

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4724 HJUD HB 365 - HB 371

296

HB

365

STATE OF ALASKA
THE LEGISLATURE

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

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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

House Judiciary:

3-8-88

Introduced: 1/15/88
Referred: State Affairs,
Judiciary and Finance

Philosophy; Accountability

go00018h

Reason for Bill 99th philosophical

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 365

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 delegation of responsibilities of
7 the Alaska Permanent Fund Corporation Board of Trust-
8 ees; relating to liability of the Alaska Permanent
9 Fund Corporation, its board and its employees; and
10 providing for an effective date."

11

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

12

* Section 1. AS 37.13 is amended by adding new sections to read:

13

Sec. 37.13.105. ALLOCATION AND DELEGATION OF RESPONSIBILITIES;

14

LIABILITY. (a) The board may allocate its duties among the members
15 of the board and may delegate to employees of the corporation any of
16 the board's responsibilities with respect to the corporation.

17

(b) ~~If~~ the board allocates its responsibilities among its mem-
18 bers or delegates responsibilities to the corporation's employees, and
19 if the allocation or delegation meets the standard set in AS
20 37.13.120(a), then no member of the board is responsible for duties

21

allocated to another member of the board, or delegated to a corpo-
22 ration employee, except to the extent that the board member

23

(1) participates knowingly in, or knowingly undertakes to
24 conceal, an act or omission of the other member or of the employee,
25 knowing that the act or omission is a breach of the member's duties
26 under this chapter;

27

(2) by his or her failure to comply with AS 37.13.120(a) in
28 the administration of that member's specific responsibilities, enables
29 the other member or the employee to commit a breach of duties; or

*Cold liability:
Bill tracks ERISA*

*Magnard: Believes there is
implied ability to delegate.*

1 (3) has knowledge of a breach of duties by the other member
2 or an employee, unless he or she makes reasonable efforts under the
3 circumstances to remedy the breach.

4 (c) The board may enter into one or more contracts with one or
5 more investment managers, to invest part or all of the assets of the
6 Alaska permanent fund. To the extent that the board enters into such
7 a contract in a manner that meets the standard set in AS 37.13.120(a).
8 the board is not liable for an act or omission of an investment manag-
9 er in carrying out its investment responsibilities, nor is the board
10 under an obligation to invest or otherwise manage assets of the Alaska
11 permanent fund which are subject to the management of such an invest-
12 ment manager.

13 (d) For purposes of (c) of this section, "investment manager"
14 means an entity

15 (1) that has the power to manage, acquire, or dispose of
16 assets such as those of the Alaska permanent fund; and

17 (2) that is

18 (A) registered as an investment adviser under 15
19 U.S.C. 80b-1 -- 80b-21 (Investment Advisers Act of 1940);

20 (B) a bank, as defined in 15 U.S.C. 80b-1 -- 80b-21
21 (Investment Advisers Act of 1940);

22 (C) an insurance company qualified to perform services
23 described in (1) of this subsection under the laws of more than
24 one state; or

25 (D) a manager of institutional funds which has had at
26 least five years of experience in the management of real estate
27 investment of institutional investors.

28 (e) The state shall defend and indemnify the board, and any of
29 its employees to whom responsibility has been delegated, against

HE 365

could delete

HB0365A

*Indemnity
of trustees*

Allows use of subtrust for real estate deals.

1 liability arising from acts or omissions of the board or such an
2 employee, to the extent that the act or omission is not the result of
3 gross negligence, intentional or reckless disregard of duties, or
4 fraud.

5 Sec. 37.13.125. LIMITED LIABILITY TRUST. (a) The board may
6 create, by written instrument, one or more trusts to hold assets of
7 the corporation. The written trust instrument must provide

8 (1) that the trustees of the trust are the board;

9 (2) that, subject to (4) of this subsection, the trustees
10 have the same rights and duties, as trustees, as the board has;

11 (3) that the corporation is the sole beneficiary of the
12 trust, and may at any time

13 (A) revoke the trust,

14 (B) cause the trust's income or corpus, or both, to be
15 distributed to the corporation upon demand by the corporation,

16 (C) dismiss the trust's investment adviser following
17 reasonable notice, and

18 (D) sell its interest in the trust to any organization
19 permitted under 26 U.S.C. 501(c)(25) (Internal Revenue Code, as
20 amended as of 1986) to own such an interest;

21 (4) that the trust is organized for the exclusive purposes
22 of

23 (A) holding general or limited partnership interests
24 in partnerships owning, primarily, real estate investments,

25 (B) acquiring real property and holding title to, and
26 collecting income from, the property, and

27 (C) remitting to the corporation the entire income,
28 less expenses, from those interests or that property; and

29 (5) other provisions that the board considers necessary or

1 advisable to carry out the purposes of this chapter.

2 (b) The board is empowered to transfer assets of the corporation
3 it deems appropriate and which the trust is authorized to hold, to a
4 trust created under (a) of this section.

5 (c) The provisions of AS 37.13.120 apply to the investment and
6 management of assets of a trust created under (a) of this section.

7 (d) The exemption granted by AS 37.13.180 applies to a trust
8 created under (a) of this section.

9 (e) Third parties shall look solely to the property of a trust
10 created under (a) of this section for satisfaction of claims arising
11 in connection with the affairs of that trust, including claims arising
12 out of or in connection with assets transferred to that trust by the
13 corporation. The corporation, as the beneficiary of a trust created
14 under (a) of this section, is not subject to personal liability to a
15 third party in connection with the property or affairs of such a
16 trust, except that the corporation might be liable to a third party in
17 an amount up to the value of any trust assets distributed to it after
18 a liability of the trust arose, to the extent that trust assets are
19 insufficient to satisfy the trust's liability. No trustee or employee
20 of a trust created under (a) of this section is subject to personal
21 liability, and the state shall defend and indemnify the board and its
22 employees against liability, for an action or omission of the trustees
23 or the employees to the extent that the acts or omissions are not the
24 result of gross negligence, intentional or reckless disregard of
25 duties, or fraud. A written instrument creating an obligation of a
26 trust created under (a) of this section must provide that the obliga-
27 tions under that instrument are not personally binding upon, nor may a
28 person resort to, the property of the corporation or the trustees,
29 officers, employees, and agents of the trust, but that the trust

1 property or a specific portion of it only is bound and a person shall
2 look solely to that trust property for satisfaction of claims of any
3 nature arising in connection with the affairs of that trust.

4 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 15, 1988

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the delegation of authority from the Board of Trustees of the Alaska Permanent Fund Corporation (board) to the employees and outside advisors of the corporation, and limiting the liability of the fund, its board, and employees.

Section 1 of the bill adds proposed AS 37.13.105, concerning delegation of the board's duties and limiting liability. The proposed statute (1) clarifies that the board may allocate its responsibilities among its members and may delegate any of its responsibilities to the corporation's employees; (2) specifically authorizes the board to contract with one or more investment managers for investment of the fund's assets, and defines "investment manager"; (3) relieves the board from liability with respect to assets for which investment authority has been prudently delegated; and (4) clarifies the degree of indemnity provided to the board and its employees in performing their official duties.

Although I believe that the board already has implied authority or coverage regarding some of these matters, there are arguments that could lead a court to conclude otherwise. Therefore, this bill provides specific statutory authorization and clarification to protect both the board and its employees from untoward liability that could otherwise arise even if actions taken are prudent and appropriate under the circumstances.

In an opinion dated September 13, 1982, the Department of Law discussed board delegation of decision-making to an employee or investment manager. That opinion stated that, given the statutory scheme under which the board is compensated, by honorarium, only for those days spent dealing directly with board work, it is "obviously implied" that the board would delegate to its employees, or to investment managers retained under contract, substantial responsibility

for day-to-day decisions. The opinion further stated that the board may so delegate as much authority as is consistent with the prudence displayed by similarly situated institutional investors.

Notwithstanding this opinion, however, there is no express statutory language that permits allocation or delegation of final investment decisions or even lesser matters. Express statutory authorization is desirable, particularly in light of (1) the consistently applied common law rule that such delegations are not usually permitted; (2) the fact that other institutional investors that allow such delegations almost uniformly do so under express authorizations; and (3) the fact that the reasoning of the opinion would not support the delegation of authority to subcommittees of the board (as has sometimes occurred in the past).

Current AS 37.13.120(f) permits the board to enter into "all contracts necessary, convenient or desirable" for the purposes of the corporation. While the state would argue that this is clear support for the board's authority to contract with professional investment managers for investment services, the board is not relieved of liability for the subsequent investment decisions of those investment managers -- even if the choice of a particular manager was prudent. Under 29 U.S.C. 1105(d), a provision of the federal Employee Retirement Income Security Act (ERISA), a fiduciary is expressly absolved of liability if investment responsibility is delegated to a professional investment manager, and such a provision is desirable here. Additionally, the language of AS 37.13.120(f) would not cover allocation of duties among board members or delegation of responsibilities to corporation employees.

Therefore, proposed AS 37.13.105(a) and (b) make clear that the board may allocate its responsibilities among its members and may delegate any of its responsibilities to its employees. Proposed AS 37.13.105(c) expressly permits the board to contract with one or more "investment managers" for investment of the permanent fund, and relieves the board of liability with respect to assets for which investment responsibility is so delegated, as long as the delegation was done in a prudent manner. Proposed AS 37.15.105(d) provides a definition of "investment manager," with the language in subparagraphs (2)(A) -- (C) of that subsection being taken from the parallel provisions of ERISA. Subparagraph (d)(2)(D) adds a category for real estate investment managers which is not included in ERISA but which is appropriate for permanent fund investments.

Finally, subsection (e) of proposed AS 37.13.105 clarifies the degree of indemnity provided to the board and its employees in performing their official duties. AS 09.50.250 immunizes the state against suit based upon an agency's or employee's exercise or failure to exercise discretionary functions or duties, whether or not the discretion involved is abused. The Department of Law stated in an opinion dated December 2, 1982, that the immunity for discretionary acts probably covers most decisions of the board; it is state policy to defend and indemnify officers or employees against personal liability.

Nonetheless, the opinion pointed out that there is no statutory provision relating to indemnity, and suggested that enactment of a statute stating the scope of indemnity would be helpful. Furthermore, in several cases in recent years the Alaska Supreme Court has held that only decisions that rise to the level of planning or policy formulation fall within the discretionary acts exception, while decisions made at the operational or ministerial level will not be shielded from liability. E.g., Japan Air Lines Co., Ltd. v. State, 628 P.2d 934 (Alaska 1981); Carlson v. State, 598 P.2d 969 (Alaska 1979); Adams v. State, 555 P.2d 235 (Alaska 1976); State v. Abbott, 498 P.2d 712 (Alaska 1972). This doctrine leaves a great deal of room for successful lawsuits attempting to impose liability for decisions that, with hindsight, might appear ill-advised. For example, in Division of Corrections v. Neakok, 721 P.2d 1121 (Alaska 1986), the Alaska Supreme Court held that decisions by the counselors and parole officers in formulating a particular individual's parole plan, in deciding on the type of special conditions to impose, and in deciding on whether to inform persons in the community and potential future victims of possible crimes about the character of the parolee, were "ministerial," rather than protected "discretionary" acts.

Consequently, an argument might be made under present law that while the decision to delegate investment responsibility to the staff or to a yet-to-be selected investment manager is a discretionary act and thus immune from suit, the actual choices of the investment manager and of investments themselves are "operational," and thus not immune. This narrow application of the distinction between "discretionary" and "ministerial" acts renders the present immunity statute (AS 09.50.250) practically meaningless; yet it is an increasingly plausible outcome under recent court reasoning. Thus, express protection for the board and its employees against liability should be extended.

The bill proposes another new section, AS 37.13.125, to authorize the board to create one or more limited liability trusts. The Alaska Permanent Fund Corporation has a substantial, diversified investment portfolio, which includes a variety of investments in real estate. Some of these investments have taken the form of general partnership interests in partnerships owning and operating various kinds of real estate. Because of the liability that can attach to general partners in such circumstances, it has become desirable to provide a means by which assets of the Alaska Permanent Fund Corporation other than general partnership interests are insulated from any such liability that may accrue through ownership of general partnership interests. The purpose of the proposed statute is to expressly allow creation of a separate legal entity, a trust, that would afford the Alaska Permanent Fund Corporation the same protection against liability that a corporation affords a shareholder.

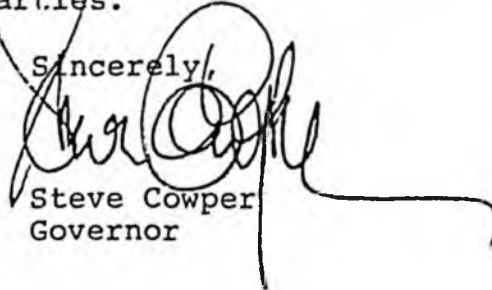
Such a trust, holding general partnership interests and any other related assets considered appropriate by the board, would be created by a trust instrument that names the board as trustees of that trust and names the Alaska Permanent Fund Corporation itself as the the exclusive beneficiary of the trust. The corporation would at all times have the unfettered ability (1) to withdraw the corpus and income from such a trust, (2) to revoke the trust, (3) to dismiss the trust's investment advisor after reasonable notice, and (4) to terminate its interest in the trust by selling its interest to any organization permitted to own such a trust under 26 U.S.C. 501(c)(25) (Internal Revenue Code, as amended as of 1986).

The trust instrument would permit investment of trust assets in such general partnership interests, and otherwise limit the trust to the exclusive purpose of acquiring such partnership interests or other real property, and holding title to and collecting income from the property. The trust must remit the entire amount of such income (less expense) to the Alaska Permanent Fund Corporation.

Under the laws of Alaska, only the trust assets would stand behind obligations of the trust. Neither the trustees, nor the Alaska Permanent Fund Corporation as the trust beneficiary, would be liable for any obligations of the trust, except that the Alaska Permanent Fund Corporation could be

liable for an amount up to the value of any trust assets distributed to it after a liability of the trust arose, to the extent that trust assets are insufficient to satisfy the trust's liability to third parties.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", with a long horizontal flourish extending to the right.

Steve Cowper
Governor

**STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB 365
Publish Date: HOUSE 1/15/88

Revision Date: _____
Title: Delegation of responsibilities of APFC Board of Trustees; relating to liability
Sponsor: of APFC, board, employees.
Requestor: By Rules Committee by Request of Governor

Agency Affected: Revenue
BRU: Alaska Permanent Fund Corporation
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

There is no fiscal impact on the Alaska Permanent Fund Corporation's budget with this legislation.

ANALYSIS : (Attach a separate page if necessary) This bill consists of technical amendments to the Alaska Permanent Fund statute. The amendments add new sections which authorize the delegation of the board's authority to corporation employees and investment managers; provides liability protection; authorizes creation of subtrusts to prevent jeopardizing the Fund's assets.

Prepared by: David A. Rose, Executive Director Phone: 465-2047
Division: Alaska Permanent Fund Corporation Date: 12/29/87

Approved by Commissioner: *David C. L...* Date: 12/29/87
Agency: Alaska Permanent Fund Corporation (Dept. of Revenue)

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

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/15/88

FURTHER REFERRALS:

Judiciary
Finance

DATE: 2/8/88

The State Affairs Committee has considered HB 365

"An Act relating to delegation of responsibilities of the Alaska Permanent Fund Corporation Board of Trustees; relating to liability of the Alaska Permanent Fund Corporation, its board, and its employees; and providing for an effective date."

RECOMMENDS:

- replace with _____ 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 1-15-88
- zero fiscal note same as previous zero fiscal note published 1-15-88
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

Cliff Darden

SIGNING OTHER RECOMMENDATIONS:

[Signature] NO REC

Terry Martin No Rec.

[Signature]

Chairman's signature

H B

3 6 7

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THE LEGISLATURE

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May, 1988

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Mary Van Nimwegen

House Judiciary:

2~9~88

2~10~88

2~11~88

DATE: 2-9-88

The Judiciary Committee has considered HB 367

"An Act altering the composition, membership, and duties of the Alaska Police Standards Council; providing for certification of probation and parole officers and correctional officers by the Alaska Police Standards Council; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 367 (Jud) 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:

[Handwritten signatures]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signature]

Chairman's signature -

February 29, 1988

MEMORANDUM

TO: Rep. John Sund, Chair,
House Judiciary Committee

FROM: John Hartle, PA, *JH*
House Judiciary Committee Staff

RE: HB 367 Police Standards Council certification of
probation, parole, and correctional officers.

JUD CS:

- 1) Added "mental standards" Page 4, Line 2
- 2) Added requirement that the Council use "evaluation methods that do not discriminate against applicants of different ethnic origins. Page 4, Line 19.

The purpose of this bill is to provide certification of probation, parole, and correctional officers to see that they meet certain standards, as police officers now do. Questions have arisen in the recent past relating to corrections officers involvement with illegal activities in correctional institutions.

One issue that came up in Committee relates to those currently employed as corrections officers - i.e. will this new certification process discriminate against them? Page 5, line 27 (Section 9) grandfathered in those currently employed, but there are still concerns that those with certificates will get promotions ahead of those without.

There may be a letter of intent proposed by APEA relating to this.

Adopted

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: CSHB 367 (Judiciary)

Page 4, following line 18:

Insert a new subsection to read:

"(c) In the evaluation of applicants against the mental standards developed under (a)(1) of this section, the council shall use evaluation methods that do not discriminate against applicants of different ethnic origins."

AMENDMENT # 1

Sec. 9. APPLICATION TO PERSONS WHO ARE CURRENTLY EMPLOYED AS CORRECTIONAL OFFICERS, PROBATION OR PAROLE OFFICERS. Notwithstanding AS 18.65.248, added by Sec. 6 of this Act, a permanent employee in good standing with an evaluation of mid-range acceptable shall be certified by the Alaska Police Standards Council on the effective date of AS 18.65.248

Original sponsors: Swackhammer, Gruenberg,
Rieger, et al.

Adopted
Passed out

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 367 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act altering the composition, membership, and
7 duties of the Alaska Police Standards Council; pro-
8 viding for certification of probation and parole
9 officers and correctional officers by the Alaska
10 Police Standards Council; and providing for an effec-
11 tive date."

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

13 * Section 1. AS 18.65.130 is amended to read:

14 Sec. 18.65.130. POLICY. The administration of criminal justice
15 affects the health, safety and welfare of the people of this state,
16 and requires education and training of a professional quality. It is
17 a primary public interest that applicants meet minimum standards for
18 employment as police officers, probation and parole officers, and
19 correctional officers, and that criminal justice education and train-
20 ing be made available to police officers, probation and parole offi-
21 cers, and correctional officers serving in a probationary capacity and
22 police officers, probation and parole officers, and correctional
23 officers already in regular service. It is of secondary public inter-
24 est to encourage the establishment of preliminary training programs
25 for persons seeking to become police officers, probation and parole
26 officers, and correctional officers.

27 * Sec. 2. AS 18.65.150 is amended to read:

28 Sec. 18.65.150. COMPOSITION OF COUNCIL. The council consists of
29 the following persons:

1 (1) four chief administrative officers or chiefs of police
2 of local governments;

3 (2) the commissioner of public safety or a designee of the
4 commissioner;

5 (3) the commissioner of corrections or a designee of the
6 commissioner;

7 (4) one probation or parole officer;

8 (5) [(3)] four members of the public at large with at least
9 two from the communities of 2,500 population or less.

10 * Sec. 3. AS 18.65.160 is amended to read:

11 Sec. 18.65.160. APPOINTMENT. The commissioner of public safety
12 or a designee and the commissioner of corrections or a designee shall
13 serve during each [THE] commissioner's continuance in office. Other
14 members of the council shall be appointed by the governor for stag-
15 gered terms of four years, except that a member may not serve beyond
16 the time the member holds the office that established eligibility for
17 appointment. A vacancy on the council shall be filled for the remain-
18 der of a member's unexpired term in the same manner as the original
19 appointment.

20 * Sec. 4. AS 18.65.220 is amended to read:

21 Sec. 18.65.220. POWERS. The council has the power to

22 (1) adopt regulations for the administration of AS 18.65.-
23 130 - 18.65.290;

24 (2) establish minimum standards for employment as a police
25 officer, probation or parole officer, and correctional officer in a
26 permanent or probationary position [POSITIONS] and certify persons to
27 be qualified as police officers, probation or parole officers, and
28 correctional officers under AS 18.65.130 - 18.65.290;

29 (3) establish minimum criminal justice curriculum

1 requirements for basic, specialized, and in-service courses and pro-
2 grams for schools operated by or for the state or a political sub-
3 division of the state for the specific purpose of training police
4 recruits, [OR] police officers, probation and parole officers, and
5 correctional officers;

6 (4) consult and cooperate with [BOROUGHES,] municipalities,
7 agencies of the state, other governmental agencies, universities,
8 colleges, and other institutions concerning the development of police,
9 probation and parole officer, and correctional officer training
10 schools and programs of criminal justice instruction;

11 (5) employ an administrator and other persons necessary to
12 carry out its duties under AS 18.65.130 - 18.65.290;

13 (6) investigate when there is reason to believe that a
14 police officer, probation or parole officer, or correctional officer
15 does not meet the minimum standards for employment; in connection
16 with the investigation the council may subpoena persons, books, re-
17 cords, or documents related to the investigation and require answers
18 in writing under oath to questions asked by the council or the admin-
19 istrator.

20 * Sec. 5. AS 18.65.230 is amended to read:

21 Sec. 18.65.230. [POLICE] TRAINING PROGRAMS. The council shall
22 establish and maintain police training programs, probation and parole
23 officer training programs, and correctional officer training programs
24 through those agencies and insitutions that the council considers
25 appropriate.

26 * Sec. 6. AS 18.65 is amended by adding new sections to read:

27 Sec. 18.65.242. STANDARDS FOR CORRECTIONAL, PROBATION, AND
28 PAROLE OFFICERS. (a) The council shall establish qualifications for
29 employment of persons as correctional, probation, and parole officers,
30

including

(1) minimum age, physical and mental standards, citizenship, moral character, and experience; and

(2) minimum education standards.

(b) The council shall

(1) prescribe the means of presenting evidence of fulfillment of the requirements set out in (a) of this section; and

(2) issue a certificate evidencing satisfaction of the requirements of (a) of this section to an applicant who

(A) satisfies the requirements of (a)(1) of this section; and

(B) meets the minimum education standards of (a)(2) of this section by satisfactorily completing a training program for correctional, probation, or parole officers established under AS 18.65.230 or a course of instruction in another jurisdiction equivalent in content and quality to that required by the council for approved correctional, probation, or parole officer education and training programs in this state.

Sec. 18.65.245. DENIAL OR REVOCATION OF CERTIFICATE. The council may

(1) deny a certificate to an applicant for a correctional officer certificate or a probation or parole officer certificate if the applicant does not meet the standards adopted by the council under AS 18.65.242(a);

(2) revoke the certificate of a correctional officer or a probation or parole officer who, having been issued a certificate, fails to meet the standards adopted by the council under AS 18.65.-242(a).

Sec. 18.65.248. EMPLOYMENT OF CORRECTIONAL, PROBATION, AND
CSHB 367(Jud)

PAROLE OFFICERS. (a) A person may not be appointed as a correctional officer or as a probation or parole officer unless the person has a valid certificate issued by the council under AS 18.65.242.

(b) The provisions of (a) of this section do not apply to a person employed on a probationary basis, except that employment on a probationary basis may not exceed the period authorized for probationary employment determined by the council.

* Sec. 7. AS 18.65.280 is amended by adding a new subsection to read:

(c) A municipality that employs persons in a municipal correctional facility may, by ordinance, require that those persons meet the requirements of AS 18.65.130 - 18.65.290 that are applicable to correctional officers.

* Sec. 8. AS 18.65.290 is amended by adding new paragraphs to read:

(4) "correctional officer" means a person employed by the state in a correctional facility established for the custody, care, and discipline of persons charged or convicted of offenses against the state or held under authority of state law to control those persons;

(5) "parole officer" means a person appointed by the commissioner of corrections to supervise a prisoner's parole under AS 33.16;

(6) "probation officer" means a person appointed to supervise probation who has the duties assigned by AS 33.05.040.

* Sec. 9. APPLICATION TO PERSONS WHO ARE CURRENTLY EMPLOYED AS CORRECTIONAL OFFICERS. (a) Notwithstanding AS 18.65.248, added by sec. 6 of this Act, a person employed by the state as a correctional, probation, or parole officer on the effective date of AS 18.65.248, may continue to be employed as an officer without a certificate issued by the Alaska Police Standards Council.

(b) A person continuing in employment under the exemption provided in

1 (a) of this section who terminates that employment after the effective date
2 of AS 18.65.248 may be reemployed by the state as a correctional, pro-
3 bation, or parole officer only if the person holds a valid certificate
4 issued by the Alaska Police Standards Council.

5 * Sec. 10. AS 18.65.248, added by sec. 6 of this Act, takes effect six
6 months after the date on which the Alaska Police Standards Council adopts
7 regulations establishing training programs for correctional, probation, and
8 parole officers under AS 18.65.230, as amended by sec. 5 of this Act, and
9 defining qualifications for employment as those officers under AS 18.65.-
10 242, added by sec. 6 of this Act.

11 * Sec. 11. Except for AS 18.65.248, added by sec. 6 of this Act, this
12 Act takes effect July 1, 1988.
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16
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18
19
20
21
22
23
24

Original sponsors: Swackhammer, Gruenberg,
Rieger, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 367 (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 altering the composition, membership, and
7 duties of the Alaska Police Standards Council; pro-
8 viding for certification of probation and parole
9 officers and correctional officers by the Alaska
10 Police Standards Council; and providing for an effec-
11 tive date."

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

13 * Section 1. AS 18.65.130 is amended to read:

14 Sec. 18.65.130. POLICY. The administration of criminal justice
15 affects the health, safety and welfare of the people of this state,
16 and requires education and training of a professional quality. It is
17 a primary public interest that applicants meet minimum standards for
18 employment as police officers, probation and parole officers, and
19 correctional officers, and that criminal justice education and train-
20 ing be made available to police officers, probation and parole offi-
21 cers, and correctional officers serving in a probationary capacity and
22 police officers, probation and parole officers, and correctional
23 officers already in regular service. It is of secondary public inter-
24 est to encourage the establishment of preliminary training programs
25 for persons seeking to become police officers, probation and parole
26 officers, and correctional officers.

27 * Sec. 2. AS 18.65.150 is amended to read:

28 Sec. 18.65.150. COMPOSITION OF COUNCIL. The council consists of
29 the following persons:

1 (1) four chief administrative officers or chiefs of police
2 of local governments;

3 (2) the commissioner of public safety or a designee of the
4 commissioner;

5 (3) the commissioner of corrections or a designee of the
6 commissioner;

7 (4) one probation or parole officer;

8 (5) [(3)] four members of the public at large with at least
9 two from the communities of 2,500 population or less.

10 * Sec. 3. AS 18.65.160 is amended to read:

11 Sec. 18.65.160. APPOINTMENT. The commissioner of public safety
12 or a designee and the commissioner of corrections or a designee shall
13 serve during each [THE] commissioner's continuance in office. Other
14 members of the council shall be appointed by the governor for stag-
15 gered terms of four years, except that a member may not serve beyond
16 the time the member holds the office that established eligibility for
17 appointment. A vacancy on the council shall be filled for the remain-
18 der of a member's unexpired term in the same manner as the original
19 appointment.

20 * Sec. 4. AS 18.65.220 is amended to read:

21 Sec. 18.65.220. POWERS. The council has the power to

22 (1) adopt regulations for the administration of AS 18.65.-
23 130 - 18.65.290;

24 (2) establish minimum standards for employment as a police
25 officer, probation or parole officer, and correctional officer in a
26 permanent or probationary position [POSITIONS] and certify persons to
27 be qualified as police officers, probation or parole officers, and
28 correctional officers under AS 18.65.130 - 18.65.290;

29 (3) establish minimum criminal justice curriculum

1 requirements for basic, specialized, and in-service courses and pro-
2 grams for schools operated by or for the state or a political sub-
3 division of the state for the specific purpose of training police
4 recruits, [OR] police officers, probation and parole officers, and
5 correctional officers;

6 (4) consult and cooperate with [BOROUGHES,] municipalities,
7 agencies of the state, other governmental agencies, universities,
8 colleges, and other institutions concerning the development of police,
9 probation and parole officer, and correctional officer training
10 schools and programs of criminal justice instruction;

11 (5) employ an administrator and other persons necessary to
12 carry out its duties under AS 18.65.130 - 18.65.290;

13 (6) investigate when there is reason to believe that a
14 police officer, probation or parole officer, or correctional officer
15 does not meet the minimum standards for employment; in connection
16 with the investigation the council may subpoena persons, books, re-
17 cords, or documents related to the investigation and require answers
18 in writing under oath to questions asked by the council or the admin-
19 istrator.

20 * Sec. 5. AS 18.65.230 is amended to read:

21 Sec. 18.65.230. [POLICE] TRAINING PROGRAMS. The council shall
22 establish and maintain police training programs, probation and parole
23 officer training programs, and correctional officer training programs
24 through those agencies and institutions that the council considers
25 appropriate.

26 * Sec. 6. AS 18.65 is amended by adding new sections to read:

27 Sec. 18.65.242. STANDARDS FOR CORRECTIONAL, PROBATION, AND
28 PAROLE OFFICERS. (a) The council shall establish qualifications for
29 employment of persons as correctional, probation, and parole officers,

*Psychological testing. -610
not in bill*

22
Condition
See mental
AA 13.85.156(8)

1 including
2 (1) minimum age, physical, citizenship, moral character,
3 and experience standards; and

4 (2) minimum education standards.

5 (b) The council shall

6 (1) prescribe the means of presenting evidence of fulfill-
7 ment of the requirements set out in (a) of this section; and

8 (2) issue a certificate evidencing satisfaction of the
9 requirements of (a) of this section to an applicant who

10 (A) satisfies the requirements of (a)(1) of this
11 section; and

12 (B) meets the minimum education standards of (a)(2) of
13 this section by satisfactorily completing a training program for
14 correctional, probation, or parole officers established under
15 AS 18.65.230 or a course of instruction in another jurisdiction
16 equivalent in content and quality to that required by the council
17 for approved correctional, probation, or parole officer education
18 and training programs in this state.

19 Sec. 18.65.245. DENIAL OR REVOCATION OF CERTIFICATE. The coun-
20 cil may

21 (1) deny a certificate to an applicant for a correctional
22 officer certificate or a probation or parole officer certificate if
23 the applicant does not meet the standards adopted by the council under
24 AS 18.65.242(a);

25 (2) revoke the certificate of a correctional officer or a
26 probation or parole officer who, having been issued a certificate,
27 fails to meet the standards adopted by the council under AS 18.65.-
28 242(a).

29 Sec. 18.65.248. EMPLOYMENT OF CORRECTIONAL, PROBATION, AND

growth

1 PAROLE OFFICERS. (a) A person may not be appointed as a correctional
2 officer or as a probation or parole officer unless the person has a
3 valid certificate issued by the council under AS 18.65.242.

4 (b) The provisions of (a) of this section do not apply to a
5 person employed on a probationary basis, except that employment on a
6 probationary basis may not exceed the period authorized for probation-
7 ary employment determined by the council.

8 * Sec. 7. AS 18.65.280 is amended by adding a new subsection to read:

9 (c) A municipality that employs persons in a municipal correc-
10 tional facility may, by ordinance, require that those persons meet the
11 requirements of AS 18.65.130 - 18.65.290 that are applicable to cor-
12 rectional officers.

13 * Sec. 8. AS 18.65.290 is amended by adding new paragraphs to read:

14 (4) "correctional officer" means a person employed by the
15 state in a correctional facility established for the custody, care,
16 and discipline of persons charged or convicted of offenses against the
17 state or held under authority of state law to control those persons;

18 (5) "parole officer" means a person appointed by the com-
19 missioner of corrections to supervise a prisoner's parole under
20 AS 33.16;

21 (6) "probation officer" means a person appointed to super-
22 vise probation who has the duties assigned by AS 33.05.040.

23 * Sec. 9. APPLICATION TO PERSONS WHO ARE CURRENTLY EMPLOYED AS CORREC-
24 TIONAL OFFICERS. (a) Notwithstanding AS 18.65.248, added by sec. 6 of
25 this Act, a person employed by the state as a correctional, probation, or
26 parole officer on the effective date of AS 18.65.248, may continue to be
27 employed as an officer without a certificate issued by the Alaska Police
28 Standards Council.

29 (b) A person continuing in employment under the exemption provided in

*Grand Attorney
Provisions*

1 (a) of this section who terminates that employment after the effective date
2 of AS 18.65.248 may be reemployed by the state as a correctional, pro-
3 bation, or parole officer only if the person holds a valid certificate
4 issued by the Alaska Police Standards Council.

5 * Sec. 10. AS 18.65.248, added by sec. 6 of this Act, takes effect six
6 months after the date on which the Alaska Police Standards Council adopts
7 regulations establishing training programs for correctional, probation, and
8 parole officers under AS 18.65.230, as amended by sec. 5 of this Act, and
9 defining qualifications for employment as those officers under AS 18.65.-
10 242, added by sec. 6 of this Act.

11 * Sec. 11. Except for AS 18.65.248, added by sec. 6 of this Act, this
12 Act takes effect July 1, 1988.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act altering the composition membership of Alaska Police Standards Council"
Sponsor: Representative Swackhammer
Requestor: _____

Agency Affected: Department of Corrections
BRU: _____
Components: _____

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
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Susan E. Knighton

Prepared by: Susan E. Knighton, Director
Division: Administrative Services

Phone: 465-3376
Date: 1-26-88

Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

Date: 1-26-88

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

TABLE OF CONTENTS

MEMORANDUM OF SUPPORT, Rep. C.E. Swackhammer

ALASKA POLICE STANDARDS COUNCIL HISTORY,
Jack Wray, APSC Director

SUPPORT RATIONALE

ALASKA POLICE STANDARDS COUNCIL MINUTES
(Partial of Nov. 13, 1987 Meeting)

SECTIONAL ANALYSIS

FISCAL NOTES

CORRECTIONAL STAFF CERTIFICATION LEGISLATION,
HOUSE BILL 367

REPRESENTATIVE:
C.E. "SWACK" SWACKHAMMER


Alaska State Legislature



House of Representatives

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P.O. BOX 417
SOLDOTNA, ALASKA 99669
(907) 262-7663
JUNEAU
BOX V
JUNEAU, ALASKA 99811
(907) 465-2689

MEMORANDUM

TO: All Interested Parties
FROM: Rep. C.E. Swackhammer 
DATE: December 15, 1987
TOPIC: Certification of Correctional
and Probation/Parole Officers

This packet contains House Bill 367 which places the hiring and training requirements of Probation/Parole and Corrections Officers under the purview of the Alaska Police Standards Council. Also attached, are supporting documents.

The opening of Spring Creek Correctional Center, in Seward, represents the return of Alaska's long term, hard core offenders. Spring Creek is Alaska's first maximum security prison.

It seems logical that the hiring and training requirements for custody staff fall under the auspices of the Police Standards Council. The certification process will instill pride and proficiency and will help to develop long term, professional staff.

Probation/Parole Officers will also realize the advantages of certification. Many of these individuals work daily as investigative and arresting officers. Hiring standards and applicable training will enhance their ability and improve their safety.

For these, and the attached reasons, I respectfully request your support.

CES/cn

History

Police officer standards and training councils or commissions were developed in the 1960's in response to a national recommendation that every state appoint a body that would set mandatory police training, education and selection requirements and/or standards.

At the present time most if not all of the 50 councils or commissions perform the same major functions, they: adopt regulations establishing mandatory minimum standards governing the selection of police officers; establish mandatory minimum training standards; certify police officers; make inquiries and conduct investigations to determine compliance with selection and training regulations and standards.

A recent national survey conducted by the International Association of Directors of Law Enforcement Standards and Training revealed that the commissions and councils collectively expend 150 million dollars per annum in carrying out their duties. They oversee the administration and delivery of over 1,200 recruit basic training courses per annum, oversee the introduction of 300,000 new entrants per year and make possible tens of thousands of in-services and continuing education programs nation-wide.

Background

The Alaska Police Standards Council is a regulatory and quasi-judicial body that was created by Senate Bill 1, Chapter 178, sponsored by Senator Bill Ray and enacted by the 2nd Session of the 7th Alaska State Legislature, effective July 7, 1972.

The Legislature granted the council the power to adopt regulations establishing minimum selection and training standards for employment as police officers, as well as other regulations for the

administration of the act. The council is composed of nine members appointed by the Governor and they meet formally at least twice each year.

Current Status and Organizational Structure

The Council Office is staffed by the Executive Director (0082) and a Secretary I (0084). From their office located in the Public Safety Building in Juneau the Council monitors the employment status of village police officers, municipal police officers and Alaska State Troopers. The Council maintains complete personnel and training records for 1,200 to 1,300 police officers, reviews for compliance all requests from officers for certification, certifies all police training conducted in the state, monitors the personnel files of recruit officers to determine if training and certifications schedules are being followed, provides basic and in-service training, investigates and when appropriate, files civil actions to deny or revoke police officer's certifications. The council also provides limited assistance in locating employment for persons seeking police officer positions and maintains a lending library of training films and publications.

Accomplishments

The council, working closely with the various law enforcement agencies and organizations, has directed the activities of the APSC in such a manner as to ensure that the law enforcement community and the citizens of the State of Alaska receive maximum benefits from this program. Some of the council's accomplishments include:

- A major revision of the original regulations that established minimum selections and training standards for employment as a police officer. The result of the revision was the

establishment of comprehensive guidelines for departments and agencies to use in determining an applicant's eligibility for hire.

- Conducting a statewide job analysis study of the police patrol officer positions. The data collected in this project resulted in the expansion of the basic police training academy curriculum from a six week course to a validated eight week course, led to the establishment of a two week mini-academy for officers that have received their training in other states, and provided physicians conducting pre-employment physical examinations with a relevant description of job activities and working conditions that an officer may encounter.
- The development and funding through state funds and federal grants of specialized and in-service training for police officers in the subject areas of : Instructor Development, Line Supervisor, Management, Interviewing and Interrogation, Rape Investigation, Criminal Investigation, Sexual assault of Minors, Crime Scene Investigations, Search and Seizure, Alaska Criminal Code; Radar Operation, Field Training Officer, Traffic Accident Investigation, Traffic Accident Reconstruction and Traffic Enforcement Management.
- The council in cooperation with the Attorney General's Office has published and distributed the Alaska Field Manual for Police Officers now in its fourth printing.
- Development of a training needs survey document that is used by the council to conduct a yearly survey of all agencies. The results of this annual study establishes training priorities, aids training providers in planning their activities and to a degree measures the effectiveness or impact of the prior year training.

- Development of an audit system to compare the departments or agencies personnel roster with that maintained by the council. This review is conducted once yearly and any discrepancies found are corrected immediately.

- Joining with the Department of Public Safety, State Parks Department and Anchorage Airport Security in supporting the Island Community College, Pre-Employment Law Enforcement Basic Training Program.

- The review and approval of a total of 2,783 basic certificates, 581 Intermediate certificates, 402 advanced certificates, 616 permanent instructor certificates, 221 temporary instructor certificates and approval of over 750 law enforcement training courses.

- Investigation into matters that resulted in the formal denial or revocation of 17 police officer certificates.

Conclusion

The primary goals of the council are to improve the delivery of training, ensure that employment standards are job related and work toward further increasing the professionalism of officers throughout the state.

In Alaska there are currently 1,052 active, full-time police officers and approximately 250 active permanent instructors who must meet the minimum employment and/or training requirements established by the council. Attrition requires continuous effort on the part of the council to assist state and local agencies by ensuring that entry level requirements are adhered to and that the training remains job relevant and available.

SUPPORT RATIONALE

Although certification will have specific benefits to both correctional officers and probation/parole officers, there are also general advantages to the certification process. It lends consistency to hiring, training and discipline.

The aforementioned issues are beneficial to both the employer and the employee. Developing stringent guidelines for qualifications reduces the time needed for the initial selection process. The employer will be able to be selective, based on the criteria and the potential employees will be able to do a self evaluation as to whether or not s/he is eligible for employment.

Once the initial selection is completed, uniform training policies and procedures will aid in assuring each individual receives adequate and appropriate training that specifically relates to the job assigned.

Certification will also give esteem to the employee. This esteem, stemming from meeting stringent criteria, should reflect on work performance and self-confidence. These two attributes are necessary in all lines of work, but is critical in the correctional setting.

Corrections is an element of the criminal justice system, the welfare and safety of the public rests with the correctional officer, as well as those professionals in probation and parole services.

Putting the certification process under the auspices of the Alaska Police Standards Council offers another important facet. Not only will the council be comprised of law enforcement and correction personnel, if this legislation is passed, it already includes scrutiny by council members from the public at large. Public input will impact on the way corrections operates by providing nongovernmental viewpoints.

Above and beyond the standardizing of screening policies and procedures, consistent training policies and general input into the operations of corrections, are the specific values to the officers.

More specifically, correctional officers are dealing with known and convicted offenders. Their demeanor and performance of duties must be accomplished within the "letter of the law;" some will be responsible for armed supervision of offenders. The legal impact of the use of deadly force is monumental. Certification will not only train the officers in correct performance, it will also aid

greatly in the selection process of whom is psychologically fit to be called upon to perform in life threatening circumstances.

A constitutional mandate of corrections is the reformation of the offender. The criteria of certification will assist the officer in providing appropriate supervision to enhance rehabilitation.

The screening process is important for correctional officers because history has proven that less than favorable personal and work histories of officers can lead to unlawful acts. This can be manifested by illicit relationships between officers and offenders, as well as unlawful acts that jeopardize the safety of society and the institution.

The probation/parole officer, too, has a great deal of responsibilities in performance of his/her duties. Besides offering supervision of offenders in the community, these officers, oftentimes, must act as arresting officers actually making physical arrests.

Training in supervision and arrest of offenders is critical to assure proper procedures are followed to aid in compliance with legal mandates. Likewise, training will also help greatly in protecting the officers in life threatening situations.

Besides critical situations, certification will simply lend itself toward promoting professionalism. Stringent hiring criteria, exhaustive training and physical/mental mandates provide the common bonding necessary to assure professional delivery of services. This is essential for complying with the constitutional mandate of protecting society and the reformation of the offender.

ALASKA POLICE STANDARDS COUNCIL

48th Meeting: November 13, 1987
Alaska Vocational Technical Center
Seward, Alaska 99664

MINUTES

November 13, 1987

A.P.S.C. Members Present

Louis A. Bencardino, Chairman
Seward Police Dept.

E.L. Mayfield, Council Member
Willow, Alaska

Shirley Robards, Council Member
Sitka, Alaska

Ronald L. Otte, Chief of Police
Anchorage Police Dept.
Council Member

Kevin C. Clayton, Chief of Police
Bethel Police Department
Council Member

John L. McKibben, Chief of Police
Palmer Police Department
Council Member

Floyd H. Richmond, Council Member
Ketchikan, Alaska

A.P.S.C. Staff Present

Jack W. Wray
Executive Director

Vicky L. Hesse
Secretary I

Visitors Present

Billy Andrews
Special Agent
FBI/Anchorage

Stephanie Joannides
Assistant Attorney
General

Chief Duane S. Udland
Soldotna Police Dept.

Chief Richard A. Ross
Kenai Police Dept.

C.E. Swackhammer
Representative
Soldotna, Alaska

Lt. Lonnie Kalar
Kenai Police Dept.

Charles Kopp
Anchorage, Alaska

Lt. Shirley Warner
Anchorage Police Dept.

The meeting adjourned for a break at 10:59 a.m.

The meeting reconvened at 11:16 a.m.

APSC STATUTE CHANGE - Chairman Bencardino introduced Representative Swackhammer. Representative Swackhammer informed the Council that he Chairs the Subcommittee on Corrections and the comments he will be addressing is more in terms of policy and procedures.

Listed below are some of deficiencies the Committee has found in Corrections.

1. Poor screening policy & procedures.
2. Lack of consistent training policies.
3. Retention policy based on disciplinary action was not consistent over a period of time.
4. Total lack of public input into the way Corrections is run, its strictly administration.

Representative Swackhammer stated he felt a certification process for corrections and probation/parole officers would be appropriate. He stated he also felt it would be an appropriate function of the APSC.

Representative Swackhammer felt that through a certification process it would establish good screening procedures in the hiring of corrections officers, and provide consistent training standards for Corrections.

Representative Swackhammer stated that he would not introduce legislation unless he had the support of APSC. If he had the Council's support he felt he could get legislation passed through the second session.

Discussion followed regarding corrections officers, and the probation/parole officers being certified.

John McKibben stated that he felt irregardless whether this Council's oversees it, he thinks it is definitely needed. He personally supports this Council doing it, but he would support any Council doing it.

Chairman Bencardino asked if there were any objections in this Board taking on this obligation of being able to certify corrections officers as well as police officers.

John McKibben made a motion that we support the assumption of those responsibilities by this board and support legislation that will enable us to do so. Floyd Richmond seconded.

Chairman Bencardino asked if there was any further comments on this motion.

John McKibben was interested if there was any audience comments regarding APSC certifying Correctional Officers.

Chief Ross stated his concern was that APSC resources have been inadequate in the last several years. He also felt if this legislation is proposed there would be a need for a realistic fiscal note with it to provide for the resources not only to put the regulations together, but implement training, and if that fiscal note did not go through, then he would not want to see it under this board.

Chairman Bencardino called for a vote on the motion, all were in favor, the motion passed unanimously.

Representative Swackhammer suggested the Council meet in Juneau in January to hold a special meeting.

Representative Swackhammer informed the Council that both the Commissioner of Corrections and Public Safety support this concept.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 15, 1988

SUBJECT: Sectional analysis of HB 367
TO: Representative C.E. Swackhammer
FROM: Jack Chenoweth
Legislative Counsel

The following is a sectional analysis of HB 367.

Section 1 restates the current statement of policy applicable to the Alaska Police Standards Council by incorporating reference in it to "probation and parole officers and correctional officers," the two personnel groups that are subject to certification under the amendments proposed by this legislation. (AS 18.65.130)

Section 2 changes the membership of the Alaska Police Standards Council, adding two to the current nine members, and specifying that the new members shall be the commissioner of corrections (or the commissioner's designee) and a probation or parole officer. (AS 18.65.150)

Section 3 specifies that the commissioner of corrections serves a member of the Council for the duration of his or her term, and that a designee of the commissioner is to serve for the duration of the service of the commissioner who made the designation. (AS 18.65.160)

As to probation and parole officers and correctional officers, section 4 adds to the powers of the Council:

- * the responsibility to establish minimum standards for their employment in permanent and probationary positions;
- * certification of individuals as qualified for employment in these positions;
- * the responsibility to establish minimal criteria for requirements for basic training courses for these positions;
- * authority to consult with local governments and others designated concerning development of training programs for these positions; and,

* authority to investigate an applicant for one of these positions in order to assure that the applicant meets the minimum qualifications for the position. (AS 18.65.220)

The change in the caption to AS 18.65.230 made by section 5 reflects the additional responsibility given the Council for establishing and maintaining training programs for probation and parole officers and correctional officers in this section. (AS 18.65.230)

Section 6 adds new codified sections that

* direct the Council to establish qualifications for employment of persons as correctional officers; prescribe the means of providing evidence that an applicant meets the prescribed qualifications; and provides for issuance of a certificate evidencing that the applicant meets the prescribed standards; (AS 18.65.241)

* direct the Council to establish qualifications for employment of persons as probation and parole officers; prescribe the means of providing evidence that an applicant meets the prescribed qualifications; and provides for issuance of a certificate evidencing that the applicant meets the prescribed standards; (AS 18.65.243)

* spell out the circumstances when the Council may deny a correctional officer certificate or a probation or parole officer certificate to an applicant or revoke a correctional officer certificate or a probation or parole officer certificate previously issued to an applicant; (AS 18.65.245)

* limits the employment of persons as correctional officers to persons who hold valid correctional officer certificates, with exception made for those employed on a probationary basis, for a period as determined by the Council; (AS 18.65.247)

* limits the employment of persons as probation and parole officers to persons who hold valid probation and parole officer certificates, with exception made for those employed on a probationary basis, for a period as determined by the Council. (AS 18.65.249)

The new material added by bill section 7 authorizes, but does not require, a municipality to require that persons employed in a municipal corrections facility meet the requirements of this chapter that are applicable to correctional officers. (AS 18.65.280)

I have provided definitions for the three classes of employee covered by this bill in section 8. (AS 18.65.290)

The remainder of the bill are uncodified sections that cover effective dates and transitional provisions.

Section 9: Subsection (a) makes an exception to those employed as correctional officers on the effective date of the Act; those persons may continue to be employed and are not required to secure a certificate from the Council. However, under subsection (b), if a person who has the benefit of the exception under (a) ceases to be employed after the effective date of the Act, that person may only be employed again as a correctional officer if he or she first secures a certificate from the Council.

Section 10: Subsection (a) makes an exception to those employed as probation and parole officers on the effective date of the Act; those persons may continue to be employed and are not required to secure a certificate from the Council. However, under subsection (b), if a person who has the benefit of the exception under (a) ceases to be employed after the effective date of the Act, the person may only be employed again as a probation or parole officer if he or she first secures a certificate from the Council.

In the main, section 13 would make the bill take effect July 1, 1988. There are exceptions: section 11 delays the effective date of AS 18.65.247, the provision requiring that a correctional officer obtain a valid certificate as a condition of employment, to a date six months after the Council adopts pertinent regulations; section 12 likewise delays the effective date of AS 18.65.249, the provision requiring that a probation or parole officer obtain a valid certificate of employment, to a date six months after the Council adopts pertinent regulations. The intent underlying both sections is to impose these additional employment-related requirements only after the Council has had fair opportunity to develop and adopt standards and initiate related training opportunities for persons seeking certification under AS 18.65.130 - 18.65.290.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: _____
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Altering the Composition,
Membership and Duties of the APSC
Sponsor: Representative Swackhammer
Requestor: _____

Agency Affected: Public Safety
BRU: Alaska Police Standards
Council
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		30.1	30.9	31.7	32.6	33.5
TRAVEL		7.1	7.1	7.1	7.1	7.1
CONTRACTUAL		4.4	4.4	4.4	4.4	4.4
SUPPLIES		.5	.5	.5	.5	.5
EQUIPMENT		5.6				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	47.7	42.9	43.7	44.6	45.5

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	47.7	42.9	43.7	44.6	45.5
FEDERAL FUNDS						
OTHER						
TOTAL		47.7	42.5	43.7	44.6	45.5

POSITIONS:

FULL-TIME	0	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No inflation factors are included in these cost calculations.

Program implementation is scheduled to begin July 1, 1988. Initial costs will include funding for a Clerk IV position (Range 9A) with salary and

Prepared by: Jack W. Wray, Executive Director Phone: 465-4378
Division: Alaska Police Standards Council Date: 12-28-87

Approved by Commissioner: _____ Date: _____
Agency: Public Safety

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

ANALYSIS CONTINUED:

benefits calculated at 30.1 for the first year, and the purchase of data processing and office equipment at a one time cost of 5.6. Space is currently available in the Alaska Police Standards office, utilities communication, and commodities are estimated for the classified position. Travel cost increases are a result of the addition of two new council positions, plus the increase in staff travel to conduct compliance inspections and attend administrative hearings.

1/29

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/15/88

FURTHER REFERRALS:

Judiciary
Finance

DATE: 1/27/88

The HESS Committee has considered HB 367

"An Act altering the composition, membership, and duties of the Alaska Police Standards Council; providing for certification of probation and parole officers and correctional officers by the Alaska Police Standards Council; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 367 (HESS) 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:

W. Ellis
Carol Haskins
Ruth E. DeLoe
Alvin Kasper
Paul H. ...
...

SIGNING OTHER RECOMMENDATIONS:

W. Kasper
 Co-Chairman's signature

FEB 0 1 1988



City and Borough of Sitka

POLICE DEPARTMENT

304 LAKE STREET • SITKA, ALASKA • 99835

JOHN H. NEWELL
CHIEF OF POLICE

BUSINESS 747-3245
EMERGENCY 9-1-1

January 27, 1988

Representative John Sund, Chairman
Judiciary Committee
P. O. Box V
Juneau, AK 99811

Re: House Bill No. 367

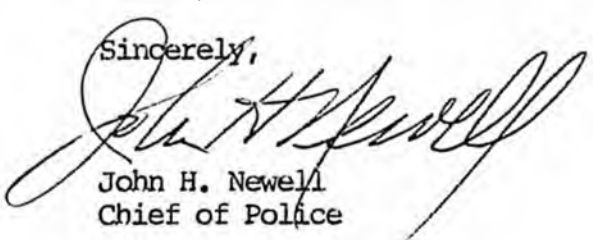
Dear Representative Sund,

I am writing in support of House Bill No. 367, however, at the same time I would like to share a concern. During the last couple of years, the funding for Police Standards Council has been minimal. This has resulted in minimal training available for police officers, particularly in-service and advanced training programs have been nonexistent.

While I support the fact that standards ought to be established for correctional officers and that the Police Standards Council is the most appropriate body to do that, I want to urge adequate funding to the Police Standards Council as they take on this added responsibility. Funding should be adequate to maintain all administrative support as well as providing reasonable and adequate training for both police and correctional personnel.

Thank you for considering my request.

Sincerely,


John H. Newell
Chief of Police

cc: Sponsors:

Representative C. E. Swackhammer
Representative Max F. Gruenberg, Jr.
Representative Steven Rieger
Representative Ronald L. Larson
Representative Drue Pearce

Committee Chairmen:

Representative Albert P. Adams,
Finance
Representatives Niilo E. Koponen
and Johnny Ellis, Health,
Education and Social Services

January 28, 1988

Good morning, my name is Bill Bills. I live in Sutton, Alaska and I am here to read a letter from Kay Bills. First, it is always appreciated when citizens are asked to give testimony in the legislative process but not early on a work day morning. Kay Bills can be reached for questions and comments in Sutton and her name, address, and phone number is public record.

Now for the letter:

Dear Committee Members,

In the last year I have become increasingly concerned about the training or lack of training given to the police officers of our district, in particular, and the training or lack of training of all police officers in the state, in general.

I will state emphatically that the majority of public safety officers I have dealt with have been professional. I have always had an excellent relationship with these professionals and supported budgets that reflect my high esteem. In fact most public safety officers make twice what the public school teacher makes and often receive much more prestige than teachers. I feel I can make this point, since I am a teacher, and both the education and the public safety budgets are under such close scrutiny. Also, like a public safety officer, teacher have to deal with all segments of the population. We are also dealing with drugs and violence in our communities at every turn. We deal with stress and burnout and suffer from a lack of appreciation of the value of our contributions to the general public.

This brings me to the point of this testimony.

It is my understanding that when you describe your functions as the establishment of minimum standards for employment and curriculum requirements for training--that is exactly what you mean--"minimum."

When episodes occurred in my community of Sutton this last year I was shocked to observe behaviors that were out of place in any professional organization I had know. Further, the handling of the complaints was one of "I can't help it. No one understands. My budget keeps me from doing my job. It's the district attorneys fault. It's the public's fault."

While those episodes are still being dealt with one thing came through: you have officers who either can not or do not know how to handle themselves in sensitive situations. Community relationships are stressed and families are being disrupted because of burned out and stressed out officers who are doing shift after shift without relief.

I now learn that after the initial academy training, any training that these officers may need is a "catch as catch can" situation that is not defined to any degree by your council or anyone.

Further, I learned that even the instructors at the academy are pulled out of the academy and put on part-time status. When a session is required the instructors are pulled back. I ask you, what kind of delivery system is that?

My other questions are as follows:

- 1) What other profession requires no retraining or certification after the initial training? Certainly educators, doctors, and other professionals are constantly mandated to update thier skills.
- 2) What is the curriculm that is so comprehensive that no plan is made to update it? Our communities are in a state of constant change. Initial training can soon become irrelevant.
- 3) Why would you wish to add other areas of responsibility when you have such a limited committment to the officers already in the field?
- 4) Will these added responsibilites allow you to update and clarify the present delivery system to include mandatory retraining?

While I realize I am not here to ask these questions in person, I thank you again for this opportunity to address you today. I look forward to your replies. I am sure that these questions can not be answered today, but if answers are not sought today-they will be demanded tomorrow. The public safety must be a result of good planning: planning on the initial-hire, planning on the job, and planning for the future. The public policy must be more than good intentions however imperfectly executed.

I urge you to make a complete review of the public safety training needs of the state in all areas. You must make a commitment to those officers who feel left out on their own to muddle their way through the system. Every effort should be made to retrain or remove those officers who do not demonstrate the ability to adjust to critical and stressful situations.

Kay Bills
PO Box 147
Sutton, Alaska 99674



H B

371

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

House Judiciary:

4-7-88

4-8-88

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/17/88

FURTHER REFERRALS: Finance

DATE: March 8, 1988

The Judiciary Committee has considered HB 371

"An Act relating to attempted murder in the first degree."

RECOMMENDS:

- replace with CS HB 371 (Jud) 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 3/17/88
 zero with analysis

SIGNING TO PASS:

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]
Chairman's signature

Original sponsors: Hanley, Barnes,
Pettyjohn, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 371 (Judiciary)

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 attempted murder in the first
7 degree."

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

9 * Section 1. AS 11.31.100(d) is amended to read:

10 (d) An attempt is [A]

11 (1) an unclassified felony if the crime attempted is murder
12 in the first degree;

13 (2) a class A felony if the crime attempted is an unclassi-
14 fied felony other than murder in the first degree;

15 (3) a [(2)] class B felony if the crime attempted is a
16 class A felony;

17 (4) a [(3)] class C felony if the crime attempted is a
18 class B felony;

19 (5) a [(4)] class A misdemeanor if the crime attempted is a
20 class C felony;

21 (6) a [(5)] class B misdemeanor if the crime attempted is a
22 class A or class B misdemeanor.

23 * Sec. 2. AS 11.81.250(a) is amended to read:

24 (a) For purposes of sentencing under AS 12.55, all offenses
25 defined in this title, except murder in the first and second degree,
26 attempted murder in the first degree, sexual assault in the first
27 degree, sexual abuse of a minor in the first degree, misconduct in-
28 volving a controlled substance in the first degree, and kidnapping,
29 are classified on the basis of their seriousness, according to the

1 type of injury characteristically caused or risked by commission of
2 the offense and the culpability of the offender. Except for murder in
3 the first and second degree, attempted murder in the first degree,
4 sexual assault in the first degree, sexual abuse of a minor in the
5 first degree, misconduct involving a controlled substance in the first
6 degree, and kidnapping, the offenses in this title are classified into
7 the following categories:

8 (1) class A felonies, which characteristically involve
9 conduct resulting in serious physical injury or a substantial risk of
10 serious physical injury to a person;

11 (2) class B felonies, which characteristically involve
12 conduct resulting in less severe violence against a person than class
13 A felonies, aggravated offenses against property interests, or aggra-
14 vated offenses against public administration or order;

15 (3) class C felonies, which characteristically involve
16 conduct serious enough to deserve felony classification but not seri-
17 ous enough to be classified as A or B felonies;

18 (4) class A misdemeanors, which characteristically involve
19 less severe violence against a person, less serious offenses against
20 property interests, less serious offenses against public administra-
21 tion or order, or less serious offenses against public health and
22 decency than felonies;

23 (5) class B misdemeanors, which characteristically involve
24 a minor risk or physical injury to a person, minor offenses against
25 property interests, minor offenses against public administration or
26 order, or minor offenses against public health and decency;

27 (6) violations, which characteristically involve conduct
28 inappropriate to an orderly society but which do not denote criminal-
29 ity in their commission.

1 * Sec. 3. AS 11.81.250(b) is amended to read:

2 (b) The classification of each felony defined in this title,
3 except murder in the first and second degree, attempted murder in the
4 first degree, sexual assault in the first degree, sexual abuse of a
5 minor in the first degree, misconduct involving a controlled substance
6 in the first degree, and kidnapping, is designated in the section
7 defining it. A felony under Alaska law defined outside this title for
8 which no penalty is specifically provided is a class C felony.

9 * Sec. 4. AS 12.55.035(b) is amended to read:

10 (b) Upon conviction of an offense, a defendant who is not an
11 organization may be sentenced to pay, unless otherwise specified in
12 the provision of law defining the offense, a fine of no more than

13 (1) \$75,000 for murder in the first or second degree,
14 attempted murder in the first degree, sexual assault in the first
15 degree, kidnapping, or misconduct involving a controlled substance in
16 the first degree;

17 (2) \$50,000 for a class A, B, or C felony;

18 (3) \$5,000 for a class A misdemeanor;

19 (4) \$1,000 for a class B misdemeanor;

20 (5) \$300 for a violation.

21 * Sec. 5. AS 12.55.125(b) is amended to read:

22 (b) A defendant convicted of murder in the second degree,
23 attempted murder in the first degree, kidnapping, or misconduct in-
24 volving a controlled substance in the first degree shall be sentenced
25 to a definite term of imprisonment of at least five years but not more
26 than 99 years.

Adopted

5-1203X

Chenoweth
4/8/88

B

Original sponsors: Hanley, Barnes,
Pettyjohn, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 371 (Judiciary)

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 attempted murder in the first
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26 than 99 years.

5-1203L
Chenoweth
4/8/88

(A)

Original sponsors: Hanley, Barnes,
Pettyjohn, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 371 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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1 type of injury characteristically caused or risked by commission of
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4 first degree, sexual assault in the first degree, sexual abuse of a
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6 in the first degree, and kidnapping, is designated in the section
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8 which no penalty is specifically provided is a class C felony.

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10 (b) Upon conviction of an offense, a defendant who is not an
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12 the provision of law defining the offense, a fine of no more than

13 (1) \$75,000 for murder in the first or second degree,
14 attempted murder in the first degree, sexual assault in the first
15 degree, kidnapping, or misconduct involving a controlled substance in
16 the first degree;

17 (2) \$50,000 for a class A, B, or C felony;

18 (3) \$5,000 for a class A misdemeanor;

19 (4) \$1,000 for a class B misdemeanor;

20 (5) \$300 for a violation.

21 * Sec. 5. AS 12.55.125(i) is amended to read:

22 (i) A defendant convicted of sexual assault in the first degree,
23 [OR] sexual abuse of a minor in the first degree, or attempted murder
24 in the first degree may be sentenced to a definite term of imprison-
25 ment of not more than 30 years, and shall be sentenced to the follow-
26 ing presumptive terms, subject to adjustment as provided in AS 12.55.-
27 155 - 12.55.175:

28 (1) if the offense is a first felony conviction and does
29 not involve circumstances described in (2) of this subsection, eight

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years;

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

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

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

Never offered

A M E N D M E N T

Offered in the HOUSE

By Hanley

TO: HB 371

Page 1, line 7, after "degree":

Insert "and solicitation to commit murder in the first degree"

Page 1, following line 22:

Insert new bill sections to read:

"* Sec. 2. AS 11.31.110(c) is amended to read:

(c) Unless otherwise provided in this section, solicitation

[SOLICITATION] is a

- (1) class A felony if the crime solicited is an unclassified felony;
- (2) class B felony if the crime solicited is a class A felony;
- (3) class C felony if the crime solicited is a class B felony;
- (4) class A misdemeanor if the crime solicited is a class C felony;
- (5) class B misdemeanor if the crime solicited is a class A or class B misdemeanor.

* Sec. 3. AS 11.31.110 is amended by adding a new subsection to read:

(e) Solicitation to commit murder in the first degree is an unclassified felony and is punishable as provided in AS 12.55."

Renumber remaining bill sections accordingly.

Page 1, line 26, after "degree,":

Insert "solicitation to commit murder in the first degree,"

Page 2, line 3, after "degree,":

Insert "solicitation to commit murder in the first degree,"

Page 3, lines 3 - 6:

Delete "murder in the first and second degree, attempted murder in the first degree, sexual assault in the first degree, sexual abuse of a minor in the first degree, misconduct involving a controlled substance in the first degree, and kidnapping"

Insert "unclassified felonies [MURDER IN THE FIRST AND SECOND DEGREE, SEXUAL ASSAULT IN THE FIRST DEGREE, SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE, MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIRST DEGREE, AND KIDNAPPING]"

Page 3, lines 13 - 16:

Delete "murder in the first or second degree, attempted murder in the first degree, sexual assault in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree"

Insert "an unclassified felony [MURDER IN THE FIRST OR SECOND DEGREE, SEXUAL ASSAULT IN THE FIRST DEGREE, KIDNAPPING, OR MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIRST DEGREE]"

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: CSSB 371(Finance)

Page 2, line 4:

Delete "two"

Insert "12"

Delete "48"

Insert "96"

Page 2, line 5:

Delete "12"

Insert "18"

Page 2, line 6:

Delete "seven-day"

Insert "30-day"

What difference
does it make

if the person died or not.

just because the defendant
wasn't successful
in completing the
act - - - why

should he be
rewarded?

So, if the bullet misses
by a mile, same penalty?

MAR 22 1988



Alaska State Legislature

House of Representatives

4007 BRENTWOOD CIRCLE
ANCHORAGE, ALASKA 99502
(907) 243-7574

REPRESENTATIVE
ALYCE HANLEY
DISTRICT 9, SEAT B

WHILE IN JUNEAU
BOX V
JUNEAU, ALASKA 99811
(907) 465-4939

MEMBER
HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE
REGULATION REVIEW COMMITTEE

March 21, 1988

MEMORANDUM

TO: Representative John Sund, Chairman
House Judiciary Committee

FROM: Representative Alyce Hanley *A. Hanley*

SUBJECT: HB 371 - "An Act relating to attempted murder in the first degree."

I would like to formally request a hearing on HB 371 which I introduced this session. HB 371 relates to sentencing in that it increases the penalty for attempted murder in the first degree.

I have spoken to a representative from the Department of Law who informed me that a more comprehensive bill was introduced in the Senate in January, 1985, by request of Governor Sheffield. Attempted murder in the first degree presently has a maximum penalty of 20 years. Individuals without a prior felony conviction, could be out of prison in as little as seven years.

Senator Halford and I have introduced this legislation in response to situations in which the only reason the offender's charge was attempted murder was that the victim refused to die. The Robert Pfeil case is a good example. He would have been a paraplegic had a blood clot not killed him and attempted murder would have been the charge.

It is with this in mind that I respectfully request on behalf of myself as well as the cosponsors and the public that HB 371 be scheduled for a Judiciary public hearing at your earliest convenient date. Thank you in advance for your consideration and a prompt scheduling of HB-371.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to murder in the first degree."
Sponsor: House Judiciary
Requestor: House Finance

Agency Affected: Department of Law
BRU: Prosecution

Components: All

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						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: April 20, 1988

Approved by Commissioner: Richard I. Pegues / FOR / Grace Berg Schaible, Atty. Gen.

Date: April 20, 1988

Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 352 (Jud.)

This bill amends existing statutes by raising the criminal penalty for attempted murder in the first degree, from a class A felony to an unclassified felony. This change in the sentencing law will not have a fiscal impact on the Department of Law because there are not many of these offenses, and because these offenses are already being prosecuted.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to attempted murder in the first degree."
Sponsor: Rep. Hanley, Barnes, etc.
Requestor: _____

Agency Affected: Department of Corrections
BRU: _____
Components: _____

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-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Director Phone: 465-3376
Division: Division of Administrative Services Date: 3-16-88
Approved by Commissioner: Susan Humphrey-Barneff Date: 3-16-88
Agency: Department of Corrections

Distribution (by preparer):

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

HB 371 Briefing Packet

TABLE OF CONTENTS

I. HB 371

II. Letters of Support

- * Lt. Shirley Warner, Vice President
Alaska Peace Officers Association
- * Lt. Mike Nielsen, Fairbanks Police Dept.
"Salgado seeks reduced sentence",
Fairbanks Daily News Miner

III. Newspaper and Magazine Articles

- * "Doctors tell grim story of child's
abuse", Anchorage Daily News
- * "Woman's children often hurt", Anchorage
Daily News
- * "Judge takes kids away from mom",
Anchorage Daily News
- * "Father gets 26 years", Anchorage Daily
News
- * "Couple charged with abuse of infant
who's left in coma", Anchorage Daily News

IV. Terms of Imprisonment and Authorized Fines
in Revised Criminal Code

V. Attorney General Memo and Analysis dated
January 8, 1985, addressing attempted murder
and solititation for murder

ALASKA PEACE OFFICERS ASSOCIATION

DDC Coordinator
P.O. Box 240106
Anchorage, AK
99524-0106
(907) 786-1807

State APOA Office
P.O. Box 240106
Anchorage, AK
99524-0106
(907) 786-1807



January 19, 1988

Representative Alyce Hanley
P.O. Box V
Juneau, Alaska 99811

Dear Alyce,

I enjoyed our conversation in your office while I was in Juneau. Thank you for taking the time to talk with me. I hope you find our position statement to be helpful.

Let me confirm that I know there is no one in Juneau more supportive of law enforcement than you and we appreciate that.

I spoke with the Board of Directors about the sentence for Attempted Murder. I can safely say that for the examples given (Pfeil, had he lived, and the little girl who is now basically a vegetable) they felt 20 years was not enough. There was no consensus on the ending time (50, 60, 99, open ended). I suppose whatever you develop from your research you can count on our support.

I am more than willing to contact the APOA Chapter Presidents for them to poll their memberships for cases where attempted murder were, or could have been charged. I will also ask them about cases involving a solicitation to commit murder.

If there is any more I can do to help the passage of the bills the "coalition" has outlined, or with the bills you sponsor please call.

Sincerely,

Lt. Shirley A. Warner
Vice President, APOA
786-8858

8 FEB 88

FEB 1988
RECEIVED

The Honorable Alyce Hanley
Alaska State Representative
P.O. Box V
Juneau, AK 99811

Dear Representative Hanley:

Lt. Shirley Warner of Anchorage Police Department has asked law enforcement officers to send you information concerning sentencing of attempted and solicitation of murder.

I worked the investigation concerning Dr. Salgado's hiring of a drug addict to kill Dr. Martino. The enclosed article from the Fairbanks Daily News Minor may be of some value to you. As you can see, this man who had a great deal of public trust and confidence, will once again prey on the unsuspecting public if released after serving only five years. That is a very short time for the heinous crime he committed.

Please call me if I can be of any further assistance. The complete case report (FPD C# 83-18178), is available if necessary.

Sincerely,

Mike A. Nielsen
Mike A. Nielsen, Lieutenant
Fairbanks Police Department
(907) 459-6500

656 7th Aven

Enclosure:

Fairbanks AK 99701

Fairbanks Daily News Miner

Salgado seeks reduced sentence

880116

By KRIS CAPPS
Staff Writer

Fernando Salgado, a former Fairbanks neurologist, incarcerated for nearly four years for trying to arrange the murder of a rival neurologist in 1983, asked this week to have his sentence of 10 years without parole reduced.

The judge agreed to allow him parole eligibility at the discretion of the parole board, based on a 1986 change in state law. The law, which went into effect after Salgado's sentencing but which can be legally applied to his case, allows for automatic parole eligibility for consecutive sentences.

Salgado, 48, was sentenced to two consecutive five-year sentences without parole. He must serve the first five years of his sentence before he can meet Parole Board guidelines.

Salgado, 48, who was also a neurologist here, was convicted in 1984 of hiring one of his drug-addict patients to kill Dr. Ronald Martino, the other neurologist in town. He was also convicted of giving the hit man prescription drugs as payoff for the intended murder.

The hit man never did kill Martino. Instead, he secretly recorded conversations of he and Salgado discussing the contract murder, and eventually notified authorities.

As a result of the conviction, Salgado's license to practice medicine was permanently revoked on April 19, 1985.

According to letters written to Superior Court Judge Jay Hodges, which are now part of Salgado's public court file, Salgado says he is anxious to return to Spain upon his release.

"I am very tired, almost exhausted, from being incarcerated for such a long time," Salgado wrote in a March 1987 letter.

He said authorities at Hiland Mountain Correctional Center gave him a little corner of the jail greenhouse as a painting studio and he has become a serious artist since his incarceration. He said he has painted 121 oil paintings and sold every one of them.

He said he keeps his own piano in one of the classrooms and is allowed to keep a pet cat, which he occasionally is also allowed to take to cat shows.

"Just last Sunday, I took him to a cat show held at the Armory in Anchorage where he won 10 ribbons, all first place," Salgado wrote.

He also worked as program assistant to inmates in the jail's sex-offender program.

"For over two years now, I have been longing to return to Spain to

see my family and to live there for the remainder of my life," Salgado wrote. "If for some reason I do not enjoy living in my Native land, I might relocate to Argentina where I have many friends."

At this week's hearing, Salgado was described as a model prisoner who is currently assigned to a half-way house.

Defense Attorney Bill Bryson said Salgado refers to his criminal offense as "his crazy period." He also said Salgado promised never to get in that delusional state again.

Larson to appear in benefit-concert

The Farthest North Chapter of the Alaska Peace Officers Association will present the Nitty Gritty Dirt Band and Nicolette Larson in concert May 7 for two shows at Hering Auditorium. Representatives of the association will be telephoning local businesses to sell advertising and tickets. Tickets can be ordered by calling 451-8577.

Proceeds from the shows will benefit area organizations such as youth hockey, basketball and football teams, the Boy and Girl Scouts, Women in Crisis Counseling and Assistance, and two college scholarships.

kay m. levine

SHOOTER

FROM WORTHINGTON FORD: I'm trying to get a vehicle worthington Ford, I feel compelled to expect. Here's what went up in for routine 6,000 mile service attendant that I also had new oil and air filters. Warranty work be performed on the truck, they showed the vehicle had not been returned back to Worthington's service department. They then changed because I had not paid for the lube job not done, they hadn't done the work on the truck so the job could be done. I was charged again for

complaint to Paul Cunningham, what had happened. To date, additionally, I don't know if my final inspection of brake fluid, that matter, a new oil filter. I problem still is present. I want to be prepared when doing a Ford. You may REALLY get

didn't get to hear the dealership's 1 days and several phone calls. I thought they wouldn't discuss your car until you didn't ask for help or be interested to learn that Ford

ABUSED CHILD: Brain damage is permanent

Continued from Page C-1

head, apparently to stop her crying.

He also has admitted to burning her with the heating element of an electric frying pan.

But it was his holding her under water in the bathtub, it was the near drowning on March 6 that deprived her brain of oxygen for more than five minutes and did massive cerebral damage, the doctors explained Friday.

Lack of oxygen causes the brain to swell, said radiologist Richard Hill. But the brain is in an enclosed space. When it swells, blood vessels get crushed and "then the cells die because they don't get enough blood or oxygen." Tina's brain has shrunk to the size it would be if it had been used for 95 years, he said.

Sweetin told police he put Tina under water — not for very long — to clean her after she spit up on herself.

Tina will soon be 2, but she is less developed than an average 6-month-old, said Brand. She goes to physical therapy two or three times a week, but "I don't believe she would ever become toilet trained," he said. "I don't believe she will be able to feed herself. There is every possibility she'll be wearing diapers when she's 35." There is every possibility she'll have to spend her life in an institution.

It's hard to be certain exactly how damaged Tina is, the doctors said, and impossible to predict whether she will improve. For instance, it may be that her eyes can see, said Dr. Hill, but her damaged brain just can't recog-

nize the images being transmitted.

What Tina's eyes would have seen Friday, if they could, was her father, a former military man who was unemployed at the time of his arrest, slumped motionless in his chair at the defense table, seeming to move not an inch over the two hours the hearing lasted. She would have seen her 24-year-old mother, a small, attractive woman with long red hair, fussing over her newest child, 5-week-old Christopher, during the breaks.

Jimmy Sweetin is in jail. His wife is free on bail.

Margaret Sweetin has had four children in addition to Tina and was known to social workers long before Tina turned up in the emergency room at Humana Hospital last January. Two of her chil-

dren by another husband had been adopted or given to foster parents before Tina was hurt.

District Attorney Victor Krumm referred in court to a 4-year-old who was in the home when Tina was hurt but who has since been removed because of suspected abuse.

Christopher, the newest Sweetin, is officially a ward of the state. He hasn't turned up with any injuries and remains at home with his mother.

Margaret Sweetin pleaded no contest in May to a single misdemeanor count of criminal non-support, meaning she failed to get aid for Tina. She faces a maximum of one year in jail.

Jimmy Sweetin faces a possible maximum of 46 years in prison. The hearing will continue on Nov. 13.

MAT-SU ASSEMBLY: More favorable to development

Continued from Page C-1

ers legislation in the future, which would set up half-mile-wide corridors around selected streams such as Willow and Little Creeks.

The rivers legislation failed last year, but representatives Ron Larson and Katie Hurley have promised to support versions of the bills next time around.

Palmquist called the recreational rivers a lock up. Cypre called her stream across stance, part and parcel of an anti-government attitude.

We don't come from the lock up philosophy, let's put it that would say we're pro-development.

— Rose Palmquist

separation distance between houses and Mat-Su lakes is included in the same ordinance as the stream easement change. The required distance now stands at 75 feet; under the new rules, it could be cut to 45 feet.

The previous assembly had

50-foot park down all the rivers and lakes, they ought to be able to pay for it," he said.

According to Gary Lipsitz of the state Department of Fish and Game, rivers set back pose greater risks to fish spawning areas, water quality and shoreline wildlife corridors.

change from five years of overzealous planning and unneeded bureaucracy. For others, the statute represents a return to the long-range problems of unplanned development.

Now in the minority, Cypre said he's most concerned about the possibility of decision making outside the public eye.

When you have people who are in phony relationships together, it's easy for them to share things with each other and team up against the district, he said. Comment on the district's

NOV

C4 Anchor
KYOGERA
PARASOUND
CHNIGS

11/14/86

metro

Woman's children often hurt

Witnesses testify during sentencing hearing

By SHELA TOOMEY
Daily News reporter

Bad things happen to the children of Margaret Swertin.

At 6, Jimmy, had open welts from a belt buckle, up and down both legs, when the state finally took him in 1983. He always seemed to be hurt. Leroy was four and couldn't talk. When asked by a doctor to undress, he did so and automatically assumed a sexual position. The state took him in March.

And then there's Tina. She's almost 2 and not quite brain dead from being dropped on her head and held under water in the bathtub.

Margaret Swertin says she never hurt her kids. And, in fact, she has not been charged with child abuse. It seems that Margaret Ann, as everyone calls her, has a weakness for men who like to beat up babies.

She and her current husband, Jimmy Swertin, spent Thursday afternoon in an Anchorage courtroom for the second installment of a marathon sentencing hearing relating to Tina's injuries. Jimmy has pleaded no contest to three felony assault charges and a misdemeanor. He faces a maximum sentence of 46 years.

But Thursday's hearing focused mostly on Margaret Ann. She has been convicted of a single misdemeanor, of failing to get Tina's fractured skull medically treated. That's all she was indicted for.

District Attorney Victor Krumm said earlier in the case that Margaret Ann was charged in accordance with information available at the time her case went to the grand jury, in March.

Krumm has learned a lot more about Margaret Ann since then. Under his questioning, social workers, counselors, doctors and foster parents have been taking the witness stand and sharing that information with Judge Seaborn Buckalew. Buckalew can sentence her to a maximum of one year.

Margaret Ann is 25, but she's lived a lot in those years. She's been married three times and has borne five children. Three other pregnancies ended in miscarriage. Three of her children — Jimmy, Leroy and Tina — have been taken from her at different times. One, Valerie, she gave up voluntarily at birth.

The fifth, Christopher, 2 months old, remains in her care.

Listen to Virginia Sulesky, Leroy's foster mother, describe what the 4-year-old boy was like when she got him in March.

"He was like an uncaged little animal coming into the house. . . . We thought he was crippled or something. He held his arms funny and walked with a gait. . . . his skin

See Page B-3, CHILDREN

Shin master



Carol Frantz looks out her window on an island in Flat Lake as her hus-

When a hovercraft

By CHRIS GEJGER
Daily News reporter

BIG LAKE — In November, the ice sings to Art and Carol Frantz from all directions. Freezing water surrounds the couple's island home on Flat Lake, two lakes back from Big Lake and beyond the reach of roads. The shifting cracks perform a repertoire of mournful groans, bird-songs and occasional rifle shots.

But the Frantzes have paid a price for the winter symphony. With miles of water and four-wheel-drive roads between Art Frantz's home and his job in Anchorage, he has until recently faced an exceptional daily commute.

In the summer, Frantz boats about a mile across Flat Lake to his waiting car, then drives a back road to reach the highway. Winter is easy. He simply drives seven miles over Flat Lake, Mud Lake and Big Lake to the main road.

And in the isolating weeks of freeze-up and break-up, when the lakes are too solid to boat but too liquid to drive on, Frantz resorts to the only other alternative — a hovercraft.

"After about six months here, (Art) said, 'Whose idea was it to move up here?'" Carol Frantz said. "I said, 'It was yours.'"

On Aug. 1, Art Frantz retired from his job with Anchorage Municipal Light & Power. He doesn't miss rising at 4 a.m. every day to commute over ice, snow, water and dirt, he said. But thanks to their island location, the Frantzes' elaborate transportation set-up remains a necessity.

If not for the hovercraft, they'd now be spending their fourth week in a row trapped on the island.



Art Frantz idles his hov-

Being stranded in the lake is not Carol Frantz's first time. Since the couple's 1980, she's suffered her share of Big Lake weather.

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Continued from Page B-1

"But that's not the same"
She glanced at her husband
and laughed

The Frantzes moved to
Alaska in 1959 from the Po-
cono region of Pennsylvania.
He was working as an assis-
tant foreman in a machine
shop there, and figured that
— 20 years from then — he'd
still be working in the ma-
chine shop.

"I didn't want to know
what I was going to be doing
in 20 years, so I came in

Alaska," he said.

After almost 20 years in
Anchorage, the Frantzes
found their island paradise
and made their move. Antici-
pating the transportation dif-
ficulties ahead, they bought
the hovercraft first, along
with several boats.

Not only did they have to
reach the island, they had to
 ferry construction materials
to remodel the A frame cabin
already there.

The hovercraft is not a
particularly fancy machine.
Originally built of plywood,

Ann has substituted alumi-
num for the body. Three peo-
ple can squeeze beneath its
canvas canopy in a crum-

A horizontal turbine cre-
ates a cushion of air between
the hovercraft's rubber skirt
and the ground. A vertical
propeller pushes it forward,
with airboat style fins for
steering. Two controls — a
throttle and steering wheel
control everything, although
in this case control is a rela-
tive concept.

Careening without friction

across the lake, the machine
turns from side to side like a
confused curling stone. If he
pressed his luck, Frantz said,
he could probably reach 100
miles an hour. But stopping
is another story, about half-
way home, he begins throt-
tling back periodically,
touching metal skids to the
ice to prevent an unhappy
landing.

You have to plan way
ahead when you want to
stop. Frantz said. "Last
year I hit the dock once."

CHILDREN: Mother charged with failure to get help

Continued from Page B-1

color was bad, almost ash-
en."

He couldn't feed himself
with utensils. His speech was
an unintelligible gabble ex-
cept for words like mama,
papa or doggie. His condition
could only have resulted
from long-term neglect or
worse, other witnesses testi-
fied.

Here's social worker Andy
Linn, his voice crackling as he
describes his first encounter
with Leroy before the Sweet-
lins were arrested.

"He came up to me. He
gripped on to my leg. He
grabbed my hand and he
started to kiss my hand.
We didn't have enough infor-

mation to take custody.
He didn't want us to leave
but we left anyway.

Leroy was desperate, said
Linn.

The Sweetlins were ar-
rested in March because of
what happened to Tina Jim-
my Sweetlin has admitted
holding his daughter there
about 14 months, their feet
off the ground and dropping
her on her head. He has
pleaded no contest to holding
her head under water in the
bathtub, although there is
some dispute about how long
he held her there.

Tina is not likely to im-
prove. She has massive brain
damage. She can't see, can't
stand, can't talk, can't think.

Leroy is doing better. He

lives in a nice house and goes
to counseling. When she in-
vites him to play, said his
counselor, Leroy always
picks the bathroom toys and
often has the daddy doll hold
the baby doll under water in
the bathtub. He freezes and
goes into a near trance when
anyone chastises him, even
mildly, his foster mother tes-
tified.

Still Leroy is doing bet-
ter. He has learned to speak
in sentences. He has used his
new skill to tell both his
counselor and his foster
mother that he doesn't want
to go home because "mummy
and daddy used to hurt me."

There hasn't been much
discussion about Jimmy
Sweetlin's background, but
Margaret Ann didn't invent
her parenting techniques.
She learned how to bring up
children from the people who
brought her up.

She was neglected as a
child and put for a while into
foster care. She returned to
her mother's home where,
when she has 13 or younger,
her stepfather began to sexu-
ally abuse her, according to
testimony. She was pregnant
at 15 by him, and again two
years later. Before he died,
he had fathered her first
three children, divorced her
mother and married her.

When the sexual abuse be-

gan, Margaret Ann told her
mother about it but her
mother refused to believe
her, said Rosalie Nadeau of
the Crisis Center. When the
truth became undeniable,
mum blamed Margaret Ann.

Over the years Margaret
Ann has gone from man to
man, from boyfriend to hus-
band, even back to her step-
father once when no one else
would take her in. And each
of the men mentioned in
court Thursday hurt Marg-
aret Ann's children, said
Krumm.

Many social agencies have
tried to help Margaret Ann
learn new ways but they
have been hampered by her
IQ of about 60 and by the
well-taught lessons of her
youth.

Regardless of whether her
children are abused by her or
"by the men she chooses to
live with," said Nadeau, "the
result is the children
Margaret Ann has produced
have suffered pretty serious
injury and abuse."

"She is a tragic young
woman," Nadeau said. "She
has had a really unfortunate
life. I'm not sure that
justifies inflicting pain on
helpless children who didn't
ask to be here."

The sentencing hearing is
scheduled to continue next
Friday.

Considering bid for leadership job

A 100 sena-
gress
ranks of
ouse some
commit-
tee Stevens
re ranking
nother ap-
pmittee
is Stevens
the mili-
subcommittee
his rank-
defense

appropriations subcommit-
tee. Stevens said this would
put him in the best possible
position to secure funding for
the new light infantry divi-
sion in Alaska.

In addition, Stevens said he
has a chance to become the
ranking Republican on the
Rules Committee, a powerful
panel which sets the proce-
dures for the Senate.

On the negative
side, Stevens admitted that

he may be forced to cut two
or three of his committee
staff aides.

He hopes the Democrats
will retain his staff on the
defense appropriations sub-
committee, saying "they are
professionals."

Stevens said he will try to
absorb his committee aides
onto his personal staff, but
said "there may be two or
three people that I have no
place for."

Alaska
Arctic Survival Equipment

UP TO 29% OFF

V

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4

1

Street at about 1 1/2 m.

Weitz, 27, was in a pickup
truck that matched one want-
ed in connection with a Quid
Stop robbery.

When Officer Linda Mi-
tch sought clues from
Weitz's bullet, Weitz took
her car and sped off. He
rammed into a concrete wall
two blocks away. Police offi-
cers responding to Mitchell's
call for help chased Weitz,
ducking shots and containing
his fire.

Hanson and another offi-
cer arrived on the scene with
dogs to track the suspect.
Hanson, without his dog
caught up with Weitz on 9th
Avenue, off Michigan Street,
according to the prosecution.
Weitz was hiding in a dark
spot between a water tank and
a fence. Hanson was aiming
a bullet proof vest at the
shot struck him above his
protection.

Other officers chased Weitz
another half block, catching
him three times before tak-
ing him into custody.

Snowstorm hits Juneau

The Assoc. 1-17

JUNEAU — The first snow
of the season came in a bit
way to Juneau this week
throwing a wet white blanket
over the town. Municipal
League's annual confere-
nce and catfish meal were
off guard.

Juneau got 4.4 inches of
snow between Sunday and
Thursday according to the
National Weather Service.
Almost half of it fell Wednes-
day, leaving slushy streets
and roadside snowbanks
three and four feet high.
Skies cleared Thursday.

The weather service said
the average Juneau snowfall
for the entire month of No-
vember is 11.6 inches.

The heavy fall Wednesday
kept all major airline flight-
out of Juneau Municipal Air-
port and with them, many
people headed for the Muni-
cipal League conference.

Its organizers were count-
ing on the diverted flights
arriving Thursday.

discussing the Challenger tragedy last January and the following investigation "was filled with doublespeak."

The seven-member shuttle crew, including teacher Christa McAuliffe, perished when Challenger exploded shortly after liftoff.

Lutz quoted a NASA official who said:

"The normal process during the countdown is that the countdown proceeds, assuming we are in a go posture, and at various points during the countdown we tug up the operational loops and face to be in the firing room to ascertain the facts that project elements that are monitoring the data and that are understanding the situation as we proceed are still in the go direction."

Morton Thiokol, the maker of the booster rocket, and Rockwell International, the main contractor to build the shuttle, also were cited by the committee.

"Officials of Morton Thiokol," Lutz said, "when asked why they reversed earlier decisions not to launch the shuttle

See Back Page, DOUBLESPEAK

upper teens with north wind to 18 mph. Cloudy tonight with a low near 18. Snow likely Sunday with a high in the lower 20s.

High Friday.....18
Low Friday morning.....13
Normal high Nov. 21.....28
Normal low Nov. 21.....13
Record high Nov. 21 (1949)....50
Record low Nov. 21 (1956)....-13

STATE, NATIONAL
WEATHER FORECASTS
PAGE A-2

Index

Ann Landers.....	D-8
Bridge.....	D-8
Business.....	B-8
Classified.....	E-1
Comics.....	D-14
Horoscope.....	D-15
Jeff Lowenthal.....	D-3
Letters.....	B-11
Obituaries.....	B-12
Opinion.....	B-10
Religion.....	D-7
Sports.....	C-1
Stocks.....	B-8
Television.....	D-10
Today in Anchorage.....	D-16
Troubleshooting.....	B-3

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By JIM ERICKSON
Daily News business reporter

The Alaska Housing Finance Corp., unwilling heir to nearly \$100 million worth of Alaska homes whose owners could not keep up the payments, may begin renting out some of its vacant houses and plans to initiate a "hardship" refinancing program that officials here will slow the corporation's runaway foreclosure rate.

The steps will not cure the

problem of record number of homeowners falling behind on their monthly mortgage payments to AHFC, said Ron Lehr, the agency's executive director.

"It's one of those situations where you try to do a little bit here, and a little bit there, and a little bit there," Lehr said. "The panacea is \$40 a barrel oil... or some kind of major upturn in the economy."

Since the housing market

first spiraled into a nosedive in 1985, AHFC has seen its delinquency rate climb from less than 2 percent in mid-1983 to 12.2 percent in October. To cope, AHFC instituted a program allowing hard-pressed homeowners to rent their homes and created an assumable loan program, yet delinquencies continued unabated.

In October, about one of

See Back Page, AHFC

Judge takes kids away from mom

By SHEILA YOOMEY
Daily News reporter

A Superior Court judge reached through the back door of the criminal justice system Friday in an effort to save the children of a pregnant Sweetin from a future filled with abuse and neglect.

Judge Seaborn Buckalew sentenced Sweetin to six months in jail for not helping her 14-month-old daughter, Tina, the day Sweetin's husband Jimmy deliberately dropped the baby on her head, fracturing her skull.

The "failure to support" charge is a misdemeanor and the maximum sentence is a year.

But, in an unusual move, Buckalew went on to effectively remove all three of Sweetin's children from her custody for at least five years — a move usually reserved to civil judges in proceedings held behind the closed doors of family court.

He did it by putting Sweetin on supervised probation for five years and ordering, as a condition of probation, that

she have no contact with any of her children unless a probation officer gives written permission.

He said he didn't think she should be allowed to visit the children because of testimony that the older ones became upset and fearful when she visits.

Buckalew also ordered that Sweetin not be allowed to live with any children for the next five years, a provision requested by Anchorage Dis-

See Back Page, NEGLECT

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