

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988
4551 HES HB 296 - HB 306 8672

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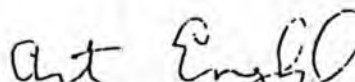
The term "victim" already includes spouse, parent, child, brother, sister and legal guardian. Adding aunt, uncle, parent-in-law, brother-in-law or sister-in-law does not seem necessary. We also wonder who would have precedence to be considered, and what would happen if different relatives have conflicting views of the situation.

The Council also has concerns about Section 7 which gives the victim access to presentence reports and to police reports. While in general the Council supports victims having access to information about the case, we think there can be a danger in a victim having access to police reports prior to a case going to trial because the information in the reports might improperly influence the victim's testimony or expose the victim to unnecessary attack on cross-examination. In addition, we think police reports should be protected as confidential information since they give the victim's name, address and other information which might need to be protected. Since the victim definition is expanded, there may be a number of other people who could have access to the police reports, and we think this is problematical. We do however, support the victim's right to make a written or oral statement for use in preparation of the defendant's presentence report and at sentencing. We would also like to suggest that a section be added in this section that the victim has the right to be informed by the Department of Corrections when the defendant has been released from jail on bail. This provision would be particularly important to battered women since they must take extra precautions such as returning to a shelter to protect themselves and their children when the batterer is released.

Section 9 gives victims the right to attend meetings of the parole board. Victims have a legitimate interest in parole hearings, not only because of their desire for the service of a just sentence, but also because of their legitimate fear of revictimization once the defendant is released.

Section 10 and Section 11 provides for the parole board to notify the victim, prior to release, of the prisoner's future geographic area and of the prisoner's residence address and employer, if known. We would recommend that "geographic area" be changed to "community" as this is a more specific term. Also, we do not see the need to release the prisoner's residence address and employer to the victim and can envision problems caused by releasing this information.

In conclusion, the Council on Domestic Violence and Sexual Assault supports efforts to ensure that the rights of crime victims are better taken into account by the criminal justice system.



Art English
Commissioner

POSITION PAPER

HOUSE BILL NO. 296

For an Act entitled: "An act relating to victims of crime, claims arising from criminal conduct, and service of process on prisoners; amending Rule 12(d)(2) of the Alaska Rules of Children's Procedure; and amending Rule 32(d)(2) of the Alaska Rules of Criminal Procedure."

The Department supports the goals of protecting the rights of victims of crime, providing for appropriate participation of victims in court proceedings, and ensuring that victims are informed of the outcome of proceedings relating to perpetrators, including juveniles, who commit crimes. However, the Department opposes granting a blanket right to victims to attend otherwise confidential children's proceedings. The Department believes that the limited benefit from establishing such a right is not justified in light of the potential reduction in the system's effectiveness and the availability of other mechanisms for accomplishing the same goals without the potential adverse effects.

Section 13 of this bill would establish the right of a person (or related representative) to attend a children's proceeding under AS 47.10.070 if the person is the "victim of an offense that is the subject of the hearing...". This language implies that the victim may attend any child proceeding in which the offense is in any way a consideration. This would almost certainly include any adjudication, detention, and disposition hearing in delinquency cases but could include, under certain circumstances, parallel proceedings in child in need of aid cases. This provision would not provide victims with a role in these proceedings other than that of spectators nor would it oblige victims to maintain the confidentiality of information presented in these hearings.

Children's proceedings are closed to the public in order to promote the free discussion of sensitive psychological, social, and historical information concerning the child and the child's family which have relevance to the decision of the court concerning the child. Once the commission of an offense has been established (and in the vast majority of instances this occurs through admission of the youth rather than through trial) the focus of children's proceedings is not on the offense but on the causes of the child's behavior and on actions necessary to meet the needs of the child and prevent further offenses. Such actions may include assignment of custody to the state and temporary detention or long term secure treatment. In child in need of aid proceedings these actions could include termination of the parent child relationship. Though information about the offenses(s) may be presented, it is within the context of the purpose of the hearing and is not the subject of the hearing.

Victim involvement in the process may occur in a variety of ways. Victims may be called to testify at any of the children's proceeding hearings, may provide information and opinion for presentation to the court in the predisposition report, and may be allowed to attend a hearing as a spectator with permission of the court.

HB 296 could reduce the effectiveness of these proceedings by compromising the confidentiality of information presented and inhibiting the presentation of full and complete information. The attendance of victims, particularly without obliging them to maintain confidentiality, may reduce the willingness of juveniles and their families to reveal sensitive information despite its bearing on the court's decision. However, the bill would not provide a role for victims in these proceedings other than as a spectator, nor would it provide a greater opportunity for input than is already available.

The Department believes that mechanisms are available to provide appropriate and effective methods for victim involvement in delinquency proceedings and to ensure the provision of information to victims about the outcome of these proceedings without statutory change. However, because the Department supports the intent of HB 296 the Department will reexamine its administrative procedures to ensure:

1. that probation officer contact with victims occurs in juvenile cases;
2. that victims are informed about the juvenile process and encouraged to participate appropriately;
3. that information provided by victims is considered in the decision-making processes in juvenile proceedings;
4. that appropriate contact of victims with the court is facilitated;
5. that victims are informed of the outcome of juvenile proceedings.

Department Position

Because of its potential for reducing the effectiveness of juvenile proceedings without providing meaningful additional benefit to victims, the Department does not support HB 296. However, the Department could support HB 296 if section 13 were removed from the bill; thereby maintaining the confidentiality of children's proceedings.

POSITION PAPER/Department of Health & Social Services

RECOMMENDED:

Yvonne M. Chase
Yvonne M. Chase, Director
Division of Family and
Youth Services

DATE:

1/19/88

APPROVED:

Myra M. Munson
Myra M. Munson, Commissioner
Department of Health and
Social Services

DATE:

Jan 19, 1988

FISCAL NOTE

REQUEST:

Revision Date: _____ Dept. of Health & Soc. Svcs.
Agency Affected: Div. of Family & Youth Svcs.
Title: "An Act relating to victims of
crime...." BRU: Youth Services
Sponsor: Donley Components: Probation Services
Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
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REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Because this bill would not require additional activities by the agency, it would have no fiscal impact.

Prepared by: Yvonne M. Chase, ACSW, Director *YMC* Phone: 465-3170
Division: Family and Youth Services Date: _____

Approved by Commissioner: Myra M. Munson *Myra M. Munson* Date: Jan 19, 1988
Agency: Department of Health and Social Services

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
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- Impacted Agency(ies)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 22, 1987

SUBJECT: Sectional analysis of victims rights bill
(Work Order No. 15-0242)

TO: Representative Dave Donley

FROM: Keith B. Levy *KB*
Legislative Counsel

The following is a sectional analysis of Work Order 15-0242, relating to victims of crime, claims arising from criminal conduct, and service of process on prisoners.

Section 1 provides that AS 12.61, relating to victims rights, may be cited as the "Alaska Victims Rights Act."

Section 2 provides that service of process on people in the custody of the Commissioner of Corrections in civil cases may be accomplished by delivering or mailing the summons to the Commissioner of Corrections (AS 09.05.050(a)). The commissioner is required to keep a record of each summons served and to deliver a notice of the service and a copy of the summons to the prisoner within 10 days after the date of service (AS 09.05.050(b)). The commissioner must also file, with the court having jurisdiction of the civil case, a copy of the summons and an affidavit showing that service of the summons on the prisoner has been made (AS 09.05.050(c)). Finally, the court is given authority to extend the time in which the defendant can respond to the summons (AS 09.05.050(d)).

Section 3 amends AS 09.38.065(a) to permit a creditor to levy against property that would otherwise be exempt from execution in order to enforce a claim arising from criminal conduct that resulted in a felony or misdemeanor conviction. However, certain items such as tools and professional books up to \$750, and household goods and wearing apparel up to \$250, remain exempt from execution.

Section 4 adds to the factors which a court may consider in aggravation of a felony sentence the question of whether the defendant's conduct caused substantial physical, emotional, or financial harm to the victim, or the victim's immediate family if the victim died as a result of the defendant's conduct (AS 12.55.155(c)(27)).

Section 5 provides that if the state seeks to establish a factor in aggravation of a felony or the defendant seeks to establish a factor in mitigation of a felony, the prosecutor must serve written notice of the sentencing hearing on the victim. This section also gives the victim the right to appear at sentencing hearings and to present evidence. The court is required to consider the evidence presented by the victim (AS 12.55.155(f)).

Section 6 amends the definition of the term "victim," as used in the sentencing provisions, to include the victim's aunt, uncle, parent-in-law, brother-in-law, and sister-in-law, in cases where the victim has died, is a minor, or is incapacitated (AS 12.55.185(11)). The term already includes the victim's spouse, parent, child, brother, and sister.

Section 7 adds to the list of victim's rights the right, without a court order, to obtain access to the presentence reports from the court and to obtain access to the relevant police reports from the appropriate law enforcement agency and the right to make a statement for presentencing and sentencing. (AS 12.61.010(a)). This section has the effect of amending Alaska Rule of Criminal Procedure 32(d)(2), because that section does not permit release of presentence reports without a court order, except in limited circumstances. Accordingly, this effect on the court rules is reflected in the title of the bill and is also explained in Section 14.

Section 8 adds two new provisions to AS 12.61. AS 12.61.015 sets out a list of duties of the prosecuting attorney with respect to victims of crime. These include the duty to

(1) confer with the victim before jury selection and trial;

(2) notify the victim of the defendant's conviction, the victim's right to make a sentencing statement and that the defendant will see the sentencing statement, the address and telephone number of the office that will prepare the sentencing statement, and the time and place of the sentencing proceeding; and

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(3) notify the victim in writing of the final disposition of the case within 30 days.

AS 12.61.017 makes it a class B misdemeanor for an employer of a victim of crime to penalize the victim because of the victim's cooperation in a prosecution.

Section 9 amends AS 33.16.120(c) to give victims the right to attend meetings of the parole board.

Section 10 amends existing law to provide that the parole board must notify a victim not only of its decision to grant parole, but also if it decides to deny parole (AS 33.16.120(e)).

This section also provides that the notification must include the prisoner's residence address and employer, if known.

Section 11 provides that notification to a victim of a prisoner's early release for good time served must also include the prisoner's residence address and employer, if known (AS 33.16.120(f)).

Section 12 amends AS 33.30.011 to require the Commissioner of Corrections to notify the victim or the victim's family if the offender escapes or is released on a furlough, to a correctional restitution center, or any other early release program.

Section 13 amends AS 47.10.070 to give the victim of an offense by a minor the right to attend a hearing involving the minor. In certain cases, the victim's family may attend. This section has the effect of amending Rule 12(d)(2) of the Alaska Rules of Children's Procedure by giving victims access to the children's hearing. Accordingly, this effect is reflected in the title of the bill and is also explained in Section 15 of the bill.

If I may be of further assistance, please advise.

KBL:mkr
m11/050

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 14, 1988

SUBJECT: Sectional analysis of CSHB 296 ()
TO: Representative Dave Donley
FROM: Jack Chenoweth
Legislative Counsel

The following is a sectional analysis of the proposed committee substitute, denoted CSHB 296 ().

Section 1 adds a short title to existing AS 12.61, the chapter defining a victim's rights. It provides that the chapter may be cited as the "Alaska Crime Victim's Rights Act."

Section 2 provides that service of process on people in the custody of the commissioner of corrections in civil cases may be accomplished by delivering or mailing the summons to the commissioner of corrections (AS 09.05.050(a)). The commissioner is required to keep a record of each summons served and to deliver a notice of the service and a copy of the summons to the prisoner within 10 days after the date of service (AS 09.05.050(b)). The commissioner must also file, with the court having jurisdiction of the civil case, a copy of the summons and an affidavit showing that service of the summons on the prisoner has been made (AS 09.05.050(c)). The court may extend the time in which the defendant can respond to the summons (AS 09.05.050(d)).

Section 3 amends AS 09.38.065(a) to permit a creditor to levy against property that would otherwise be exempt from execution in order to enforce a claim arising from criminal conduct that resulted in a felony or misdemeanor conviction. However, certain items such as tools and professional books up to \$750, and household goods and wearing apparel up to \$250, remain exempt from execution.

Section 4 adds a new section, AS 12.47.095, that places new duties on the commissioner of health and social services and the attorney general for offenders who are determined to be

guilty but mentally ill or, alternatively, are found to be not guilty by reason of insanity. The section enumerates instances when either of these officials must communicate to the victim, or to certain persons other than the victim, a change in the status of the offender if the victim or person other than the victim has requested notice of the change of status and has maintained a current address on file with the two state officers.

Section 5 adds to the factors that a court may consider in aggravation of a felony sentence the question of whether the defendant's conduct caused substantial physical, emotional, or financial harm to the victim, or the victim's immediate family if the victim died as a result of the defendant's conduct (AS 12.55.155(c)(27)).

Section 6 provides that if the state seeks to establish a factor in aggravation of a felony or the defendant seeks to establish a factor in mitigation of a felony, the prosecutor must serve written notice of the sentencing hearing on the victim. This section also gives the victim the right to appear, personally or by legal counsel, at sentencing hearings and to present evidence. The court is required to consider the evidence presented by the victim (AS 12.55.155(f)).

Section 7 revises the definition of the term "victim" as that term is used in the sentencing provisions. Victims are natural persons. As persons to whom obligation may be due under AS 12.55 in cases where the victim has died, is a minor, or is incapacitated, the definition presently includes the victim's spouse, parent, child, brother, sister, or legal guardian. The revision adds the victim's aunt, uncle, parent-in-law, brother-in-law, and sister-in-law (AS 12.55.185(1)).

Section 8 adds to the list of victim's rights the right to make a statement for presentencing and sentencing, either in person or by legal counsel, the right to make a statement, in person or through legal counsel, in the event the defendant moves to modify or reduce sentence, and the right to make a written statement to the governor in the event the governor considers executive clemency. (AS 12.61.010(a)).

Section 9 adds two new provisions to AS 12.61. AS 12.61.015 sets out a list of duties of the prosecuting attorney with respect to victims of crime. These include the duty to

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(1) confer with the victim before jury selection and trial;

(2) notify the victim of the defendant's conviction, the victim's right to make a sentencing statement and that the defendant will see the sentencing statement, the address and telephone number of the office that will prepare the sentencing statement, the time and place of the sentencing proceeding, and of the victim's right to appear, in person or by counsel, at the sentencing hearing to address the court; and

(3) notify the victim in writing of the final disposition of the case within 30 days.

AS 12.61.017 makes it a class B misdemeanor for an employer of a victim of crime to penalize the victim because of the victim's cooperation in a prosecution.

Section 10 amends AS 33.16.120(c) to give victims the personal right to attend meetings of, or to be represented by legal counsel before, the parole board and to address the parole board, directly or through legal counsel, about proposed action that the board is considering concerning the offender. The rights granted under this subsection, as amended, may only be exercised by the victim or the victim's legal representative.

Section 11 amends existing law to provide that the parole board must notify a victim not only of its decision to grant parole, but also if it decides to deny parole (AS 33.16.120(e)). This section also provides that the notification must include the prisoner's residence address.

Section 12 provides that notification to a victim of a prisoner's early release for good time served must also include the prisoner's residence address (AS 33.16.120(f)).

Section 13 adds a new section, AS 33.30.013, that requires the commissioner of corrections to notify the victim or the victim's family if the offender escapes, is released on a furlough to a correctional restitution center, or any other early release program. It also requires the commissioner to notify the victim if the offender is considered for screening investigation to determine the need for further treatment in the event the offender has been transferred to the commissioner's custody if the offender was adjudicated guilty but mentally ill.

Representative Dave Donley

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Section 14 amends AS 47.10.070 to give the victim of an offense by a minor the right to attend, or to be represented by legal counsel at, a hearing involving the minor. In certain cases, the victim's family may attend. This section has the effect of amending Rule 3(c) of the Alaska Child in Need of Aid Rules and Rule 3(c) of the Alaska Delinquency Rules, by giving victims access to the children's hearing. Accordingly, this effect is reflected in the title of the bill and is also explained in section 15 of the bill.

JC:bb
WKB1/055

Enclosure

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

BOARD OF PAROLE

STEVE COWPER, GOVERNOR

ALASKA BOARD OF PAROLE
P.O. BOX 7
JUNEAU, ALASKA 99811-2000
PHONE: (907) 465-3384

November 18, 1987

Honorable Johnny Ellis
Honorable Nillo E. Koponen
Co-Chairmen
Health, Education & Social Services Committee
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Chairmen Ellis and Koponen:

The staff of several Representatives have requested the Parole Board to comment on House Bill 296. Since the bill has substantial impact on many segments of the criminal justice system, and others are expected to testify on the bill, we will confine our comments to those sections of the bill that pertain directly to the parole process. Members and/or staff of the Board will be available at the hearing on November 20 to answer questions if they arise.

On page 4, lines 1-4, the definition of victim is expanded significantly. Since the definition applies to the parole process under AS 33.16, this section will have an impact on the Board. Absent some way of limiting testimony, having more than one relative of the victim testify at a parole hearing could draw a hearing out to many hours or even more than one day. Currently, we usually conduct up to 10 to 12 parole hearings a day. The financial impact could reach into the many thousands of dollars quickly.

On page 5, lines 1-5, the victim would have the right to obtain the presentence report and other reports that may be used in preparation for that report. There is no prohibition in this bill on redisclosure and even if there was, it would probably be very difficult to enforce. Currently, the presentence report and attachments provide the Board with a lot of relevant background information on which to make good parole decisions. Many community sources are helpful in preparing these reports. Many citizens will not cooperate if they thought their comments would be used by persons outside the criminal justice system. The same is true of defendants, their families and friends. Also, much of the criminal justice system information contained in the presentence report might be eliminated from the report if this bill passes, since many state and federal laws prohibit the redisclosure of those records to non-criminal justice people. If we don't get comprehensive presentence reports and attachments, our ability to make the most rational release decisions will be severely compromised. Frequently, there is information in the presentence about victims of uncharged crimes. Many of these victims are children. They or their families would not want their names or information regarding circumstances of the crimes released to the public.

Honorable Johnny Ellis
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Lines 19-20 on page 6 allow victims to attend parole hearings. We have a number of concerns with this section. First, the bill does not define what is intended by "attend meetings". Do you intend the victims/relatives to be present before the Board just to make a statement? Do you intend the victims/relatives to sit through the entire hearing but leave before the Board begins deliberations? Do you expect the victims/relatives to sit through the deliberations? Clearly this section is in conflict with AS 44.62.310(d)(3), which states Board hearings, like jury deliberations, are closed. Having any person who could be aligned for or against parole would be a violation of the intent of the Alaska Supreme Court, In the Matter of Robson, 575 P.2d 771 (Alaska 1978). Whatever the Legislature decides to do, this section needs to be clear on your specific intent.

The Board does not oppose having victims come to Parole Board hearings. However, the decision to allow victim attendance at hearings is expected to have a substantial impact on the cost of operating the system, on the victim, and on the ability of the Board to get the best possible information to make good parole decisions. This impact must be carefully reviewed to see if the costs to the public and the actual advantages to the victim outweigh the disadvantages.

First, let us talk about the issues impacting the victim. In Alaska, many victims are friends or family of the defendant. Many of the cases we hear involve sexual assault by a friend or family member. A lot of these victims are children. Oftentimes, there is a tremendous amount of pressure from friends or family for the victim to minimize the impact of the crime or even recant. We sometimes get letters from victims that are put in this situation now, but at least they don't have to face the defendant in person. Sometimes during the very frank and pointed questioning of Board members and staff, the names of victims of other uncharged crimes are discussed. Clearly, these folks would not like their names known to the public or their family members and this is quite possible if the victim/relative of the current crime decides to speak after leaving the hearing.

Another very important issue with victims attending hearings and speaking against defendants is possible retribution. Most defendants now show little animosity toward their victims when we discuss issues at parole hearings. However, we believe the likelihood of retribution would increase significantly if the victim were to testify against a defendant at a parole hearing. Reading a letter written by the victim is much less likely to provoke a defendant than if the victim is sitting across the table, eyeball to eyeball. We might be doing most victims more harm than good by allowing the personal appearance.

Second, let us talk about the possible impact of this section on the Board's ability to get the best possible information to make good parole decisions. The current Board hearings are closed and usually only the persons in attendance besides the Board are the prisoner and the parole officer that

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Page Three

completed the preparole report required by statute. Prisoners get the clear message from many sources we expect to get all pertinent information when the prisoner applies for parole. Prisoners sometimes give us information damaging to their chances for parole because they think we might somehow find out about the negative information and rescind parole before they could be released from jail. In many cases, having one or more victims/victim's relatives in the room would have a chilling effect on a prisoner offering information. Not getting their pertinent information could in some cases even endanger other potential victims in the public. Even though some prisoners committed very serious crimes, some are embarrassed about the circumstances of their crimes and would be unwilling to discuss the details in front of others. Prisoners are aware that Board members and parole officers understand in the confidentiality laws regarding the material in the files and would be liable for disclosure of information outside the hearing. Therefore, they are more willing to be frank with us, not worrying about public disclosure. If we do not get the best possible information, the Board might unknowingly release a prisoner who would pose a significant risk to the public.

Third, let us look at the increased costs of this section. Here are some of the areas of impact if victims come to parole hearings.

- a. Lengthen parole hearings, resulting in increased per diem and compensation for members and additional time for Corrections employees.
- b. Money for security staff to screen both prisoners and victims before they are allowed to come together in the hearing room.
- c. Money for security staff to be present for the protection of victims and in some cases the prisoners at parole hearings.
- d. Money to pay for representation of prisoners by counsel at parole hearings, most being represented by the Public Defender. Although rare now, with the more adversarial nature of hearings under this bill, we would expect a substantial increase in prisoners being represented by attorneys. Of course, this would also lengthen hearings.
- e. Money to pay for the increased costs of incarcerating some prisoners for longer periods of time. Some prisoners who would not pose a risk to the public and would likely be paroled now if they apply, would not apply under this bill if they had to face the victim face to face because of added embarrassment, and therefore would stay in jail.

If the committee members want the victim to be able to respond to such issues as the prisoner's comments to the Parole Board, let me suggest the following solution. We can send a copy of the prisoner's application for parole (without proposed residence or employer addresses) to the victim. Then the victim would have the information the prisoner gives the Board members regarding the crime, release plan, reasons why the prisoner thinks he/she should be granted parole, conditions to be imposed, etc. The victim could then forward their written comments to the Board.

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Page Four

Another issue the Legislature has to deal with is equity. What impact would this section have in ensuring all prisoners and victims are treated similarly? First of all, many victims could not afford to travel outside of their areas of residence to testify at parole hearings. Prisoners are housed in over a dozen instate institutions scattered from Ketchikan to Nome as well as the Federal Bureau Prison facilities throughout the country. Many prisoners are not incarcerated in the same town where the victim lives. This means a victim with more money might have a more significant impact on a decision to grant or not grant parole than a victim without the money, even though the impact on the victims might be identical. This legislation would favor residents of our major cities. I expect you will begin to hear from indigent victims in a couple of years.

Lines 26-28 on page 6 would require the Board to notify a victim of a decision to grant or deny parole if the victim requested. We already notify interested victims of any decision to grant parole and so notifying victims on decisions to deny would not pose a problem. However, we strongly oppose the last sentence of this same section at lines 2-3 on page 7 that would have us notify the victims of the prisoner's residence address and the employer. This would greatly increase the likelihood of confrontations between the parolee and the victim---nobody would be served by that. Many parolees have a tough enough time getting reasonable employment now--having a victim/relative/friend contact the parolee's employer at work isn't going to do anybody any good. If a prisoner can not obtain and maintain lawful employment, his/her chances of returning "to a life of crime" are increased significantly. If for some reason the victim has a dispute with the parolee, contacts should be made through the court, Parole Board, or parole officer.

These same comments apply to line 11 on page 7, regarding mandatory parolees.

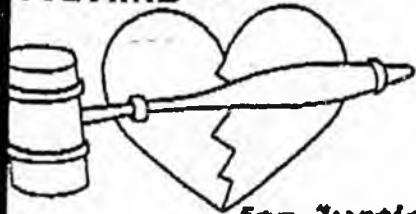
Thank you for the opportunity to comment on House Bill 296. We hope these issues can be resolved to everyone's satisfaction.

Very truly yours,



Alonzo B. Patterson, Jr.
Alaska Parole Board Chairman

VICTIMS



for Justice

MAY 13, 1987

Representative Dave Donley
P.O. Box V
Juneau, Alaska 99811

Dear Representative Donley,

Thank you for writing a victim's bill. In response to your bill I will use some of my personal experiences in responding. I hope this will help legislators to better see how some of the present laws are working on the streets.

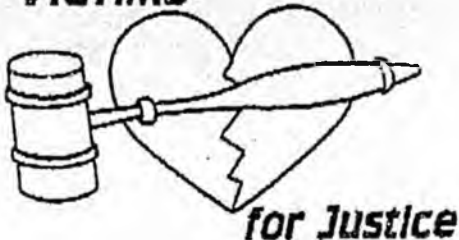
Section 3. I trust section 3 includes this example. My brother does not work and has lived and supported himself from illegal gain most of his teenage and adult life. He now has a large inheritance. He bills most of his medical, hotels, etc. to our business. We turn it over to his trust officer. His trust officer informs us that he does not pay Tom's bills. He can give Tom the money to pay the bills, but if he chooses not pay too bad for the creditor. Tomy's lifestyle has never supported the paying of bills. When my dad was alive he ended up helping Tom.

Rehabilitation is making a person responsible for his actions. Whatever means it takes the person who steals must be required to repay the victim, even to the extent of paying the medical or funeral of the victim. I wish there was a way that a prison could be centered around a gold mine or some money producing project. This would alleviate the state burden and keep idle time from the prisoners. Hard work would eliminate time to feed on pornography and other mind destroying materials.

Section 5 and section 15 are so important to help the healing process of the victim. In our case, I was first enraged that this young girl could come into my families private domain and brutally murder them and than have the right to determine if I could be a part of the trial!

Our mind is the biggest enemy or our biggest friend. When your loved ones die tragically there are so many unanswered questions that flood your mind and torment you. Whenever your life is not filled with business your mind wanders to those precious lives you love and their last moments. Knowing all the gorey details was the beginning of our healing. Not knowing keeps one in a quandary. After our \$10,000 court battle, (which was so unfair and unjust) knowing was the most painful thing I ever experienced, yet

VICTIMS



after I knew, and understood I found I thought about it less and was able to deal with the pain better. Not knowing you wonder, day dream and become even more preoccupied with your thoughts.

Section 6 defining victims to include family members is imperative. When a crime is committed against a person the extended family is also affected emotionally and must be considered.

Section 7 It is about time that the victim's rights are enumerated. We certainly are careful to make sure the criminal's rights are protected. The criminal forces himself on others, hurts others and is so protected! It is hard for the perpetrator to accept responsibility for his actions because of his rights. A sociopathic mind only becomes more manipulative.

Section 8 I like the idea of the prosecuting attorney having to conferring with the victim. The prosecuting attorney should also see the whole picture. He also needs to be aware of the victim's pain. Most prosecuting attorney's tend to want to avoid the victim's pain.

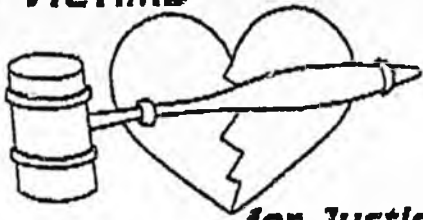
Section 9 It is important for the victim to be informed of the perpetrators jail time, bail, hearings etc. The more you know the better you learn to cope and protect yourself. It is most helpful to let the victim be a part of the parole hearing. The more the victim feels he has input the better he will accept the perpetrator's release even if they disagree. I found that writing the judge a letter concerning the sentencing of Winona and Cordell to be very helpful. We even had the relatives and friends do the same. It is an impactful release to the victim and family to feel that their feelings are considered.

Section 10 Especially in murder and violence the victim's family needs to know that the perpetrator is being released.

Section 11 I support. In some cases, the prisoner's residence address and employer might be misused, but should always be known in murder or violence cases. But whatever the charge, the conditions of parole should always be extended to the victim or close family members.

Section 12 (6) I totally support and if there is a question of safety to the victim upon the escape of the offender, somehow the state needs to provide protection for the victim.

VICTIMS



for Justice

Section 13 I totally support. Every close member of a family is so affected by tragedy they always need to be considered.

Section 15 absolutely needs to be put in place. No one should have to go through what I went through in our case.

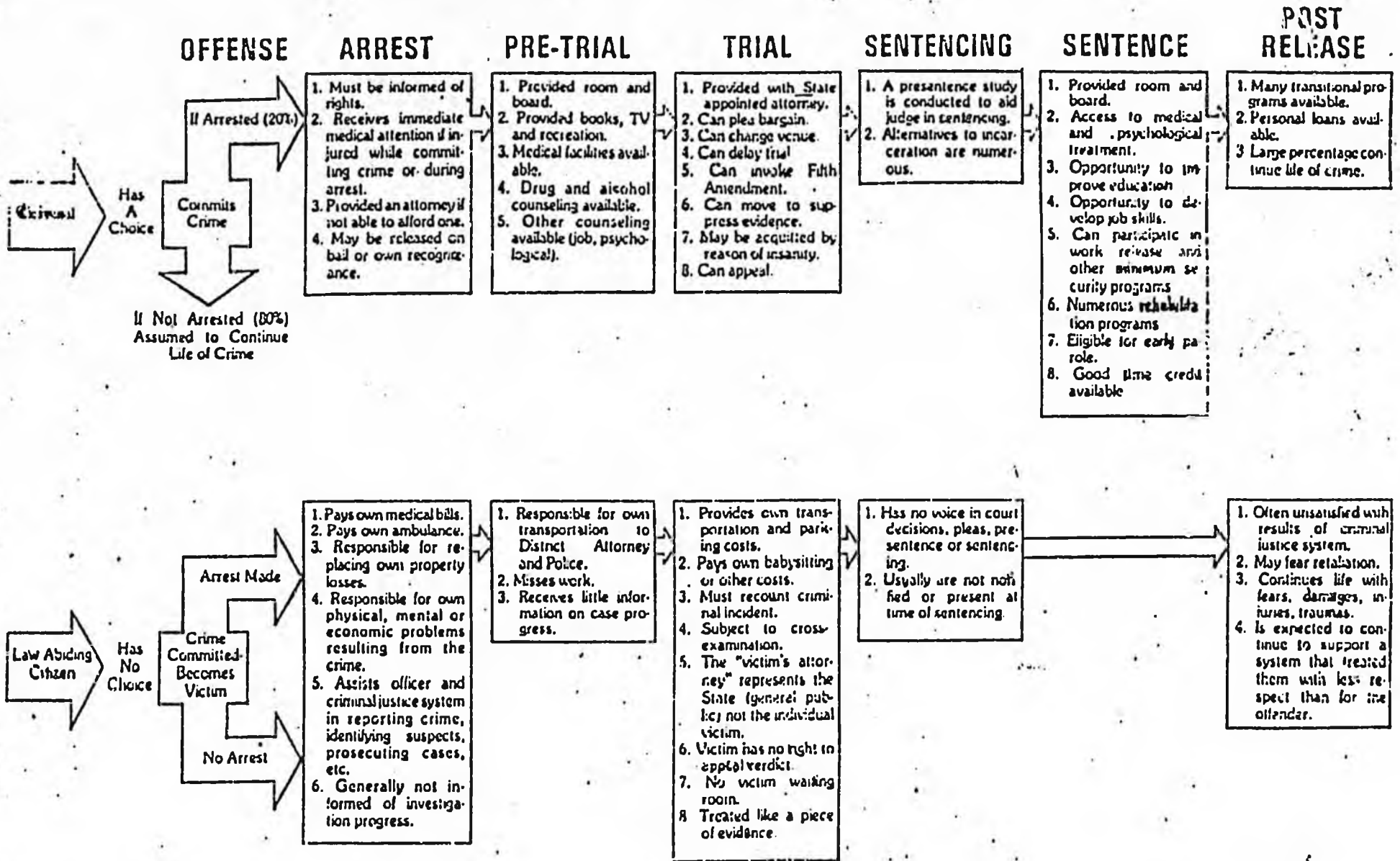
Thank you Dave for writing this legislation. It has long been needed. I trust the rest of the legislators will agree. We will certainly try to support and help you with this legislation.

Sincerely,

Janice Lienhart

Janice Lienhart

THE CRIMINAL INJUSTICE SYSTEM



 * DELIVER TO: LIOCHTM *
 * ORIGINAL *
 * SENT: 11/20/87 TIME: 12:39 *
 * SUBJECT: FINAL STATS 11/20/87 *
 * PRINT DATE: 11/20/87 TIME: 12:39 *

*** FINAL TELECONFERENCE STATISTICS ***

DATE: NOVEMBER 20TH, 1987
 SITE: ANCHORAGE 5TH FLOOR CONFERENCE ROOM
 SPONSOR: HOUSE H.E.S.S.
 SUBJECT: HB 296 - VICTIMS RIGHTS
 LOCAL MODERATOR: HARRY TRACY MANDREGAN

TESTIFIED:

NAME REPRESENTING	ADDRESS	PHONE #
1. REP. JOHNNY ELLIS	3111 "C" STREET, SUITE 455	561-7628
2. REP. NILO KOPONEN	542 4TH AVE, STE. C 99701	456-8161
3. REP. BILL HUDSON	P.O. BOX 5 JUNEAU, ALASKA 99811	465-3744
4. REP. MAX GRUENBERG	3111 "C" STREET, SUITE 440	561-7621
5. REP. DAVE DONLEY	3111 "C" STREET, SUITE 450	561-7629
6. REP. RANDY PHILLIPS	P.O. BOX 142 E.F., AK 99577	694-4949
7. REP. FRAN ULMER	P.O. BOX 5 JUNEAU 99811	465-4947
8. MIKE HILLER	BOX 21494 JUNEAU, ALASKA	586-3067
9. SUSAN HUMPHREY-BARNETT	2200 E. 42ND ANCHORAGE	561-4426
10. BILL BREDESEN	523 "M" STREET	276-6163
11. REV. ALONZO B. PATTERSON	855 E. 20TH	276-6675
12. DEBBIE BROOKINS	2905 TURNAGAIN ST.	243-5360

OBSERVED:

NAME REPRESENTING	ADDRESS	PHONE #
1. PRENT GAZAWAY	1521 W. 14TH AVE. 99504	277-2073
2. TERRY HASON	1223 EAST 16TH	274-3041
3. JAY LIVEY	434 7TH JUNEAU, ALASKA	465-3991
4. PATTI HARPER	P.O. BOX 40 ANCHORAGE 99501	263-9171
5. DOLORES WEILER	10980 STROGANOF DR. 99516	346-2487
6. BOB BARKER		
7. STAN ROBBINS	(REP. GRUENBERG'S OFC.)	561-7621
8. CHRIS HERBERGER	(REP. ELLIS'S OFC.)	561-7628
9. KATH WARD	(REP. DONLEY'S OFC.)	561-7629
10. JIM NORBLIND	(REP. ELLIS'S OFC.)	561-7628
11. DAVID FINKLESTEIN	(SEN. JOSEPHSON'S OFC.)	561-7611

TESTIFIED: 12 START TIME: 8:45 AM
 OBSERVED: 11 END TIME: 11:48 AM
 TOTAL: 23

**SATURDAY
A.M.**

NEIGHBORS/TIME OUT C-1
Native names
Languages saved from extinction

CITY/STATE B-1
Cut through powder
Ski resort bid process shortened

SPORTS D-1
Gophers top UAA
Weak power plays stymie Seawolves

The Anchorage Times

73rd year/48 pages

SATURDAY MORNING, NOVEMBER 21, 1987

25c

INSIDE

Murder suspect's testimony withheld

PALMER — Superior Court Judge Beverly Cutler has suppressed portions of an interview with Alaska State Troopers during which a man accused of killing a Point MacKenzie woodcutter admitted he knew of the killing. — page B-1

Miner forced off Hatcher Pass land

PALMER — Hatcher Pass placer miner Phil Plack's trailer and personal belongings were removed from his claim Friday, state officials said. — page B-1

Backers bet gambling can help

Proponents of legalized gambling are looking at a proposal to bring that idea to Alaska as a way to create jobs, but Anchorage's former police chief said that where there are slot machines, there is crime. — page B-1

Peace plan fails, gets no takers

SAN SALVADOR, El Salvador — The government's unilateral cease-fire and amnesty offer for leftist rebels ended at noon Friday. The truce was not observed and not a single guerrilla applied for amnesty. — page A-3

Gorbache warns Soviet Communists

MOSCOW — Mikhail S. Gorbachev told Soviet Communists Friday they could be expelled from the party for not backing "perestroika," his wholesale reform of society and the economy. — page A-3

Police rescue kidnapped girl

ESTEPONA, Spain — A kidnapper's lost wallet led police to a hideout Friday where they rescued the 5-year-old daughter of a Lebanese millionaire after a brief shootout. — page A-3

Carlucci ousts Pentagon adviser

WASHINGTON — Incoming Pentagon chief Frank Carlucci has ousted Frank Gaffney, a hardliner distrustful of the Soviet Union, as the Defense Department's top adviser on arms-control policy, administration officials said Friday. — page A-4

WEATHER PAGE A-2

**Saturday: Low 25°
Sunday: Snow**

Sunday daylight — 9 hrs. 44 min., sunrise 7:24 a.m., sunset 4:08 p.m.

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Business	D-4
City/State	B-1
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Neighbors/Time Out	C-1
Obituaries	A-5
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Classified	D-1
Classified	C-3

'Hidden tax' cut sparks debate

Wood: Trim utility budget payments

By George Front
Times Writer
Anchorage Assembly Chairman John Wood, preparing for Tuesday's budget hearings, has launched a controversial lobbying campaign to slice between \$3 million and \$15 million of municipal utility contributions from the proposed 1988 budget.

According to Wood, the consumers of city telephone service, electricity, water and garbage are paying a "hidden tax" to subsidize general government, and that should stop.

Wood wants to eliminate at least \$3 million of proposed Municipal Utility Service Assessment payments. He said \$10 million would be a better figure to cut from the assessments, which

are the equivalent of property taxes paid by the city utilities. The city also should refuse a \$3 million revenue distribution from the Anchorage Telephone Utility, said Wood, a philosophi-

cal foe of government-owned utilities. The money comes from a \$100 million pot of accumulated earnings. So far, Wood's idea has not secured a place in the political firmament. Budget chief Arnahee McConnell said the loss of \$3 million. See Proposal, page A-12



Everything's ducky for waxwings. Bohemian waxwings have made their annual appearance in many areas around Anchorage to feast on mountain ash berries and other ornamental fruit. Times photo by Alice Pustrow

Gramm-Rudman may send shock through economy

WASHINGTON (AP) — The budget cuts imposed on the federal government by the Gramm-Rudman law would force reductions, as one senator put it, as painful "as if somebody dropped a toaster in the bathtub."

At least three areas will feel the effects almost immediately: Medicare, guaranteed student loans and dairy price supports, according to the administration's Office of Management and Budget.

But the ax will fall more slowly with most of the \$23 billion, across-the-board slashes. Officials at many federal agencies are putting off permanent reductions in anticipation of a reversal by Congress.

Lawmakers, in effect, have 10 days to change their minds on the Gramm-Rudman cuts by adopting the \$73 billion, two-year deficit reduction package agreed to Friday by congressional leaders and President Reagan.

Reagan was expected to order the Gramm-Rudman cuts before midnight.

"We're not going to do anything because we still think they're going to come up with something," said Phil Keit, a spokesman for the Energy Department.

But congressional approval of the deficit-reduction pact that would supersede the Gramm-Rudman cuts is by no means certain. Some Republicans prefer the automatic budget cuts — 8.5 percent in domestic programs and 10.3 percent in military programs — to the \$8 billion in taxes of the compromise pact.

Here are some of the most immediate effects of the automatic cuts:

• Medicare payments to hospitals are being reduced 2.3 percent after Friday. The law limits the annual reduction in Medicare, the federal health care insurance program for people aged 65 and older. It exempts Medicaid, the federal-state program for the needy.

• The Department of Agriculture's dairy price support program will drop by 8.5 percent. The price for milk is dropping from \$11.10 per hundredweight to \$10.20. Prices paid for cheese, butter and non-fat dry milk are dropping by the same margin.

Cash payments for other crops will also be reduced by 8.5 percent, but not unless the automatic cuts stand when the sign-off period rolls around for those programs.

• The origination fee for Guaranteed Student Loans made after Oct. 20 will increase on the average from \$2,400 from \$120 to \$132. The interest rate subsidy to banks making the loans will be reduced by a quarter percent.

Students, however, will see no change in the 8 percent limit on the interest they pay after graduation.

Cuts would not take effect in other education programs until the start of the 1988-89 academic year next fall.

If Congress rejects the compromise announced by Reagan on Friday and the Gramm-Rudman cuts are allowed to stand, more automatic belt-tightening will ripple through the government.

The cuts "may hit them about See Budget, page A-12

Victims seek greater role in judicial system

By Paul Harper
Times Writer
The person who murdered Debbie Broolans' husband last Friday has not been found.

But if at some point the killer is found, convicted, and comes up for parole, Broolans told state legislators Friday, she wants to be there. Right now victims can write letters to the parole board, but they are not allowed to attend parole hearings.

"There's a lot that the heart and eyes say that a piece of paper can't reflect," she testified at a teleconference hearing of the House Committee on Health, Education, and Social Services. "I think it's very important for some of those emotions to come through," said Broolans, who represented Victims for Justice at the hearing.

The Committee is working on a victims' rights bill introduced last session by Rep. Dave Donley, D-Anchorage, which would broaden the rights of victims to participate in various aspects of the criminal justice system, and seek compensation from those who wronged them.

Donley's own experience as a victim spurred his authorship of the legislation, he said. "I came in one night and there were four guys in my house burglarizing it."

One smashed his knee with a baseball bat and the group held him and a companion tied up for four or five hours, he said. "It was a nightmare."

Provisions of Donley's bill that would give victims the right to get copies of pre-sentence reports, to learn the proposed resis-

dence address and employer of a prisoner to be released, and to be present and testify at parole hearings highlighted the discussion Friday.

The state's five-member parole board raised a number of concerns about these provisions in a letter to the committee.

The chairman of the board, Rev. Alonzo Patterson, said he See Victims, page A-12

Permanent fund initiator favors hands-off policy

By Debbie Reinwand
Times Writer

Former Gov. Jay Hammond — regarded as the father of Alaska's \$8 billion Permanent Fund account — says he applauds Anchorage Mayor-elect Tom Fink's decision not to ask the legislature to tap the fund's earnings without a public vote.

Prior to his election as mayor, Fink had advocated using fund earnings to stimulate economic development in Anchorage and other cities across the state, but later amended that statement to say he wouldn't push the plan unless voters approved it.

that Alaskans should decide whether fund earnings should be tapped.

"Tom had not been an advocate of the Permanent Fund during its formation, but he has now made a commitment not to pursue use of the earnings without a vote," Hammond told reporters in Anchorage Friday.

A Lake Clark bush pilot who served two terms as governor of Alaska, Hammond acknowledged that a time may come when earnings from the \$3 billion savings account are tapped but urged leaders to look elsewhere before casting an eye to the fund.

"We live in a state where there is no income tax, there is no sales tax and the government provides a lot of programs. See Hammond, page A-12



Jessica McClure ... outside the hospital

Doctors send Jessica home for holidays

MIDLAND, Texas (AP) — A smiling Jessica McClure teetered out of a hospital in a cast Friday, a month after the nation watched determined rescuers pull the toddler from an abandoned well where she had survived a grueling 56 1/2 hours.

The 19-month-old girl who was rescued Oct. 16 rode down a ramp at Midland Memorial Hospital in a toy wagon, then got up and tried out her cast with her parents.

"Thanks to the grace of God and some heroic men, we've got our baby back," said Jessica's father, Chip McClure, before the family got in a car and drove away. See Jessica, page A-1



Jay Hammond
... let voters decide

... provide for a public vote before any portion of fund earnings could be appropriated.

Halford, during the 1987 legislative session, introduced a bill to do just that and a group in Juneau led by economist Dr. George

... called the legislature's most ardent advocate of protecting fund earnings. Hammond said Halford could keep the check if he was successful in pushing his legislation through the 1988 session.

... about 30 bystanders. "She really means a lot to us here."

Later, Reba Wilborn, Jessica's grandmother, said the family members were "with friends now and they'll be spend-

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Proposal: Could prompt job losses, decline

Continued from page A-1

lion would cause a serious but unspecified deterioration of city services, forcing the layoffs of 90 more city workers. The budget already contemplates the loss of 150 positions. Since many of those positions are unfilled, and some workers can be put into part-time work, about 60 to 70 current workers would lose their jobs, she said.

And some of his assembly colleagues questioned Wood's tactics, saying he sent a "misleading" and inflammatory questionnaire to his constituents in East Anchorage and Muldoon.

The maverick assemblyman is unapologetic about either his utilities proposal or his questionnaire.

"I got one (response to his questionnaire) saying, 'We are losing our home and it is too late for us, but thank you for trying to

keep our taxes down'" said Wood. "Somebody has got to speak up for these people."

While Wood's plan is probably the most controversial of the 1988 budget deliberations, there are plenty more that will produce a gnashing of teeth.

These include the mainstays of Mayor Tony Knowles' \$191.7 million budget: Raise taxes by \$3.8 million, cut 150 city positions and negotiate a rollback of the 5 percent wage and benefit increase for city workers already contained in 1988 contracts. All of those elements are in trouble.

McConnell said negotiations with city unions have stalled because they are waiting to see what Mayor-elect Tom Fink will do.

In his mayoral campaign, Fink said he would not raise taxes and would try not to lay anyone off or to reduce salaries and benefits. He said he hopes to get more state aid to maintain

current service levels.

But lawmakers will not return to Juneau until mid-January — well after layoff notices have been sent out, McConnell said.

A majority of assembly members have said they oppose any tax increase regardless of the outcome.

That probably means more layoffs, each saving about \$55,000 in salary and benefits, McConnell said.

There is sure to be discussion, too, of whether to fund a \$900,000 subsidy for the performing arts center.

Other hot topics include whether to spend \$1.74 million to help the Anchorage Parking Authority meet its bond obligations, \$200,000 or more for the city's new economic development corporation and \$106,680 for community councils.

In his budget, Knowles proposed an average tax rate of 8.18 mills, up from 7.16 mills this

year. A mill is equal to \$1 for every \$1,000 of assessed valuation.

Property values, which fell 21 percent overall in 1987, are expected to drop another 10 percent in 1988. So a home valued at \$100,000 this year, with the increased mill rate and falling property values, would be taxed an additional \$15.70, according to budget officials.

Assemblyman Jim Barnett said that Wood was "deceiving people" in the questionnaire he sent out.

He said Wood exaggerated the size of actual property tax increases by failing to mention lower property values. "It's a wash," he said.

In his questionnaire, Wood asked voters what they think about paying sharply higher rates — \$16.7 million across the board — for utility services, which he linked to increased

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Budget

Continued from page A-1

the same as if somebody dropped a toaster in a bathtub," Senate Budget Committee Chairman Lawton Chiles, D-Fla., warned in an earlier plea to avoid the Gramm-Rudman cuts.

Chiles and the staff of his committee offered a number of examples of Gramm-Rudman's ultimate impact:

- The Federal Aviation Administration would be unable to fill 1,100 new air traffic controller slots authorized by Congress earlier. The Department of Transportation officials said Friday that a new class of controllers would begin as scheduled on Dec. 4.

- However, if the department is forced to absorb across-the-board reductions on an extended basis, "we would literally have a disaster on our hands," the acting transportation secretary, James Bumley, warned earlier this week.

- The U.S. Customs Service's helicopter program for intercepting drug smugglers could have to cut operations — recently expanded to seven days a week, 24 hours a day — down to five days a week, eight hours a day.

Victims: Want more rights

Continued from page A-1

wanted to make it clear that the law is not anti-victim and not against the legislation.

"We say 'Do it, but know what the cost will be,'" Patterson said.

Pre-sentence reports are background reports on a convicted criminal which judges and parole boards use to assess the person's remorse, chances for rehabilitation, and danger to the community.

Patterson told the committee that releasing the reports to victims could decrease their value, because people interviewed for them might be less candid. He said the state could also find itself the object of lawsuits from people who felt that release of the information had caused them problems.

The committee is considering a suggestion that identities be deleted from copies to be given to victims.

For a victim, the value of having the pre-sentence report would be a better ability to assess what they think is appropriate punishment for the criminal, and getting information which might be helpful in a civil suit

seeking compensation for a crime, said several speakers.

"I might have sympathy for them, when I find out what their life was like, when they grew up," Bill Bredeson said of men who stole his car this year.

The parole board strongly objected to the idea that victims should be notified of a released prisoner's residence address and employer.

"This would greatly increase the likelihood of confrontations between the parolee and the victim — nobody would be served by that," Patterson wrote.

Donley said this provision would simply give victims information the criminal usually knows about them.

Brookins said knowing the whereabouts of her husband's murderer would be very important to her for a very different reason — so she could avoid him.

The parole board's biggest concern about having victims testify at parole hearings is the potential cost. Patterson said increased security would be needed at hearings to stifle potential confrontations, that the state would have to house prisoners for a longer time if they passed over the parole option because they didn't want to face

their victim, and that hearings might take much longer than they do now.

In cases where a person has died, the definition of victim under the law includes many relatives.

Patterson said the parole board already has an increasing load of cases to hear, which has jumped from about 300 per year to 1,000 per year recently.

Adding testimony from relatives of victims could turn the part-time board into a full-time board with a price tag to match, he said.

There were suggestions that the right to testify at parole hearings be limited to the people against whom an offense had been committed.

Brookins was concerned that would exclude people like her.

"I think it's real important that a person with skin on speak," she said.

Janice Lienhart, whose parents, Tom and Ann Faccio, were murdered in their home by teenagers, told the committee through a letter that gaining access to normally closed juvenile hearings was an important part of the healing process for her family.

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2501 E. Fifth

ANCHORAGE DODGE TRUCK CENTER, INC.

FACTORY REBATES AND 7-7% Annual Percentage

A M E N D M E N T

Offered in the HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

TO: CSHB 296()

Page -10-

Sec 14. Adding a new section AS 47.10.065.

Sec. 47.10.065 VICTIM'S ACCESS TO HEARING.

The Department shall, at the victim's request assist the victim of a juvenile crime in preparing written requests to the court for access to a hearing. The Department shall make reasonable effort to inform victims of the availability of this assistance. Victim in this section is defined in AS 12.55.185(11)

that access to the report would prove detrimental to the re-
habilitation of the defendant or to the safety of the public."

Page 10, following line 28:

Insert a new bill section to read:

"* Sec. 15. AS 12.61.010(a), as amended by sec. 8 of this Act, has the effect of amending Alaska Rule of Criminal Procedure 32(d)(2) by making presentence reports available to victims of crime without a court order."

Renumber the following section accordingly.

#1

A M E N D M E N T

Offered in the HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

By Donley

TO: CSHB 296()

Page 1, line 8:

Delete "and"

Page 1, line 10, following "Rules":

Insert: "; and amending Rule 32(d)(2) of the Alaska Rules of Criminal Procedure"

Page 7, line 2, following "involved"

Insert: ", and the right to obtain, without a motion, at any time after the defendant's conviction, access to presentence reports from the court or the person responsible for preparing presentence reports related to the case in which the victim was involved"

Page 10, following line 28:

Insert a new bill section to read:

"* Sec. 15. AS 12.61.010(a), as amended by sec. 8 of this Act, has the effect of amending Alaska Rule of Criminal Procedure 32(d)(2) by making presentence reports available to victims of crime without a court order."

Renumber the following bill section accordingly.

#2

A M E N D M E N T

Offered in the HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

By Donley

TO: CSHB 296 ()

Page 1, line 8:

Delete "and"

Page 1, line 10, following "Rules":

Insert: "; and amending Rule 32(d)(2) of the Alaska Rules of Criminal
Procedure"

Page 7, line 2, following "involved"

Insert: ", and the right to obtain, without a motion, at any time
after the defendant's conviction, copies of presentence reports from the
court or the person responsible for preparing presentence reports related
to the case in which the victim was involved; before providing a copy of a
presentence report under this paragraph, the court officer having custody
of the original presentence report, the person responsible for preparing
presentence reports, or the person employed by the appropriate law
enforcement agency having custody of the police report shall delete from
the report the name of any person and any other information in the report
that might identify a person who gave testimony upon which the report is
based"

Page 10, following line 28:

Insert a new bill section to read:

"* Sec. 15. AS 12.61.010(a), as amended by sec. 8 of this Act, has the effect of amending Alaska Rule of Criminal Procedure 32(d)(2) by making presentence reports available to victims of crime without a court order."

Renumber the following bill section accordingly.

#4

A M E N D M E N T

Offered in the HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

By Donley

TO: CSHB 296 ()

Page 8, lines 19 - 20:

Delete "is a minor, or is incapacitated,"

Page 8, line 22, after "may":

Insert: "attend meetings of the parole board, and may comment in writing on the proposed action of the board, but may"

Page 8, line 22, after "right":

Delete: "provided"

Insert: "to comment on the proposed action of the board in person or by counsel that is provided to the victim"

House Health Education and Social Services Committee
Letter of Intent:

CS for House Bill No. 296

within 10 days after the effective date of this legislation

It is the intent of the legislature that the Department of Health and Social Services adopt ~~and implement~~ formal procedures requiring juvenile intake officers and juvenile probation officers to inform victims of juvenile crime of their right to ask the court to allow them to be present during juvenile proceedings, to facilitate the preparation of such requests, and to ensure that these requests are transmitted to the court.

It is the intent of the legislature that it is in the best interests of the public that victims of crimes committed by juveniles that result in court action have access to the court, upon the victim's request and without undue procedural difficulty, during some stage of the delinquency proceeding.

5-0242B
Chenoweth ✓
1/15/88

Original sponsors: Donley, Collins,
Martin, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 296 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to victims of crime, claims arising
7 from criminal conduct, and service of process on
8 prisoners; and amending Rule 3(c) of the Alaska Child
9 in Need of Aid Rules and Rule 3(c) of the Alaska
10 Delinquency Rules."

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

12 * Section 1. AS 12.61 is amended by adding a new section to read:

13 Sec. 12.61.100. SHORT TITLE. This chapter may be cited as the
14 "Alaska Crime Victim's Rights Act."

15 * Sec. 2. AS 09.05 is amended by adding a new section to read:

16 Sec. 09.05.050. SERVICE OF PROCESS ON PRISONERS. (a) In a
17 civil action against a person committed to the custody of the commis-
18 sioner of corrections under state law, the summons may be served on
19 the commissioner of corrections. Service of the summons is made by
20 registered mail or delivery of a copy of it to the commissioner of
21 corrections. The commissioner shall keep a record of each process
22 served under this section and the day and hour of service. This
23 service is sufficient service on the prisoner.

24 (b) The commissioner of corrections shall deliver a notice of
25 the service and a copy of the summons to the prisoner within 10 days
26 after the date of service.

27 (c) The commissioner of corrections shall make an affidavit
28 showing that service of the summons on the defendant has been made as
29 provided in (b) of this section. The affiant shall attach to the

1 affidavit a copy of the summons and shall file the affidavit and
2 attached papers with the court having jurisdiction of the cause.

3 (d) The court in which the action is pending may order an exten-
4 sion of time necessary to give the defendant reasonable opportunity to
5 defend the action.

6 * Sec. 3. AS 09.38.065(a) is amended to read:

7 (a) Notwithstanding other provisions of this chapter,

8 (1) a creditor may make a levy against exempt property of
9 any kind to enforce a claim for

10 (A) child support;

11 (B) unpaid earnings of up to one month's compensation
12 or the full-time equivalent of one month's compensation for
13 personal services of an employee; or

14 (C) state or local taxes; and

15 (2) a creditor may make a levy against exempt property to
16 enforce a claim for

17 (A) the purchase price of the property or a loan made
18 for the express purpose of enabling an individual to purchase the
19 property and used for that purpose;

20 (B) labor or materials furnished to make, repair,
21 improve, preserve, store, or transport the property; and

22 (C) a special assessment imposed to defray costs of a
23 public improvement benefiting the property;

24 (3) a creditor may make a levy against exempt property to
25 enforce a claim arising from criminal conduct of the debtor resulting
26 in a felony or misdemeanor conviction except that the following items
27 of property remain exempt within the specified value limitations:

28 (A) implements, professional books, and tools of the
29 trade chosen by the debtor, not to exceed an aggregate value of

1 \$750;

2 (B) household goods and wearing apparel chosen by the
3 debtor and reasonably necessary for one household, not to exceed
4 an aggregate value of \$250.

5 * Sec. 4. AS 12.47 is amended by adding a new section to read:

6 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been
7 committed to the custody of the commissioner of health and social
8 services under AS 12.47.090, the victim of the offense is entitled to
9 notice of a pending change in the status of the offender. The notice
10 required by this section shall be given

11 (1) by the commissioner of health and social services

12 (A) if the offender has been continued in commitment
13 following expiration of the maximum term of imprisonment under
14 AS 12.47.090(f) and the commissioner petitions for release of the
15 offender; or

16 (B) if the court is to consider modification of an
17 order of conditional release for the offender under AS 12.47.-
18 092(e);

19 (2) by the attorney general, or the prosecutor, as applica-
20 ble,

21 (A) if a court is to consider conditional release of
22 the offender under AS 12.47.090(k) and 12.47.092(a); or

23 (B) if the offender petitions for discharge under
24 AS 12.47.092(f).

25 (b) If the victim has died, is a minor, or is incapacitated, the
26 commissioner of health and social services, the attorney general, or
27 the prosecutor shall give notice, when required by (a) of this sec-
28 tion, to the victim's spouse, parent, child, brother, sister, aunt,
29 uncle, parent-in-law, brother-in-law, sister-in-law, or legal

1 guardian.

2 (c) A state officer is required to give notice of a change in
3 the status of an offender under this section only if the victim or a
4 person entitled to notice under (b) of this section has requested
5 notice of the change.

6 (d) A victim, or a person who is entitled to notice under (b) of
7 this section, shall maintain a current, valid mailing address on file
8 with the commissioner of health and social services or the attorney
9 general. The address of record is the address for all communication
10 of notice from the commissioner of health and social services or the
11 attorney general required by this section. Mail that is transmitted
12 by the commissioner or the attorney general to the address of record
13 satisfies the legal requirements with respect to notice under this
14 section.

15 * Sec. 5. AS 12.55.155(c) is amended by adding a new paragraph to read:

16 (27) the defendant's conduct caused substantial physical,
17 emotional, or financial harm to the victim or, if the victim has died
18 as a result of the defendant's conduct, to the victim's immediate
19 family.

20 * Sec. 6. AS 12.55.155(f) is amended to read:

21 (f) If the state seeks to establish a factor in aggravation at
22 sentencing or if the defendant seeks to establish a factor in mitiga-
23 tion at sentencing, written notice must be served on the opposing
24 party and filed with the court not later than 10 days before the date
25 set for imposition of sentence. Written notice shall also be served
26 within that time by the prosecutor upon the victim of the defendant
27 indicating that the victim has a right to appear and participate. The
28 victim may appear personally or by counsel at aggravation or mitiga-
29 tion proceedings and sentencing proceedings to present evidence and

1 express opinions concerning the physical, emotional, or financial harm
2 caused to the victim and other factors relating to the crime, the
3 defendant, disposition of the defendant after sentencing, and the need
4 for restitution. The court in imposing sentence shall consider the
5 evidence and opinions presented by the victim at aggravation or miti-
6 gation proceedings and sentencing proceedings and in the presentence
7 report. Factors in aggravation and factors in mitigation must be
8 established by clear and convincing evidence before the court sitting
9 without a jury. All findings must be set out with specificity.

10 * Sec. 7. AS 12.55.185(11) is amended to read:

11 (11) "victim" means a natural person against whom the of-
12 fense has been perpetrated; [THE VICTIM OF THE OFFENSE OR,] if the
13 person [VICTIM] has died, is a minor, or is incapacitated, the term
14 includes the person's [A] spouse, parent, child, brother, sister,
15 aunt, uncle, parent-in-law, brother-in-law, sister-in-law, or legal
16 guardian [OF THE VICTIM].

17 * Sec. 8. AS 12.61.010(a) is amended to read:

18 (a) Victims of crimes have the following rights:

19 (1) the right to be informed by the appropriate law en-
20 forcement agency or the prosecuting attorney of the date of trial and
21 the date of sentencing of the case in which the victim is involved;

22 (2) the right to be notified that a sentencing hearing or a
23 court proceeding to which the victim has been subpoenaed will not
24 occur as scheduled;

25 (3) the right to receive protection from harm and threats
26 of harm arising out of cooperation with law enforcement and prosecu-
27 tion efforts, and to be provided with information as to the protection
28 available;

29 (4) the right to be informed of the procedure to be

1 followed to apply for and receive any victim compensation under
2 AS 18.67;

3 (5) at the request of the prosecution or a law enforcement
4 agency, the right to cooperate with the criminal justice process
5 without loss of pay and other employee benefits and without interfer-
6 ence in any form by the employer of the victim of crime; [AND]

7 (6) the right to obtain access to immediate medical assis-
8 tance and not to be detained for an unreasonable length of time by a
9 law enforcement agency before having medical assistance administered;
10 however, an employee of the law enforcement agency may, if necessary,
11 accompany the person to a medical facility to question the person
12 about the criminal incident if the questioning does not hinder the
13 administration of medical assistance;

14 (7) the right to make a written or oral statement for use
15 in preparation of the defendant's presentence report, and to appear
16 personally or by counsel at the defendant's sentencing hearing to
17 present a written or oral statement;

18 (8) the right to appear personally or by counsel to make a
19 written or oral statement to a court for consideration by the court if
20 the offender files a motion for a modification or reduction of sen-
21 tence;

22 (9) the right to make a written statement to the governor
23 for consideration by the governor if

24 (A) the governor considers a pardon, commutation of
25 sentence, reprieve, or suspension or remission of a fine or
26 forfeiture for the offender under AS 33.20.070; or

27 (B) the offender applies to the governor for clemency
28 under AS 33.20.080; and

29 (10) the right to obtain, without a motion, access to police

1 reports from the appropriate law enforcement agency related to the
2 case in which the victim was involved.

3 * Sec. 9. AS 12.61 is amended by adding new sections to read:

4 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) Upon the
5 request of the victim of a crime, the prosecuting attorney shall

6 (1) confer with the victim before the selection of the jury
7 and the trial of the defendant;

8 (2) in a manner reasonably calculated to give prompt actual
9 notice, notify the victim

10 (A) of the defendant's conviction and the crimes for
11 which the defendant was convicted;

12 (B) of the victim's right to make a written or oral
13 statement for use in preparation of the defendant's presentence
14 report, and to appear personally or by counsel at the defendant's
15 sentencing hearing to present a written or oral statement;

16 (C) that the presentence report and any statement by
17 the victim will be made available to the defendant unless exempt-
18 ed from disclosure by the court;

19 (D) of the address and telephone number of the office
20 that will prepare the presentence report; and

21 (E) of the time and place of the sentencing proceed-
22 ing;

23 (3) notify the victim in writing of the final disposition
24 of the case within 30 days after final disposition of the case.

25 (b) The notice given under (a)(2) of this section shall inform
26 the victim that the victim's statement may contain any relevant infor-
27 mation including

28 (1) an explanation of the nature and extent of physical,
29 psychological, or emotional harm or trauma suffered by the victim;

1 (2) an explanation of the extent of economic loss or prop-
2 erty damage suffered by the victim;

3 (3) an opinion of the need for and extent of restitution
4 and whether the victim has applied for or received compensation for
5 loss or damage; and

6 (4) the victim's recommendation for an appropriate sen-
7 tence.

8 Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. An employer
9 of a victim of crime who disciplines or discharges or threatens to
10 discipline or discharge the victim because the victim is subpoenaed or
11 requested by the prosecuting attorney to attend a court proceeding for
12 the purpose of giving testimony is guilty of a class B misdemeanor.

13 * Sec. 10. AS 33.16.120(c) is amended to read:

14 (c) The victim has a right to attend, or be represented by
15 counsel at, meetings of the parole board and to comment in writing, in
16 person or by counsel on the proposed action of the board. Copies of
17 any written [THE] comments shall be provided to the prisoner and the
18 prisoner's attorney before action by the board. Notwithstanding
19 AS 33.16.900(10), if the victim has died, is a minor, or is incapac-
20 itated, the victim's spouse, parent, child, brother, sister, aunt,
21 uncle, parent-in-law, brother-in-law, sister-in-law, or legal guardian
22 may not exercise the right provided under this subsection.

23 * Sec. 11. AS 33.16.120(e) is amended to read:

24 (e) Upon request of the victim, [IF THE BOARD DECIDES TO RELEASE
25 ON PAROLE A PRISONER WHO IS CONVICTED OF A CRIME AGAINST A PERSON,]
26 the board shall make every reasonable effort to notify the victim of
27 its decision to grant or deny discretionary parole as soon as prac-
28 ticable [BEFORE THE PRISONER'S RELEASE DATE]. Notification under this
29 subsection must include the expected date of the prisoner's release,

1 the geographic area in which the prisoner is required to reside, the
2 prisoner's residence address, and other pertinent information concern-
3 ing the prisoner's conditions of parole that may affect the victim.

4 * Sec. 12. AS 33.16.120(f) is amended to read:

5 (f) Upon request of the victim, if a prisoner is released under
6 AS 33.16.010(c), the board shall make every reasonable effort to
7 notify the victim before the prisoner's release date. Notification
8 under this subsection must include the expected date of the prisoner's
9 release, the geographic area in which the prisoner is required to
10 reside, the prisoner's residence address, and other pertinent informa-
11 tion concerning the prisoner's conditions of parole that may affect
12 the victim.

13 * Sec. 13. AS 33.30 is amended by adding a new section to read:

14 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-
15 missioner shall notify the victim of an offense if the offender

16 (1) escapes from custody;

17 (2) is released to the community on a furlough;

18 (3) is released to a correctional restitution center;

19 (4) is released on an early release program; or

20 (5) who was found guilty but mentally ill under AS 12.47.-

21 050(a) is named in a petition filed by the commissioner under AS 12.-
22 47.050(e) for a screening investigation to determine the need for
23 further treatment.

24 (b) If the victim has died, is a minor, or is incapacitated, the
25 commissioner shall give notice, when required by (a) of this section,
26 to the victim's spouse, parent, child, brother, sister, aunt, uncle,
27 parent-in-law, brother-in-law, sister-in-law, or legal guardian.

28 (c) The commissioner is required to give notice of a change in
29 the status of an offender under this section only if the victim or a

1 person entitled to notice under (b) of this section has requested
2 notice of the change.

3 (d) A victim, or a person who is entitled to notice under (b) of
4 this section, shall maintain a current, valid mailing address on file
5 with the commissioner. The address of record is the address for all
6 communication of notice from the department required by this section.
7 Mail that is transmitted by the commissioner to the address of record
8 satisfies the legal requirements with respect to notice under this
9 section.

10 * Sec. 14. AS 47.10.070 is amended to read:

11 Sec. 47.10.070. HEARINGS. The court may conduct the hearing in
12 an informal manner in the courtroom or in chambers. A hearing may be
13 held before a young adult advisory panel in accordance with AS 47.10.-
14 075. The court shall give notice of the hearing to the department and
15 it may send a representative to the hearing. The court shall also
16 transmit a copy of the petition to the department. The representative
17 of the department may also be heard at the hearing. The public shall
18 be excluded from the hearing, except that the victim of an offense
19 that is the subject of the hearing may attend the hearing, or be
20 represented at the hearing by counsel. If the victim has died, is a
21 minor, or is incapacitated, the victim's spouse, parent, child, broth-
22 er, sister, aunt, uncle, parent-in-law, brother-in-law, sister-in-law,
23 or legal guardian, may attend the hearing, or be represented at the
24 hearing by counsel. The [BUT THE] court, in its discretion, may
25 permit other individuals to attend a hearing, if their attendance is
26 compatible with the best interests of the minor. Nothing in this
27 section may be applied in such a way as to deny a child's rights to a
28 public trial and to a trial by jury.

29 * Sec. 15. AS 47.10.070, as amended by sec. 14 of this Act, has the

1 effect of amending Rule 3(c) of the Alaska Child in Need of Aid Rules and
2 Rule 3(c) of the Alaska Delinquency Rules by giving the victim of an of-
3 fense committed by a minor, or certain members of the victim's family or
4 the victim's legal guardian, the right to attend a hearing involving that
5 minor.
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Official Business

COMMITTEE:
HOUSE HESS

DATE: 1-20-88

SIGN-IN

Subject of meeting:

HJR 38 Radon

HB 296 Victim's Rights;
Restitution

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Jan Nash	Alaskan Environmental Lobby P.O. Box 22151, Juneau 99802	586-2345	AEL, Inc.	
Deborah Blust	Division of Public Health P.O. Box H, Juneau 99811	465-3090	DHSS	HJR yes 38
Myra Munson	DHSS P.O. Box H Juneau 99811	465-3030	DHSS	HB yes 296
JAN LIVER	DHSS P.O. Box H Juneau	465-3030	DHSS	
RUSS WEBB	DHSS OFYS P.O. Box H-05 JUNEAU	465-3631	DHSS	no
KARIN WARD	Rep. Tonleer	465-3892	Rep Tonleer	No
Maria Kerney	P.O. Box W (Dept of Public Safety) Juneau 99811	465-4356	Council on Domestic Violence + SA	HB 296 yes
Mike [unclear]			Self	
Sandra Lando	P.O. Box KC Juneau 99811	465-3428	Law	No

Original sponsors: Donley, Collins,
Martin, et al.

IN THE HOUSE

CS FOR HOUSE BILL NO. 296 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to victims of crime, claims arising from criminal conduct, and service of process on prisoners; and amending Rule 3(c) of the Alaska Child in Need of Aid Rules and Rule 3(c) of the Alaska Delinquency Rules."

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

* Section 1. AS 12.61 is amended by adding a new section to read:

Sec. 12.61.100. SHORT TITLE. This chapter may be cited as the "Alaska Crime Victim's Rights Act."

* Sec. 2. AS 09.05 is amended by adding a new section to read:

Sec. 09.05.050. SERVICE OF PROCESS ON PRISONERS. (a) In a civil action against a person committed to the custody of the commissioner of corrections under state law, the summons may be served on the commissioner of corrections. Service of the summons is made by registered mail or delivery of a copy of it to the commissioner of corrections. The commissioner shall keep a record of each process served under this section and the day and hour of service. This service is sufficient service on the prisoner.

(b) The commissioner of corrections shall deliver a notice of the service and a copy of the summons to the prisoner within 10 days after the date of service.

(c) The commissioner of corrections shall make an affidavit showing that service of the summons on the defendant has been made as provided in (b) of this section. The affiant shall attach to the

1 affidavit a copy of the summons and shall file the affidavit and
2 attached papers with the court having jurisdiction of the cause.

3 (d) The court in which the action is pending may order an exten-
4 sion of time necessary to give the defendant reasonable opportunity to
5 defend the action.

6 * Sec. 3. AS 09.38.065(a) is amended to read:

7 (a) Notwithstanding other provisions of this chapter,

8 (1) a creditor may make a levy against exempt property of
9 any kind to enforce a claim for

10 (A) child support;

11 (B) unpaid earnings of up to one month's compensation
12 or the full-time equivalent of one month's compensation for
13 personal services of an employee; or

14 (C) state or local taxes; and

15 (2) a creditor may make a levy against exempt property to
16 enforce a claim for

17 (A) the purchase price of the property or a loan made
18 for the express purpose of enabling an individual to purchase the
19 property and used for that purpose;

20 (B) labor or materials furnished to make, repair,
21 improve, preserve, store, or transport the property; and

22 (C) a special assessment imposed to defray costs of a
23 public improvement benefiting the property;

24 (3) a creditor may make a levy against exempt property to
25 enforce a claim arising from criminal conduct of the debtor resulting
26 in a felony or misdemeanor conviction except that the following items
27 of property remain exempt within the specified value limitations:

28 (A) implements, professional books, and tools of the
29 trade chosen by the debtor, not to exceed an aggregate value of

\$750;

(B) household goods and wearing apparel chosen by the debtor and reasonably necessary for one household, not to exceed an aggregate value of \$250.

* Sec. 4. AS 12.47 is amended by adding a new section to read:

Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been committed to the custody of the commissioner of health and social services under AS 12.47.090, the victim of the offense is entitled to notice of a pending change in the status of the offender. The notice required by this section shall be given

(1) by the commissioner of health and social services

(A) if the offender has been continued in commitment following expiration of the maximum term of imprisonment under AS 12.47.090(f) and the commissioner petitions for release of the offender; or

(B) if the court is to consider modification of an order of conditional release for the offender under AS 12.47.-092(e);

(2) by the attorney general, or the prosecutor, as applicable,

(A) if a court is to consider conditional release of the offender under AS 12.47.090(k) and 12.47.092(a); or

(B) if the offender petitions for discharge under AS 12.47.092(f).

(b) If the victim has died, is a minor, or is incapacitated, the commissioner of health and social services, the attorney general, or the prosecutor shall give notice, when required by (a) of this section, to the victim's spouse, parent, child, brother, sister, aunt, uncle, parent-in-law, brother-in-law, sister-in-law, or legal

1 guardian.

2 (c) A state officer is required to give notice of a change in
3 the status of an offender under this section only if the victim or a
4 person entitled to notice under (b) of this section has requested
5 notice of the change.

6 (d) A victim, or a person who is entitled to notice under (b) of
7 this section, shall maintain a current, valid mailing address on file
8 with the commissioner of health and social services or the attorney
9 general. The address of record is the address for all communication
10 of notice from the commissioner of health and social services or the
11 attorney general required by this section. Mail that is transmitted
12 by the commissioner or the attorney general to the address of record
13 satisfies the legal requirements with respect to notice under this
14 section.

15 * Sec. 5. AS 12.55.155(c) is amended by adding a new paragraph to read:

16 (27) the defendant's conduct caused substantial physical,
17 emotional, or financial harm to the victim or, if the victim has died
18 as a result of the defendant's conduct, to the victim's immediate
19 family.

20 * Sec. 6. AS 12.55.155(f) is amended to read:

21 (f) If the state seeks to establish a factor in aggravation at
22 sentencing or if the defendant seeks to establish a factor in mitiga-
23 tion at sentencing, written notice must be served on the opposing
24 party and filed with the court not later than 10 days before the date
25 set for imposition of sentence. Written notice shall also be served
26 within that time by the prosecutor upon the victim of the defendant
27 indicating that the victim has a right to appear and participate. The
28 victim may appear personally or by counsel at aggravation or mitiga-
29 tion proceedings and sentencing proceedings to present evidence and

1 express opinions concerning the physical, emotional, or financial harm
2 caused to the victim and other factors relating to the crime, the
3 defendant, disposition of the defendant after sentencing, and the need
4 for restitution. The court in imposing sentence shall consider the
5 evidence and opinions presented by the victim at aggravation or miti-
6 gation proceedings and sentencing proceedings and in the presentence
7 report. Factors in aggravation and factors in mitigation must be
8 established by clear and convincing evidence before the court sitting
9 without a jury. All findings must be set out with specificity.

10 * Sec. 7. AS 12.55.185(11) is amended to read:

11 (11) "victim" means a natural person against whom the of-
12 fense has been perpetrated; [THE VICTIM OF THE OFFENSE OR,] if the
13 person [VICTIM] has died, is a minor, or is incapacitated, the term
14 includes the person's [A] spouse, parent, child, brother, sister,
15 aunt, uncle, parent-in-law, brother-in-law, sister-in-law, or legal
16 guardian [OF THE VICTIM].

17 * Sec. 8. AS 12.61.010(a) is amended to read:

18 (a) Victims of crimes have the following rights:

19 (1) the right to be informed by the appropriate law en-
20 forcement agency or the prosecuting attorney of the date of trial and
21 the date of sentencing of the case in which the victim is involved;

22 (2) the right to be notified that a sentencing hearing or a
23 court proceeding to which the victim has been subpoenaed will not
24 occur as scheduled;

25 (3) the right to receive protection from harm and threats
26 of harm arising out of cooperation with law enforcement and prosecu-
27 tion efforts, and to be provided with information as to the protection
28 available;

29 (4) the right to be informed of the procedure to be

1 followed to apply for and receive any victim compensation under
2 AS 18.67;

3 (5) at the request of the prosecution or a law enforcement
4 agency, the right to cooperate with the criminal justice process
5 without loss of pay and other employee benefits and without interfer-
6 ence in any form by the employer of the victim of crime; [AND]

7 (6) the right to obtain access to immediate medical assis-
8 tance and not to be detained for an unreasonable length of time by a
9 law enforcement agency before having medical assistance administered;
0 however, an employee of the law enforcement agency may, if necessary,
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3 administration of medical assistance;

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8 under AS 33.20.080; and

9 (10) the right to obtain, without a motion, at any time

Add Amendment V1

new

after the defendant's conviction, access to police reports from the appropriate law enforcement agency related to the case in which the victim was involved.

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(1) confer with the victim before the selection of the jury and the trial of the defendant;

(2) in a manner reasonably calculated to give prompt actual notice, notify the victim

(A) of the defendant's conviction and the crimes for which the defendant was convicted;

(B) of the victim's right to make a written or oral statement for use in preparation of the defendant's presentence report, and to appear personally or by counsel at the defendant's sentencing hearing to present a written or oral statement;

(C) that the presentence report and any statement by the victim will be made available to the defendant unless exempted from disclosure by the court;

(D) of the address and telephone number of the office that will prepare the presentence report; and

(E) of the time and place of the sentencing proceeding;

(3) notify the victim in writing of the final disposition of the case within 30 days after final disposition of the case.

(b) The notice given under (a)(2) of this section shall inform the victim that the victim's statement may contain any relevant information including

(1) an explanation of the nature and extent of physical,

1 psychological, or emotional harm or trauma suffered by the victim;

2 (2) an explanation of the extent of economic loss or prop-
3 erty damage suffered by the victim;

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19 prisoner's attorney before action by the board. Notwithstanding
20 AS 33.16.900(10), if the victim has died, is a minor, or is incapac-
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22 uncle, parent-in-law, brother-in-law, sister-in-law, or legal guardian
23 may not exercise the right provided under this subsection.

24 * Sec. 11. AS 33.16.120(e) is amended to read:

25 (e) Upon request of the victim, [IF THE BOARD DECIDES TO RELEASE
26 ON PAROLE A PRISONER WHO IS CONVICTED OF A CRIME AGAINST A PERSON,]
27 the board shall make every reasonable effort to notify the victim of
28 its decision to grant or deny discretionary parole as soon as prac-
29 ticable [BEFORE THE PRISONER'S RELEASE DATE]. Notification under this

1 subsection must include the expected date of the prisoner's release,
2 the geographic area in which the prisoner is required to reside, the
3 prisoner's residence address, and other pertinent information concern-
4 ing the prisoner's conditions of parole that may affect the victim.

5 * Sec. 12. AS 33.16.120(f) is amended to read:

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7 AS 33.16.010(c), the board shall make every reasonable effort to
8 notify the victim before the prisoner's release date. Notification
9 under this subsection must include the expected date of the prisoner's
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22 050(a) is named in a petition filed by the commissioner under AS 12.-
23 47.050(e) for a screening investigation to determine the need for
24 further treatment.

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28 parent-in-law, brother-in-law, sister-in-law, or legal guardian.

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1 the status of an offender under this section only if the victim or a
2 person entitled to notice under (b) of this section has requested
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4 (d) A victim, or a person who is entitled to notice under (b) of
5 this section, shall maintain a current, valid mailing address on file
6 with the commissioner. The address of record is the address for all
7 communication of notice from the department required by this section.
8 Mail that is transmitted by the commissioner to the address of record
9 satisfies the legal requirements with respect to notice under this
10 section.

11 * Sec. 14. AS 47.10.070 is repealed and reenacted to read:

12 Sec. 47.10.070. HEARINGS. (a) The court may conduct the hear-
13 ing in an informal manner in the courtroom or in chambers. A hearing
14 may be held before a young adult advisory panel in accordance with
15 AS 47.10.075. The court shall give notice of the hearing to the
16 department and shall transmit a copy of the petition to the depart-
17 ment.

18 (b) The department may send a representative to the hearing, and
19 the department's representative may testify at the hearing.

20 (c) Except as provided in (d) and (e) of this section, the
21 public shall be excluded from the hearing.

22 (d) If the hearing involves an offense that is a felony, the
23 victim of the offense that is the subject of the hearing may attend
24 the hearing or be represented at the hearing by counsel. If the
25 victim has died, is a minor, or is incapacitated, the victim's spouse,
26 parent, child, brother, sister, aunt, uncle, parent-in-law, brother-
27 in-law, sister-in-law, or legal guardian may attend the hearing or be
28 represented at the hearing by counsel. If the court finds that the
29 presence of the victim, the victim's legal representative, or certain

1 the status of an offender under this section only if the victim or a
2 person entitled to notice under (b) of this section has requested
3 notice of the change.

4 (d) A victim, or a person who is entitled to notice under (b) of
5 this section, shall maintain a current, valid mailing address on file
6 with the commissioner. The address of record is the address for all
7 communication of notice from the department required by this section.
8 Mail that is transmitted by the commissioner to the address of record
9 satisfies the legal requirements with respect to notice under this
10 section.

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13 ing in an informal manner in the courtroom or in chambers. A hearing
14 may be held before a young adult advisory panel in accordance with
15 AS 47.10.075. The court shall give notice of the hearing to the
16 department and shall transmit a copy of the petition to the depart-
17 ment.

18 (b) The department may send a representative to the hearing, and
19 the department's representative may testify at the hearing.

20 (c) Except as provided in (d) and (e) of this section, the
21 public shall be excluded from the hearing.

22 (d) If the hearing involves an offense that is a felony, the
23 victim of the offense that is the subject of the hearing may attend
24 the hearing or be represented at the hearing by counsel. If the
25 victim has died, is a minor, or is incapacitated, the victim's spouse,
26 parent, child, brother, sister, aunt, uncle, parent-in-law, brother-
27 in-law, sister-in-law, or legal guardian may attend the hearing or be
28 represented at the hearing by counsel. If the court finds that the
29 presence of the victim, the victim's legal representative, or certain

1 members of the victim's family, or the victim's legal guardian would
2 be detrimental to the minor or to the conduct of the hearing, the
3 court may exclude the victim or other person specified in this
4 subsection from the hearing.

5 (e) The court, in its discretion, may permit a person to attend
6 a hearing if the person's attendance is compatible with the best
7 interests of the minor.

8 (f) This section may not be applied to deny a child's rights to
9 a public trial or to a trial by jury.

10 * Sec. 15. AS 47.10.070(d), as enacted by sec. 14 of this Act, has the
11 effect of amending Rule 3(c) of the Alaska Child in Need of Aid Rules and
12 Rule 3(c) of the Alaska Delinquency Rules by giving the victim of a felony
13 offense committed by a minor, the victim's legal representative, or certain
14 members of the victim's family or the victim's legal guardian, a qualified
15 right to attend a hearing involving that minor.

5-0242B
Chenoweth
01/22/88

Original sponsors: Donley, Collins,
Martin, et al.

*FINAL Version AS
PASSED*

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 296 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to victims of crime, claims arising
7 from criminal conduct, and service of process on
8 prisoners; and amending Rule 32(d)(2) of the Alaska
9 Rules of Criminal Procedure."

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

11 * Section 1. AS 12.61 is amended by adding a new section to read:

12 Sec. 12.61.100. SHORT TITLE. This chapter may be cited as the
13 "Alaska Crime Victim's Rights Act."

14 * Sec. 2. AS 09.05 is amended by adding a new section to read:

15 Sec. 09.05.050. SERVICE OF PROCESS ON PRISONERS. (a) In a
16 civil action against a person committed to the custody of the commis-
17 sioner of corrections under state law, the summons may be served on
18 the commissioner of corrections. Service of the summons is made by
19 registered mail or delivery of a copy of it to the commissioner of
20 corrections. The commissioner shall keep a record of each process
21 served under this section and the day and hour of service. This
22 service is sufficient service on the prisoner.

23 (b) The commissioner of corrections shall deliver a notice of
24 the service and a copy of the summons to the prisoner within 10 days
25 after the date of service.

26 (c) The commissioner of corrections shall make an affidavit
27 showing that service of the summons on the defendant has been made as
28 provided in (b) of this section. The affiant shall attach to the
29 affidavit a copy of the summons and shall file the affidavit and

1 attached papers with the court having jurisdiction of the cause.

2 (d) The court in which the action is pending may order an exten-
3 sion of time necessary to give the defendant reasonable opportunity to
4 defend the action.

5 * Sec. 3. AS 09.38.055(a) is amended to read:

6 (a) Notwithstanding other provisions of this chapter,

7 (1) a creditor may make a levy against exempt property of
8 any kind to enforce a claim for

9 (A) child support;

10 (B) unpaid earnings of up to one month's compensation
11 or the full-time equivalent of one month's compensation for
12 personal services of an employee; or

13 (C) state or local taxes; and

14 (2) a creditor may make a levy against exempt property to
15 enforce a claim for

16 (A) the purchase price of the property or a loan made
17 for the express purpose of enabling an individual to purchase the
18 property and used for that purpose;

19 (B) labor or materials furnished to make, repair,
20 improve, preserve, store, or transport the property; and

21 (C) a special assessment imposed to defray costs of a
22 public improvement benefiting the property;

23 (3) a creditor may make a levy against exempt property to
24 enforce a claim arising from criminal conduct of the debtor resulting
25 in a felony or misdemeanor conviction except that the following items
26 of property remain exempt within the specified value limitations:

27 (A) implements, professional books, and tools of the
28 trade chosen by the debtor, not to exceed an aggregate value of
29 \$750;

1 (B) household goods and wearing apparel chosen by the
 2 debtor and reasonably necessary for one household, not to exceed
 3 an aggregate value of \$250.

4 * Sec. 4. AS 12.47 is amended by adding a new section to read:

5 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been
 6 committed to the custody of the commissioner of health and social
 7 services under AS 12.47.090, the victim of the offense is entitled to
 8 notice of a pending change in the status of the offender. The notice
 9 required by this section shall be given

10 (1) by the commissioner of health and social services

11 (A) if the offender has been continued in commitment
 12 following expiration of the maximum term of imprisonment under
 13 AS 12.47.090(f) and the commissioner petitions for release of the
 14 offender; or

15 (B) if the court is to consider modification of an
 16 order of conditional release for the offender under AS 12.47.-
 17 092(e);

18 (2) by the attorney general, or the prosecutor, as applica-
 19 ble,

20 (A) if a court is to consider conditional release of
 21 the offender under AS 12.47.090(k) and 12.47.092(a); or

22 (B) if the offender petitions for discharge under
 23 AS 12.47.092(f).

24 (b) If the victim has died, is a minor, or is incapacitated, the
 25 commissioner of health and social services, the attorney general, or
 26 the prosecutor shall give notice, when required by (a) of this sec-
 27 tion, to the victim's spouse, parent, child, brother, sister, aunt,
 28 uncle, parent-in-law, brother-in-law, sister-in-law, or legal guar-
 29 dian.

1 (c) A state officer is required to give notice of a change in
 2 the status of an offender under this section only if the victim or a
 3 person entitled to notice under (b) of this section has requested
 4 notice of the change.

5 (d) A victim, or a person who is entitled to notice under (b) of
 6 this section, shall maintain a current, valid mailing address on file
 7 with the commissioner of health and social services or the attorney
 8 general. The address of record is the address for all communication
 9 of notice from the commissioner of health and social services or the
 10 attorney general required by this section. Mail that is transmitted
 11 by the commissioner or the attorney general to the address of record
 12 satisfies the legal requirements with respect to notice under this
 13 section.

14 * Sec. 5. AS 12.55.155(c) is amended by adding a new paragraph to read:

15 (27) the defendant's conduct caused substantial physical,
 16 emotional, or financial harm to the victim or, if the victim has died
 17 as a result of the defendant's conduct, to the victim's immediate
 18 family.

19 * Sec. 6. AS 12.55.155(f) is amended to read:

20 (f) If the state seeks to establish a factor in aggravation at
 21 sentencing or if the defendant seeks to establish a factor in mitiga-
 22 tion at sentencing, written notice must be served on the opposing
 23 party and filed with the court not later than 10 days before the date
 24 set for imposition of sentence. Written notice shall also be served
 25 within that time by the prosecutor upon the victim of the defendant
 26 indicating that the victim has a right to appear and participate. The
 27 victim may appear personally or by counsel at aggravation or mitiga-
 28 tion proceedings and sentencing proceedings to present evidence and
 29 express opinions concerning the physical, emotional, or financial harm

1 caused to the victim and other factors relating to the crime, the
2 defendant, disposition of the defendant after sentencing, and the need
3 for restitution. The court in imposing sentence shall consider the
4 evidence and opinions presented by the victim at aggravation or miti-
5 gation proceedings and sentencing proceedings and in the presentence
6 report. Factors in aggravation and factors in mitigation must be
7 established by clear and convincing evidence before the court sitting
8 without a jury. All findings must be set out with specificity.

9 * Sec. 7. AS 12.55.185(11) is amended to read:

10 (11) "victim" means a natural person against whom the of-
11 fense has been perpetrated; [THE VICTIM OF THE OFFENSE OR,] if the
12 person [VICTIM] has died, is a minor, or is incapacitated, the term
13 includes the person's [A] spouse, parent, child, brother, sister,
14 aunt, uncle, parent-in-law, brother-in-law, sister-in-law, or legal
15 guardian [OF THE VICTIM].

16 * Sec. 8. AS 12.61.010(a) is amended to read:

17 (a) Victims of crimes have the following rights:

18 (1) the right to be informed by the appropriate law en-
19 forcement agency or the prosecuting attorney of the date of trial and
20 the date of sentencing of the case in which the victim is involved;

21 (2) the right to be notified that a sentencing hearing or a
22 court proceeding to which the victim has been subpoenaed will not
23 occur as scheduled;

24 (3) the right to receive protection from harm and threats
25 of harm arising out of cooperation with law enforcement and prosecu-
26 tion efforts, and to be provided with information as to the protection
27 available;

28 (4) the right to be informed of the procedure to be fol-
29 lowed to apply for and receive any victim compensation under AS 18.67;

1 (5) at the request of the prosecution or a law enforcement
2 agency, the right to cooperate with the criminal justice process
3 without loss of pay and other employee benefits and without interfer-
4 ence in any form by the employer of the victim of crime; [AND]

5 (6) the right to obtain access to immediate medical assis-
6 tance and not to be detained for an unreasonable length of time by a
7 law enforcement agency before having medical assistance administered;
8 however, an employee of the law enforcement agency may, if necessary,
9 accompany the person to a medical facility to question the person
10 about the criminal incident if the questioning does not hinder the
11 administration of medical assistance;

12 (7) the right to make a written or oral statement for use
13 in preparation of the defendant's presentence report, and to appear
14 personally or by counsel at the defendant's sentencing hearing to
15 present a written or oral statement;

16 (8) the right to appear personally or by counsel to make a
17 written or oral statement to a court for consideration by the court if
18 the offender files a motion for a modification or reduction of sen-
19 tence;

20 (9) the right to make a written statement to the governor
21 for consideration by the governor if

22 (A) the governor considers a pardon, commutation of
23 sentence, reprieve, or suspension or remission of a fine or
24 forfeiture for the offender under AS 33.20.070; or

25 (B) the offender applies to the governor for clemency
26 under AS 33.20.080; and

27 (10) the right to obtain, without a motion, at any time
28 after the defendant's conviction, access to

29 (A) police reports from the appropriate law

1 enforcement agency related to the case in which the victim was
2 involved;

3 (B) presentence reports from the court or the person
4 responsible for preparing presentence reports related to the case
5 in which the victim was involved; access under this subparagraph
6 may be requested orally or in writing from the court in which
7 sentence of the defendant was entered; the request may be made at
8 any time after the defendant's conviction; after a request made
9 under this subparagraph, the victim is entitled to access unless
10 the court determines or the person responsible for preparing the
11 presentence report shows, by a preponderance of the evidence,
12 that access to the report would prove detrimental to the re-
13 habilitation of the defendant or to the safety of the public.

14 * Sec. 9. AS 12.61 is amended by adding new sections to read:

15 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) Upon the
16 request of the victim of a crime, the prosecuting attorney shall

17 (1) confer with the victim before the selection of the jury
18 and the trial of the defendant;

19 (2) in a manner reasonably calculated to give prompt actual
20 notice, notify the victim

21 (A) of the defendant's conviction and the crimes for
22 which the defendant was convicted;

23 (B) of the victim's right to make a written or oral
24 statement for use in preparation of the defendant's presentence
25 report, and to appear personally or by counsel at the defendant's
26 sentencing hearing to present a written or oral statement;

27 (C) that the presentence report and any statement by
28 the victim will be made available to the defendant unless exempt-
29 ed from disclosure by the court;

1 (D) of the address and telephone number of the office
2 that will prepare the presentence report; and

3 (E) of the time and place of the sentencing proceed-
4 ing;

5 (3) notify the victim in writing of the final disposition
6 of the case within 30 days after final disposition of the case.

7 (b) The notice given under (a)(2) of this section shall inform
8 the victim that the victim's statement may contain any relevant infor-
9 mation including

10 (1) an explanation of the nature and extent of physical,
11 psychological, or emotional harm or trauma suffered by the victim;

12 (2) an explanation of the extent of economic loss or prop-
13 erty damage suffered by the victim;

14 (3) an opinion of the need for and extent of restitution
15 and whether the victim has applied for or received compensation for
16 loss or damage; and

17 (4) the victim's recommendation for an appropriate sen-
18 tence.

19 Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. An employer
20 of a victim of crime who disciplines or discharges or threatens to
21 discipline or discharge the victim because the victim is subpoenaed or
22 requested by the prosecuting attorney to attend a court proceeding for
23 the purpose of giving testimony is guilty of a class B misdemeanor.

24 * Sec. 10. AS 33.16.120(c) is amended to read:

25 (c) The victim has a right to attend, or be represented by
26 counsel at, meetings of the parole board and to comment in writing, in
27 person or by counsel on the proposed action of the board. Copies of
28 any written [THE] comments shall be provided to the prisoner and the
29 prisoner's attorney before action by the board. Notwithstanding

1 AS 33.16.900(10), if the victim has died, is a minor, or is incapac-
2 itated, the victim's spouse, parent, child, brother, sister, aunt,
3 uncle, parent-in-law, brother-in-law, sister-in-law, or legal guardian
4 may not exercise the right provided under this subsection.

5 * Sec. 11. AS 33.16.120(e) is amended to read:

6 (e) Upon request of the victim, [IF THE BOARD DECIDES TO RELEASE
7 ON PAROLE A PRISONER WHO IS CONVICTED OF A CRIME AGAINST A PERSON,]
8 the board shall make every reasonable effort to notify the victim of
9 its decision to grant or deny discretionary parole as soon as prac-
10 ticable [BEFORE THE PRISONER'S RELEASE DATE]. Notification under this
11 subsection must include the expected date of the prisoner's release,
12 the geographic area in which the prisoner is required to reside, the
13 prisoner's residence address, and other pertinent information concern-
14 ing the prisoner's conditions of parole that may affect the victim.

15 * Sec. 12. AS 33.16.120(f) is amended to read:

16 (f) Upon request of the victim, if a prisoner is released under
17 AS 33.16.010(c), the board shall make every reasonable effort to
18 notify the victim before the prisoner's release date. Notification
19 under this subsection must include the expected date of the prisoner's
20 release, the geographic area in which the prisoner is required to
21 reside, the prisoner's residence address, and other pertinent informa-
22 tion concerning the prisoner's conditions of parole that may affect
23 the victim.

24 * Sec. 13. AS 33.30 is amended by adding a new section to read:

25 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-
26 missioner shall notify the victim of an offense if the offender

- 27 (1) escapes from custody;
28 (2) is released to the community on a furlough;
29 (3) is released to a correctional restitution center;

1 (4) is released on an early release program; or

2 (5) who was found guilty but mentally ill under AS 12.47.-
3 050(a) is named in a petition filed by the commissioner under AS 12.-
4 47.050(e) for a screening investigation to determine the need for
5 further treatment.

6 (b) If the victim has died, is a minor, or is incapacitated, the
7 commissioner shall give notice, when required by (a) of this section,
8 to the victim's spouse, parent, child, brother, sister, aunt, uncle,
9 parent-in-law, brother-in-law, sister-in-law, or legal guardian.

10 (c) The commissioner is required to give notice of a change in
11 the status of an offender under this section only if the victim or a
12 person entitled to notice under (b) of this section has requested
13 notice of the change.

14 (d) A victim, or a person who is entitled to notice under (b) of
15 this section, shall maintain a current, valid mailing address on file
16 with the commissioner. The address of record is the address for all
17 communication of notice from the department required by this section.
18 Mail that is transmitted by the commissioner to the address of record
19 satisfies the legal requirements with respect to notice under this
20 section.

21 * Sec. 14. AS 47.10 is amended by adding a new section to read:

22 Sec. 47.10.072. VICTIM'S ACCESS TO HEARING. The victim of a
23 crime committed by a minor who is scheduled for a hearing under
24 AS 47.10.070 may request the court to attend the hearing. If the
25 victim requests, the Department of Health and Social Services shall
26 assist the victim in preparing a written submission to the court
27 requesting access to the hearing. The Department of Health and Social
28 Services shall make reasonable efforts to inform victims of the
29 availability of this assistance. In this section, "victim" has

1 the meaning given in AS 12.55.185(11).

2 * Sec. 15. AS 12.61.010(a), as amended by sec. 8 of this Act, has the
3 effect of amending Alaska Rule of Criminal Procedure 32(d)(2) by making
4 presentence reports available to victims of crime without a court order.
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H B

305

HOUSE COMMITTEE REPORT

(7)

Finance added

Date referred: 3/4/88

FURTHER REFERRALS:

3-7-88

DATE: 3-22-88

The Health, Education and Social Services Committee has considered HB 305

"An Act relating to transportation of pupils; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 305(Trans) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

[Signature]
[Signature]
 ROBERT E. [Signature]
[Signature]
[Signature]

[Signature] - No Rec
[Signature]

[Signature]
 Chairmans signature
[Signature]

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

H HESS	3-22-88	8:30 a.m.
H TRANS	2-10-88	1:30 p.m.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 305 (Trans)

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: "An act relating to
transportation of pupils..." BRU: Labor Standards & Safety
 Sponsor: House Labor & Commerce Components: Wage & Hour
 Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *Tom Stuart* Phone: 264-2452
 Division: Labor Standards & Safety Date: 3/18/88

Approved by Commissioner: Jim Sampson *Jim Sampson* Date: 3/18/88
 Agency: Department of Labor

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

STATE OF ALASKA
THE LEGISLATURE

POUCH 7 STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3806

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 2, 1988

SUBJECT: Durational Residency Requirement
CSHB 305 (Transportation)

TO: Representative Bette Cato, Chair
House Transportation Committee

FROM: Michael F. Ford MFF:ms
Legislative Counsel

This is to bring to your attention a constitutional problem in sec. 5 of CSHB 305 (Transportation) concerning requiring school bus drivers to have an Alaska driver's license for one year. In our opinion such a requirement would be held unconstitutional as it would violate the state equal protection clause.

In Williams v. Zobel, 619 P.2d 422 (AK 1980), the Alaska Supreme Court discussed the test to be used to determine if a durational residency requirement is constitutional. Essentially the court balances the denial of the benefit or right against the government objective involved. The state must show that the residency requirement has a fair and substantial relationship to a legitimate government objective. See also State v. Erickson, 574 P.2d 1, 11-12 (AK 1978). Requiring an Alaska drivers' license for one year prior to being eligible for employment as a school bus driver does not seem to be a legitimate government objective. The argument that familiarity with Alaska driving conditions, or a general safety aspect, fails when you consider that driving conditions vary greatly across Alaska. For example, a person living in Ketchikan is probably no better prepared to drive a school bus in Fairbanks, than a person living in Montana or California.

In short, this type of residency requirement would probably not survive constitutional challenge.

MFF:gc
WKG1:064

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act relating to
transportation of pupils.."
Sponsor: House Labor and Commerce
Requestor: House Transportation

Agency Affected: Labor
BRU: Labor Standards and Safety
Components: Wage and Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *Stuart*
Division: Labor Standards and Safety

Phone: 264-2452
Date: 2/02/88

Approved by Commissioner: Jim Sampson *Jim Sampson*
Agency: Labor

Date: 2/02/88

Distribution (by preparer) :

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: ...transportation of pupils...

Agency Affected: Education
BRU: K-12

Sponsor: House Labor and Commerce
Requestor: House Labor and Commerce

Components: Pupil transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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)

This is not a zero fiscal note. The potential cost of sections 2, 3, and 4 of the bill are indeterminate.

Prepared by: Steve Hole Phone: 465-2800
Division: Commissioner's Office Date: 2-2-88

Approved by Commissioner: William G. Demmert Date: 2-2-88
Agency: Education

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An Act relating to transportation BRU: Motor Vehicles
of pupils.
 Sponsor: House L&C Components: _____
 Requestor: House L&C

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact on this department.

JNR
2/2/88

Prepared by: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 2-2-88
 Approved by Commissioner: [Signature] Date: 2-3-88
 Agency: Public Safety

- Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892



February 3, 1988

To: Representative Bette Cato, Chair
Members, House Transportation Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: HB 305 - School Bus Drivers

HB 305, relating to wages and required experience for school bus drivers, was introduced by the House Labor and Commerce Committee and is before the House Transportation today.

I've included a brief sectional analysis of HB 305 to aid in your deliberations today. HB 305 makes three substantial amendments to existing statute: 1) raises the age to obtain a school bus drivers license from 19 to 21, 2) raises the one year requirement for having an Alaska drivers license to two years and, 3) establishes a minimum wage for drivers at no less than two and one half times the federal minimum wage law (\$3.35/hour - \$3.85/hour in Alaska).

The House Labor and Commerce Committee introduced HB 305 in response to concerns about the continuing reduction in wages for school bus drivers and the potential effect on the quality and availability of qualified drivers. Most school bus drivers are employees of contractors who bid for pupil transportation services. Less than twenty percent of school bus drivers in Alaska are paid directly by a school district. Since most pupil transportation costs are fixed (i.e. gas, oil, tires, insurance, heat, lights, license fees, routine maintenance, and the buses themselves), reducing wages paid to drivers may be the only way for a contractor to place the winning bid. The House Labor and Commerce Committee felt that the compensation levels of school bus drivers must not be allowed to deteriorate because wages currently paid are at an absolute minimum to expect qualified and proficient applicants.

Last year, the Committee received the results of a brief telephone survey of wages paid to school bus drivers:

<u>CITY</u>	<u>CONTRACTOR</u>	<u>ENTRY WAGE</u>	<u>TOP WAGE</u>
KENAI	LIDLAW	\$8.10/HR	\$11.45/HR
MATSU/BOROUGH	TUNDRA TOURS	\$8.22/HR	\$10.40/HR
KODIAK	T.M.S.	\$9.50/HR	\$10.00/HR
FAIRBANKS	T.M.S.	\$8.50/HR	\$10.00/HR
ANCHORAGE	T.M.S.	\$7.50/HR	\$ 9.00/HR
ANCHORAGE	LIDLAW	\$8.22/HR	\$ 9.75/HR

Before deciding to introduce HB 305, our Committee heard arguments that there is no correlation between wages paid to school bus drivers and a good safety record. However, the Anchorage School district has suffered three student fatalities in the last four years, in three separate school bus accidents. In each case, the contractor was T.M.S. (Transportation & Marketing Systems).

The operation of a school bus is viewed by many as nothing more difficult than driving the family car. From a mechanical standpoint this may be true. However, from a safety standpoint it is not. A much greater level of proficiency must be required of our school bus drivers than we require from drivers who do not carry passengers, let alone a bus full of children.

In recognition of the greater degree of experience and proficiency required, the legislature recently adopted measures to substantially increase the required experience and training levels for school bus drivers. While this legislation imposed considerable costs on potential drivers, it did nothing to protect their wages and therefore helped to make bus driving a substantially less attractive job. The resulting increase in the turnover rate among drivers means wasted training dollars, potentially unsafe pressure on current employees, and an overall lower level of proficiency.

In order to correct errors in the current version of HB 305, I prepared two amendments for your consideration. The first would correct the effective date so that it reads September 1, 1988 instead of September 1, 1987. The second amendment corrects a drafting oversight so that the minimum wage requirements established under HB 305 apply to all school bus drivers, whether they are paid by a school district or through an independent contractor.

The House Labor and Commerce Committee believes that HB 305 reasonably and fairly addresses an important public safety issue. We support measures to increase the proficiency and experience level for school bus drivers and feel strongly that the best way to accomplish that goal and still maintain a pool of qualified, experienced drivers, is to guarantee that they receive no less than a livable wage.

DEPARTMENT OF LABOR

BOX 1149
JUNEAU, ALASKA 99802
PHONE:
(907) 465-4856

April 21, 1987

The Honorable Dave Donley
State Capital
P.O. Box V
Juneau, AK 99811

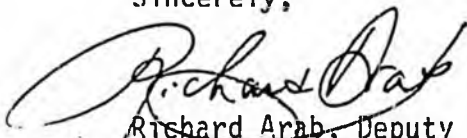
Dear Representative Donley:

I refer to your request of April 14, 1987 concerning statistics or a study which may indicate the relationship between wages paid to a school bus driver and his or her safety record.

The department does not have any information on this subject. I, therefore, called the Department of Education and the Alaska Highway Safety Council but neither of these agencies had any information on the subject. They referred me to the National School Transportation Association, in Springville, Virginia, and to the National Safety Council in Chicago, Illinois. I contacted both these organizations and they also were not aware of any studies in this area.

I am sorry I was not of more help but evidently there are no studies either on a state or national level on this subject.

Sincerely,



Richard Arab, Deputy Director
Division of Labor Standards
and Safety

GORDON Epperly : JUNEAU

1. School bus drivers are required to complete first aid and CPR classes, which takes about four hours of personal time and costs \$20 for their certification cards.
2. School bus drivers are required to have physicals, costing \$50 - \$1.00, on their own time.
3. New drivers are required to attend a two week training program, at their own expense, and complete a "ground check". Certification is \$10.
4. Returning drivers are required to attend eight hours of continued training per year. Own expense.

School bus drivers have been for years trying to become affiliated with a labor union, but because they are hired by a contractor, affiliation attempts have failed.

Other bus and truck drivers are paid Davis Bacon wages.

HOUSE COMMITTEE REPORT

(7)

Date referred: 5/7/87

FURTHER REFERRALS: HESS

DATE: 3-2-88
HB 305

The Transportation Committee has considered

"An Act relating to transportation of pupils; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 305 (TRSP) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the Finance Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- 2 zero fiscal notes same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Bill Hurd
Bette Cuts
Henny Smiley
D.B. Bishop

SIGNING OTHER RECOMMENDATIONS:

Mike Hillee No Rec
1) Sue Pearce No Rec

Bette Cuts
Chairman's signature

H B

306

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to anatomical gifts.
Sponsor: Gruenberg
Requestor: Senate HESS

Agency Affected: Public Safety
BRU: Motor Vehicles
Components: Field Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact on this department.

Prepared by: Jay N. Dulany *JND 1/29/88* Phone: 269-5551
Division: Motor Vehicles Date: 1-29-88

Approved by Commissioner: David Holtz *Dep. Comm.* Date: 2-3-88
Agency: Public Safety

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

MEMORANDUM

TO: House HESS Committee Members

FROM: House HESS Committee Staff

RE: Proposed HESS CS's for HB 306 - Anatomical Gifts

DATE: January 22, 1988

.....

"L" Draft:

Adds to 11/9/87 draft that a person registering a vehicle shall be given written information regarding anatomical gifts and that if others request written information they will get it. As per Rep. Hudson.

"B" Draft:

In addition to amendment added in "L" draft, provides that applicant registering vehicle in person shall also be asked orally if they wish to be an organ donor.

LM/dm

*MS working draft
Hudson #1*

5-1006L
Hein
1/22/88

Original sponsors: Gruenberg, Grussendorf,
Koponen, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 306 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to anatomical gifts."

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

8 * Section 1. AS 13.50.010(a) is amended to read:

9 (a) A person of sound mind who is 18 [19] or more years of age
10 may make a gift to take effect upon death, of all or a part of the
11 person's body for a purpose specified in AS 13.50.020.

12 * Sec. 2. AS 13.50 is amended by adding new sections to read:

13 Sec. 13.50.014. REQUESTS BY HOSPITALS FOR ANATOMICAL GIFTS. (a)
14 When a person dies in a hospital or is pronounced dead after arriving
15 at a hospital, the administrator or a designated employee shall re-
16 quest a gift under AS 13.50.010(b), unless the administrator or em-
17 ployee knows that the person has executed a gift.

18 (b) Each hospital in the state shall develop procedures for
19 identifying potential donors of gifts, requesting gifts, notifying and
20 coordinating with eye banks, tissue banks, and organ procurement
21 agencies, and assisting in the procurement, removal, storage, and
22 transportation of gifts. The procedures must specify the circum-
23 stances under which it is inappropriate to request a gift, such as if
24 the gift is unsuitable, if the request is likely to offend the donor's
25 religious beliefs, or if making the request is likely to cause undue
26 emotional distress to the person who would be asked to make the gift.
27 The procedures must encourage reasonable discretion and sensitivity.

28 (c) The commissioner of health and social services may exempt
29 from the requirements of this section a hospital that lacks the means

1 to properly remove, store, or transport gifts.

2 Sec. 13.50.016. INVESTIGATIONS BY LAW ENFORCEMENT AND MEDICAL
3 PERSONNEL. Law enforcement or medical personnel who respond to the
4 scene of an accident or emergency involving the death of a person and
5 who know that the person executed a gift shall inform appropriate
6 hospital personnel of the gift.

7 * Sec. 3. AS 13.50.060(a) is amended to read:

8 (a) The donee may accept or reject the gift. If the donee
9 accepts a gift of the entire body, the donee may, subject to the terms
10 of the gift, authorize embalming and the use of the body in funeral
11 services. If the gift is of a part of the body, the donee, upon the
12 death of the donor and before embalming shall have the part removed
13 without unnecessary mutilation. After removal of the part of the
14 body, custody of the remainder of the body vests in the surviving
15 spouse, next of kin, or a person other than the spouse or next of kin
16 who is authorized to dispose of the body. A person described in
17 AS 13.50.010(b) and the estate of the donor may not be held liable for
18 the cost of an examination under AS 13.50.010(e) or any costs related
19 to the removal, storage, or transportation of a gift.

20 * Sec. 4. AS 13.50.060(c) is amended to read:

21 (c) A person who acts in good faith in accordance with the terms
22 of this chapter or the anatomical gift laws of another state or coun-
23 try is not liable for damages for the act in a [ANY] civil action or
24 subject to prosecution in a [ANY] criminal proceeding for the act.

25 * Sec. 5. AS 13.50 is amended by adding a new section to read:

26 Sec. 13.50.065. REGULATIONS. The commissioner of health and
27 social services shall adopt regulations for the appropriate training
28 of hospital employees who are designated under AS 13.50.014 to request
29 gifts and for the implementation of this chapter.

1 * Sec. 6. AS 13.50.070 is amended by adding a new paragraph to read:

2 (8) "gift" means an anatomical gift of all or part of a
3 person's body.

4 * Sec. 7. AS 18.65 is amended by adding a new section to read:

5 Sec. 18.65.311. ANATOMICAL GIFT DOCUMENT. (a) The department
6 shall provide, at the time that an identification card is issued, a
7 form for a document by which the card holder may make an anatomical
8 gift under AS 13.50 (Uniform Anatomical Gifts Act). The document (1)
9 may not be larger than an identification card, (2) must contain suffi-
10 cient space for the signature of two witnesses to the donor's act of
11 execution of the document, and (3) must provide a means by which the
12 donor may cancel the gift. If the document making an anatomical gift
13 is executed by the applicant, it shall be sealed in plastic and
14 attached to the identification card. A symbol indicating the exis-
15 tence of the anatomical gift document must be displayed in the lower
16 right-hand corner on the face of the identification card.

17 (b) An employee of the department who processes an identifica-
18 tion card application, other than an application received by mail,
19 shall ask the applicant orally whether the applicant wishes to execute
20 an anatomical gift. The department shall, by placement of posters and
21 brochures in the office where the application is taken, and by oral
22 advice, if requested, make known to the applicant the procedure neces-
23 sary to execute a gift under AS 13.50.

24 * Sec. 8. AS 28.10.021 is amended by adding a new subsection to read:

25 (c) The department shall make known to all applicants the
26 procedure for executing a gift under AS 13.50 (Uniform Anatomical
27 Gifts Act) by displaying posters in the offices in which applications
28 are taken, by providing a brochure or other written information to
29 each person who applies in person or by mail, and, if requested, by

*include
written
info
Hudson*

1 providing oral advice.

2 * Sec. 9. AS 28.15.061(d) is repealed and reenacted to read:

3 (d) An employee of the department who processes a driver's
 4 license application, other than an application received by mail, shall
 5 ask the applicant orally whether the applicant wishes to execute an
 6 anatomical gift. The department shall make known to all applicants
 7 the procedure for executing a gift under AS 13.50 (Uniform Anatomical
 8 Gifts Act) by displaying posters in the offices in which applications
 9 are taken, by providing a brochure or other written information to
 10 each person who applies in person or by mail, and, if requested, by
 11 providing oral advice.

same
rewritten
with
anatomically
Harrison

*§ 9 changes Section 8 of
 previous version to
 rewrite § AS 28.15.061(d)*