

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4152 SJUD HB 456 - HB 476

1032

NOTES TO DECISIONS

Former law construed. — See Op. No. 1130, File No. 1245, 802 P.2d 20
Graham v. North River Ins. Co., Sup. Ct. 1973.

Sec. 28.10.290. Temporary permits. (Repealed. § 7 ch 175 SLA 1978.)

Sec. 28.10.291. Transfer from dealer. (a) A vehicle dealer, upon transferring a vehicle, shall execute an assignment and a warranty of title to the transferee as provided in AS 28.10.271 and furnish proof of the sale of the vehicle to the transferee.

(b) The dealer shall, within 30 days of the transfer of the vehicle, forward to the department the transferee's completed application for new certificates of title and registration except as provided in (c) of this section. The application shall contain the vehicle dealer's license number and shall be accompanied by any required fees and taxes.

(c) If the transferee indicates in a sworn affidavit that the transferee does not intend to use the vehicle in a manner requiring registration in this state, the dealer may deliver the certificate of title to the transferee directly. The dealer shall mail or deliver the affidavit to the department within five days of the transfer. § 7 ch 175 SLA 1978.

Sec. 28.10.300. False statements. (Repealed. § 7 ch 175 SLA 1978.)

Sec. 28.10.301. Transfer of motor vehicle to minor. (a) An agreement for the purchase of a motor vehicle by a minor who has not been emancipated is void unless a parent or guardian of the minor is also a party to the agreement.

(b) In this section, "emancipated" means that a minor to whom the term refers is a resident of this state and is at least 16 years of age, is living separate and apart from the minor's parents or guardian, and is capable of self-support and of managing the minor's own financial affairs.

(c) If a vehicle is improperly transferred to a minor, the title to and registration of the vehicle remains with the owner and does not transfer to the minor or the parent or guardian of the minor. However, if the certificate of title and registration for the vehicle has been delivered to the minor or the parent or guardian of the minor, that person shall immediately deliver the certificate of title and registration to the department. The department shall reissue title to the previous owner of record. § 7 ch 178 SLA 1978.

Sec. 28.10.310. Refusal. (Repealed. § 7 ch 175 SLA 1978.)

Sec. 28.10.311. Transfer by operation of law. (a) When the title to, or interest in, a registered vehicle passes to another person other than by a voluntary transfer, the registration of that vehicle expires.

(b) A person holding a certificate of title to a vehicle whose interest in the vehicle has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificates of title and registration to the department upon request of the department. The delivery of the certificates of title and registration to the department upon its request does not affect the rights of the person surrendering the certificate of title, and the action of the department in issuing a new certificate of title or registration as provided in this chapter is not conclusive upon the rights of an owner or lienholder named in the surrendered certificate of title. (§ 7 ch 178 SLA 1978)

Sec. 28.10.320. Issuance. [Repealed, § 7 ch 178 SLA 1978.]

Sec. 28.10.321. New owner to secure transfer of registration and new title. (a) Except as provided under AS 28.10.281 and 28.10.291, the new owner shall, within 30 days, present the certificates of title and registration properly endorsed to the department, apply for a new title, and register the vehicle as upon an original registration.

(b) An application for certificates of title and registration shall be accompanied by any required registration fees and taxes, transfer of title and lien fees, and by the previous certificates of title and registration, if any. (§ 7 ch 178 SLA 1978; am § 40 ch 21 SLA 1985)

Effect of amendments. — The 1985 amendment, effective May 10, 1985, deleted "and motor freight carrier or bus transportation fees, if any," following "lien fees" in subsection (b).

Sec. 28.10.330. Delivery. [Repealed, § 7 ch 178 SLA 1978.]

Sec. 28.10.331. Department to issue new certificates of title and registration. The department, upon receipt of the certificate of title properly endorsed, the certificate of registration, the registration plates, if any, the application for new title and registration and all required fees and taxes, shall issue a certificate of title and a certificate of registration to the transferee or the lienholder lawfully entitled to the certificates. (§ 7 ch 178 SLA 1978)

NOTES TO DECISIONS

Former law construed. — See *Harbor Ins. Co. v. United States Fid. & Guar. Co.*, 350 F. Supp. 723 (D. Alaska 1972); *Christian v. State*, Sup. Ct. Op. No. 921 (File No. 1626), 513 P.2d 664 (1973); *Graham v. Black*, Superior Court, In. No. Dist. C.A. No. 71-3441 (1973); *State Farm Mut. Auto. Ins. Co. v. Clark*, 197 F. Supp. 745 (D. Alaska 1975); *Graham v. North River Ins. Co.*, Sup. Ct. Op. No. 1130 (File No. 1915), 513 P.2d 20 (1975).

Sec. 28.10.340. Duplicates. (Repealed. § 7 ch 178 SLA 1978.)

Sec. 28.10.341. Duty of lienholder in possession of title to transferred vehicle. Upon request of an owner or transferee, a lienholder in possession of the certificate of title to a transferred vehicle shall, unless the transfer is in breach of a security agreement, deliver the certificate to the transferee. The delivery of the certificate of title does not affect the rights of the lienholder under the lienholder security agreement. (§ 7 ch 178 SLA 1978)

Sec. 28.10.350. Transfer. (Repealed. § 7 ch 178 SLA 1978.)

Sec. 28.10.351. Dismantling or wrecking vehicle. A person who dismantles, scraps or destroys a registered vehicle shall immediately forward to the department the certificates of title and registration and the registration plates for the vehicle. (§ 7 ch 178 SLA 1978)

Secs. 28.10.355. 28.10.360. Purchase by minor; duty of new owner. (Repealed. § 7 ch 178 SLA 1978.)

Sec. 28.10.361. When transfer effective. A transfer by an owner or dealer is not effective until all applicable provisions of this chapter have been complied with. However, an owner or dealer who has delivered possession of a vehicle to the transferee and has endorsed an assignment and warranty of title on the certificate of title and delivered the certificates of title and registration to the transferee or, in the case of a transfer from a dealer, delivered proof of the sale to the transferee, is not liable as the owner for any liabilities resulting from the driving or movement of the vehicle after the transfer. (§ 7 ch 178 SLA 1978)

Sec. 28.10.370. Issuance. (Repealed. § 7 ch 178 SLA 1978.)

Article 4. Filing Documents Evidencing Liens or Encumbrances.

Section	Section
371. Filing documents evidencing liens or encumbrances	391. Filing and date of notice
381. Provisions for filing and issuance of title	401. Assignment or release by lienholder

Collateral references. — 7A Am Jur.
 24. Automobiles and Highway Traffic.
 §§ 31, 39, 46, 48.
 60 C.J.S., Motor Vehicles, § 42.

Sec. 28.10.371. Filing documents evidencing liens or encumbrances. A conditional sales contract, chattel mortgage, or other lien or encumbrance or title retention document on a registered vehicle, other than a lien dependent upon possession, is not valid against a vehicle owner's creditor who acquires a lien dependent upon possession, or by levy or attachment, or against a subsequent purchaser or encumbrancer without notice, until the requirements of AS 28.10.371 — 28.10.401 are satisfied. (§ 7 ch 178 SLA 1975)

Sec. 28.10.380. Dealer's transfer. (Repealed. § 7 ch 178 SLA 1975)

Sec. 28.10.381. Provisions for filing and issuance of title. (a) A copy of the document creating and evidencing a lien or encumbrance shall be filed with the department.

(b) If a certificate of title is issued before a lien or encumbrance attaches, the copy of the document creating and evidencing the lien or encumbrance shall be accompanied by the certificate of title issued for the vehicle.

(c) If the vehicle is of a type subject to registration but is not registered and no certificate of title is issued for it, then the certified copy of the document creating and evidencing the lien or encumbrance shall be accompanied by an application from the owner for original certificates of registration and title. When a document creating and evidencing a lien or encumbrance is filed with the department, the lien filing fee required under AS 28.10.441 shall be paid.

(d) Upon receipt of the application and documents, the department shall endorse on them the date of receipt at the central office of the department and file them. If the department is satisfied as to the genuineness and regularity of the application, it shall issue a new certificate of title giving the name of the owner and a statement of liens or encumbrances certified to the department as existing against the vehicle. The certificate of title shall be delivered by the department to the person holding the lien or encumbrance. (§ 7 ch 178 SLA 1975)

Sec. 28.10.390. Transfer to dealer. (Repealed. § 7 ch 178 SLA 1975)

Sec. 28.10.391. Filing and date of notice. (a) The filing of the application and documents under AS 28.10.381 and the issuance of a new certificate of title are constructive notice of any liens or encumbrances against the vehicle described in the certificate to a creditor of the owner, or to a subsequent purchaser or encumbrancer. However, a lien or encumbrance on a vehicle for labor, material, transportation, storage or similar activity, whether or not dependent on possession for its validity, is subordinate only to a mortgage, conditional sale contract, or similar lien or encumbrance properly filed on or before the time that the vehicle is subject to, or comes into possession of, the lien or encumbrance claimant for the labor, material, transportation, storage or similar activity.

(b) If the documents referred to in AS 28.10.371 — 28.10.401 are received and filed in the central office of the department within 10 days after the date that the documents were executed, the constructive notice dates from the time of the execution of the documents. Otherwise, constructive notice dates from the time of receipt and filing of the documents by the department as shown in its endorsement on the documents.

(c) Filing as provided in AS 28.10.371 — 28.10.401 is the exclusive method of giving constructive notice of a lien or encumbrance on a registered vehicle, except as to a lien dependent upon possession.

(d) A lien or encumbrance, or a document creating and evidencing a lien or encumbrance is exempt from the other provisions of law which require or relate to the recording or filing of a document creating and evidencing a lien or encumbrance upon a vehicle of a type subject to registration under this chapter. (S 7 ch 178 SLA 1978)

NOTES TO DECISIONS

Editor's notes. — The cases cited in the note below were decided under former AS 28.10.510.

Determination of priority of liens rests with the legislature, and its intent should be the controlling factor. *Blackard v. City Nat'l Bank*, 16 Alaska 344, 142 F. Supp. 753 (D. Alaska 1956); *Decker v. Aurora Motors, Inc.*, Sup. Ct. Op. No. 314 (File No. 393), 409 P.2d 603 (1966).

Mechanic's lien subordinated to prior recorded security interest. — AS 34.35.200(2), when read in conjunction with former AS 28.10.510, evidenced the legislature's intent to subordinate a mechanic's lien to a prior recorded security interest. *Decker v. Aurora Motors, Inc.*, Sup. Ct. Op. No. 314 (File No. 393), 409 P.2d 603 (1966).

Therefore, the priority given to a mechanic's lien by AS 45.05.750 is not applicable. *Decker v. Aurora Motors, Inc.*, Sup. Ct. Op. No. 314 (File No. 393), 409 P.2d 603 (1966).

If an artisan retains possession, he has a lien whether he records it or not. The Motor Vehicle Act respects this right. *Blackard v. City Nat'l Bank*, 16 Alaska 344, 142 F. Supp. 753 (D. Alaska 1956).

Effect of Uniform Commercial Code. — Nothing contained in the Uniform Commercial Code altered the priorities under former AS 28.10.510 and AS 34.35.200. *Decker v. Aurora Motors, Inc.*, Sup. Ct. Op. No. 314 (File No. 393), 409 P.2d 603 (1966).

Sec. 28.10.400. Transfer by dealer. (Repealed. S 7 ch 178 SLA 1978.)

Sec. 28.10.401. Assignment or release by lienholder. (a) A person holding a lien or encumbrance upon a vehicle, other than a lien dependent solely upon possession, may assign that person's title or interest in the vehicle to a person other than the owner without the consent of the owner and without affecting the interest of the owner or the registration of the vehicle. The person assigning the interest shall give written notice of the assignment to the owner. Upon receiving a certificate of title assigned by the holder of a lien or encumbrance shown on the certificate and the name and address of the assignee, accompanied by the title fee required under AS 28.10.441, the department shall issue a new certificate of title.

(b) A person holding a lien or encumbrance upon a vehicle, as shown on a certificate of title, may release the lien or encumbrance or assign that person's interest to the owner of the vehicle without affecting the registration of the vehicle. Upon receiving a certificate of title upon which a lienholder has released or assigned the lienholder's interest to the owner, or upon receipt of a certificate not endorsed but accompanied by a legal release from a lienholder of the lienholder's interest to a vehicle, and upon payment of the title fee required under AS 28.10.441, the department shall issue a new certificate of title. (AS 28.10.410 ch 178 SLA 1978)

Sec. 28.10.410. Transfer by operation of law. (Repealed. § 7 ch 175 SLA 1978.)

Article 5. Fees and Charges.

Section

411. Registration fees levied
421. Registration fee rates

423. Emission control inspection program fees

Sec. 28.10.411. Registration fees levied. (a) For every year during any part of which a vehicle is subject to registration under this chapter, a registration fee shall be paid to the department at the time of original registration and at each annual renewal of registration after that time.

(b) *(Repealed, 1983 Initiative Proposal No. 2, § 6.)*

(c) A resident 65 years of age or older is entitled to an exemption from tax under this section for one motor vehicle subject to registration. An exemption may not be granted except upon written application for the exemption on a form prescribed by the department.

(d) The Department of Community and Regional Affairs shall pay to the borough and to the city in which a person who is granted an exemption under (c) of this section resides an amount equal to the tax levied under AS 28.10.431(b) regardless of whether the borough or city is eligible for the tax levied under that section.

(e) Notwithstanding any other provision of law, the fees paid for registering a vehicle under AS 28.10.421(b)(1), (2), (5), (6) or (d) shall include all fees required for entry into and use of a state park or campground. (§ 7 ch 178 SLA 1978; am § 85 ch 6 SLA 1984; am 1983 Initiative Proposal No. 2, § 6)

Effect of amendments. — The 1965 amendment repealed subsection (b), concerning payment of motor carrier fees.

(e) Notwithstanding any other provision of law, the fees paid for registering a vehicle under AS 28.10.421(b)(1), (2), (5), (6) or (d) shall include all fees required for entry into and use of a state park or campground. (S 7 ch 173 SLA 1978; am S 55 ch 6 SLA 1984)

Cross references. — For nonapplicability of subsection (e) of this section to fees for guided tours through historical sites, see AS 41.35.045

Effect of amendments. — The 1984 amendment, in subsection (b), deleted "and bus transportation" following

"carrier" and "and the Alaska Bus Act, AS 42.15" following "Act."

Collateral references. — Validity of automobile registration or license fee as affected by classification or discrimination, 126 ALR 1419.

Sec. 28.10.420. Assignment. [Repealed. S 7 ch 173 SLA 1978.]

Sec. 28.10.421. Registration fee rates. (a) Unless otherwise provided by law, the fees prescribed in this section shall be paid to the department at the times provided under AS 28.10.108 and 28.10.111.

(b) The annual registration fees under this subsection are imposed within the following classifications for:

- (1) a passenger vehicle or motor home not used or maintained for the transportation of person or property for hire or for other commercial use \$30;
- (2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use \$35;
- (3) a taxicab \$65;
- (4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors or tourists ... \$80;
- (5) a motorcycle or a motor-driven cycle \$15;
- (6) a two- or four-wheeled trailer not used or maintained for the transportation of persons or property for hire or for other commercial use, including, but not limited to, a boat trailer, baggage trailer, box trailer, utility trailer or house trailer \$ 5.

(c) The annual registration fees under this subsection are imposed and are based upon the actual unladen weight as established by the manufacturer's advertised weight or upon the actual weight which the owner shall furnish, subject to the approval of the commissioner or the commissioner's representative, for a vehicle, including a motor vehicle pulling a trailer or semi-trailer, used or maintained for the transportation of passengers for hire, excepting taxicabs and buses under (b) of this section, or for the transportation of property for hire or for other commercial use, including a commercial vehicle such as a trailer, semi-trailer, truck, wrecker, tow car, hearse, ambulance, and tractor, as follows:

- (1) up to and including 5,000 pounds \$45;
- (2) more than 5,000 pounds to and including 12,000 pounds \$60;
- (3) more than 12,000 pounds to and including 18,000 pounds .. \$150;
- (4) more than 18,000 pounds \$215.
- (d) The special registration fees under this subsection are imposed annually, unless otherwise specified, for:
 - (1) an historic vehicle (one time only upon initial registration under AS 28.10.181) \$10;
 - (2) special request plates \$20;
plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates;
 - (3) a vehicle owned by a disabled veteran or other handicapped person, and registered under AS 28.10.181 or a resident 65 years of age or older who complies with AS 28.10.411(c) none;
 - (4) a vehicle owned by the state none;
 - (5) a vehicle owned by an elected state official the fee required for that vehicle under (b) of this section;
 - (6) a vehicle owned by a consular officer, unless waived under AS 28.10.181 \$30;
 - (7) a vehicle owned by a rancher, farmer, or dairyman and registered under AS 28.10.181 \$30;
 - (8) a snowmobile or off-highway vehicle \$ 5;
 - (9) an amateur mobile radio station vehicle,
 - (A) with a transceiver capable of less than 5-band operation the fee required for that vehicle under (b) or (c) of this section;
 - (B) in recognition of service to the public: a mobile amateur radio station owned by an amateur with general class or higher license, provided the station must be satisfactorily proved capable of operating on at least five bands between 160 through 10 meters, must have an antenna, and must have a power supply and wiring as a permanent part of the vehicle; the transmitting unit may be removed from the car for service or dry storage none for a mobile amateur radio station vehicle included in (b)(1) or (2) of this section;
 - (10) dealer registration plates,
 - (A) the initial set of plates \$40;
 - (B) each subsequent set of plates \$20;
 - (11) a vehicle owned by a municipality or charitable organization meeting the requirements of AS 28.10.181(c) \$ 5;
 - (12) an occasional use vehicle under AS 28.10.181(h) \$15;
 - (13) a vehicle owned by a former prisoner of war none.
- (e) A vehicle registered under this section which, by the removal of seats, a camper unit, a canopy or other equipment, may be converted into a vehicle on which the registration fee is computed on a different basis or in a different amount may not be driven or moved with seats.

camper unit, canopy or other equipment removed unless the other applicable registration fee is paid. (§ 7 ch 178 SLA 1978; am §§ 4, 5 ch 54 SLA 1979; am § 2 ch 151 SLA 1984; am § 41 ch 21 SLA 1985)

Effect of amendments. — The 1985 amendment, effective May 10, 1985, substituted "AS 28.10.108 and 28.10.111" for "AS 28.10.101 — 28.10.111" at the end of subsection (a).

Sec. 28.10.423. Emission control inspection program fees. In addition to the annual registration fee specified in AS 28.10.421, a \$1 fee is imposed upon every vehicle required to be inspected under an emission control program established under AS 46.03.210. This fee shall be collected at the same time and in the same manner as the registration fee. (§ 2 ch 56 SLA 1985)

Effective dates. — Section 4, ch. 56, SLA 1985 provides: "This Act takes effect July 1, 1985."

Sec. 28.10.130 Release by lienholder. (Repealed. § 7 ch 178 SLA 1978)

Sec. 29.10.431. Annual motor vehicle registration tax. (a) There is levied a motor vehicle registration tax within each municipality which elects, by passage of an appropriate ordinance, to come under this section. A municipality shall file a written notice of election with the department and may not rescind the notice for a subsequent fiscal year. The notice must be filed on or before January 1 of the year preceding the year election under this section is to become effective. If a municipality has, before October 15, 1975, levied a motor vehicle registration or ad valorem tax which has been repealed by a vote of the people at any regular or special municipal election, then the election provided for in this subsection is not effective until the ordinance passed by the local governing body has been approved by the people at the next regularly scheduled general or special municipal election.

(b) The tax is levied upon motor vehicles subject to the license tax under AS 29.10.411 and 29.10.421, not including mobile homes, and is based upon the age of vehicles as determined by model year according to the following schedule:

	Tax According to Age of Vehicle Since Model Year:							
	1st	2nd	3rd	4th	5th	6th	7th	8th or over
Motor Vehicle								
1) motorcycle	\$ 5	\$ 7	\$ 6	\$ 5	\$ 4	\$ 3	\$ 2	\$ 2
2) vehicles specified in AS 29.10.421-b(1)	60	50	40	30	20	15	10	7
3) vehicles specified in AS 29.10.421-b(3)	80	50	30	20	20	15	10	7

Tax According to Age of
Vehicle
Since Model Year

	1st	2nd	3rd	4th	5th	6th	7th	8th or over
Motor Vehicle								
(4) vehicles speci- fied in AS 28.10.421(c)(1)-(4) 5,000 pounds or less	60	50	40	30	20	15	10	5
5,001-12,000 pounds	100	90	80	70	60	50	40	30
12,001-18,000 pounds	150	140	130	120	110	100	90	80
18,001 pounds or over	200	190	180	170	160	150	140	130
(5) vehicles speci- fied in AS 28.10.421(b)(4)	100	90	80	70	60	50	40	30
(6) vehicles speci- fied in AS 28.10.421(b)(6)	8	7	6	5	4	3	2	2
(7) vehicles speci- fied in AS 28.10.421(d)(9)	60	50	40	30	20	15	10	5
(8) vehicles speci- fied in AS 28.10.421(b)(2)	60	50	40	30	20	15	10	5
(9) vehicles speci- fied in AS 28.10.421(d)(10)	40							

(c) The registration tax shall be levied, collected, enforced and otherwise administered in the same manner as provided for the registration fees in this chapter. Only one registration tax may be collected with respect to the same motor vehicle in the year for which the tax is paid.

(d) If a person has paid both the registration fee levied in AS 28.10.411 and 28.10.421 and the registration tax levied in this section, and the department determines that the payor is entitled to a refund in whole or in part of the registration tax, the department shall make the refund to which the person is entitled. A refund may not be made unless application for a refund is filed with the department by December 31 of the year following the year for which the refund is claimed.

(e) The department shall refund money collected under this section, less five per cent as collection costs, to a municipality for which the money was collected, as determined by (1) the address of residence of an individual required to pay the tax, or (2) the situs of the vehicle if the vehicle is not owned by an individual; the tax situs is the location at which the motor vehicle is usually, normally, or regularly kept or used. For the first year in which the tax is levied within a municipality, the department may retain actual costs of collection of the tax within the municipality as determined by the department.

(f) Money received by an organized borough under this section shall be allocated by the borough by ordinance for city, area outside city, and service area purposes within the borough.

(g) Payment of the registration tax is in lieu of all local use taxes and ad valorem taxes on motor vehicles subject to the tax. A municipality which elects to come under the provisions of this section may not levy use or ad valorem taxes on motor vehicles subject to the registration tax during a fiscal year in which the election is in effect.

(h) A vehicle owned by a former prisoner of war exempted from registration fees under AS 28.10.421(d) is subject to a motor vehicle registration tax under this section. § 7 ch 175 SLA 1978, and 151 SLA 1984.

Effect of amendments. — The 1984 bill is amended by substitution of amendment added subsection (h) from registration to taxation, § 7 ch 175. Collateral references. — Validity of 125 ALR 1419. statutes imposing license tax on automo-

Sec. 28.10.440. Dismantled vehicle. [Repealed. § 7 ch 175 SLA 1978.]

Sec. 28.10.441. Schedule of other fees and charges. The following fees and charges are imposed by the department for the stated services which it provides:

- (1) title fee (including transfer of title) \$ 5
 - (2) lien filing fee \$ 2
 - (3) replacement of any registration plate set, including special request plates \$ 5.
 - (4) duplicate of original certificate of title \$ 5
 - (5) duplicate of certificate of registration \$ 2
 - (6) temporary preregistration permit issued under AS 28.10.411 \$ 5
 - (7) special transport permit issued under AS 28.10.151 \$ 5
 - (8) special permit for vehicle used for transport of disabled person as provided in AS 28.10.217 \$ 5
- § 7 ch 175 SLA 1978.

Revisor's notes. — AS 28.10.441, as amended by § 7 ch 175, is referred to in § 7 of this code. § 7 ch 175, as amended by § 7 ch 175, is referred to in § 7 of this code.

Article 6. Registration and Title Violations.

Section	Section
451 Unlawful to violate provisions requiring registration and title	491 Improper use of evidence of registration or certificate of title
461 Driving vehicle without evidence of registration	491 Felonies relating to title, registration, identification number and removal and representation of titles
471 Driving vehicle when registration suspended or revoked or permit expired	493 Misdemeanors relating to titles

Collateral references. — 7A Am. Jur. 2d. Automobiles and Highway Traffic: §§ 92 to 95
 60 C.J.S. Motor Vehicles: §§ 133 to 135;
 61A C.J.S. Motor Vehicles: § 714-4
 Civil rights and liabilities as affected by failure to comply with regulations re registration of automobile: 35 ALR 111-35 ALR 62, 38 ALR 1918-43 ALR 1129-54
 ALR 174-58 ALR 332-61 ALR 1129-79
 ALR 1929-87 ALR 1469, 111 ALR 1129-163 ALR 1973

Sec. 28.10.450 Failure to endorse and deliver. Repealed. § 7 ch 173 SLA 1978.1

Sec. 28.10.451. Unlawful to violate provisions requiring registration and title. A person may not willfully attempt to defeat the provisions of this chapter or willfully fail to title or register a vehicle as required by this chapter, or otherwise willfully fail to comply with the requirements of this chapter. § 7 ch 173 SLA 1978.

Sec. 28.10.460. Required insurance. Repealed. § 7 ch 173 SLA 1978.1

Sec. 28.10.461. Driving vehicle without evidence of registration. Except as otherwise expressly permitted in this chapter, a person may not drive or move, nor may an owner knowingly permit to be driven or moved, on a highway or vehicular way or area, a vehicle required to be registered under this chapter unless valid registration plates, decals or permits for the current registration period are attached to and displayed on the vehicle in the manner required by this chapter, and unless a valid certificate of registration for the current registration period is carried, as required by this chapter, in the vehicle and is available for inspection by a peace officer or an authorized representative of the department. § 7 ch 173 SLA 1978.

Collateral references. — Lack of making it a criminal offense for the proper automobile registration as evidence operator of a motor vehicle not to carry or of operator's negligence. 73 ALR 162, 29 display his vehicle registration certificate. ALR3d 963
 9 ALR3d 506
 Validity and construction of statute

Sec. 28.10.470 Filing liens. Repealed. § 7 ch 173 SLA 1978.1

Sec. 28.10.471. Driving vehicle when registration suspended or revoked or permit expired. A person may not drive or move, nor may an owner knowingly permit to be driven or moved, on a highway

or vehicular way or area, a vehicle for which the registration or permit has been suspended or revoked or has expired. (S 7 ch 173 SLA 1975)

NOTES TO DECISIONS

Cited in *Lowry v State*, Ct. App. Op. No. 131 (File Nos. 6323, 6434, 655 P 23 750 (1952))

Sec. 28.10.480 Filing provisions. (Repealed. S 7 ch 173 SLA 1975)

Sec. 28.10.481. Improper use of evidence of registration or certificate of title. A person may not lend to another, or knowingly permit the use by another of, a certificate of registration or title, registration plate, decal, special plate, or permit issued under this chapter if the person to whom it is loaned or whose use is permitted is not entitled to its use, nor may a person display in or upon a vehicle a certificate of registration, registration plate, decal, special plate, or permit not issued for that vehicle or not otherwise lawfully used on that vehicle. (S 7 ch 173 SLA 1975)

Sec. 28.10.490. New certificate. (Repealed. S 7 ch 173 SLA 1975)

Sec. 28.10.491. Felonies relating to title, registration, identification number, and removal and representation of vehicles. A Upon conviction, a person is guilty of a felony who

(1) alters, forges or counterfeits a certificate of title or registration, or a registration plate, decal, tab or sticker of this or another jurisdiction;

(2) alters or forges an assignment of a certificate of title or an assignment or release of a security interest on a certificate of title of this or another jurisdiction or on a form the department prescribes;

(3) has possession of or uses a certificate of title or registration, registration plate, decal, tab or sticker of this or another jurisdiction knowing it to have been altered, forged or counterfeited;

(4) wilfully removes or falsifies a vehicle identification number;

(5) wilfully conceals or misrepresents the identity of a vehicle or vehicle equipment;

(6) buys, receives, possesses, sells or disposes of a vehicle or vehicle equipment, knowing that a vehicle identification number or equipment has been unlawfully removed or falsified;

(7) removes from the state a vehicle which is the subject of a security interest created under AS 28.01 — 28.35 or under AS 45.01 — 45.09 without the written consent of the secured party, and with intent to defraud the secured party or the state; or

(8) represents a motor vehicle or house trailer to be a new vehicle and who sells or procures the sale of that motor vehicle as a new vehicle without presenting a manufacturer's statement of origin;

(9) makes a false statement or otherwise conceals or withholds

material fact in an application for registration or certificate of title or falsely affirms with respect to a matter required to be sworn to, affirmed, or furnished under this chapter or regulations adopted under this chapter.

(b) A person convicted of an offense under this section is punishable by imprisonment for not less than one year nor more than five years, or by a fine of not less than \$500 nor more than \$5,000, or by both. (§ 7 ch 178 SLA 1978; am § 6 ch 54 SLA 1979)

Sec. 28.10.493. Misdemeanors relating to transfers. (a) The owner of a vehicle who transfers a vehicle and fails to comply with the requirements of AS 28.10.271 is guilty of a class B misdemeanor.

(b) A vehicle dealer who transfers a vehicle and fails to comply with the requirements of AS 28.10.291 is guilty of a class B misdemeanor. (§ 3 ch 178 SLA 1979)

Cross references. — For sentences for class B misdemeanors, see AS 12.55.035(b)(4) and 12.55.135(b).

Article 7. General Provisions.

Section	Section
495. Parking permit for vehicle transporting disabled person	502. Towing and storage lien 661. Definition of dealer

Sec. 28.10.495. Parking permit for vehicle transporting disabled person. (a) Upon application by a disabled or medically handicapped person, the department shall issue to the applicant, without charge, a special permit bearing the control number of the applicant. The permit issued under this section, when displayed in the front windshield of a parked or standing vehicle, shall provide for special consideration by the public with respect to the parking or standing in designated spaces of a vehicle which is being used for the transportation of the disabled or medically handicapped person.

(b) A person is not entitled to use the special permit provided for in (a) of this section except when providing transportation for the disabled or handicapped person with respect to whom the permit was issued.

(c) Proof of disablement or medical handicap, for the purpose of this section, shall be provided as specified in AS 28.10.181(d). (§ 24 ch 178 SLA 1978; am § 1 ch 11 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 28.10.500. Index of liens. (Repeated. § 7 ch 178 SLA 1978)

Sec. 28.10.501. (Renumbered as AS 28.10.661.)

Sec. 28.10.502. Towing and storage lien. (a) A person engaged in the business of towing motor vehicles, who tows, transports or stores

a motor vehicle, has a possessory lien on the vehicle. This lien attaches when the person acts under a contract with the owner or at the direction of a public officer acting lawfully or a person entitled to possession of the property upon which the motor vehicle is parked without consent. The lien remains in effect while the motor vehicle is in the possession of the person, and the vehicle may be sold, as provided in (c) of this section, to pay the charges for towing, transportation or storage.

(b) A lien under this section is limited to towing and storage charges assessed according to the tariff filed by the carrier with the Alaska Transportation Commission; however, in the absence of a filed tariff, the towing or storage charge shall be the same as the lowest similar charge in the other filed tariffs covering the same service or route. Storage charges cease to be part of the lien after 60 days unless the registered owner or primary lienholder, if any, has been given actual notice of the possessory lien within that time or unless a certified letter has been mailed within that time to the owner and primary lienholder, if any, at their addresses of record with the Department of Public Safety or the corresponding office in another jurisdiction in which the title to the motor vehicle and the lien on it are recorded.

(c) If the motor vehicle remains unclaimed for a period of 30 days in the possession of the person who performed the towing, transportation or storage, it shall be sold on giving 20 days notice of the sale. The notice shall be delivered to the proper officer and personally served on the registered owner and all lienholders, if any, of the motor vehicle in the same manner as provided by law for service of summons. If either of these persons cannot be located and served personally, notice of the sale shall be forwarded to the registered owner and all lienholders, if any, at their last known address by certified mail, return receipt requested. This notice shall contain a description of the motor vehicle, including its registration plate number and vehicle identification number, together with the time and place of sale, a statement of the amount due, and the name and address of the person to whom the charges are due.

(d) The money realized from a sale made under this section shall be applied first to the payment of costs and expenses of the sale and secondly to the lawful charges of the person having a lien on the motor vehicle under this section. Remaining proceeds from the sale shall be retained by the Department of Public Safety to be distributed to the registered and legal owner or lienholder entitled to the remaining proceeds. A purchaser in good faith of a titled motor vehicle sold under this section takes the motor vehicle free of any rights of prior lien. (21 ch 178 SLA 1975)

Collateral references. — 18 Am. Jur. 2d, Garages, and Parking and Filling Stations, §§ 110, 114 to 151.
 19 C.J.S., Motor Vehicles, §§ 725, 715(d), (g).

Lien for towing or storage, owned by public officer, of motor vehicle. 57 ALASKA 199

Secs. 28.10.510 — 28.10.540. *Liens: nonresident owners. [Repealed. § 7 ch 178 SLA 1978.]*

Sec. 28.10.550. *Notice of changes. [Repealed. § 20 ch 211 SLA 1976.]*

Secs. 28.10.560, 28.10.570. *Evidence: enforcement. [Repealed. § 7 ch 178 SLA 1978.]*

Sec. 28.10.580. *Lists of vehicles. [Repealed. § 29 ch 214 SLA 1975.]*

Secs. 28.10.590 — 28.10.660. *Miscellaneous offenses: general provisions. [Repealed. § 7 ch 178 SLA 1978.]*

Sec. 28.10.661. Definition of dealer. Unless otherwise specifically defined or unless the context otherwise requires, in this chapter and in regulations adopted under this chapter, "dealer" means a person engaged in the business of buying, selling or exchanging vehicles of a type required to be registered under this chapter and who maintains a place of business or by word of mouth, advertising or in any other manner represents to be in the business of buying, selling or exchanging vehicles. § 7 ch 178 SLA 1978

Revisor's notes. — Formerly AS 28.10.501. Renumbered in 1978

NOTES TO DECISIONS

As to the use of the word "dealer" in former AS 28.10.260, relating to obtaining a certificate of title as a condition to registration, see *New & Used Auto Sales Inc. v Dewey*, 14 Alaska 647

Chapter 11. Abandoned Vehicles.

Section

- 10. Abandonment unlawful
- 20. Presumption of abandonment
- 30. Removal of abandoned vehicles
- 40. Notice to owners and lienholders
- 50. Vesting of title
- 60. Redemption

Section

- 70. Disposal of abandoned vehicles
- 80. Disposal facilities
- 90. Towing and storage lien on abandoned vehicle
- 100. Municipal abatement procedure
- 110. Abandoned motor vehicle fund

Sec. 28.11.010. Abandonment unlawful. (a) A person may not abandon a vehicle upon a highway or vehicular way or area.

(b) A person may not abandon a vehicle upon public property or upon private property without the consent of the owner or person in lawful possession or control of the property.

(c) A person who abandons a vehicle in a place specified in (a) or (b) of this section is considered responsible for the abandonment of the vehicle and is liable for the cost of its removal and disposition.

**PART 4.
DIVISION OF MOTOR VEHICLES**

Chapter

70. Vehicle Registration, Title, and Transfer
(13 AAC 70.010-13 AAC 70.260)

**CHAPTER 70.
VEHICLE REGISTRATION, TITLE,
AND TRANSFER**

Article

1. Registration, Title and Transfer
(13 AAC 70.010-13 AAC 70.250)
2. General Provisions
(13 AAC 70.260-13 AAC 70.270)

**ARTICLE 1.
REGISTRATION, TITLE AND TRANSFER**

Section

10. Title and registration: burden of producing evidence of ownership on applicant
20. Title and registration: grounds for refusing title or registration or transfer of title or registration
30. Title and registration: ownership and transfer
40. Title and registration after involuntary transfer of ownership by court order
50. Title and registration after tax or customs sale
60. Title and registration after death of registered owner
70. Title and registration for a new vehicle not located in Alaska
80. Title and registration for a used vehicle
90. Title and registration for a vehicle purchased in foreign country other than Canada
100. Title and registration for vehicle purchased in Canada
110. Title and registration for assembled vehicle
120. Title and registration when no supporting evidence of ownership
130. Title and registration after dismantling or wrecking vehicle
140. Registration for vehicle registered elsewhere
150. Registration for occasional-use vehicle
160. Registration for snowmobile

170. Personalized registration plates for motor vehicles
180. Registration plates for handicapped registrant
190. Registration plates for mobile amateur radio station owner
200. Exemption from registration tax for military
210. Exemption from license tax for charitable organization
220. Refund of tax or fee
230. Satisfaction and release of liens: procedures
240. Duty of insurance company obtaining title to an unrepairable vehicle
250. Temporary operating permits

**13 AAC 70.010. TITLE AND
REGISTRATION: BURDEN OF PRODUCING
EVIDENCE OF OWNERSHIP ON APPLICANT.**

An applicant for title to and registration of a vehicle has the burden of producing evidence of ownership in all cases. The department will provide reasonable guidelines to assist applicants for title and registration whose vehicles are not listed on the state's records system. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020

**13 AAC 70.020. TITLE AND
REGISTRATION: GROUNDS FOR
REFUSING TITLE OR REGISTRATION OR
TRANSFER OF TITLE OR REGISTRATION.**

(a) The department will, in its discretion, refuse to issue title or registration or transfer title or registration if the application does not comply with the procedures established in the Alaska Motor Vehicle Act, AS 28.10 and the regulations in this chapter.

(b) If the department refuses to issue title or registration or transfer title or registration, it will promptly inform the applicant of its decision and briefly give reasons in writing for its action. An applicant may reapply after a refusal to act on an earlier application. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.110
AS 28.10.310

13 AAC 70.030. TITLE AND REGISTRATION: OWNERSHIP AND TRANSFER. (a) The department will issue title and registration in the names of all owners of a vehicle upon the application and signature of one or more of the multiple owners.

(b) Title to and registration of a vehicle recorded in the names of more than one owner in the conjunctive will not be transferred or encumbered without the signature on the title of every owner or his legally recognized representative. Title and registration in the conjunctive are signified by use of the word "and" between names of the owners listed on the certificates of title and registration.

(c) Title to and registration of a vehicle recorded in the names of more than one owner in the disjunctive will be transferred or encumbered on the signature of one or more of the multiple owners or his legally recognized representative. Title and registration in the disjunctive are signified by use of the word "or" between the names of the owners listed on the certificates of title and registration.

(d) In this section, "legally recognized representative" means any person who is the heir, beneficiary, assignee, or devisee of an owner or who holds a power of attorney signed by an owner, authorizing the holder to transfer, assign or encumber title to the vehicle. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020

13 AAC 70.040. TITLE AND REGISTRATION AFTER INVOLUNTARY TRANSFER OF OWNERSHIP BY COURT ORDER. In addition to the other requirements in AS 28.10, an applicant for title and registration after involuntary transfer by court order must submit a certified copy of a court order showing a transfer to the applicant of ownership of the vehicle. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.410

13 AAC 70.050. TITLE AND REGISTRATION AFTER TAX OR CUSTOMS SALE. (a) In addition to the other requirements in AS 28.10, an applicant for title and registration who purchased a vehicle at a tax sale

must submit a copy of a bill of sale by the United States Internal Revenue Service, the Alaska Department of Revenue, or a municipality showing that the vehicle was sold for taxes owed upon it.

(b) In addition to the other requirements in

AS 28.10, an applicant for title and registration who purchased a vehicle at a sale by the United States Customs Service must submit a copy of a bill of sale issued by it. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.410

13 AAC 70.060. TITLE AND REGISTRATION AFTER DEATH OF REGISTERED OWNER. (a) In addition to the other requirements in AS 28.10, an applicant for new title and registration after the death of the registered owner must submit the following documents:

(1) letters of administration issued to the applicant as the personal representative of the estate of the deceased; or

(2) a certified copy of a probated will or a will declared valid by an order of informal probate naming the applicant the devisee of the deceased's vehicle; and

(3) the current title to and registration of the vehicle.

(b) When the estate of the deceased can be summarily administered under AS 13.16.690, the applicant for new title and registration after the death of a registered owner, in addition to the other requirements in AS 28.10, must submit a certified copy of the closing statement for the estate showing the applicant to be the person entitled to the vehicle and current title to and registration of the vehicle. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020

13 AAC 70.070. TITLE AND REGISTRATION FOR A NEW VEHICLE NOT LOCATED IN ALASKA. In addition to the other requirements in AS 28.10, an applicant for title to and registration of a new vehicle not located in Alaska at the time of application must submit a manufacturer's certificate of origin. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020 AS 28.10.090
AS 28.10.060 AS 28.10.260

13 AAC 70.080. TITLE AND REGISTRATION FOR A USED VEHICLE. In addition to the other requirements in AS 28.10,

an applicant for title to and registration of a used vehicle must submit

(1) an affidavit affirming that the vehicle is located within the state; and

(2) current title to and registration of the vehicle, or current registration alone if the owner cannot surrender out-of-state title. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020 AS 28.10.090
AS 28.10.050 AS 28.10.260

13 AAC 70.090. TITLE AND REGISTRATION FOR VEHICLE PURCHASED IN FOREIGN COUNTRY OTHER THAN CANADA. (a) In addition to the other requirements in AS 28.10, an applicant for title to and registration of a new vehicle purchased in a foreign country other than Canada must submit the following documents:

(1) a manufacturer's certificate of origin;

(2) DOD Form 430 or AD Form 89 issued by the Department of Defense or their successor forms; and

(3) other documents reasonably required by the department in its examination of the applications for title and registration.

(b) In addition to the other requirements in AS 28.10, an applicant for title to and registration of a used vehicle purchased in a foreign country other than Canada must submit the following documents:

(1) an affidavit affirming that the vehicle is located within the state;

(2) a bill of sale or comparable document evidencing a transfer of ownership and possession to the applicant;

(3) DOD Form 430 or AD Form 89 issued by the Department of Defense, or their successor forms; and

(4) other documents reasonably required by the department in its examination of the applications for title and registration. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020 AS 28.10.090
AS 28.10.050 AS 28.10.260

13 AAC 70.100. TITLE AND REGISTRATION FOR VEHICLE PURCHASED IN CANADA. In addition to the other requirements in AS 28.10, an applicant for title to and registration of a new vehicle purchased in Canada must comply with sec. 70 of this chapter and an applicant for title and registration to a used vehicle purchased in Canada must comply with sec. 80 of this chapter. (Eff. 3/29/78, Reg. 65)

Authority: AS 20.50.090
AS 20.50.260

13 AAC 70.110. TITLE AND REGISTRATION FOR ASSEMBLED VEHICLE. In addition to the other requirements in AS 28.10, an applicant for the title to and registration of a reconstructed vehicle or a vehicle assembled from a kit must submit a receipt of purchase for the engine, transmission, drive train, frame and body and other information reasonably required by the department in its examination of the applications for title and registration. The applicant may also be required to submit his vehicle to the department for an inspection for stolen parts before the issuance of title and registration. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.050

13 AAC 70.120. TITLE AND REGISTRATION WHEN NO SUPPORTING EVIDENCE OF OWNERSHIP. In addition to the other requirements in AS 28.10, an applicant for title and registration who has no supporting evidence of ownership must submit

(1) an affidavit affirming that he is the owner of the vehicle and that no liens or encumbrances exist on it;

(2) a cash bond or surety bond, executed by a corporate surety approved by the department, posted with the state and held by it for at least two years, in the amount of the retail value of the vehicle as determined from a departmental listing; and

(3) a statement signed by the applicant holding the state harmless in all suits concerning questions of title and ownership to the vehicle and promising to indemnify the state for all

judgments against it arising out of these actions (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020

13 AAC 70.130. TITLE AND REGISTRATION AFTER DISMANTLING OR WRECKING VEHICLE. Title to and registration of a vehicle expires when it is disassembled or sold for scrap or parts. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.440

13 AAC 70.140. REGISTRATION FOR VEHICLE REGISTERED ELSEWHERE. The department will issue "No Alaska Title Issued" (NTI) registration only in the name of the owner shown on the records of the other state where the vehicle is registered. Lienholders recorded on the certificate of registration for another state will be shown on the NTI registration card issued by Alaska. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.060

13 AAC 70.150. REGISTRATION FOR OCCASIONAL-USE VEHICLE. (a) In addition to the other requirements in AS 28.10, an applicant for occasional-use registration must submit an affidavit affirming that the vehicle is used in relation to commercial fishing, mining, hunting, or farming operations and travels upon the highways less than 10 percent of its total hours of operation.

(b) No person may transfer an occasional-use registration plate to another vehicle. Upon the transfer or assignment of title to an occasional-use vehicle, the registration plates remain with the vehicle if it continues to be used as an occasional-use vehicle or must otherwise be returned to the department by the new owner.

(c) In this section, "occasional-use vehicle" means a motor vehicle as defined in AS 28.35.260(4) used in accordance with AS 28.10.127(a). (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.127

13 AAC 70.160. REGISTRATION FOR SNOWMOBILE. (a) In addition to the other requirements in AS 05.30, an applicant for registration of a snowmobile must submit a bill of sale for the vehicle. An applicant unable to

submit a bill of sale may be required to present the vehicle for an inspection of the serial number displayed on the frame and to submit an affidavit affirming that he is the owner and stating the circumstances under which he acquired ownership.

(b) When ownership of a registered snowmobile is transferred or assigned, the new owner shall notify the department of the change in ownership within 30 days and pay a transfer fee of \$2. When ownership of an unregistered snowmobile is transferred or assigned, the new owner shall notify the department of the change of ownership within 30 days and pay the original registration fee. (Eff. 3/29/78, Reg. 65)

Authority: AS 05.30.020
AS 05.30.050
AS 05.30.101

13 AAC 70.170. PERSONALIZED REGISTRATION PLATES FOR MOTOR VEHICLES. (a) The department will issue personalized registration plates for a pickup truck, van, motor home, or passenger car not used for commercial purposes.

(b) The department will not issue personalized registration plates displaying

(1) symbols in a combination identical to one already in use on a registration plate;

(2) a total of more than six or less than two symbols;

(3) the prefix "KL7";

(4) four consecutive numbers followed by two consecutive letters;

(5) three consecutive letters followed by three consecutive numbers;

(6) two consecutive letters followed by four consecutive numbers;

(7) symbols other than numbers or letters; or

(8) symbols in a combination which demeans any ethnic or racial group, carries a prurient meaning, or which is otherwise vulgar or indecent; any combination known by the department to be patently offensive to a person

of ordinary sensibilities will be considered vulgar or indecent or carrying a prurient meaning; any combination known by the department to be patently offensive to any racial or ethnic group will be considered demeaning to that group.

(c) The department will recall any personalized registration plate discovered to be in violation of subsection (b).

(d) In addition to the other requirements in AS 28.10, an applicant for personalized registration plates must submit five ranked combinations of symbols for the plates. No registrant may transfer personalized registration plates to another vehicle or person, except that a registrant may transfer plates to another vehicle registered in his name after proper application to the department. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020 AS 28.10.200
AS 28.10.120 AS 28.10.205

13 AAC 70.180. REGISTRATION PLATES FOR HANDICAPPED REGISTRANT. The department will issue only one set of special registration plates to each registrant under AS 28.10.200(b)(11). Special registration plates remain with the registrant if title or ownership to the vehicle is transferred. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.120
AS 28.10.200

13 AAC 70.190. REGISTRATION PLATES FOR MOBILE AMATEUR RADIO STATION OWNER. (a) The department will issue special registration plates containing the prefix "KL7" to a mobile amateur radio station owner. Each registrant will be issued only one set of special registration plates.

(b) In addition to the other requirements in AS 28.10, the applicant for special registration plates broadcasting on 75 meters through 10 meters must submit a copy of his amateur radio operator's license and call letters issued by the Federal Communications Commission and pay the annual license tax levied under AS 28.10.200(b)(7).

(c) In addition to the other requirements in AS 28.10, the applicant for special registration plates broadcasting on frequencies other than 75

meters through 10 meters must submit a copy of his amateur radio operator's license and call letters issued by the Federal Communications Commission and pay the annual license tax levied upon the particular type of vehicle to be registered.

(d) A registrant may use mobile amateur radio registration plates as long as he retains a qualifying amateur radio operator's license issued by the Federal Communications Commission and otherwise complies with the requirements of law. After proper application to the department, the registration plates may be placed on another vehicle containing a mobile amateur radio station. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020 AS 28.10.120
AS 28.10.060 AS 28.10.200

13 AAC 70.200. EXEMPTION FROM REGISTRATION TAX FOR MILITARY. A vehicle owned by a member of the armed forces of the United States on active duty, and a vehicle owned jointly by a member and one or more of his or her dependents, is exempt from registration if the vehicle is registered in a state of domicile other than Alaska. A vehicle owned solely by a dependent of a member of the armed forces of the United States on active duty is not exempt from registration. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
50 USC App. 574

13 AAC 70.210. EXEMPTION FROM LICENSE TAX FOR CHARITABLE ORGANIZATION. In addition to the other requirements in AS 28.10, a charitable organization applying for an exemption from the annual license tax must submit to the department, if requested by the department, a letter from the Internal Revenue Service establishing its tax exempt status. When the title to or ownership of a vehicle exempted from the annual license tax is transferred, the charitable organization shall surrender the registration plates to the department. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.210

13 AAC 70.220. REFUND OF TAX OR FEE. The department will not refund a tax or fee paid by an applicant unless the applicant can prove

that the tax or fee has already been paid for the current licensing period or can demonstrate that a refund is necessary to correct an administrative error. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020

13 AAC 70.230. SATISFACTION AND RELEASE OF LIENS; PROCEDURES. (a) A lien recorded upon the title shall immediately be released by the lienholder upon satisfaction of the lien. Upon satisfaction, the lienholder shall release or assign his interest in the vehicle to the owner.

(b) An owner of a registered vehicle upon which a lien has been satisfied and released shall, within 10 days, apply for a new title, unless title to the vehicle will be transferred or assigned within 30 days of the release of the lien. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.430
AS 28.10.450

13 AAC 70.240. DUTY OF INSURANCE COMPANY OBTAINING TITLE TO AN UNREPAIRABLE VEHICLE. An insurance company obtaining title to an unrepairable vehicle through the satisfaction of an insurance claim shall mark the word "junk" on the face of the certificate of title and surrender the current title and registration to the department. The vehicle may then be sold by a bill of sale which indicates that the title has been surrendered to the department. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020

13 AAC 70.250. TEMPORARY OPERATING PERMITS. (a) The department will, in its discretion, issue a temporary operating permit without charge to an owner of an unladen vehicle, pending action on the application for title and registration.

(b) The department will, in its discretion, issue a noncommercial trip permit for a fee as established by statute to an owner of an unladen vehicle, allowing a single continuous trip by a noncircular route for a period of time not to exceed 20 days.

(c) The department will, in its discretion, issue for a fee as set by statute a nonresident vehicle permit to an owner of a laden vehicle, allowing

the commercial operation of a vehicle registered in another state. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020
AS 28.10.290
AS 28.10.540

ARTICLE 2. GENERAL PROVISIONS

Section

260. Records of department
270. Definitions

13 AAC 70.260. RECORDS OF DEPARTMENT. (a) Certified or uncertified copies of records made within the scope of duty of an employee or representative of the department, unless specifically declared confidential by statute or regulation, will be available during regular business hours upon request and payment of a reasonable fee equal to the cost to the department of copying the record.

(b) Records of applications for title and registration and records of the denial, suspension, or revocation of the title and registration, will be retained by the department for a period of three years following the final entry in the title history or registration file for a vehicle. After three years, the commissioner will, in his discretion, destroy records of no further service in carrying out the powers and duties of the department. (Eff. 3/29/78, Reg. 65)

Authority: AS 09.25.110 AS 28.10.010
AS 09.25.120 AS 28.10.020

13 AAC 70.270. DEFINITIONS. In this chapter

(1) "department" means the Alaska Department of Public Safety;

(2) "manufacturer's certificate of origin" includes a manufacturer's statement of origin. (Eff. 3/29/78, Reg. 65)

Authority: AS 28.10.020

PART 5. VIOLENT CRIMES COMPENSATION BOARD

Chapter

80. Violent Crimes Compensation
(13 AAC 80.010-13 AAC 80.110)

CHAPTER 80. VIOLENT CRIMES COMPENSATION

Editor's Note: As of Register 71, the material formerly located in 7 AAC 77 has been transferred to 13 AAC 80, in recognition of the relocation of the Violent Crimes Compensation Board by sec. 1, ch. 87 SLA 1978. The history notes for the sections in this chapter continue the history of these provisions from their former location.

Section

10. Applications for compensation
15. Investigation and consideration
20. Hearings
30. Attorney fees
40. (Repealed)
50. Standards for compensation
60. Awarding compensation
65. Recommencing suspended proceedings
70. Finality of awards
80. Recovery from a collateral source
90. Emergency compensation
100. Recovery from an offender
110. Definitions

13 AAC 80.010. APPLICATIONS FOR COMPENSATION. (a) All applications for compensation shall be made on the form authorized by the board. The information required by the board shall be supplied in full by the claimant, or the claim may not be considered. Additional sheets may be used, as necessary, to complete descriptions of the injury, incident or expenses. For those unable to make applications for compensation themselves (e.g., minors or the mentally incompetent), claims may be filed by a parent, guardian or other individual authorized to administer the injured party's estate. The applicant shall sign his completed application under oath before a notary public.

(b) Those medical reports and examination results which are reasonably available shall be submitted by the applicant no less than 10 days before the date of the hearing. On the basis of their potential relative importance or material

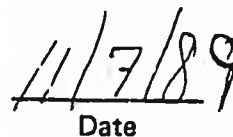


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STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB463
Title : "An Act Relating to Criminal Trials and Restitution"

Sponsor : Rep. David Thompson
Requestor : House Judiciary
Date of Request : _____

FISCAL DETAIL

Agency Affected : Public Safety
BRU : Council on Domestic Violence and Sexual Assault

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						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Barbara Miklos, Exec. Dir.
Division : Council on DV and SA

Phone : 465-4356
Date : 1/31/86

Approved by Commissioner : [Signature]
Agency : Dept. of Public Safety

Date : 2/3/86

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 *Page 1 of 2*
 Bill/Resolution No.: HB 463 #2
 Title: "An Act relating to criminal trials and restitution."
 Sponsor: Repr. Thompson
 Requestor: Repr. Thompson
 Date of Request: February 7, 1986

FISCAL DETAIL
 Agency Affected: Department of Law
 BRU: Prosecution
 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-

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by: Richard I. Pegues Phone: 465-3672
 Division: Administrative Services Division Date: 2/12/86
 Approved by Commissioner: Harold M. Brown, Attorney General Date: 2/12/86
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 463

2

Page 2 of 2

This bill expands the exceptions to the authority to compromise misdemeanors for which a victim has a civil action, under AS 12.45.120, to except certain family members and certain others having a past or present living relationship with a defendant. The bill also provides that a court may order restitution to a public or nonprofit organization that has provided counseling, medical or shelter services to the victim. Neither of these new provisions will have a fiscal impact on the Department of Law.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 463 #1

January 31, 1986

Support

HB 463 - "An Act relating to criminal trials and restitution."

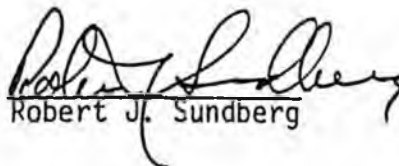
The Council on Domestic Violence and Sexual Assault supports HB 463. Following are comments about the bill.

Section I. Adds domestic violence to the list of exceptions to remedy by a civil compromise.

Many battered women do not have the money to obtain legal counsel to protect their rights under Alaska statute. They may be unknowingly led to believe that a civil compromise is the answer to "the problem" by a perpetrator's attorney. The victim believes that this is the appropriate course of action because a lawyer says so. Civil compromise gives the batterer the message that it is acceptable to use violence to solve problems with anger and frustration, because there are no long term consequences. Domestic violence cases should not be compromised in this manner.

Section II. Allows providing restitution to an organization that has provided counseling, medical or shelter services to a victim of an offense.

Since many agencies that provide services to victims have inadequate funding, additional financial support is needed. It is difficult to determine if this provision will engender much money for domestic violence programs because its use may not be appropriate in most cases. Domestic violence programs cannot reveal clients' identities without the express permission of the victim and guarantee for the victim's safety. However, there may be instances where this could be accomplished and the batterer should be held accountable to the victim and pay for harm done to her as well as services received.


Robert J. Sundberg

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB463(Rules)
 Title: "An Act relating to the authority to compromise certain misdemeanors..."
 Sponsor: Thompson, Jenkins, Uehling
 Requestor: Senate Judiciary
 Date of Request: 4/24/86

FISCAL DETAIL

Agency Affected: Public Safety
 BRU: Council on Domestic Violence and Sexual Assault
 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

Miklos

Prepared by: Barbara Miklos, Exec. Dir. Phone: 465-4356
 Division: Council on Domestic Violence & S.A. Date: 4/22/86

Approved by Commissioner: [Signature] Date: 4/22/86
 Agency: Dept. of Public Safety

Distribution (by Agency preparing fiscal note):

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

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 463

January 31, 1986

Support

HB 463 - "An Act relating to criminal trials and restitution."

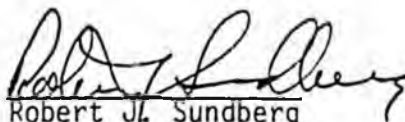
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Section II. Allows providing restitution to an organization that has ~~provided counseling, medical or shelter services to a victim of an offense.~~

Since many agencies that provide services to victims have inadequate funding, additional financial support is needed. It is difficult to determine if this provision will engender much money for domestic violence programs because its use may not be appropriate in most cases. Domestic violence programs cannot reveal clients' identities without the express permission of the victim and guarantee for the victim's safety. However, there may be instances where this could be accomplished and the batterer should be held accountable to the victim and pay for harm done to her as well as services received.


Robert J. Sundberg

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 463

This bill expands the exceptions to the authority to compromise misdemeanors for which a victim has a civil action, under AS 12.45.120, to except certain family members and certain others having a past or present living relationship with a defendant. The bill also provides that a court may order restitution to a public or nonprofit organization that has provided counseling, medical or shelter services to the victim. Neither of these new provisions will have a fiscal impact on the Department of Law.

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - CS HB 463 (Rules)

April 22, 1986

Support

CSHB 463 (Rules) - "An Act relating to the authority to compromise certain misdemeanors and to the payment of restitution."

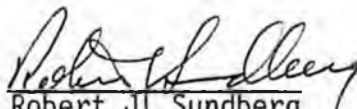
The Council on Domestic Violence and Sexual Assault supports CSHB 463 (Rules). Following are comments about the bill.

Section I. Adds domestic violence to the list of exceptions to remedy by a civil compromise.

Many battered women do not have the money to obtain legal counsel to protect their rights under Alaska statute. They may be unknowingly led to believe that a civil compromise is the answer to "the problem" by a perpetrator's attorney. The victim believes that this is the appropriate course of action because a lawyer says so. Civil compromise gives the batterer the message that it is acceptable to use violence to solve problems with anger and frustration, because there are no long term consequences. Domestic violence cases should not be compromised in this manner.

Section II. Allows providing restitution to an organization that has provided counseling, medical or shelter services to a victim of an offense.

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Robert J. Sundberg

Sectional Analysis

CSHB 463 (Rules) am

Prepared by: Patrick W. Conheady
Assistant Attorney General
Criminal Division
Alaska Department of Law

This legislation accomplishes four separate but related purposes. First, it precludes the use of the civil compromise statute, AS 12.45.120, to compromise, and thus have dismissed, domestic assaults. Second, it authorizes shelter organizations and other agencies which provide medical or counseling services to victims to collect restitution when their services are provided to the victim in a certain case. Third, when ordering restitution as a result of a criminal conviction, it creates a presumption in favor of the offender's ability to pay restitution. Fourth, in a post conviction proceeding brought to enforce restitution or fines, it shifts the burden of proving inability to pay from the state to the offender.

Discussion

Section 1. This section amends the civil compromise statute to preclude civil compromise in domestic assaults. Civil compromise is the process whereby the offender and the victim agree to settle the matter that gave rise to the criminal charges in a non-criminal manner.

This section has the effect of overturning the Court of Appeals decision in State v. Nelles. Op. No. 578 (Alaska App., Feb. 7, 1986). This case upheld the statutory right to civilly compromise domestic assaults.

The civil compromise concept originated in an 1813 New York Statute, which sought to encourage amicable resolution of disputes that were primarily private in nature. The policy underlying the civil compromise statutes was explained by the New York Commissioners on Practice and Pleading in 1849:

There are many cases, which are technically public offenses, but which are in reality rather of a private than a public nature, and where the public interests are better promoted by checking than by encouraging criminal prosecutions.

Presumably, our society has advanced and matured since 1813. At that time certain of our citizens were considered property rather than persons. Women were not even accorded the right to vote. We have improved in those areas.

The traditional position, universal until this century is that what goes on within the home is exempt from public scrutiny or jurisdiction. If a husband beats his wife or if parents abuse their children, that is a private matter. Certainly this society has recognized within the past few years that domestic assaults are no longer a private matter. Domestic assaults

should not go unpunished merely because the victims wish to withdraw their complaints in the hope that no further abuse will occur.

As was stated in the U.S. Attorney General's Task Force on Family Violence in 1984:

The tragedy of family violence goes beyond the pain of any single episode. The research of the last decade has demonstrated the frightening degree to which family violence is cyclical in nature, with violence in one generation begetting violence in the next. Children in violent homes "learn" violence in much the same way they learn any other behavior. They observe that violence is a normal way for people to treat one another and a normal way to solve problems. The family violence that occurs today is a time bomb that will explode years later as abused children become abusers of their own children or other children, and as children who watch one parent hitting the other repeat the example in their own relationships or the community.

The costs of this violence and its transmission through the generations are intolerable, however they may be counted. The human costs in suffering are the most obvious and the most immediately tragic. But there are other incalculable costs as well for society as a whole. The family is the fundamental unit upon which society is built. When families are unable to function as the healthy, protective, nurturing institution that America has always depended upon, it should come as no surprise that community problems -- crime, drug and alcohol abuse, dropouts from education and from the workplace -- have been growing.

The ultimate task is to break the cycle and to prevent family violence from occurring.

Section 2. This section amends the existing restitution statute, AS 12.55.045(a) in two ways. First, it permits the court to order restitution to shelter organizations or other agencies which provide medical or counseling services to a victim. Restitution in these situations is limited to occurrences where service has been provided to the victim without cost. As the law is currently structured an organization such as a shelter who provides service to a victim is probably not an aggrieved party, and thus would not be eligible to receive restitution.

The second change in this section deletes existing statutory language which requires the sentencing court to make affirmative findings before restitution is ordered at sentencing. As explained by the Alaska Supreme Court in Karr v. State, 686 P.2d 1192 (Alaska 1984) "... the trial court may not set restitution unless it first determines ... earning capacity and determines that restitution award to be set will be within the defendant's ability to pay." (emphasis added) In sum, existing language requires a predictive judgment by the sentencing court on matters oftentimes particularly within the control of the offender. Absent this affirmative finding, restitution orders are presumptively invalid.

In the practical world of criminal proceedings, most restitution orders occur in misdemeanor cases, a good portion of which are resolved at the initial court appearance with guilty pleas. In this situation, the court does not have the benefit of an extensive presentence investigative report from which to make the predictive judgment, and the affirmative findings required by current statute as a precursor to valid restitution orders only increases the court's workload during criminal proceedings.

By repealing this language, orders of restitution become presumptively payable by offenders. In those situations when the offender is a true indigent, without any prospects or possibilities of paying restitution, the offender can raise the issue and demonstrate this inability to the sentencing court.

Section 3. The amendments to this section address the proceedings which occur when the offender fails to pay restitution or a fine. Under current law, the state has the burden to show first, that the offender didn't pay, and second, that the failure to pay was because of bad faith on the part of the offender (intentional refusal or failure to pay). As currently structured the state must prove information that is particularly within the control of the criminal, i.e. that the offender did have the ability to pay restitution, but simply refused or failed to do so for no legitimate reason.

Under the changes contained in Section 3 the state would still be required to prove that the offender didn't pay, but then the burden would shift to the criminal to show that there was a lawful excuse for not paying. With this amendment when restitution is not paid to a victim, the state does not have to engage in an extensive investigation into the offender's affairs in order to also prove the bad faith failure to pay. Rather, the offender who has a lawful excuse for not paying, needs to merely present evidence of that lawful excuse to the court. Then only those who fail to pay for bad faith reasons are penalized under the law; not the victim, nor the state.

PWC:ejf:01a



District Court

State of Alaska

FOURTH JUDICIAL DISTRICT
604 BARNETTE STREET, RM. 329
FAIRBANKS, ALASKA
99701

Chambers of
JANE F. KAUVAR, Judge

April 9, 1986

Louann Cutler
P.O. Box "V"
Juneau, Alaska 99811

Re: House Bill 463

Dear Ms. Cutler:

I am writing to oppose the passage of House Bill 463, as it limits the power of the judiciary to act. I believe that this is not in the best interest of the victims or defendants in domestic violence cases, despite certain special interest groups assertions to the contrary.

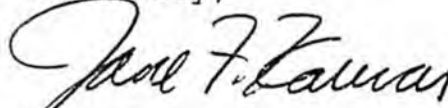
First, I do not believe that I have ever abused the power to allow a civil compromise, and in fact, have used it sparingly. In cases of repeated violence, I do not know of any time I have granted such a compromise. In other cases, I have insisted on meeting with the victim personally and tried to work out a compromise that involves more than just "dropping the charges." This often involves a waiting period while the defendant receives violence and or alcohol counselling.

I understand that the proponents of the Bill believe that they know what is best for the victim and defendant, and that their beliefs should override that of the judiciary. However, I do not agree that limiting the power of the judiciary in this case will accomplish the goal of ending domestic violence. I do feel strongly that this sets a dangerous precedent.

Page two

I have discussed this with Judge Crutchfield and Judge Zimmerman and they concur with my views. If you have any questions I would be glad to discuss it with you. I hope that you will consider soliciting views of the judiciary before passing this Bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eane F. Kauvar".

Eane F. Kauvar
District Court Judge

DISTRICT 27:
AKHIOK
CHIGNIK
CHIGNIK LAGOON
CHIGNIK LAKE
CHINIAK
IVANOF BAY
KARLUK
KODIAK
LARSEN BAY
OLD HARBOR
OUZINKIE
PERRYVILLE
PORT LIONS
WOMENS BAY

Alaska State Legislature



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-2487
(907) 465-2498

P.O. BOX 75
KODIAK, ALASKA 99615
(H) (907) 486-4899
(LIO) (907) 486-8116

Representative
Dave Thompson

M E M O R A N D U M

TO: Senator Pat Roday
Chairman
Senate Judiciary Committee

DATE: April 17, 1986

FROM: Representative Dave Thompson *DT* SUBJ: CSHB 463 (Rules)

Please hear CSHB 463 (Rules) in the Senate Judiciary Committee as soon as possible.

Thank you for your attention to this matter.

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - CS HB 463 (Rules)

April 22, 1986

Support

CSHB 463 (Rules) - "An Act relating to the authority to compromise certain misdemeanors and to the payment of restitution."

The Council on Domestic Violence and Sexual Assault supports LSHB 463 (Rules). Following are comments about the bill.

Section I. Adds domestic violence to the list of exceptions to remedy by a civil compromise.

Many battered women do not have the money to obtain legal counsel to protect their rights under Alaska statute. They may be unknowingly led to believe that a civil compromise is the answer to "the problem" by a perpetrator's attorney. The victim believes that this is the appropriate course of action because a lawyer says so. Civil compromise gives the batterer the message that it is acceptable to use violence to solve problems with anger and frustration, because there are no long term consequences. Domestic violence cases should not be compromised in this manner.

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Robert J. Sundberg

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : C5HB463(Rules)
 Title : "An Act relating to the authority to compromise certain misdemeanors..."
 Sponsor : Thompson, Jenkins, Uenling
 Requestor : Senate Judiciary
 Date of Request : 4/24/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Council on Domestic Violence and Sexual Assault
 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

K. Miklos

Prepared by : Barbara Miklos, Exec. Dir.
 Division : Council on Domestic Violence & S.A.

Phone : 465-4356
 Date : 4/22/86

Approved by Commissioner : *[Signature]*
 Agency : Dept of Public Safety

Date : 4/22/86

Distribution (by Agency preparing fiscal note):

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

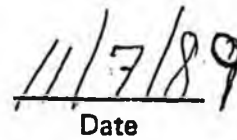


RECORDS CERTIFICATION



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

H B

4 7 1

BILL CONTACT/ACTION

DATE	CONTACT/ACTION
4/22	NOTIFIED PERCY GOIL 4/17
	PUBLIC SAFETY 4322 JIM WARDEN
	H&SS 3030 NORMA LANG
4/28	called REP GOIL
	JIM WARDEN
	NORMA LANG
4/30	NOTIFIED AT WING TODAY!
	DHSS
	REP GOIL
	WARDEN

NOTIFIED OF
4/24
MEETING



STATE OF ALASKA
HOUSE OF REPRESENTATIVES

M E M O R A N D U M

April 16, 1986

TO: Senator Pat Rodey
Chairman
Senate Judiciary Committee

FROM: Representative Peter Goll *Peter Goll*

SUBJECT: HB 471

House Bill 471, relating to the reporting of child abuse, was introduced on the recommendation of the Departments of Law and Public Safety. It is considered a top legislative priority of these agencies, the Department of Health and Social Services, and local law enforcement personnel.

The legislation plugs a major loophole in the state's reporting requirements for cases of suspected child abuse.

Under present law, certain professionals who deal frequently with children, such as physicians, day care providers and teachers, are required to report cases of suspected child abuse by parents or individuals who are legally responsible for the child's welfare. HB 471 simply requires the same professionals to report all cases of suspected child abuse, regardless of who might be responsible.

The effect of the bill will be to permit reporting of harm to a child without the need to make an accusation against any particular person.

The measure passed the House by a 36-2 vote. In addition to the state agencies mentioned earlier, HB 471 has been strongly endorsed by the Council on Domestic Violence and Sexual Assault, the Network on Domestic Violence and the Alaska Women's Lobby. It also also received positive recommendations from members of the Senate Health, Education and Social Services Committee.

I respectfully request that you schedule a Judiciary Committee hearing on the legislation as soon as possible. Thank you for your cooperation.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSSSHB471 (Jud)
 Title : "An Act relating to the abuse & exploitation of children"
 Sponsor : Representative Goll
 Requestor : House Rules
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Council on Domestic Violence and Sexual Assault
 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						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Barbara Miklos, Exec. Director Phone : 465-4356
 Division : Council on DV/SA Date : 3/19/86

Approved by Commissioner : [Signature] Date : 3/21/86
 Agency : Dept of Public Safety

Distribution (by Agency preparing fiscal note):

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

Hein
4/29/86

Original sponsors: Goll, Gruenberg
and Szymanski

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (Judiciary)
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 abuse and exploitation of
7 children."

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

9 * Section 1. AS 11.41.434(a) is amended to read:

10 (a) An offender commits the crime of sexual abuse of a minor in
11 the first degree if

12 (1) being 16 years of age or older, the offender engages in
13 sexual penetration with a person who is under 13 years of age or aids,
14 induces, causes, or encourages a person who is under 13 years of age
15 to engage in sexual penetration with another person; [OR]

16 (2) being 18 years of age or older, the offender engages
17 in sexual penetration with a person who is under 18 years of age and
18 who

19 (A) is entrusted to the offender's care by authority
20 of law; or

21 (B) is the offender's son or daughter, including an
22 illegitimate or adopted child, or a stepchild; or

23 (3) being 18 years of age or older, the offender engages in
24 sexual penetration with a person who is 13, 14, or 15 years of age and
25 the offender

26 (A) is cohabiting in an ongoing spousal relationship
27 with the person's parent, guardian, foster parent, or other
28 custodial caretaker; and

29 (B) exercises parental authority over the person.

1 * Sec. 2. AS 11.41.436(a) is amended to read:

2 (a) An offender commits the crime of sexual abuse of a minor in
3 the second degree if

4 (1) being 16 years of age or older, the offender engages in
5 sexual penetration with a person who is 13, 14, or 15 years of age and
6 at least three years younger than the offender, or aids, induces,
7 causes or encourages a person who is 13, 14, or 15 years of age and at
8 least three years younger than the offender to engage in sexual pene-
9 tration with another person;

10 (2) being 16 years of age or older, the offender engages in
11 sexual contact with a person who is under 13 years of age or aids,
12 induces, causes, or encourages a person under 13 years of age to
13 engage in sexual contact with another person;

14 (3) being 18 years of age or older, the offender engages in
15 sexual contact with a person who is under 18 years of age and who

16 (A) is entrusted to the offender's care by authority
17 of law; or

18 (B) is the offender's son or daughter, including an
19 illegitimate or adopted child, or a stepchild; [OR]

20 (4) being 16 years of age or older, the offender aids,
21 induces, causes, or encourages a person who is under 16 years of age
22 to engage in conduct described in AS 11.41.455(a)(2) - (6); or

23 (5) being 18 years of age or older, the offender engages in
24 sexual contact with a person who is 13, 14, or 15 years of age and the
25 offender

26 (A) is cohabiting in an ongoing spousal relationship
27 with the person's parent, guardian, foster parent, or other
28 custodial caretaker; and

29 (B) exercises parental authority over the person.

1 * Sec. 3. AS 47.17.020 is amended by adding a new subsection to read:

2 (e) A person listed in (a) of this section, who in the perfor-
3 mance of the person's occupational duties has cause to believe that a
4 child has suffered harm as a result of abuse, shall promptly report
5 the harm to the nearest law enforcement agency if the person making
6 the report (1) has cause to believe that the harm was caused by a
7 person who is not responsible for the child's welfare; or (2) is
8 unable to determine (A) who caused the harm to the child; or (B)
9 whether the person who is believed to have caused the harm has respon-
10 sibility for the child's welfare. If a person making a report under
11 this subsection cannot reasonably contact the nearest law enforcement
12 agency, and immediate action appears necessary for the well-being of
13 the child, the person shall make the report to the nearest office of
14 the department. The department shall take immediate action to protect
15 the child and shall, at the earliest opportunity, notify the nearest
16 law enforcement agency. In this subsection, "abuse" means the phys-
17 ical injury, sexual abuse, sexual exploitation, or maltreatment of a
18 child by any person under circumstances that indicate that the child's
19 health or welfare is harmed or threatened.

20 * Sec. 4. AS 47.17.070(10) is amended to read:

21 (10) "sexual exploitation" includes [MEANS]

22 (A) allowing, permitting, or encouraging [PERMISSION
23 OR ENCOURAGEMENT TO] a child to engage in [FOR] prostitution
24 prohibited by AS 11.66.100 - 11.66.150, by a person responsible
25 for the child's welfare;

26 (B) allowing, permitting, encouraging, or engaging in
27 [PERMISSION, ENCOURAGEMENT, OR] activity [INVOLVED IN THE UNLAW-
28 FUL EXPLOITATION OF A MINOR] prohibited by AS 11.41.455(a)
29 [11.41.455], by a person responsible for the child's [MINOR'S]

1 welfare.

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STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

March 21, 1986

BILL SHEFFIELD, GOVERNOR

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
POUCH KC
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

The Honorable Peter Goll
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Re: HB 471, "An Act relating to the abuse and
neglect of children."

Dear Representative Goll:

Under existing law (AS 47.17.020(a)), certain professional persons such as doctors, social workers, and school teachers are required to report suspected cases of child abuse or neglect to the Department of Health and Social Services. These reporting requirements apply, however, only if the person required to report suspects that the harm to the child was caused by "a person who is responsible for the child's welfare," such as a parent or guardian. See AS 47.17.070(2) and (8).

HB 471 adds a new subsection (e) to existing AS 47.17.020, to require that the professional persons listed in AS 47.17.020(a) report all cases of suspected child abuse, regardless of the identity of the perpetrator. This is a beneficial change to existing law, as often a school teacher or day care worker who suspects that a child is being physically or sexually abused may have no knowledge as to the identity of the perpetrator. Under this new provision, unless there is reason to suspect that the perpetrator is a parent or guardian, reports of harm to a child would be made to the nearest law enforcement agency.

The law should not place teachers, nurses, or day care workers in a position where they must try to guess the identity of the abuser in order to decide if they are required to report their concern for a battered or sexually abused child. Under this bill, such persons would make a report, either to DHSS or to a local law enforcement agency, and social workers and/or police officers would then conduct an investigation to find out whom, if anyone, has been mistreating the child.

The Honorable Peter Goll

March 21, 1986

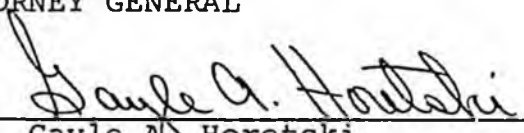
Page -2-

The Department of Law supports this tightening of the reporting requirements, contained in § 1 of all four versions of the bill. The protection of the law should be accorded to all abused or mistreated children, regardless of whether the perpetrator of the abuse is the child's parent, other relative, scout leader, babysitter, or a total stranger.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:



Gayle A. Horetski
Assistant Attorney General

GAH/gb-09

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - CS SS HB 471 (Judiciary)

March 19, 1986

Support

CSSSHB471(Judiciary) - "An Act relating to the abuse and neglect of children."

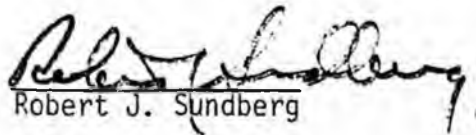
The Council on Domestic Violence and Sexual Assault supports CS SS HB-471 (Judiciary) which adds a new section requiring that reports of harm to children caused by persons not responsible for the child's welfare be reported to law enforcement agencies. Existing legislation requires only reporting child abuse committed by persons responsible for a child's welfare.

Recent cases in Alaska and national studies show that non-familial child sexual assault is a major problem. In a study of child sexual abuse conducted by Dr. Anne Russell, an expert on adult and child sexual assault, 11 percent of the perpetrators were total strangers, 29 percent were relatives and 60 percent were known but unrelated to the victim.

It has been assumed that people accept their responsibility to report crimes against children to law enforcement agencies. However, this has not always proven to be the case. People may be reluctant to become involved with the criminal justice system because of the time required for the process. This reluctance is exacerbated in small communities where the alleged perpetrator is a peer and possibly a friend. This legislation provides a needed incentive to assure reporting of all assaults against children.

In order to more fully guarantee protection of children, all suspicions of child abuse should be investigated so the abuse can be stopped and the child and her/his family can receive the necessary support and treatment to overcome the trauma.

A suggested change to be made in the bill is to make the language in the bill that refers to the "nearest law enforcement agency" consistent with the language in the existing statute 47.17.020(c), to make reports to "a peace officer".


Robert J. Sundberg

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

BILL SHEFFIELD, GOVERNOR

POUCH N
JUNEAU, ALASKA 99811
PHONE: (907) 465-4356

OFFICE ADDRESS: 450 WHITTIER STREET

October 31, 1985

The Honorable Mike Miller, Chair
House Judiciary Committee
Alaska State Legislature
Capitol Building
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

I've learned about your interim hearings to address legislation to further protect children. Thank you for the attention your committee has and continues to pay to these issues. I cannot attend the hearings on November 21-23, so I am writing this letter to provide input to your process.

The Council on Domestic Violence and Sexual Assault is grateful for the legislation regarding child protection that passed last session. It clarified and closed gaps in existing legislation. One section of HB88 that did not pass, which we feel is important, required reporting of child abuse committed by an individual who is not responsible for the child's welfare. Section 18 of the original HB88 amended AS 47.17 to address what we consider a major gap in the existing system.

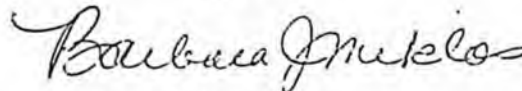
AS 47.17.02 requires reporting to the Department of Health and Social Services if "in the performance of their professional duties", a person listed in statute has "cause to believe that a child has suffered harm as a result of abuse or neglect". Section 47.17.070(i) defines child abuse or neglect as "the physical injury or neglect, sexual abuse, sexual exploitation or maltreatment of a child...by a person who is responsible for the child's welfare..." Therefore, there is no existing mandate for a professional to report abuse by a non-caretaker. For instance, a teacher who has reason to believe that another teacher is harming a child is not mandated to report.

Although, national statistics show that most abuse occurs in the home, it is obvious from talking to Alaskan professionals and reading the newspaper and police reports that there are many non-family incidences in our state. Often parents can and do take action if a non-family member is abusing the child. However, they may not know that abuse is occurring or where to turn if it does. Reporting these crimes will further protect children.

Representative Mike Miller
October 31, 1985
Page Two

We also feel it is necessary for the system to address the emotional needs of the child victims and families when abuse is by a person who is not responsible for the child's welfare. Presently, in Alaska, there are insufficient support and treatment resources for these cases. Domestic violence and sexual assault programs provide support, assistance and, in some cases, counseling to victims and their families. However, these services are severely limited due to insufficient funding. In order to address the needs of all victims and their families, legislation must address child protection adequately and resources must be provided so children throughout the state are given the services they need to grow up to be healthy adults.

Sincerely,



Barbara Miklos
Executive Director

cc: Members, Council on Domestic
Violence & Sexual Assault

Council funded programs

POSITION PAPER

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (HESS)

For an Act entitled: "An Act relating to the abuse and neglect of children."

The bill as originally proposed would add to and clarify the responsibility of persons now required to report instances of suspected child abuse or neglect. It would make reporting mandatory in suspected instances of child abuse or neglect involving perpetrators who are not responsible for the child's welfare or in situations in which the perpetrator is unknown. The current statute requires that specified persons report only when it is suspected that the person responsible for the child's welfare is the perpetrator.

The amendment also requires that reports of abuse or neglect of this nature be reported to the nearest law enforcement agency, as distinguished from reports involving perpetrators within the family, which are reported to the Department of Health and Social Services.

The HESS Committee Substitute also added a new section two which would amend AS 47.17.070(10) to broaden the definition of sexual exploitation. Our goal is to meet the federal model language for defining sexual exploitation and, thereby, close a possible loophole in the present definition. Under the current definition, a caretaker could be aware that a child was involved in sexually exploitative activities, but still not be held liable because, although aware, the caretaker did not actually give permission for the child to engage in the activity. Suggested language would not require affirmative action by the caretaker, and the department supports section two.

The department continues to support this bill.

RECOMMENDED:

Michael L. Price
Michael L. Price, Director
Division of Family
and Youth Services

DATE:

March 12, 1986

APPROVED:

John R. Pugh
for John R. Pugh, Commissioner
Department of Health
and Social Services

DATE:

March 12, 1986

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

130 Seward, No. 501 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC);
Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG);
Cordova Women's Resource Center (CWRC); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRC); ME-1, Inc.;
Men's Support Network (MSN); Safe & Fear-Free Environment (SAFE);
Sikans Against Family Violence (SAFV);
Southwestern Alaska Council for the
Prevention of Child Sexual Assault (SWACPSA);
South Peninsula Women's Services (SPWS);
Tundra Women's Coalition (TWC); Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WICCA);
Women in Sale Homes (WISH); Women's Resource & Crisis Center (WRCC)

POSITION PAPER: HB 471

The Alaska Network on Domestic Violence and Sexual Assault is a membership organization composed of 19 programs that provide domestic violence and sexual assault services throughout the state. We provide member programs with training, technical assistance and information concerning current issues in the field.

The Network supports House Bill 471. Statistics from the U.S. Dept. of Justice's National Symposium, Oct., 1984 (unpublished report), reveal that in 1984, 1 in 3 females and 1 in 4 males between the ages of 3 to 18 years had been sexually abused. 64 percent of these children were abused by non-family members. Most other studies indicate a significantly higher incidence of abuse outside of the family. Further research reports indicate that in 76 to 90 percent of all reported cases of child sexual abuse, the offender is either a relative or is known to the victim (Finkelhor, 1978; U.S. Dept. of Justice Symposium, 1984; Conte and Berliner, 1981). Taken together, the research infers that most reported offenses are committed by non-family members who are known to the children.

Many of the same factors that make it unlikely a child will report an incest violation also operate for a child who has been abused by someone they know. People sometimes find it difficult to accept this possibility and believe a child, a child is embarrassed and fears other repercussions. This can be especially true in Alaska's small villages and towns where many people have known each other for the better part of their lives.

The Network feels it is essentially sound public policy to clearly define child abuse as unacceptable behavior whether it occurs inside or outside of the family. We feel that this legislation moves us closer towards this goal by helping to ensure that cases of child abuse will be reported whether or not they occur within or outside of the family.

In fact, we believe that in many instances this legislation may make it easier for required reporters to report. These reporters will no longer be put in the position of "accusing the family" since they will be required to report suspected abuse irregardless of whether it occurred inside or outside of the family. It will be up to others who work in the field to make a determination as to who the abuser might be.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL AMENDMENT REPORT

DEPARTMENT Health & Social Serv.	DIVISION <i>Mental & Phys</i> Family & Youth Serv.	BILL NUMBER HB 471	SPONSOR
DEPARTMENT POSITION Support			
PREPARED BY	DATE	COMMISSIONER'S SIGNATURE <i>John By</i>	DATE 3/21/84

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Public Safety	CONSTITUENT GROUP(S) AFFECTED BY BILL Child victims of sexual exploitation and perpetrators.
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

CHANGE IN FISCAL IMPACT: NO YES - NEW FISCAL NOTE ATTACHED

COMPARISON TO LAST VERSION/PROGRAM EFFECTS

For an Act entitled: "An Act relating to the abuse and neglect of children."

The bill as originally proposed would add to and clarify the responsibility of persons now required to report instances of suspected child abuse or neglect. It would make reporting mandatory in suspected instances of child abuse or neglect involving perpetrators who are not responsible for the child's welfare or in situations in which the perpetrator is unknown. The current statute requires that specified persons report only when it is suspected that the person responsible for the child's welfare is the perpetrator.

AMENDMENTS PROPOSED

The amendment requires that reports of abuse or neglect of this nature be reported to the nearest law enforcement agency, as distinguished from reports involving perpetrators within the family, which are reported to the Department of Health and Social Services.

The HESS Committee Substitute also added a new section two which would amend AS 47.17.070(10) to broaden the definition of sexual exploitation. Our goal is to meet the federal model language for defining sexual exploitation and, thereby, close a possible loophole in the present definition. Under the current definition, a caretaker could be aware that a child was involved in sexually exploitative activities, but still not be held liable because, although aware, the

Amendments Proposed (Continued)

caretaker did not not actually give permission for the child to engage in the activity. Suggested language would not require affirmative action by the caretaker, and the department supports section two.

ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

March 6, 1986

Honorable Mike M. Miller, Chairman
House Judiciary Committee

Mr. Chairman and members of the committee:

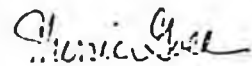
The Alaska Women's Lobby would like to express it's strong support for HB 471 which addresses a serious loophole in the state's reporting statute on child abuse and neglect.

The flaw requires that the person who recognizes that a child has suffered harm must first make a determination of who caused the harm and is only required to report if they believe the harm was caused by a person responsible for the child's welfare.

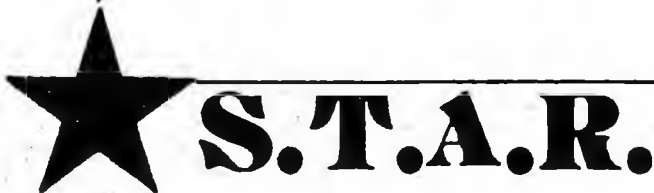
This legislation addresses that flaw by requiring that all suspected cases of child abuse and neglect must be reported regardless of who may have caused the harm. It also clarifies the definition of child sexual exploitation.

We believe the changes provided by HB 471 will benefit the welfare of Alaskan children and we urge it's passage.

Thank you for your consideration.



Sherrie Coll
Alaska Women's Lobby



Bus. 276-7279
24-hr.
Crisis 276-RAPE

April 3, 1986

Senate Judiciary Committee
Pouch V
Juneau, AK 99811

RE: HB 471

Dear Senator Pat Rodey, Chair
Senator Tim Kelly, Vice-Chair
Senator Jan Faiks
Senator Rick Halford
Senator Robert Zeigler

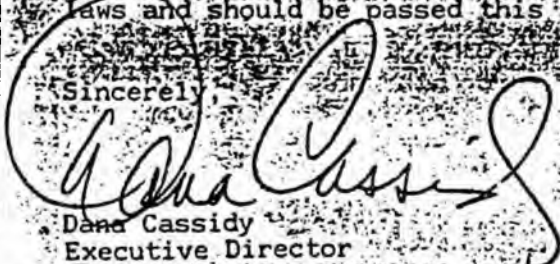
Standing Together Against Rape, Inc., (S.T.A.R.), is the Anchorage sexual assault crisis agency providing services which include a 24-hour crisis line, legal and medical accompaniment, and information on sexual assault to the Municipality and the State since May 1978.


We are writing in strong support of HB 471, a bill which provides for the reporting of child abuse, whether or not the abuse is by someone "responsible for the child's welfare."

As you may already know, our present child abuse reporting law is perplexing, allowing reporting if someone suspects child abuse has been committed by someone responsible for the child's welfare. For citizens wishing to report, the dilemma of ascertaining whether or not the abuse is by someone responsible for the child's welfare is confusing. HB 471 would provide for reporting of all suspected child abuse, regardless of whether or not the citizen reporting has knowledge of who is responsible. This bill also encourages proper authorities versus a private citizen to determine who is responsible for the abuse.

We urge passage of HB 471 when it comes before the Senate Judiciary Committee. HB 471 provides for clarity in existing child abuse reporting laws and should be passed this session.

Sincerely,


Dana Cassidy
Executive Director


Carrie D. Longoria
Legal Advocate

CL/sjl

STANDING TOGETHER AGAINST RAPE
PO BOX 103366 ANCHORAGE, ALASKA 99510

A M E N D M E N T

Offered in the SENATE

By Rodey

TO: SCS CSSSHB 471(Rules)

Page 1, lines 9 - 16:

Delete all material.

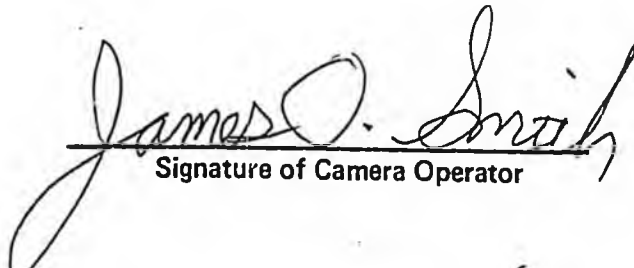
Renumber remaining bill sections.

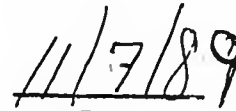


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Signature of Camera Operator


Date

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4 76

BILL CONTACT/ACTION

DATE	CONTACT/ACTION
5/9	MIMMILLER (4990)
	DIV. INS. (255)

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

ATTORNEYS AT LAW

ONE SEALASKA PLAZA, SUITE 303

JUNEAU, ALASKA 99801

TELEPHONE (907) 586-5912

JOHN C. HUGHES
OF COUNSEL

509 WEST THIRD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-7522
CABLE ADDRESS: DENALI
TELECOPIER: 274-7525
TELEX: 090-26367

590 UNIVERSITY AVE., SUITE 200
FAIRBANKS, ALASKA 99709
TELEPHONE (907) 479-3161
CABLE ADDRESS: DENALI
TELECOPIER: 479-8478

200 CHENEGA STREET
P.O. BOX 767
VALDEZ, ALASKA 99686
TELEPHONE (907) 835-2088

DAVID H. THORSNESS
RICHARD O. GANTZ
JAMES M. POWELL
BRIAN J. BRUNDIN
MARCUS R. CLAPP*
KENNETH R. JACOBUS
GARY W. GANTZ
JERRY E. MELCHER
JOE M. HUDDLESTON
SIGURD E. MURPHY
RICHARD D. THALER
CARL J. D. BAUMAN
FRED B. ARVIDSON
DENNIS M. BUMP*
MARY K. HUGHES
FRANK A. PFIFFNER
RALPH R. BEISTLINE*
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R. CRAIG HESSER
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JAMES M. GORSKI
TIMOTHY R. BYRNES
JAMES M. SEEDORF
RONALD E. NOEL*
FREDERICK J. ODSER
MICHAEL L. LESSMEIER**
STEVEN S. TERVOOREN
MATTHEW K. PETERSON

JOSEPH R. D. LOESCHER
KENNETH D. LOUGEE*
EARL M. SUTHERLAND
JOHN B. THORSNESS
GREGORY W. LESSMEIER*
JOHN V. ACOSTA*
DONNA P. WALKER***
WILLIAM M. WALKER***
DANIEL M. WOLD
DAVID S. CARTER
MARILYN MAY
LAWRENCE V. ALBERT
JOHN G. FRANK**
ANN S. BROWN*
BRIAN D. BJORKQUIST
JAMES N. BARKELEY
THOMAS R. LUCAS
TIMOTHY R. REDFORD
DAVID W. RIDENOUR
SHELDON E. WINTERS**
DOUGLAS R. SMITH
JOHN J. NOVAK
JOHN H. TINDALL
DAVID H. KNAPP
MICKALE C. CARTER
JOSEPH S. SLUSSER*
JAMES F. KLASER

May 1, 1986

* FAIRBANKS OFFICE
** JUNEAU OFFICE
*** VALDEZ OFFICE

Senator Patrick M. Rodey
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: House Bill 476

Dear Senator Rodey:

I am writing to you on behalf of State Farm Insurance Company and Allstate Insurance Company regarding House Bill 476, which was passed by the Senate Community and Regional Affairs Committee today, May 1, 1986. This bill deals with premium increases in automobile insurance policies, and was introduced at our request to correct an ambiguity in AS 21.36.420, which was added by the legislature in 1984 via House Bill 16. We enclose herewith a copy of AS 21.36.420 for your information.

The ambiguity House Bill 476 was designed to correct is contained in subsection (d) of AS 21.36.420:

An insurer that increases the premium or adds a surcharge to an automobile insurance policy shall give written notice of the increase or surcharge at least 15 days before it takes effect, stating the reason for the change and the right of appeal under AS 21.39.090.

If this subsection is read literally, it could be interpreted to require an insurer to send an insured a statement of reasons for change in premium and a statement of the notice of right to appeal every time a premium is

increased, regardless of the reason for the premium increase. Such a requirement would significantly affect the practical consequences of the way we presently do business. For example, when a general rate increase is approved by the Division of Insurance, our insureds receive at least fifteen days notice of this increase, and a brief explanation of the reasons for the increase. To present an insured with a statement telling them that they have a statutory right to appeal a premium increase already approved by the Division of Insurance is illusory, because the Department has already approved the increase. It in fact would be illegal for us to charge anything but the approved rate. To suggest by means of a notice that our insured has a right of appeal not only is misleading, but could generate wasteful litigation and/or administrative hearings.

The more practical problems we face are where our insured calls and tells us that he has either added a youthful driver to his policy or purchased a new car. If we follow the literal dictates of the present statute, we simply would not be able to accept coverage in either instance until at least fifteen days after the request was made in order to assure that our insured has been informed of his proper statutory right of notice and appeal. The same would be true of where our insured moves to a higher rated area. We would not be able to accept coverage unless our insured is able to contact us early enough so we can provide the fifteen day notice of increase and right of appeal. We do not believe that anyone intended AS 21.36.420 to have this effect, and we believe House Bill 476 would correct this ambiguity and thus urge its passage.

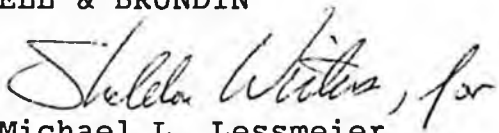
The present version of House Bill 476 requires written notice of the increase stating the reason for the change and the right of appeal in all instances except to: (1) a premium increase resulting from a change requested by an insured if the insured is notified at the time of the request that his or her premium will change or (2) a rate increase approved by the Director if the insurer gives written notice to the insured of the rate increase at least fifteen days before the expiration date of the affected policy, which is when the increase would of course take effect. We do not believe these changes would affect in any way the original intent which prompted the enactment of AS 21.36.420. On the contrary, HB 476 would correct a negative effect not intended by the original legislation.

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
ATTORNEYS AT LAW

We do hope this ambiguity can be corrected this session and kindly request you calendar the bill. We will be happy to provide any assistance or further information you might desire. Thank you.

Sincerely,

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

By:  for
Michael L. Lessmeier

Enclosures
MLL/mh

cc: Members of the Senate Judiciary Committee

Department of Commerce & Economic Development / POSITION PAPER

CSHB 476: "An Act relating to automobile insurance premiums."

The department is in favor of this legislation. This proposal is intended to correct a deficiency in Ch 62 SLA 1984. The sponsor of that bill was attempting to provide an appeal mechanism for persons aggrieved by automobile insurance rate increases resulting from surcharges for an accident or violation appearing on that person's driving record, and which is alleged to be inappropriate.

Alaska Statute 21.36.420(d) was structured to require a notice of all premium increases by an insurer. The notice gives a reason for the increase and the right to an appeal under AS 21.39.090. It is not clear whether a notice of reason and notice of right to appeal is required on increases resulting from other than a change in the individual driving record. Such increases are subject to rate review and approval by the State before use and we believe that a right to appeal on top of the review process would be unduly wasteful of state resources.

This bill would clarify the requirement for notice by specifying the circumstances in which the notice is necessary and the scope of notice required. It does provide recourse for surcharges or increases that are not appropriate because a person was not convicted of a violation or at fault in an accident. We do not object to the notice of premium increase on approved rate filings because it is a fair thing to do. It does generate additional cost for the insurer which will ultimately be passed along to the consumer. It is, however, a reasonable and fair requirement.

Loren H. Lounsbury
Loren H. Lounsbury, Commissioner
Department of Commerce & Economic
Development

Date: 3/3/86

John E. George
John E. George, Director of Insurance

Date: 3/3/86

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ALASKA DEPT. OF
COMMERCE & ECONOMIC
DEVELOPMENT