ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5258 SHES SB 78 - SB 96

820

their definition of handicapped person will of necessity be broader than that of the PVA model regulations which only cover parking. Several of the differences between the PVA model regulations and the ANSI and UFAS standards are not explicable for this reason, however. For example, all three standards discuss the size of parking spaces but the UFAS regulations contain a requirement not found in the PVA or ANSI standards that parking spaces and access aisle shall be level with surface slopes not to exceed 1:50.

Since many of the provisions of the PVA model regulations were not directly comparable to the ANSI or UFAS standards, a state statute was selected to compare to the PVA model regulations. This comparison indicated that the Illinois State statutes contain some of the same provisions, i.e., providing parking spaces for handicapped persons, penalties of their misuse, etc., but the Illinois statutes are generally not as detailed. It should be noted, however, that there may be state regulations which provide more detail.

Nancy Lee Jones
Legislative Attorney

APPENDIX A

Special Parking Privileges for Handicapped Persons. Pub. L. 95-78, Title III, § 321, Aug. 15, 1983, 97 Stat. 473, provided that:

"(a) The Congress finds that—

"(1) in this Nation there exist millions of handicapped people with severe physical impairments including partial paralysis, limb amputation, chronic heart condition, emphysema, arthritis, rheumatism, and other debilitating conditions which greatly limit their personal mobility;

"(2) these people reside in each of the several States and have need and reason to travel from one State to another for business and recreational purposes;

"(3) each State maintains the right to establish and enforce its own code of regulations regarding the appropriate use of motor vehicles operating within its jurisdiction;

"(4) within a given State handicapped individuals are oftentimes granted special parking privileges to help offset the limitations imposed by their physical impairment;

"(5) these special parking privileges vary from State to State as do the methods and means of identifying vehicles used by disabled individuals, all of which serve to impede both the enforcement of special parking privileges and the handicapped individual's freedom to properly utilize such privileges;

"(6) there are many efforts currently underway to help alleviate these problems through public awareness and administrative change as encouraged by concerned individuals and national associations directly involved in matters relating to the issue of special parking privileges for disabled individuals; and

"(7) despite these efforts the fact remains that many States may need to give the matter legislative consideration to ensure a proper resolution of this issue, especially as it relates to law enforcement and placard responsibility.

"(b) The Congress encourages each of the several States working through the National Governors Conference to—

"(1) adopt the International Symbol of Access as the only recognized and adopted symbol to be used to identify vehicles carrying those citizens with acknowledged physical impairments;

"(2) grant to vehicles displaying this symbol the special parking privileges which a State may provide; and

"(3) permit the International Symbol of Access to appear either on a specialized license plate, or on a specialized placard placed in the vehicles so as to be clearly visible through the front windshield, or on both such places.

"(c) It is the sense of the Congress that agreements of reciprocity relating to the special parking privileges granted handicapped individuals should be developed and entered into by and between the several States so as to—

"(1) facilitate the free and unencumbered use between the several States, of the special parking privileges afforded those people with acknowledged handicapped conditions, without regard to the State of residence of the handicapped person utilizing such privilege;

"(2) improve the ease of law enforcement in each State of its special parking privileges and to facilitate the handling of violations; and

"(3) ensure that motor vehicles carrying individuals with acknowledged handicapped conditions be given fair and predictable treatment throughout the Nation.

"(d) As used in this section the term 'State' means the several States and the District of Columbia.

"(e) The Secretary of Transportation shall provide a copy of this section to the Governor of each State and the Mayor of the District of Columbia."

Attachment C

Special ID cards to help identify abusers of handicapped parking privileges

By BILL BLANKENSHIP
Capital-Journal law enforcement writer

It's infuriating.

You and what seems like a thousand other would-be shoppers circle the supermarket parking lot in a seemingly futile search for a parking space within hiking distance of the front door. As you pass the store's entrance for the umpteenth time, you see a car slip easily into a parking stall reserved for the handicapped.

You think how nice it would be to find a parking place so close as you wait behind a car whose driver is carefully tracking the path of a couple leaving the store with a small child, a packed grocery cart and a harried sacker in tow.

Then you see it, and it makes your blood boil.

Out of the car that parked in the handicapped stall bounds a seemingly able-bodied young woman. She strides into the store displaying no apparent malady. Your first thought is that she has parked illegally, and your instinct is to call the police. But then you notice that from her car's rearview mirror hangs a valid, state-issued handicapped-parking placard.

Moments later, the same young woman walks out the exit toting a 50-pound sack of dog food. She easily hauls it to her car, opens the door, tosses it on the passenger seat, gets in and drives off.

You say to yourself, "There ought to be a law to prevent such abuse."

Effective Tuesday, there is.

More than likely, says Topekan Bob Burke, a longtime advocate of parking privileges for the handicapped, the young woman has a family member who is handicapped and truly deserves the parking privileges extended by state law.

However, the young woman either through ignorance or willful disregard is violating handicapped-parking statutes.

"People forget that handicapped-parking permits are issued to people, not cars. And if the handicapped person is not in the car, the driver should not park in a handicapped stall," said Burke, who suffers from muscular dystrophy and wears braces on both legs.

To aid law enforcement officers in catching abusers like the young woman, new handicapped parking statutes effective Tuesday require the state Department of Revenue to issue special identification cards to holders of handicapped or disabled-veteran license plates and handicapped-parking placards.

Ken Clark, a spokesman for the Division of Motor Vehicles, said his agency will begin sending letters this week to the more than 36,000 Kansans who hold permanent special-parking privileges for disabled people, as well as about 4,000 others

Continued on page 3, column 1

who currently have temporary placards for such ailments as broken limbs

Clark said those receiving the letters will have 30 days to return a form certifying their need for the parking privileges along with $1 for the new billfold ID card. Disabled veterans will be exempt from paying the card fee but will have to return the form, he said.

If holders of the handicapped license plates and placards fail to return the forms within 30 days, Clark said, the division will mail them another letter in early August, saying they must respond within 60 days or their handicapped privileges will be canceled.

Numbers on the identification cards will correspond to numbers on disabled people's license plates or placards to ensure that parking privileges are used only by the handicapped person to whom the plate or placard is issued, or by people transporting the holder of the placard, Clark said

After the ID cards are issued, police seeing an apparently able-bodied person park in a handicapped parking stall may ask the person to produce the ID card and driver's license to compare names. If the names don't match, an officer can issue the person a ticket for illegally parking in a handicapped stall, which in Topeka carries a fine of $10 to $100 and, in places without a local ordinance, a fine of up to $25.

In addition, the person can be cited for falsely using a handicapped-parking privilege and be subject to a

fine of up to $250, according to the new statute.

Burke said another important change, which current handicapped license plate and placard holders should keep in mind when asked to recertify their need for parking privileges, is a new definition of a "handicapped person" for purposes of obtaining a parking permit.

It provides a more specific mobility standard than current law, Burke said.

The law specifies that to be considered handicapped for the purpose of getting a state-issued handicapped license or placard, a person must have a debilitating physical condition that limits unassisted walking to less than 200 feet.

The definition also includes severely visually impaired people. Burke said this was necessary because of instances in which a blind passenger has been mugged or has fallen after being dropped off at curb side by a driver unable to find a close parking place.

The purpose of the definition, according to Burke, is to limit the

Although he has no more than his own personal experience in dealing with handicapped parking for several years, Burke estimates 30 percent to 40 percent of current holders of handicapped-parking permits do not meet the new requirements.

One of the reasons for such abuse, according to Burke, is the absence of any sanction in current law against physicians who knowingly certify a healthy person's request for a handicapped parking permit.

Very often, family members of an elderly person seek a permit simply because their otherwise healthy relative is getting old, Burke said.

"And age alone is not a handicap," he said. "But doctors have told me that they have had family members of patients threaten to change doctors unless they sign the application form for a handicapped-parking placard."

To correct that situation, the new law says a physician who willfully and falsely certifies that a person is qualified for handicapped-parking privileges would be guilty of a class C misdemeanor. A class C misdemeanor carries a fine of up to $500 or a jail term of up to 10 days.

The law provides identical penalties for the applicant who misrepresents himself for the purpose of obtaining a handicapped-parking permit.

Clark said the recertification forms being distributed to issue the ID cards do not require any medical review. However, a new provision requires all handicapped placard

ning July 1, 1989.

Clark said his agency has not yet decided whether the three-year recertification form will require a medical statement. Also, beginning July 1, 1989, the placards' color will be changed every three years as a means of better enforcing the recertification process.

The new law also requires the return of placards to the Department of Revenue upon the death of the handicapped person. Similarly, special license plates must be returned to the county treasurer for exchange. Temporary placards must be returned upon expiration.

Burke said he has been told of instances in which a handicapped person's survivors continue to use the deceased's parking placard to park in handicapped stalls.

Burke and Clark agree that these provisions and others Burke will seek during the next legislative session will go a long way in reducing abuse of handicapped-parking privileges.

And if abuse is reduced, Burke said both handicapped and non-handicapped motorists will benefit. Handicapped parkers will stand a better chance of finding an available parking space. And non-handicapped drivers will know that attractive space near the front door of a business is reserved for and will be used by someone who truly needs it.

SB

79

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 79

For an Act entitled: "An Act relating to runaway and missing minors."

This bill would:

1. clarify the responsibility of police agencies to respond to both telephonic and written requests to locate runaway or missing youth;

2. establish a statutory right of parents to refuse to provide care for a minor who wishes to return home if the minor has run away and been taken into protective custody;

3. require police to transport a minor in protective custody to a location designated by the legal guardian, if the guardian refuses to allow the minor to return home and the minor prefers that location to being taken to an office of the Department;

4. allow the detention of youth committed by the court to temporary custody of the Department, if the youth runs away from a court ordered placement and is endangering his or her own welfare;

5. require courts to set terms and conditions as well as the duration of placements for minors committed to temporary custody of the Department;

6. require courts to order minors assigned to temporary custody of the Department to remain in placements provided by the Department; and

7. require courts to inform minors of the consequences of violating terms and conditions of temporary custody orders.

SCOPE AND NATURE OF THE PROBLEM

There are no definitive data on the numbers of runaway youth in Alaska. The most thorough study to date focused only on the Anchorage area.[1] That study found that about 1200 runaways receive services annually in the Anchorage area and estimated that at least 3600 youths run away or are forced out of their homes in the Anchorage area each year. No similar study of the numbers of runaways statewide has been done. However, based on this study, population distribution, and the distribution of runaways served by the Division of Family and Youth Services in the state, it is reasonable to estimate that nearly 7000 runaway incidents occur in Alaska each year. However, most runaways return home voluntarily within a short period of time.

Studies both nationally and in Alaska indicate that youth run away from home in general because of: 1) family conflict; 2) physical or sexual abuse or neglect; 3) alcohol or drug abuse of a parent or the child; 4) school problems; and 5) family instability or dysfunction. The National Center for Missing and Exploited Children cites one study which found that 40% of runaways were physically abused in their homes and that 70% of female and 40% of male runaways were victims of sexual abuse.

1 Final Assessment Report, Runaway Support Network Project, Paul Wasserman, 1985.

The common perception that runaways are simply troublesome or disobedient youth who leave home for adventure or to avoid behavioral restrictions is not borne out. Most runaways come from troubled homes. Others run from families in which parents lack skills in communication, conflict resolution, discipline, and other important parenting skills. And, an estimated 20-30% of youth who are identified as runaways have actually been forced out of their homes.

CURRENT ALASKA LAW AND PRACTICE

Alaska's current law, enacted in 1977 and revised somewhat since, establishes a non-criminal, non-punitive approach to runaways and reflects national policy established with passage of the federal Juvenile Justice and Delinquency Prevention Act of 1974. This policy approach was adopted in response to court rulings that incarceration of runaways and other status offenders imposed criminal sanctions on youth who had committed no criminal act and research findings that criminal treatment and incarceration of status offenders was ineffective.

Under present law (AS 47.10.141) police are required to make "reasonable efforts" to locate runaway or missing minors and to take these minors into protective custody when located if a request is made by the minor's legal custodian. Many police agencies currently require that the request be made in writing. Upon taking a runaway into protective custody, police must honor the minor's preference to return home or be taken to an office, contract facility or location specified by the Department of Health and Social Services. If no such office or agency exists in a community, police must take a minor to another suitable location and notify the Department.

Responding adequately to requests to locate runaways is difficult for police agencies. Specific and reliable information to identify and locate these youth is often lacking and police administrators are reluctant to assign high priority to reports of runaways when most will return home unharmed within a few days.

The Department of Health and Social Services is mandated to assess the circumstances of runaways who request services or are referred by police and is authorized to provide service to protect these youths and reunite them with their families. The Department may assume emergency custody of runaways if necessary and provide care for up to 48 hours pending court proceedings to determine if the minor is a child in need of aid and whether further intervention is necessary.

DEPARTMENT POSITION

Police Response to Requests to Locate Youth

The Department supports the requirement that police respond to telephonic as well as written requests to locate runaway or missing youth. This provision clarifies existing law and eliminates the practice of some police agencies which require that written requests be made. This will make reporting of

runaways easier for parents and may also make such reports more timely and useful to police in attempting to locate these youth.

Parental Refusal to Accept Return of Child

The Department strongly opposes the granting of a statutory right to parents to abandon, at least temporarily, their parental responsibilities as a means of reinforcing parental authority and control. Granting such a right would serve as a disincentive for parental involvement in resolution of the problems precipitating runaway incidents. It would tend to further alienate youth from their families and would impede efforts to reunite and preserve families. A provision such as proposed would also increase costs of serving these youth. Parental refusal to provide care for the child would force assumption of custody by the Department and would require placement of the child in a foster home or shelter. The Department would also be required to initiate formal court proceedings when custody is assumed in these cases. Such proceedings are expensive and time consuming and represent a level of intrusion into family life which may not otherwise be necessary or desirable and may not contribute to resolution of the problems causing a youth to run away.

The provision of a parental right to refuse to accept willing return of runaways may also eliminate reimbursement under Title IV-E of the Federal Social Security Act for the costs of out of home placements of those minors who would otherwise be eligible. However, this right would not relieve parents of their obligation under AS 47.10.120 to pay for all or a part of the costs of placing their children in out of home care.

Detention of Runaways

The provisions relating to incarceration of runaway youth present a number of problems:

1. Under section 2 of the bill, the court, in order to issue an order for temporary detention, must find that "the minor is a runaway in violation of a valid court order issued under 47.10.142(f) and is posing a clear and present danger to the minor's own welfare." (Emphasis added). We question the propriety of each of the underlined terms.

   First, "runaway" is not defined in the bill. If a "runaway" is simply a minor who defies a court order issued under AS 47.10.142(f), we see no need to call the minor a "runaway."

   Second, though the bill refers to "valid court order" it gives no insight into when a court order is valid or invalid.

   Finally, the term "clear and present danger to the minor's own welfare" seems out of place. "Clear and present danger" is a term used in the law to justify restrictions on free speech. More appropriate language, in this context, might be "imminent and substantial risk of harm to the

Parent's Rights

minor's own welfare", as this language comports with language used elsewhere in the children's code. See 47.10.010(a)(2)(C).

2. We are opposed to pursuing civil contempt of minors who leave assigned placement because we do not believe civil contempt would be effective.

   The sanction for civil contempt is incarceration until the contemnor purges himself or herself of the contempt by complying with the court order he or she violated. How will a minor who violates a court order requiring that he or she remain in an assigned placement demonstrate that he or she will remain in that placement? We understand that there has been a suggestion that the minor do so by signing a statement in which the minor agrees to remain in the assigned placement. We do not believe a minor who violates a court order requiring him or her to remain in an assigned placement would feel obliged to comply with an agreement requiring the same.

3. Section 2 of the bill also provides that "temporary detention" does not apply to a minor taken into protective custody in a community that does not have a juvenile detention facility. We believe this would be found to be unconstitutional in violation of a minor's right to equal protection. We see no compelling state interest which justifies the state's differential treatment of minors who live in one of the four communities in which a juvenile detention facility is located (Juneau, Anchorage, Fairbanks or Nome) from minors who live in all other Alaskan communities.

4. Under section 3 of the bill, in every order in which the court commits a minor to the department's temporary custody, the court is required to state the consequences of violating the order, including the "possibility of detention under AS 47.10.141(c)." We are unaware of consequences beside the possibility of detention and, therefore, believe the language is unnecessary.

5. Finally, sections 2 and 3 of the bill only address minors committed to the temporary custody of the Department. The bill does not address minors who have been committed to the custody of the Department for an extended period. See AS 47.10.080(c)(1). The Department opposes detention of child need of aid. However, if the legislature elects to enact this bill, we believe it should do so in a manner which treats all minors committed to the Department, whether they are in temporary custody or custody for an extented period, in the same manner. To do otherwise may be unconstitutional.

Disregarding these problems, however, the Department opposes the provision establishing a mechanism to detain runaways as an expensive and ineffective means of addressing the problems of these youth. Incarceration of runaways was abandoned nationally and in Alaska as an ineffective deterrent, an unproductive intervention, and as inimical to the welfare of children. Incarceration was shown not to prevent youth from running away and it does

Gov Comm

POSITION PAPER/Department of Health & Social Services

not resolve the problems causing them to run away. It was, however, shown to increase delinquency among runaways.

Though this proposal limits detention to those youth who have been assigned to temporary custody of the Department and subsequently run away from a court ordered placement, the Department opposes it. It would establish a cyclic intervention in which a child who runs away from a temporary placement could be detained for civil contempt until promising to comply with conditions of placement. However, upon release of the child to a subsequent court ordered placement there would be no increase in the ability to prevent the child from running away. The usefulness of detention in these cases is predicated upon its deterrent effect which is of doubtful validity.

Court Established Conditions of Placement

Under section 3 of the bill, the court, upon committing a minor to the Department of Health and Social Services for temporary placement, "shall specify the terms, conditions, and duration of placement." We are opposed to requiring the court to specify the terms and conditions of placement. We believe it is in the best interest of the minor and the public to allow the Department to retain its present ability to meet a minor's changing needs without having to go to court on each occasion. It is quite common for the Department to have one foster home and t eatment plan in mind at a temporary custody hearing and to be required to alter the placement and plan as a result of the minor's behavior. In order to accommodate the minor's needs quickly, the Department needs to be able to change a foster home (with notice to the parents, of course,) or alter a treatment plan without having to go to court.

The Department believes existing legal mandates are preferable to those proposed in CS SB 79 to address the problems of runaway minors; however, existing resources are insufficient regardless of the statutory construct. The Department would prefer to devote any additional resources to providing effective non-detention placements and services rather utilizing those resources to increase the capacity of existing detention facilities as would be required by this proposal.

Get to Root of Problem — Parental rights + responsibilities

least restrictive setting

Minor also has responsibilities

Youth Anarchy

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

DATE: April 10, 1987

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

DATE: April 10, 1987

New Daytime/Fed Statutes

Municipality of Anchorage

P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
(907) 264-4111

TONY KNOWLES, MAYOR

DEPARTMENT OF HEALTH & HUMAN SERVICES

April 15, 1987

Senator Paul Fischer
Senate HESS Committee Members
P.O. Box V
Juneau, Alaska 99811

RE: SB 79

Dear Senator Fischer:

Please consider this to be written testimony related to a hearing to be held this afternoon on SB 79.

The amendments to this bill appear to have resolved many of the concerns I held and heard expressed about the original version of this bill. In fact, these changes appear to substantially follow suggestions made by the Recommendations Implementation Team appointed by Mayor Knowles to assess and implement the recommendations of the Runaway and Homeless Youth Task Force.

Nonetheless, I would suggest that no action be taken at this time.

I make this suggestion for two reasons:

1) The complexity of the issues related to runaway and homeless youth, and the serious magnitude of the problems faced by these youth and their families warrants a comprehensive approach, rather than continuing to react on a piece-meal basis to specific problem areas.

2) Given this complexity and this bill's potential impact on numerous state departments and budgets, adequate time for review and comment should be given to these departments.

Ever since I became involved in the activities of the Runaway and Homeless Youth Task Force and the Recommendations Implementation Team, I have heard those who have been involved in this area for a longer period of time than I say that this process repeats previous attempts to address and resolve problems related to the issue of runaway and homeless youth in Alaska. They go on to say that one of the problems with earlier attempts has been that the laws would change without an equally well considered and supported change to the services system.

The new version of SB 79 is improved at least partially because it affects a much smaller population. If the goal of this legislation is to largely reduce the number of youth 'living on the streets' of Anchorage and Alaska, then additional mechanisms need to be added. It is my understanding that this is the goal based on conversations I have had with some of the parents who assisted in drafting the original version of SB 79.

For these reasons, I would suggest that the time be taken to develop a comprehensive approach to the entire issue of runaway and homeless youth in Alaska. I will be working with the Implementation Team to acheive just this result, and would encourage you to take the time to allow this Team, the Governor's Interim Commission on Children and Youth, and the Children's Law Task Force (if created) to review the entire situation and the way that this bill would affect it before taking action on this bill.

Additionally, I understand that at least two state departments have issued position papers opposing this bill. It seems likely that more time may be needed by these departments and others to understand this bill's implications and to develop appropriate budget estimates.

Sincerely,

Gail Stolz

Gail Stolz, Staff
Implementation Team

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

7/2K1/0229-87/3

DEPARTMENT	DIVISION	BILL NUMBER	SPONSOR
Administration	Public Advocacy Public Defender	SB 79	Rodey, Faiks, et al.

DEPARTMENT POSITION

Do not support in its present form

PREPARED BY	DATE	COMMISSIONER'S SIGNATURE	DATE
Brant McGee, Public Advocate	2/22/87	Harry Pasko	2/24/87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL
Department of Health and Social Services Department of Law Public Defender Agency	Child related organizations including Anchorage Runaway and Homeless Youth Task Force
ORGANIZATIONAL SUPPORT FOR BILL	**ORGANIZATIONAL OPPOSITION TO BILL**
Unknown	Unknown

FISCAL IMPACT: ☐ NONE ☒ FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of this bill is to authorize detention of runaway minors and mandate 30 days detention for second time runaway minors.

ANALYSIS OF BILL/PROGRAM EFFECTS

Detained children would almost certainly be appointed a guardian ad litem from the Office of Public Advocacy. Legal representation may need to be provided by either the Office of Public Advocacy or the Public Defender Agency. Given that some 1,200 runaway Anchorage youths have contacts with agencies annually, without the attached fiscal note the increases could seriously overload the staff of both agencies.

AMENDMENTS PROPOSED

An amendment to mandate a hearing within 48 hours of detention could allow the Court to make a determination if detention was appropriate where the minor was a chronic runaway and posed a danger to himself or the community.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

POSITION PAPER
SB 79

"An Act Relating to Runaway Minors"

The bill mandates that law enforcement authorities make reasonable efforts to locate and detain runaway minors. Upon detention, a runaway minor would be returned to the legal custodian or taken into protective custody.

Passage of §2 which provides for mandatory 30-day detention of second-time runaways, will have a serious impact upon already overcrowded State facilities. The Runaway and Homeless Youths Task Force reports that 3,600 to 6,000 Anchorage youths could become runaways each year. Currently, 1,200 youths come into contact with the agencies providing services to runaway and homeless youth annually in Anchorage. The detention of even a fraction of these youths would quickly overwhelm the capacity of McLaughlin Youth Facility. Without approval of the fiscal note, the increase in guardian ad litem appointments and defense appointments by the Public Defender or Office of Public Advocacy would seriously overload the staffs of both agencies.

The department opposes passage of SB 79 in its present form because of the mandatory detention provision. Inclusion of this provision will not provide a long-term solution to the runaway problem because it ignores the necessity of treatment. However, detention may be appropriate after a hearing held within 48 hours to determine if the minor is a chronic runaway who places himself or herself or the community at risk.

Brant McGee, Public Advocate
Office of Public Advocacy

2/27/87
Date

Dana Fabe, Public Defender
Public Defender Agency

Date

Commissioner Garrey Peska
Department of Administration

3/2/87
Date

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST:

Bill Version : CS SB No. 79
Publish Date :

Revision Date:
Title : An Act relating to runaway and missing minors.
Sponsor : Rodey, et al.
Requestor :

Agency Affected : Health and Social Services
BRU : Youth Services
Components :

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	-0-	230.6	230.6	230.6	230.6	230.6
TRAVEL		0.5	0.5	0.5	0.6	0.6
CONTRACTUAL		18.0	19.1	20.2	21.4	22.7
SUPPLIES		12.9	13.7	14.5	15.4	16.3
EQUIPMENT		7.8	8.3	8.8	9.3	9.9
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	269.8	272.2	274.6	277.3	280.1
CAPITAL	-0-	760.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND		1029.8	272.2	274.6	277.3	280.1
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	1029.8	272.2	274.6	277.3	280.1

POSITIONS:

FULL-TIME	-0-	5.0	5.0	5.0	5.0	5.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by : Yvonne M. Chase, Director
Division : Division of Family and Youth Services
Phone : 465-3170
Date : 4/15/87

Approved by Commissioner : Myra M. Munson, Commissioner
Agency : Department of Health and Social Services
Date : 4/15/87

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 79

In an average year, approximately 500 runaways in Anchorage, and an additional 500 runaways statewide are handled by the Division of Family and Youth Services. In addition, statewide averages indicate that approximately 900 runaways are taken into emergency custody annually. Approximately 2/3 of emergency runaways are female and 1/3 are male.

Preliminary analysis also indicates that approximately 180 (or 20%) of the runaway population placed in temporary custody by the Division of Family and Youth Services subsequently run from their temporary placement location. Of this 180, 90 generally occur in Anchorage (60 female, 30 male), and the other 90 occur statewide (again, 60 female and 30 male). Assuming all 180 runaways are eventually taken into emergency custody by police and detained for an average of 10 days, the following scenario can be constructed:

1. McLaughlin Youth Center (MYC) - 600 detention days for girls; 300 detention days for boys.

2. Fairbanks Youth Facility (FYF) - 100 detention days (includes both girls and boys).

3. Juneau Youth Facility - 45 detention days (includes both girls and boys).

ANALYSIS

Given these estimates, additional detention beds would be required as follows:

McLaughlin -

female: 60 x 10 days = 600 person days - 365 = 1.6 average daily population
male: 30 x 10 days = 300 person days - 365 = .82 average daily population

Fairbanks Youth Facility -

11 runaways total x 10 days = 110 person days - 365 = .30 average daily population

Other (Juneau Youth Facility, Nome, Bethel) -

one bed each to accommodate anticipated increase in average daily population.

CAPITAL COSTS - Given the above, a total increase of 7 new detention beds will be required. Average cost of construction per bed is $100,000 in Anchorage, Fairbanks and Juneau, and $130,000 per bed in Nome and Bethel. Total CIP cost - $760,000.

OPERATING COSTS - The Division of Family and Youth Services would realize an increased demand on PFT staff to accommodate the increase in client population. Minimal impact would be an increase in one shift and would translate into four additional Youth Counselor I positions, and one additional Youth Counselor III position. Total position costs is reflected in the personal services line item ($230.6).

Related travel, contractual, and commodities are prorated on a percentage basis of total increase in staff.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version : SB 79
Publish Date : —

REQUEST:

Revision Date:
Title : "An Act relating to runaway minors..."
Sponsor : Rodey, Faks, et. al.
Requestor : Senate Judiciary

Agency Affected : Administration
BRU : Office of Public Advocacy
Components :

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	194.6	202.4	210.5	218.9	337.7
TRAVEL		15.0	15.6	16.2	16.8	17.5
CONTRACTUAL		148.9	154.9	161.1	167.5	174.2
SUPPLIES		4.0	4.2	4.4	4.6	4.8
EQUIPMENT		15.0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		377.5	377.1	392.2	407.8	424.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		377.5	377.1	392.2	407.8	424.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		4.0	4.0	4.0	4.0	4.0
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 : 2/22/87

Approved by Commissioner : Garrey Peska
Agency : Department of Administration
Date : 2/27/87

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 79

PERSONAL SERVICES

Anchorage

2	Associate Attorney II Positions Salary & Benefits 42,446 x 2 = 104,892	104.9
1	Legal Secretary - Civil Section Salary & Benefits = 30,184	30.2

Fairbanks

1	Associate Attorney II Salary & Benefits = 59,456	59.5

Subtotal Personal Services 194.6

TRAVEL

Additional travel funds to accommodate caseload increase.	15.0

15.0

CONTRACTUAL

Approximately 200 cases in Rural Areas @ 687.56 = 137,512	137.5
Additional Office Space in Anchorage for 2 Associate Attorney II positions. 380 sq.ft. x 2.50 = 950.00 950.00 x 12 months = 11,400	11.4

Subtotal Contractual 148.9

SUPPLIES

Misc. stationary, library and office supplies for 4 new positions. 1,000 x 4 = 4,000	4.0

4.0

EQUIPMENT

Office furniture and equipment for 3 professional positions. 3,000 x 3 = 9,000	9.0
Office furniture and equipment for Legal Secretary position = 6,000	6.0

Subtotal Equipment 15.0

 TOTAL 377.5

Position Title	No. of Positions	Range/Step	Barg. Unit
Associate Attorney II	2	19/A	X

Time Status	Staff Months	Location	Election District
PFT	24.0	EBA-Anchorage	8

Type of Expenditure		Amount
1	2	3
Salary 40,236 X 2	80,472	
Benefits 12,210 X 2	24,420	
Premium Pay		
Other		
Total Personal Services		104,892
Travel		
Contractual		
Commodities		
Equipment		
Other		
Total Cost		104,892

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	104,892
General Fund	1004	
I-A Receipts	1006	
CIP Receipts	1061	
Other		

Justification

The Anchorage OPA office presently has 2 associate attorney positions which handle GAL appointments and 2 attorney positions who handle a combined caseload of GAL appointments and other civil litigation matters. Because of the anticipated increase in GAL appointments to runaways under this legislation, OPA estimates that at least 2 additional associate attorneys would be needed to handle the increased workload.

Request For New Position

Agency Administration

BRU Office of Public Advocacy

Component

Revised Date

FY 88

Position Title	No. of Positions	Range/Step	Barg. Unit
Legal Secretary I	1	10/A	G

Time Status	Staff Months	Location	Election District
PFT	12.0	EBA-Anchorage	8

Type of Expenditure		Amount
1	2	3
Salary	22,020	
Benefits	8,164	
Premium Pay		
Other		
Total Personal Services		30,184
Travel		
Contractual		
Commodities		
Equipment		
Other		
Total Cost		30,184

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	30,184
I-A Receipts	1006	
CIP Receipts	1061	
Other		

Justification

The Anchorage civil section presently has one legal secretary who provides clerical support to 4 professional positions, 2 Vista volunteers, and the VGAL program. This one clerical position will not be able to absorb the workload increase which will be created by 2 additional associate attorney positions handling a full GAL caseload. Therefore, an additional Legal Secretary I position will be required to handle clerical support for the 2 associate attorney positions.

Request For New Position

Agency: Administration

BRU: Office of Public Advocacy

Component:

Revised Date

FY 88

Position Title	No. of Positions	Range/Step	Barg. Unit
Associate Attorney II	1	19/A	X
Time Status	**Staff Months**	**Location**	**Election District**
PFT	12	JBA-Fairbanks	16

Type of Expenditure		Amount
1	2	3
Salary	45,972	
Benefits	13,484	
Premium Pay		
Other		
Total Personal Services		59,456
Travel		
Contractual		
Commodities		
Equipment		
Other		
Total Cost		59,456

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	59,456
I-A Receipts	1006	
CIP Receipts	1061	
Other		

Justification

The Fairbanks OPA office has only one associate attorney position which is devoted to GAL appointments. The one position would not be able to absorb the additional GAL appointments to runaway cases, nor can the other 3 attorney positions absorb the anitici-pated increase caused by this bill. OPA estimates that at least one additional associate attorney position for the Fairbanks office would be needed to handle the increased workload in GAL appointments.

Request For New Position

Agency: Administration

BRU: Office of Public Advocacy

Component:

Revised Date

FY 88

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST:

Bill Version : CSSB 79
Publish Date :

Revision Date:
Title : "An Act relating to runaway and missing minors."
Sponsor : Sen. Rodey, Faikes et al.
Requestor : H&SS Committee

Agency Affected : Department of Law
BRU : Legal Services

Components : Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		*	*	*	*	*
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		*	*	*	*	*
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		*	*	*	*	*
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by : Thomas A. Judson, Deputy Director
Phone : 465-3672
Division : Administrative Services
Date : April 8, 1987

Approved by Commissioner : Grace Berg Schaible, Atty. Gen. /For/
Date : April 8, 1987
Agency : Department of Law

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 79

An attorney will need to consult with, and represent in court, the Department of Health and Social Services in its efforts to obtain detention and civil contempt orders. The bill is also likely to result in the need for additional consultation and representation as the department will be required to assume custody of minors whose parents, based on the statutory right conferred upon them in section 1 of the bill, do not consent to the return of a minor to the home.

It is not possible to predict the level of additional activity that this will generate, but there will be some. The Department of Law is facing severe budget reductions in the coming fiscal year. To the extent that this bill results in a substantial body of new legal work, it will be necessary to seek a supplemental appropriation beginning in FY 88.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CS SB 79
REQUEST: Publish Date:

Revision Date: Agency Affected: Alaska Court System
Title: An act relating to runaway and missing minors BRU: Trial Courts
Sponsor: Rodey, Faiks, Fischer, ... Components:
Requestor:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
REVENUE	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Karla Forsythe, General Counsel Phone: 264-8228
Division: Alaska Court System Date: 4-9-87

Approved by: Arthur H. Snowden, II, Administrative Director Date: 4-9-87
Agency: Alaska Court System

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST:

Bill Version : SB79
Publish Date :

Revision Date:
Title : "An Act relating to runaway minors..."
Sponsor : Sen. Rodey, Sen. Faiks
Requestor : Judiciary

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

Components : Third Judicial District
Fourth Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		238.5	248.0	257.9	268.2	278.9
TRAVEL		-0-				
CONTRACTUAL		15.0	15.6	16.2	16.9	17.6
SUPPLIES		4.5	4.7	4.9	5.1	5.3
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	264.0	268.3	279.0	290.2	301.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	264.0	268.3	279.0	290.2	301.8
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	264.0	268.3	279.0	290.2	301.8

POSITIONS:

FULL-TIME	-0-	4.0	4.0	4.0	4.0	4.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached analysis

Prepared by : Dana Fabe, Public Defender
Division : Public Defender Agency
Phone : 279-7541
Date :

Approved by Commissioner :
Agency : Department of Administration
Date : 2/27/87

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB79

This bill would authorize detention of runaway minors and mandate 30 days detention for repeat offenders. Juveniles detained under this act would be entitled to legal representation by either private counsel, the Public Defender Agency or the Office of Public Advocacy. As many as several thousand new cases each year can be expected so the Public Defender Agency is requesting two Attorney III's and a Legal Secretary I for Anchorage and and Attorney III for Fairbanks for a total of 264.0.

BUDGET ANALYSIS

100	Anchorage -	Attorney III	66.1	
		Attorney III	66.1	
		Leg. Secty. I	31.5	
	Fairbanks -	Attorney III	74.8	238.5
200	Travel			-0-
300	Contractual: Space, phone, etc.			15.0
400	Supplies: Law Library, office, etc.			4.5
500	Equipment: One time			6.0
			Total	264.0

Position Title	No. of Positions	Range/Step	Barg. Unit	Gov.	Approv.	Disapp.
Attorney III	1	22A	PX			

Time Status	Staff Months	RP Number	Location	Election District	Leg.
PFT	12.0		Anchorage	92	

Type of Expenditure		Amount
1	2	3
Salary	49,140	
Benefits	16,980	
Premium Pay		
Other		
Total Personal Services		66,120
Travel		-0-
Contractual		5,000
Commodities		1,000
Equipment		1,500
Other		
Total Cost		73,620

Receipt Code	Funding Source		
	Federal Receipts	1002	
	G. F. Match	1003	
	General Funds	1004	73,620
	I-A Receipts	1005	
	Program Receipts	1028	
	CIP Receipts	1061	
	Other		

For B&M Use Only
Key Number __ __ - __ __ - __ __ - __ __ - __ __

Justification

SB79 would authorize detention of runaway minors and mandate 30 days detention for repeat offenders. Juveniles detained under this act would be entitled to representation so the Public Defender Agency is requesting two Attorney III's and a Legal Secretary I for Anchorage and an Attorney III for Fairbanks.

Request For New Position

Agency: Dept. of Administration
BRU: Public Defender Agency
Component: Third Judicial District

FY 87

Position Title	No. of Positions	Range/Step	Barg. Unit	Gov.	Approv.	Disapp.
Attorney III	1	22A	PX			

Time Status	Staff Months	RP Number	Location	Election District	Leg.		
PFT	12.0		Anchorage	92			

Type of Expenditure		Amount
1	2	3
Salary	49,140	
Benefits	16,980	
Premium Pay		
Other		
Total Personal Services		66,120
Travel		-0-
Contractual		5,000
Commodities		1,000
Equipment		1,500
Other		
Total Cost		73,620

Receipt Code	Funding Source		
	Federal Receipts	1002	
	G. F. Match	1003	
	General Funds	1004	73,620
	I-A Receipts	1005	
	Program Receipts	1028	
	CIP Receipts	1061	
	Other		

For B&M Use Only
Key Number __ __ - __ __ - __ __ - __ __ - __ __

Justification

SB79 would authorize detention of runaway minors and mandate 30 days detention for repeat offenders. Juveniles detained under this act would be entitled to representation so the Public Defender Agency is requesting two Attorney III's and a Legal Secretary I for Anchorage and an Attorney III for Fairbanks.

Request For New Position

Agency: Dept. of Administration
BRU: Public Defender Agency
Component: Third Judicial District

FY 87

Position Title	No. of Positions	Range/Step	Barg. Unit	Gov.	Approv.	Disappr.
Legal Secretary I	1	10A	GG			

Time Status	Staff Months	RP Number	Location	Election District	Leg.
PFT	12.0		Anchorage	92	

Type of Expenditure		Amount
1	2	3
Salary	22,020	
Benefits	9,431	
Premium Pay		
Other		
Total Personal Services		31,451
Travel		-0-
Contractual		-0-
Commodities		1,000
Equipment		1,500
Other		
Total Cost		33,951

Receipt Code	Funding Source		
	Federal Receipts	1002	
	G. F. Match	1003	
	General Funds	1004	33,951
	I-A Receipts	1005	
	Program Receipts	1028	
	CIP Receipts	1061	
	Other		

For B&M Use Only
Key Number ___ ___ - ___ ___ - ___ ___ - ___ ___ - ___ ___

Justification

SB79 would authorize detention of runaway minors and mandate 30 days detention for repeat offenders. Juveniles detained under this act would be entitled to representation so the Public Defender Agency is requesting two Attorney III's and a Legal Secretary I for Anchorage and an Attorney III for Fairbanks.

Request For New Position

Agency: Dept. of Administration
BRU: Public Defender Agency
Component: Third Judicial District

Revised Date

FY 87

Position Title	No. of Positions	Rang./Step	Barg. Unit	Gov.	Approv.	Disappr.
Attorney III	1	22A	PX			

Time Status	Staff Months	RP Number	Location	Election District	Leg.
PFT	12.0		Fairbanks	94	

Type of Expenditure		Amount
1	2	3
Salary	56,244	
Benefits	18,551	
Premium Pay		
Other		
Total Personal Services		74,795
Travel		-0-
Contractual		5,000
Commodities		1,500
Equipment		1,500
Other		
Total Cost		82,795

Receipt Code	Funding Source		
	Federal Receipts	1002	
	G. F. Match	1003	
	General Funds	1004	82,795
	I-A Receipts	1005	
	Program Receipts	1028	
	CIP Receipts	1061	
	Other		

For B&M Use Only
Key Number ___ ___ - ___ ___ - ___ ___ - ___ ___ - ___ ___

Justification

SB79 would authorize detention of runaway minors and mandate 30 days detention for repeat offenders. Juveniles detained under this act would be entitled to representation so the Public Defender Agency is requesting two Attorney III's and a Legal Secretary I for Anchorage and an Attorney III for Fairbanks.

Request For New Position

Agency: Dept. of Administration
BRU: Public Defender Agency
Component: Fourth Judicial District

Revised Date

FY 87

LEGISLATIVE REQUEST/CONTACT FORM
Division of Family and Youth Services

Date 2/20/86 Time 11:10 (a.m.)/p.m. Signed Jim Shanks (Person taking call)

Sen./Rep./Aide who called MARGARET Levitt Aide to SEN. DAVI Fischer

Telephone number/s 465-3762

Exactly what requested:

☐ VERBAL INFORMATION ONLY, (No follow-up needed)

RE: HB/SB _____

OR RE: PROGRAM AREA (if not related to specific Bill) _____

☒ WRITTEN INFORMATION NECESSARY

RE: HB/SB _____

OR RE: PROGRAM AREA _____

Follow-up needed by ASAP /86 Time _____ a.m./p.m.

Staff to Research Request _____

Specific Information Requested and/or Given CURRENTLY WORKING ON PROPOSED LEGISLATION RE: RUNAWAYS. ASKED FOR COPIES OF the ATTACHED. ADVISED HER I would START it THRU CHANNELS Right AWAY.

Program Statistics Provided: FOR _____ FROM _____ TO _____

Cost Estimates Provided: FOR _____ FROM _____ TO _____

Comments: _____

MEMORANDUM State of Alaska

TO: RSSM's & RA's

DATE: May 12, 1986

FILE NO: 703

TELEPHONE NO: 465-3170

FROM: Michael L. Price
Director
Division of Family and Youth Services

SUBJECT: Runaways,
AS 47.10.141.(b)

Attached is an Attorney General Opinion relating to the responsibilities and permissible actions of police agencies in carrying out the mandate of AS 47.10.141.(b). This opinion should help eliminate some of the disparity among police agencies in their interpretation of the mandate under this statute.

It is my understanding that some police agencies have refused to take runaways into custody unless a court order was issued mandating that they do so. This refusal to act was based on the belief that "protective custody" as used in AS 47.10.141 was purely voluntary. According to this interpretation, since police could not "arrest" a runaway, they had no basis for physically restraining them in any manner and could only "request" that the youth accompany them to a DHSS office or to the youth's home. This opinion clarifies police authority and responsibility to enforce protective custody of runaways.

Our responsibilities in working with runaway youth remain unchanged. Our efforts will be directed to investigating the circumstances of each child and providing services necessary to protect the child from abuse, neglect or exploitation. Whenever possible, our goal will be to return the child to his or her own home. This opinion should be helpful in eliminating extra work for some of our staff in helping parents obtain court orders to ensure police action to locate runaway youth.

MLP/RW/sa

Attachments

cc: Dave Arnold
YS Administrator

Martha Holmberg
SS Program Officer

Frank Barthel
SS Program Coordinator

all S.W. staff in SERO

MEMORANDUM State of Alaska

TO: Mike Price, Director
Division of Family and Youth Services
Department of Health and
Social Services

DATE: April 28, 1986

FILE NO:

TELEPHONE NO: 465-4322

FROM: Frank N. Gorham
Special Assistant
to the Commissioner
Department of Public Safety

SUBJECT: Attorney General
Opinion 66-3-86-0198

Enclosed is a copy of an Attorney General's opinion related to protective custody of minors as it relates to AS 47.10.141(b), a statute enacted in 1985 regarding runaway or missing minors.

This opinion was requested, in part, as a result of Ombudsman complaint No. J85-0675 involving your department.

It is hoped the opinion will resolve the various questions of the agencies involved in the enforcement of AS 47.10.141(b).

Enclosure: a/s

cc: David W. Haas
Ombudsman Assistant
Ombudsman's Office
Juneau, Alaska

MEMORANDUM State of Alaska

TO: Honorable Robert Sundberg
Commissioner
Department of Public Safety

DATE: April 22, 1986

FILE NO: 66-3-86-0198

TELEPHONE NO: 465-3603

FROM: Harold M. Brown
Attorney General

SUBJECT: Protective custody of minors

By: Iris Sokolow Barnett
Assistant Attorney General
Human Services-Juneau

I. QUESTIONS

You have asked the following questions concerning AS 47.10.141(b), the statute enacted during the 1985 legislative session to assist in dealing with runaway and missing minors:

1. Does AS 47.10.141(b) prohibit the state from placing a runaway minor in "a juvenile detention home or some other detention area operated by the Department of Health and Social Services that is not part of an adult jail"?

2. Can a peace office use force or restraints to require a minor to submit to protective custody?

3. What can a peace officer do when a minor makes clear his or her intention immediately to flee any assigned placement?

Based on the language and legislative history of AS 47.10.141(b), we believe the statute prohibits the state from placing a minor, who is in protective custody, in a locked facility, but permits the use of reasonable force and restraints for the limited purpose of transporting a runaway or missing minor to a Department of Health and Social Services (DHSS) facility or a suitable location in a community that has no DHSS facility. We do not believe the statute authorizes a peace officer to take action to ensure that a minor remain where he or she is placed.

II. DISCUSSION

Alaska Statute 47.10.141(b) provides as follows:

> (b) A peace officer shall take into protective custody a minor [who is evading the minor's legal custodian] . . . if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to

> either (1) return the minor to the legal custodian or (2) take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department. If an office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility . . . .

A. The state cannot place a runaway minor in a jail or other detention facility.

The primary rule of statutory construction is to ascertain and give effect to the plain meaning of the language used. Shields v. U.S., 698 F.2d 987, cert. denied, 104 S.Ct. 73 (9th Cir. 1983). If the meaning of a statute is plain, it should be enforced as it reads. Horowitz v. Alaska Bar Association, 609 P.2d 39 (Alaska 1980).

The statute at issue here specifically prohibits the state from placing runaway or missing minors who are located by peace officers, but not subject to arrest or detention, in a "jail or other detention facility." A juvenile detention home or other detention facility, whether it be a part of or separate from an adult jail, is a "jail or other detention facility." Therefore, a peace officer who locates a runaway or missing minor cannot place the minor in such a facility.

The clear language of the statute is supported by its legislative history. In 1984, Governor Sheffield vetoed a similar bill because the bill mandated incarceration of runaway and missing minors. The prohibition against detention of such minors was crucial to the enactment of the 1985 statute.

Peace officers cannot place runaway and missing minors in detention facilities created for either juveniles or adults.

B. Peace officers may use reasonable force or restraints when absolutely necessary.

A peace officer may use reasonable force or restraints for the sole purpose of taking physical control of a runaway or missing minor and transporting the minor to a DHSS office or non-detention facility, or a similarly suitable location where there

is no DHSS facility. */ The statute requires a peace officer who locates a runaway or missing minor to transport the minor to a safe place. If the peace officer did not have the authority to use reasonable force or restraints when a minor resisted the peace officer's efforts, the peace officer could not consistently fulfill this statutory duty.

Force or restraints should only be used when absolutely necessary to fulfill the legislative mandate. Peace officers should make their best efforts to convince runaway and missing minors to cooperate such that force and restraints are avoided.

C. A peace officer is only authorized to transport a missing minor to a safe place.

The legislature specifically directed peace officers to locate runaway and missing minors and transport them to their legal guardians, to a DHSS office or non-detention facility, or to a suitable location in a community where the DHSS has no designated facility. The legislature did not authorize peace officers to do more than that.

As discussed above, the legislature specifically precluded peace officers from placing runaway and missing minors in a detention facility. The legislature did so notwithstanding its belief that many of the minors who are located will run again. In a hearing at which the bill that became AS 47.10.141 was discussed, Representative Robin Taylor noted that under the bill neither peace officers nor the DHSS could "put the child in jail or a lock-up situation" and that a minor could "keep running." Protective Custody of Runaway and Missing Minors: Hearing on CSHB 19(Jud) Before the House Judiciary Committee, 13th Alaska Legis., 1st Sess. (Mar. 19, 1985)(statement of Rep. Robin Taylor). Representative Max Gruenberg further acknowledged that the bill did not deal with the problem of minors who run from foster homes. Id.

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*/ The statute also authorizes the peace officer to transport the minor to the minor's legal guardian, if the minor prefers. When a minor resists both proferred placements, the legislature recognized that it would be futile to return the minor to his or her legal guardian. Protective Custody of Runaway and Missing Minors: Hearing on CSHB 19(Jud) Before the House Judiciary Committee, 13th Alaska Legis., 1st Sess. (Mar. 19, 1985).

Given the statutory language and legislative history, we conclude that peace officers can only locate runaway and missing minors, and transport them to their legal guardians, a DHSS office or non-detention facility, or a suitable location in a community in which there is no such DHSS office or facility. There is, of course, nothing prohibiting peace officers from making their best efforts to convince minors to remain where they are placed and to accept the state's assistance.

III. CONCLUSION

For the reasons explained above, we conclude that runaway and missing minors located by peace officers cannot be placed in a detention facility of any kind; that peace officers may, when non-physical persuasion fails, use reasonable force or restraints to assume physical control of runaway and missing minors they locate for the purpose of transporting them to a DHSS office or non-detention facility or other suitable location in a community that has no DHSS facility; and that a peace officer cannot do more than transport a located minor to a designated place and encourage the minor to remain in that place.

ISB:jal:ebc

to obtain that information. If they are intended to reveal whether a minor has consumed alcohol or a controlled substance such that they may be charged with a crime, there must be probable cause to believe a crime has committed before the state can require a search and seizure which may well incriminate the minor.

III. PARENTAL RESPONSIBILITY.

Fourth, we are concerned that the amendments to AS 47.10.141(b) in SB 79, § 1, are inconsistent with the long established principles that a parent is responsible for his or her child, and that a child be removed "from the custody of the parents only as a last resort when the child's welfare ... cannot be safeguarded without removal." AS 25.20.030; AS 47.05.060.

The amendment provides that upon taking into protective custody a minor about whom a request to locate has been made, a police officer "shall honor the minor's preference to (1) return the minor to the legal custodian if the legal custodian consents to the return[.]" By granting a parent a statutory right to refuse to take his or her child into the home, the bill authorizes a parent to abrogate his or her parental responsibilities to the state, whether or not the parent can reasonably be expected to provide an appropriate home for the child. We are concerned that the bill invites a parent to abandon a child with whom the parent is having difficulty.

It is true that under current law, a child with no parent "caring or willing to provide care" may, by court order, be committed to the custody of the Department of Health and Social Services as a "child-in-need-of-aid." AS 47.10.010(a)(2)(A); AS 47.10.080(c). Thus, under existing law, the state may well have custody of a minor whose parent refuses to take him or her into the home. Though the result may be the same, we believe there is a difference between giving a parent a statutory right to reject his or her child at the doorstep, and giving the state a statutory right to obtain custody, and place in foster care, an abandoned child. 9/

9/ Given the state's budgetary crisis, you should be aware that because SB 79 gives a parent an absolute right to refuse to care for a child it exposes the state to a substantial financial burden for foster care. Moreover, it could render the state
(Footnote Continued)

We also question the propriety of according a legal custodian who refuses to take his or her child back into the home the right to suggest an alternative placement for the child whether or not the alternative is appropriate, and whether or not a caregiver at the alternative consents to the arrangement. 10/

IV. MINORS ABOUT WHOM NO REQUEST TO LOCATE HAS BEEN MADE.

Finally, the proposed amendment to 47.10.141(e) in SB 79, § 2, directs a peace officer to take into protective custody a minor he or she has probable cause to believe is evading the minor's legal custodian, and is either "in danger of harm or poses a threat of harm to others" or is "living with a person who is not a legal custodian of the minor." We understand that this provision was intended to respond to the concern that under AS 47.10.141, a peace officer is not authorized to take into protective custody a minor about whom no request to locate has been made even if the minor is obviously in need of assistance. 11/ We are concerned that the proposed language does not remedy this defect and creates problems of its own.

The first requirement, that prior to taking protective custody of a minor about whom no request to locate has been made a peace officer must have probable cause to believe the minor is

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(Footnote Continued)
ineligible to receive maximum federal assistance for foster care.

To be eligible to receive federal foster care assistance, a state plan must ensure that "reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home." 42 U.S.C. § 672(a)(15). By giving a parent an unqualified right to abandon a child to the state, SB 79 may bring the state plan out of compliance and thereby render the state ineligible to receive federal financial support.

10/ As the peace officer is directed to comply with the minor's "preference," we assume that the legal custodian's suggestion is no more than that.

11/ This is supported by the fact that subsection (b) of AS 47.10.141 directs the peace officer to take protective custody of a minor about whom a request to locate has been made without making the findings required in subsection (e).

Sheila Gaddis 274-6541
Pat O'Brien DFYS –
Russ Wells 3023
Bruce Studman 3125
Gail Stoltz 264-6508
(Barbara Hurley)
Ben Jewell see note
David W Haas, Ombudsman
Iris Barnett Ast AG. 3603
Claudia Morse see note

586-3511 (hm)
465-2884 (wk)
Ben Jewell w/ Ed. Support

? Truancy Law —
Unable to force daughter
to come home but could
go to jail if truant.
16 yrs old.

5-0310B
Hein
4/1/87

Original sponsors: Rodey, Faiks, Fischer, et al.

Adopt. (1)

IN THE SENATE

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 79 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to runaway and missing minors."

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

* Section 1. AS 47.10.141 is amended to read:

Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving a written or telephonic request to locate a minor evading the minor's legal custodian or to locate a minor otherwise missing, a law enforcement agency shall make reasonable efforts to locate the minor and shall immediately complete a missing person's report containing information necessary for the identification of the minor. As soon as practicable, but not later than 24 hours after completing the report, the agency shall transmit the report for entry into the Alaska Public Safety Information Network and the National Crime Information Center computer system. As soon as practicable, but not later than 24 hours after the agency learns that the minor has been located, it shall request that the Department of Public Safety and the Federal Bureau of Investigation remove the information from the computer systems.

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to [EITHER] (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a location designated by the legal custodian; or (3) [(2)] take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department. If an

office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. Except as provided in (c) of this section, a [A] minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody. then for chronic runaway

* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

(c) A minor may be taken into protective custody by a peace officer and placed into temporary detention in a juvenile detention facility if there has been an order issued by a court upon a finding of probable cause that the minor is a runaway in violation of a valid court order issued under AS 47.10.142(f) and is posing a clear and present danger to the minor's own welfare. A minor detained under this subsection shall be brought before a court within 48 hours after the detention for a hearing to determine whether the minor is in civil contempt of court under AS 09.50.010(5). This subsection does not apply to a minor taken into protective custody in a community that does not have a juvenile detention facility. & the child has previous exhibits

* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

(f) When a minor is committed to the department for temporary placement under (e) of this section, the court order shall specify the terms, conditions, and duration of placement. The court shall require the minor to remain in the placement provided by the department and shall clearly state in the order the consequences of violating the order, including the possibility of detention under AS 47.10.141(c).


SB
80

Introduced: 1/22/87
Referred: Health, Education and Social Services, Judiciary and Finance

5-0311A

BY RODEY, SZYMANSKI, ABOOD, KELLY, FAIKS AND ELIASON

IN THE SENATE

SENATE BILL NO. 80

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to fingerprinting and photographing runaway minors; and amending Alaska Rule of Children's Procedure 24."

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

* Section 1. AS 47.10.141(b) is amended to read:

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to either (1) return the minor to the legal custodian or (2) take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department. If an office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.-142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody. As soon as practicable after taking a minor into protective custody, and before returning the minor to the legal custodian, a peace officer shall accompany the minor to a location specified by the department and shall have the minor fingerprinted and photographed. The fingerprints

not in automated system

and photograph shall be retained by the peace officer's law enforcement agency.

needs to be automated

* Sec. 2. AS 47.10.141(b), as amended in sec. 1 of this Act has the effect of amending Alaska Rule of Children's Procedure 24, by allowing fingerprinting without court order of minors in custody.

BILL NO: SB 80 DATE: 3/13/87

TITLE: An Act relating to fingerprinting and photographing runaway minors.

CONTACT: James D. Vaden
Deputy Commissioner

DEPARTMENT OF PUBLIC SAFETY

Passage of this legislation would allow law enforcement agencies to fingerprint and photograph runaway minors taken into protective custody. The apparent intent of SB 80 is to provide law enforcement with a means of quickly identifying repeat runaway minors so that they may be returned to their homes or a facility specified by the Department of Health and Social Services.

During 1986, approximately 1,033 children under 18 years of age could have been fingerprinted under the provisions of SB 80 (information provided by our Criminal Investigations Bureau and the Anchorage Police Department's Missing Children's Unit). There is no central recording of statistics on minors; therefore, the information is sketchy and difficult to obtain.

Children under the age of 14	215
Children 14 to 18 years of age . . .	818
	1,033

Fingerprints of children under the age of 14 would be maintained in a manual file system. These prints will not be entered into the AAFIS data base, as children under the age of 14 grow rapidly, and the programming of AAFIS will only accept an 18 percent difference in size when making identification.

Prints of children between the ages of 14 and 18 would be stored in the AAFIS data base and generally handled the same as any other fingerprint card.

These fingerprint cards and photographs would be maintained in a central location -- with the AAFIS.

The department feels that fingerprints and photographs maintained under SB 80 would only be useful in identifying chronic runaways. This is because fingerprints and photographs would be taken only after finding and taking a runaway into custody.

Further, the department would need to obtain permission from the courts prior to distributing these documents. AS 47.10.090 would limit distribution of fingerprints and photographs.

The department feels that the usefulness of fingerprints and photographs maintained under SB 80 would be severely limited, and therefore not cost effective.

At present, police agencies can request photographs from the parents. The Department of Law should be contacted to determine the constitutionality of fingerprinting someone who has not committed or been accused of committing a crime.

William R. Nix
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST
Revision Date:
Title: An Act relating to finger-printing & photographing of minors
Sponsor: Sen. Rodey
Requestor: Senate HESS

Bill Version: SB 80
Publish Date:
Agency Affected: Public Safety
BRU: Administration & Support
Components: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	13.0	13.4	13.8	14.2	14.6
TRAVEL						
CONTRACTUAL		.4	.4	.4	.4	.5
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	13.5	13.9	14.3	14.7	15.1
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS	0	13.5	13.9	14.3	14.7	15.1
FEDERAL FUNDS						
OTHER						
TOTAL	0	13.5	13.9	14.3	14.7	15.1

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary) This Clerk III, permanent part-time, will be used to process, aralyze and maintain fingerprints associated with the increased workload that will be created in AAFIS if SB80 is enacted.

JM 2/27/87

Prepared by: Jos Mapranath, Director Phone: 465-4336
Division: Administrative Services Date: 2/27/87

Approved by Commissioner: ✓ Date: 2/27/87
Agency: Public Safety

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

Position Title	No. of Positions	Range/Step	Barg. Unit
Clerk III	1	8/A	GGU

Time Status	Staff Months	Location	Election District
PPT	6.0 months	Anchorage	7-12

Type of Expenditure		Amount
1	2	3
Salary	9.8	
Benefits	3.2	
Premium Pay		
Other		
Other Personal Services		13.0
Travel		
Contractual		.4
Commodities		.1
Equipment		
Other		
Total Cost		13.5

Funding Source for Total Cost		
Federal Receipts	1002	
G.F. Match	1003	
General Fund	1004	13.5
I-A Receipts	1006	
CIP Receipts	1061	
Other		

Justification

This Clerk III, permanent part-time position, will be used to process, analyze and maintain fingerprints associated with the increased workload that will be created in AAFIS if SB 80 is enacted.

In addition to Personal Services, $400 is projected for minimal contractual communication costs and $100 is projected for minal office supply costs.

REQUEST FOR NEW POSITION

Agency: Public Safety
BRU: Admin & Support
Component: Administrative Services

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

SENATE BILL NO. 80

For an Act entitled: "An Act relating to fingerprinting and photographing runaway minors; and amending Alaska Rule of Children's Procedure 24."

The apparent intent of SB 80 is to make runaways easier for law enforcement agencies to locate and identify so that they may be returned safely and promptly to their homes. Additionally, the bill seems intended to facilitate positive identification of child victims of violent crimes by making fingerprint and photograph records of certain high risk youth available to police. The method employed to accomplish these goals would be fingerprinting and photographing of runaway youth who have been located and taken into protective custody by police.

Analysis

SB 80 would fail to achieve its apparent intent for several reasons:

1. Identifying information would not be available to police in searching for runaways because police would fingerprint and photograph youths only after they were found and taken into custody;

2. identifying records on the vast majority of runaways would not be available to police because police locate and take into protective custody only a small fraction of runaway and missing youth; and

3. police could not routinely disseminate identifying records or enter them into the Alaska Automated Fingerprint Identification System or nationwide computer network without first obtaining court permission. Though court permission would likely be readily obtained, confidentiality requirements of AS 47.10.090 limit routing dissemination of information.

In general, the usefulness of fingerprint information obtained under the provisions of SB 80 would be limited to identifying child victims of violent crimes. And, the usefulness of fingerprint records as positive identifiers of children under age 18 is limited on a long term basis due to size and changes which occur in the growth process. Few, if any, runaway youth are located on the basis of fingerprints. Photographs would be more useful in locating runaways but because police would photograph only those youth taken into custody these records would be useful only in locating chronic runaways.

Department Position

The Department supports the provision of timely and useful information to police agencies to aid them in locating runaway youth. However, such information could be better provided under present law on a voluntary basis. Parents may now have fingerprint records and photographs of their children made voluntarily as a precautionary measure and may provide them

POSITION PAPER/Department of Health & Social Services

to police if necessary to aid in locating a runaway or missing child. These actions, if taken by parents, would make identifying information available to actually help police locate the child rather than being available to police only after the child is found as contemplated under SB 80. In addition, records may be made voluntarily on any child, not only those who are chronic runaways or are taken into custody by police, These voluntary measures then are more useful and have potential for application to a far greater number of children then those proposed in SB 80.

Also, fingerprints and photographs of children may be taken involuntarily under current law and Children's Rule 24 with court permission "... where identification of the child appears necessary for the safety of the child..." This presently allows police agencies to obtain records to identify chronic runaways where parental permission cannot be obtained or is refused. It also achieves the same purpose intended by SB 80.

The Department opposes SB 80 as unnecessary and an ineffective means of locating runaway or missing youth. The purpose intended by SB 80 can be achieved better under present law on a voluntary basis. When necessary, records to aid in location and identification of high risk youth or victims of violent crimes can be made involuntarily.

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

DATE: March 6, 1987

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

DATE: March 6, 1987

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST:

Bill Version: Senate Bill No: 80
Publish Date:

Revision Date:
Title: An Act relating to the finger-printing and photographing of runaway minors.
Sponsor: Rodey, et al.
Requestor:

Agency Affected: Health & Social Services
BRU: Social Services
Youth Services
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is based on the understanding that the Department will not have to fingerprint and photograph runaways. If the Department has to fingerprint and photograph all runaways, then a revised fiscal not would be submitted.

Prepared by: Yvonne M. Chase, Director YMC. Phone: 465-3170
Division: Division of Family and Youth Services Date: 03-06-87

Approved by Commissioner: Myra M. Munson, Commissioner Date: 3-6-87
Agency: Department of Health and Social Services

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version : SB 80
REQUEST: Publish Date :

Revision Date:
Agency Affected : Administration
Title : "An Act relating to finger-printing & photographing runaway..."
BRU: Office of Public Advocacy
Sponsor : Rodey, Et. Al.
Components :
Requestor : Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0	0	0	0	0
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 : Brant McGee, Public Advocate
Phone : 274-1684
Division : Office of Public Advocacy
Date : 2/27/87

Approved by Commissioner : Garrey Peska
Date : 2/27/87
Agency : Department of Administration

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version : SB80

REQUEST: _____ Publish Date : _____

Revision Date: _____ Agency Affected : Department of Administratic

Title : "An Act relating to fingerprinting and photographing runaway minors;" BRU: Public Defender Agency

Sponsor : Rodey, et al. Components : _____

Requestor : Senate Judiciary/Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLA 'EOUS						
TOTAL OPERATING		-0-				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME		-0-				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Zero fiscal impact.

Prepared by : Dana Fabe, Public Defender Phone : 279-7541

Division : Public Defender Agency Date : February 20, 1987

Approved by Commissioner : _____ Date : 2/27/87

Agency : Dept. of Administration

Distribution (by preparer):

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

POSITION PAPER
SB 80

This bill mandates that minors taken into protective custody shall be fingerprinted and photographed.

The enactment of this legislation would have no impact upon Office of Public Advocacy programs.

The Office of Public Advocacy takes no position with respect to this legislation.

Brant McGee
Public Advocate

2/23/87
Date

Commissioner Garrey Peska
Department of Administration

2/27/87
Date

VICTIMS for Justice

March 5, 1987

The Honorable Senator Pat Rodey
Pouch V
Capitol Building
Juneau, Alaska 99811

Dear Senator Rodey,

The Associated Press printed a study that predicted that in the 1990's youth violence will rise. It is up to you legislators to start moving towards legislation that will prevent such statistics. Many castaway youth begins when they start to run and learn how to survive on the street. This is a relatively small percentage of the population. The havoc they cause for themselves and others can be tragic. Lets deterr these youth when they begin this lifestyle not wait until they become criminals.

Our philosophy of rehabilitation is not working because we are trying to protect these youth offenders from their own demise. They do not have to pay an effective consequence for their overt actions of running away, stealing, drugs etc.

Youth offenders can only be helped when they have to face up to their problems. These offenders particularly will not be stopped unless the consequences are embarrassing or severe enough. Youth offenders want and need peramitors. If the family does not give them any peramitors than our laws better, especially when they start effecting innocent people.

Please lets stop our youth offenders when crime begins not after the fact.

SB 80 is the beginning of crime prevention and showing we care for these young people. Many young offenders will be stopped at this point because we will be able to catch those who runaway, which often leads to drugs, which leads to burglaries, etc. 80% of our burglaries are committed by under 18 year olds.

VICTIMS for Justice

Page 2 of SB 80 section 2 reads, "fingerprints and photograph shall be retained by the peace officer's law enforcement agency." These fingerprints need to be put into the main system. Our police have the most effective compuetorized fingerprinting system. The purpose is to deterr and save our youth not another devise to protect them. I trust you will revise this section.

Thank you for your support and help in these serious issues.

Sincerely,

Janice Lienhart

Janice Lienhart

Janice

(907)337-3201 3100 Mountain View Drive Anchorage, Alaska 99501

VICTIMS for Justice

GOVERNOR COWPER'S ADMINISTRATION WANTS TO:

...CUT THE DISTRICT ATTORNEYS BUDGET - prosecutes the criminal.

...GIVE MONEY TO THE PUBLIC DEFENDER - protects the criminal.

...LET CRIMINALS OUT OF JAIL EARLY - Officer Hanson was murdered last July by an early release prisoner.

...LAST YEAR

.....MURDERS UP 36%

.....CRIME UP 6.4% This is prosecuting criminals.

<u>What will these statistics be next year if we cut back on the number of criminals prosecuted?</u>

<u>SAVE YOUR FAMILY BY GETTING INVOLVED</u>

1. CALL GOVERNOR COWPER'S PUBLIC OPINION MESSAGE AT: 561-4228

2. WRITE: STEVE COWPER, GOVERNOR
P.O. BOX A
JUNEAU, ALASKA 99811

Other legislation most of Victims for Justice supporters feels is important for deterring crime:

We are working on getting a Violent Person's Act introduced which will not allow the state to release a 19 year old who is still considered unsafe to return to the community.

HB 55 Recriminalization of marijuana.
HB 2, SB 7, SB 31 Allows the voters to vote on the capitol punishment decision.
HB 106 Act relating to the payment of criminal fines and restitution.

(907)337-5201 3100 Mountain View Drive Anchorage, Alaska 99501

VICTIMS for Justice

ANCHORAGE

...Has three times more runaways than other state of similar size.

...Average age is 14 1/2 years old.

...Becoming epidemic in Junior high schools- spreading to 6th grade.

...If a child decides he doesn't want to live at home or he doesn't want to go to school we have no way to force him to do so. Many have chosen not to and are living on the streets.

Our town has had many tragic murders commited by juveniles, such as the Faccio triple murders, Landsman murderer, youth raped and killed mother who was fishing...

...We need to communicate to our youth it is not safe for them to be lose on the streets.

....THE BEGINNING SOLUTION: SB 79 "An act relating to runaway children.

BURGLARIES

...Up 10% the first 6 months of last year.

...80% of burglaries committed by under 18 year olds.

...Our police have the most sophisticated equipment to trace burglaries. Until we can fingerprint felonous youth we cannot help stop crime where it begins nor protect you and me.

...THE BEGINNING SOLUTION: SB 37 Fingerprint felonious minors. SB 80 Fingerprint & photograph of runaway minors.

SAVE YOUR FAMILY BY GETTING INVOLVED

1. Call your legislator at 278-3668. They will tell you who he is if you are not sure.

2. Follow up with a hand written letter to:
Your Legislator
Pouch V
Juneau, Alaska 99811

(907)337-5201 3100 Mountain View Drive Anchorage, Alaska 99501

VICTIMS for Justice

VICTIMS RIGHTS

The victims of violent crimes should have the same equal rights as the criminals.

1. If a crime is committed by a juvenile, the victim should have equal court access and access to the records for their healing.

2. A person who is convicted of a felon should forfeit his permanent fund money to help pay his court expenses.

3. The state should have the right to appeal a too lenient sentence as the defendent.

JUVENILE LEGISLATION

Juvenile fingerprinting

1. Over 80% of burglaries are committed by persons under 18. When picked up they should be fingerprinted and their fingerprints should be kept on file for burglary identification. When turned 18 if no further arrests the fingerprints would not be held against them for future employment, etc.

2. A youth with over two or more felony convictions should be detained, upon the third conviction he/she should be tried as an adult using the following criterion.

Criminologist, Peter W. Greenwood, recommends a repeated felon should draw a long-term sentence with any four of these seven variables:

1. Convicted prior to age 16.
2. Committed to a juvenile f .ility.
3. Used heroin or barbiturates within two years before the current arrest.
4. Used heroihn or barbituarates as a juvenile.
5. Held a job less than one of the two years before his current arrest.
6. Had a prior robbery or burglary conviction.
7. Spent more than half the preceding two years in jail.

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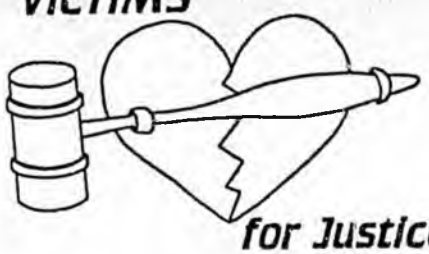

RUNAWAYS

1. The Alaska Statutes concerning juvenile issues must establish criteria to define which child is running from responsibility apposed to the child who is running from abuse.

2. The young child under seventeen that is running from responsibility must be in protective custody. The family should have immediate counseling.

3. There needs to be a central place where the police can take runaways and would also become known to the children-in-need-of -aid. This facility should be open but also include a lock-down area. This facility should screen the child and than place them in the proper agency.

4. The Alaska Statutes must be revised so that the youth can no longer get the message that they make their own decisions above mom, dad, or guardian.

5. A child on the run who breaks into their parents home and steals from them can be prosecuted if the parents chose to do so.

DANGEROUS PERSONS ACT

"If the date of discharge occurs before the expiration of a period of control equal to the maximum term prescribed by law for the offense of which he or she was convicted, and if the Youthful Offender Parole Board believes that unrestrained freedom for said person would be dangerous to the public, the board shall petition the court by which the commitment was made.

The petition shall be accompanied by a written statement of the facts upon which the board bases its opinion that discharge from its control at the time stated would be dangerous to the public, but no such petition shall be dismissed merely because of its form or an asserted insufficiency of its allegations; every order shall be reviewed upon its merits." From the California Welfare and Institutions Code Juvenile Court Law.

1. Any juvenile who is institutionalized for murder, rape, aggravated assault, or other forms of violence must be re-evaluated before released from the juvenile detention.

2. If not considered safe to return to the community, then the youth should be waived to adult facilities.

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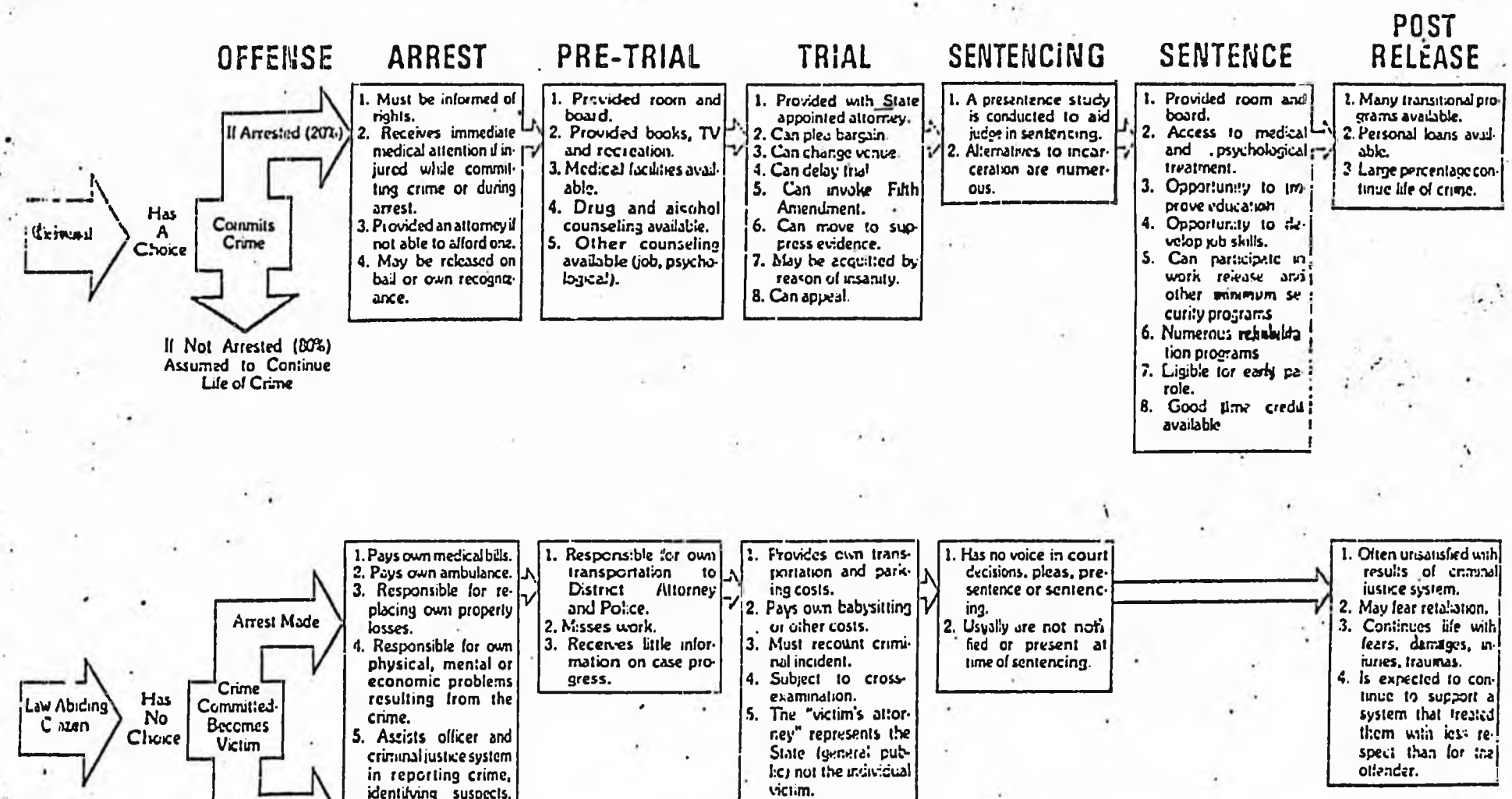
THE CRIMINAL INJUSTICE SYSTEM



A READER'S DIGEST REPRINT

Crime is still outrageously high, but now we have the means to reduce it

THE PROVEN KEY TO CRIME CONTROL

By Eugene H. Methvin

Hi Janice,
Thought you might find this of interest
Terry

New York City Deputy Police Inspector John J. Hill was fuming as he studied the map of his new command, a two-square-mile, 130,000-population precinct in Brooklyn. He saw hundreds of red pins, each one denoting a robbery.

In October 1981, Hill ordered 90th Precinct officers to collect photographs and records of everyone arrested in the previous two years for robbery, or any other serious felony, who was now back "on the street." To focus more effectively on these criminals, the officers divided their rogues' gallery into seven neighborhood albums and added indexes of physical characteristics, aliases and residences.

Analyzing these data, officers realized they were arresting the same offenders repeatedly, usually in the same neighborhoods. Soon robbery victims, instead of waiting days to view thousands of photos at the central police headquarters, were whisked to the 90th Precinct to study a few dozen pictures. Almost overnight, the precinct's officers were making arrests in an astounding *half* of all reported robberies, 2½ times the New York Police Department's average.

Within six months, the 90th Precinct's robberies dropped over 40 percent. The plunge has now continued for four straight years, from 2223 in 1981 to 1187 in 1985. Bur-

glaries and rapes have also declined sharply.

NATIONWIDE, America experienced an 11.5-percent drop in serious crime reported in the three years 1982–84—believed to be the largest decrease since FBI uniform crime reporting began more than 50 years ago. Several factors are involved in this decline. One is the Neighborhood Watch program in which citizens throughout the country are helping police fight crime. Another is that the crime-prone population of 15- to 19-year-olds has declined in the last decade. Most important, however, is our increasing attention to career criminals—identifying them as early as possible and locking them up. We have almost doubled our prison population in the last ten years.

But crime is still outrageously high. The rate per 100,000 people is nearly 50-percent greater than it was 20 years ago. Why? Because our legislators and law-enforcement officials have been slow to respond to new and proven methods of crime control. The nation has learned a number of strategic lessons about coping with lawlessness, and evidence suggests that we can achieve even greater reductions if we act vigorously.

Nasty, Brutal. Ten years ago, little was known about the rates at which individual criminals commit crimes. Since then, research has revealed that far more crime is committed by a smaller fraction of offenders than anyone had suspected. This knowledge has helped police, prosecutors and judges sharpen methods for nailing these violent predators.

In 1978, University of Pennsylvania criminologist Marvin Wolfgang completed a first-of-a-kind study of virtually the entire population of 9945 males born in 1945 and raised in Philadelphia. Wolfgang's findings electrified the law-enforcement world: 627 of these young men, just under seven percent of the group, had collected at least five arrests before age 18, and they accounted for nearly two-thirds of all the violent crimes committed by the "Class of '45." Worse, these hard-core criminals admitted that, for each arrest, they got away with from 8 to 11 other serious crimes. Incredibly, even the 14 murderers among them averaged only four years behind bars.

When Wolfgang repeated the study on the 13,160 Philadelphia males born in 1958, the proportion of chronic offenders was virtually the same: 982 young men, 7.5 percent, collected five or more arrests before age 18. But there was a difference. The "Class of '58" was far more violent. Compared with the Class of '45, these youths had almost double the offense rate for rape and aggravated assault, triple for murder and a whopping five-fold for robbery. They are, says Wolfgang, "a very violent criminal population of a small number of nasty, brutal offenders. They begin

early in life and should be controlled equally early."

Superfelons. It would seem simple to say, "Lock 'em up," but the fact is the nation cannot afford to put them *all* away. If the Philadelphia ratios hold for the entire nation, we would have to keep 1.23 million young men in prison—more than double the present crowded population.

But research by the Rand Corporation indicates a way out of this dilemma, by providing a further breakdown of the crime-prone minority. Of 2190 prisoners questioned by Rand researchers, nearly all admitted to many more crimes than those for which they were convicted. But a tiny fraction of these career criminals proved to be *extraordinarily* high-rate offenders—superfelons. Half the burglars averaged fewer than six burglaries a year, while ten percent committed more than 230. Half the robbers committed five robberies a year, but ten percent averaged 87. Drug dealing was the most radically skewed: half the offenders averaged 100 deals a year; the upper tenth averaged 3251.

Thus, even chronic criminals are not a homogeneous lot; locking up one high-rate burglar for a year will prevent as many crimes as locking up 40 of the intermittent burglars.

Can we tell them apart? Experts say yes. The age at which offenders enter a life of crime and their use of drugs are two keys to identifying superfelons.

Males under age 18 commit perhaps as much as half of all serious crime in the United States. Arrest-record analyses and prisoner surveys demonstrate that high-rate predators begin by age 13 and hit their peak rates as robbers and burglars around 16. To Wolfgang, the factor that jumps out is the age at which these high-rate offenders commit their second serious offense. If they do it before 15, the probability is high they will commit dozens of offenses by age 30. He concludes: "After the third conviction, serious juvenile offenders should be considered adult criminals and treated accordingly."

Add Jan and Marcia Chaiken, who researched criminal behavior for Rand, "Offenders who support $50-a-day heroin addictions or who use both alcohol and barbiturates heavily are especially likely to be persistent, serious, high-rate criminals."

Criminologists from Temple and Maryland universities agree. They found that 243 Baltimore addicts committed about half a million crimes over 11 years, averaging 2058 apiece, 187 a year.

Using the inmate responses from the Rand survey, criminologist Peter W. Greenwood has refined the superfelon profile. He believes that a convicted robber or burglar should draw long-term imprisonment if he matches any four of these seven variables: 1. Convicted prior to age 16. 2. Committed to a juvenile facility. 3. Used heroin or barbiturates

Page 5

within two years before the current arrest. 4. Used heroin or barbiturates as a juvenile. 5. Held a job less than one of the two years before his current arrest. 6. Had a prior robbery or burglary conviction. 7. Spent more than half the preceding two years in jail.

Greenwood tested the validity of his seven-point profile against the sentences judges had given the 781 convicted robbers and burglars among Rand interviewees in California. His scale miscast as high-rate offenders only four percent of the intermittent offenders (who averaged five robberies a year) and mislabeled as low-rate offenders only three percent of the superfelons (who averaged 87 robberies a year).

The judges, however, gave many more low-rate offenders long terms and superfelons short terms. Greenwood argues that his strategy of "selective incapacitation" would have allowed California in 1981 to keep 700 fewer convicted robbers behind bars, while reducing street crime by 27,150 robberies and saving $10 million.

Encouraging Results. Impressed by the Rand and Wolfgang studies, many police departments and prosecutors are intensifying their efforts to arrest and convict young "heavies" who fit the violent-predator profile. Though some are resisting the idea, legislators in 20 states and the District of Columbia have made it easier to try young criminals as adults, subjecting them to tougher prosecution and longer incarceration. The new emphasis is paying off. Consider these successes:

Washington State legislators, infuriated by cases such as the Seattle youngster released by juvenile judges 35 times after felony arrests, enacted a strict code in 1978. They ordered youngsters fingerprinted and photographed at each felony arrest, opened juvenile-arrest records to adult-court prosecutors and judges, and imposed stern sentences for repeaters. Before the 1978 reform, juveniles ran up an average of 7.5 felony arrests before incarceration. Now they go to prison after 3.5 arrests, and the number behind bars has doubled.

In 1983 the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP) enlisted five police departments and 13 prosecutors in a campaign to identify and incarcerate high-rate juvenile offenders. Police interview school authorities and social workers, then consolidate police, court and probation records, and identify teen-agers who have multiple arrests but so far have managed to slip through the revolving-door juvenile-court and family-services systems. The preliminary results are encouraging.

The five police departments—ranging from Oxnard, Calif., (pop. 121,000) to Jacksonville, Fla., (pop. 578,000)—find they are repeatedly arresting a tiny minority of very active young criminals: only about 30 per 100,000 population. These individuals average just under 16

years old, generally have their first police contact at age 9, and rarely go three months without some collision with police. More than half commit violent crimes. A majority come from "crime families," in which parents and siblings have criminal records, and a large proportion are on drugs.

In Oxnard, for example, crime-analyst Lynne Thayer traced robberies, burglaries and assaults for three months on a map of a 35-block high-crime neighborhood, using orange dots to represent residences of five identified high-rate juvenile offenders. Toward the end of the period, four of the five repeaters were jailed; the fifth went to jail two months later. In the second three months, the neighborhood's robberies, burglaries and assaults plummeted from 69 to 27.

Prison Works. City College of New York sociologist Robert Martinson tracked 400,000 criminals who went through special rehabilitation programs over a 25-year period. His stunning finding: seven out of ten who are convicted and then imprisoned or put on probation will never be arrested again; but none of the rehabilitation programs themselves curbed recidivism.

A century ago, Americans sent virtually every felon to prison. Today, even with our increasing use of imprisonment, only nine out of a hundred who are caught and convicted land behind bars. Declared Martinson: "That's where we went wrong. We abandoned a largely successful system of certain punishment in favor of all kinds of happy experiments where we told ourselves we did not have to be so nasty as to punish anybody."

More and more, studies like Martinson's are showing that while prisons may not rehabilitate, they do work as a deterrent. They also reduce crime by keeping the worst criminals away from society.

Concludes Alfred Regnery, administrator of the OJJDP: "The criminologists have given us important knowledge about who commits crime. If police, prosecutors and judges put it to work, we can vastly improve the fairness and effectiveness of our criminal-justice system, ease prison crowding and enjoy safer streets and homes."

To: Sen. Rick Halford
From: Maureen Weeks
Re: SB 80, SB 37 (Fingeprinting juveniles)

These bills are up in Senate HESS Friday.

You have read Janice Faccio Lienhart's comments about this bill.

Pudge Kleinkauf called to tell you her side:

Both bills are awful. Both violate the child's right to privacy. The child can be fingerprinted when arrested, without adjudication of any kind.

Pudge says Myra Munson is very concerned.

However, she says Myra has discussed a compromise with Sen. Fischer: once a child is adjudicated a delinquent, he can be finger printed. Munson is also working out language that differentiates between children under and over 16. The question is how long fingerprints can stay in the computer. The statutes at present purge records at age 18. The fingerprint bill is unclear about when records are purged, Pudge says.

Social workers cannot support the bill without two changes: right to privacy and purging records at age 18.

To: Sen. Rick Halford
From: Maureen Weeks
Re: Conversation with Janice Lienhart, Victims for Justice

Janice Faccio Lienhart is lobbying for the Runaway bill. She is concerned that runaways are learning that it is OK to commit burglaries and more serious crimes. She said Winona Fletcher had had contact with the law 7 times before she murdered Janice's parents.

She is concerned that 80% of burglaries are committed by juveniles and that we have no way to fingerprint and identify them.

She is also lobbying for someone to introduce a bill that would keep juveniles in prison after the age of 19 if they show tendencies toward violence and danger to the community. She told about two people -- a juvenile and an adult -- who robbed someone; the juvenile said "Let's kill her so she can't identify us". The adult said, "No. I don't want to spend the rest of my life in jail." She has language from California that does this.

She has five children [illegible] the years has taken in three "wounded" foster children. Her [illegible]child is the adopted baby of one of the foster girls who got pregnant 10 years ago.

She's an old friend- very nice woman.

follow up

we need to talk about this one

SB
96

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3000

LEGISLATIVE AFFAIRS AGENCY

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May, 1988

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

Mary Van Nimwegen

Senate Hess:

1987 - April 8

Dr. George Rogers

Income Stream defined as:

8 million A. that have legislative

Fair market Rental
1 Million A. substitute X A for Lands the Leg.

Trust Lands
Forest Lands
General Perpose Lands
least sensitive to ~~mental~~ conservationists

Would not change Land Management

Legislative designated perpose

Board will provide data base for decision making

Alaska Handicopped & Gifted council 3 used as an example

Powers of Board - participate in program. developement

1 millio A. need to be appraised

Would satisfied State obligation

Original sponsor: Halford/Joint Special Committee on Mental Health Trust Land

IN THE SENATE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 96 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Mental Health Trust; and providing for an effective date."

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

* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds

(1) the United States Congress passed the Alaska Mental Health Enabling Act of 1956, P.L. No. 84-830, 70 Stat. 709, "To confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibility for the hospitalization of committed mental patients, and for other purposes;"

(2) in sec. 202 of the Alaska Mental Health Enabling Act, the Congress granted the territory the right to select up to one million acres of federal land to serve as a source of funds to support the territory's mental health program;

(3) in subsection 202(e), the Congress specifically provided that the land so granted, as well as any income from the land and proceeds from dispositions of the land, were to be administered as "a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska," that "Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide," that the land may be "sold, leased, mortgaged, exchanged or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended or used by the Territory of Alaska," and that the Alaska legislature must exercise this broad authority "in a manner compatible with

the conditions and requirements imposed by this Act;"

(4) in requiring that the proceeds and income of the 1,000,000-acre land grant "first be applied to meet the necessary expenses of the mental health program of Alaska," it was the intent of the Congress that additional public funds be appropriated by the legislature to supplement the proceeds and income from the land grant if those proceeds and income are insufficient to meet the necessary expenses of the mental health program of Alaska;

(5) if the proceeds and income from the 1,000,000-acre land grant exceed the necessary expenses of the mental health program of Alaska, the Congress authorized the legislature to appropriate the excess proceeds and income for other public purposes;

(6) because of the highly desirable location and character of much of the land selected by the state under the Act, for example, in and around major population centers, suitable for parks and game refuges, and other uses, and the difficulties associated with disposing of or dedicating the land for purposes that would not result in the receipt of funds that could be used for mental health purposes, for example, satisfaction of municipal entitlements, placement in parks and game refuges, and other uses, without compensation to the trust, the Tenth Alaska State Legislature enacted ch. 181 and 182, SLA 1978, which, among other things, redesignated all mental health lands as general grant lands;

(7) both ch. 181 and 182, SLA 1978, also created the mental health fund into which, as compensation to the trust, a sum equal to one and one-half percent of all revenue received from the management of state land was to be deposited and from which only the income could be appropriated exclusively for mental health purposes;

(8) a significant difference between ch. 181 and 182, SLA 1978, was that ch. 182 made the deposit of one and one-half percent of all public

land revenue into the mental health fund "subject to legislative appropriation of sufficient funds";

(9) because ch. 182, SLA 1978 became law after ch. 181, SLA 1978 became law, the provisions of ch. 182, SLA 1978 have been considered controlling, including specifically the provision that deposits to the mental health fund would be "subject to legislative appropriation of sufficient funds";

(10) the legislature has never appropriated funds to the mental health fund;

(11) a class-action lawsuit, Weiss v. State, 4FA-82-2208, was filed on November 26, 1982, seeking a judicial determination that the Alaska Mental Health Enabling Act had established a "public trust" under which the state had received the 1,000,000-acre land grant, that the 1978 legislation redesignating mental health land as general grant land was a breach of that trust, and that the appropriate remedy was to invalidate the 1978 legislation and return mental health land to trust status;

(12) in State v. Weiss, 706 P.2d 681 (Alaska 1985), the Alaska Supreme Court held that the Alaska Mental Health Enabling Act established a public trust, that the 1978 legislation redesignating mental health land as general grant land was a breach of the trust, and that the appropriate remedy was to return mental health land still in state ownership to trust status and, for mental health land that the state had "sold" between 1978 and the date of the court's decision, to compensate the trust for the fair market value of mental health land so "sold" as of the date of their "sale," subject to a set-off for state mental health expenditures during the same period;

(13) while the court returned mental health land to trust status, it did not specify the nature of the state's obligations with respect to managing the trust land, leaving significant questions unanswered that may

require additional costly and time-consuming litigation;

(14) continued costly and time-consuming litigation over mental health trust land management is not in the public interest because it diverts attention from the goal the Congress sought to achieve through the Act's land grant, the funding of a mental health program;

(15) continued costly and time-consuming litigation over mental health trust land management is not in the public interest because it has the potential to be extremely divisive, pitting the advocates of stringent mental health trust land management against those who envision state-owned mental health land managed for its highest and best use, including conveyance to municipalities in satisfaction of municipal entitlements, placement in parks and game refuges, and other uses, without a major expenditure to compensate the mental health trust for the fair market value of the land;

(16) continued costly and time-consuming litigation over mental health trust land management is not in the public interest because advocates of stringent mental health trust land management may seek the invalidation of state conveyances of mental health land to third parties, particularly municipalities and Native corporations organized under the Alaska Native Claims Settlement Act, a course of action that at best will place a cloud on the third parties' title to those lands and at worst will result in those third parties losing title to their lands, causing economic and other harm and further dividing those who advocate stringent mental health trust land management from those who believe all state-owned land, including mental health land, should be managed for its highest and best use;

(17) continued costly and time-consuming litigation over mental health trust land management is not in the public interest because advocates of stringent mental health trust land management may seek the invalidation of legislative designations of mental health land as state

parks, state game refuges, state forests, etc., placing the future use of the land for the designated purposes in doubt and further dividing those who advocate stringent mental health trust land management from those who believe all state-owned land, including mental health land, should be managed for its highest and best use;

(18) the failure of the Alaska Legislature to deal with the current situation by properly reconstituting the mental health trust at this time will lead to continued costly, time-consuming, and divisive litigation, which is not in the public interest;

(19) the same problems that led to the 1978 redesignation of mental health land as general grant land, for example, the desirability of managing mental health land for its highest and best use, including the satisfaction of municipal entitlements, inclusion in parks and game refuges, will continue to pose difficulties in the state's efforts to accommodate the public's needs generally with the obligation to administer mental health land as a trust;

(20) under art. VIII, sec. 2, Constitution of the State of Alaska, as construed by the Alaska Supreme Court in State v. University of Alaska, 624 P.2d 807 (1981), the legislature has the authority to remove land from trust status if the trust is compensated for the fair market value of the land;

(21) the state is not now, and in the foreseeable future will not be, in a position to compensate the mental health trust in money for the fair market value of mental health land;

(22) even if the state were able to compensate the mental health trust in money for the fair market value of mental health land, there is a substantial legal question whether that compensation, as the corpus of the trust, could be preserved in perpetuity or whether the prohibition on dedicated funds in art. IX, sec. 7, Constitution of the State of Alaska,

would require that those funds be made available for appropriation by the legislature under the terms of the Alaska Mental Health Enabling Act;

(23) under art. VIII, sec. 2, Constitution of the State of Alaska, and subsection 202(e) of the Alaska Mental Health Enabling Act, the legislature has broad authority over all state land, including mental health land, and can permissibly remove mental health land from trust status if, consistent with its trust responsibilities, it simultaneously designates other state land of equivalent value as mental health land;

(24) the Congress' goal of funding a mental health program, and the public interest in having attention focused on the problems of the mentally ill and not questions regarding mental health trust land management, will be best served by establishing a mechanism for generating revenue from mental health land that minimizes the number and complexity of related land management decisions;

(25) reconstituting the mental health trust with state land that has a substantial likelihood of remaining in state ownership in perpetuity, and compensating the mental health trust for state use of that land through annual identification of an amount of state general fund revenue equal to the fair market rental value of the land as a separate account in the general fund, would minimize the number and complexity of land management decisions and would result in the following benefits to the mental health trust:

(A) it would ensure that the mental health trust corpus will be preserved in perpetuity; — Is this required

(B) it would reconstitute a mental health trust corpus equal in value to the original 1,000,000-acre mental health trust corpus, with no reduction (in the nature of a set-off) for state mental health expenditures;

(C) it would make the entire mental health trust corpus