Maryland has an Automated Fingerprint System. They also fingerprint juveniles. They found their data base consists of 6% juveniles and 94% adults. Over half of the latent prints identified, using their equipment, are identified as juvenile prints contained in their files.


Robert J. Sundberg

Alaska State Legislature

Advisory Council Members

Senator Kerttula, Chairman

Senator Bennett

Senator Fahrenkamp

Senator Vic Fischer



Pouch V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: SENATOR VICTOR FISCHER
FROM: ELIZABETH J. HICKERSON *EJH*
RE: JUVENILE WAIVER STATISTICS
DATE: JANUARY 29, 1984

The following information reflects the number of requested juvenile waivers and the number denied, granted or pending over the last five years in the State of Alaska.

1st Judicial District

5 waivers requested, 2 granted, two denied and one withdrawn

2nd Judicial District

1 waiver requested, granted

3rd Judicial District (since Sept. 1978)

7 waivers requested, 5 granted, 1 denied, 1 pending
(additional information attached for 1967-76)

4th Judicial District

4 waivers requested, 3 granted, 1 denied

Total: 17 waivers requested: 11 granted, 4 denied, 1 pending, 1 withdrawn

Attached are letters supporting these statistics from Jay Warner, Children's Intake Officer, 3rd Judicial District and Sharon Henson, Administrative Assistant, Alaska Court System.

If I can be of further assistance on this matter, please contact my office.

DIVISION OF FAMILY AND YOUTH SERVICES
STATISTICS 1-15-86

	<u>FY 1978</u>	<u>FY 1983</u>	<u>FY 1985</u>
I. At Risk Population	135,218	153,536	171,000
	----- 26% increase -----		

Youth Services	<u>CY 1980</u>	<u>CY 1985</u>	<u>% INCREASE /CHANGE</u>
Average # youth under probation supervision	847	1,448	+71%
# youth admitted to youth services detention facilities	1,198	1,995	+67%
Average daily census/youth services detention facilities	45.4	88.2	+95%
# youth admitted to youth services treatment facilities	86	171	+99%
Average daily census/youth services treatment facilities	83.9	11.7	+33%

Focusing more resources

II. Indices of juvenile crime indicate continued decreases for the last seven (7) years.

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Total arrests	5,697	5,569	6,128	5,509	5,349	5,250*	----
Total intakes	-0-	5,857	6,368	6,079	6,188	6,318	6,212
Arrest rate per 1000 0-18 years	43.15	42.59	42.99	36.35	33.41	31.42	N/A
Intake rate per 1000 0-18 years	N/A	44.79	44.46	40.08	38.65	37.82	36.32

*Projection based on partial Department of Public Safety 1985 statistics.

III. Total arrest for juvenile violent crimes.

Murder	3	2	2	8	2	N/A	N/A
Manslaughter	0	0	0	0	2	N/A	N/A
Rape	13	7	8	14	29	N/A	N/A
Robbery	32	25	23	13	10	N/A	N/A
Aggravated Assault	46	82	59	86	75	N/A	N/A
Total Juvenile Arrests for Violent Crimes	94	116	92	121	118	N/A	N/A
Juvenile Arrest Rate Violent Crimes per 1000	.71	.88	.64	.79	.70	N/A	N/A

IV. Information for Anchorage and Fairbanks

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Total Intakes Anchorage	2,431	2,270	2,741	2,235	2,283	2,111	2,156
Total Juvenile Arrests Anchorage	1,997	1,927	2,266	1,863	1,957	N/A	N/A
Total Intakes Fairbanks	1,296	1,339	1,323	1,163	1,108	953	798
Total Juvenile Arrests Fairbanks	445	483	526	391	362	N/A	N/A

V. Twenty six (26), or 75% of petitions for waiver have been granted. (Information for years 1983 to 1985.)

Murder, First Degree	10
First and Second Degree Sexual Assault (or attempts)	5
Burglary	4
Second Degree Theft	1
Second Degree Criminal Mischief	1
Possession of Marijuana	1
Minor Consuming	<u>1</u>
TOTAL	26

VI.	<u>FY 1981</u>	<u>FY 1985</u>
Youth Services BRU	7,318.7	13,545.3
Foster Care	1,338.6	1,936.9
Institutional Care	<u>1,139.2</u>	<u>1,207.6</u>
TOTALS	9,796.5	16,689.8

+ facilities built / expanded:

46x

None

S.E. - Johnson Center, Juneau

Anchorage

40% expansion
in 4 yrs.
~~40%~~

2-18-86

DIVISION OF FAMILY AND YOUTH RECIDIVISM STUDY

In FY 82, the Division of Family and Youth Services initiated a study of recidivism among those delinquents released from DFYS' institutional treatment programs who have reached age 18. The study tracks the adult criminal records of youth released in each fiscal year. Those released during FY 81 have been traced nearly 5 years, and those released in each succeeding fiscal year have been tracked proportionately less time from the time of their release to January, 1986.

Because of limited staff resources and time, and because the youth studied represent the most serious of delinquent youth, the study was limited to felony arrests. The following summarizes the results to date.

The study shows that of 482 youth released, 356, or 74% have not been re-arrested for a felony. Of the 26% who have been arrested for felonies, 60% have committed only one felony offense. A small group of multiple offenders -- 5% of the youth released--are responsible for 40% of felony offenses committed by the group of youth released.

YOUTH DISCHARGED FY 81 - FY 85

Total Discharged	Number Arrested for Felony	% Arrested for Felony	# Not Arrested for Felony	% Not Arrested for Felony
482	126	26%	356	74%

BREAKDOWN OF OFFENSES BY YOUTH ARRESTED

Total Offenses	Unclassified Felony	A Felony	B Felony	C Felony
# 211	1	15	54	141
% 100	Less than 1%	7%	26%	67%

Municipality
of
Anchorage



COMMISSION YOUTH
825 "L" Street

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

TONY KNOWLES,
MAYOR

cc 12-30-85
"Comm Youth" / SWD

December 26, 1985

Senator Patrick Rodey
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

Earlier this year you had asked the Anchorage Commission on Youth to respond to SB 264, an act relating to juvenile waiver. After researching and discussing the issue, the Commission unanimously voted to not support any proposed legislation to change the waiver laws and submit the following testimony to you and other concerned lawmakers.

To begin with, the Commission was unable to come up with any solid reasons to change the waiver laws. We feel it is a "non-issue", having been brought to the forefront of public discussion because of a few isolated incidences of juvenile crime.

As it exists now, there have been very few cases involving serious violent crimes that prosecutors have been unable to obtain a waiver of jurisdiction. Your answer to this fact has been that prosecutors are unwilling to attempt waiver because it is time consuming and difficult to prove that the minor is not amenable to treatment under the current system. The Commission responds to this charge in two ways. First, should not the process of waiver be difficult, inherently possessing a number of checks and balances before the child offender is committed to a life behind bars? Second, it would seem unprofessional for prosecutors to say they are not willing to do their publicly mandated work of protecting the people because it is time consuming. If this is the case, then we suggest hiring more prosecutors.

The second point that the Commission would make is that it was less than five years ago that the responsibility for juvenile offenders switched from the Division of Corrections to Family & Youth Services. In the recent report on Juvenile Justice in Alaska, prepared by D.F.Y.S., it appears that this switch was indeed a wise decision by our lawmakers. "Despite widespread and persistent beliefs, juvenile crime in Alaska is neither increasing or

"YOUNG PEOPLE HELPING YOUTH"



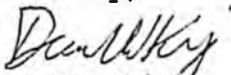
becoming more violent," says the first sentence in this report. Automatic waiver is a regression back to an old system that had few successes in rehabilitating juvenile offenders. In a few short years, the state has made significant strides in prevention and early intervention when it comes to juvenile crime. The data shows that this emphasis has worked and can continue to work with continued funding.

Though we have not seen a fiscal note for SB 264, or its House complement, HB 205, we have seen fiscal notes for similar bills introduced in other years. One of these bills, CSHB 109 (1983), puts the cost around \$1.5 million. In a time of fiscal constraint, the Commission does not believe that expenditures for additional prison cells to house juveniles is warranted, particularly if these costs would negatively effect expenditures for prevention and early intervention.

Finally, the Commission would like to respond to the popular claim that by passing an automatic waiver law, the community sends a strong message to juveniles that they will be severely dealt with when committing a violent crime. Frankly, we have never seen any data to support this claim and doubt that a potential juvenile offender is likely to reconsider before committing a violent and/or heinous crime against another person, if he/she knew that they would be "severely dealt with". Granted, some youth have been exploited by others to believe that they will not get in trouble for committing a crime because they are a juvenile. This, we fear, will never change, as there will always be vulnerable young people who will believe the lies of exploitive adults, unless, of course, we educate them first, regarding our laws and legal system. Educational programs like the Police/School Liaison Project, jointly funded by the Municipality and the Anchorage School District, sends a far clearer message to young people about crime and punishment than SB 209 or HB 205 ever could.

Thank you for the opportunity to respond to this issue.

Sincerely,



Dean W. Kriner, Jr.
Chairman

cc: Members of Senate H.E.S.S. Committee
Members of Senate Judiciary Committee
Members of House H.E.S.S. Committee
Members of House Judiciary Committee
Members of House Finance Committee
Patrick Reinhart, Staff Support/Commission on Youth
Jewel Jones, Director, Department of Health & Human Services
John Franklin, Commissioner of Public Safety, M.O.A.
Chip Dennerlein, Intergovernmental Affairs, M.O.A.
Dave Walsh, Chairman, Anchorage Assembly

ALEC's Juvenile Justice Reform Project To Reveal Model Code

file SB 264
APR 1 1986

By Benedict Koller, Esq.
Director, ALEC's Juvenile Justice
Reform Project

ALEC is making plans to revolutionize America's juvenile justice system. Under a grant from the Office of Juvenile Justice and Delinquency Prevention and through a contract with the Rose Institute of Claremont McKenna College, ALEC will reveal its Model Juvenile Justice Code at the National Training Conference for State Legislators on April 28-29.

Among the national figures who will speak at the conference are U.S. Attorney General Edwin Meese III; U.S. Senator Strom Thurmond, Chairman of the Senate Judiciary Committee; Missouri Attorney General William Webster; Richard Daley, State's Attorney for Cook County, Illinois; Jerry Wasson, Director of the Juvenile Rehabilitation Division in Washington State; Dr. Barry Feld, professor at the University of Minnesota Law School; and John Walsh, founder of The Adam Walsh Resource Center for Missing Children.

The conference will examine the deficiencies in modern juvenile justice systems across the country, and explore alternatives in juvenile justice reform. ALEC will present its Model Code at the conference for comment from state legislators and juvenile justice professionals, in an effort to achieve a consensus on the most effective legislative remedy for juvenile justice reform.

Among the fundamental principles on which the ALEC Model Code is based are:

- Sanctions imposed on the juvenile should be in proportion to the seriousness of the offense committed, and not simply on the court's subjective view of the juvenile's needs;
- Such sanctions should be imposed for a determinate period rather than at the discretion of the correctional program director;
- Juvenile proceedings should be open to the public, and juvenile court should account for all actions taken in connection with a given juvenile;
- The juvenile should be represented by counsel at all critical stages of the proceeding when the juvenile risks being confined;
- The procedure for transferring a ju-



U.S. Attorney General
Edwin Meese III



U.S. Senator
Strom Thurmond



Missouri Attorney General
William Webster



Richard Daley, State's
Attorney Illinois

venile into adult court for trial should be carefully established and monitored; and

• Juveniles should be encouraged to participate in the proceedings.

The fundamental principles on which ALEC's Model Code is based concur with those used in five other recent national studies. They are nearly identical to those promulgated by the ABA's Juvenile Justice Standards Implementation Project, which sought to serve as a basis for complete revision of state juvenile justice codes.

Contours of the Model Code

The Model Code was drafted by picking and choosing "good ideas" in other juvenile codes around the country. For example, the Code's sentencing standards were borrowed from the Washington State code, the discovery provisions from the New York code, and the community arbitration procedures from the Florida code.

Detention

A significant feature of ALEC's Model Code is its policy on detention; that is, confining juveniles prior to trial. Under most state codes, a juvenile arrested for a serious crime cannot be held unless the prosecutor can show that the juvenile will commit another crime and run away if released or no parent is available to adequately supervise the child. Except in the most obvious of circumstances, there is nothing to prevent a serious offender from being 'back on the street' literally hours after being taken into custody.

The Model Code, however, requires that juveniles arrested for serious offenses, or with extensive offense histories be detained prior to trial upon showing at a detention hearing that there is probable cause the juvenile committed the offense. To accommodate this policy

of detention, the Code expedites all trials for detained juveniles—a chief deterrent factor for recidivism.

Due Process

ALEC's Model Code is essentially based on notions of justice and fair play, providing the following due process rights: the rights to counsel, cross-examination and subpoena of witnesses, trial by jury (except in minor matters), introduction of evidence, speedy trial, proof beyond a reasonable doubt (in delinquency proceedings), appeal, and the right against self-incrimination.

The Code's departure from traditional rehabilitation policies is consistent with our underlying philosophy. Under current policy there is an increasing tendency to transfer more and more juvenile offenders to the adult criminal system; this would seem to be inconsistent with the system's stated goal of rehabilitation. ALEC's Model Code will transfer very few juveniles to the adult court—only those who are charged with capital crimes.

Sentencing Guidelines

The Code envisions the establishment of a state sentencing commission appointed by the governor to set forth mandatory and determinate sentencing provisions for juvenile offenders which account for the juvenile's age, offense history, seriousness of the offense, and other aggravating or mitigating factors. Such a system also departs from current juvenile sentencing policies, which vest the court with virtually complete discretion to decide what form of 'treatment' best suits the child.

Restitution and Victim's Rights

Another important factor in keeping with the underlying policy of holding ju-

Code, continued on page 6

REP TERRY MARTIN
STATE CAPITOL BLDG V
BUREAU AK 99811

Getting Away With Murder: Why the Juvenile Justice System Needs an Overhaul

By Alfred S. Regnery
Administrator of the Office of Juvenile
Justice and Delinquency Prevention

Children commit nearly one-third of the serious crimes in America. Our system of rendering justice for their crimes, however, is antiquated and largely incapable of dealing with the offenses they commit. Disliked by the public, by those who work in it, and even by many offenders, the juvenile justice system, which is supposed to act only in the "best interests of the child," serves neither the child, his victim, nor society.

Juvenile crime rates since the 1950s have tripled, yet the theories and policies we use to deal with such crime fail to hold offenders accountable and do not deter crime. At best they are outdated; at worst, they are a total failure, and may even abet the crimes they are supposed to prevent.

Some people still refuse to accept the fact that juveniles commit crimes. Prevailing social theory during much of the 20th century has been based on the belief that children under 18 do not have the mental capacity to distinguish between right and wrong, and thus should not be held accountable for their behavior, as are adults.

Despite these attempts to treat juvenile crimes as trivial indiscretions committed by misguided youth, the statistics suggest something different—a grave problem on a national scale. There are currently about 15 million Americans between 14 and 17, or about seven percent of the entire U.S. population; but about 30 percent of all people arrested for serious crimes are juveniles—a total of some 1.5 million arrests per year. (Police generally estimate that there are at least five offenses for each arrest.)

The violence and intensity of these crimes is staggering. Of those arrests, 2,000 were for murder, 4,000 were for rape, and 34,000 were for aggravated assault. Despite the beliefs of certain social theorists, juveniles do commit crimes at a rate significantly higher than the rest of the population. In fact, 16-year-old boys commit crimes at a higher

rate than any other single age group. These are criminals who happen to be young, not children who happen to commit crimes.

The bulk of our crime—probably 75 percent of all serious offenses—is committed by chronic offenders. These people comprise fewer than 10 percent of the population (in the case of juveniles, probably closer to seven percent) yet because of the high rate at which they commit felonies, sometimes as many as 100 or more a year, they are responsible for a great proportion of robberies, burglaries, muggings and aggravated assaults, car thefts, rapes, and even a significant number of murders.

Chronic offenders pose the greatest threat to society and the greatest challenge to juvenile justice programs across the country.

Such children present problems to the juvenile justice system which evade all philosophical notions about crime. They present a problem which neither the social theorists, nor the police and prosecutors who would like to lock them up, can hope to alleviate more than temporarily. Chronic offenders pose the greatest threat to society and the greatest challenge to juvenile justice programs across the country.

Sadly, the juvenile justice system has shown little ability either to help such youngsters or to protect society from their crimes. In most of our major cities (where most serious juvenile crime exists), there is virtually no chance that juveniles who are first or second offenders will be punished. The lesson that the system provides to the offender is that he can continue to commit such acts because there is no penalty. The criminal's punishment is limited to listening to the psychobabble of social workers and therapists.

Rehabilitation has been the premise of the juvenile court system throughout the 20th century, but it has failed miserably. The late Robert Martinson reviewed the results of over 200 separate efforts to measure the effects of programs designed to rehabilitate convicted adult offenders. Martinson concluded, in what has become one of the most quoted phrases in modern criminology, that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far had no appreciable effect on recidivism."

Martinson did his review in the late 1960s; since that time, rehabilitation has sunk further in esteem, both in the eyes of the public and the professionals. The criminal justice system has all but given up on the concept. Virtually no successful juvenile programs—those that reduce recidivism to an appreciable degree—rely on rehabilitation.

What can be done to ameliorate the problem of juvenile crime? First, the main focus of the justice system should be the deterrent approach, which views punishing the criminal as the best way to prevent future violations, protect the community and achieve justice. This does not mean that we should not continue to look for rehabilitation programs that actually work, even if the record does not give us grounds for optimism. It does mean that rehabilitation should not be a substitute for justice.

For the past 85 years, the courts have been making decisions about juveniles based almost exclusively on "what is in the best interests of the child." Ironically, the remedies proposed have not measurably helped children's interests. Our juvenile courts should continue to act for the benefit of children, but they should also seek justice and consider the rights of the victims of crime.

The juvenile justice system should abandon its practice of sealing the records of young criminals when they become adults. The rationale for this practice was the idea that these youths should have "learned their lesson" by the time they turned 18, and should be permitted to begin their new life as

System, continued on page 6

Code, continued from page 4

venile offenders accountable is the Model Code's insistence that offenders make restitution to victims. Curiously, most state codes have overlooked the fact that one purpose of a justice system is to restore the loss caused by the wrongful act of another.

The Model Code mandates as much as practical the restoration of that loss. Moreover, if the juvenile is unemployed, the probation department will assist him in finding a job so that the offender may make restitution. If the juvenile still cannot make restitution, the amount he owes will be statutorily converted to certain hours of community service work.

The Code looks out for the victim as well as for the rehabilitation of the juvenile. States are becoming increasingly aware of victim's rights but few states have legislated compensation for these victims.

Status Offenders

Modern juvenile courts have begun to remove certain juveniles from the juvenile justice system: runaways, habitual truants, youths beyond the control of their parents or school administrators, and drug and alcohol abusers. Known as 'status offenders,' these are minors who commit acts which would not be crimes if they were committed by adults.

While the Model Code does not re-

move these youths from its jurisdiction, it does not treat them like delinquents. Runaways, for example, are placed in short-term shelter homes until they can be reconciled with their families. If the juvenile runs away from the shelter home, he or she faces mandatory incarceration in a county juvenile facility under the contempt powers of the court. Habitual truants and other undisciplined youths face similar sanctions for failing to abide by court-imposed and officer-supervised community treatment plans.

Closely entwined with the problem of runaways is the problem of missing and abused children. While the Code does not touch the complex issue of abused children, it provides a plan for facilitating the reporting and finding of missing children. Computerized information is circulated within a national information center, and reports are standardized to aid handling. A toll-free hotline is established and fingerprinting services are made available for parents.

ALEC's Model Code takes a dim view of alcohol-related offenses. Alcohol offenders are required to undergo an alcohol and drug dependency evaluation, which may compel the juvenile to receive out-patient treatment. For drunk driving offenses, youths face an automatic revocation of driving privileges until they reach the age of 18. In addition, the judge is empowered to use such

creative measures as requiring juveniles to attend alcohol education classes or visit the emergency room at a local hospital where drunk drivers and their victims are received.

Recommendations

As part of the national commitment to reduce costs and improve judicial expediency, ALEC's Model Code makes recommendations for implementation of such policies in the juvenile justice system. The Code encourages detention facilities to be run by private agencies, educational classes to be furnished by community-based programs, and community work supervision to be administered by local officials. It also seeks to establish a community arbitration system for juvenile offenders. Such features help transform the uniform characteristics of a model code into one that is unique to the particular state implementing it.

The Model Code will be fully revealed at the Juvenile Justice Conference for State Legislators on April 28-29, to be held at the Washington Marriott in Washington, D.C., after which interested parties may request copies of the draft Code. Two regional training conferences will be in early June. For more information regarding the Conference, contact Sharon Werning, Conference Coordinator, at (202) 547-4646. ■

System, continued from page 5

adults without previous errors being held against them.

However, statistics show that the most fertile age for crime is between 16 and 24. Thus many juvenile criminals are just getting started on a career of crime. To seal their records is to conceal from the police and prosecutors their previous actions, making crime prevention difficult. Not only does this make it tougher for the police to identify crime subjects, but juveniles enter adulthood under the illusion that they can get away with criminal behavior—get away with murder, so to speak. To their shock, many of them discover that this is not the case after age 18.

Another step that juvenile justice professionals should consider is reducing the traditional distinction between juveniles and adults. Criminals should be treated as criminals. Anyone familiar with the nature of juvenile crime will not make the argument that juvenile crimes differ in their magnitude or brutality than adult crimes; in many cases the reverse

is true. So the current approach, which makes a radical distinction between criminals under 18 and those over 18, is often counterproductive.

Various states are experimenting with innovative approaches to controlling juvenile crime. Many large cities, for example, are beginning to focus their resources on chronic offenders, who commit most violent crime. Techniques include improved record keeping, specialized crime analysis techniques, and "vertical prosecution"—where one prosecutor sticks with a case from arrest through sentencing.

Another promising state initiative is restitution, a program in which property offenders are required to reimburse their victims. This has the advantage of giving the community back some of the goods it loses through theft and vandalism, and it also helps teach accountability and responsibility to the offender.

The juvenile system also needs to rely more on the private sector, as well as on volunteer citizens to assist young offenders, instead of placing total reliance on government and professionals. A num-

ber of privately owned and operated correctional programs now exist, for example, usually at substantially lower costs than public institutions; these programs are often more innovative and responsive to the needs of both the offender and society than public programs.

The private sector is also increasing its role and influence in probation services, either by assisting public systems, or by actually running probation on a contract basis. These programs use parents and other volunteers to work with marginally delinquent youth. Yet officials within the system, and public employee unions, often do everything in their power to torpedo such services, usually out of fear that volunteers will displace their salaried positions.

Through the Office of Juvenile Justice and Delinquency Prevention, the federal government has been encouraging these initiatives. But the primary responsibility to tackle the problems of juvenile crime rests with state and local governments. The American Legislative Exchange Council's Juvenile Justice Re-

continued on page 8

**COMMITTEE REPORT
SENATE**

FURTHER: JUDICIARY
FINANCE

1/29/85

Date 4-16-86

Mr. President

The Committee on HESS considered SB 264

relating to unlawful conduct of minors; and amending Rule 24 of the Alaska Rules of Children's Procedure.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 264
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

John P. ...
...

Chairman

Chairman recommendation



Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

SB 264

February 6, 1985

MEMORANDUM

TO:

FROM: Nancy Pease *N Pease*
Legislative Analyst

RE: Culpability of Juvenile Offenders
Research Request 85-116

You requested information on the culpability of juvenile offenders. Specifically requested were:

- the current statutes establishing the age of culpability;
- the current limitations on the age of culpability for juveniles;
- implications of setting the age of culpability at 10 to 12 years;
- implications and aspects of changing juvenile proceedings statutes to allow charges to be used for both detention and adjudication.

Juvenile Court Jurisdiction

Alaska Statute 47.10.060 assigns to the juvenile court the jurisdiction over delinquent minors under 18 years of age residing or found in the State (see attachment A). A youth is generally adjudged to be delinquent by the juvenile court if he or she has committed an act which, if committed by an adult, would violate a criminal law of the State or a municipality.¹ However, the juvenile court does not have jurisdiction over youths who commit certain less serious offenses. A minor accused of a traffic offense, a violation of a fish and game statute or regulation, or a violation pertaining to parks and recreation facilities is charged, prosecuted and sentenced in the district court in the same manner as an adult [AS 47.10.010(b)].

¹A judgment of delinquency indicates only that the youth has committed an offense. Unlike a conviction in an adult court, a delinquency finding is not a determination of guilt (culpability).

Waiver of Juvenile Court Jurisdiction

A juvenile court may waive its jurisdiction over minors in limited circumstances. Under the provisions of AS 47.10.060, if the juvenile court finds probable cause that a person under 18 years of age is delinquent and finds that the person cannot be rehabilitated before his 20th birthday by treatment through the Department of Health and Social Services (DHSS), the juvenile court shall order the case closed. After a case is closed in juvenile court, the juvenile under 18 years of age may be prosecuted as an adult.

Limitations on the Age of Culpability

Under current Alaska law, the juvenile court has the discretion to waive from its jurisdiction a minor of any age, accused of any offense, if the court is petitioned by the State prosecutor. A juvenile whose case is petitioned is entitled to a waiver hearing in juvenile court and is entitled to be notified of the hearing, to attend the hearing, and to be represented by counsel at the hearing.

To justify waiving a minor's case from juvenile court, the judge or hearing officer must find probable cause to believe that the youth committed an act which, if committed by an adult, would constitute a crime. The judge or officers must also find that the minor is unamenable to rehabilitation through the programs of the Department of Health and Social Services before his 20th birthday.² Alaska Statute 47.10.060(d) states that a minor's amenability to treatment shall be assessed on the following factors:

- the seriousness of the offense the minor is alleged to have committed;
- the minor's history of delinquency;
- the probable cause of the minor's delinquent behavior, and;
- the facilities available to the DHSS or the proper authority for treating the minor.

²The juvenile courts' jurisdiction over a minor never extends beyond the minor's 19th birthday except that the Department of Health and Social Services may apply for, and the court may grant, an additional one-year period of supervision past age 19 if continued supervision is in the best interest of the person and the person consents to it. (AS 47.10.100).

According to Gayle Horetski, Assistant Attorney General, the court also bases the waiver decision on the minor's age, his past response to rehabilitation (if applicable), his psychiatric evaluation and the danger the minor represents to society.

Statistics from the Division of Family and Youth Services show that most of the cases which the court waives involve youths aged 15 to 17 who have been accused of burglary or sexual assault.³ However, Russ Webb of the State Division of Youth Services stated that the juvenile court has occasionally waived cases involving Class A misdemeanors. Class A misdemeanors include acts such as tampering with a fire protection device in a public building, intentionally damaging property in an amount of more than \$50 but less than \$500 (AS 11.46.484), or failure to leave a place open to the public when ordered to do so by the person in charge (AS 11.46.320).

The juvenile court waives to adult court about 85 percent of the cases in which the district attorney petitions for a waiver. According to Assistant Attorney General Gayle Horetski, the State prosecutors appear successful in requesting waivers because they are very selective as to which cases they petition. However, she stated that State prosecutors rarely seek waivers because of the considerable time and cost of proving that a juvenile is not amenable to treatment by the DHSS. She mentioned that a State prosecutor is especially unlikely to succeed in obtaining a waiver for a juvenile offender who has not previously participated in a rehabilitation program.

Attempts to Change Juvenile Court Jurisdiction

In the past five years, Alaska State legislators have introduced several bills to reduce the jurisdiction of juvenile courts. The most recent bill, HB 109 (vetoed by Governor Sheffield in 1983) would have automatically waived to adult court the cases of 16 and 17 year olds charged with offenses designated as unclassified felonies.⁴ House Bill 109 would also have expositied and assigned priorities to the factors which a judge must consider in determining a juvenile's amenability to treatment. Ms. Horetski spoke in favor of such a bill, stating that under current waiver procedure, the prosecutor faces a considerable burden in

³Phone conversation with Russ Webb, Division of Youth Services, Alaska Department of Health And Social Services.

⁴Crimes designated unclassified felonies are: murder; kidnapping; sexual assault in the first degree; sexual abuse of a minor in the first degree; and, misconduct involving controlled substances in the first degree.

February 6, 1985

Page 4

proving that a juvenile will not be amenable to treatment and that the judge is not given much guidance in identifying or weighting the factors that predict a juvenile's chances of rehabilitation. Ms. Horetski also cited instances in which juveniles implicated in serious crimes have served short amounts of time in juvenile correction programs before their mandatory release at age 19.

Implications Of Reducing the Age of Culpability to 10 or 12 Years

According to Mr. Webb of the Division of Youth Services, reducing juvenile court jurisdiction to offenders under 10 or 12 years of age would affront two principal precepts upheld by the Alaska Supreme Court:

- a person under 18 years of age does not have mature judgment and may not fully realize the consequences of his acts, and therefore should not generally have to bear the stigma of a criminal conviction for the rest of his life, and;
- the express purpose of the juvenile justice system is rehabilitation of offenders rather than punishment.⁵

According to Mr. Webb, the State might possibly be required to build a separate correctional system to house and rehabilitate youths convicted and sentenced in adult courts. Ten to twelve-year-olds sentenced in adult court could not be held in existing juvenile facilities, yet might be victimized by adult inmates if housed in adult correctional facilities.⁶ In addition, immature offenders require rehabilitation programs different from those aimed at adults because youths 10 to 17 years old are still developing their identities and their personalities, still maturing physically, and still in need of basic education. Mr. Webb mentioned that prisoners incarcerated as waived juveniles would also increase Alaska's prison population in adult facilities as juveniles presumptively sentenced to long terms would be transferred into adult prisons as they turned 19 or 20.

⁵In re P.H., Alaska Supreme Court Opinion No. 857, 504 Pacific 2d 837 (1972), and Rust v. State, Alaska Supreme Court Opinion No. 1668, 582 Pacific 2d 134 (1978).

⁶Sixteen and seventeen-year-olds convicted as adults are currently housed in adult correctional facilities. Alaska law guarantees prisoners that their human rights shall be protected while they are incarcerated.

February 6, 1985
Page 5

Allowing Charges To Be Used For Both Adjudication and Detention

Current court procedure allows the same charge to be used for both the detention hearing and the adjudication of an alleged delinquent. However, evidence of a juvenile's tendency toward delinquent behavior may be submitted at a detention hearing but not an adjudication proceeding.

Mr. Webb explained that the State prosecutor may petition to detain an arrested juvenile rather than release him to the custody of his guardians pending adjudication. The detention hearing, held within 48 hours of the juvenile's arrest, is analogous to an adult detainee's bail hearing.

The prosecutor may submit evidence unrelated to the alleged crime if the evidence helps the court to measure whether the detainee would pose a danger to himself or society if released from custody. Thus, in a juvenile detention hearing, the State prosecutor may submit, in addition to evidence of the crime, the detained juvenile's delinquency record, his family history, his school records, a psychological evaluation, and so on. This extraneous information may also be submitted during a waiver hearing and a disposition (analogous to adult sentencing) but not during an adjudication for an actual offense. In an adjudication, as in an adult court trial, the issue is whether the defendant committed a specific crime, not the defendant's general criminal tendencies. Only evidence which bears directly on the crime charged may be submitted during an adjudication.

* * *

I hope you find this information useful. If you have further questions, please let us know.

NP

Attachments

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

file
POUCH Y STATE CAPITOL
JUNEAU ALASKA 99911
907 465 3800

M E M O R A N D U M

August 23, 1985

SUBJECT: Sectional analysis of CSSB 264 (HESS)
(6/26/85 draft)

TO: Senator Patrick Rodey

FROM: Edward H. Hein *EH*
Legislative Counsel

Superseded

Section 1 provides that a minor who is tried as an adult, convicted and sentenced to imprisonment must be placed in a correctional institution for juveniles until the age of 18, then transferred to an adult institution only if more than a year still remains of the sentence to be served.

Sec. 2 exempts from mandatory minimum and presumptive sentences a minor tried as an adult and convicted of a first felony offense.

Sec. 3 increases to \$5,000 from \$2,000 the amount of damages that may be awarded in a civil action against a parent or guardian of a minor for the malicious or willful destruction of property by the minor.

Sec. 4 relieves a parent or guardian from liability for property damage by an emancipated minor and sets out three ways a minor may become legally emancipated.

Sec. 5 provides that if a children's court matter is informally adjusted or disposed of without hearing the court must disclose the outcome of the case upon request of a victim, or parent or guardian of a victim, or the minor's conduct that is the subject of the case.

Sec. 6 rewrites the law on waiver of children's court jurisdiction. This section provides that a minor may be prosecuted as an adult if the children's court determines at a hearing either (1) that the minor was 16 years of age or older at the time of the offense and that there is probable cause to believe that an unclassified felony was committed

or (2) that the minor is "not amenable to treatment," i.e., cannot be rehabilitated before reaching majority, and that there is probable cause to believe that the minor is delinquent. In determining whether the minor is amenable to treatment the court must consider nine factors. Any one of these factors can be sufficient justification for a waiver of jurisdiction and the court has discretion to weight these factors as it pleases. A minor awaiting trial or sentencing as an adult must be confined in an institution for juvenile offenders.

Sec. 7 requires the children's court to disclose the results of a delinquency or child-in-need-of-aid hearing to the victim of the minor on request.

Sec. 8 exempts from the children's court confidential records provisions of AS 47.10.090 any disclosures requested to be made to a minor's victim in accordance with sections 5, 7 and 11 of the bill.

Sec. 9 specifies five circumstances under which a minor may be fingerprinted by a law enforcement agency or by the Department of Health and Social Services. These include (1) under a search warrant; (2) in a prosecution of the minor as an adult; (3) if the minor is a delinquent and committed a felony-type offense; (4) with the informed consent of the minor and a parent or guardian; or (5) by court order. The fingerprints must be kept separate from adult fingerprint files and may not be sent to a federal central depository. The fingerprints of a minor may be made available only to a public agency for criminal investigations and prosecutions in which the minor is a suspect or to the minor or the minor's attorney if the minor is involved in a court proceeding. The minor's fingerprints must be destroyed if the minor is tried/adjudicated and found not to be in the court's jurisdiction for that offense, or if the minor is not tried/adjudicated for the offense within two years.

Sec. 10 requires that minors awaiting a hearing, if incarcerated in a jail, be separated from adult prisoners other than adults who have not reached their 19th birthday and who are under the jurisdiction of the children's court.

Sec. 11 provides for disclosure of results of a delinquency hearing to the victims or parents of victims of the minor.

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Sec. 12 requires minors detained in "a jail or similar institution" to be kept separate from adult prisoners other than adults under 19 years of age who are still under the jurisdiction of the children's court.

Sec. 13 amends Rule 24 of the children's court rules by deleting the prohibition against fingerprinting minors except with the consent of the court.

Sec. 14 describes the effect of sec. 13 of the bill, as required by Uniform Rule 39(e).

Sec. 15 amends Rule 24 of the children's court rules by incorporating the statutory requirements for obtaining fingerprints from a minor in custody.

Sec. 16 describes the effect of sec. 15, as required by Uniform Rule 39(e).

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