

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672  
5295 SJUD SB 27 - SB 28 867

5-0199X ✓  
Levy  
5/6/87

Original sponsors: Rodey, Halford,  
Szymanski, et al.

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 27 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the crime of conspiracy to commit  
7 a felony involving delivery of certain controlled  
8 substances, promotion of prostitution, or unlawful  
9 exploitation of a minor."

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

11 \* Section 1. AS 11.31 is amended by adding new sections to read:

12 Sec. 11.31.120. CONSPIRACY. (a) An offender commits the crime  
13 of conspiracy if, with the intent to promote or facilitate a felony  
14 offense relating to the delivery of a controlled substance under  
15 AS 11.71.010 - 11.71.040, a felony offense relating to promotion of  
16 prostitution under AS 11.66.110 - 11.66.120, or unlawful exploitation  
17 of a minor under AS 11.41.455, the offender agrees with one or more  
18 persons to engage in or cause the performance of that offense and the  
19 offender or one of the persons does an overt act in furtherance of the  
20 conspiracy.

21 (b) If an offender commits the crime of conspiracy and knows  
22 that a person with whom the offender conspires to commit a crime has  
23 conspired or will conspire with another person or persons to commit  
24 the same crime, the offender is guilty of conspiring with that other  
25 person or persons to commit that crime, whether or not the offender  
26 knows their identities.

27 (c) In a prosecution under this section, it is not a defense

28 (1) that the defendant belongs to a class of persons who by  
29 definition are legally incapable in an individual capacity of

1 committing a crime that is an object of the conspiracy; or

2 (2) that a person with whom the defendant conspires could  
3 not be guilty of a crime that is an object of the conspiracy because  
4 of

5 (A) lack of criminal responsibility or other legal  
6 incapacity or exemption;

7 (B) unawareness of the criminal nature of the conduct  
8 in question or of the criminal purpose of the defendant; or

9 (C) any other factor precluding the culpable mental  
10 state required for the commission of the crime.

11 (d) In a prosecution under this section, it is a defense that,  
12 if the criminal objective were achieved, the defendant would not be  
13 legally accountable under AS 11.16.120(b) for the conduct of the  
14 person with whom the defendant conspired.

15 (e) In a prosecution under this section it is an affirmative  
16 defense that the defendant, under circumstances manifesting a volun-  
17 tary and complete renunciation of the defendant's criminal intent,  
18 gave timely warning to law enforcement authorities or otherwise made  
19 proper effort to prevent the commission of the crime that was the  
20 object of the conspiracy. Renunciation by one conspirator does not  
21 affect the liability of another conspirator who does not join in the  
22 renunciation.

23 (f) The liability of a conspirator for offenses committed in  
24 furtherance of the conspiracy, including a crime that is an object of  
25 the conspiracy, shall be determined under AS 11.16.

26 (g) A person may not be convicted under this section solely on  
27 the basis of the uncorroborated testimony of a person with whom the  
28 defendant conspired.

29 (h) Conspiracy is a

1 (1) class A felony if the object of the conspiracy is a  
2 crime punishable as an unclassified felony;

3 (2) class B felony if the object of the conspiracy is a  
4 crime punishable as a class A felony;

5 (3) class C felony if the object of the conspiracy is a  
6 crime punishable as a class B felony;

7 (4) class A misdemeanor if the object of the conspiracy is  
8 a crime punishable as a class C felony.

9 Sec. 11.31.125. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-  
10 TIONS OF ACTIONS. For purposes of applying AS 12.10 governing limita-  
11 tions of actions, in a prosecution under AS 11.31.120, conspiracy is a  
12 continuing course of conduct that terminates

13 (1) when all the crimes related to delivery of controlled  
14 substances, promotion of prostitution, or unlawful exploitation of a  
15 minor that are its object are completed;

16 (2) when the agreement is abandoned by the defendant and by  
17 the person with whom the defendant agreed; or

18 (3) as to an individual defendant, when the defendant  
19 abandons the agreement by advising the person with whom the defendant  
20 agreed of the defendant's abandonment or the defendant informs law  
21 enforcement authorities of the existence of the conspiracy and of the  
22 defendant's participation in it.

23 \* Sec. 2. AS 11.31.140 is amended to read:

24 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
25 defense to a prosecution under AS 11.31.100 - 11.31.120 [AS 11.31.100  
26 OR AS 11.31.110] that the crime that is the object of the attempt,  
27 conspiracy, or solicitation was actually committed pursuant to the  
28 attempt, conspiracy, or solicitation.

29 (b) A person may not be convicted of more than one crime defined

1 by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] for conduct  
2 designed to commit or culminate in commission of the same crime.

3 (c) A person may not be convicted on the basis of the same  
4 course of conduct of both (1) a crime defined by AS 11.31.100 - 11.-  
5 31.120 [AS 11.31.100 OR AS 11.31.110]; and (2) a crime that is an  
6 object of the attempt, conspiracy, or solicitation.

7 (d) This section does not bar inclusion of multiple counts in a  
8 single indictment or information charging commission of a crime de-  
9 fined by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] and  
10 commission of the crime that is the object of the attempt, conspiracy,  
11 or solicitation.

12 \* Sec. 3. AS 11.31.140 is amended by adding a new subsection to read:  
13 (e) If a person conspires to commit more than one crime under  
14 AS 11.31.120, the person commits only one crime of conspiracy if the  
15 multiple crimes are the object of the same agreement.  
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Version 1

5-0199B  
Levy  
5/4/87

Original sponsors: Rodey, Halford,  
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1 IN THE SENATE

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the crime of conspiracy to commit  
7 a felony involving the delivery of a controlled  
8 substance."

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

10 \* Section 1. AS 11.31 is amended by adding new sections to read:

11 Sec. 11.31.120. CONSPIRACY. (a) An offender commits the crime  
12 of conspiracy if, with the intent to promote or facilitate a felony  
13 offense relating to the delivery of a controlled substance under  
14 AS 11.71.010 - 11.71.040, the offender agrees with one or more persons  
15 to engage in or cause the performance of that offense and the offender  
16 or one of the persons does an overt act in furtherance of the  
17 conspiracy.

18 (b) If an offender commits the crime of conspiracy and knows  
19 that a person with whom the offender conspires to commit a crime has  
20 conspired or will conspire with another person or persons to commit  
21 the same crime, the offender is guilty of conspiring with that other  
22 person or persons to commit that crime, whether or not the offender  
23 knows their identities.

24 (c) In a prosecution under this section, it is not a defense

25 (1) that the defendant belongs to a class of persons who by  
26 definition are legally incapable in an individual capacity of com-  
27 mitting a crime that is an object of the conspiracy; or

28 (2) that a person with whom the defendant conspires could  
29 not be guilty of a crime that is an object of the conspiracy because

1 of

2 (A) lack of criminal responsibility or other legal  
3 incapacity or exemption;

4 (B) unawareness of the criminal nature of the conduct  
5 in question or of the criminal purpose of the defendant; or

6 (C) any other factor precluding the culpable mental  
7 state required for the commission of the crime.

8 (d) In a prosecution under this section, it is a defense that,  
9 if the criminal objective were achieved, the defendant would not be  
10 legally accountable under AS 11.16.120(b) for the conduct of the  
11 person with whom the defendant conspired.

12 (e) In a prosecution under this section it is an affirmative  
13 defense that the defendant, under circumstances manifesting a volun-  
14 tary and complete renunciation of the defendant's criminal intent,  
15 gave timely warning to law enforcement authorities or otherwise made  
16 proper effort to prevent the commission of the crime that was the  
17 object of the conspiracy. Renunciation by one conspirator does not  
18 affect the liability of another conspirator who does not join in the  
19 renunciation.

20 (f) The liability of a conspirator for offenses committed in  
21 furtherance of the conspiracy, including a crime that is an object of  
22 the conspiracy, shall be determined under AS 11.16.

23 (g) Conspiracy is a

24 (1) class A felony if the object of the conspiracy is a  
25 crime punishable as an unclassified felony;

26 (2) class B felony if the object of the conspiracy is a  
27 crime punishable as a class A felony;

28 (3) class C felony if the object of the conspiracy is a  
29 crime punishable as a class B or class C felony.

1           Sec. 11.31.125. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-  
2 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing  
3 limitations of actions, in a prosecution under AS 11.31.120, con-  
4 spiracy is a continuing course of conduct that terminates

5           (1) when all the crimes related to controlled substances  
6 that are its object are completed;

7           (2) when the agreement is abandoned by the defendant and by  
8 the person with whom the defendant agreed; or

9           (3) as to an individual defendant, when the defendant  
10 abandons the agreement by advising the person with whom the defendant  
11 agreed of the defendant's abandonment or the defendant informs law  
12 enforcement authorities of the existence of the conspiracy and of the  
13 defendant's participation in it.

14           (b) For purposes of (a)(2) of this section, abandonment of an  
15 agreement is rebuttably presumed if neither the defendant nor anyone  
16 with whom the defendant conspired does an overt act in furtherance of  
17 the conspiracy during the applicable period of limitations.

18 \* Sec. 2. AS 11.31.140 is amended to read:

19           Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
20 defense to a prosecution under AS 11.31.100 - 11.31.120 [AS 11.31.100  
21 OR AS 11.31.110] that the crime that is the object of the attempt,  
22 conspiracy, or solicitation was actually committed pursuant to the  
23 attempt, conspiracy, or solicitation.

24           (b) A person may not be convicted of more than one crime defined  
25 by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] for conduct  
26 designed to commit or culminate in commission of the same crime.

27           (c) A person may not be convicted on the basis of the same  
28 course of conduct of both (1) a crime defined by AS 11.31.100 - 11.-  
29 31.120 [AS 11.31.100 OR AS 11.31.110]; and (2) a crime that is an

1 object of the attempt, conspiracy, or solicitation.

2 (d) This section does not bar inclusion of multiple counts in a  
3 single indictment or information charging commission of a crime de-  
4 fined by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] and  
5 commission of the crime that is the object of the attempt, conspiracy,  
6 or solicitation.

7 \* Sec. 3. AS 11.31.140 is amended by adding a new subsection to read:

8 (e) If a person conspires to commit more than one crime under  
9 AS 11.31.120, the person commits only one crime of conspiracy if the  
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Levy  
5/4/87

Version 2

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1 IN THE SENATE

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the crime of conspiracy to commit  
7 a felony involving the delivery of certain controlled  
8 substances."

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

10 \* Section 1. AS 11.31 is amended by adding new sections to read:

11 Sec. 11.31.120. CONSPIRACY. (a) An offender commits the crime  
12 of conspiracy if, with the intent to promote or facilitate a felony  
13 offense relating to the delivery of a controlled substance under  
14 AS 11.71.010 - 11.71.040, excluding an offense involving a schedule  
15 VIA controlled substance, the offender agrees with one or more persons  
16 to engage in or cause the performance of that offense and the offender  
17 or one of the persons does an overt act in furtherance of the conspir-  
18 acy.

19 (b) If an offender commits the crime of conspiracy and knows  
20 that a person with whom the offender conspires to commit a crime has  
21 conspired or will conspire with another person or persons to commit  
22 the same crime, the offender is guilty of conspiring with that other  
23 person or persons to commit that crime, whether or not the offender  
24 knows their identities.

25 (c) In a prosecution under this section, it is not a defense

26 (1) that the defendant belongs to a class of persons who by  
27 definition are legally incapable in an individual capacity of com-  
28 mitting a crime that is an object of the conspiracy; or

29 (2) that a person with whom the defendant conspires could

1 not be guilty of a crime that is an object of the conspiracy because  
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3 (A) lack of criminal responsibility or other legal  
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6 in question or of the criminal purpose of the defendant; or

7 (C) any other factor precluding the culpable mental  
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9 (d) In a prosecution under this section, it is a defense that,  
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12 person with whom the defendant conspired.

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15 tary and complete renunciation of the defendant's criminal intent,  
16 gave timely warning to law enforcement authorities or otherwise made  
17 proper effort to prevent the commission of the crime that was the  
18 object of the conspiracy. Renunciation by one conspirator does not  
19 affect the liability of another conspirator who does not join in the  
20 renunciation.

21 (f) The liability of a conspirator for offenses committed in  
22 furtherance of the conspiracy, including a crime that is an object of  
23 the conspiracy, shall be determined under AS 11.16.

24 (g) Conspiracy is a

25 (1) class A felony if the object of the conspiracy is a  
26 crime punishable as an unclassified felony;

27 (2) class B felony if the object of the conspiracy is a  
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2 Sec. 11.31.125. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-  
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4 limitations of actions, in a prosecution under AS 11.31.120, con-  
5 spiracy is a continuing course of conduct that terminates

6 (1) when all the crimes related to controlled substances  
7 that are its object are completed;

8 (2) when the agreement is abandoned by the defendant and by  
9 the person with whom the defendant agreed; or

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11 abandons the agreement by advising the person with whom the defendant  
12 agreed of the defendant's abandonment or the defendant informs law  
13 enforcement authorities of the existence of the conspiracy and of the  
14 defendant's participation in it.

15 (b) For purposes of (a)(2) of this section, abandonment of an  
16 agreement is rebuttably presumed if neither the defendant nor anyone  
17 with whom the defendant conspired does an overt act in furtherance of  
18 the conspiracy during the applicable period of limitations.

19 \* Sec. 2. AS 11.31.140 is amended to read:

20 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
21 defense to a prosecution under AS 11.31.100 - 11.31.120 [AS 11.31.100  
22 OR AS 11.31.110] that the crime that is the object of the attempt,  
23 conspiracy, or solicitation was actually committed pursuant to the  
24 attempt, conspiracy, or solicitation.

25 (b) A person may not be convicted of more than one crime defined  
26 by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] for conduct  
27 designed to commit or culminate in commission of the same crime.

28 (c) A person may not be convicted on the basis of the same  
29 course of conduct of both (1) a crime defined by AS 11.31.100 -

1        11.31.120 [AS 11.31.100 OR AS 11.31.110]; and (2) a crime that is an  
 2        object of the attempt, conspiracy, or solicitation.

3                (d) This section does not bar inclusion of multiple counts in a  
 4        single indictment or information charging commission of a crime de-  
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9 Sec. 11.31.120. CONSPIRACY. (a) An offender commits the crime  
10 of conspiracy if, with the intent to promote or facilitate an offense  
11 relating to the delivery of a controlled substance under AS 11.71.-  
12 010 - 11.71.050 or an offense having similar elements under a  
13 municipal ordinance, the offender agrees with one or more persons to  
14 engage in or cause the performance of that offense and the offender or  
15 one of the persons does an overt act in furtherance of the conspiracy.

16 (b) If an offender commits the crime of conspiracy and knows  
17 that a person with whom the offender conspires to commit a crime has  
18 conspired or will conspire with another person or persons to commit  
19 the same crime, the offender is guilty of conspiring with that other  
20 person or persons to commit that crime, whether or not the offender  
21 knows their identities.

22 (c) In a prosecution under this section, it is not a defense

23 (1) that the defendant belongs to a class of persons who by  
24 definition are legally incapable in an individual capacity of com-  
25 mitting a crime that is an object of the conspiracy; or

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29 (A) lack of criminal responsibility or other legal

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21 (g) Conspiracy is a

22 (1) class A felony if the object of the conspiracy is a  
23 crime punishable as an unclassified felony;

24 (2) class B felony if the object of the conspiracy is a  
25 crime punishable as a class A felony;

26 (3) class C felony if the object of the conspiracy is a  
27 crime punishable as a class B or class C felony;

28 (4) class B misdemeanor if the object of the conspiracy is  
29 a crime punishable as a class A or B misdemeanor or is a violation of

1 a municipal ordinance.

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3 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing  
4 limitations of actions, in a prosecution under AS 11.31.120, con-  
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16 (b) For purposes of (a)(2) of this section, abandonment of an  
17 agreement is rebuttably presumed if neither the defendant nor anyone  
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24 conspiracy, or solicitation was actually committed pursuant to the  
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1 course of conduct of both (1) a crime defined by AS 11.31.100 - 11.-  
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Version 2

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13 pal ordinance, excluding an offense involving a schedule VIA  
14 controlled substance, the offender agrees with one or more persons to  
15 engage in or cause the performance of that offense and the offender or  
16 one of the persons does an overt act in furtherance of the conspiracy.

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21 the conspiracy, shall be determined under AS 11.16.

22 (g) Conspiracy is a

23 (1) class A felony if the object of the conspiracy is a  
24 crime punishable as an unclassified felony;

25 (2) class B felony if the object of the conspiracy is a  
26 crime punishable as a class A felony;

27 (3) class C felony if the object of the conspiracy is a  
28 crime punishable as a class B or class C felony;

29 (4) class B misdemeanor if the object of the conspiracy is

1 a crime punishable as a class A or B misdemeanor or is a violation of  
2 a municipal ordinance.

3 Sec. 11.31.125. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-  
4 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing  
5 limitations of actions, in a prosecution under AS 11.31.120, con-  
6 spiracy is a continuing course of conduct that terminates

7 (1) when all the crimes related to controlled substances,  
8 prostitution, and promotion of prostitution that are its object are  
9 completed;

10 (2) when the agreement is abandoned by the defendant and by  
11 the person with whom the defendant agreed; or

12 (3) as to an individual defendant, when the defendant  
13 abandons the agreement by advising the person with whom the defendant  
14 agreed of the defendant's abandonment or the defendant informs law  
15 enforcement authorities of the existence of the conspiracy and of the  
16 defendant's participation in it.

17 (b) For purposes of (a)(2) of this section, abandonment of an  
18 agreement is rebuttably presumed if neither the defendant nor anyone  
19 with whom the defendant conspired does an overt act in furtherance of  
20 the conspiracy during the applicable period of limitations.

21 \* Sec. 2. AS 11.31.140 is amended to read:

22 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
23 defense to a prosecution under AS 11.31.100 - 11.31.120 [AS 11.31.100  
24 OR AS 11.31.110] that the crime that is the object of the attempt,  
25 conspiracy, or solicitation was actually committed pursuant to the  
26 attempt, conspiracy, or solicitation.

27 (b) A person may not be convicted of more than one crime defined  
28 by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] for conduct  
29 designed to commit or culminate in commission of the same crime.

1 (c) A person may not be convicted on the basis of the same  
2 course of conduct of both (1) a crime defined by AS 11.31.100 - 11.-  
3 31.120 [AS 11.31.100 OR AS 11.31.110]; and (2) a crime that is an  
4 object of the attempt, conspiracy, or solicitation.

5 (d) This section does not bar inclusion of multiple counts in a  
6 single indictment or information charging commission of a crime de-  
7 fined by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] and  
8 commission of the crime that is the object of the attempt, conspiracy,  
9 or solicitation.

10 \* Sec. 3. AS 11.31.140 is amended by adding a new subsection to read:

11 (e) If a person conspires to commit more than one crime under  
12 AS 11.31.120, the person commits only one crime of conspiracy if the  
13 multiple crimes are the object of the same agreement.  
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FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to illegally controlled enterprises..."  
 Sponsor: Senator Rodey  
 Requestor: Judiciary and Finance  
 Agency Affected: Dept. of Administration  
 BRU: Public Defender Agency  
 Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		152.1	158.2	164.5	171.1	177.9
TRAVEL		5.0	5.2	5.4	5.6	5.8
CONTRACTUAL		10.0	10.4	10.8	11.2	11.6
SUPPLIES		2.5	2.6	2.7	2.8	2.9
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		175.6	176.4	183.4	190.7	198.2

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		175.6	176.4	183.4	190.7	198.2
FEDERAL FUNDS						
OTHER						
TOTAL		175.6	176.4	183.4	190.7	198.2

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Dana Fabe, Public Defender Phone: 279-7541  
 Division: Public Defender Agency Date: 1/25/88

Approved by Commissioner: John Andrews Date: 2/1/88  
 Agency: Department of Administration

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 28

The State Racketeering Bill (SB 28) and the Conspiracy Bill (SB 27) are both aimed at increasing the effectiveness of law enforcement's efforts to combat the criminal efforts of groups organized for illegal purposes. SB 28 is patterned after the federal racketeering statute.

The definition of racketeering in this bill requires proof of a pattern of illegal activity involving two or more instances of that activity. Illegal activity is defined as almost any felony found under AS 11. The commentary to this legislation indicates specifically that the bill is not limited to "organized crime."

This bill is modeled on federal law, and the experience in federal cases is that the legislation has been applied to a wide variety of defendants, including members of the Hell's Angels motorcycle club, a factory worker at an automobile plant, and employees of a court system. Various states with similar bills have urged inclusion of a wide range of defendants within the statute, from members of prison gangs to members of narcotics trafficking operations. There appears to be a wide range of offenses which could be included within the purview of this statute, and while some persons involved in a criminal enterprise may be able to afford their own attorney, this by no means provides assurance that all members of an illegal enterprise under this statute could do so.

Of particular interest in analyzing whether persons charged under this statute may qualify for public counsel are the provisions in the statute which provide for forfeiture of illegal proceeds arising from the activity. The language of the bill is intended to permit seizure of assets and proceeds of the illegal enterprise, and the illegal profits will not become "legal" merely because they have been subsequently committed to a legal investment. Thus, even if a person charged with this offense has assets resulting from the illegal enterprise in which he is involved, those assets can be seized prior to his hiring a lawyer, making it necessary for the court to appoint the Public Defender Agency or Office of Public Advocacy to represent him.

Cases filed under racketeering bills routinely involve substantial attorney time, particularly for analysis of voluminous documents and records and preparation of pre-trial motions. Due to the fact that the Department of Law's investigation activity will apparently focus on the Anchorage area, the Public Defender Agency is requesting one experienced attorney, a paralegal and a clerk typist to handle representation of clients charged under this bill, for a total of 175.6.

SR 28 FISCAL ANALYSIS

<u>Personal Services:</u>	Attorney IV	74.4	
	Associate Attorney I	48.4	
	Clerk/Typist III	29.3	
			152.1
<u>Travel:</u>	Expert Witnesses, Investigation, etc.		5.0
<u>Contractual:</u>	Expert Witnesses, Space, etc.		10.0
<u>Supplies:</u>	Office, Law Library, etc.		2.5
<u>Equipment:</u>	(One time) Furniture, Office Machines, etc.		<u>6.0</u>
		TOTAL	175.6

Position Title <b>Attorney IV</b>		No. of Positions <b>1</b>	Range/Step <b>24/A</b>	Barg. Unit <b>PX</b>
Time Status <b>PFT</b>	Staff Months <b>12.0</b>	Location <b>Anchorage</b>		Election District <b>92</b>
Type of Expenditure		Amount		
1	2	3		
Salary	\$4687/mo.	56,244		
Benefits		18,129		
Premium Pay				
Other				
Total Personal Services		74,373		
Travel		5,000		
Contractual		10,000		
Commodities		1,000		
Equipment		2,000		
Other				
Total Cost		92,373		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	92,373		
GF Program Receipts	1005			
Other				
Justification				
This senior felony attorney will be based in Anchorage but will represent defendants on a statewide basis.				

**Request For  
New Position**

Agency Department of Administration  
 BRU Public Defender Agency  
 Component Third Judicial District

Page 4 of 6  
 Revised Date 1/25/88

**FY 89**

Position Title Associate Attorney I		No. of Positions 1	Range/Step 17/A	Barg. Unit PX
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District 92
		Justification		
Type of Expenditure		Amount		
1		2		3
Salary	\$2910/mo.	34,920		
Benefits		13,481		
Premium Pay				
Other				
Total Per Services				48,401
Travel				-0-
Contractual				-0-
Commodities				500
Equipment				2,000
Other				
Total Cost				50,901
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			50,901
GF Program Receipts	1005			
Other				

This Associate Attorney I will be based in Anchorage and will provide investigative and paralegal support services to the Attorney IV.

**Request For  
New Position**

Agency Department of Administration  
 BRU Public Defender Agency  
 Component Third Judicial District

**FY 89**

Page 5 of 6  
 Revised Date 1/25/88

Position Title Clerk/Typist III		No. of Positions 1	Range/Step 8/A	Barg. Unit GGU
Time Status Part	Staff Months 12.0	Location Anchorage		Election District 92
		Justification		
Type of Expenditure		Amount		
1		2		3
Salary	\$1631/mo.	19,572		
Benefits		9,742		
Premium Pay				
Other				
Total Personal Services				29,314
Travel				-0-
Contractual				-0-
Commodities				1,000
Equipment				2,000
Other				
Total Cost				32,314
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			32,314
GF Program Receipts	1005			
Other				

This Clerk/Typist III will be based in Anchorage and will provide clerical support services to the Attorney IV and Associate Attorney I.

**Request For  
New Position**

Agency Department of Administration  
 BRU Public Defender Agency  
 Component Third Judicial District

Page 6 of 6  
 Revised Date 1/25/88

**FY 89**

FISCAL NOTE

REQUEST:

Revision Date: 1/21/88 Agency Affected: Administration  
 Title: "An Act relating to illegally BRU: Office of Public Advocacy  
controlled enterprises,..."  
 Sponsor: Rodev, Szvanski et al. Components: \_\_\_\_\_  
 Requestor: Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	103.7	107.8	112.1	116.6	121.3
TRAVEL		5.0	5.2	5.4	5.6	5.8
CONTRACTUAL		85.0	88.4	91.9	95.6	99.4
SUPPLIES		2.5	2.6	2.7	2.8	2.9
EQUIPMENT		6.0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	202.2	204.0	212.1	220.6	229.4

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	202.2	204.0	212.1	220.6	229.4
FEDERAL FUNDS						
OTHER						
TOTAL		202.2	204.0	212.1	220.6	229.4

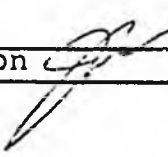
POSITIONS:

FULL-TIME	0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee   
 Division: Office of Public Advocacy

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

Approved by Commissioner: John Andrews  
 Agency: Department of Administration 

Date: 2/1/88

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 28

Prepared by the Office of Public Advocacy

The State Racketeering Bill (SB 28) and the Conspiracy Bill (SB 27) are both aimed at increasing the effectiveness of law enforcement's efforts to combat the criminal efforts of groups organized for illegal purposes. SB 28 is patterned after the federal racketeering statute.

The definition of racketeering in this bill requires proof of a pattern of illegal activity involving two or more instances of that activity. Illegal activity is defined as almost any felony found under Alaska Statute 11. The commentary to this legislation indicates specifically that the bill is not limited to "organizational crime."

The experience in federal cases is that the legislation has been applied to a wide variety of defendants, including members of the Hell's Angels motorcycle club, a factory worker at an automobile plant, and employees of a court system. Various states with similar bills have urged inclusion of a wide range of defendants within the statute, from members of prison gangs to members of narcotics trafficking operations. There appears to be a wide range of offenses which could be included within the purview of this statute, and while some persons involved in a criminal enterprise may be able to afford their own attorney, this by no means provides assurance that all members of an illegal enterprise under this statute could do so.

Of particular interest in analyzing whether persons charged under this statute may qualify for public counsel are the provisions in the statute which provide for forfeiture of illegal proceeds arising from the activity. The language of the bill is intended to permit seizure of assets and proceeds of the illegal enterprise, and the illegal profits will not become "legal" merely because they have been subsequently committed to a legal investment. Thus, even if a person charged with this offense has assets resulting from the illegal enterprise in which he is involved, those assets can be seized prior to his hiring a lawyer, making it necessary for the court to appoint the Public Defender Agency or Office of Public Advocacy to represent him.

Cases filed under racketeering bills routinely involve substantial attorney time, particularly for analysis of voluminous documents and records and preparation of pre-trial motions. Due to the fact that the Department of Law's investigation activity will apparently focus on the Anchorage area, the Office of Public Advocacy is requesting one experienced attorney and a clerk typist to handle representation of clients charged under this bill.

Enactment of this statute is intended to allow the prosecution of multiple co-defendants. The Office of Public Advocacy is responsible by statute for providing legal representation to all indigent defendants with whom the Public Defender Agency has a conflict of interest. While staff attorneys can represent one co-defendant in a given case, the Office of Public Advocacy must contract with private counsel for the representation of all other co-defendants determined to be indigent by the court.

It is anticipated that the complexity of this litigation will dictate high contract costs which are estimated at \$15,000 per defendant. The Department of Law has not to date estimated the number of prosecutions it will initiate during FY 88. The projected \$75,000 in contract costs is thus based on an assumption that the Office of Public Advocacy will be responsible for only five defendants for which it cannot provide staff coverage.

SB 28 FISCAL ANALYSIS

<u>Personal Services:</u>	Attorney IV	\$74.4	
	Clerk Typist III	29.3	
			\$103.7
<u>Travel:</u>	Expert Witnesses, Investigation, etc.		5.0
<u>Contractual:</u>	Contract Attorneys	\$75.0	
	Expert Witnesses, Space. etc.	10.0	
			85.0
<u>Supplies:</u>	Office, Law Library, etc.		2.5
<u>Equipment:</u>	(One time) Furniture, Office Machines, etc.		<u>6.0</u>
			Total
			\$202.2

Position Title <b>Attorney IV</b>		No. of Positions	Range/Step 24/A	Barg. Unit X
Time Status PFS	Staff Months 12	Location EBA-Anchorage		Election District 8
Justification				
<p>The Anchorage OPA office presently has 3 attorney positions devoted to criminal defense. These attorneys are also handling several major cases outside the Anchorage area as staff coverage and travel is more cost effective than contracting major cases to private attorneys in rural areas. Current caseloads indicate that these three attorneys cannot absorb the additional cases which would result from this legislation. It is necessary that an additional attorney be added to the Anchorage staff to cover the resultant increased caseload.</p>				
Type of Expenditure		Amount		
1	2	3		
Salary	56,244			
Benefits	18,132			
Premium Pay				
Other				
Total Personal Services		74,376		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		74,376		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	74,376		
GF Program Receipts	1005			
Other				

**Request For  
New Position**

Agency Administration  
 BRU Office of Public Advocacy  
 Component \_\_\_\_\_

Page 5 of 6  
 Revised Date \_\_\_\_\_

**FY 89**

Position Title Clerk Typist III		No. of Positions	Range/Step 8/A	Org. Unit G
Time Status PPT	Staff Months 12	Location EBA-Anchorage		Election District 8
Justification				
The Anchorage OPA office presently has 3 legal secretary positions providing clerical support to 12 professional positions, 2 vista volunteers, and the VGAL program. The addition of an attorney with a full caseload necessitates the addition of another typist. The clerical workload generated by an additional attorney position cannot be absorbed by the current secretarial staff.				
Type of Expenditure		Amount		
1	2	3		
Salary	19,572			
Benefits	9,747			
Premium Pay				
Other				
Total Personal Services		29,319		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		29,319		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	29,319		
GF Program Receipts	1005			
Other				

Request For  
New Position

Agency Administration  
 BRU Office of Public Advocacy  
 Component \_\_\_\_\_

Page 6 of 6  
 Revised Date \_\_\_\_\_

FY 89



# ANCHORAGE POLICE DEPARTMENT

4501 SOUTH BRAGAW STREET • ANCHORAGE, ALASKA 99507-1599  
TELEPHONE (907) 786-8500



TONY KNOWLES  
MAYOR

RONALD L. OTTE  
CHIEF

March 4, 1987

MAR 6 1987

Senator Jay Kerttula  
Alaska State Senate  
Juneau, Alaska 99811

Dear Senator Kerttula,

I am writing to commend you on a job well done in your writing of Senate Bill No. 28. I would like to suggest two amendments to the Bill that would greatly assist the local drug units within the State.

The amendments would be:

1. Page 13, Line 28, change may to will.
2. Page 14, add a "2a" which would read:

"In the cases of all items subject to forfeiture, there shall first be paid out of the gross amount all of the 'proper expenses of the proceeding' (as outlined in #2). The net amount of which remains after that payment shall be divided in the following manner; the entire amount of the forfeit assets shall be returned to the seizing law enforcement agency to be used in the drug enforcement area. If more than one agency is involved in the seizure and forfeiture, an equitable split shall be utilized."

As you can see, these amendments would assist the local drug units making the seizures and allow for the proceeds to be used in further drug investigations.

If you have any questions or I am able to be of any assistance, please contact me at any time. My telephone number is 786-8850.

Very truly yours,

Irl Stambaugh  
Lieutenant, Anchorage Police Department  
Metropolitan Drug Enforcement Unit

*Handwritten notes:*  
 Jayce  
 7 K. you file  
 2 also Bill  
 7 8 am

*Handwritten signature:* dedgek

BILL NO: SB 28

DATE: 1/16/87

TITLE: "An Act relating to illegally  
controlled enterprises,..."

CONTACT: Maj. Walter J. Gilmour  
Acting Director

FEB 3 1987

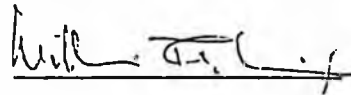
DEPARTMENT OF  
PUBLIC SAFETY  
PROPERTY

This legislation provides punitive sanctions, both criminal and civil, for those who use criminal activities to control, participate, or conduct the affairs of an enterprise or use illegal funds to invest in an enterprise, either legitimate or otherwise.

SB 28 provides the necessary statutory tool with which to combat such criminal activity by the criminal justice system. The bill also provides a precise process for forfeiture of property and retention and disposal of items seized. Further, the bill ties in racketeering and forfeiture elements of existing statutes.

This bill will enable the law enforcement agencies in the state to take enforcement action against this type of criminal activity.

The Department of Public Safety is neutral on this legislation.



William R. Nix  
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 28  
Publish Date: \_\_\_\_\_

REQUEST  
Revision Date: \_\_\_\_\_  
Title: "An Act relating to illegally  
controlled enterprises,...."  
Sponsor: Sen. Rodey  
Requestor: Senate Judiciary

Agency Affected: Public Safety  
BRU: Alaska State Troopers  
Components: Detachments & C.I.B.

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

*TNR*  
*1/23/87*  
Prepared by: Francis C. Allan *F.C.A.*  
Division: Alaska State Troopers

Phone: 269-5691  
Date: 1/20/87

Approved by Commissioner: *[Signature]*  
Agency: Public Safety  
Distribution (by preparer):

Date: 1/23/87

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: SB 28  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_

Agency Affected: Department of Law

Title: "An Act relating to illegally  
controlled enterprises..."

BRU: Prosecution

Sponsor: Sen. Rodey

Components: Criminal Appeals & Special  
Prosecution

Requestor: Senate Judiciary Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		88.3	181.9	187.4	193.0	198.8
TRAVEL		5.4	11.1	11.4	11.7	12.1
CONTRACTUAL		21.9	45.1	46.5	47.9	49.3
SUPPLIES		6.3	10.3	10.6	10.9	11.2
EQUIPMENT		9.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		131.4	248.4	255.9	263.5	271.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		131.4	248.4	255.9	263.5	271.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: Feb. 2, 1987

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.

Date: Feb. 2, 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. SB 28

This bill would provide both criminal and civil sanctions to combat organized racketeering activities through the illegal control of enterprises in Alaska. The bill provides both stiff penalties and severe financial disincentives to the infiltration into legitimate business through criminal activity. The bill is also designed to address the operation of an enterprise through a pattern of illegal activity. This level of criminal activity usually involves the use of highly sophisticated economic structures.

The Department of Law estimates that a small number of investigations and prosecutions of this nature will be undertaken annually, requiring painstaking examination and evaluation of large numbers of financial documents and business transactions to track and identify the funds that originate from criminal activities and the individuals who control those funds. The previous fiscal note submitted for this bill, the last legislature assumed that implementation could be accomplished with existing attorney resources, and requested the addition of a single paraprofessional position. However, the present FY 88 budget cuts have eliminated the entire white collar crimes unit, with the exception of a paraprofessional. To restore the unit to a viable level will require two attorneys and one secretary. The department also recommends setting aside sufficient funds to contract for the services of document analysis experts and accountants for use as expert witnesses during the preparation for and conduct of trials.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 28

Fiscal Analysis RICO Bill  
Cost Schedule

FY 88

	<u>Attorney V</u>	<u>Attorney IV</u>	<u>Leg. Sec. I</u>	<u>Total</u>
71000	37.6	35.3	15.4	88.3
72000	2.7	2.7	-0-	5.4
73000	17.4	2.4	2.1	21.9
74000	2.3	2.3	1.7	6.3
75000	1.5	1.5	6.5	9.5
	<hr/>	<hr/>	<hr/>	<hr/>
Total	61.5	44.2	25.7	131.4

Note 1: First-year, FY 88 costs anticipate a beginning date of January 1, 1988, in accordance with the bill's proposed effective date. Thus, costs for only six months are shown for FY 88. Costs for FY 89 are shown for a full-year period, less start-up costs for position equipment.

Note 2: Costs beyond FY 88 include a three per cent annual inflation factor.

Note 3: The contractual amount for the Attorney V includes 15.0 for expert witness document analysis. Fees for this service are absent about \$75 per hour. Up to 400 hours will be required annually.

Position Title Attorney V		No. of Positions 1	Range/Step 25A	Barg. Unit PX
Time Status PFT	Staff Months 6	Location EBA - Anchorage		Election District 8
Justification				
<p>This is one of two attorney positions needed to prosecute violators of the state's RICO bill. Infiltration of criminal activity into legitimate enterprises often involves highly complex financial transactions that are sometimes carried out on an interstate basis. Successful prosecution of these cases requires the collection and investigation of substantial amounts of evidence. And it all requires a high level of legal expertise to present and prosecute these cases successfully. Allocation of this lead prosecutor to the legal specialist level of Attorney V is therefore recommended.</p>				
Type of Expenditure		Amount		
1	2	3		
Salary	30,126			
Benefits	7,450			
Premium Pay				
Other				
Total Personal Services		37,576		
Travel		2,700		
Contractual		17,400		
Commodities		2,250		
Equipment		1,500		
Other				
Total Cost		61,426		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	61,426		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

Request For  
New Position

Agency Department of Law  
 BRU Prosecution  
 Component Criminal Appeals & Special Prosc.

Page 1 of 3  
 Revised Date

FY 88

Position Title Attorney IV		No. of Positions 1	Range/Step 24A	Barg. Unit PX
Time Status PFT	Staff Months 6	Location EBA - Anchorage		Election District 8
Justification				
<p>This is the second of two attorney positions that are needed to prosecute violators of the state's RICO bill. Prosecution of this highly complex criminal activity, involving the manipulation of substantial sums of money and ownership interests in multiple firms, requires the services of at least two attorneys. Enormous amounts of evidence are often involved in these cases, and preparation and presentation of the state's case can easily require two attorneys. Allocation to the journey-level of Attorney IV is recommended because of the complexities in this area of the law.</p>				
Type of Expenditure:		Amount		
1	2	3		
Salary	28,122			
Benefits	7,183			
Premium Pay				
Other				
Total Personal Services		35,305		
Travel		2,700		
Contractual		2,400		
Commodities		2,250		
Equipment		1,500		
Other				
Total Cost		44,155		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	44,155		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

Request For  
New Position

Agency Department of Law  
 BRU Prosecution  
 Component Criminal Appeals & Special Prosc.

FY 88

Page 2 of 3  
 Revised Date

Position Title Legal Secretary I		No. of Positions 1	Range/Step 10B	Barg. Unit CCU
Time Status PFT	Staff Months 6	Location EBA - Anchorage		Election District 8
Justification				
<p>This legal secretary position is needed to provide clerical assistance for the two attorneys who will prosecute violators under the state's RICO bill. Prosecution of RICO violations often involves large amounts of evidence, and a substantial amount of legal documentation to obtain and present that evidence in court. Consequently, full-time legal secretarial services will be needed. Allocation to the Legal Secretary I level is recommended because of the full-spectrum services that will be needed.</p>				
Type of Expenditure		Amount		
1	2	3		
Salary	11,358			
Benefits	4,018			
Premium Pay				
Other				
Total Personal Services		15,376		
Travel				
Contractual		2,100		
Commodities		1,650		
Equipment		6,500		
Other				
Total Cost		25,626		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	25,626		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Criminal Appeals & Special Prosc.

Page 3 of 3  
 Revised Date

**FY 88**

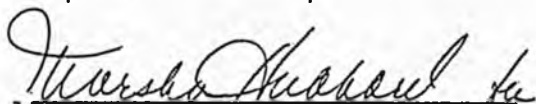
FEB. 9, 1987

POSITION PAPER  
SB 28

This bill, patterned after the federal racketeering statute, is aimed at increasing the effectiveness of law enforcement's efforts to combat the criminal efforts of groups organized for illegal purposes.

The Alaska Public Defender Agency and the Office of Public Advocacy are not law enforcement agencies and, therefore, are in no position to evaluate the need for this legislation. The fiscal impact of this bill will be determined by the types and frequency of prosecutions initiated by the Department of Law.

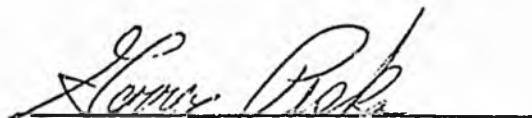
The Alaska Public Defender Agency and the Office of Public Advocacy have adopted a neutral position with respect to this legislation.



Brant McGee, Public Advocacy  
Office of Public Advocacy  
Department of Administration

February 2, 1987

Date



Commissioner Garrey Peska  
Department of Administration

2/5/87

Date

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 28  
Publish Date: \_\_\_\_\_

REQUEST \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Illegally  
Controlled Enterprises . . .  
Sponsor: Rodey, et al.  
Requestor: Senate Judiciary

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES		103.1	107.2	111.5	116.0	120.6
TRAVEL		5.0	5.2	5.4	5.6	5.8
CONTRACTUAL		85.0	88.4	91.9	95.6	99.4
SUPPLIES		2.5	2.6	2.7	2.8	2.9
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	201.6	203.4	211.5	222.0	228.7
CAPITAL						
REVENUE						


FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	201.6	203.4	211.5	222.0	228.7
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	201.6	203.4	211.5	222.0	228.7

POSITIONS:

FULL-TIME	-0-	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary    See attached.

Prepared By: Brant McGee, Public Advocate    Phone: 274-1684  
Division: Office of Public Advocacy    Date: February 2, 1987  
Approved by Commissioner: Garrey Peska     Date: 2/5/87  
Agency: Department of Administration

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 28

Prepared by the Office of Public Advocacy

The State Racketeering Bill (SB 28) and the Conspiracy Bill (SB 27) are both aimed at increasing the effectiveness of law enforcement's efforts to combat the criminal efforts of groups organized for illegal purposes. SB 28 is patterned after the federal racketeering statute.

The definition of racketeering in this bill requires proof of a pattern of illegal activity involving two or more instances of that activity. Illegal activity is defined as almost any felony found under Alaska Statute 11. The commentary to this legislation indicates specifically that the bill is not limited to "organizational crime."

The experience in federal cases is that the legislation has been applied to a wide variety of defendants, including members of the Hell's Angels motorcycle club, a factory worker at an automobile plant, and employees of a court system. Various states with similar bills have urged inclusion of a wide range of defendants within the statute, from members of prison gangs to members of narcotics trafficking operations. There appears to be a wide range of offenses which could be included within the purview of this statute, and while some persons involved in a criminal enterprise may be able to afford their own attorney, this by no means provides assurance that all members of an illegal enterprise under this statute could do so.

Of particular interest in analyzing whether persons charged under this statute may qualify for public counsel are the provisions in the statute which provide for forfeiture of illegal proceeds arising from the activity. The language of the bill is intended to permit seizure of assets and proceeds of the illegal enterprise, and the illegal profits will not become "legal" merely because they have been subsequently committed to a legal investment. Thus, even if a person charged with this offense has assets resulting from the illegal enterprise in which he is involved, those assets can be seized prior to his hiring a lawyer, making it necessary for the court to appoint the Public Defender Agency or Office of Public Advocacy to represent him.

Cases filed under racketeering bills routinely involve substantial attorney time, particularly for analysis of voluminous documents and records and preparation of pre-trial motions. Due to the fact that the Department of Law's investigation activity will apparently focus on the Anchorage area, the Office of Public Advocacy is requesting one experienced attorney and a clerk typist to handle representation of clients charged under this bill.

Enactment of this statute is intended to allow the prosecution of multiple co-defendants. The Office of Public Advocacy is responsible by statute for providing legal representation to all indigent defendants with whom the Public Defender Agency has a conflict of interest. While staff attorneys can represent one co-defendant in a given case, the Office of Public Advocacy must contract with private counsel for the representation of all other co-defendants determined to be indigent by the court.

It is anticipated that the complexity of this litigation will dictate high contract costs which are estimated at \$15,000 per defendant. The Department of Law has not to date estimated the number of prosecutions it will initiate during FY 88. The projected \$75,000 in contract costs is thus based on an assumption that the Office of Public Advocacy will be responsible for only five defendants for which it cannot provide staff coverage.



STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: SB28  
Publish Date: \_\_\_\_\_

Revision Date: January 30, 1987  
Title: "An Act relating to illegally  
controlled enterprises..."  
Sponsor: Senator Rodey  
Requestor: Judiciary and Finance

Agency Affected: Department of Administration  
BRU: Public Defender Agency

Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		147.9	153.8	160.0	166.4	173.1
TRAVEL		5.0	5.2	5.4	5.6	5.8
CONTRACTUAL		10.0	10.4	10.8	11.2	11.7
SUPPLIES		2.5	2.6	2.7	2.8	2.9
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	171.4	172.0	178.9	186.0	193.5

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	171.4	172.0	178.9	186.0	193.5
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	171.4	172.0	178.9	186.0	193.5

POSITIONS:

FULL-TIME	-0-	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(See attached)

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

Phone: 279-7541  
Date: January 30, 1987

Approved by Commissioner: [Signature]  
Agency: \_\_\_\_\_

Date: 2/5/87

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 23

PREPARED BY THE PUBLIC DEFENDER AGENCY

The State Racketeering Bill (SB23) and the Conspiracy Bill (SP27) are both aimed at increasing the effectiveness of law enforcement's efforts to combat the criminal efforts of groups organized for illegal purposes. SB23 is patterned after the federal racketeering statute.

The definition of racketeering in this bill requires proof of a pattern of illegal activity involving two or more instances of that activity. Illegal activity is defined as almost any felony found under AS 11. The commentary to this legislation indicates specifically that the bill is not limited to "organized crime."

This bill is modeled on federal law, and the experience in federal cases is that the legislation has been applied to a wide variety of defendants, including members of the Hell's Angels motorcycle club, a factory worker at an automobile plant, and employees of a court system. Various states with similar bills have urged inclusion of a wide range of defendants within the statute, from members of prison gangs to members of narcotics trafficking operations. There appears to be a wide range of offenses which could be included within the purview of this statute, and while some persons involved in a criminal enterprise may be able to afford their own attorney, this by no means provides assurance that all members of an illegal enterprise under this statute could do so.

Of particular interest in analyzing whether persons charged under this statute may qualify for public counsel are the provisions in the statute which provide for forfeiture of illegal proceeds arising from the activity. The language of the bill is intended to permit seizure of assets and proceeds of the illegal enterprise, and the illegal profits will not become "legal" merely because they have been subsequently committed to a legal investment. Thus, even if a person charged with this offense has assets resulting from the illegal enterprise in which he is involved, those assets can be seized prior to his hiring a lawyer, making it necessary for the court to appoint the Public Defender Agency or Office of Public Advocacy to represent him.

Cases filed under racketeering bills routinely involve substantial attorney time, particularly for analysis of voluminous documents and records and preparation of pre-trial motions. Due to the fact that the Department of Law's investigation activity will apparently focus on the Anchorage area, the Public Defender Agency is requesting one experienced attorney, a paralegal and a clerk typist to handle representation of clients charged under this bill, for a total of 171.4.

SB 28 FISCAL ANALYSIS

<u>Personal Services:</u>	Attorney IV	74.8	
	Paralegal II	44.8	
	Clerk/Typist III	28.3	
			147.9
<u>Travel:</u>	Expert Witnesses, Investigation, etc.		5.0
<u>Contractual:</u>	Expert Witnesses, Space, etc.		10.0
<u>Supplies:</u>	Office, Law Library, etc.		2.5
<u>Equipment:</u>	(One time) Furniture, Office Machines, etc.		<u>6.0</u>
		TOTAL	171.4

# STATE OF ALASKA THE LEGISLATURE

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

## LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 23, 1987

SUBJECT: Sectional analysis of SB 28

TO: Senator Jalmar Kerttula  
Chairman, Senate Judiciary Committee

FROM: Keith B. Levy *KBL*  
Legislative Counsel

The following is a sectional analysis of SB 28, relating to illegally controlled enterprises, forfeiture of property used in violation of state law, and extortion. The bill is partially based on the federal "RICO" statutes, which are aimed at racketeering, among other things.

Section 1 states the purpose of the Act.

Section 2 adds a new chapter (AS 11.59) to the Criminal Code pertaining to illegally controlled enterprises. AS 11.59.020 creates the offense of "illegal control of an enterprise in the second degree," a class A felony. To be guilty, a person must acquire or maintain an interest in an enterprise through racketeering, participate in or conduct the affairs of an enterprise through racketeering, or use or invest property or the proceeds of property from racketeering to acquire an interest in or control of an enterprise. The term "racketeering" is defined in AS 11.59.900(a)(4) as a pattern of illegal activity involving two or more instances of illegal activity. The term "illegal activity" is defined in AS 11.59.900(a)(2) and is limited to certain offenses that are felonies and activities that are considered racketeering under federal law.

AS 11.59.010 creates the offense of "illegal control of an enterprise in the first degree," an unclassified felony. To be guilty of this offense, an individual must commit "illegal control of an enterprise in the second degree," and one of the instances of illegal activity used to establish racketeering must be a class A or unclassified felony.

AS 11.59.030 sets out the requirements the prosecutor must meet to establish racketeering in a prosecution for illegal control of an enterprise. It also sets out the time limits in which the illegal activity must have been committed.

AS 11.59.040 provides that a prosecution for illegal control of an enterprise and illegal activity used to establish racketeering may be charged as a separate count in the same indictment.

AS 11.59.070 provides that a conviction for illegal control of an enterprise stops the defendant from denying the underlying crime in a civil action.

AS 11.59.080 provides that a party injured by a violation of the illegal control of an enterprise provisions may bring a civil action for three times the amount of damages sustained.

AS 11.59.090 provides that property involved in racketeering is subject to forfeiture to the state.

AS 11.59.100 provides that the Attorney General may seek an injunction to prevent a violation of the illegal control of an enterprise provisions and gives the court wide latitude in fashioning an appropriate remedy.

AS 11.59.110 gives the Attorney General the power to make an investigative demand for materials believed to be involved in racketeering and sets out the method for serving the demand, responding to the demand, and returning materials obtained.

AS 11.59.900 defines terms used in AS 11.59.

Section 3 adds new provisions setting out the procedures to be used by the state in forfeiture proceedings. AS 09.50.410 provides that property may be seized by court order upon a showing of probable cause that the property is subject to forfeiture, or without a court order in certain circumstances.

AS 09.50.420 requires that the Commissioner of Public Safety give notice within 30 days of the seizure to any person known to have an interest in the property seized. It also sets out the procedure for explaining why the property should not be subject to forfeiture. The notice requirement does not apply to forfeiture of controlled substances.

AS 09.50.430 provides that in a forfeiture proceeding the state has the burden of proving that the property is subject to forfeiture.

AS 09.50.440 provides that it is not a defense to a forfeiture proceeding that a criminal action has resulted in conviction for a lesser included offense or acquittal.

AS 09.50.450 provides that a person with an interest in seized property may file a petition for release of the property and authorizes the court to release the property in certain circumstances. AS 09.50.460 authorizes the state or a person with an interest in seized property to file a petition seeking a particular disposition of the property. The proceeds of the disposition then become the subject of the forfeiture proceeding.

AS 09.50.480 provides for remission of forfeited property in certain circumstances. AS 09.50.480 provides the procedures for disposal of forfeited property.

Section 4 amends AS 11.41.520 to provide that the crime of extortion includes collection of a debt if the debt was undertaken under the threat that certain acts would be committed on the debtor for failure to make repayment.

Sections 5 and 6 make technical amendments to AS 11.66.270 and 11.73.060 to refer to the forfeiture provisions added by section 3 of the Act.

Section 7 amends AS 12.55.035(b) to provide that a defendant may be sentenced to a fine of up to \$75,000 for any unclassified felony. The purpose of the amendment is to include the new offense of illegal control of an enterprise in the first degree within the section.

Section 8 amends AS 12.55.125(i) to include the offense of illegal control of an enterprise in the first degree within the sentencing provisions of that section.

Section 9 repeals and reenacts AS 17.30.110 to set out the procedures for forfeiture of certain items related to controlled substances.

Section 10 amends AS 17.30.126 to provide that the forfeiture provisions for controlled substances include imitation controlled substances.

Senator Kerttula  
January 23, 1987  
Page 4

Section 11 repeals AS 17.30.112 - 17.30.124, the current forfeiture provisions for controlled substances.

Section 12 provides an effective date of January 1, 1988.

KBL: csh  
c7/023

TERMS OF IMPRISONMENT AND AUTHORIZED FINES  
FIRST OFFENSES UNDER CRIMINAL CODE

<u>FELONY</u>	<u>TERMS OF IMPRISONMENT</u>
"A" felony	2½ - [5-7]* - 20
"B" felony	0 - [2]** - 20
"C" felony	0 - [1]*** - 5

KEY

Number in bracket is presumptive sentence.  
Number to left is lowest mitigated sentence.  
Number to right is highest aggravated sentence.

\*Five year presumptive term if first offense; a seven year presumptive term applies if first A felony conviction, other than manslaughter, and defendant possessed a firearm or used dangerous instrument or caused serious physical injury during the offense or knowingly directed the conduct at a uniformed peace officer or emergency responder engaged in official duties.

\*\*Two year presumptive sentence applies if first B felony conviction and defendant knowingly directed the conduct at a uniformed peace officer or emergency responder engaged in official duties.

\*\*\*One year presumptive sentence applies if first C felony conviction and defendant knowingly directed the conduct at a uniformed peace officer or emergency responder engaged in official duties.

<u>MISDEMEANOR</u>	<u>MAXIMUM TERM</u>
A misdemeanor	1 year
B misdemeanor	90 days

MAXIMUM FINES-PERSONS

<u>OFFENSE</u>	<u>FINE</u>
Sexual assault I, misconduct involving a controlled substance, murder or kidnapping	\$75,000
A, B, or C felony	\$50,000
A misdemeanor	\$ 5,000
B misdemeanor	\$ 1,000
Violation	\$ 300

MAXIMUM FINES-ORGANIZATIONS

All offenses - \$100,000 or 3 times pecuniary gain - whichever is greater

CLASSIFICATION OF OFFENSES IN CRIMINAL CODE

UNCLASSIFIED FELONIES

Murder I  
AS 11.41.100  
20 - 99 years

Murder II  
AS 11.41.110  
5 - 99 years

Kidnapping  
AS 11.41.300  
5 - 99 years

Misconduct involving controlled substance I  
AS 11.71.010  
5 - 99 years

Sexual assault I or sexual abuse of minor I  
AS 11.41.410 & AS 11.41.434

First offense not involving firearms, use  
of dangerous instrument, or causing  
serious injury  
[8] - 30 years

First offense involving one of the above  
[10] - 30 years

CLASSIFIED FELONIES

A

B

C

---

Attempted murder I, sexual assault  
sexual assault of minor,  
misconduct involving a controlled  
substance I, kidnapping  
AS 11.31.100(d) (1)

Attempted A felony  
AS 11.31.100(d) (2)

Attempted B felony  
AS 11.31.100(d) (3)

Solicitation of A felony  
AS 11.31.110(c) (2)

Solicitation of B felony  
AS 11.31.110(c) (3)

Solicitation of murder, sexual  
assault I, sexual assault of a  
minor, misconduct involving a  
controlled substance II, kidnapping  
AS 11.31.110(c) (1)

Assault II  
AS 11.41.210

Criminally negligent homicide  
AS 11.41.130

Sexual assault II  
AS 11.41.420

Custodial interference I  
AS 11.41.320

CLASSIFIED FELONIES

A	B	C
Manslaughter AS 11.41.120	Unlawful exploitation of a minor AS 11.41.455	Sexual assault III AS 11.41.430
Assault I AS 11.41.200	Sexual abuse of minor II AS 11.41.436	Assault III AS 11.41.220
Robbery I AS 11.41.500	Robbery II AS 11.41.510	Sexual abuse of a minor III AS 11.41.438
Arson I AS 11.46.400	Extortion AS 11.41.520	Incest AS 11.41.450
Escape I AS 11.56.300	Theft I AS 11.46.120	Coercion AS 11.41.530
Criminal Possession of explosives with intent to commit murder or kidnapping AS 11.61.240(b) (1)	Issuing a bad checks, \$25,000 or more AS 11.46.280(d) (1)	Theft II AS 11.46.130
Promoting person under 16 to engage in prostitution AS 11.66.110(a) (2)	Burglary I AS 11.46.300	Concealment of merchandise, \$500 or more AS 11.46.220(c) (1)
Misconduct involving controlled substance II AS 11.71.020	Arson II AS 11.46.410	Removal of identification marks, \$500 or more AS 11.46.260(b) (1)
	Criminal mischief I AS 11.46.480	Unlawful possession (of altered property), \$500 or more AS 11.46.270(b) (1)
	Forgery I AS 11.46.500	

CLASSIFIED FELONIES

B

C

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Scheme to defraud AS 11.46.600	Issuing a bad check, \$500 or more AS 11.461280(d) (2)
Defrauding creditors, \$25,000 or more AS 11.46.730(c) (1)	Fraudulent use of a credit card, \$500 or more AS 11.46.285(b) (1)
Bribery AS 11.56.100	Obtaining a credit card by fraudulent means AS 11.46.290
Receiving a bribe AS 11.56.110	
Perjury AS 11.56.200	Burglary II AS 11.46.310
Escape II AS 11.56.310	Criminal Mischief II AS 11.46.482
Interference with official proceedings AS 11.56.510	Forgery AS 11.46.505
Receiving a bribe by Witness or juror AS 11.56.520	Criminal possession of forgery device AS 11.46.520
Criminal possession of explosives with intent to commit A felony AS 11.61.240(b) (2)	Criminal simulation \$500 or more AS 11.46.530(b) (1)
Promoting prostitution I AS 11.66.110	Offering a false instrument for recording AS 11.46.550

CLASSIFIED FELONIES

B

C

Misconduct involving  
controlled substance III  
AS 11.71.030

Delivery of imitatin  
controlled substance  
AS 11.73.030

Misapplication of property  
\$500 or more  
AS 11.46.620

Falsifying business records  
AS 11.46.630

Commercial bribe receiving  
AS 11.46.660

Commercial bribery  
AS 11.46.670

Defrauding creditors,  
\$500 - \$25,000  
AS 11.46.730(c) (2)

Criminal use of computer  
AS 11.46.740

Endangering welfare of minor  
AS 11.51.100

Perjury by inconsistent  
statements  
AS 11.56.230

Escape III  
AS 11.56.320

Permitting an escape  
AS 11.56.370

Promoting contraband I  
AS 11.56.375

CLASSIFIED FELONIES

C

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Tampering with witness I  
AS 11.56.540

Jury tampering  
AS 11.56.590

Misconduct by a juror  
AS 11.56.600

Tampering with physical evidence  
AS 11.56.610

Harming a police dog I  
AS 11.56.705

Hindering prosecution I  
AS 11.56.770

False Accusation  
AS 11.56.805

Terroristic threatening  
AS 11.56.810

Riot  
AS 11.61.100

Distribution of child pornography  
AS 11.61.125

Promoting an exhibition of  
fighting animals  
AS 11.61.145(a)(1) & (2)

CLASSIFIED FELONIES

C

---

Misconduct involving weapons I  
AS 11.61.200

Criminal possession of explosives  
with intent to commit B felony  
AS 11.61.240(b) (3)

Unlawful furnishings of explosives  
AS 11.61.250

Promoting prostitution II  
AS 11.66.120

Promoting gambling I  
AS 11.66.210

Possession of gambling records I  
AS 11.66.230

Misconduct involving controlled  
substance IV  
AS 11.71.040

Manufacture or delivery of  
imitation controlled substances  
AS 11.73.010

Possession of substance with  
intent to manufacture imitation  
controlled substance  
AS 11.73.020

Advertisement to promote delivery  
of controlled substance  
AS 11.73.040


FEB 9 1987

POSITION PAPER  
SB 28

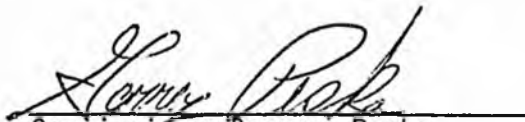
This bill, patterned after the federal racketeering statute, is aimed at increasing the effectiveness of law enforcement's efforts to combat the criminal efforts of groups organized for illegal purposes.

The Alaska Public Defender Agency and the Office of Public Advocacy are not law enforcement agencies and, therefore, are in no position to evaluate the need for this legislation. The fiscal impact of this bill will be determined by the types and frequency of prosecutions initiated by the Department of Law.

The Alaska Public Defender Agency and the Office of Public Advocacy have adopted a neutral position with respect to this legislation.

  
\_\_\_\_\_  
Brant McGee, Public Advocacy  
Office of Public Advocacy  
Department of Administration

February 2, 1987  
Date

  
\_\_\_\_\_  
Commissioner Garrey Peska  
Department of Administration

2/5/87  
Date

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 28  
Publish Date: \_\_\_\_\_

REQUEST \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Illegally  
Controlled Enterprises . . .  
Sponsor: Rodey, et al.  
Requestor: Senate Judiciary

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES		103.1	107.2	111.5	116.0	120.6
TRAVEL		5.0	5.2	5.4	5.6	5.8
CONTRACTUAL		85.0	88.4	91.9	95.6	99.4
SUPPLIES		2.5	2.6	2.7	2.8	2.9
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	201.6	203.4	211.5	222.0	228.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	201.6	203.4	211.5	222.0	228.7
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	201.6	203.4	211.5	222.0	228.7

POSITIONS:

FULL-TIME	-0-	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary See attached.

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

Phone: 274-1684  
Date: February 2, 1987

Approved by Commissioner: Garrey Peska  
Agency: Department of Administration

Date: 2/5/87

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 28

Prepared by the Office of Public Advocacy

The State Racketeering Bill (SB 28) and the Conspiracy Bill (SB 27) are both aimed at increasing the effectiveness of law enforcement's efforts to combat the criminal efforts of groups organized for illegal purposes. SB 28 is patterned after the federal racketeering statute.

The definition of racketeering in this bill requires proof of a pattern of illegal activity involving two or more instances of that activity. Illegal activity is defined as almost any felony found under Alaska Statute 11. The commentary to this legislation indicates specifically that the bill is not limited to "organizational crime."

The experience in federal cases is that the legislation has been applied to a wide variety of defendants, including members of the Hell's Angels motorcycle club, a factory worker at an automobile plant, and employees of a court system. Various states with similar bills have urged inclusion of a wide range of defendants within the statute, from members of prison gangs to members of narcotics trafficking operations. There appears to be a wide range of offenses which could be included within the purview of this statute, and while some persons involved in a criminal enterprise may be able to afford their own attorney, this by no means provides assurance that all members of an illegal enterprise under this statute could do so.

Of particular interest in analyzing whether persons charged under this statute may qualify for public counsel are the provisions in the statute which provide for forfeiture of illegal proceeds arising from the activity. The language of the bill is intended to permit seizure of assets and proceeds of the illegal enterprise, and the illegal profits will not become "legal" merely because they have been subsequently committed to a legal investment. Thus, even if a person charged with this offense has assets resulting from the illegal enterprise in which he is involved, those assets can be seized prior to his hiring a lawyer, making it necessary for the court to appoint the Public Defender Agency or Office of Public Advocacy to represent him.

Cases filed under racketeering bills routinely involve substantial attorney time, particularly for analysis of voluminous documents and records and preparation of pre-trial motions. Due to the fact that the Department of Law's investigation activity will apparently focus on the Anchorage area, the Office of Public Advocacy is requesting one experienced attorney and a clerk typist to handle representation of clients charged under this bill.

Enactment of this statute is intended to allow the prosecution of multiple co-defendants. The Office of Public Advocacy is responsible by statute for providing legal representation to all indigent defendants with whom the Public Defender Agency has a conflict of interest. While staff attorneys can represent one co-defendant in a given case, the Office of Public Advocacy must contract with private counsel for the representation of all other co-defendants determined to be indigent by the court.

It is anticipated that the complexity of this litigation will dictate high contract costs which are estimated at \$15,000 per defendant. The Department of Law has not to date estimated the number of prosecutions it will initiate during FY 88. The projected \$75,000 in contract costs is thus based on an assumption that the Office of Public Advocacy will be responsible for only five defendants for which it cannot provide staff coverage.



STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: SB28  
Publish Date: \_\_\_\_\_

Revision Date: January 30, 1987  
Title: "An Act relating to illegally controlled enterprises..."  
Sponsor: Senator Rodey  
Requestor: Judiciary and Finance

Agency Affected: Department of Administration  
BRU: Public Defender Agency  
Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		147.9	153.8	160.0	166.4	173.1
TRAVEL		5.0	5.2	5.4	5.6	5.8
CONTRACTUAL		10.0	10.4	10.8	11.2	11.7
SUPPLIES		2.5	2.6	2.7	2.8	2.9
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	171.4	172.0	178.9	186.0	193.5

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	171.4	172.0	178.9	186.0	193.5
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	171.4	172.0	178.9	186.0	193.5

POSITIONS:

FULL-TIME	-0-	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(See attached)

Prepared by: Dana Fabe  
Division: Public Defender Agency

Phone: 279-7541  
Date: January 30, 1987

Approved by Commissioner: [Signature]  
Agency: \_\_\_\_\_

Date: 2/5/87

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 28

PREPARED BY THE PUBLIC DEFENDER AGENCY

The State Racketeering Bill (SB28) and the Conspiracy Bill (SP27) are both aimed at increasing the effectiveness of law enforcement's efforts to combat the criminal efforts of groups organized for illegal purposes. SB28 is patterned after the federal racketeering statute.

The definition of racketeering in this bill requires proof of a pattern of illegal activity involving two or more instances of that activity. Illegal activity is defined as almost any felony found under AS 11. The commentary to this legislation indicates specifically that the bill is not limited to "organized crime."

This bill is modeled on federal law, and the experience in federal cases is that the legislation has been applied to a wide variety of defendants, including members of the Hell's Angels motorcycle club, a factory worker at an automobile plant, and employees of a court system. Various states with similar bills have urged inclusion of a wide range of defendants within the statute, from members of prison gangs to members of narcotics trafficking operations. There appears to be a wide range of offenses which could be included within the purview of this statute, and while some persons involved in a criminal enterprise may be able to afford their own attorney, this by no means provides assurance that all members of an illegal enterprise under this statute could do so.

Of particular interest in analyzing whether persons charged under this statute may qualify for public counsel are the provisions in the statute which provide for forfeiture of illegal proceeds arising from the activity. The language of the bill is intended to permit seizure of assets and proceeds of the illegal enterprise, and the illegal profits will not become "legal" merely because they have been subsequently committed to a legal investment. Thus, even if a person charged with this offense has assets resulting from the illegal enterprise in which he is involved, those assets can be seized prior to his hiring a lawyer, making it necessary for the court to appoint the Public Defender Agency or Office of Public Advocacy to represent him.

Cases filed under racketeering bills routinely involve substantial attorney time, particularly for analysis of voluminous documents and records and preparation of pre-trial motions. Due to the fact that the Department of Law's investigation activity will apparently focus on the Anchorage area, the Public Defender Agency is requesting one experienced attorney, a paralegal and a clerk typist to handle representation of clients charged under this bill, for a total of 171.4.

SB 28 FISCAL ANALYSIS

<u>Personal Services:</u>	Attorney IV	74.8	
	Paralegal II	44.8	
	Clerk/Typist III	28.3	
			147.9
<u>Travel:</u>	Expert Witnesses, Investigation, etc.		5.0
<u>Contractual:</u>	Expert Witnesses, Space, etc.		10.0
<u>Supplies:</u>	Office, Law Library, etc.		2.5
<u>Equipment:</u>	(One time) Furniture, Office Machines, etc.		<u>6.0</u>
		TOTAL	171.4

FISCAL NOTE

REQUEST

Revision Date: \_\_\_\_\_  
Title: "An Act relating to illegally  
controlled enterprises, . . . "  
Sponsor: Sen. Rodey  
Requestor: Senate Judiciary

Agency Affected: Public Safety  
BRU: Alaska State Troopers  
Components: Detachments and C.I.B.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUNDS						
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)

No fiscal impact is anticipated.

JAR  
2/1/88

Prepared by: Francis C. Allan F.C.A.  
Division: Alaska State Troopers

Phone: 269-5691  
Date: 2/6/88

Approved by Commissioner: Arthur English  
Agency: Public Safety

Date: 2/6/88

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

# Anchorage Chamber of Commerce Crime Commission



April 17, 1985

Senator Jan Faiks  
Alaska State Legislature  
Pouch V  
Capitol Building  
Juneau, AK 99811

Dear Senator Faiks:

I received your letter, dated April 8, 1985, concerning your continued support for Senate Bill 163, which would prohibit the possession of marijuana in Alaska to be consistent with federal law.

I am somewhat surprised at the statement made by Mr. Guaneli concerning our shift of support from conspiracy to the Governor's racketeering bill. Three members of the Crime Commission met with Dan Hickey, Chief Prosecutor, and Mr. Guaneli on our recent trip to Juneau. At that time, we explained, as we did to the Chiefs of Police Association, that although we support the racketeering statute, we feel that the conspiracy statute would be a broader based tool for law enforcement throughout Alaska, as well as providing a better opportunity for the smaller police departments to independently work the more sophisticated crimes that would be involved in conspiracy.

Unfortunately, Mr. Guaneli took our comments out of context. Basically, our position remains unchanged: We support the racketeering bill; however, the conspiracy statute is our number one priority as it is with the Alaska Chiefs of Police. I've enclosed a copy of a letter they wrote endorsing their support.

Senator, the main reason we favor the conspiracy statute is that the racketeering statute is very complex and, in all probability, the only police agencies in the state that would have the manpower, resources, and expertise to work racketeering cases would be the Alaska State Troopers and, possibly, the Anchorage Police Department. Conversely, a conspiracy case could be put together with much less manpower commitment because it is less technical in nature.

A Committee of the  
Anchorage Chamber  
of Commerce

George N. Nelson Chairman

415 F Street  
Anchorage AK 99501  
(907) 272-2401

Pat Wellington Vice Chairman  
Don Patterson Secretary/Treasurer  
George King Law Enforcement

Craig Hesser Prosecution  
Chris Watkins Courts  
Sue McCauley Corrections

Vicki Swank Prevention  
Tom Obermeyer Legislation  
Ron Moore Publicity

Senator Jan Faiks  
April 17, 1985  
Page 2

I might point out that the federal government has had a racketeering statute on the books for a number of years; however, the U.S. Attorney in Alaska, with all of his resources including the FBI, IRS and AT&F, has never filed a racketeering case in Alaska.

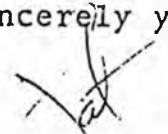
In discussion with various federal law enforcement officials, they personally feel that a conspiracy statute would be more beneficial for Alaska law enforcement agencies than a similar racketeering statute such as the federal government has. I urge you to contact Mr. Larry Nelson, Special Agent in Charge of the FBI, or Mr. Tom Burton, Drug Enforcement Administration, for their personal opinions.

We realize and pointed out to Mr. Hickey and Mr. Guaneli that the support of a conspiracy statute might not be politically astute, but inasmuch as it is the best tool for law enforcement, it has our support although it may not be the most politically advantageous position to take. Also, we emphasized that if the racketeering bill passes, the administration will use it to their political advantage. We do not have any problem with this; however, we feel it may create a tendency for false advertising and the fact that the administration will take credit for passing a very tough anti-crime bill when, in all reality, it will do little to enhance the investigative capabilities of law enforcement agencies in Alaska.

Additionally, if the passage of a conspiracy statute is not practical at this time, we certainly would support the racketeering bill. The two bills, however, should not be confused as accomplishing the same results. In our opinion, they are two different bills, they stand on their own merits, and our priority is the support of a conspiracy statute. We have no problem with the racketeering statute; however, neither the Anchorage Crime Commission nor the Alaska Chiefs of Police have identified it as a priority item.

I appreciate your calling this situation to our attention as Mr. Guaneli's comments were definitely taken out of context during our brief meeting. You certainly have my approval to circulate copies of my letter to other members of the Legislature.

Sincerely yours,

  
Pat Wellington, Vice Chairman

nm

Enclosure

cc: Mr. Dan Hickey  
Mr. George Nelson

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to illegally controlled enterprises and the forfeiture of property used in violation of state law.

Section 1 of the bill is a declaration of legislative purpose. The heart of the bill is contained in sec. 2, which creates a new chapter in AS 11, the Criminal Code. Section 3 of the bill adds a new article to AS 09.50, setting out general forfeiture provisions. Sections 4 -- 11 of the bill make various complementary amendments in AS 11, AS 12, and AS 17.

This bill authorizes a unified and comprehensive public and private response to one of the most invidious forms of criminal conduct: the acquisition and operation of businesses through a pattern of illegal activity. As Alaska's economy continues to grow, our state unfortunately has become an increasingly more tempting target for a more sophisticated, and therefore more dangerous, type of criminal. This bill will allow us to address that problem by authorizing civil and criminal penalties for three forms of conduct: (1) the use of a pattern of criminal activity to acquire an interest in a business; (2) the use of a pattern of criminal activity to conduct some or all of the affairs of a legitimate or completely illegitimate business; and (3) the use of the ill-gotten gains from a pattern of criminal activity to acquire an interest in a business or to conduct the affairs of a business.

Many provisions in this bill have been based on the federal Racketeer Influenced and Corrupt Organizations title of the Organized Crime Control Act of 1970 (18. U.S.C. secs. 1961 -- 1968). That legislation has served as a model for 19 states that have enacted legislation authorizing a state

to the bill. The Department of Law will be available to assist in this effort as individual committees find appropriate. Ultimate adoption of the commentary as an expression of legislative intent and publication in the Journal will be extremely helpful in the implementation and interpretation of the bill.

Because of its length and complexity, I have not attached the commentary at this time. However, a condensed version of it in the form of a much briefer sectional analysis which summarizes the bill is attached. This sectional analysis will be of assistance in understanding both the purposes of the bill and how individual provisions achieve those purposes. Please publish it in the Journal Supplement so that it will be easily accessible to everyone interested.

In summary, this bill creates a comprehensive and unified public and private response to some of the most serious forms of criminal activity occurring in Alaska today. I therefore urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to illegally controlled enterprises and the forfeiture of property used in violation of state law.

Section 1 of the bill is a declaration of legislative purpose. The heart of the bill is contained in sec. 2, which creates a new chapter in AS 11, the Criminal Code. Section 3 of the bill adds a new article to AS 09.50, setting out general forfeiture provisions. Sections 4 -- 11 of the bill make various complementary amendments in AS 11, AS 12, and AS 17.

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Many provisions in this bill have been based on the federal Racketeer Influenced and Corrupt Organizations title of the Organized Crime Control Act of 1970 (18. U.S.C. secs. 1961 -- 1968). That legislation has served as a model for 19 states that have enacted legislation authorizing a similar

response to some of the same concerns addressed by Congress in 1970. Although in most circumstances the coverage of the federal and state laws will be the same, the federal law is restricted to enterprises that affect interstate commerce, whereas this bill contains no such limitation and is therefore also applicable to solely in-state enterprises. This bill does, however, require that at least one of the acts forming the pattern of illegal activity be in violation of Alaska law.

In addition to its criminal provisions, this bill establishes significant civil remedies for the victim of illegal activity. It creates a private right of action for treble damages that is available to a person who is injured as a result of the prohibited acts described in the legislation. This section serves two purposes. First, it provides another powerful deterrent against those who desire to victimize Alaskans. Secondly, it authorizes compensation to the victim of the criminal activity and provides an incentive for that person to seek recovery by authorizing the award of treble damages. Finally, the forfeiture procedures included in the bill insure that a defendant will not be able to profit from illegal activity. The forfeiture provisions are made applicable to all instances where forfeiture is authorized by state law. This will insure consistency in coverage and reduce the volume of statutes that the legislature is required to pass each time it authorizes forfeiture.

The bill also provides for preliminary measures, such as injunctions and other court orders, to stop illegal activity before it actually succeeds in taking over a legitimate business. Additionally, the attorney general is authorized to conduct investigations into racketeering activity and is given the authority to obtain evidence necessary to successfully complete that investigation.

As previously mentioned, this bill is based on existing federal law. Many federal cases have interpreted the scope of that law, and it is expected that those cases will be of invaluable assistance to Alaska's courts in interpreting the scope of this legislation. An extensive commentary has been prepared to accompany the bill, which analyzes each section and cites those federal cases that reflect the intent behind a particular provision. This commentary will be of assistance to the legislature in reviewing the bill, and, after passage, to the courts in interpreting the intent behind individual provisions. I would urge that during committee consideration of the bill, the commentary also be carefully reviewed and revised in accordance with any revisions made

to the bill. The Department of Law will be available to assist in this effort as individual committees find appropriate. Ultimate adoption of the commentary as an expression of legislative intent and publication in the Journal will be extremely helpful in the implementation and interpretation of the bill.

Because of its length and complexity, I have not attached the commentary at this time. However, a condensed version of it in the form of a much briefer sectional analysis which summarizes the bill is attached. This sectional analysis will be of assistance in understanding both the purposes of the bill and how individual provisions achieve those purposes. Please publish it in the Journal Supplement so that it will be easily accessible to everyone interested.

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Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor