

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
4760 HJUD SB 211 - SB 231

CHANGE JOINT AND
SEVERAL LIABILITY LAW

Overall, approximately four-out-of-five Alaskans (81%) reported it would be acceptable to them if the law known as "joint and several liability" were changed...

Question:

"Sometimes two defendants are sued together and lose, and one of them can't pay their part of the damages. In Alaska, under a law known as JOINT AND SEVERAL LIABILITY, the defendant who can pay is then required to pay more than his share of the award. Some people want to change this so that defendants would pay only their share, even if it means that the injured party would receive less in damages than the court awarded. How acceptable would such a change be to you...very acceptable, somewhat acceptable, not too acceptable or not at all acceptable?"

45% Very acceptable
36% Somewhat acceptable
7% Not too acceptable
8% Not at all acceptable

...with very similar combined "acceptable" scores noted in each region...

Region:	Very/Somewhat _Acceptable_	Not too/ Not at all _Acceptable_
Rural.....	80%	12%
Central.....	83%	14%
Southcentral....	83%	11%
Anchorage.....	80%	17%
Southeast.....	82%	13%

The combined acceptable scores are also very similar throughout the various demographic categories, however, some respondent classifications were particularly high -- notably Republicans (89%), business owners (86%), business managers (89% and skilled blue-collar workers (92%).

SLIDING FEE INSTEAD
OF CONTINGENCY SYSTEM

Establishing a sliding fee scale rather than utilizing a contingency system is considered "acceptable" by approximately three-out-of-four (74%)...

Question:

"In personal injury cases, lawyers for people suing someone else are often paid a fixed percentage of damages that are awarded. The bigger the damages, the bigger the lawyer's fee; and if there are no damages awarded, lawyers get no fees. This is called the contingency fee system. Some people would like to require a "sliding fee" for an injured person's lawyer, so that as the dollar size of a case goes up, the amount of money that the lawyer gets also goes up, but not as fast as when the lawyer gets a fixed percentage of the damages. How acceptable would a "sliding scale" fee system for paying lawyers be to you...very acceptable, somewhat acceptable, not too acceptable or not at all acceptable?"

43% Very acceptable
31% Somewhat acceptable
8% Not too acceptable
11% Not at all acceptable

...and there is strong regional agreement everywhere, although Southcentral is lower again...

Region:	Very/Somewhat Acceptable	Not too/ Not at all Acceptable
Rural.....	76%	16%
Central.....	74%	22%
Southcentral....	65%	22%
Anchorage.....	76%	20%
Southeast.....	80%	15%

Similarly, there is consistently strong support among all demographic categories with the combined "acceptable" ratings exceeding 62% in every case. The strongest acceptable response to establishing a sliding fee schedule was noted among business managers (91%).

REDUCE DAMAGE AWARDS BY DEDUCTING
COMPENSATION ALREADY RECEIVED

Again, by a wide margin, Alaskans support changes in tort law -- in this case, nearly three-out-of-four respondents state-wide (73%) favor reducing damage awards when some compensation has already been received...

Question:

"Under the "collateral source rule," the current civil justice system permits the winner of a lawsuit to be compensated twice. For example, an injured person whose medical bills are paid by health insurance may receive those expenses again in a civil suit. Would you favor or oppose requiring the judge to reduce the amount of damage awarded by a jury by subtracting compensation already received by the victim from other sources?"

73% Favor
20% Oppose
7% Unsure

Geographically, support for this change is highest in Anchorage and Fairbanks...

Region:	Favor	Oppose
Rural.....	61%	22%
Central.....	77%	19%
Southcentral.....	69%	19%
Anchorage.....	76%	19%
Southeast.....	69%	25%

...with the pattern of stronger support among older, male, upper-income Republican business owners and managers continuing. However, in this case, they are joined by younger people -- 75% of the 18-24 year-olds, and 78% of the \$20,000-\$40,000 annual income category.

LIMIT ADDITIONAL
COMPENSATION TO \$250,000

Approximately two-out-of-three state-wide respondents (68%) favored placing a \$250,000 limit on the amount of money that could be awarded on top of actual economic damages...

"In many cases, significant parts of damage awards in personal injury lawsuits do not represent compensation for actual economic damage, but represent additional compensation for non-economic damage such as "pain and suffering." Would you favor or oppose placing a limit of \$250,000 on the maximum amount of money that could be awarded in addition to actual economic damage?"

68% Favor
24% Oppose
8% Unsure

...with Fairbanks area residents most supportive at approximately three-out-of-four, and the rest of the state at two-out-of-three...

Region:	FAVOR	OPPOSE
Rural.....	67%	24%
Central.....	78%	14%
Southcentral.....	65%	24%
Anchorage.....	67%	27%
Southeast.....	66%	24%

Demographically, older business owners are most supportive (78-81%), however, lower income respondents (70% of \$20,000 annual income) and skilled blue-collar craftsmen (73%) join them, and this is one of the few cases where females are more supportive of a tort reform issue than males (70% females, 66% male).

LIABILITY INSURANCE PREMIUMS INCREASING
TOO MUCH DUE TO EXCESSIVE DAMAGE AWARDS

Find 10 Alaskans somewhere and ask them whether liability insurance premiums are increasing too much due to excessive damage awards, and eight of them will tell you "yes"...

Question:

"Do you feel liability insurance premiums of the public-at-large are or are not increasing too much due to excessively high damage awards from lawsuits?"

81% Are
11% Are not
8% Unsure

...and it basically wouldn't matter where you were in Alaska -- sentiment is similar in each geographic region...

Region:	Are	Are_not
Rural.....	76%	10%
Central.....	80%	14%
Southcentral.....	85%	8%
Anchorage.....	81%	12%
Southeast.....	81%	12%

PERSONAL INCREASE IN LIABILITY
INSURANCE PREMIUM

Overall, over half of all Alaskans (55%) reported they have personally had an increase in their liability insurance premium...

Question:

"Have you personally had an increase in your liability insurance premium?"

55%	Yes
39%	No
6%	Unsure

...however, on a geographic basis, only one-third (35%) of Rural respondents have personally faced this problem. On the other hand, nearly two-out-of-three (62%) of Southcentral residents reported they have been personally affected by an increase in their liability insurance premiums...

Region:	Yes	No
Rural.....	35%	59%
Central.....	59%	38%
Southcentral.....	62%	26%
Anchorage.....	55%	38%
Southeast.....	56%	41%

Again, the most frequent or highest response rates are noted among 41-55 year-olds (70%) upper-income (63%) Republican (60%) males (58%) who own their own businesses (70%) or work as white-collar degreed professionals (62%).

FAVOR OR OPPOSE TORT REFORM AFTER
LOOKING AT BOTH SIDES MORE CLOSELY

After both sides of the issue are more fully presented, the number who favor tort reform increases to 81%...

Background:

"And now I'd like to present two different sides of the Tort reform issue and ask you which side you tend to agree with the most... (OPTIONS WERE ROTATED)..."

- A. Those in favor of Tort reform include air carriers, medical professionals, architects, engineers, and day care operators, among others, and they say that the prime factors in making some forms of insurance either unobtainable or very expensive are excessive civil suit awards, frivolous lawsuits and laws that can make the extent of a person's liability uncertain. They say that because of the liability crisis, some professionals now refuse to practice their trades. They say that consumers necessarily end up paying higher prices for products and services due to the high cost of insurance and extra precautions designed only to defend against lawsuits.

Supporters say that without reforms, more and more businesses and professionals will no longer be able to afford high insurance premiums and will either go without insurance or will go out of business.

- B. People opposed to Tort reform include trial attorneys, among others, and they say that customers place their faith in those who provide services and that they expect them to provide them safely and correctly. They say that an injured person needs the right to sue for as much as possible when things go wrong. They say that even if insurance rates go down, that the savings will not be passed along to the customer.

Opponents also say that reforms would protect those who are incompetent, willfully negligent, or irresponsible. They say that reducing jury awards will only protect and encourage those who do harm to others.

Question:

"What about you -- given what you know from both sides, would you favor or oppose Tort reform?"

81% Favor
13% Oppose
5% Unsure

Geographically, Southcentral respondents remain relatively less supportive, however, their support rate is still strong at approximately three-out-of-four (74%). In the other areas, support for tort reform exceeds four-out-of-five (81-88%) in every case...

Region:	FAVOR	OPPOSE
Rural.....	88%	12%
Central.....	84%	11%
Southcentral.....	74%	17%
Anchorage.....	81%	14%
Southeast.....	83%	10%

Looking at the demographic cross-references, the internal consistency continues with the highest "favor" scores again coming from upper-income (85%), older (84%) male (83%) respondents who own (88%) or manage (85%) businesses. In addition, over nine-out-of-ten (91%) skilled blue-collar craftsmen also favor tort reform.

FINDING : First of all, specific awareness is quite low overall -- thirty-nine percent (39%) reported they have heard of "tort reform" and 34% of those respondents knew it referred to "limiting liability awards." This means a total of approximately 13% overall ($.34 \times 39 = 13.26\%$) could be expected to be aware of the specific "limitation of liability" element of tort reform.

FINDING : Secondly, 71% of those who have heard of tort reform are basically aware of the type of issues involved. This means the general awareness is approximately at the one-out-of-four level (28%) overall ($.71 \times 39 = 27.69\%$).

CONCLUSION: IN TOTAL, THESE TWO FINDINGS MEAN THAT IT'S STILL NECESSARY TO CAPTURE THE INITIAL POSITIVE "MIND SET" WHICH IS ESSENTIAL IN SUCCESSFUL ELECTORAL ISSUES.

FINDING : In terms of natural support, "tort reform" clearly has the high ground -- when the basic description of tort reform is initially presented, three-out-of-four Alaskans (73%) are supportive, while 16% are opposed and 11% unsure.

FINDING : Later, when the issues are more fully developed and both sides presented, support for tort reform increases to four-out-of-five (81%), while opposition declines to 13% and unsure drops to 5%.

CONCLUSION: COMBINED, THESE TWO FINDINGS MEAN THERE ISN'T ANY DOUBT THAT THE BASIC ELEMENTS INVOLVED IN TORT REFORM HAVE A STRONG BASIS OF NATURAL SUPPORT, AND THAT THE INITIATIVE AND REFERENDUM PROCESS CAN BE EFFECTIVELY APPLIED TO REDUCE LIABILITY INSURANCE PREMIUMS IN ALASKA.

- FINDING : At this point in time, without incurring additional expenditures to familiarize Alaskans with the issue, petition-signing efforts will be most productive in Fairbanks, Anchorage and Southeast (basic awareness figures of 42%, 44% and 44% respectively).
- FINDING : For maximum effectiveness, signature efforts and fund-raising should target registered Republican and non-partisan voters who are over 25 and who earn \$40,000 and more per year in white-collar occupations and/or as business owners/managers. Also, state and local government workers are supportive -- this means signature gathering efforts should also be directed toward locations or centers of government employment.
- FINDING : Fairbanks is a good base for tort reform efforts -- especially important to link it with employment and job security.

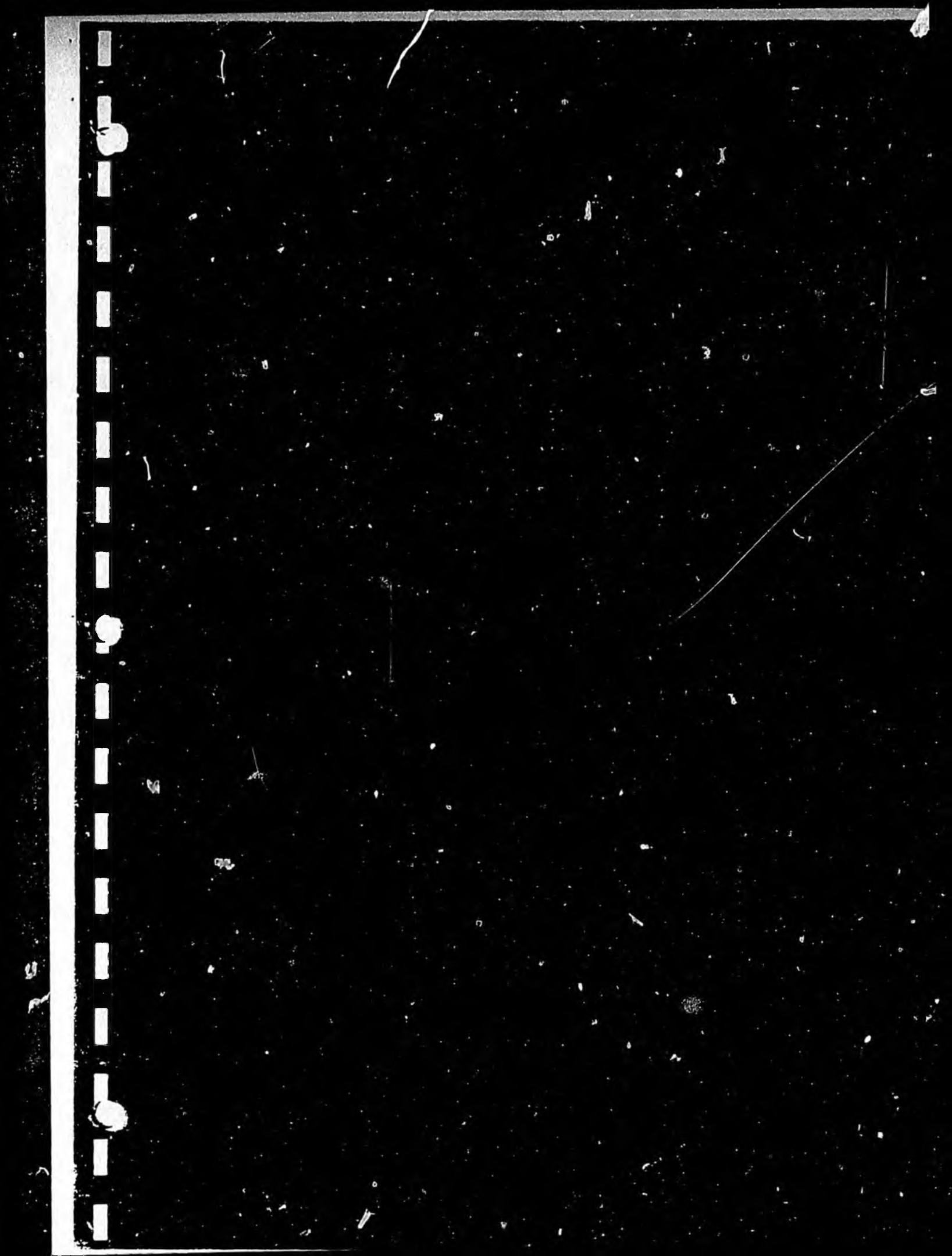
CONCLUSION: IN TERMS OF GEOGRAPHIC AND DEMOGRAPHIC TARGETING, A FAIRBANKS BASE IS PARTICULARLY IMPORTANT, AND THE PETITIONING SHOULD BE CONCENTRATED IN ANCHORAGE AND SOUTHEAST, AS WELL. WITHIN THESE REGIONS, SIGNATURE GATHERING WILL BE MOST EFFECTIVE IN MORE AFLUENT AREAS AMONG WHITE-COLLAR MALES WHO OWN OR MANAGE BUSINESSES. GOVERNMENT EMPLOYEES AND SKILLED BLUE-COLLAR CRAFTSMEN ARE ALSO GOOD TARGETS. AND ON TWO ISSUES -- "SLIDING FEE" AND "\$250,000 LIMIT ON NON-ECONOMIC DAMAGES" -- FEMALES ARE ALSO PARTICULARLY SUPPORTIVE. POLITICALLY, REPUBLICANS ARE MOST SUPPORTIVE, FOLLOWED BY NON-PARTISANS.

- FINDING A : There is high agreement throughout the state (81%) that excessive damage awards are causing liability insurance premiums to increase too much
- FINDING B : There is also high agreement (81%) regarding changing the law regarding joint and several liability so that defendants pay only for their share of the blame
- FINDING C : Three-out-of-four (74%) support establishing a "sliding fee" basis for lawyer compensation instead of the contingency system (female 76%, male 73%)
- FINDING D : Approximately three-out-of-four (73%) also support subtracting compensation already received from the amount of damages that can be subsequently awarded
- FINDING E : Over two-thirds (68%) favor placing a \$250,000 limit on the amount of damages which could be awarded in addition to actual economic damages (female 70%, male 66%)

CONCLUSION: THE SIGNIFICANCE OF FINDINGS "A" THROUGH "E" IS THAT THE HIGH AGREEMENT WITH "FINDING A" CAN BE USED TO "BOOT STRAP" THE OTHERS, PARTICULARLY ELEMENTS "C" "D" AND "E". FOR EXAMPLE, REFERENCES TO THESE THREE ELEMENTS SHOULD ALMOST ALWAYS BE PRECEDED OR FOLLOWED BY REFERENCES TO ELEMENT "A" IN ORDER TO CLEARLY ESTABLISH, JUSTIFY AND REINFORCE THE CAUSAL RELATIONSHIPS. ELEMENT "B" CAN STAND ALONE, OR BE LINKED WITH ANOTHER OF THE "C" THROUGH "E" ELEMENTS. HOWEVER, THE MAIN "CARRIER" IN THE PETITION EFFORT SHOULD BE ELEMENT "A".

ALSO, CONSIDERING THE PUBLIC INFORMATION ELEMENT, I WOULD RECOMMEND NOT RELEASING THE RESULTS OF THE SURVEY AS SURVEY RESULTS, RATHER, IT MAY WORK BETTER TO UTILIZE THE FINDINGS AS SIMPLY THE POSITION OF THE CITIZEN'S COALITION FOR TORT REFORM -- WE KNOW IT WILL WORK WELL BECAUSE IT IS SO TOTALLY IN TUNE WITH THE PUBLIC. LATER, WHEN THE EFFORT MIGHT NEED A BOOST TO KEEP THINGS MOVING ALONG AT A RAPID PACE, THE RESULTS OF THE SURVEY CAN BE RELEASED AND ESSENTIALLY HAVE A "TWO FOR THE PRICE OF ONE" EFFECT.

SUMMARY : AND FINALLY, IN SUMMARY OF THE VARIOUS CONCLUSIONS, I'VE NEVER KNOWN OF ANY INITIATIVE EFFORT IN ALASKA THAT BEGAN WITH SUCH A HIGH DEGREE OF PUBLIC SUPPORT ON SO MANY DIFFERENT POINTS -- THE HIGHEST NEGATIVE SCORE WAS ONLY 24% (ONE-OUT-OF-FOUR) WHO OPPOSE A \$250,000 LIMIT TO NON-ECONOMIC DAMAGES -- AND OVERALL, WHEN INFORMED OF WHAT IS GENERALLY CONSIDERED BOTH SIDES OF THE ISSUE, ALASKANS, BY A MARGIN OF 81% TO 13%, SUPPORT TORT REFORM. THE KEY ELEMENT NOW IS TO FOLLOW THIS OUTLINE REGARDING WHO TO TARGET, WHERE TO FIND THEM AND WHAT TO SAY.



HEARD OF AN ISSUE CALLED TORT REFORM

DEMOGRAPHICS	HEARD OF TORT REFORM		
	UNSURE	YES	NO
TOTAL.....	1%	39%	60%
LOCATION			
RURAL.....	2%	37%	61%
CENTRAL.....	0%	42%	58%
STHCNTR.....	0%	19%	81%
ANCHORAGE.....	2%	44%	54%
STHEAST.....	2%	44%	54%
REGISTER			
DEMOCRAT.....	1%	37%	62%
REPUBLICAN.....	2%	40%	58%
LIBERTARIAN.....	0%	29%	71%
NON-PART.....	1%	44%	55%
NOT REGIS.....	0%	14%	86%
SEX			
MALE.....	1%	43%	56%
FEMALE.....	1%	36%	63%
AGE			
18-24 YRS OF AGE..	0%	11%	89%
25-40.....	1%	40%	60%
41-55.....	2%	53%	45%
56+ YRS.....	1%	31%	68%
INCOME			
N-R.....	0%	54%	46%
TO \$20,000 INCOME..	0%	22%	78%
\$20,000-\$40,000..	1%	31%	67%
\$40,000-\$60,000..	0%	43%	57%
\$60,000+.....	3%	55%	42%
WORK FOR			
FEDERAL.....	2%	31%	67%
STATE.....	4%	59%	36%
LOCAL.....	0%	52%	48%
PRIVATE.....	1%	40%	59%
NOT WORKG.....	0%	29%	71%
TIME IN AK			
UNDER 1 YR IN AK..	0%	28%	72%
1-4 YRS.....	1%	32%	67%
5-9 YRS.....	2%	33%	65%
10-14 YRS.....	0%	47%	53%
15+ YRS.....	1%	42%	57%

HEARD OF AN ISSUE CALLED TORT REFORM

DEMOGRAPHICS	HEARD OF TORT REFORM		
	UNSURE	YES	NO
TOTAL.....	1%	39%	60%
KIND OF WORK			
DEGREE W/ COLLAR..	3%	67%	30%
NONDEGREE W/ COLLAR..	2%	43%	55%
SKILLED BL/ COLLAR..	0%	27%	73%
NONSKILLED BL/ COLLAR..	0%	15%	85%
NOT WORKING.....	0%	26%	74%
HOME MAKR.....	0%	31%	69%
OWNERSHIP			
OWN BUSINESS.....	0%	57%	43%
MANAGE.....	3%	42%	55%
NEITHER.....	1%	34%	64%

WHAT IS TORT REFORM ABOUT

DEMOGRAPHICS	TORT REFORM					
	UNSURE	JUST HEARD OF	INS. COSTS/AVAIL	ABT LEGAL SUITS	LIMITS PROF LIAB	MISCELLANEOUS
TOTAL.....	18%	8%	17%	20%	34%	4%
LOCATION						
RURAL.....	6%	0%	33%	28%	28%	6%
CENTRAL.....	19%	11%	11%	7%	44%	7%
STHCNTR.....	7%	21%	29%	36%	7%	0%
ANCHORAGE.....	19%	6%	15%	18%	39%	3%
SHEAST.....	27%	8%	12%	27%	23%	4%
REGISTER						
DEMOCRAT.....	13%	7%	14%	26%	40%	0%
REPUBLICAN.....	19%	6%	18%	18%	33%	6%
LIBERTARIAN.....	37%	0%	31%	0%	31%	0%
NON-PART.....	19%	10%	16%	20%	31%	5%
NOT REGIS.....	16%	0%	34%	16%	34%	0%
SEX						
MALE.....	11%	10%	19%	17%	37%	6%
FEMALE.....	25%	6%	15%	24%	29%	1%
AGE						
16-24 YRS OF AGE.....	0%	37%	45%	0%	18%	0%
25-40.....	19%	5%	15%	20%	36%	5%
41-55.....	13%	6%	18%	24%	35%	3%
56+ YRS.....	29%	16%	16%	12%	24%	4%
INCOME						
N-P.....	6%	13%	13%	20%	49%	0%
TO \$2000 INCOME.....	19%	18%	22%	19%	18%	5%
\$20,000-\$40,000.....	21%	9%	14%	16%	32%	8%
\$40,000-\$60,000.....	16%	11%	18%	26%	28%	0%
\$60,000+.....	19%	0%	18%	19%	40%	3%
WORK FOR						
FEDERAL.....	16%	0%	21%	22%	41%	0%
STATE.....	8%	4%	13%	27%	44%	4%
LOCAL.....	14%	9%	23%	18%	22%	13%
PRIVATE.....	20%	6%	17%	19%	36%	2%
NOT WORKG.....	21%	16%	16%	18%	26%	3%
TIME IN AK						
UNDER 1 YR IN AK.....	54%	46%	0%	0%	0%	0%
1-4 YRS.....	11%	4%	4%	30%	42%	9%
5-9 YRS.....	22%	10%	10%	9%	48%	0%
10-14 YRS.....	22%	0%	30%	11%	32%	5%
15+ YRS.....	16%	10%	18%	25%	28%	3%

WHAT IS TORT REFORM ABOUT

DEMOGRAPHICS	TORT REFORM					
	UNSURE	JUST HEARD OF	INS. COSTS/AVAIL	ABT LEGAL SUITS	LIMITS PROF LIAE	MISCELLANEOUS
TOTAL.....	18%	8%	17%	20%	34%	4%
KIND WORK						
DEGREE W/COLLAR	17%	5%	15%	18%	41%	3%
NONDEGREE W/COLLAR	21%	3%	12%	23%	38%	3%
SKILLED BL COLLAR	0%	6%	36%	29%	23%	6%
NONSKILLED BL COLLAR	14%	36%	39%	0%	0%	11%
NOT WORKING.....	10%	37%	10%	17%	27%	10%
HOUSEWIFE.....	26%	7%	18%	19%	25%	4%
OWN MANAG						
OWN BUSIN.....	18%	9%	20%	19%	31%	4%
MANAGE.....	21%	0%	21%	7%	44%	8%
NEITHER.....	17%	8%	15%	22%	34%	3%

GENERALLY DO YOU FAVOR OR OPPOSE TORT REFORM

DEMOGRAPHICS	GENERALLY		
	UNSURE	FAVOR	OPPOSE
TOTAL.....	11%	73%	16%
LOCATION			
RURAL.....	10%	80%	10%
CENTRAL.....	8%	83%	9%
STHCNTR.....	10%	68%	22%
ANCHORAGE.....	11%	71%	18%
SHEAST.....	17%	69%	14%
REGISTER			
DEMOCRAT.....	10%	69%	21%
REPUBLICAN.....	9%	79%	12%
LIBERTARIAN.....	29%	51%	20%
NON-PART.....	12%	76%	15%
NOTREGIS.....	12%	68%	21%
SEX			
MALE.....	10%	75%	15%
FEMALE.....	12%	71%	17%
AGE			
16-24YRS OF AGE..	13%	64%	23%
25-40.....	10%	71%	19%
41-55.....	8%	79%	13%
56+ YRS.....	17%	75%	8%
INCOME			
IN-R.....	18%	67%	14%
70\$20000 INCOME..	19%	60%	21%
\$20,000-\$40,000..	13%	72%	15%
\$40,000-\$60,000..	9%	77%	14%
\$60,000+.....	3%	81%	16%
WORKFOR			
FEDERAL.....	8%	73%	19%
STATE.....	10%	76%	16%
LOCAL.....	4%	78%	18%
PRIVATE.....	10%	75%	15%
NOTWORKG.....	16%	68%	17%
TIMEINAK			
UNDER1YR IN AK..	0%	59%	41%
1-4 YRS.....	9%	76%	17%
5-9 YRS.....	9%	69%	21%
10-14YRS.....	16%	73%	14%
15+ YRS.....	12%	75%	13%

GENERALLY DO YOU FAVOR OR OPPOSE TORT REFORM

DEMOGRAPHICS	GENERALLY		
	UNSURE	FAVOR	OPPOSE
TOTAL.....	11%	73%	16%
KINDWORK			
DEGREE W/COLLAR:	4%	79%	16%
NONDEGREE/COLLAR:	11%	75%	14%
SKILLED B/COLLAR:	8%	77%	14%
NONSKILLED/COLLAR:	13%	63%	23%
NOT WORKG.....	15%	73%	12%
HOME MAKR.....	16%	65%	18%
OWN MANAG			
OWN BUSNS.....	5%	82%	12%
MANAGE.....	11%	83%	6%
NEITHER.....	12%	70%	18%

HOW STRONGLY FAVOR OR OPPOSE TORT REFORM

DEMOGRAPHICS	HOW STRONG				
	UNSURE	STRONGLY FAVOR	SOMEWHAT FAVOR	SOMEWHAT OPPOSE	STRONGLY OPPOSE
TOTAL.....	2%	68%	34%	9%	8%
LOCATION					
RURAL.....	0%	68%	45%	5%	2%
CENTRAL.....	3%	55%	32%	8%	2%
SOUTH CENTRAL.....	0%	66%	29%	8%	17%
ANCHORAGE.....	3%	45%	36%	10%	9%
SOUTHEAST.....	2%	53%	31%	10%	6%
REGISTER					
DEMOCRAT.....	2%	62%	34%	9%	12%
REPUBLICAN.....	2%	59%	27%	6%	6%
LIBERTARIAN.....	0%	28%	44%	0%	28%
NON-PART.....	3%	65%	37%	10%	5%
NOT REGIS.....	0%	63%	38%	13%	7%
SEX					
MALE.....	2%	69%	36%	7%	8%
FEMALE.....	2%	66%	33%	11%	7%
AGE					
18-24 YRS OF AGE.....	0%	28%	45%	16%	13%
25-40.....	1%	43%	37%	11%	7%
41-55.....	4%	53%	29%	5%	8%
56+ YRS.....	1%	65%	26%	4%	5%
INCOME					
UNDER \$20,000.....	5%	51%	32%	9%	4%
\$20,000-\$40,000.....	1%	37%	39%	9%	16%
\$40,000-\$60,000.....	1%	46%	38%	11%	5%
\$60,000-\$80,000.....	1%	47%	36%	8%	8%
\$80,000+.....	6%	57%	26%	6%	8%
WORK FOR					
FEDERAL.....	3%	31%	46%	21%	0%
STATE.....	5%	62%	21%	10%	3%
LOCAL.....	0%	37%	50%	6%	9%
PRIVATE.....	2%	50%	32%	7%	9%
NOT WORKING.....	1%	50%	30%	10%	9%
TIME IN AK					
UNDER 1 YR IN AK.....	0%	63%	16%	28%	13%
1-4 YRS.....	1%	40%	42%	10%	6%
5-9 YRS.....	1%	42%	34%	11%	11%
10-14 YRS.....	6%	48%	33%	7%	6%
15+ YRS.....	1%	52%	32%	7%	8%

HOW STRONGLY FAVOR OR OPPOSE TORT REFORM

DEMOGRAPHICS	HOW STRONG				
	UNSURE	STRONGLY FAVOR	SOMEWHAT FAVOR	SOMEWHAT OPPOSE	STRONGLY OPPOSE
TOTAL.....	2%	48%	34%	9%	8%
KIND WORK					
DEGREE W/ COLLAR.....	2%	52%	30%	7%	9%
NONDEGREE W/ COLLAR.....	3%	50%	33%	8%	6%
SKILLED BL COLLAR.....	2%	51%	32%	9%	7%
NONSKILLED COLLAR.....	2%	24%	52%	11%	11%
NOT WORKING.....	0%	59%	28%	5%	8%
HOMEMAKER.....	1%	46%	32%	12%	8%
OWN MANAG					
OWN BUSINESS.....	3%	58%	26%	4%	8%
MANAGE.....	0%	69%	25%	7%	0%
NEITHER.....	2%	43%	37%	10%	8%

PROBABLY SIGN A PETITION TO PUT THE ISSUE OF TORT REFORM ON THE BALLOT

DEMOGRAPHICS	SIGNPETH		
	UNSURE	WOULD	WOULDN'T
TOTAL.....	10%	76%	16%
LOCATION			
RURAL.....	8%	78%	16%
CENTRAL.....	8%	77%	16%
STHCNTR.....	18%	65%	17%
ANCHORAGE.....	8%	76%	17%
STHEAST.....	14%	71%	15%
REGISTER			
DEMOCRAT.....	12%	71%	17%
REPUSCAR.....	7%	78%	15%
LIBRTARR.....	0%	71%	29%
NON-PART.....	11%	77%	12%
NOTREGIS.....	13%	51%	36%
SEX			
MALE.....	8%	76%	18%
FEMALE.....	12%	76%	14%
AGE			
18-24YRS Q ¹ AGE..	9%	65%	26%
25-40.....	9%	72%	20%
41-55.....	12%	77%	11%
56+ YRS.....	11%	80%	8%
INCOME			
IN-R.....	8%	76%	17%
TO\$20000 INCOME..	16%	61%	24%
\$20,000-\$40,000..	12%	71%	17%
\$40,000-\$60,000..	6%	81%	14%
\$60,000+.....	9%	80%	11%
WORKFOR			
FEDERAL.....	12%	72%	16%
STATE.....	16%	72%	12%
LOCAL.....	11%	69%	20%
PRIVATE.....	7%	76%	17%
NOTWORKG.....	12%	74%	14%
TIMEINAK			
UNDER1YR IN AK..	0%	56%	44%
1-4 YRS.....	12%	75%	13%
5-9 YRS.....	8%	69%	23%
10-14YRS.....	11%	68%	20%
15+ YRS.....	10%	78%	12%

PROBABLY SIGN A PETITION TO PUT THE ISSUE OF TORT REFORM ON THE BALLOT

DEMOGRAPHICS	SIGNPETN		
	UNSURE	WOULD	WOULDN'T
TOTAL.....	10%	76%	16%
KINDWORK			
DEGREE WTCOLLAR.	9%	76%	16%
NONDEGREEWTCOLLAR.	10%	77%	13%
SKILLED BLCOLLAR.	10%	71%	19%
NONSKILLED BLCOLLAR.	8%	64%	28%
NOTWORKG.....	15%	68%	17%
HOMEMAKR.....	11%	77%	12%
OWNMANAG			
OWNBUSNS.....	8%	78%	16%
MANAGE.....	7%	87%	6%
NEITHER.....	11%	72%	18%

VOTE FOR OR AGAINST TORT REFORM IF IT IS ON THE BALLOT

DEMOGRAPHICS	BALLOT		
	UNSURE	VOTE FOR	VOTE AGAINST
TOTAL.....	19%	65%	15%
LOCATION			
RURAL.....	16%	76%	8%
CENTRAL.....	23%	66%	11%
STHCNTR.....	15%	64%	21%
ANCHORAGE.....	19%	63%	17%
STHEAST.....	22%	66%	12%
REGISTER			
DEMOCRAT.....	22%	61%	17%
REPUBLICAN.....	18%	71%	12%
LIBERTARIAN.....	18%	42%	40%
NON-PART.....	19%	67%	15%
NOT REG'ED.....	21%	61%	18%
SEX			
MALE.....	16%	68%	16%
FEMALE.....	22%	63%	15%
AGE			
16-24 YRS OF AGE..	15%	59%	26%
25-40.....	17%	64%	19%
41-55.....	23%	67%	10%
56+ YRS.....	22%	71%	6%
INCOME			
UN-R.....	24%	69%	7%
TO \$2,000 INCOME..	26%	52%	22%
\$20,000-\$40,000..	19%	66%	15%
\$40,000-\$60,000..	15%	69%	16%
\$60,000+.....	19%	70%	11%
WORK FOR			
FEDERAL.....	19%	64%	16%
STATE.....	21%	65%	14%
LOCAL.....	21%	65%	15%
PRIVATE.....	17%	66%	16%
NOT WORKG.....	22%	65%	14%
TIME IN AK			
UNDER 1 YR IN AK..	16%	56%	28%
1-4 YRS.....	19%	65%	16%
5-9 YRS.....	24%	56%	19%
10-14 YRS.....	20%	65%	15%
15+ YRS.....	17%	70%	13%

VOTE FOR OR AGAINST TORT REFORM IF IT IS ON THE BALLOT

DEMOGRAPHICS	BALLOT		
	UNSURE	VOTE FOR	VOTE AGAINST
TOTAL.....	19%	65%	15%
KINDWORK			
DEGREE WTCOLLAR:	19%	67%	14%
NONDEGREEWTCOLLAR:	21%	63%	16%
SKILLED BLCOLLAR:	11%	76%	13%
NONSKILLED BLCOLLAR:	19%	57%	24%
NOTWORKG.....	27%	60%	12%
HOMEWOMAN.....	18%	69%	13%
OWNMANAG			
OWNERS.....	17%	70%	14%
MANAGE.....	6%	85%	9%
NEITHER.....	21%	63%	16%

CHANGE JOINT AND SEVERAL LIABILITY LAW SO THAT DEFENDANTS ONLY PAY THEIR SHARE

DEMOGRAPHICS	PAYSHARE				
	UNSURE	VERY ACCEPTABLE	SOMEWHAT ACCEPTABLE	NOT TOO ACCEPTABLE	NOT AT ALL ACCEPTABLE
TOTAL.....	5%	45%	36%	7%	8%
LOCATION					
RURAL.....	8%	41%	39%	6%	6%
CENTRAL.....	3%	42%	41%	6%	8%
STHCNTR.....	6%	57%	26%	3%	8%
ANCHRAGE.....	4%	42%	38%	8%	9%
STHEAST.....	5%	46%	36%	8%	5%
REGISTER					
DEMOCRAT.....	7%	42%	33%	8%	10%
REPUBLICAN.....	1%	52%	37%	6%	7%
LIBERTARIAN.....	0%	51%	49%	0%	0%
NON-PART.....	6%	40%	39%	8%	7%
NOT REGIS.....	6%	50%	29%	6%	9%
SEX					
MALE.....	4%	45%	36%	7%	9%
FEMALE.....	5%	45%	37%	7%	7%
AGE					
18-24 YRS OF AGE.....	2%	39%	41%	11%	6%
25-40.....	5%	40%	40%	7%	8%
41-55.....	3%	51%	31%	6%	10%
56+ YRS.....	8%	49%	34%	5%	5%
INCOME					
UN-R.....	14%	38%	30%	10%	7%
TO \$20000 INCOME.....	5%	47%	29%	6%	13%
\$20,000-\$40,000.....	4%	45%	41%	7%	4%
\$40,000-\$60,000.....	4%	52%	33%	4%	5%
\$60,000+.....	3%	36%	40%	9%	12%
WORKFOR					
FEDERAL.....	2%	37%	39%	13%	8%
STATE.....	5%	40%	38%	9%	9%
LOCAL.....	0%	34%	45%	7%	14%
PRIVATE.....	3%	48%	36%	7%	7%
NOT WORKG.....	10%	47%	32%	4%	7%
TIME IN AK					
UNDERLYR IN AK.....	0%	43%	44%	0%	13%
1-4 YRS.....	4%	40%	43%	8%	5%
5-9 YRS.....	4%	36%	41%	7%	13%
10-14 YRS.....	4%	46%	39%	5%	6%
15+ YRS.....	5%	50%	31%	7%	7%

CHANGE JOINT AND SEVERAL LIABILITY LAW SO THAT DEFENDANTS ONLY PAY THEIR SHARE

DEMOGRAPHICS	PAYSHARE				
	UNSURE	VERY ACCEPTABLE	SOMEWHAT ACCEPTABLE	NOT TOO ACCEPTABLE	NOT AT ALL ACCEPTABLE
TOTAL.....	5%	45%	36%	7%	8%
KINDWORK					
DEGREE W/COLLAR..	2%	42%	40%	4%	12%
NONDEGREE W/COLLAR..	3%	39%	39%	11%	7%
SKILLED B/COLLAR..	1%	59%	33%	5%	2%
NONSKILLED B/COLLAR..	4%	39%	36%	10%	12%
NOT WORKG.....	13%	47%	29%	2%	9%
HOME MAKR.....	8%	49%	33%	5%	6%
OWN MANAG					
OWN BUSINE.....	2%	53%	33%	5%	6%
MANAGE.....	3%	53%	36%	3%	6%
NEITHER.....	5%	42%	37%	7%	8%

REQUIRE SLIDING FEE FOR INJURED PERSON'S LAWYER INSTEAD OF CONTINGENCY SYSTEM

DEMOGRAPHICS	SLIDGFEE				
	UNSURE	VERY ACCEPTABLE	SOMEWHAT ACCEPTABLE	NOT TOO ACCEPTABLE	NOT AT ALL ACCEPTABLE
TOTAL.....	6%	43%	31%	8%	11%
LOCATION					
RURAL.....	8%	49%	27%	10%	6%
CENTRAL.....	5%	33%	41%	6%	16%
STHCNTR.....	12%	37%	28%	3%	19%
ANCHRAGE.....	4%	46%	30%	10%	10%
STHEAST.....	5%	44%	36%	10%	5%
REGISTER					
DEMOCRAT.....	8%	39%	30%	10%	13%
REPUBLICAN.....	5%	46%	31%	8%	10%
LIBERTARIAN.....	9%	20%	42%	0%	2%
NO-PART.....	5%	45%	31%	9%	11%
NOT REGIS.....	6%	46%	36%	3%	10%
SEX					
MALE.....	6%	42%	31%	7%	14%
FEMALE.....	6%	44%	32%	9%	9%
AGE					
18-24 YRS OF AGE.....	5%	30%	42%	13%	11%
25-40.....	6%	46%	31%	8%	9%
41-55.....	7%	44%	30%	7%	13%
56+ YRS.....	6%	40%	29%	8%	17%
INCOME					
UN-R.....	11%	35%	33%	3%	18%
\$0-\$2000 INCOME.....	11%	41%	22%	12%	15%
\$20,000-\$40,000.....	4%	43%	35%	9%	8%
\$40,000-\$60,000.....	5%	44%	32%	5%	14%
\$60,000+.....	5%	46%	32%	8%	10%
WORKFOR					
FEDERAL.....	4%	38%	35%	12%	10%
STATE.....	2%	50%	33%	7%	8%
LOCAL.....	5%	48%	28%	7%	12%
PRIVATE.....	6%	43%	31%	7%	12%
NOT WORKG.....	8%	41%	30%	9%	12%
TIME IN AK					
UNDER 1 YR IN AK.....	0%	31%	54%	16%	0%
1-6 YRS.....	4%	39%	36%	13%	8%
5-9 YRS.....	6%	48%	29%	6%	11%
10-14 YRS.....	4%	43%	36%	5%	12%
15+ YRS.....	7%	43%	28%	8%	13%

REQUIRE SLIDING FEE FOR INJURED PERSON'S LAWYER INSTEAD OF CONTINGENCY SYSTEM

DEMOGRAPHICS	SLIDG FEE				
	UNSURE	VERY ACCEPTABLE	SOMEWHAT ACCEPTABLE	NOT TOO ACCEPTABLE	NOT AT ALL ACCEPTABLE
TOTAL.....	6%	43%	31%	8%	11%
KIND OF WORK					
DEGREE W/COLLAR.....	8%	48%	26%	5%	15%
NONDEGREE W/COLLAR.....	3%	41%	35%	12%	9%
SKILLED B/COLLAR.....	7%	50%	29%	6%	9%
NONSKILLED B/COLLAR.....	6%	38%	38%	4%	16%
NOT WORKING.....	7%	43%	27%	12%	10%
HOMEMAKER.....	8%	39%	32%	7%	13%
OWN MANAGER					
OWN BUSINESS.....	4%	47%	34%	4%	11%
MANAGE.....	6%	70%	21%	3%	6%
NEITHER.....	7%	40%	32%	10%	12%

REDUCE AMOUNT OF DAMAGE AWARDED BY SUBTRACTING COMPENSATION ALREADY RECEIVED

DEMOGRAPHICS	REDCLINS		
	UNSURE	FAVOR	OPPOSE
TOTAL.....	7%	73%	20%
LOCATION			
RURAL.....	16%	61%	22%
CENTRAL.....	5%	77%	19%
STHCNTR.....	11%	69%	19%
ANCHORAGE.....	5%	76%	19%
STHEAST.....	5%	69%	25%
REGISTER			
DEMOCRAT.....	8%	73%	19%
REPUBLICAN.....	9%	78%	14%
LIBERTARIAN.....	0%	60%	40%
NON-PART.....	7%	70%	23%
NOTREGIS.....	3%	72%	24%
SEX			
MALE.....	5%	75%	20%
FEMALE.....	9%	71%	20%
AGE			
18-24 YRS OF AGE..	7%	75%	18%
25-40.....	7%	71%	22%
41-55.....	7%	72%	20%
56+ YRS.....	8%	75%	17%
INCOME			
N-R.....	13%	62%	25%
TO \$20,000 INCOME..	8%	65%	27%
\$20,000-\$40,000..	5%	78%	17%
\$40,000-\$60,000..	6%	75%	19%
\$60,000+.....	10%	71%	20%
WORKFOR			
FEDERAL.....	0%	71%	29%
STATE.....	7%	80%	12%
LOCAL.....	12%	63%	25%
PRIVATE.....	8%	74%	18%
NOTWORKG.....	6%	71%	23%
TIME IN AK			
UNDER 1 YR IN AK..	16%	54%	31%
1-4 YRS.....	7%	71%	22%
5-9 YRS.....	5%	70%	24%
10-14 YRS.....	4%	76%	20%
15+ YRS.....	9%	74%	18%

REDUCE AMOUNT OF DAMAGE AWARDED BY SUBTRACTING COMPENSATION ALREADY RECEIVED

DEMOGRAPHICS	REDCATS		
	UNSURE	FAVOR	OPPOSE
TOTAL.....	7%	73%	20%
KINDWORK			
DEGREE WTCOLLAR:	10%	72%	18%
NONDGREEWTCOLLAR:	7%	75%	18%
SKILLED BLCOLLAR:	8%	73%	19%
NONSKLDBLCOLLAR:	4%	68%	28%
NOTWORKG.....	0%	81%	19%
HOMEMAKR.....	8%	67%	25%
OMNMANAG			
OMNBUSHS.....	8%	74%	18%
MANAGE.....	6%	82%	12%
NEITHER.....	7%	71%	22%

LIMIT OF \$250,000 ON WHAT COULD BE AWARDED IN ADDITION TO ECONOMIC DAMAGES

DEMOGRAPHICS	LIMITS		
	UNSURE	FAVOR	OPPOSE
TOTAL.....	8%	68%	24%
LOCATION			
RURAL.....	8%	67%	24%
CENTRAL.....	8%	78%	14%
STHCNTR.....	11%	65%	24%
ANCHORAGE.....	6%	67%	27%
SHEAST.....	8%	68%	24%
REGISTER			
DEMOCRAT.....	10%	65%	25%
REPUBLICAN.....	7%	74%	20%
LIBERTARIAN.....	0%	40%	60%
NON-PART.....	8%	69%	23%
NOT REGIS.....	6%	65%	29%
SEX			
MALE.....	6%	66%	28%
FEMALE.....	10%	70%	20%
AGE			
18-24 YRS OF AGE.....	0%	67%	33%
25-40.....	7%	64%	28%
41-55.....	10%	69%	20%
56+ YRS.....	10%	78%	12%
INCOME			
NR.....	17%	48%	35%
\$0-\$20,000 INCOME.....	8%	70%	22%
\$20,000-\$40,000.....	7%	68%	25%
\$40,000-\$60,000.....	11%	69%	20%
\$60,000+.....	4%	71%	25%
WORKFOR			
FEDERAL.....	4%	57%	39%
STATE.....	5%	63%	33%
LOCAL.....	9%	66%	24%
PRIVATE.....	8%	69%	23%
NOT WORKG.....	2%	73%	18%
TIME IN AK			
UNDER 1 YR IN AK.....	0%	56%	44%
1-4 YRS.....	3%	66%	31%
5-9 YRS.....	8%	65%	27%
10-14 YRS.....	6%	68%	25%
15+ YRS.....	10%	70%	20%

LIMIT OF \$250,000 ON WHAT COULD BE AWARDED IN ADDITION TO ECONOMIC DAMAGES

DEMOGRAPHICS	LIMITS		
	UNSURE	FAVOR	OPPOSE
TOTAL.....	8%	68%	24%
KINDWORK			
DEGREE WTCOLLAR..	8%	68%	26%
NONDEGREEWTCOLLAR:	6%	67%	27%
SKILLED BLCOLLAR:	6%	73%	20%
NONSKILLED BLCOLLAR:	10%	55%	35%
NOTWORKG.....	5%	73%	22%
HOMEWKR.....	12%	76%	15%
OWNMANAG			
OWNBUSNS.....	6%	81%	15%
MANAGE.....	3%	61%	36%
NEITHER.....	9%	66%	25%

LIABILITY INSURANCE PREMIUMS INCREASING TOO MUCH DUE TO EXCESSIVE AWARDS

DEMOGRAPHICS	PREMIUMS		
	UNSURE	ARE	ARE NOT
TOTAL.....	8%	81%	11%
LOCATION			
RURAL.....	14%	76%	10%
CENTRAL.....	6%	80%	14%
SHTCNTR.....	7%	85%	8%
ANCHORAGE.....	8%	81%	12%
SHEAST.....	7%	81%	12%
REGISTER			
DEMOCRAT.....	10%	75%	14%
REPUBCAN.....	6%	88%	7%
LIBRTARK.....	31%	51%	18%
NON-PART.....	6%	83%	11%
NOTREGIS.....	10%	69%	21%
SEX			
MALE.....	8%	79%	13%
FEMALE.....	8%	82%	10%
AGE			
16-24 YRS OF AGE..	9%	76%	16%
25-40.....	9%	77%	14%
41-55.....	6%	83%	11%
56+ YRS.....	8%	89%	2%
INCOME			
U-R.....	8%	79%	14%
TO \$2000 INCOME..	13%	76%	12%
\$20,000-\$40,000..	6%	82%	12%
\$40,000-\$60,000..	10%	84%	6%
\$60,000+.....	5%	80%	15%
WORKFOR			
FEDERAL.....	6%	86%	7%
STATE.....	17%	71%	12%
LOCAL.....	7%	83%	11%
PRIVATE.....	6%	81%	14%
NOTWORKE.....	10%	81%	9%
TIMEINAK			
UNDER 1 YR IN AK..	0%	85%	15%
1-4 YRS.....	4%	86%	10%
5-9 YRS.....	9%	77%	14%
10-14 YRS.....	11%	77%	12%
15+ YRS.....	8%	82%	10%

LIABILITY INSURANCE PREMIUMS INCREASING TOO MUCH DUE TO EXCESSIVE AWARDS

DEMOGRAPHICS	PREMIUMS		
	UNSURE	ARE	ARE NOT
TOTAL.....	8%	81%	11%
KINDWORK			
DEGREE W/COLLAR:	9%	75%	16%
NONDEGREE W/COLLAR:	6%	85%	9%
SKILLED B/COLLAR:	5%	90%	5%
NONSKILLED B/COLLAR:	10%	66%	24%
NOT WORKG.....	7%	83%	10%
HOME MAKR.....	11%	79%	9%
COMPANIES			
OWNERS.....	4%	83%	13%
MANAGE.....	6%	88%	6%
NEITHER.....	9%	80%	11%

PERSONALLY HAD AN INCREASE IN YOUR LIABILITY INSURANCE PREMIUM

DEMOGRAPHICS	YOUR LINS		
	UNSURE	YES	NO
TOTAL.....	6%	55%	39%
LOCATION			
RURAL.....	6%	35%	59%
CENTRAL.....	3%	59%	38%
STHCNTR.....	11%	62%	26%
ANCHORAGE.....	7%	55%	38%
STHEAST.....	3%	56%	41%
REGISTER			
DEMOCRAT.....	6%	50%	44%
REPUECAN.....	4%	60%	36%
LIBTARI.....	9%	60%	31%
NON-PART.....	7%	55%	38%
NOTREGIS.....	15%	49%	36%
SEX			
MALE.....	8%	58%	34%
FEMALE.....	5%	51%	44%
AGE			
16-24 YRS OF AGE..	7%	27%	66%
25-40.....	6%	51%	43%
41-55.....	7%	70%	23%
56+ YRS.....	6%	58%	36%
INCOME			
N-P.....	8%	55%	38%
<\$2000 INCOME..	12%	44%	44%
\$20,000-\$40,000..	3%	52%	45%
\$40,000-\$60,000..	8%	63%	29%
\$60,000+.....	5%	59%	36%
WORKFOR			
FEDERAL.....	6%	77%	37%
STATE.....	0%	62%	38%
LOCA.....	11%	49%	40%
PRIVATE.....	5%	55%	39%
NOTWORKG.....	9%	53%	39%
TIMEINAK			
UNDER 1 YR IN AK..	0%	41%	59%
1-4 YRS.....	8%	44%	48%
5-9 YRS.....	4%	58%	38%
10-14 YRS.....	4%	51%	46%
15+ YRS.....	8%	58%	34%

PERSONALLY HAD AN INCREASE IN YOUR LIABILITY INSURANCE PREMIUM

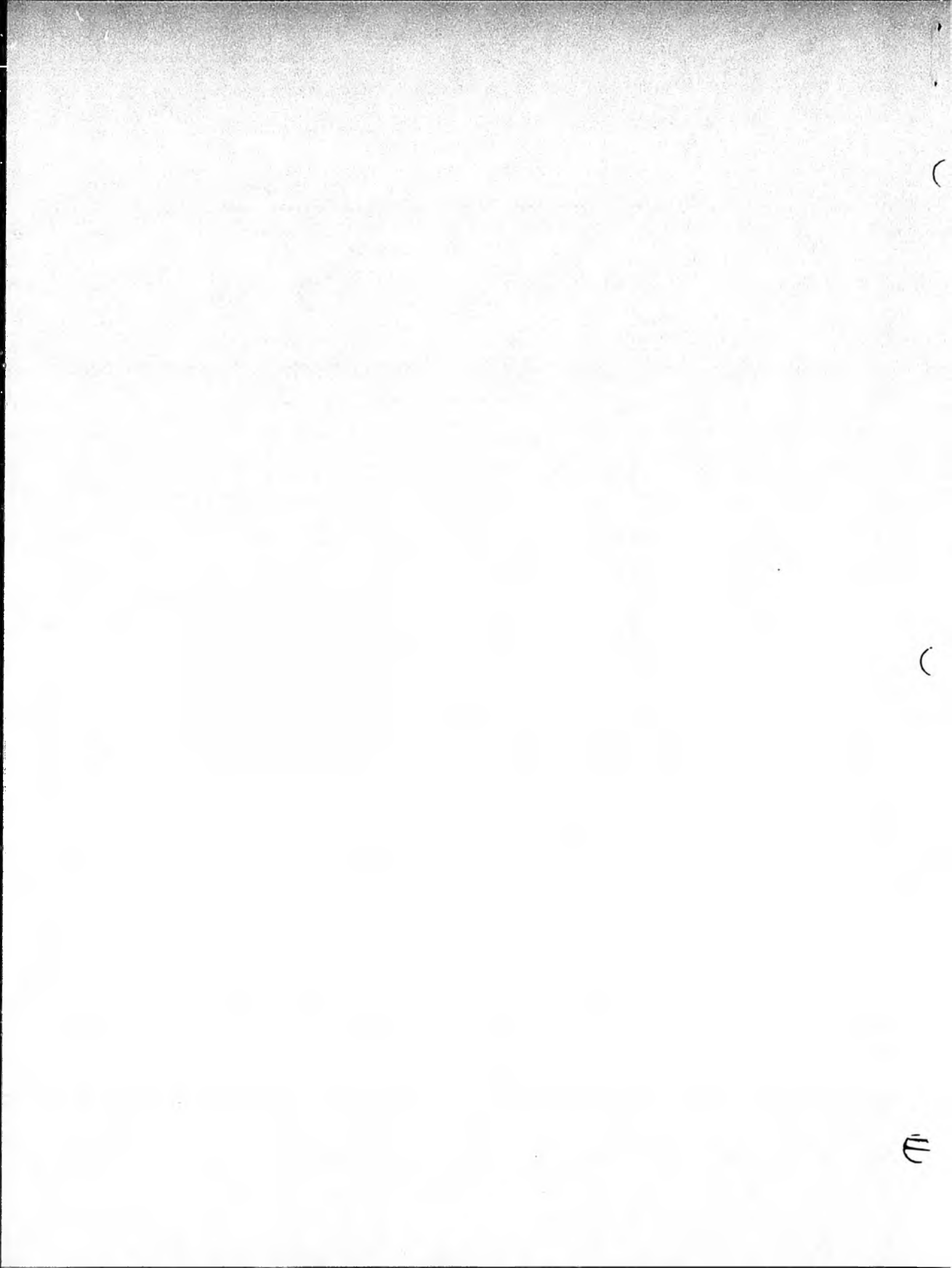
DEMOGRAPHICS	YOUR LINS		
	UNSURE	YES	NO
TOTAL.....	6%	55%	39%
KINDWORK			
DEGREE W/COLLAR.....	5%	62%	33%
NONDEGREE W/COLLAR.....	4%	59%	37%
SKILLED BL COLLAR.....	8%	60%	32%
UNSKILLED COLLAR.....	10%	26%	63%
NOT WORKING.....	11%	59%	30%
HOUSEMAKER.....	7%	50%	43%
OWNERSHIP			
OWN BUSINESS.....	6%	70%	26%
MANAGE.....	6%	66%	28%
NEITHER.....	7%	50%	43%

GIVEN WHAT YOU KNOW ABOUT BOTH SIDES, WOULD YOU FAVOR OR OPPOSE TORT REFORM

DEMOGRAPHICS	FAVOR/OPPOSE		
	UNSURE	FAVOR	OPPOSE
TOTAL.....	5%	81%	13%
LOCATION			
RURAL.....	0%	88%	12%
CENTRAL.....	5%	84%	11%
STHCNTL.....	10%	74%	17%
ANCHORAGE.....	5%	81%	14%
STHEAST.....	7%	83%	10%
REGISTER			
DEMOCRAT.....	6%	76%	18%
REPUBLICAN.....	2%	86%	12%
LIBERTARIAN.....	0%	69%	31%
NON-PART.....	8%	81%	11%
NOT REGIS.....	3%	82%	15%
SEX			
MALE.....	5%	83%	13%
FEMALE.....	6%	80%	14%
AGE			
16-24 YRS OF AGE.....	6%	76%	18%
25-40.....	3%	80%	16%
41-55.....	7%	82%	11%
56+ YRS.....	9%	84%	8%
INCOME			
IN-R.....	14%	75%	11%
TO \$20000 INCOME.....	11%	67%	22%
\$20,000-\$40,000.....	3%	85%	12%
\$40,000-\$60,000.....	4%	84%	13%
\$60,000+.....	4%	84%	11%
WORKFOR			
FEDERAL.....	4%	89%	7%
STATE.....	7%	80%	14%
LOCAL.....	2%	85%	13%
PRIVATE.....	4%	79%	17%
NOT WORKG.....	9%	81%	10%
TIME IN AK			
UNDER 1 YR IN AK.....	0%	87%	13%
1-4 YRS.....	2%	84%	13%
5-9 YRS.....	4%	80%	16%
10-14 YRS.....	8%	79%	14%
15+ YRS.....	6%	81%	12%

GIVEN WHAT YOU KNOW ABOUT BOTH SIDES, WOULD YOU FAVOR OR OPPOSE TORT REFORM

DEMOGRAPHICS	FAVOR/OPPOSE		
	UNSURE	FAVOR	OPPOSE
TOTAL.....	5%	81%	13%
KINDWORK			
DEGREE W/COLLAR..	4%	84%	12%
NONDEGREE W/COLLAR:	5%	81%	13%
SKILLED BL/COLLAR:	5%	91%	5%
NONSKILLED/COLLAR:	2%	64%	34%
NOT WORKG.....	13%	80%	7%
HOME MAKR.....	7%	83%	10%
OWN MANAG			
OWN BUSNS.....	1%	88%	11%
MANAGE.....	3%	85%	12%
NEITHER.....	7%	79%	14%



C

C

π



Insurance Industry Profitability

Nationwide, property/casualty insurance industry profitability hit a record high in 1986, and another record high in 1987. In fact, in 1987 the industry set at least four all-time profitability records:

- * Highest net profit, \$13.7 billion (See Attachment I);
- * Highest operating profit, \$13.7 billion (See Chart I);
- * Highest year-end surplus, \$98 billion (See Chart II);
- * Highest premiums written, \$192 billion (See Chart III).

P-C Insurers Report Dramatic Income Gains

BY SUSAN NAROD

The property-casualty insurance industry recorded a dramatic improvement in operating income in 1987.

Insurers reported pre-tax operating

Pre-Tax Operating Income More Than Doubled In 1987

income of \$13.7 billion last year, according to preliminary data compiled by A.M. Best Co. This contrasted sharply with operating earnings of \$5.4 billion in 1986 and operating losses of \$4.0 billion and \$5.6 billion in 1984 and 1985, respectively.

"The improvement in profitability reflected basic economics—revenues increased faster than claim costs," said Dr. Sean Mooney, economist and senior vice president of the Insurance Information Institute.

In 1987, revenues earned from premiums rose 13.3 percent, while claims costs increased at a slower rate of 8.6 percent. As a result, the underwriting loss declined from

Cont'd on Page 39

P-C Insurers Report Dramatic Income Gains

Cont'd from Page 1

\$15.9 billion in 1986 to \$9.8 billion in 1987.

In addition to underwriting results, investment income, interest and dividends earned from assets in 1987 increased 7.3 percent to \$23.5 billion.

Net written premiums rose 8.7 percent in 1987—less than half the 22 percent increases reported for 1985 and 1986.

"The stock market plunge on Oct. 19 didn't result in large realized losses for the p-c industry in 1987 because realized capital gains or losses are reported only when a stock is sold, according to Dr. Mooney.

"Most insurance companies hold stocks for a long time and probably didn't sell a large proportion of their portfolio in a weak market," said Dr. Mooney.

Sales can result in realized capital gains as long as the selling price is above the purchase price, he noted, adding that many stocks were purchased by insurance companies years ago.

Moreover, realized capital gains or losses also occur when bonds are sold. Bonds generally constitute the major portion of an insurance company's portfolio and have contributed to capital gains in the past few years.

Unrealized capital losses of \$6.0 billion were reported for the industry in 1987. Since stocks on the balance sheet were reported at market value, the drop in the stock market is recorded as an unrealized capital loss.

Figures on capital values are pre-

liminary estimates. No actual data have been reported for the fourth quarter of 1987, when the stock market plunged.

The unrealized loss was the major factor explaining the small growth in policyholder surplus for the industry in 1987.

Despite \$13.7 billion reported for net income after taxes, policyholder surplus increased by only \$3.9 billion, from \$93.6 billion at the end of

Investment Income Grew 7.3 Percent To \$23.5 Billion

1986 to \$97.5 billion at the end of 1987.

There is nothing disastrous on the p-c financial horizon at the moment, although "there are some clouds," observed Dr. Mooney.

The negative signs, according to Dr. Mooney, include stock market weakness, pressure on claims from auto accidents, higher medical care costs and increased litigation, in addition to rising competition.

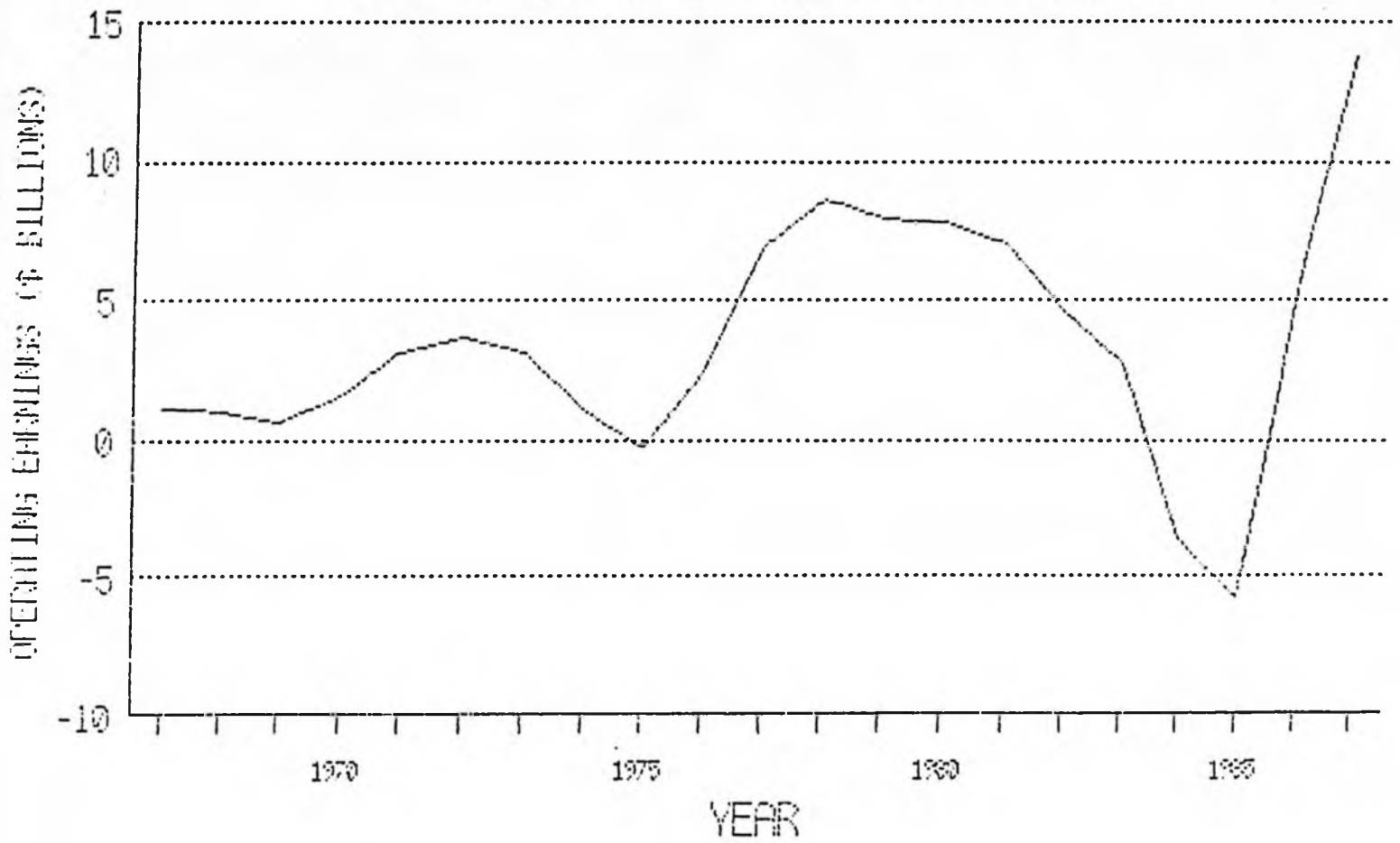
Dr. Mooney expects 1988 to culminate with claims growing faster than premium growth, with the result that net income will probably deteriorate.

Nevertheless, Dr. Mooney said that, "it's a general feeling that the industry is going through a fairly stable period, so that 1989 will probably look the same as 1988." □

NATIONAL UNDERWRITER

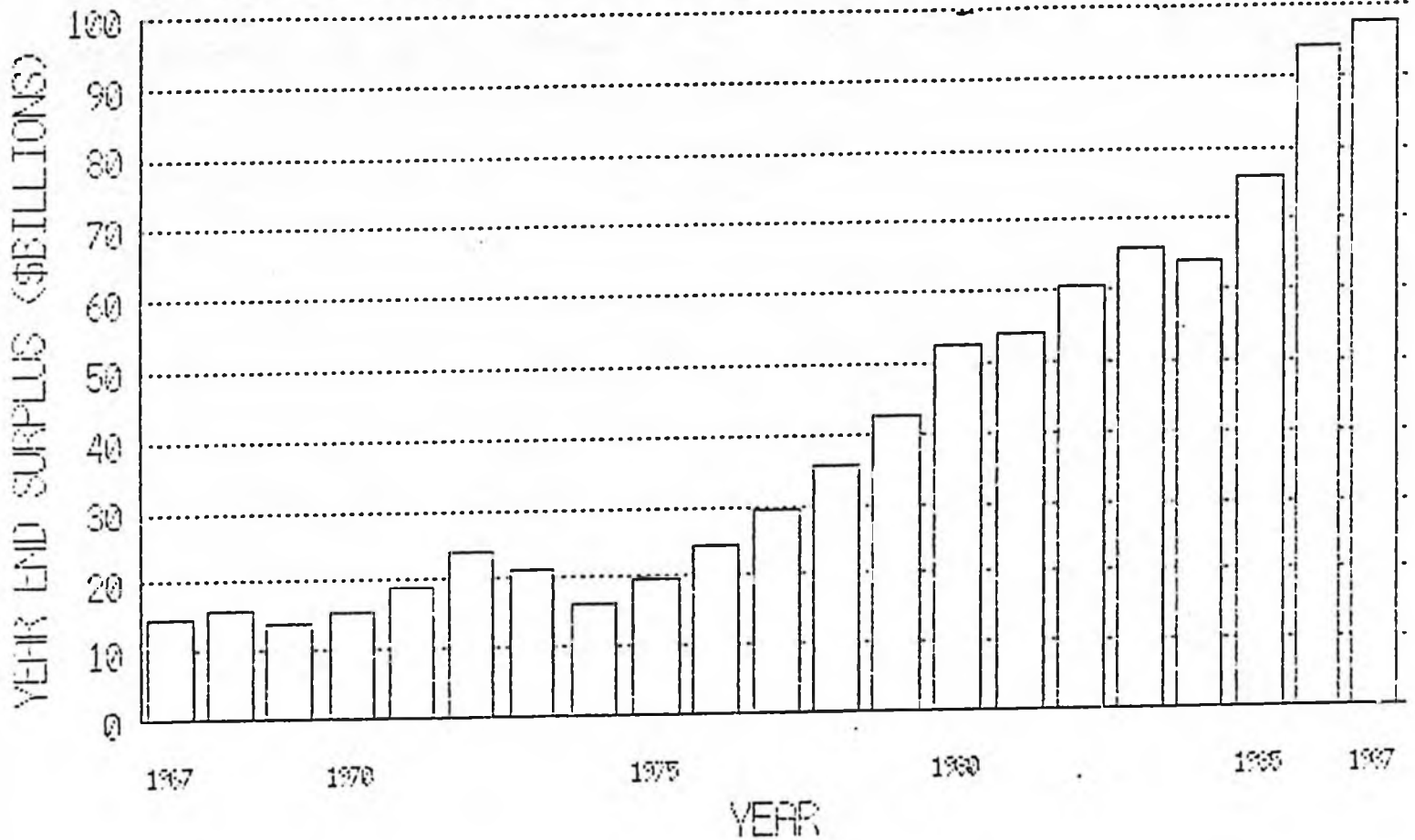
JANUARY 11, 1988

PROPERTY/CASUALTY OPERATING EARNINGS



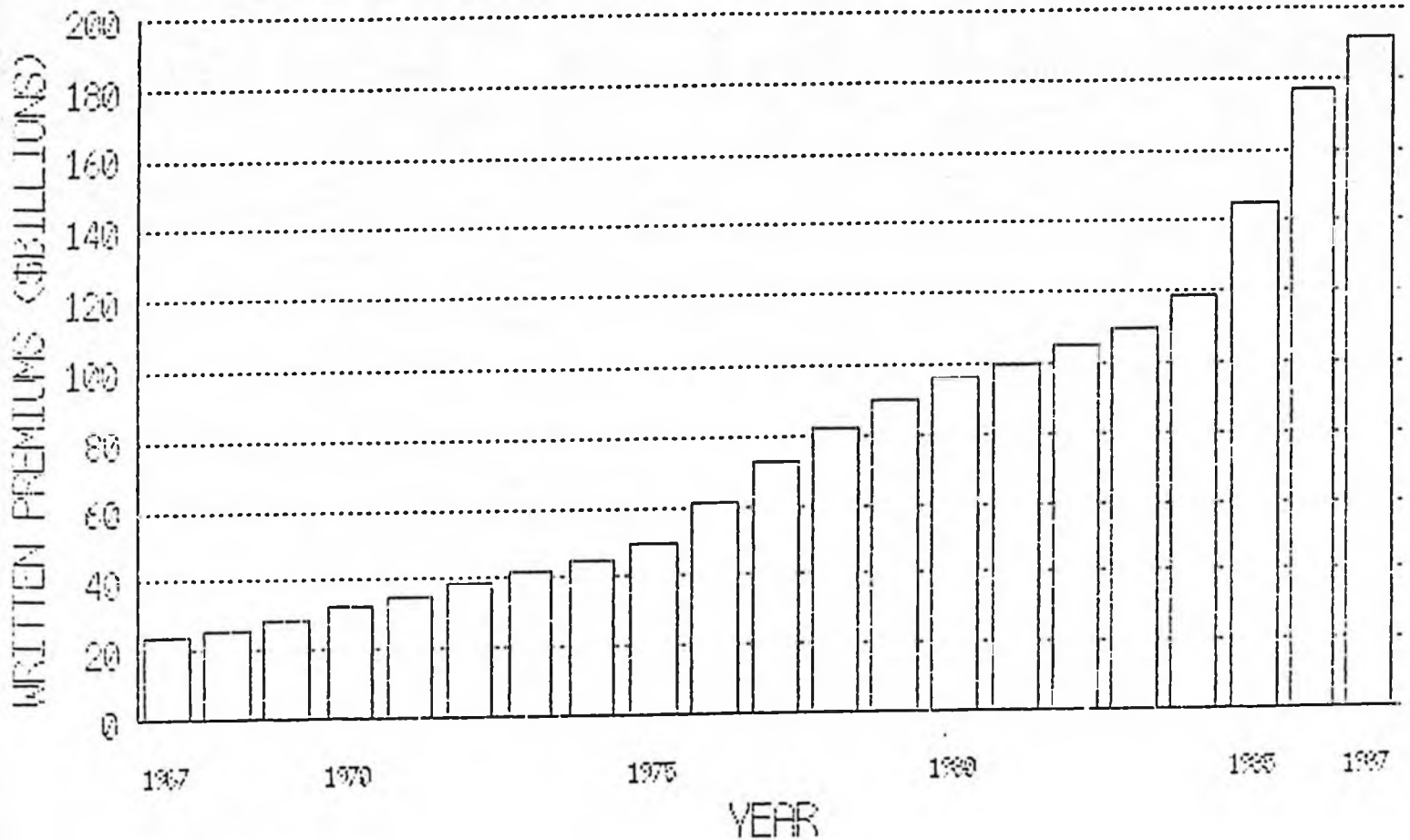
Source: Best's Insurance Management Reports; Insurance Information Institute, Insurance Services Office.

PROPERTY/CASUALTY YEAR END SURPLUS



Source: Best's Insurance Management Reports; Insurance Information Institute; Insurance Services Office.

PROPERTY/CASUALTY WRITTEN PREMIUM



Source: Best's Insurance Management Reports; Insurance Information Institute; Insurance Services Office.



Note on the Property/Casualty Industry's Record \$13.7 Billion Profit in 1987

The property/casualty insurance industry earned a record net profit of \$13.7 billion in 1987, after having earned a then-record profit of \$12.7 billion in 1986.

The industry has emphasized, however, that its \$12.7 billion net profit in 1986 is really not as great as it appears, since only \$5.4 billion of that profit, or 44%, is operating profit -- profit from its insurance operations. The bulk of its profit, the industry has stressed, came from realized gains -- sales of stock in an unusually inflated stock market. See Insurance Information Institute, The Executive Letter, "Earnings Improve, But Asset Sales Remain Primary Income Source," March 23, 1987. The industry pointed out that its capital gains were extraordinarily high in 1986, and that those high capital gains could not be expected to continue.

In 1987 those high capital gains did not continue, yet the industry made more money than it ever had before -- \$13.7 billion. That \$13.7 billion consisted entirely of operating profit -- profit from insurance operations -- up 154% from its \$5.4 billion operating profit in 1986. If the stock market had not crashed in October, its net profit would have been even higher.

THE IMPACT OF TORT CHANGES ON INSURANCE RATES

"It is clearly impossible to say that if you adopt a certain tort reform, you will get 'X' reductions in premiums."

— Franklin W. Nutter, 3/86

President, Alliance of American Insurers

In early 1986 the insurance industry launched a multi-million dollar media campaign proclaiming a "lawsuit crisis." The crisis industry representatives claimed, was driving up insurance rates and forcing the cancellation of coverage. To solve the problem, the industry called upon lawmakers to make radical changes in the civil justice system.

But when asked by consumer advocates, legislators, and insurance commissioners, whether their proposals to limit victims' compensation will bring down insurance rates or ease availability, insurance industry executives reply that it's impossible to say.

In December 1986, the National Insurance Consumer Organization (NICO) released documents prepared by State Farm Fire and Casualty Company, Great American West, and the Insurance Services Office, which demonstrate that limiting tort laws would have little or no effect on rates. State Farm told the Kansas Insurance Department that restricting joint and several liability and limiting punitive damages would have no impact, while capping damages for pain and suffering would reduce rates by no more than one percent.

The Florida Experience

The best evidence of the negligible impact of tort changes on insurance rates has been provided by two of the leading liability insurers in the country.

In the summer of 1986, the Florida legislature enacted several restrictions limiting compensation to injured victims. These restrictions included: restricting joint and several liability (the liability of more than one wrongdoer causing the same harm), capping compensation for non-economic damages, such as disfigurement and sterility, and limiting punitive damages.

In August, the Aetna Life & Casualty Company and the St. Paul Company filed documents with the Florida insurance commission concluding that these limitations on victims' rights will have no effect on insurance rates.

More recently in Florida, over 100 companies have told the Florida Insurance Department that the tort limits passed by the legislature will reduce liability premiums by an average of only one percent.

At the same time, insurers in Florida are increasing medical malpractice premiums by 25 to 35 percent.

Similar Actions in Other States

Not surprisingly, the experience of other states which passed restrictions on compensation in 1986 has been similar to Florida's. For example:

- After the Washington state legislature approved a cap on non-economic damages, insurers sought substantial but unjustified rate increases. They were rejected by the insurance commission.
- After Colorado enacted a \$250,000 cap on non-economic damages as well as other "reforms," the Hartford Insurance Company announced it would start cancelling current malpractice policies in 1987. This led Republican legislators to charge that "the insurance industry deceived the legislature when it pushed the reforms as dealing with the liability crisis."
- In Maryland, the state's major medical malpractice insurer was granted a fifty percent rate increase only months after successfully lobbying for a \$350,000 cap on non-economic damages.

The Ontario Experience

Most tort changes the industry is seeking in the U.S. — including caps, restrictions on punitive damages, and the prohibition of contingency fees — are currently the law in Ontario, Canada. Yet the insurance industry in Canada has raised some premiums by 400 percent or more, cancelled coverage in mid-term, and refused to provide coverage at any price in some cases.

Who Benefits?

Wrongdoers and insurance companies are the only beneficiaries of proposals to limit citizens' rights to use the courts. In no state are there either requirements or hard promises that any of the savings will go to insurance consumers.

The real way to lower rates and increase the availability of insurance is meaningful insurance reform — not cut-backs in the rights of citizens under the civil justice system.

THE NEED FOR INSURANCE REFORM

In 1984 Americans spent \$287 billion—or over 11 percent of their disposable income—on insurance. The cost and availability of insurance has a significant impact on our work, our homes, and our recreation. Yet, remarkably, the insurance industry operates largely outside of the public eye.

Through its enormous power and influence, the insurance industry has gained unprecedented special privileges. The federal government provides virtually no regulation or oversight of the industry. Among the privileges the industry enjoys are:

- exemption from anti-trust laws, which prevent price-fixing;
- exemption from scrutiny by the Federal Trade Commission;
- exemption from disclosing even the most basic information on its income and payouts on different types of insurance.

The federal government has left the job of regulating insurance companies to the states—with mixed results. State insurance commissioners are typically underfunded and understaffed. Few even employ an actuary. Many have developed "cozy" relationships with the industry they are supposed to regulate. (Half of all insurance regulators come from or return to the industry, according to the General Accounting Office.) Consumer interests have been poorly represented in the insurance rate and policy making process.

Consumers, small businesses, non-profit organizations, and others are now paying the price for the insurance companies' free reign: staggering increases in the cost of liability insurance; unjustified cancellation of policies; and an assault on the rights of innocent victims to receive just compensation for injuries caused by defective and dangerous products.

The solution to the so-called "insurance crisis" is more effective regulation of the insurance industry. Reforms aimed at making the industry more accountable to consumers will combat the short-sighted underwriting practices, its mismanagement, and its historical boom and bust cycle.

WHAT CONGRESS SHOULD DO

Enact Disclosure Legislation or "Sunshine Laws"

Disclosure legislation should require the insurance industry to submit, on a sub-line by sub-line, insured by insured basis, the amount it pays out in claims compared to its premium and investment income. The analysis of such data, which the industry currently refuses to disclose, is essential to determine the true financial condi-

tion of the industry, as well as the likely effect of any restrictions on injured people and on insurance companies.

Repeal Industry's Special Exemptions

The McCarran-Ferguson Act, which exempts insurance companies from anti-trust laws and allows price-fixing, should be repealed. Moreover, Congress should direct the Federal Trade Commission—currently prohibited from even studying the industry—to investigate price-fixing and underwriting practices in the industry.

Regulate Foreign Reinsurers and Create Alternative

Much reinsurance (insurance for insurance companies) is written by foreign companies such as Lloyd's of London. Free-market American or foreign regulated companies often demand arbitrary cancellation of coverage or premium increases. Because of their tremendous impact on the American insurance market, foreign reinsurers should be subjected to regulation to ensure that their underwriting decisions are in the public interest.

Further Regulate Lloyd's and Start Currently

Regulating Lloyd's and starting currently regulated American or foreign regulated companies to compete with Lloyd's and help stabilize rates. Such a program was very successful during the "insurance crisis" of the 1960's.

Create a Federal Office of Insurance

National insurance is a \$310 billion business accounting for 12% of our gross national product. Yet, no state regulates the industry. For a number of years, state regulation has not always protected the public interest. A federal office of insurance would monitor the industry and establish standards for state regulators.

WHAT STATES SHOULD DO

Require Experience Rating

Good drivers pay less than bad drivers for auto insurance, and homeowners who are good risks pay less than those who are bad risks. But many professionals (such as doctors) and businesses pay a set rate, regardless of their individual claims experience, i.e., they are not experience-rated.

By requiring insurance companies to experience-rate all professional and commercial risks, just as they experience-rate drivers and homeowners, states could reduce insurance rates for most insureds.

Improve State Regulation

State insurance commissioners must be provided enough personnel, particularly actuaries, to effectively

WHAT PEOPLE ARE SAYING ABOUT LIABILITY INSURANCE AND VICTIMS' RIGHTS

"We are witnessing a multi-million dollar advertising and public relations hoax — a fraud financed by the insurance industry seeking to enrich its already huge profits at the expense of innocent victims. Its chief beneficiaries are the perpetrators of harmful products, hazardous chemicals and dangerous conditions in the workplace and environment."

— *Ralph Nader*

On the Consumer Benefits of the Civil Justice System

"Civil justice is one of the great triumphs of the American system. It allows any person, regardless of their resources, to challenge the largest corporate or government power and receive compensation for wrongful injuries. It forces wrongdoers to change their products and practices or risk further liability. It forces public disclosure of defective products and dangerous practices. The civil justice system must be preserved and the rights of consumers protected. The public interest demands no less."

— *Joan Claybrook, President of Public Citizen, before the Commerce, Transportation and Tourism Subcommittee of the House Committee on Energy and Commerce, 5/21/86*

"Where product liability has had a notable impact — where it has most significantly affected management decision making — has been in the quality of the products themselves. Managers say products have become safer, manufacturing procedures have been improved, and labels and use instructions have become more explicit."

— *Nathan Weber, author of The Conference Board's 1987 report, "Product Liability: The Corporate Response," based on a survey of the risk managers of 232 major corporations*

On the "Lawsuit Crisis"

"The explosion in liability lawsuits is nothing but a myth."

— *Business Week, 4/21/86*

Today as in 1976, the insurance industry blames the legal system for huge premiums. Their implausible claim is that judges and juries became generous in 1976, stingy for the next eight years and inexplicably generous again."

— *Robert Hunter, President, National Insurance Consumer Organization, New York Times, 4/13/86*

"Compare the estimated \$28 to \$35 billion spent in 1985 on tort litigation to the \$32 billion Americans spend on tobacco each year, or the \$60 billion spent on alcohol products each year, or the \$80 billion gross income earned by doctors each year."

— *Ralph Nader, before the Economic Stabilization Subcommittee of the House Committee on Banking Finance and Urban Affairs, 8/6/86*

"Our studies do not support any claim of recently escalating jury awards."

"A number of highly publicized news articles quoting our statistics have grossly misstated them."

— *Philip J. Hermann, Chairman of the Board, Jury Verdict Research, before the Economic Stabilization Subcommittee of the House Committee on Banking Finance and Urban Affairs, 8/6/86*

"Not only is the evidence missing to indicate a significant national increase in filings above the increase in population, but in a number of state courts, selected civil filings have decreased between the period 1981-1984."

"Changes in the number of these filings [tort, contract, real property rights and small claims] are not attributable to an increase in the propensity of Americans to sue, but rather to an increase in the number of Americans."

"The existence of any litigation explosions has been cyclical, and there is no evidence to support the notion of a continuing nationwide increase in lawsuits in the state trial courts between 1981-1984."

— *Robert Roper, Director, Court Statistics and Information Management Project, National Center for State Courts, before the Economic Stabilization Subcommittee of the House Committee on Banking, Finance, and Urban Affairs, 8/6/86*

"Not surprisingly, a jury of peers tends to increase awards over time by no more than the rise in medical costs, general inflation and the value of lost work. Recent changes in average jury awards and numbers of lawsuits filed mirror increases in average wages, medical costs, life expectancy and population growth."

— *Dr. Mark Cooper, author of the 1986 Consumer Federation of America report, "Trends in Liability Awards: Have Juries Run Wild?"*

(over)

REFORMING THE CIVIL JUSTICE SYSTEM

The insurance industry, the medical profession, product manufacturers and sellers, and municipalities are seeking legislation at the state and federal level that would drastically alter the civil justice system.

The proposals promoted by these industry and professional trade groups are cited as necessary to reign in a civil justice system that is allegedly "out of control."

These "tort packages" generally include legislation that caps the amount of money an injured victim can recover from a guilty party, eliminates or severely limits a jury's ability to assess punitive damages against guilty defendants, increases the burden of proof for injured victims, and restricts the long-standing doctrine of joint and several liability.

Industry-backed "Tort Packages" Do Nothing To Reform The Civil Justice System

Adoption of these "tort packages" will do nothing to improve the efficiency of the civil justice system. Enacting the industries' list of tort law changes will only ensure that innocent victims do not receive full compensation for their injuries and guilty parties escape justice.

Besides shortchanging the victims, the "tort packages" under consideration in many states would likely result in an *increase* in civil litigation rather than a decrease.

For instance, capping damages that guilty parties have to pay reduces a defendant's incentives for out of court settlements and will result in more cases on the court docket. Likewise, requiring higher standards of proof for victims will require the introduction of more evidence at trial and will result in more delay.

Finally, the industry-backed "tort packages" do nothing to address unjustified delays, which constitute the major inefficiency in the legal system. These delays are usually caused by defense lawyers who are paid by the hour and have a self-interest in prolonging litigation. According to the National Association of Independent Insurers, since 1956 fees paid to defense attorneys have risen about three times as fast as the amount insurers have paid to injured victims.

Reforms To Make the Civil Justice System More Efficient

The following reforms can improve the efficiency of the civil justice system without limiting the rights of innocent victims.

Create Alternative Dispute Resolution Mechanisms.

Mechanisms should be established to mediate claims before court-appointed mediators. If cases can not be settled through mediation, they can then be pursued within the civil court system. All cases not involving death, disfigurement, or permanent disability, in which damages do not exceed \$15,000 could be settled through arbitration panels established by the courts.

Establish Penalties for Frivolous Motions, Objections and Defenses.

Courts should be allowed to assess economic penalties against both the defendant and the plaintiff for filing frivolous claims, defenses or motions. Penalizing actions whose primary purpose is to delay proceedings would improve the efficiency of the civil justice system.

Prohibit Secrecy Agreements.

Defendants often settle cases only if the plaintiff agrees never to disclose information regarding a dangerous product or practice. These secrecy agreements can lead to other unnecessary injuries by the same product or practice, and require plaintiffs' lawyers to continually re-invent the wheel in future litigation.

Expand the Use of Offensive Collateral Estoppel.

Even when courts have already held a particular product to be defective, each plaintiff injured by that same product must often re-prove that the product was defective, creating unnecessary delays and tying up the courts. Expanding the use of collateral estoppel, that is, allowing the courts to accept the determination of previous findings in cases involving the same product (such as the Dalkon Shield), would improve the efficiency of the courts.

Create Public Interest Trust Funds for Punitive Damage Awards.

Where punitive damages are awarded to a plaintiff, a percentage of the award should be contributed to a charitable fund organized to engage in research and advocacy to reduce or eliminate the type of risk which caused the plaintiff's injury.

S B

2 3 1

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 CMPK. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Judiciary:

1988 - April 29

HOUSE COMMITTEE REPORT

(7)

Date referred: 5/16/87

FURTHER REFERRALS: Finance

DATE: April 29, 1988

The Judiciary Committee has considered CSSB 231 (HESS)

"An Act relating to sexual abuse of a minor."

RECOMMENDS:

- replace with HCS CS SB 231 (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

SIGNER DO PASS:

[Handwritten signatures]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signature]

Chairman's signature

Original sponsors: Halford, Jones,
Duncan, et al.

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 231 (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 sexual abuse of a minor."

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

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

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

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

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

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

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

21 (3) being 18 years of age or older, the offender engages in
22 sexual penetration with a person who is under 16 years of age, and the
23 victim at the time of the offense is

24 (A) residing as a member of the social unit in the
25 same household as the offender and the offender is in a position
26 of authority over the victim; or

27 (B) temporarily entrusted to the offender's care.

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

29 (a) An offender commits the crime of sexual abuse of a minor in

1 the second degree if

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

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

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

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

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

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

21 (5) being 18 years of age or older, the offender engages in
22 sexual contact with a person who is under 16 years of age, and the
23 victim at the time of the offense is

24 (A) residing as a member of the social unit in the
25 same household as the offender and the offender is in a position
26 of authority over the victim; or

27 (B) temporarily entrusted to the offender's care.

Senator Rick Halford

Halford / *RH*



Senate District 1
Chugiak, Eagle River, East Anchorage, Fort Richardson

Senate Finance Committee
Co-Chairman

March 31, 1988

APR 11 1988

MEMORANDUM

TO: Representative John Sund, Chairman
House Judiciary Committee

FROM: Senator Rick Halford, Co-Chairman
Senate Finance Committee *Rick Halford*

SUBJECT: Request for Hearing of Senate Bill 231

I would appreciate your consideration in scheduling Senate Bill 231, "An Act relating to sexual abuse of a minor." This bill sets the penalty for sexual penetration of a minor by a parent or parent figure without regard for whether the victim was the legal son or daughter of the offender.

It is an unclassified felony to sexually penetrate one's son or daughter.

Under existing law, it is an unclassified felony offense for an offender to have intercourse with his or her son or daughter. However, an adult who is in a position of authority over a child, but who is not legally related to a child, is not subject to the same provisions.

It is a Class B felony or no crime at all if a parent figure not married to the child's other parent sexually penetrates a minor child.

For example, a man who has intercourse with his 15 year old daughter or stepdaughter has committed an unclassified offense. But a man who has intercourse with the 15 year old daughter of a woman with whom he has lived for several years is subject only to a B felony. A man who has sexual intercourse with a 16 year old daughter of a woman with whom he is living is subject to no criminal penalties at all.

Under AS 11.41.434, any person who sexually penetrates his or her son or daughter (including illegitimate, adopted or step) is guilty of an unclassified felony.

Under AS 11.41.436(A)(1), any person who sexually penetrates a 13 to 15 year old child who is not legally his or her son or daughter commits a Class B felony. Any person who sexually penetrates a 16 or 17 year old child who is not legally his or her son or daughter is not guilty of any crime.

The absence of a marriage certificate should not shorten a sentence for sexual assault of a minor by a person who has "parental" control over them.

The proposed bill assumes that the presence or absence of a marriage certificate or other legal document should not change the penalty for sexual abuse of a minor by a parent figure.

Support for the bill:

The bill is supported by Standing Together Against Rape (STAR), the Alaska Network on Domestic Violence and Sexual Assault, and the Anchorage Municipal Health and Human Services Commission.

Should you need additional information, please contact Theresa Maser of my staff at 465-4958.

**Municipality
of
Anchorage**



P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
(907) 343-4674

Tom Fink
MAYOR

MUNICIPAL HEALTH & HUMAN SERVICES COMMISSION

MAR 14 1988

March 9, 1988

Representative John Sund, Chair
House Judiciary Committee
Alaska State Legislature
POB V
Juneau, Alaska 99811

Dear Representative Sund,

The Municipal Health and Human Services Commission would like to lend their full support to the passage of SB231. Child abuse and neglect is ranked as the highest behavioral and mental health problem priority in the Anchorage Health and Human Services Plan (January 1988). Due to the increasing number of reports of child sexual abuse offenses committed by nonfamilial/custodial adults residing with the child, it is important to add language to existing statutes which include offenders who reside with the child and who have authority over the child.

Passage of SB231 is consistent with the first and second objectives noted in Volume 3 of the plan, Policy Recommendations and Objectives for Anchorage's Health and Human Services Delivery System (January 1988). The first objective promotes adequate funding of treatment services for child sexual abuse victims, their siblings and the nonoffending parent. In order to secure adequate funding, an accurate account of the incidence of child sexual abuse victims is essential. Extending statutory definitions of the sexual abuse of a minor to include minors "residing as a member of a social unit in the same household with the offender and under the authority of the offender" will facilitate accurate reporting and consequently lend additional justification for adequate funding of treatment.

Objective #3 promotes adequate funding of primary prevention of child abuse and neglect. Statutory expansion of the definition of the victim of child sexual abuse is an excellent, essential way to encourage the prevention of child sexual abuse.

If you have any questions, please call me (562-2828) or our staff (343-4674).

Sincerely,

A handwritten signature in cursive script, appearing to read "Gari B. Andreini".

Gari B. Andreini, Chair
Municipal Health and Human Services Commission

cc: House Judiciary Committee
Senator Rick Halford, Sponsor
Anchorage Municipal Assembly
Tom Fink, Mayor, Municipality
of Anchorage

Ron Garzini, Manager, Municipality of
Anchorage
Robert A. (Bert) Hall, Director,
Health and Human Services,
Municipality of Anchorage

SJ22/dPD20

5-0539L✓

Chenoweth
3/3/88

Original sponsors: Halford, Jones,
Duncan, et al.

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 231 (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 sexual abuse of a minor."

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

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

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

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

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

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

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

21 (3) being 18 years of age or older, the offender engages in
22 sexual penetration with a person who is under 16 years of age, and the
23 victim at the time of the offense is

24 (A) residing as a member of the social unit in the
25 same household as the offender and the offender is in a position
26 of authority over the victim; or

27 (B) temporarily entrusted to the offender's care.

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

29 (a) An offender commits the crime of sexual abuse of a minor in

1 the second degree if

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

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

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

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

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

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

21 (5) being 18 years of age or older, the offender engages in
22 sexual contact with a person who is under 16 years of age, and the
23 victim at the time of the offense is

24 (A) residing as a member of the social unit in the
25 same household as the offender and the offender is in a position
26 of authority over the victim; or

27 (B) temporarily entrusted to the offender's care.
28
29

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to sexual abuse of a minor."
Sponsor: Halford, Jones, et al.
Requestor: Judiciary

Agency Affected: Administration
BRU: Office of Public Advocacy
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						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: 1/20/88

Approved by Commissioner: John Andrews
Agency: Department of Administration

Date: 1/27/88

Distribution (by preparer):

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

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 231
PUBLISH DATE: 4/23/87

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to sexual
abuse of a minor"
Sponsor: Senator Halford
Requestor: Senator Judiciary

Agency Affected: Dept. of Administration
BRU: Public Defender Agency

Components: Third Judicial District

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-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Dana Eabe, Public Defender
Division: Public Defender Agency

Phone: 279-7541
Date: January 19, 1988

Approved by Commissioner: John Andrews
Agency: Department of Administration

Date: 1/21/88

Distribution (by preparer):

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

POSITION PAPER

CS SB 231

The Alaska Public Defender Agency and the Office of Public Advocacy are totally reactive agencies which provide representation to indigent persons when appointed by the court. These agencies do not make policy nor do they initiate litigation. Only proposed legislation with fiscal or program ramifications for these agencies can be said to have a direct agency impact. Thus, the Public Defender Agency and Office of Public Advocacy submit position papers for legislation which will affect these agencies fiscally or programatically or will require these agencies to litigate constitutional issues raised by the legislation.

Fiscal impact: X None See attached fiscal note
Program impact: None See analysis below X
Constitutional impact: None See analysis below X

This bill is designed to expand the offense of sexual abuse of a minor in the first degree to include persons who have quasi-parental authority over a child in the household but are not legally related to that child. We agree with this goal. However, although attempts have been made to narrow the bill's focus, the bill is still drafted so broadly that it could apply to a number of situations which may not merit the eight-year presumptive term for a first offender of this offense.

Since the goal of this legislation is to make culpable persons in a quasi-stepparent relationship with a child victim, regardless of whether that adult is married to the victim's parent or guardian, the statute should be framed more specifically to target that population. The term "authority" should be narrowed to specify that the offender must have "quasi-parental" authority over the child.

With this drafting amendment, the Alaska Public Defender Agency and the Office of Public Advocacy have no opposition to the bill.

Dana Fabe *AF*
Dana Fabe, Director
Public Defender Agency

1/20/88
Date

Brant McGee *BM*
Brant McGee, Director
Office of Public Advocacy

1/20/88
Date

John Andrews
Commissioner John Andrews
Department of Administration

1/21/88
Date

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to sexual abuse of a minor
Sponsor: Halford, Jones, et.al.
Requestor: House Judiciary

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Barbara Miklos, Executive Director Phone: 465-4356
Division: Council on Domestic Violence & Sexual Assault Date: 1/19/88
Approved by Commissioner: David A. H. Nelson, Dep. Comm. Date: 1-27-88
Agency: Public Safety

Distribution (by preparer):

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

The Fairbanks Child Sexual Abuse Task Force

1423 Peger Road
Fairbanks AK 99709

February 22, 1988

House Judiciary Committee Members

Representatives Barnes, Cotten, Gruenberg, Navarre, Sund,
Taylor and Ulmer

Interior Delegation Members

Representatives Boyer, Davis, Frank, Koponen, Miller, Shultz
Senators Coghill, Fahrenkamp, Fanning

P.O. Box V

Juneau, AK 99811

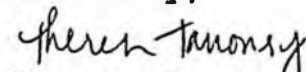
Re: Senate Bill 252 am

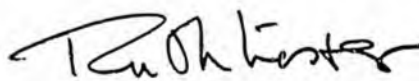
Dear Legislators,

I am writing on behalf of the Fairbanks Child Sexual Abuse Task Force, a coalition of agencies, organizations and associations involved in prevention and treatment of child sexual abuse. The CSATF wants to express its views on Senate Bill 252, which expands the exceptions to the statutory duty of confidentiality on the part of psychologists and psychological associates.

The Task Force supports this bill. In the interior, there have been suits brought by child sexual offenders in precisely those instances contemplated by the new subsection (3) which the bill would add to AS 08.86.200(a), i.e., the offender has made to the therapist an immediate threat of serious physical harm to an identifiable victim, which the therapist has then disclosed, following which the offender sued the therapist for violation of confidentiality. The court's ruling was in accordance with the statutory proposal, i.e., the offender's right to confidentiality does not apply in such situations; but having this codified in statutory form would reduce the costs of defending such an action, as well as discourage the filing of such a suit in the first place. For the sake of the victims and potential victims of such offenders, and the sake of the psychologists and psychological associates who have better uses for their time than fending off such suits, we urge enactment of the bill. Thank you for your consideration.

Sincerely,


Theresa Tanoury
Coordinator


Ruth Lister
Chair

CS SB 231 - Sexual Abuse of a Minor

This bill was introduced at the request of STAR (Standing Together Against Rape).

Purpose:

Its purpose is to correct a loophole in the sentencing of parents and parent figures who sexually abuse a child.

Currently, a father or stepfather who sexually abuses his daughter under 18 is guilty of an unclassified felony offense. But the abusing live-in boyfriend of the child's mother is guilty of only a Class B felony.

Frequently a child is encouraged to accept a live-in partner as a substitute parent. The child is vulnerable to the influence and control of the parent figure. The presence or absence of a marriage certificate should not change the length of sentence for sexual abuse of a minor.

Fiscal notes:

The bill has zero fiscal notes.

The Committee Substitute (HESS) is supported by:

STAR

Child Advocacy Network (81 agencies and 110 individual statewide)

Municipality of Anchorage Department of Health and Human Services

Anchorage Police Department

Anchorage Police Department Employee Association legislative committee

Alaska Association of Chiefs of Police

Alaska Women's Lobby

Department of Health and Social Services

Department of Public Safety

Concerned Citizens for Justice for Children

The Alaska Network on Domestic Violence has not met to discuss the bill. It strongly supports the concept.

The law:

The law concerning sexual abuse of a minor differs from that concerning sexual assault. Sexual assault: Under AS11.41.410, it is sexual assault in the first degree to sexually penetrate another person of any age without the victim's consent.

Sexual abuse of a minor: But consent does not apply if the victim is a minor child. In the case of a minor child, the law looks at the age of the victim and the relationship between the victim and the offender:

If the offender is the victim's legal parent or guardian, sexual penetration of a son or daughter, (including illegitimate, adopted or step) is 1st degree sexual abuse of a minor and an unclassified felony. AS 11.41.434(a) and (b).

If the offender is not the victim's legal parent (or guardian), sexual penetration of a child between the ages of 13 and 15 is 2nd degree sexual abuse of a minor and a Class B felony.

If the offender is not the victim's legal parent (or guardian), sexual penetration of a child 16 and 17 is not a crime at all. AS 11.41.436(a)(1).

Penalties:

Under current law, first degree sexual abuse of a minor by a legal parent is an unclassified felony. It is a presumptive sentence, with no probation. The sentence for the first conviction is 8 years. For the second conviction it is 15 years. Imprisonment cannot exceed 30 years. AS 12.55.125(i).

Under current law, sexual penetration of a child ages 13-15 by someone who is not legally the child's parent is a Class B felony. It is a presumptive sentence upon the second conviction. The presumptive sentence for the second conviction is 4 years. For a third conviction, it is 6 years. Imprisonment may not exceed 10 years. AS 12.55.125(d).

Sexual Abuse of a Minor:

- 1st degree: Offender's age: 16+
Victim's age: under 13
Act: sexual penetration
Relationship: N/A
Statute: 11.41.434
Unclassified offense: 8 years presumptive sentence
- 1st degree: Offender's age: 18+
Victim's age: under 18
Act: sexual penetration
Relationship: offender is legal parent or cares for the
child by authority of law.
Statute: 11.41.434
Unclassified offense: 8 years presumptive sentence
- 2nd degree: Offender's age: 16+
Victim's age: 13-15 and three yrs younger than offender
Act: sexual penetration
Relationship: N/A
Statute: 11.41.436
Class B felony. Not presumptive until second conviction.
Second conviction: 4 years presumptive
- 2nd degree: Offender's age: 16+
Victim's age: under 13
Act: sexual contact
Relationship: N/A
Statute: 11.41.436
Class B felony. Not presumptive until second conviction.
Second conviction: 4 years presumptive
- 2nd degree: Offender: 18+
Victim's age: under 18
Act: sexual contact
Relationship: legal parent or cares for the child by
authority of law
Statute: 11.41.436
Class B felony. Not presumptive until second conviction.
Second conviction: 4 years presumptive

Incest as included within charge of rape. 76 ALR2d 484.

Criminal responsibility of husband for rape, or assault to commit rape, on wife. 84 ALR2d 1017.

Fraud or impersonation, rape by. 91 ALR2d 591.

Impotency as defense to charge of rape, attempt to rape, or assault with intent to commit rape. 23 ALR3d 1351.

Rape or similar offense based on intercourse with woman who is allegedly mentally deficient. 31 ALR3d 1227.

Liability of parent for injury to unemancipated child caused by parent's negligence. 41 ALR3d 904.

Seizure or detention for purpose of cora-

mitting rape, robbery, or similar offense - constituting separate crime of kidnapping. 43 ALR3d 699.

Consent as defense in prosecution for sodomy. 58 ALR3d 636.

Multiple instances of forcible intercourse involving same defendant and same victim as constituting multiple crimes of rape. 81 ALR3d 1228.

What constitutes offense of "sexual battery." 87 ALR3d 1250.

Constitutionality of rape laws limited to protection of females only. 99 ALR3d 129.

Validity and construction of statute defining crime of rape to include activity traditionally punishable as sodomy or the like. 3 ALR4th 1009.

Sec. 11.41.410. Sexual assault in the first degree. (a) A person commits the crime of sexual assault in the first degree if,

(1) being any age, the defendant engages in sexual penetration with another person without consent of that person;

(2) being any age, the defendant attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;

(3) [Repealed, § 10 ch 78 SLA 1983.]

(4) [Repealed, § 10 ch 78 SLA 1983.]

(b) Sexual assault in the first degree is an unclassified felony and is punishable as provided in AS 12.55. (§ 3 ch 166 SLA 1978; am § 8 ch 102 SLA 1980; am § 6 ch 143 SLA 1982; am § 10 ch 78 SLA 1983)

Cross references. — For evidence of past sexual conduct in trials of sexual assault in any degree or attempt to commit sexual assault in any degree, see AS 12.45.045.

Effect of amendments. — The 1980 amendment inserted "or aids, induces, causes or encourages a person under 13 years of age to engage in sexual penetration with another person" near the end of paragraph (3) in subsection (a).

The 1982 amendment substituted "an

unclassified felony and is punishable as provided in AS 12.55" for "a class A felony" at the end of subsection (b).

The 1983 amendment repealed paragraphs (3) and (4) of subsection (a).

Legislative history reports. — For a report on Chapter 102, SLA 1980 (HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 28, 1980.

NOTES TO DECISIONS

I. General Consideration.

II. Former Law.

A. Generally.

B. Age of Consent.

C. Procedure.

I. GENERAL CONSIDERATION.

History of first-degree sexual assault statute. — See Reynolds v. State, Ct. App.

Op. No. 262 (File No. 6890), 664 P.2d 621 (1983).

Constitutionality. — In order to prove a violation of AS 11.41.410(a)(1), the state

must prove that engaged in s- recklessly disreg consent. Construo does not punish neither vague n- State, Ct. App. O- 664 P.2d 621 (19

Construing th- concurrent amer- tences together i- ture has not distinguish betw- and the penalty offenses provisor not subject defenc- punishment or d- process or the equ- Reynolds v. Stat- (File No. 6890), 6

Categories co — All of the cate- the definition of s- degree under su- (a)(4) of this sect- offense for legal p- Ct. App. Op. No. P.2d 823 (1982), r- and aff'd on rehe- 259 (File No. 560

And none is others. — Nothin- tory language of tl- tive history of the- the type of condu- subsection (a)'s meant to be inher- any of the other- grouping of these i- duct together un- heading, with ide- class A felonies, i- the legislature's c- paragraphs were involving equally v. State, Ct. App- 5606), 641 P.2d 8- other grounds and App. Op. No. 259 (30 (1983).

Subsection (a common law defi- v. State, Ct. App- 5606), 641 P.2d 8- other grounds and App. Op. No. 259 (30 (1983).

Mental state rec Lack of consent is

(B) is incapacitated.

(b) Sexual assault in the second degree is a class B felony. (§ 3 ch 166 SLA 1978; am § 1 ch 78 SLA 1983)

Effect of amendments. — The 1983 amendment rewrote subsection (a).

NOTES TO DECISIONS

For cases construing former crime of rape, see notes to AS 11.41.416.

Attempted sexual assault in the first degree and sexual assault in the second degree are closely related, since sexual penetration involves sexual contact and both offenses proceed on a theory of coerced assent. *Nicholson v. State, Ct. App. Op. No. 193 (File No. 6192), 656 P.2d 1209 (1982).*

Constitutionality of conviction where original charge was under AS 11.41.410. — Where defendant was charged with attempted sexual assault in the first degree, he was thereby assumed to have notice that he might be convicted of second-degree sexual assault because of the similarities in the elements of the two offenses, and his conviction for the latter offense did not violate due process. *Nicholson v. State, Ct. App. Op. No. 193 (File No. 6192), 656 P.2d 1209 (1982).*

Evidence. — Where victim woke up in the early morning hours to find defendant

in her bed and fondling her breast, and where she testified that she was temporarily in shock and afraid he would hurt her, a jury could find that victim's momentary acquiescence in defendant's fondling her breast constituted second-degree sexual assault. *Nicholson v. State, Ct. App. Op. No. 193 (File No. 6192), 656 P.2d 1209 (1982).*

Instructions. — The trial judge did not err in refusing to instruct on the lesser included offense of attempted sexual contact in the second degree. *Johnson v. State, Ct. App. Op. No. 267 (File No. 6662), 665 P.2d 566 (1983).*

Sentence upheld. — Sentence of eight years with three years suspended for sexual assault in the second degree was not clearly mistaken. *Howard v. State, Ct. App. Op. No. 260 (File Nos. 6027, 6123), 664 P.2d 603 (1983).*

Cited in *Stores v. State, Sup. Ct. Op. No. 2252 (File No. 3595), 625 P.2d 820 (1980).*

Sec. 11.41.430. [Repealed, § 10 ch 78 SLA 1983. For current law, see AS 11.41.420(a)(2).]

Sec. 11.41.434. Sexual abuse of a minor in the first degree. (a) An offender commits the crime of sexual abuse of a minor in the first degree if

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

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

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

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

(b) Sexual abuse of a minor in the first degree is an unclassified felony and is punishable as provided in AS 12.55. (§ 2 ch 78 SLA 1983)

Editor's note below 11.15.134 a

For case statute, see sions, analy State's a conduct of niles may t privacy, the cise control dren beyond control adul: Op. No. 1407 (1977).

Where juv privacy an autonomy, well-being o: islation that to adults. Ar No. 1407 (F (1977).

As to cons ute making toward child State, Sup. 2641), 562 P

Physical former statu Sup. Ct. Op. . P.2d 351 (197 Op. No. 1637 (1978).

Former se See Anderson 1407 (File No

Consent is may forbid ar child under t: regardless of the act. Ander 1407 (File No

Mitigating for first-degre familiarity w: daughter) wa Hodges v. Sta 7330), 660 P.2

Sentence u upheld. — Se No. 1286 (Fil (1976); Bucha

Sec. 11. (a) An offer second deg

NOTES TO DECISIONS

Editor's notes. — The cases cited in the note below were decided under former AS 11.15.134 and former AS 11.41.410(a)(4).

For cases construing former rape statute, see AS 11.41.410. Notes to Decisions, analysis line II.

State's authority to control sexual conduct of children. — Although juveniles may have certain rights to sexual privacy, the state may nevertheless exercise control over the sexual conduct of children beyond the scope of its authority to control adults. *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Where juveniles have certain rights to privacy and to express their own autonomy, the state's interest in the well-being of its children may justify legislation that could not properly be applied to adults. *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

As to constitutionality of former statute making lewd and lascivious acts toward children a crime, see *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Physical conduct punished under former statute. — See *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977); *Smiloff v. State*, Sup. Ct. Op. No. 1637 (File No. 3006), 579 P.2d 28 (1978).

Former section prohibited fellatio. — See *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Consent is not at issue. — The state may forbid an adult to have fellatio with a child under the statutorily prescribed age regardless of whether the child consents to the act. *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Mitigating Factors. — In prosecution for first-degree sexual assault, defendant's familiarity with his victim (his 12-year old daughter) was not a mitigating factor. *Hodges v. State*, Ct. App. No. 233 (File No. 7330), 660 P.2d 1203 (1983).

Sentence under former AS 11.15.134 upheld. — See *Noble v. State*, Sup. Ct. Op. No. 1286 (File No. 2468), 552 P.2d 142 (1976); *Buchanan v. State*, Sup. Ct. Op.

No. 1316 (File No. 2552), 554 P.2d 115 (1976); *Morgan v. State*, Sup. Ct. Op. No. 1908 (File No. 4187), 598 P.2d 952 (1976); *Baker v. State*, Sup. Ct. Op. No. 1968 (File No. 4031), 602 P.2d 797 (1979); *Alvarado v. State*, Sup. Ct. Op. No. 2323 (File No. 5133), 626 P.2d 582 (1981).

Sentence for assault upheld. — In prosecution of defendant with no prior criminal record on two counts of first-degree sexual assault of his 12-year old daughter, sentence of two consecutive eight-year terms with five years suspended was not excessive. *Hodges v. State*, Ct. App. Op. No. 233 (File No. 7330), 660 P.2d 1203 (1983).

In light of the substantial duration of defendant's sexual abuse of his stepdaughter (three years), his failure to learn from the earlier discovery of his prior offenses, his disregard of a court order that he avoid contact with the victim, and his total failure to take any meaningful step toward rehabilitation, 10-year sentence with four years suspended was not excessive for conviction of first-degree sexual assault. *Langton v. State*, Ct. App. Op. No. 236 (File Nos. 7188, 6247, 7114), 662 P.2d 954 (1983).

Sentence under AS 11.15.134 held excessive. — See *Qualle v. State*, Ct. App. Op. No. 138 (File No. 5666), 652 P.2d 481 (1982).

Sentence for assault held excessive. — Sentence of 20 years imprisonment for first-degree sexual assault of two-year old child was excessive and case was remanded for resentencing not to exceed 120 years. *Langton v. State*, Ct. App. Op. No. 236 (File Nos. 7188, 6247, 7114), 662 P.2d 954 (1983).

Sentence for assault held too lenient. — Suspended five-year sentence for first-degree sexual assault of defendant's four-year old son was disapproved as too lenient, with a 90-day to three-year sentence suggested. *Langton v. State*, Ct. App. Op. No. 236 (File Nos. 7188, 6247, 7114), 662 P.2d 954 (1983).

Applied in *Seymore v. State*, Ct. App. Op. No. 196 (File No. 6995), 655 P.2d 786 (1982).

Sec. 11.41.436. Sexual abuse of a minor in the second degree.
(a) An offender commits the crime of sexual abuse of a minor in the second degree if

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

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

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

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

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

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

(b) Sexual abuse of a minor in the second degree is a class B felony. (§ 2 ch 78 SLA 1983)

NOTES TO DECISIONS

Prior law. — For cases decided under prior law, see notes to AS 11.41.434, Notes to Decisions.

Sec. 11.41.438. Sexual abuse of a minor in the third degree. (a) An offender commits the crime of sexual abuse of a minor in the third degree if, being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender.

(b) Sexual abuse of a minor in the third degree is a class C felony. (§ 2 ch 78 SLA 1983)

NOTES TO DECISIONS

Prior law. — For cases decided under prior law, see notes to AS 11.41.434, Notes to Decisions.

Sec. 11.41.440. Sexual abuse of a minor in the fourth degree. (a) An offender commits the crime of sexual abuse of a minor in the fourth degree if, being under 16 years of age, the offender engages in sexual penetration or sexual contact with a person who is under 13 years of age and at least three years younger than the offender.

(b) Sexual abuse of a minor. (§ 2 ch 78 SLA 1983)

Effect of an amendment re The 1983 am tion. Legislative I

Prior law. — prior law, see no to Decisions. Applied in C Op. No. 201 (Fil (1983).

Collateral ref for carnal know of girl under age 79 ALR 1229. Assault with consenting fema. ALR 599. Parent or pers

Sec. 11.41. 11.41.410 — : the alleged o: unless

- (1) the spo (2) the defe

(b) In a pr provision of l under a certai alleged offens age or older, v of the alleged

Sec. 11.41. being 18 yea penetration v illegitimately

- (1) an ance (2) a brothe (3) an uncl (b) Incest is

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction, 15 years.

(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, four years;

(2) if the offense is a third felony conviction, six years;

(3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, two years.

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, two years;

(2) if the offense is a third felony conviction, three years;

(3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, one year.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum term may not be otherwise reduced.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided.

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

3691), 578 P.2d 971 (1978); Putnam v. State, Sup. Ct. Op. No. 2251 (File No. 3475), 629 P.2d 35 (1980); State v. Brinkley, Ct. App. Op. No. 361 (File No. A-164), P.2d (1984); Cleary v. State, Sup. Ct. Op. No. 1257 (File No. 2623), 548 P.2d 952 (1976); Salazar v. State, Sup. Ct. Op. No. 1404 (File No. 2567), 562 P.2d 694 (1977); Cleary v. State, Sup. Ct. Op. No. 1431 (File No. 3059), 564 P.2d 374 (1977); Amidon v. State, Sup. Ct. Op. No. 1434 (File Nos. 2511, 2512), 565 P.2d 1248 (1977); Black v. State, Sup. Ct. Op. No. 1506 (File No. 3327), 569 P.2d 804 (1977); Sumabat v. State, Sup. Ct. Op. No. 1648 (File No. 3739), 580 P.2d 323 (1978); Hansen v. State, Sup. Ct. Op. No. 1689 (File No. 3412), 582 P.2d 1041 (1978); Kanipe v. State, Sup. Ct. Op. No. 2242 (File No. 4993), 620 P.2d 678 (1980); Hintz v. State, Sup. Ct. Op. No. 2334 (File No. 3541), 627 P.2d 207 (1981).

Inclusion of improper reference to unverified police contacts did not require remand for resentencing before different judge. — See Parks v. State, Sup. Ct. Op. No. 1529 (File No. 3209), 571 P.2d 1003 (1977).

Reference to unverified police contacts in a presentence report does not require a remand for resentencing where the record

indicates that the sentencing judge was not unduly or improperly influenced by reference to the unverified police contacts. Pascoe v. State, Sup. Ct. Op. No. 2249 (File No. 4290), 628 P.2d 547 (1980).

Case remanded for resentencing. — See Neal v. State, Sup. Ct. Op. No. 2341 (File No. 4767), 628 P.2d 19 (1981).

Case remanded for sentence review. — Although a sentence of 15 years' imprisonment with eligibility for parole at the discretion of the parole board upon conviction of manslaughter was not excessive, since the trial court had sentenced defendant as if his conviction had been obtained within one year of the crime and therefore substantially ignored his subsequent history of steady employment, his meritorious service in the army, and his lack of involvement in any criminal activity other than a few traffic offenses in the 12 years since the commission of the crime, the case was remanded for the purpose of permitting the trial court to review the sentence it imposed, in light of all available information concerning defendant without excluding the time period commencing one year from the time of the killing until the present. Padie v. State, Sup. Ct. Op. No. 1843 (File No. 3564), 594 P.2d 50 (1979).

Sec. 12.55.125. Sentences of imprisonment for felonies. (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years.

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

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

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

(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

(3) if the off

(4) if the off

(d) A defend
definite term o
sentenced to th
provided in AS

(1) if the offe

(2) if the offe

(3) if the off
knowingly direc
or otherwise cle
officer, emerg
attendant, or ot
formance of offi

(e) A defenda
definite term of
sentenced to the
provided in AS

(1) if the offer

(2) if the offer

(3) if the offe
knowingly direc
or otherwise cle
officer, emerge
attendant, or oth
formance of offic

(f) If a defendi

(1) imprisonm
pended under AS
(2) imposition
12.55.085;

(3) imprisonme
otherwise reduce

(g) If a defenda
(i) of his section,
12.55.175,

(1) imprisonme
(2) imposition
12.55.085;

(3) terms of im

(h) Noting in
the sentencing ju

(i) A defenda
sexual abuse of a
definite term of ir
sentenced to the fr
provided in AS 12

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, eight 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. (§ 12 ch 166 SLA 1978; am § 18 ch 45 SLA 1982; am §§ 28-30 ch 143 SLA 1982; am § 5 ch 78 SLA 1983; am §§ 1-3 ch 92 SLA 1983)

Cross references. — For classification of felonies and misdemeanors, see AS 11.81.250; for authorized fines, see AS 12.55.035; for reduction of sentence for good behavior, see AS 33.20.010.

Effect of amendments. — The first 1982 amendment in subsection (b), deleted "or" preceding "kidnapping" and inserted "or misconduct involving a controlled substance in the first degree."

The second 1982 amendment in subsection (c), redesignated former paragraphs (1)-(3) as present paragraphs (2)-(4), added present paragraph (1), and substituted "possessed a firearm, used a dangerous instrument" for "possessed or used a firearm" and "seven years" for "six years" in present paragraph (2). The amendment also substituted "under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) of this section" for

"under (c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2) of this section" in the introductory language of subsection (g), corrected the section number set out in paragraphs (1) and (2) of subsection (g), and added subsection (i).

The first 1983 amendment inserted "or sexual abuse of a minor in the first degree" in the introductory language of subsection (i).

The second 1983 amendment in (c)(2) added "or knowingly directed . . . at the time of the offense," added paragraph (3) of subsection (d), added paragraph (3) of subsection (e), and made other minor punctuation changes.

Editor's notes. — For declaration of legislative purpose, see § 1, ch. 45, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

NOTES TO DECISIONS

- I. General Consideration.
- II. Presumptive Sentencing.

I. GENERAL CONSIDERATION.

Limited use of both suspended jail time and probation is permitted under AS 12.55.155. *Lacquement v. State*, Ct. App. Op. No. 85 (File No. 5741), 644 P.2d 856 (1982). See also *Friedberg v. State*, Ct. App. Op. No. 258 (File No. 7015), 663 P.2d 558 (1983).

Probationary sentences. — Although a probationary sentence may properly be used when a first offender is convicted of a class C felony involving sexual abuse of a child, such a sentence will be appropriate only if mitigating circumstances exist and the offender is a promising candidate for rehabilitation through probationary supervision. *State v. Coats*, Ct. App. Op. No. 291 (File No. 7102), 669 P.2d 1329 (1983).

Under former law where statutory

mitigating factors warrant a sentence of 90 days to three years, extraordinary circumstances might justify a sentence of straight probation. *State v. Brinkley*, Ct. App. Op. No. 361 (File No. A-164), P.2d (1984).

Placement of offenders. — It is within the sentencing judge's authority to make a recommendation to the commissioner regarding the appropriate placement of the offender. Under AS 33.30.100, the commissioner has the power to effectuate such a recommendation by placing the offender in the appropriate facility, and although the commissioner is not bound by the sentencing court's recommendation, a demonstrated failure to provide an appropriate rehabilitation program or to further the purposes of the sentence may justify judicial intervention. *Nell v. State*, Ct. App. Op. No. 77 (File No. 5565), 642 P.2d 1361 (1982).

Incarceration section (g). — subsection (g) required to or convicted felon place him on probation for his placement as a condition App. Op. No. 7 1361 (1982).

For cases 12.55.050, imposed for persons convicted felony, see *Bow* 769 (File No. 1 State v. Carlso (File Nos. 2908, Davis v. State, No. 2698), 566 P. State, Sup. Ct. 3424), 580 P.2c State, Sup. Ct. 3348), 593 P.2d State, Sup. Ct. 4416), 621 P.2d 454 U.S. 1090, 1: 628 (1981); *Shea* No. 87 (File N (1982).

Sentence upi State, Ct. App. O 627 P.2d 657 (1: Hoover v. State, No. 6223), 64 App. Op. No. 190 577 (1982) *Nukapigak v. Sta* (File No. 5820), (first-degree mur App. Op. No. 205 850 (1983) (se Hodges v. State, C No. 7330), 66C (first-degree sexu State, Ct. App. C 7188, 6247, 7114 (first-degree sexu State, Ct. App. Op. 669 P.2d 961 (198

Sentence not up years' imprisonment sexual assault of excessive and cas resentencing not Langton v. State, (File Nos. 7188, 62 (1983).

Suspended five first-degree sexual four-year-old son w lenient, with a 90-

Municipality of Anchorage



P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
(907) 343-4674

Tom Fink
MAYOR

MUNICIPAL HEALTH & HUMAN SERVICES COMMISSION

March 9, 1988

Representative John Sund, Chair
House Judiciary Committee
Alaska State Legislature
PO Box V
Juneau, Alaska 99811

Dear Representative Sund,

*SB what is this
This is in H/S 237*

The Municipal Health and Human Services Commission would like to lend their full support to the passage of SB231. Child abuse and neglect is ranked as the highest behavioral and mental health problem priority in the Anchorage Health and Human Services Plan (January 1988). Due to the increasing number of reports of child sexual abuse offenses committed by nonfamilial/custodial adults residing with the child, it is important to add language to existing statutes which include offenders who reside with the child and who have authority over the child.

Passage of SB231 is consistent with the first and second objectives noted in Volume 3 of the plan, Policy Recommendations and Objectives for Anchorage's Health and Human Services Delivery System (January 1988). The first objective promotes adequate funding of treatment services for child sexual abuse victims, their siblings and the nonoffending parent. In order to secure adequate funding, an accurate account of the incidence of child sexual abuse victims is essential. Extending statutory definitions of the sexual abuse of a minor to include minors "residing as a member of a social unit in the same household with the offender and under the authority of the offender" will facilitate accurate reporting and consequently lend additional justification for adequate funding of treatment.

Objective #3 promotes adequate funding of primary prevention of child abuse and neglect. Statutory expansion of the definition of the victim of child sexual abuse is an excellent, essential way to encourage the prevention of child sexual abuse.

If you have any questions, please call me (562-2828) or our staff (343-4674).

Sincerely,

Gari B. Andreini, Chair
Municipal Health and Human Services Commission

cc: ✓ House Judiciary Committee
Senator Rick Halford, Sponsor
Anchorage Municipal Assembly
Tom Fink, Mayor, Municipality
of Anchorage

Ron Garzini, Manager, Municipality of
Anchorage
Robert A. (Bert) Hall, Director,
Health and Human Services,
Municipality of Anchorage

SJ22/dPD20