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Children's Testimony: Sexual and Physical Abuse Age Differences When a Child Takes the Stand Research and Policy Implications

Summaries of:

Goodman, Gail S.; Aman, Christine; and Hirschman, Jodi. **Child Sexual and Physical Abuse: Children's Testimony** In Ceci, S.J.; Toglia, M.P.; and Ross, D.F. (eds.). Children's Eyewitness Memory. New York: Springer-Verlag, 1987.

and

Goodman, Gail S. and Reed, Rebecca S. **Age Differences in Eyewitness Testimony**. Law and Human Behavior, Vol. 10, No. 4 (1986).

and

Goodman, Gail S.; Golding, Jonathan M.; Helgeson, Vicki S.; Haith, Marshall M.; and Michelli, Joseph. **When a Child Takes the Stand**. Law and Human Behavior, Vol. 11, No. 1 (1987).

and

Goodman, Gail S.; Hirschman, Jodi; and Rudy, Leslie. **Children's Testimony: Research and Policy Implications**. Paper presented at the Society for Research in Child Development Meetings, Baltimore, April 1987.

These articles by the same research group report on studies designed to reveal the capabilities of children in accurately reporting events after the fact and the consequences of their capabilities for trial situations.

Child Sexual and Physical Abuse: Children's Testimony reports on three studies. All examine the testimony of children who were actively involved in an event and who interacted with an unfamiliar person. These are laboratory studies involving recall about (1) playing a game (low stress situation) (2) having blood drawn at a clinic (high stress situation), and (3) having an inoculation (high stress situation).

The findings include: (1) there were no significant age differences in the children's ability to recall the event and their recall did not deteriorate over time. The children's reports were quite accurate. (2) The older children (5-6 years) answered more objective questions correctly than the younger ones (3-4 years) and the younger children showed a decline, after a delay, in their ability to answer questions about the actions involved. (3) Children did not make up false stories of abuse even when asked questions that might foster such reports.

Age Differences in Eyewitness Testimony reports on a study comparing the recall ability of 3 and 6-year old children to that of adults about interaction with an unfamiliar man for five minutes. After a delay of five days, the witnesses answered objective and suggestive questions about the inter-

action, recalled what happened, and tried to identify the man from a photo line-up. The adults and the 6-year-olds did not differ in their ability to answer objective questions or to identify the man, but the 6-year-olds were more suggestible than the adults and recalled less about the event.

The 3-year-olds answered objective and suggestive questions less accurately than the older age groups, recalled very little, and had more trouble recognizing the man. While children proved to be more suggestible than adults, suggested information was unlikely to appear in their free recall of an event. The authors suggest that the relative competence of 6-year-olds as witnesses argues against the requirement of a competence examination for children this age and older.

"Even children as young as four were able to remember quite accurately the central information about the event which occurred."

Children's Testimony: Research and Policy Implications reports on two laboratory studies—one in which children received an inoculation and the other in which they played a game.

In the first they were questioned 4 or 7-9 days later and also after one year. Suggestive questions were asked. However, in neither time period did the children make false reports.

In the second study one child was designated to play a game with a strange adult and another was designated as a bystander to "watch." After a delay of 11 or 12 days, the children were interviewed, and suggestive questions were asked. The 4-year-olds answered on an average only 3 percent of the questions incorrectly and the 7-year-olds virtually none. The authors conclude that their studies demonstrate that children as young as 4 years of age are far more resistant to suggestion than formerly believed when the suggestions concern actions associated with abuse. They suggest that cases should not be thrown out of court because leading questions about abuse have been asked of children.

When A Child Takes The Stand involves studies of exposing mock juries to trial descriptions in which the age of the eyewitnesses who provided the crucial testimony varied. In three experiments, potential jurors judged children to be less credible eyewitnesses than adults. Eyewitness age did not, however, determine the degree of guilt attributed to the defendant. The studies indicate that mock jurors are concerned that children may remember less than adults do and that children may be easily manipulated into giving false reports. The findings indicate that biases against children's credibility are likely to appear when a child bystander witness takes the stand. ■

Review

by
Stephen Goldsmith
Prosecuting Attorney
Indianapolis, Indiana

This group of articles addresses two major points: first, that children are quite capable of providing accurate and "undefiled" accounts of events in which they have been involved; and second, that jurors do not know this yet.

"...children were found to have a better memory for the action which occurred than for the identity of the actor or the room in which the action took place."

Three of the articles describe laboratory experiments intended to measure the ability of children to recall accurately events which have occurred and the level of their resistance to suggestion. The flaws of prior studies in this area include:

1. The child tested as an observer only, rather than as a participant in the event.
2. Tests based on events which are uninteresting to the child and which have no personal significance to the child.
3. Mundane questions asked about peripheral aspects of the event rather than the types of questions which normally would be asked in the investigative situation.

In other words, prior studies have not been related in any way to the experience of a child who is the victim of a crime.

The studies reviewed and conducted by the authors attempt to remedy the above failings, and create a more true-to-life atmosphere. Their findings show a surprising ability on the part of even very young children to recall events accurately and to resist suggestion imposed by the interviewer. Even children as young as four were able to remember quite accurately the central information about the event which occurred, while having more difficulty, as did the adult subjects, with peripheral detail. What mistakes were made tended to be errors of omission; the young subjects were not prone to make false reports, even in response to suggestive questioning designed to elicit such reports. In the few situations in which a child succumbed to an incorrect suggestion made by the interviewer, he did not adopt the suggestion when later questioned objectively; nor did he expound with a further description of activity which had not in fact occurred.

Not surprisingly, children were found to have a better memory for the action which occurred than for the identity of the actor or the room in which the action took place. It should be added, however, that the adult subjects reacted in much the same manner. Further, very young (age 3) children were less capable of good eyewitness identification of strangers. However, this was presumed to be at least in part a function of the degree of attention paid by the child subject to the actor in the study. Identification is normally not a factor in cases of child abuse, which usually involve a perpetrator known to the child.

The information gleaned from these studies should make prosecutors more comfortable with the testimony of young children in most instances. Further, the studies have found children resistant to suggestion, though very young (under age 4) children are somewhat less resistant than older children and adults. The popular notion that leading interview questions result in false reporting should be rejected. A case

should not be dismissed, for example, on the basis that the child was subjected to questioning by her mother before the investigative process began, or because the interviewer was forced to ask leading questions in order to obtain information from the child. However, it is not recommended that interviewers deliberately adopt a suggestive questioning style. Whether or not the child's testimony is affected by this type of questioning, the attitude of the trier of fact will be.

"...the findings support the current trend toward relaxation of competency requirements, and suggest that children as young as six should be presumed competent to testify."

Further, the researchers found that children's answers to "competency" questions ("Do you know the difference between the truth and a lie?") had little or no relation to their ability to recall and relate accurately what had happened to them. Therefore, the findings support the current trend toward relaxation of competency requirements, and suggest that children as young as six should be presumed competent to testify.

Finally, the findings of these researchers will be of great assistance to prosecutors in blunting the effect of the defense expert witness who testifies to the contrary, especially if the prosecutor has determined on what research the adverse witness based his opinions.

The fourth article *When a Child Takes the Stand*, makes it clear that the message of the other three articles has not reached potential

"...it is suggested that prosecutors file such cases aggressively, and look for ways to buttress the child's testimony through collaboration of nonessential facts..."

jurors. The studies outlined in the article demonstrate a general bias against children as witnesses on the part of the persons chosen as mock jurors: they were less likely to rely on a child's word than on that of an adult making the same statements.

The lesson taught by this article should not be one favoring a timid approach by prosecutors, however. Instead, it is suggested that prosecutors file such cases aggressively, and look for ways to buttress the child's testimony through corroboration of nonessential facts (demonstrating the child's ability to remember and relate them accurately). ■

Child Sexual Abuse and Custody Disputes

Summary of:

Corwin, David L.;
Berliner, Lucy;
Goodman, Gail;
Goodwin, Jean;
White, Sue.

Child Sexual Abuse
and Custody Disputes,
No Easy Answers. *Journal of
Interpersonal Violence*, Vol. 2,
No. 1 (March 1987).

children are very infrequent. In addition, the authors discuss the limits of clinical impression, the difference between unfounded or unsubstantiated and false accusations of abuse, and the high prevalence of actual child sexual abuse in the setting of marital dissolution. ■

Review

by
Thomas L. Johnson
County Attorney
Minneapolis, Minnesota

This article alerts professionals to the emergence of oversimplified approaches to the complex problem of alleged child sexual abuse in the context of custody disputes. The authors argue that reliance on such methods is likely to result in misdiagnosis and failure to protect children who are both sexually abused and caught in custody battles. They specifically take issue with Green's (1986) recent formulation for distinguishing between true and false accusations of incest in child custody disputes because that formulation is based on an inadequate data base, biased sample, and unsupported conclusions.

The authors cite the Jones and McGraw study (also reviewed here) as demonstrating that fictitious accounts by

How could you make a prosecutor's life easier? The answer is simple: Develop a checklist for use in determining the truth or falsity of allegations of child abuse.

But life — certainly not prosecutorial decision making — is not that easy. This article effectively demonstrates the pitfalls of relying on a "checklist" approach to determine whether a child's allegations of abuse should be believed. Through an analysis of the checklist factors proposed by Green, the reader is not only exposed to the hazards of an "easy answer" approach, but additionally acquires some valuable information regarding clinical diagnostic approaches.

"It is significant to know, for example, that research has now demonstrated that an increase in child abuse occurs after marital dissolution."

For example, Green proposes to have the child directly confront the alleged abuser with the allegations. A reaction of "fright" by the child is indicative of truthfulness. Corwin, et al. shoot down this approach as nothing short of victimizing the child as part of the truth-finding evaluative process. As prosecutors, to the extent that such a confrontation is similar to what happens in court, we know well that you cannot predict how any witness will do on the stand, particularly a child witness.

Finally, the prosecutor will gain from the empirical data contained in this article. It is significant to know, for example, that research has now demonstrated that an increase in child abuse occurs after marital dissolution. That is a fact the prosecutorial community has always suspected, but may not know with any demonstrable certainty. ■

Reliable and Fictitious Accounts of Sexual Abuse to Children

Summary of:

Jones, David P.H.
and McGraw, J. Melbourne.
**Reliable and Fictitious
Accounts of Sexual
Abuse to Children.**
Journal of Interpersonal
Violence, Vol. 2, No. 1
(March 1987).

This article explores the difference between unfounded reports of suspected child sexual abuse and what these researchers designated as fictitious reports which included those reports believed to be based on misperceptions as well as those believed to be deliberate falsification.

The researchers reviewed all cases of suspected child sexual abuse made to the Denver Department of Social Services (DSS) in 1983. Of the 576 reports of suspected sexual abuse that year, DSS categorized 53 percent as founded, including recantations. The remaining 47 percent were designated as unfounded.

After analyzing the DSS records, the researchers concluded that only 8 percent of the total reports were probably fictitious. Of these fictitious reports, three-fourths were generated by adults (often involved in custody disputes). Of the other 39 percent considered unfounded, 24 percent consisted of cases with insufficient information to categorize. The remaining 17 percent included cases in which appropriate suspicion was unsubstantiated through investigation. Thus the suspected fictitious reports constitute only a small portion of the reports classified as unfounded. ■

Review

by
L. Scott Harshbarger
District Attorney
Cambridge, Massachusetts

This article discusses the characteristics of these reports of child sexual abuse deemed "founded" and "unfounded" by child welfare agencies, explores the frequency with which false reports of child sexual abuse are made, describes the features of false cases, and discusses the clinical implications of this information.

The authors reviewed certain validating factors which have been noted in other literature: inclusion of explicit, unique or distinguishing detail; language congruent with the child's age and development, and reflecting a child's perspective on the events; expression of emotion congruent with the events described; the child's psychological response to the incident; the pattern of abuse alleged; evidence of secrecy (coercion or threats); and, at times, descriptions of pornographic involvement, sadism, or ritualism.

Examination of certain factors was found to support or detract from the reliability of allegations: family history, the behavior of the child during and after the period of abuse; the nature and timing of the disclosure; a comparison of the child's statements to various people and the consistency of the statements; the child's use of toys, play, drawings; the child's knowledge of sexual anatomy and function; and input from other children in the same family.

The authors draw the following conclusions:

(1) There is a need for professionals with specialist training in child development and the dynamics of child sexual abuse to be involved in the initial investigative process;

- (2) Interviews with the child must be conducted and, in certain cases, the quality of the child's interactions with the parents must be assessed;
- (3) Every investigation should include a clinical validation process, conducted with an open mind;
- (4) Adults and children making allegations should be screened for prior victimization and post-traumatic stress syndrome which, if discovered, should signal caution;
- (5) It should be remembered that even those making fictitious allegations need help; and, finally,
- (6) All clinical conclusions should be offered with caution.

In reading and assessing this study, it must be remembered that it was limited to child abuse cases reported to a Department of Social Services in Denver, and that all data apparently were collected from a review of DSS files, without any interviews or other direct observation of the parties involved. As such, the population examined cannot be inclusive of all child abuse cases, even in Denver. In addition, the factors examined were not subjected to any independent validation. It follows, however, that substantial numbers of child abuse reports that should be pursued or at least tracked, are inappropriately closed as unfounded. ■

Children's Understanding of Legal Terms: A Preliminary Report of Grade-Related Trends

Summary of:

Saywitz, Karen J.
and Jaenicke, Carol.
**Children's Understanding
of Legal Terms: A Preliminary
Report of Grade-Related
Trends.** Paper presented at the
Society for Research on Child
Development Biennial Meeting,
Baltimore, April 1987.

This study gathered data from three groups of children: 18 kindergartners, 20 third graders and 20 sixth graders. First the children's nonlegal receptive vocabulary was assessed. Then the children were presented with a verbal vocabulary test involving 35 common legal terms. Legal terms were presented alone and in a sentence with other terms used in a legal context. The children's definitions were rated as accurate or inaccurate.

As expected, older children accurately defined significantly more legal terms than younger children. Group I terms were easy—over 90 percent of the children gave accurate legal definitions. Group II showed grade-related effects—older children achieved more accuracy. Group III terms were difficult — 15 percent or less of the children gave accurate legal definitions. ■

GROUP I

Judge
Lie
Police
Remember
Promise
Seated
Difference

GROUP II

Facts
Witness
Case
Truth
Date
Lawyer
Hearing
Attorney
Identity
Oath

GROUP III

Allegation
Petition
Approach the Bench
Minor
Motion
Competent
Hearsay
Strike
Charges
Defendant

Review

by
Thomas L. Johnson
County Attorney
Minneapolis, Minnesota

Legalese is a disease. Try as they might, lawyers have a difficult time finding "the cure." The study conducted by Karen J. Saywitz and Carol Jaenicke, as presented in their paper entitled *Children's Understanding of Legal Terms: A Preliminary Report of Grade-Related Trends*, gives lawyers and judges, but particularly prosecutors, an important, empirical reason to "clean up" their language when dealing with children. Depending upon the exact legal term used, only 15 percent of all children might understand its meaning. In other words, for the prosecutor to use such legalese as "allegation", "incompetent", and "petition" is simply not to communicate.

For the prosecutor, it is not so much a matter of explaining a particular legal term, it is more a matter of not using the term in the first instance. For example, there is no need for a prosecutor to tell a child, "Regretfully, that is hearsay, Johnny." In most instances, Johnny does not need to know what is and what is not hearsay. To use such language is unnecessarily confusing and invites the child to use a term which, if repeated before a jury, would sound

"For the prosecutor, it is not so much a matter of explaining a particular legal term, it is more a matter of not using the term in the first instance."

inappropriate and might effect the child's credibility.

For those terms for which there is no escape from using (e.g., "judge", "testify", "courtroom"), the prosecutor must have ready an age-appropriate explanation. For example, "to testify" is "to talk in court."

The answer, it seems, lies in training. For the prosecutor, this means re-learning the English language, particularly in a way that is appropriate for children of various ages. Legalese, the prosecution's native tongue, does not work. ■

Children's Reactions to Sex Abuse Investigation and Litigation

Summary of:

Tedesco, John F.
and Schnell, Steven V.
**Children's Reactions to
Sex Abuse Investigation
and Litigation.** Child Abuse
and Neglect, Vol. 11 (1987).

This investigation attempted to begin to qualify the extent to which children are helped or further victimized by sex abuse investigation and litigation procedures. Although there is virtually no research on the subject, frequent assumptions have been made that these procedures often further victimize children. Significant changes in state legislation have and are being considered which would protect victims from further victimization.

A child victim questionnaire was sent to the presidents of all area child abuse and neglect councils in the state of Iowa as well as to other personnel working with sexually abused children. The somewhat surprising findings revealed that of the 48 questionnaires returned

only approximately 21 percent of the victims perceived that the questioning and investigation was harmful, while approximately 53 percent saw it as helpful.

Other analyses found that ratings of helpfulness were not correlated with the age of the victim, the presence of a supportive adult during questioning, the number of abuse incidents, whether or not the interviews were videotaped, and whether or not the perpetrator was a family member. Results of this study should be interpreted cautiously due to (1) the high non-response to the mail questionnaire and (2) the small sample (48). The high degree of non-response could mean that those who had negative (harmful) experiences in litigation did not participate. ■

Review

by
Edwin L. Miller, Jr.
District Attorney
San Diego, California

How much are children helped or harmed by sexual abuse investigation and prosecution? Probably most people believe that children are harmed by such proceedings, although there is little data to support this assumption.

In an interesting study, conducted by John Tedesco, Ph.D., and Steven Schnell, Ph.D., this basic assumption is challenged. While the authors don't go the final step and suggest that child abuse investigation and litigation are actually helpful to the victims, they do strongly suggest that further study be conducted in this area.

That result is entirely appropriate considering that their study was based on only 48 questionnaires. The authors mailed the questionnaires to 120 child abuse councils, mental health facilities, individual therapists and others in Iowa during November 1984. Each questionnaire elicited 19 answers and those questioned were child abuse victims who had testified in a criminal trial.

Despite the small response, the authors stated the responding group

appears similar to the national norm. That is, they were predominantly female, with an average age of 13, and the majority of them were repeatedly abused by a male household member.

Victims were asked about various procedures and to rate the degree of helpfulness or harmfulness on a seven-point scale. They responded by stating that the interview process was helpful to 48 percent (23) of them and harmful to 19 percent (9) of them. Nineteen percent (9) said the questioning was both helpful and harmful while five percent (2) said it was neither.

"...21 percent of the victims perceived that the questioning and investigation was harmful, while approximately 53 percent saw it as helpful."

A rating of "helpful" by the victims did not correspond to the age of the victim, the presence of a supportive adult during questioning, the number of abuse incidents, the use of a videotape during the interviews or whether the perpetrator

was a family member. However, more "harmful" ratings were given for testifying in court and for enduring a high number of interviews. It is interesting to note that those who treat child abuse victims were more likely than the victims to rate procedures as "harmful."

An important caveat that should be kept in mind is that all of these victims have been in therapy and at this point it is unknown how that affects the victim's view of her abuse and the subsequent litigation. The authors suggest that this data does not support the idea that the interview and litigation process, overall, is harmful to children. Therefore, they argue, "the current data does not provide support for a wholesale change of laws." Instead, Tedesco and Schnell suggest that lawmakers pursue changes that do not raise complicated constitutional issues, presumably pending further investigation of the true effect of the legal procedures on the victims.

This research raises some interesting questions about one of our most basic assumptions. However, the minuscule size of the responding group requires that the data be used only as a challenge for further study, not as a definitive answer. It is suggested that a future comprehensive study segregate the younger from the older children for purposes of examination, and that "helpful" or "harmful" ratings be correlated with a conviction or acquittal. ■

Distortions in the Memory of Children and Differentiating Fact from Fantasy: The Reliability of Children's Memory

Summaries of:

Loftus, Elizabeth F.
and Davies, Graham M.
**Distortions in the
Memory of Children.**
Journal of Social Issues,
Vol. 40, No. 2 (1984).

and

Johnson, Marcia K.
and Foley, Mary Ann.
**Differentiating Fact from
Fantasy: The Reliability of
Children's Memory.**
Journal of Social Issues,
Vol. 40, No. 2 (1984).

These two articles review research studies that focus on the conditions which distort the memories of children or cause distortion by outside suggestions.

Distortions in the Memory of Children begins by reviewing the literature regarding adult memory and its vulnerability to suggestion. The authors conclude the previous experiments show that people will pick up information, whether it is true or false, and integrate it into their memory, thereby supplementing or even altering their recollection.

The research results of memory capabilities of children were mixed. In one study proficiency in answering orthodox (non-leading) questions improved steadily with age. However, no simple relationship emerged between age and susceptibility to leading questions. Children and adults were found to be equally influenced by postevent questions. However, a second analysis found younger subjects to be less influenced. In another study younger subjects again failed to show a disproportionate effect of misleading questions. The effect was greater for older children and college-age subjects.

Taken together, the authors conclude that the studies they reviewed support the conclusion that adults spontaneously recall more about events they have witnessed than do children, but not the simple notion that children are more suggestible than adults. The authors suggest that whether children are more susceptible to suggestive information than adults probably depends on the interaction of age with other factors. If an event is understandable and interesting to both children and adults, and if their memory of it is still equally strong, age differences in suggestibility may not be found. If the memory of the event is weaker or becomes so over time, differences with adults may emerge.

Differentiating Fact from Fantasy: The Reliability of Children's Memory reviews developmental studies of memory. The authors' review of their own and other researchers' findings suggest that several aspects of memory relevant to courtroom testimony need more research.

The authors point out that it is well documented that younger children typically recall fewer items than do older children. They suggest that children will typically produce less detailed

testimony in the courtroom, although not necessarily for all aspects of an event. For example, it is not clear whether children should be expected to be any worse than adults in recalling spatial arrangements of objects and people, or the time order and frequency of events.

The authors conclude that their studies suggest that even young children may be able to recognize who did what. On the other hand, recall of complex events that children do not understand (e.g. adult conversations) would show that younger children would have less accurate recall than older children.

With regard to separating events from imagination, the authors conclude that children in their studies did not appear to be more likely to confuse what they had imagined or done with what they had perceived. On the other hand, younger children did have particular difficulty discriminating what they had done from what they had thought about doing. ■

Review

by
Charles R. Wise
Associate Professor of Public
and Environmental Affairs
Indiana University

These articles fall into the category of basic research on the memory capabilities of children. Those looking for specific research concerning the ability of children to remember events accurately during child abuse incidents will not find it here. That is not the authors' objective. Rather, the purpose is to address the question of whether the memory capabilities of children are subject to distortion to the point that their credibility should be reasonably discounted.

These articles represent reviews of research, and do not present full

research reports of original research. As such, they afford an opportunity for the reader to obtain an overview of research on memory capabilities in children.

Neither review presents findings that would support the notion that children's, even fairly young children's, memory capabilities are subject to extreme distortion compared to that of adults. That is not to say that the memories of children do not falter. Prosecutors are all too familiar with the failings of adult memories. However, the authors conclude that children do not demonstrate extreme suggestibility; only demonstrate suggestibility when an event was not impressed upon their memory at the time or was subject to long delays; and in some instances are less suggestible than adults.

This research concludes that if any negative effect of age on memory is to appear, it depends on the interaction with other factors. For example, the complexity of the event could have an effect. If the prosecutor asks the child to remember the substance of an adult conversation for which the child does not have a frame of reference, this will be problematical. On the other hand, even young children seem to be able to recall accurately objective information (time order of events, spatial distribution of objects in a room) although with not as much detail. One caution is raised in *Differentiating Fact From Fantasy: The Reliability of Children's Memory*, however, that younger children did have difficulty in discriminating

what they had done from what they had thought about doing.

In sum, popular notions about the many deficits in children's memory appear not to be supported by research. In that deficits sometimes appear, as a result of interaction with other factors, it cannot be concluded that children may in all cases be questioned in the same way as adults. For example, *Differentiating Fact From Fantasy: The Reliability of Children's Memory* suggests that younger children's recall is facilitated by highly structured situations in which directive (but non-suggestive) questioning is applied. However, the authors do not provide examples of such directive questioning.

As to the state of research about memory capabilities of children, more remains to be done focusing on the interaction of such factors as time delay and complexity of event with children's recall capability. Then, too, more remains to be done on the characteristics of particular types of questions and questioners that affect children more than adults. Prosecutors are familiar with tactics used by defense counsel to challenge the general competency of child witnesses including the use of hostile experts. In light of this research, prosecutors could aggressively challenge tactics that assert diminished capacity of children as witnesses. ■

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about the many deficits
in children's memory
appear not to be supported
by research.

Self-Reported Sex Crimes of Nonincarcerated Paraphiliacs

Summary of:

Abel, Gene G.;
Becker, Judith V.;
Mittelman, Mary;
Cunningham-Rathner, Jerry;
Rouleau, Joanne L.
and Murphy, William D.

**Self-Reported Sex Crimes of
Nonincarcerated Paraphiliacs.**
Journal of Interpersonal Violence,
Vol. 2, No. 1 (March 1987).

This article presents data gathered by the authors through interviews of 561 subjects regarding demographic characteristics, frequency and variety of deviant sexual acts, and number and characteristics of victims. Results show that nonincarcerated sex offenders (1) are well educated and socioeconomically diverse; (2) report an average number of crimes and victims that is substantially higher than that represented in current literature based on studies of incarcerated offenders; and (3) sexually molest young boys with an incidence that is five times greater than the molestation of young girls.

Subjects were young, had previously been married or lived with an adult female, and were representative of predominating ethnic, religious, and educational subgroups of the population. Therefore, such offenders were found in all sectors of society. There was also an enormously high frequency of offending behaviors reported by the various categories of offenders. These findings indicate that arrest records do not provide a reliable indication of the true scope of offending and thus, understate the level of activity.

The authors also found a very high percentage of total child molestations were committed by those who target young boys outside the home. These individuals appeared to have committed the greatest number of child molestation acts against the greatest number of child victims compared to those who molest girls or those who molest boys within the home. The authors suggest that since only limited resources are available to provide assessment and treatment for child molesters, it would be advantageous to target those individuals who molest boys specifically, since effective treatment of this group would dramatically reduce the total number of current and future child molestations. ■

"...the majority of all child molestations are committed by individuals who prey upon young boys outside the home."

Review

by

Norm Maleng
Prosecuting Attorney
Seattle, Washington

We in prosecution have seen a staggering increase in the numbers of sexual assault cases and incidents of child molestation over the last few years. What kinds of people are committing these horrible crimes? The authors of *Self-Reported Sex Crimes of Nonincarcerated Paraphiliacs* interviewed 561 sex offenders (paraphiliacs) under conditions which best encouraged candid, accurate accounts of the range and frequency of their deviant sexual behavior. While the profile of the sex offender that emerges is generally one that any prosecutor active in this area would readily recognize, one interesting result bears further inquiry. The authors found the majority of all child molestations are committed by individuals who prey upon young boys outside the home, not the dads or live-in boyfriends abusing children in the home.

Starting from the obvious belief that both arrest reports and self-reports by prisoners or parolees grossly understate actual rates of sexually deviant behavior, the authors only used voluntary subjects not under court order and encouraged them to omit specific facts beyond the general characteristics of their victims and their crimes. Confidentiality was scrupulously honored and subjects were allowed to withdraw at any time.

The authors seemed surprised to find, as prosecutors already knew, that sex offenders come from all socioeconomic levels and are thus better educated and more likely to be employed than the usual "street" criminal whose motive is to obtain money, drugs or both.

Much of what the data show in terms of incidence of sexually deviant acts is not very useful in a comparative sense, since an act of voyeurism is distinctly different from a rape. But, one rather surprising result occurred in regard to the breakdown of child molesters. While conviction rates would indicate that in-family child molestation occurs more frequently than assaults outside the home, the authors found that two-thirds of all child molestation were committed by individuals who preyed upon young boys out-

*...child molesters...
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per offender."*

side the home. One out of five molestations was on a female incest victim while young girls outside the home were victims in 8.1 percent of the cases. The least likely victims were boys in the home (4.2 percent).

Society must take note of this startling fact, since it demonstrates that this type of sex offender has been quite successful in molesting many young boys without being caught. These offenders are doubt-

less drawn to occupations or vocations where they have access to a pool of potential victims. They are the coaches, scout leaders, teachers, clergymen, school custodians, "big brothers" and others who occupy positions of trust where society unwittingly provides them with the access and the power to abuse young boys.

The authors also point out that while pedophiles are convicted of less than three acts per offender, child molesters in this study who targeted young boys outside the home reported a shocking total of 281 acts per offender. This means that 153 offenders were responsible for 43,100 completed acts of child sexual abuse against 22,981 victims. Unlike incest, these child molesters only averaged about two assaults per victim.

While the authors view this knowledge from the perspective of evaluation and treatment, the primary goals should be detection and prevention. We must do a better job of educating young boys about how to avoid inappropriate touching and provide them with the tools to evade abuse and report predators to the police.

Society must also allow meaningful background checks on those entrusted with our children to ensure that we are not allowing proven pedophiles to move from state to state or school district to school district where they can merely start again on an unsuspecting group of children. While registration of sex offenders creates concerns about privacy interests, it is time to recognize that the rights of the 22,981 victims should far outweigh the rights of the 153 pedophiles who cause so much grief and destruction. ■

The Role of the National Center for the Prosecution of Child Abuse

The National Center for the Prosecution of Child Abuse was established in 1985 by the American Prosecutors Research Institute, the non-profit affiliate of the 7000-member National District Attorneys Association. Founded in recognition of the dramatic increase in reported cases of child abuse and the need for more effective prosecution of these highly complex and sensitive cases, the Center concentrates its efforts on assisting prosecutors in bringing abusers to trial while promoting aggressive advocacy for the rights of the child victims.

The cornerstone of the Center's efforts to date is publication of a comprehensive training manual, *Investigation and Prosecution of Child Abuse*, an unparalleled resource for prosecutors and other professionals involved in these cases from the fields of medicine, law enforcement and child protection. The 500-page manual provides authoritative guidance on trial strategies, statutory and appellate reforms, medical advances, treatment options and detailed procedures for investigations. Practical checklists, sample transcripts and interview guidelines are among the reference materials included.

In only two years the Center has become a national clearinghouse on the legal aspects of child abuse prosecution and provides research, technical assistance and intensive training to prosecutors, based largely on the research and techniques pioneered in the manual. The Center is funded through a grant awarded by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

Recently, the Center, in conjunction with the Education Development Center of Newton, Massachusetts and the University of North Carolina, was the recipient of another major grant award from the Office of Juvenile Justice and Delinquency Prevention. This grant will establish the Child Victim as Witness Research and Development Program which will explore a number of research questions:

- What characteristics of the child, the family, the incident, the community, and the legal environment influence the decision to prosecute child sexual abuse cases?
- How does the availability of innovative techniques influence the decision to prosecute child sexual abuse cases?
- What impacts do the use of innovative techniques have on case outcome and on the child victim's well-being?
- Are there additional factors that influence the decision to prosecute, the use of innovative techniques, and ultimately case outcome and child trauma? During the project's three years, the research team will track the cases of 800 children in four sites.

These research findings should begin to resolve the issue of whether involvement in the prosecution process is necessarily harmful or whether it has the potential to be therapeutic for the child victim.

For more information about the National Center for the Prosecution of Child Abuse, contact:

James C. Shine
Executive Vice President
American Prosecutors Research Institute
or
Patricia Toth
Director
National Center for the Prosecution of Child Abuse
1033 North Fairfax Street
Suite 200
Alexandria, VA 22314.

FISCAL NOTE

No. 3

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "An Act relating to testimony of children in certain criminal proceedings..." BRU: Prosecution
 Sponsor: House Judiciary Components: First, Second, Third, and Fourth Judicial Districts
 Requestor: Representative Swackhammer

235

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | -0- | 82.2 | 82.2 | 82.2 | 82.2 | 82.2 |
| SUPPLIES | | | | | | |
| EQUIPMENT | -0- | 58.6 | -0- | -0- | -0- | -0- |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | 140.8 | 82.2 | 82.2 | 82.2 | 82.2 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-------|------|------|------|------|
| GENERAL FUND | -0- | 140.8 | 82.2 | 82.2 | 82.2 | 82.2 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
 Division: Administrative Services

Phone: 465-3672
 Date: March 15, 1988

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
 Agency: Department of Law

Date: March 15, 1988

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. CSHB 323 (Jud.)

No. 3
CSHB 323 (JUD)
HOUSE 3/17/88

This bill adds new sections to AS 12.45 that provide for alternative methods for taking the testimony of a child in certain criminal proceedings (AS 11.41) in which that child was the victim or is to be a witness. The bill provides that closed circuit television, one-way mirrors or other spatial arrangements may be used in these proceedings so that a child's testimony may be viewed by the defendant, the court, and the finder of fact, but which also provides that the child does not have visual contact with the defendant and jurors.

The Department of Law believes that alternative methods for taking the testimony of a child, in those cases where normal court procedures would result in the child's inability to reasonably communicate, can be accomplished in three ways. One, closed circuit television would be used routinely at Anchorage, Fairbanks, and Juneau, when isolation of the child is required. If necessary, a modified closed circuit televised method would be used only occasionally at other locations. Two, a one-way mirror or perforated one-way screen method could be used routinely at most other locations when isolation of the child witness from the defendant or jurors is required. Three, use of child-size furniture for the child witness would be appropriate at all locations when it becomes necessary to schedule the proceeding in a room that provides adequate privacy, freedom from distractions, informality, and comfort appropriate to the child's developmental age.

Use of closed circuit television at Anchorage, Fairbanks and Juneau would be contracted out to private vendors. Video/audio communications from the victim/witness to the defendant, the court and the trier of fact would be required. Private audio communication between the defendant and the defendant's counsel would also be required. The department estimates that about four hours of testimony will occur at each pretrial or trial proceeding. The department also estimates that a total of two hours of setup/takedown time will also be required for each proceeding, including vendor's chargeable travel time. It is estimated that contracted costs for operator(s), audio/visual equipment, and cabling will be \$300 per hour, at these three locations.

Occasional use of a modified audio/visual method at other locations, using video recordings of testimony, and involving rental of a video camcorder and monitors, is estimated to \$600 per year at each of the department's other locations. This cost is based upon three days rental, at \$200 per day, of one camcorder, defense audio equipment, and monitors at each location. Operation of the equipment would be handled by existing Department of Law paralegals.

Use of one-way mirrors or some other method that provides one-way sight so that the witness may be viewed by the defendant and the jurors, but which prevents the witness from viewing the defendant and

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 323 (Jud.)

No. 3

CSHB 323 (JUD)

HOUSE 3/17/88

the jurors, will require the manufacture or fabrication of freestanding (or attachable) portable, safe, and easily stored viewing/ screening devices. Thus far, the department has not been able to locate regularly manufactured devices of this nature. However, freestanding partitions providing a 96" x 96" "L" barrier, with two plexiglass 48" x 48" view areas retail for \$1,890. Substitution of a one-way mirror, or other device, would probably cost \$2,000 at a minimum. Devices of this type are not easily nor safely transported between locations by air carrier. For this reason, the cost for one-way screening devices at each of our district attorney office locations is included in this fiscal note request.

The cost of child furniture, at \$150 for a table and chair, is included for each location, except Anchorage costs are for three sets, and Fairbanks costs are for two sets.

During FY 1987, 346 child sexual assault cases were referred to the department. Of this number, 125 cases, or 36% of the total number of cases referred, were declined. It is estimated that about 40% of the declined cases, or 51 complaints, would have been accepted for prosecution had the alternative child testimony methods, contained in this bill, been available to prosecutors. Moreover, due to the obvious trauma experienced by some child witnesses, it would have been appropriate to use the bill's alternate testimony methods on twenty or more occasions in cases that were accepted for prosecution.

A schedule is attached that details the cost of contractual services and equipment that will be necessary for the department to implement this bill.

Fiscal Note Analysis CSHB 323 (Jud.)

No. 3
 CSHB 323 (JUD)
 HOUSE 3/17/88

Court Room Close Circuit/Screening
 Criminal Division

| Office | Type | #cases | ---One-Time--- | | Rental/ Furniture | Contractual | Annual cost | 73000 Contractual | 75000 Equipment |
|-------------------|------|--------|----------------|---------------------|----------------------|-------------|----------------|----------------------|--------------------|
| | | | Screen Jury | Screen Defendant | | | | | |
| Juneau DAO | CC | 6 | 2000 | 2000 | 150 | 10800 | 14950 | | |
| Ketchikan DAO | SC | 2 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Sitka DAO | SC | 2 | 2000 | 2000 | 150 | 600 | 4750 | | |
| First Judicial: | | 10 | 6000 | 6000 | 450 | 12000 | 24450 | 12000 | 12450 |
| Barrow DAO | SC | 3 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Kotzebue DAO | SC | 1 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Nome DAO | SC | 2 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Second Judicial: | | 6 | 6000 | 6000 | 450 | 1800 | 14250 | 1800 | 12450 |
| Anchorage DAO | CC | 24 | 2000 | 2000 | 450 | 43200 | 47650 | | |
| Bethel DAO | SC | 3 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Dillingham DAO | SC | 2 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Kenai DAO | SC | 4 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Kodiak DAO | SC | 3 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Palmer DAO | SC | 5 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Valdez DAO | SC | 2 | 2000 | 2000 | 150 | 600 | 4750 | | |
| Third Judicial: | | 43 | 14000 | 14000 | 1350 | 46800 | 76150 | 46800 | 29350 |
| Fairbanks JAC/4th | CC | 12 | 2000 | 2000 | 300 | 21600 | 25900 | 21600 | 4300 |
| Grand Total: | | 71 | 28000 | 28000 | 2550 | 82200 | 140750 | 92200 | 58550 |

CC = Closed circuit: 1800 Per case
 SC = Screen: 2000 One-Time
 Rental \$ 200 per day 600 based on three day average
 Furniture/set 150 Children size

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

220

REQUEST:

Bill Version: CSHB 323(JUD)
Publish Date: HOUSE 3/14/88

Revision Date: 03/14/88
Title: An act relating to testimony
of children in certain criminal cases
Sponsor: Swackhammer
Requestor:

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

| EXPENDITURES/REVENUES: | (Thousands of Dollars) | | | | | |
|------------------------|------------------------|---------|---------|---------|---------|---------|
| OPERATING | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

CAPITAL

REVENUE

| FUNDING: | (Thousands of Dollars) | | | | | |
|---------------|------------------------|---------|---------|---------|---------|---------|
| General Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Federal Funds | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| POSITIONS: | | | | | | |
|------------|---------|---------|---------|---------|---------|---------|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact. See attached analysis.

Prepared by: *Jan Strandberg* General Counsel Phone: 264-8228
 Division: Alaska Court System Date: 03/14/88
 Approved by: *Stephanie Cole, for* Arthur H. Snowden, II, Administrative Director Date: 03/14/88
 Agency: Alaska Court System

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

No. 1

CSHB 323(JUD)
HOUSE 3/14/88

ALASKA COURT SYSTEM

- FISCAL ANALYSIS

Because the video equipment and operators necessary to implement this bill are to be provided by the Department of Law, the court system's fiscal note for this committee substitute is zero.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 323 (JUD)
PUBLISH DATE: HOUSE 3/14/88

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An Act relating to testimony of children in certain... proceedings BRU: Council on Domestic Violence and Sexual Assault
 Sponsor: Swackhammer Components: _____
 Requestor: House Judiciary

227

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

[Empty box for analysis]

Prepared by: Barbara Miklos, Executive Director Phone: 465-4356
 Division: Council on Domestic Violence and Sexual Assault Date: 3/9/88
 Approved by Commissioner: Wayne A. Howtson, Dep. Comm. Date: 3-10-88
 Agency: Public Safety

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

HB

327

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

January 14, 1988

The Honorable John Sund
Chairman, House Judiciary Committee
State House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Representative Sund:

Subject: HB 327 relating to penalties for violating
the Alaska Historical Preservation Act.

Background

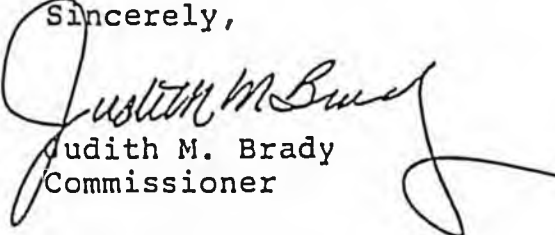
HB 327 increases criminal penalties for appropriating, destroying or otherwise harming any historic, prehistoric or archeological resources of the state. HB 327 provides that violations will be a Class A misdemeanor and provides for a civil penalty of up to \$100,000.

Introduction of a civil penalty will provide a substantial monetary deterrent which does not exist under present law, as archeological artifacts and items such as historic aircraft parts often have substantial monetary value.

Recommendation

The Department of Natural Resources supports HB 327 and recommends its passage out of the House Judiciary Committee.

Sincerely,


Judith M. Brady
Commissioner

cc: Rod Swope
Bob Evans
Bill Sponsors
Committee Members
Department of Law



Alaska State Legislature

APR 7 1988

Representative Mike Davis

District 19

P.O. Box V
Juneau, Alaska 99811
(907) 456-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708
(907) 456-8161

MEMORANDUM

TO: Members of Senate Judiciary Committee

FROM: Rep. Mike Davis

DATE: April 7, 1988

RE: HB 327: An Act relating to penalties for violating the Alaska Historical Preservation act; and providing for an effective date.

The Alaska Historic Preservation Act protects historic, prehistoric and archeological resources, including deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of the people in the state as well as the state's natural history. This protection exists only on state land. The act does not pertain to federal or private land. HB 327 provides a higher level of protection for historical resources by increasing the penalties for violating the act.

Alaska has an unusually rich and largely undisturbed reserve of historic objects. These resources are often sought by collectors undeterred by current penalties or the need to preserve these objects for the public good. It is no exaggeration that ivory and bone tools used by Eskimos, great wood carvings of the Tlingits, dinosaur bones found on the North Slope and World War II relics strewn around the state and across the Aleutians are priceless.

Current law provides penalties of a \$1,000 fine, six months imprisonment or both for violating the act--penalties inadequate to protect the state's historical resources. HB 327 would increase the criminal penalties for violation of existing law to those of a Class A misdemeanor, no more than a \$5,000 fine, one year imprisonment, and adds civil penalties of up to \$100,000.

Passage of HB 327 would provide an effective deterrent against unauthorized destruction or theft of historic objects protected by the Alaska Historic Preservation Act on state lands and would heighten awareness among Alaskans and visitors of the value of these unique and diverse resources.

MEMORANDUM

State of Alaska

Department of Natural Resources, Division of Parks and Outdoor Recreation

TO: Tom Moyer
Legislative Aide
Representative Davis' Office
Alaska State Legislature

FROM: Judith E. Bittner *JB*
Chief, Office of History & Archaeology
Department of Natural Resources

REF: Changes to
ACC.11.16

APR 24, 1966 REC

The Alaska Historic Preservation Act, (AS 41.35.010) formulates as state law the preservation and protection of Alaska's historic, prehistoric and archaeological resources from loss, desecration and destruction. Title 11, Chapter 16 of the Alaska Administrative Code, establishes implementing regulations to deal with jurisdiction, title to collected items, the permitting process, reports, etc. related to these resources.

It is unlawful for a person to appropriate, excavate, remove, injure, or destroy without a permit from the Commissioner, any historic, prehistoric or archaeological resources of the state. There is, quite properly, a broad definition given to "historic, prehistoric and archaeological resources" under 41.35.230 ("deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in this state as well as to the natural history of the state.") Penalties are established under Section 41.35.200 for possessing, selling, buying or transporting within the state, or offering to sell, buy or transport within the state, historic, prehistoric or archaeological resources taken or acquired in violation of this section. Violators are guilty of a misdemeanor and, upon conviction, are punishable by a fine of \$1,000, or by imprisonment for not more than six months, or by both. (AS 41.35.210)

I am certain that aircraft and parts thereof are adequately covered under AS 41.35.230. Alaskan historic aircraft have been accorded recognition as historic artifacts and/or objects of antiquity by the Governor's Historic Sites Advisory Committee (established under AS 41.35.110) in nominations to the National Register of Historic Places and by award of grants to recover rare, endangered aircraft. I would suggest that changes should not be made to Section 11.16.110, a portion of the implementing regulations that define administrative responsibility for historic sites as being within the Division of Parks and Outdoor Recreation. Any changes in State law should, more appropriately, be made to AS 41.35.200. Mr. Long's efforts are in the right direction; as State Historic Preservation Officer I would support efforts to increase the penalty for violation of 41.35.200 from a misdemeanor to a felony.

MOYER. REP

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Protecting the heritage of aviation in Alaska

We are losing part of our aviation and state heritage. Artifacts of Alaska's aviation history are continually scavenged by Outside private interests. It's unfortunate, but aviation artifacts have become something of value.

Three public, nonprofit organizations are concerned with keeping Alaska's aviation heritage in Alaska. They are the Museum of Alaska Transportation and Industry in Palmer, The Alaskan Historical Aircraft Society in Anchorage, and the Interior and Arctic Alaska Aeronautical Foundation in Fairbanks.

Other organizations also are concerned with recovery of historic aircraft, but their efforts are structured to private use or gain.

The United States Historical Aircraft Preservation Museum, with Paul A. Fox as president, has interfered considerably with other legitimate recovery and preservation efforts.

Fox issued public notices claiming ownership to all downed military aircraft that were no longer claimed by the military. He then issued threats of legal action against any other organization that tried to salvage these aircraft. The notice was published in the Western Flyer, a Tacoma, Wash., aviation newspaper.

Fox's claim was denied by The U.S. Department of the Interior, which wrote, "We have reviewed those public notices and find them legally insufficient to establish any claim of ownership to the downed aircraft. Under any interpretation of applicable law, mere publication of claimed ownership is not sufficient to establish ownership of downed aircraft. Consequently, we are of the opinion that public notices may simply be ignored as legally innocuous."

The problems have not stopped with the Department of Interior's decision. Seven Curtis P-40 crash sites have been scavenged in recent months: the Nome site was allegedly picked over by a member of Fox's organization.

The P-40 is a World War II fighter that was staged in Alaska during the war years. Like most WWII fighters, the P-40 is a rare airplane, worth about \$400,000 in flying condition. The destination of its recovered parts is Texas, not Alaska.

Site locations include federal, Native lands and land still in question. Alaska's state Department of Natural Resources and the U.S.

Everett Long

Pilot's
Corner



Commentary

"We are investigating (the theft or trespass) because two wrecks were on federal land," said Larry Hood, an agent with the USFWS. The fine is \$250 to \$500. A wrecked P-40 is worth over \$100,000.

"It's a big question of ownership after the fines have been paid," Hood said. The state and the three legitimate aircraft museum organizations are trying to have the P-40 seized and kept in Alaska. There are enough parts to make three complete restored aircraft. They would become part of the air museum displays in Fairbanks, Palmer, and Anchorage.

Paul Chattey, who represents the Department of Natural Resources' Office of History and Archeology, is among those who'd like to see more cooperation among the various preservation groups.

"We are concerned with aircraft that are covered by the Alaska Historic Preservation Act," Chattey said. "But that only applies to aircraft on state land. At the moment we need the cooperation of all groups, like the IAAAF, the museum in Palmer, and the Alaskan Historical Aircraft Society."
"Our position is this: If those P-40 parts are seized, they would be moved to storage at Palmer—and used for all Alaskans."

The Palmer museum has contacted U.S. Sen. Ted Stevens for help in seizing and keeping these aircraft in Alaska. The IAAAF and the AHA support these efforts, and encourage people to express their views to Sen. Stevens. Locally, Rep. Mike Davis also is working to assist the effort.

It looks grim concerning saving the P-40s. Most of the salvaged parts are presently stored at Unalaska and Unimak Island. This "Gold Rush" on irreplaceable historic aircraft has got to be stopped. If not stopped, nothing will remain for educational and exhibit value



ALASKA HISTORICAL and TRANSPORTATION MUSEUM

Box 920 • Palmer, Alaska 99645 • Tel: (907) 745-4493

exhibit #3

Honorable Ted Stevens
United States Senator
147 Russell Office Building
Washington, D.C. 20510

11/14/85

Dear Senator Stevens,

We need your help!!! We have been working with the State of Alaska Office of History and Archeology, the Governors Office, The Army Corps of Engineers and aviation historical groups across Alaska to formulate and expedite a rational plan for the assessment, recovery and exhibit placement, in Alaska, of World War II aircraft wrecks.

It has been a difficult process, but substantial progress has been made. The Governor of Alaska requested a plan dealing with the W.W. II aircraft recovery and exhibit from a coalition of groups in October of this year and the plan was produced and submitted on time. In cooperation with the mentioned state or federal agencies initially the coalition of non profit groups included this museum, as an established " physical " museum facility in Palmer, the Alaskan Aviation Committee of Anchorage and has expanded to include the Interior Alaska and Arctic Aeronautical Foundation of Fairbanks, which at this time is developing an aviation collection within the Gold Dome at Alaskaland.

At this critical time when we are getting an " Alaskans for Alaska " effort well underway a potentially major disaster is in the making. A combined group of in state and " outside " salvors has gone to both Unalaska and Umnak Islands and gathered up the remains of at least seven P-40 W.W.II fighter aircraft for shipment to the Lower 48 states. This involves federal lands and has been done without the necessary federal permits which should have been obtained from the U.S. Fish and Wildlife Service. It is also the second violation by the same group within several months as similar violations recently occurred on Amchitka Island and were documented by the U.S. Fish and Wildlife Service.

Our concern arises from the fact that the U.S. Fish and Wildlife Service has been forming a position on this particular instance which maintains that the violators will be fined (\$250) for their trespass, but that they can have these historically important aircraft!!! For your information a rock bottom price for a flyable P-40 at this time is in the range of \$400,000. As useful parts alone the assembled wrecks represent, we estimate , a figure substantially in excess of \$400,000. Not a bad return for a couple of \$250 fines!!!

762-

Per Dave Olson of the U.S. Fish and Wildlife Office in Anchorage his agency is about to claim ownership of all other documented wrecks on their lands, but as these particular wrecks have been moved it would be difficult to prove ownership.

This is an indefensible position!! We have photographs of the wrecks in question as they were in place on federal lands, and this documentation has existed for years, these wrecks were included in our plan which was requested by the Governor of Alaska and the helicopter pilot in Dutch Harbor who actually airlifted these wrecks for the salvors has pointed out the origin points to Alaska State Troopers.

Is the U.S. Fish and Wildlife Service acting in an ethical, professional and non biased manner on this issue?? We believe not particularly when their past performance, please see the enclosed information, indicates that at least some U.S. Fish and Wildlife personnel in Alaska seem to have played favorites with Lower 48 collectors in the past. An Alaskan group long on the field definitely came out second best to the Confederate Airforce, in Texas. Does perhaps someone or a number of people in Alaskas U.S. Fish and Wildlife Service have a vested interest in the outside sale of these materials? Perhaps this question should also be examined.

What we want at this time is your help in stopping the drain of historical materials from Alaska which in turn will help us get in place an Alaskan system for dealing with these materials. We want the authority for collection or disposal of W.W.II aircraft, or any important aviation materials, on federal lands to be turned over to the State of Alaska Office of History and Archeology. At this moment we specifically want authority for the P-40s in question to be turned over to the State of Alaska Office of History and Archeology. That agency can then in turn work with our museum and its allied preservation groups to insure quality exhibits within Alaska and perhaps a funding base, via sales of aviation materials deemed surplus, for other important aviation history preservation activities.

We have included a letter we wrote to another historical group recently as part of our effort to include Alaskan interests in the current Army Corps of Engineers Aleutians/W.W.II cleanup impact study. It should clearly illustrate our position on historical aviation preservation in Alaska.

In closing I would like to add that after a great deal of effort and real pain on the part of Alaskans the proposed U.S. Fish and Wildlife stand on the P-40s in question will set a precedent which will virtually open Alaska up to a salvors "Gold Rush". Irreplaceable historical aircraft remains of high educational and exhibit value, worth virtually millions of dollars, will disappear and what will be left for our people, our children?

Please contact us for whatever additional information you might need.

Sincerely,



John Cooney
Director

THE ALASKAN
HISTORICAL AIRCRAFT
SOCIETY

2397 East 47th Court
Anchorage, Alaska 99507
907-276-1807

June 7, 1979

Dear Sir:

The Alaskan Historical Aircraft Society would like to ardently protest the occurrence of a situation and the conduct of certain federal agencies. During April and May a group of gentlemen representing the Confederate Air Force of Harlingen Texas arrived in Alaska with a DC-3 cargo aircraft and a helicopter. Their intent was to salvage as much WWII aircraft or aircraft parts as was feasible. Their journeys took in the Alaskan Peninsula (King Salmon - Cold Bay - Chernofski) and eventually to Adak, a restricted entry Navy base in the Aleutians. There they spent five days and flew on government O.A.S. aircraft in the company of FWS personnel to areas containing actual or reported WWII aircraft wreckage. The survey aircraft was originally chartered to serve the native population at Atka Village, through the BIA. In questioning John Moore, Director of BIA in Juneau, he claims that BIA did not authorize the flying excursions by Confederate Air Force people. He indicates that the flights were FWS authorized as "refuge survey flights." He feels that the "truth" would never have come to light except that the aircraft got stuck in the sand at Tanaga Bay (a rich historical area) and was 18 hours overdue for doing BIA work. The Coast Guard was called out for a search mission.

The FWS refuge manager in Adak, Mr. John Martin, indicates he thought that the flights had been authorized by BIA and the Office of Aircraft Services claims it doesn't know exactly what went on or who paid for the flights. All they did was fly the airplane and land it where ever the CAF indicated. The Confederate Air Force maintains the largest

THE ALASKAN HISTORICAL AIRCRAFT SOCIETY

2397 East 47th Court
Anchorage, Alaska 99507
907-276-1807

Page 2

group flying WWII aircraft in the world and is a major salvager of aircraft, world wide.

The Alaskan Historical Aircraft Society has been working long and hard in a volunteer effort to preserve WWII aircraft in Alaska as valuable historic objects. These machines relate to an important stage of Alaska's development, not to mention the commendable services and events of human courage and sacrifice during the Aleutian Campaign. We're up against the fact that these museum objects are worth tens of thousands of dollars each on vintage aircraft market. Our complaint is this: why is a major aircraft salvager from the states afforded an expeditious tour of Aleutian wreckage sites apparently with government assistance and at government expense when the Alaskan Historical Aircraft Society cannot get similar accommodation when seeking to do the federal mandated task of gathering information for the National Register of Historic Places. This nomination work is necessary to get recognition of these aircraft as historic objects and thus cause them to be preserved in the interest of future generations of Alaskans. It is reflected in Executive Order 11593, and 36 CFR800 _____, that the various federal agencies have a responsibility to do this work. These machines are rare and are historic in the finest sense of historic value. We have established this with the submission and acceptance by the State of Alaska of our nominations of the P-38 on Attu and B-24D at Atka...nominations we put together from photos gleaned from private citizens in Nevada and Massachusetts; information that should have been provided by the federal government in light of Executive Order No. 11593 and 36 CFR800. The work is recognized and endorsed by the Manager of Federal Antiquities of the Heritage Conservation Recreation Service in Wash. D.C. Even though the nomination work is the responsibility of the federal agencies, our small group has endeavored to do it out of pocket and in spare time. We do this because the FWS Service in particular claims to have no time, manpower or funds to conduct such a survey and furthermore cannot offer us any assistance whatsoever in doing their job. They say only that they will issue us a special use permit. They cannot spare any people to assist or accompany us. When we ask what assurance we have that the machines are properly protected until a proper evaluation is done, the FWS claims no one can get into Adak without security clearance and must have legitimate interest there and that, according to Mr. Owen Vivian of the FWS, no salvage

THE ALASKAN
HISTORICAL AIRCRAFT
SOCIETY

2397 East 47th Court
Anchorage, Alaska 99507
907-276-1807

Page 3

personnel would have entry to refuge lands. Yet the people with FWS in Adak can get aircraft together and find time to visit sites with prominent aircraft salvagers.

We feel this historical resource is being compromised by someone in the federal government. Aviation represents a fourth of Alaska's 20th Century development and not much has been done to save it in a heritage sense. The Alaska Historical Aircraft Society is trying desperately to preserve this history. Would you please earnestly investigate this matter? What we want to know is this:

1. Who sponsored the Confederate Air Force with the Navy at Adak.
2. Who paid for the accommodations and the government aircraft for the CAP survey team. Who authorized the aircraft's use. (FWS; USN; BIA; OAS)(aircraft costs: \$324/day + \$247/hr. for fuel + Misc.
3. Where exactly did the crew from the CAF fly to and what did they take away.
4. Why does FWS personnel have time to accompany the people on permit (#A1-179-9 for Max Hoffman; CAF 116-S Ridge Ct. Ft. Collins, Col) and cannot assist the Alaskan Historical Aircraft Soc. personnel trying to perform federal mandated duties.
5. What part did the OAS play in this and what did pilot Dave Macelroy experience during the flights (i.e. log books)
6. Why cannot the AHAS get similar cooperation in their efforts to save this resource for Alaska.
7. Why are efforts to do nominations on valuable WWII aircraft being blocked by federal apathy.

If we cannot get some assistance, soon these historic aircraft will be scattered and broken down for parts and used to line the pockets of a few entrepreneurs. It's going to look bad if it is done with government assistance. Thank you for your time and energy concerning this situation. We know that you are busy.

Sincerely,

Dale Jackson

Sheila Dewey

Ted Spencer
President

Vice President

Treasurer

BENJAMIN B. TALLEY
BRIG. GEN. U. S. ARMY, RETIRED
STAR ROUTE BOX 600
ANCHOR POINT, AK 99556
(907) 235-7473

3 February 1986

The Honorable Mike Davis
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

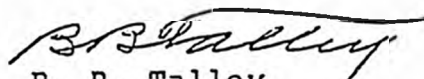
Dear Representative Davis:

I have just learned through Admiral James S. Russell that you have introduced legislation to protect World War II artifacts in Alaska.

There is a dire need for such protection, and I give this legislation my whole hearted support.

It would be appreciated if you would send me a copy of your bill so that I may discuss it with others.

Most sincerely,



B. B. Talley
Officer in Charge of Army and
Air Corps Construction in Alaska
during WWII

cc: Admiral James S. Russell



North Star Flying Lions, Inc.

F.O. Box 21301, Fairbanks, Alaska
99708

January 16, 1986

Representative Mike Davis
Pouch V
Juneau, Alaska 99811

Dear Mike:

The twenty five members of the North Star Flying Lions wish to lend their support to the proposed amendments of the Alaska Historic Preservation Act. We are deeply concerned regarding the removal of historical artifacts from Alaska.

We appreciate being made fully aware of this problem through Everett Long's recent Pilot's Corner column in the Fairbanks Daily News-Miner. The tragic loss of the planes mentioned in the column diminishes Alaska's aviation heritage, which we feel is incumbent on all of us to protect and preserve.

The proposed legislation to increase the civil penalty from \$1,000 to \$100,000 is a good start in getting the kind of attention that is apparently necessary to stem further acts of criminal removal (theft, if you will) of these rare planes.

Please include our organization as being 100% in favor of your proposed amendment. Members names will be sent on request.

Sincerely yours,

L. Stanley Zielinski
President, 1985-86

LSZ:mv

CC: Letter to the Editor
Fairbanks Daily News-Miner

ADMIRAL JAMES S. RUSSELL, USN (RETIRED)
7734 WALNUT AVENUE SOUTHWEST
TACOMA, WASHINGTON 98498

29 January 1986

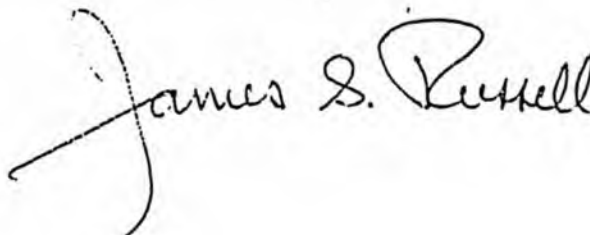
The Honorable Mike Davis
Member of the State Legislature
Representative of the 19th District
Juneau, Ak., 99801

Dear Representative Davis

From one who flew and fought in Alaska in WW II, please accept my hearty endorsement of your effort to preserve for Alaskans those historic airplanes which, due to enemy action or weather, were wrecked and abandoned in the State of Alaska.

With all good wishes for your success.

Sincerely,

A handwritten signature in cursive script that reads "James S. Russell". The signature is written in dark ink and is positioned below the word "Sincerely,".

Enclosure: News clip from Fairbanks paper

CC; Brig.Gen. Benjamin B. Talley, USA (retired)
Anchor Point, AK.

Representative Mike Davis
Interior House Delegation Office
542 4th Ave, Suite C
Fairbanks, Alaska 99701

Dear Mr. Davis

This is to express strong support for House Bill 438. It is absolutely essential that the plundering of Alaska's valuable artifacts, in particular historical aircraft or their parts, be stopped. Maximum felony penalties should be imposed on those who would illegally remove or assist in the removal of the artifacts. They are of great and increasing value both historically and monetarily to the people of Alaska. Even a penalty of \$100,00 might not deter the theft of, for example, a World War II airplane with a value of 1/4 to 1/2 a million dollars.

Sincerely yours,



Richard R. Hoopes, President IAAAF
120 Concordia Drive
Fairbanks, AK 99709

479-6119



KETCHIKAN
HISTORICAL
COMMISSION

POST OFFICE BOX 7055
KETCHIKAN, ALASKA 99901
907-225-6166

(7)

March 10, 1986

Representative Mike Davis
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Davis:

The Ketchikan Historical Commission met on March 5, 1986 and voted to give support to HB 283 regarding historic preservation.

We have worked diligently in our programs to educate and promote historic preservation and restoration in the Ketchikan area. With the passage of HB 283, additional incentive would be given to those persons wishing to preserve their historic properties throughout Alaska.

We encourage you and your legislative counterparts to give total support to HB 283 during the current session.

Sincerely,

A handwritten signature in cursive script that reads "Bill Lattin".

BILL LATTIN
Chairman

cc: Governor Bill Sheffield

Paul Chatty
Division of Parks & Recreation

WORLD
452-2688

ALL DOWN PARKA, \$125.

MARK GAS & diesel heaters for interior & engine cooling systems for cars & trucks. Full repair & service on all types of gas heaters. Roger Lang's Volkswagen Shop, 479-2748.

MOVING - NEW BROWN plaid loveseat with oak trim; 1 year old brown naugahyde couch with pine trim, both good condition. 488-0101.

MUST SELL!! 1970 CJ-5, \$600 or best offer. 3 1974 Ski-vit snowmobiles, \$600 or best offer. 1,500 for all. 456-7762, ask for Luann Berkley.

NEW TORO ELECTRIC power snow shovel. 100' cord included. \$75. Call 479-7676.

OWATONNA SKID LOADER (like Bob Cat), V-4 Ford propane engine. Gas or propane. Good running condition. \$4,500. 488-2967.

PIONEER VIDEO DISC player w/ remote control, 70 movies. \$3,600 value. Must sell. \$1,000. 457-1912 after 5pm.

POOL TABLE, \$75. New Scandia jacuzzi. 8'x8'x3'. Pump, filter, used boiler. \$4,000 or best. 457-8318.

POOL TABLE WITH accessories, \$225. 2 chrome mag wheels with fair tires. 10x15 Chevy. \$125. 479-4605.

POOL TABLE, 8 sticks, accessories, 3 1/2'x7'. New cover, \$500. Wood typewriter desk, 32x60, \$50. 488-2691.

PORTABLE CIRCULAR SAW MILL. Belsaw arbor, 30" and 42" diameter blades. Best offer. 451-6845.

REDUCE YOUR HEATING BILLS. Save on your heating bills. Purchase a new furnace for your home. Call 452-4154.

REWARD FOR INFORMATION on location of intact World War II aircraft: P-39, P-40, P-47, P-51 or P-41. Dave, 207-638-5406 collect.

SALE

PANTHER 440

\$2,850

REGULARLY \$3,499

See at
NORTHERN POWER
433 3rd St., Gr...
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SATOH BEAVER
4x4, under 1000 lbs
blade and 77
650 Yamaha
Cub, fus...
Miscellaneous

SHEER
12...
10

410 Col...
WARN WINCHES
Snowblows, salt spreaders
Miscellaneous

166 ...

50 HP EVENRUDE outbo
Completely rebuilt. Bored .030
size \$1,500. Pierce Enterprises.
3926 evenings.

170 Motorcycles—See ad

**ALASKA
FUN CENTER**

Your motorcycle headquarters.
Parts and accessories for all makes.

Yamaha
Honda
Kawasaki
Suzuki

**THREE
WHEELS**

1817 COLLEGE RD

ALI...

December 1,
Marshall Drive off
P... and Skyline.

LEAVING ALASKA. Like new winter clothes sizes 10-12, boots and miscellaneous. Saturday, 12/1, 9am-12pm. 4953 Dartmouth #2.

MOVING SALE: Saturday, 12/1, 10am-3pm. Mary Kay sell-out plus lots of goodies. Everything priced to go, 100 10th Avenue, 2CA.

MOVING SALE, furniture, household items, some tools, lawn furniture. 1228 Denali Way. Saturday only, 9am-3pm, December 1.

A MOVING SALE. Plants, Christmas toys, exercise bicycle, desks, shelves, microwave, new bicycle, TV, stereo, collector albums. 452-4855.

TV, STEREO, sewing machine, hexagon aquarium, mirrored plant stands, beds, desk, wicker, clothes. Saturday & Sunday, 10am to 4pm, 229 West St.

2 APT. SALE: Christmas tree, 50,000 BTU Sears furnace, hand-crafted items, antique sewing machine. 1453 Eleison St, Apt. A & C. 451-0163.

160 Aircraft & Equipment

**ALASKA'S WING
SPECIAL
LIMITED TIME OFFER**

456-4706, Meiro Field.

CESSNA 170B, 180 Lycoming, CS prop, Avcon conversion. Leaving state and MUST sell this super clean, well-equipped bird. See at Fair International. Call for details. (In Delta) at noon, or after.

FLIGHT INSTRUCTION for yours. FAA designee flight test examiner. 488-3649.

**FLIGHT
ALASKA**

Cur rate

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION CSHB 327 (FIN)
PUBLISH DATE: HOUSE 1/29/88

66

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept. of Corrections
 Title: "An Act relating to penalties for PRU: _____
violating the Alaska Historic Preservation Act
 Sponsor: Representative Davis & Kobenen Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation would have minimal impact on the Department of Corrections.

Susan E. Knighton

Prepared by: Susan Knighton Phone: 465-3376
 Division: Director of Administrative Services Date: 1-15-88

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

Distribution (by preparer):

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

H B

3 3 2

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 332
PUBLISH DATE: HOUSE 2/15/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to the reporting
of burn injuries.
Sponsor: Rep. Kodonen
Requestor: _____

Agency Affected: Public Safety
BRU: Fire Prevention
Components: _____

122

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | | 3.1 | 2.9 | 3.1 | 3.2 | 3.4 |
| SUPPLIES | | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 |
| EQUIPMENT | | 3.5 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 7.1 | 3.4 | 3.7 | 3.8 | 4.0 |

| | | | | | | |
|---------|--|---|---|---|---|---|
| CAPITAL | | 0 | 0 | 0 | 0 | 0 |
|---------|--|---|---|---|---|---|

| | | | | | | |
|---------|--|---|---|---|---|---|
| REVENUE | | 0 | 0 | 0 | 0 | 0 |
|---------|--|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|-----|-----|-----|-----|-----|
| GENERAL FUND | | 7.1 | 3.4 | 3.7 | 3.8 | 4.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | 7.1 | 3.4 | 3.7 | 3.8 | 4.0 |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Attachment.

Prepared by: Gordon E. Brunton
Division: Fire Prevention

Phone: 465-4331
Date: 1/15/88

Approved by Commissioner: [Signature]
Agency: Public Safety

Date: 1-25-88

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

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

542 4th Avenue, Suite C
Fairbanks, Alaska 99701
(907) 456-8161

POSITION PAPER

CSHB 332 (HESS) "An Act relating to the reporting of certain injuries."

According to the Alaska State Fire Marshall's Press release of December 31, 1987, Alaska arson costs ran "conservatively over seven million dollars" in 1986. HB 332 is modeled after arson legislation enacted in New York State and Massachusetts. Five states have burn injury reporting requirements in statute and eleven states have pending or recently enacted burn injury reporting systems.

According to New York State Field Representative for Arson Technical Assistance in the Office of Fire Prevention and Control, in 1987 their burn injury reporting system program was responsible for 15 arson arrest cases and 10 other cases involving child abuse. The Department of Health and the Office of Fire Prevention and Control have been working on burn prevention programs which target certain age groups. Under New York law it is a misdemeanor for not reporting an injury.

Massachusetts official, Jennifer Mietch, states that Massachusetts is tracking one arson a month through their reporting system. Ms. Mietch also states that "our reporting system has been running well - how can you fight it if you can't identify it?!"

CSHB332 (HESS) would require health care professionals attending persons with burns of over five percent of the body with second or third degree burns, or burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, to make an oral report to the Department of Public Safety, a local law enforcement agency, or a village public safety officer, and to file out a brief checkoff form, supplied by the Department of Public Safety, within three working days.

During the first hearing on this bill the Department of Public Safety requested that a requirement for an oral report of gunshot and stab wounds be added to this legislation. CSHB 332 (HESS) incorporates this suggestion.

This legislation will help uncover criminal activity and enable public safety personnel to enforce the law.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

REPLY TO:

* CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99811-0310
PHONE: (907) 465-3428

= OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 315
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

April 22, 1988

Honorable Niilo Koponen
Alaska State House
P.O. Box V
Juneau, Alaska 99811

Re: CSHB 322 -- reporting of burn injuries

Dear Representative Koponen:

At your request, I have reviewed CSHB 322 (HESS) am. The bill requires physicians, nurses, paramedics, hospital staff, and other health care providers to report to the police their treatment of persons suffering from gunshot wounds, non-accidental stab wounds, certain types of burns, and other non-accidental serious injuries.

An oral transmission of the report must be made promptly to a state trooper, local police department, or a local village police officer, and this must be followed by a written report within three working days after the person is treated. The written report must be on a form provided by the Department of Public Safety.

in the case of BURN injuries
~~Under the current law...~~

Alaska is one of the very few states in the nation which do not require a treating physician to report gunshot or stab wounds. The absence of such a requirement under current law means that some serious assaults are never reported to law enforcement authorities, especially in the remote villages or rural areas of the state. Even if a shooting or stabbing is eventually reported to the authorities, investigation may be hampered by the passage of time and the loss of valuable evidence. Clearly accidental injuries are excluded from the laws requirements.

The benefit of this reporting requirement is two-fold. It will allow police officers to take steps to protect the victim of a crime who may be too badly injured or too frightened to report the assault. It will also allow officers to immediately investigate the apparent commission of a serious crime, and may aid in the apprehension of the offender and the protection of the public from future harm.

In light of the justified public concern about the level of violent crime in our society, and in the important public safety interests which this reporting requirement would serve, this bill will assist law enforcement efforts in this area.

Very truly yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 

Stephanie E. Joannides
Assistant Attorney General

SEJ:jf-6

cc: Arthur H. Peterson
Assistant Attorney General

BILL NO: CSHB 332 (HESS) am

DATE: March 2, 1988

TITLE: An act relating to the reporting of certain injuries.

CONTACT: Gayle Horetski
465-4322

DEPARTMENT OF PUBLIC SAFETY

This bill would require health care professionals to promptly make oral reports of cases of serious burn injuries and gunshot, knife, and similar wounds to the Department of Public Safety, a local law enforcement agency, or village public safety officer. The health care professional must also, within three working days after the person is initially treated, submit a written report of all burn injuries to the Department of Public Safety on a form provided by the Department.

This bill would provide a valuable tool to assist in the apprehension of arsonists, and would give the Division of Fire Prevention a better understanding of burn injuries to assist in their prevention.

It would also provide timely notice of injuries caused by guns, knives, and similar weapons, and other injuries likely to cause death, (unless clearly accidental), that may not otherwise come to the early attention of law enforcement officers.

The Department of Public Safety strongly supports passage of CSHB 332 (HESS) am.

Gayle G. Horetski

for Arthur English
Commissioner

FISCAL NOTE

REQUEST:

Revision Date: 3/2/88
Title: An act relating to the reporting of certain injuries.
Sponsor: House HFSS
Requestor: Senate HESS

Agency Affected: Public Safety
BRU: Fire Prevention
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | | 1.8 | 1.5 | 1.6 | 1.6 | 1.7 |
| SUPPLIES | | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 |
| EQUIPMENT | | 3.5 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 5.8 | 2.0 | 2.2 | 2.2 | 2.3 |
| CAPITAL | | 0 | 0 | 0 | 0 | 0 |
| REVENUE | | 0 | 0 | 0 | 0 | 0 |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|-----|-----|-----|-----|-----|
| GENERAL FUND | | 5.8 | 2.0 | 2.2 | 2.2 | 2.3 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | 5.8 | 2.0 | 2.2 | 2.2 | 2.3 |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attachment.

Jivk
2/12/88

Prepared by: Gordon F. Brunton *SEB.* Phone: 465-4331
Division: Fire Prevention Date: 3/2/88

Approved by Commissioner: [Signature] *Dep. Comm.* Date: 3-2-88
Agency: Public Safety

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

FISCAL NOTE

CSHB 332 (HESS) am

Assumptions:

An estimated 250 burn injuries will be reported each year.

A five percent inflation factor is used for subsequent years.

Personal Services. 100 hours per year, clerical and professional time for case management and data control, for burn injuries. 30.0

Travel. 0.0

Contractual.

Printing & distribution of burn injury reporting forms to health care professionals (decrease 0.3 after first year) 1.0

Publication of periodic reports. 0.3

Supplies. Miscellaneous office supplies stationery, data storage media. 0.5

Equipment. Upgrade microcomputer hard drive/tape backup to increase data storage capacity (one-time cost). 3.5

Total 55.3

PROVIDENCE HOSPITAL
3200 PROVIDENCE DRIVE
P.O. BOX 196604
ANCHORAGE, ALASKA 99519-6004
PHONE: (907) 562-2211



SISTERS OF
PROVIDENCE

SERVING IN THE WEST SINCE 1856

April 26, 1988

Honorable Niilo Koponen
Alaska State House
P. O. Box V
Juneau, AK 99811

Dear Representative Koponen:

I believe HB332 is in the best interest of the residents of Alaska and visitors to our State.

As a Registered Nurse for ten years and a Thermal Care Nurse for six years, I have cared for hundreds of individuals with thermal injuries. Some of these injuries have stemmed from questionable (maybe criminal) activities.

Accurate reporting of injuries and their causes or circumstances should be documented and available for investigation to agencies sensitive to this issue.

I would include at the end of line 25 - "or toxic products (poisonous gases) of combustion".

Sincerely,

Scott Sullivan, R.N.
Thermal Unit
Asst. Unit Manager

HB

339



Alaska State Legislature

Representative Mike Davis

District 19

P.O. Box V
Juneau, Alaska 99811
(907) 456-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708
(907) 456-8161

MEMORANDUM

To: Senate Judiciary Committee

From: Rep. Mike Davis *mk*

Re: HB 339

Date: April 28, 1988

I introduced HB 339 in response to a serious problem faced by commercial firewood sellers in the Interior. There have been a number of cases involving persons who trespass and steal timber off private or state land and then sell the timber as firewood. These people compete with the legitimate lumber and firewood sales companies.

The existing statutes and regulations do not provide adequate authority to deal with the problem. The only way the Department can prove that a person has illegally taken timber is by catching the person in the act, which has proven to be very time consuming and resource intensive.

HB 339 requires that persons who sell firewood must first obtain a firewood sales permit from the Department of Natural Resources.

Although, legislative solutions could be directed at the harvest phase, the transportation phase or the commercial sale phase, the sale phase offers the simplest and most effective way to address the problem.

SECTIONAL ANALYSIS FOR HB 339

Section 1 TRESPASS BY CUTTING OR INJURING TIMBER

Amends the existing trespass statutes in AS 09.45.730 to provide that treble damages be assessed against persons who trespass and cut timber on state or municipal lands.

Section 2 COMMERCIAL FIREWOOD SALES

Requires that a person who wishes to sell firewood must first obtain a commercial firewood sales permit from the Department of Natural Resources. In order to obtain a permit a person must provide proof of ownership. This section explains what may be used as proof of ownership and gives the Commissioner the authority to adopt regulations to enforce the bill.

Sec. 41.15.915 Civil Penalties

Creates a civil penalty for persons who knowingly sell firewood without a valid permit. The civil penalty includes damages and costs incurred by the state in the correction of the violation and treble the retail value of the firewood.

Sec. 41.15.920 Sales without permit made a violation

(a) Creates a violation for persons who knowingly sell firewood without a valid permit.

(b) Creates an affirmative defense if the defendant can prove that the firewood was harvested from the defendants own property or from the property of a person from which permission to harvest firewood was received.

Sec. 41.15.925 Injunctions

(a) Allows the Court to issue an injunction to prevent a person from selling firewood without a permit.

(b) Allows the issuance of a temporary or preliminary injunction upon a showing of continued threat of violation without demonstrating that irreparable physical harm will result if such an injunction is not issued.

Sec. 41.15.930 Definitions

Section 3.

Amends 42.50.235(b) to allow persons to recover beach logs and use them for personal or noncommercial use.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

March 7, 1988

The Honorable John Sund
Chairman, House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Sund:

Subject: HB 339, an act relating to theft of timber products.

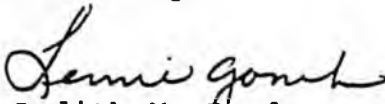
Position: The Department of Natural Resources supports HB 339 with changes as proposed by the Attorney General's Office.

Background: HB 339 attempts to address a problem faced by the Division of Forestry and many commercial firewood dealers in Northern Alaska. This problem involves the unauthorized harvest of timber from state lands. The existing statutes provide inadequate authority to deal with this problem. At present, the Division of Forestry must prove that the firewood seller unlawfully obtained timber from state land, which is difficult to do once timber has been removed from the harvest site. The department, the sponsor of the house version of this bill (which is identical to the senate version), and private timber operators have recently worked with the office of the Attorney General in Fairbanks to craft language that will more effectively get at the problem. This language has been provided to the sponsors and committee staff, as well as an analysis by John McDonagh, Assistant Attorney General.

Recommendation: The department supports the concept of the bill as originally written but prefers the changes drafted by the office of the Attorney General as a more effective way to address the problem.

We look forward to working with the committee and staff through the progress of this legislation.

Sincerely,



for
Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
Bob Evans
Rod Swope

FISCAL NOTE

REQUEST:

Revision Date: 4-11-88 Agency Affected: Natural Resources
 Title: An Act relating to Timber Trespass and Commercial Sale of Firewood BRU: Forest Management
 Sponsor: Davis Components: Forest Management
 Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

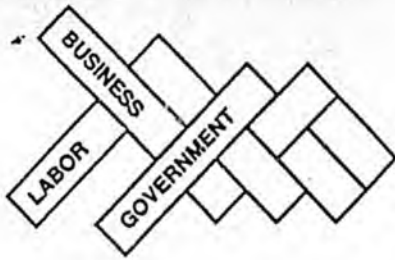
ANALYSIS : (Attach a separate page if necessary)

Prepared by: George K. Hollett Phone: 465-2491
 Division: Division of Forestry Date: 4-11-88

Approved by Commissioner: [Signature] Date: 4-11-88
 Agency: _____

Distribution (by preparer):

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



UNIFIED FAIRBANKS

A RESOLUTION IN SUPPORT OF HOUSE BILL #339

AN ACT RELATING TO THEFT OF TIMBER PRODUCTS

WHEREAS, the Interior of Alaska has the largest timber reserves in the state of Alaska; and

WHEREAS, the marketing of this timber resource is a top priority of the timber industry; and

WHEREAS, interest is now being expressed in the development of that timber industry; and

WHEREAS, it is necessary to protect the timber resources to allow for their full development by licensed and regulated operators;

NOW THEREFORE be it resolved that Unified Fairbanks encourages the Legislature to pass House Bill #339 for the benefit of protecting that resource.

This resolution was passed by Unified Fairbanks on February 3, 1988.

UNIFIED FAIRBANKS


Charles P. Rees, President

PC:bill339

ALASKA INTERIOR WOODCUTTER'S ASSOCIATION
5180 Aeronca
Fairbanks, Alaska 99709

RESOLUTION 88-1

Title: Timber Trespass Legislation, H.B. 339

WHEREAS the Interior Woodcutter's Association was organized to represent all segments of the wood products industry of Interior Alaska.

WHEREAS the wood products industry employs over 200 people in the wood industry and sells products with a market value of over six million dollars.

WHEREAS timber trespass and theft have become an overwhelming problem on state, borough, university, and private lands.

WHEREAS timber theft denies large amounts of revenue to the state for timber resources stolen.

WHEREAS timber thieves largely steal in Personal Use Woodcutting Areas taking the easily accessible wood and leaving harder-to-get wood for legitimate Personal Use Firewood cutters.

WHEREAS the timber thieves bear no responsibility for clean-up and proper utilization of timber resources and seriously hurt legitimate commercial operators who have to bear such costs.

WHEREAS current legislation puts the burden of proof on the Division of Forestry whose limited budget and manpower make enforcement of such statutes nearly impractical.

WHEREAS current legislation would require a "man behind every tree" to enforce.

THEREFORE, be it resolved that:

The Alaska Interior Woodcutter's Association fully endorses the passage of H.B. 339 relating to timber theft and proof of ownership.

Further be resolved that the Alaska Interior Woodcutter's Association requests the State of Alaska, Department of Natural Resources, to promulgate regulations to make enforcement of legislation practical

Recommendation: PASS

Adoption: PASS X NO PASS

Distribution: Legislative Distribution
Governor
FNSB, W. Helms
United Fairbanks
DNR Commissioner
State Forester

Karla Bouray 1/25/88
KARLA BOURAY (Date)
Acting Secretary, A.I.W.A.

Monday, January 25, 1988, The Anchorage Times

City/State

B

Timber rustling suspect charged by state

FAIRBANKS (AP) — A two-month undercover investigation has resulted in a Fairbanks man being charged with stealing wood and trespassing on state land.

Gary Burke, 33, faces up to a year in jail and a \$5,000 fine following the investigation by the Department of Natural Resources.

"Existing laws require us to observe people harvesting the wood and selling it," said Don Fuller, area forester. "To do

that, we had to go undercover.

"We followed people into the woods to watch them cut trees illegally, then we followed them into town to observe them selling it," Fuller said Friday. "In some cases, we purchased wood from the unlicensed vendors."

Fuller blames "timber rustlers" for depleting timber in some areas intended for public use, for stealing wood from private land, for leaving gaping holes and large stumps in areas that were

to be re-forested, and for undermining the business of legal commercial operators, who must abide by strict regulations.

Some of the nine cutters under investigation have sold more than 200 cords of wood this year, Fuller said.

"I don't want to hold this as a hammer over the public head, but if these illegal practices don't stop . . . we may have to close down public wood cutting areas."

Unless they own land, most commercial operators must contract with the state to cut trees from a specific plot. There are about 20 commercial operators in Fairbanks, Fuller said.

Operators are bound by law to post promissory bonds, pay the state \$5 per cord of wood sold, abide by environmental standards and clean up and replant plots, Fuller said.

"Frankly, I'm being asked by some legal woodcutters why they

should not revert to stealing wood too if we are not going to do anything about the theft going on at this point," Fuller said.

Fuller said some illegal woodcutters have cheated customers.

"We intend to file fraud charges against one guy," Fuller said. "We bought a cord from him and donated it to Santa's Clearinghouse. Not only did the guy not deliver a full cord, the wood was rotten."

3/30 News Mener
*Firewood area
closed down*

The Big Bend public firewood area at 25.5 Mile Chena Hot Springs Road is closed because too many white spruce trees have been cut down there, according to Division of Forestry officials.

A few people have permits to cut down white spruce for log homes there, but many more trees have been taken illegally, said Don Fuller, Fairbanks Area Forester.

"It is an expensive load of wood when the trees are worth \$300-\$400 a piece if they are ridge pole quality," Fuller said.

Forestry officials opened the area to public cutting last month to thin out mature birch tree stands there. They'd hoped to preserve the white spruce for seed trees to help the natural regeneration of the area, Fuller said.

A week before it closed, forestry officials posted signs warning people that the area would be shut down unless they stopped cutting white spruce.

"There is a good supply of birch out there," Fuller said. "It is beyond me why these individuals are cutting green spruce for firewood."

HB

340



Alaska State Legislature

Representative Mike Davis

District 19

P.O. Box V
Juneau, Alaska 99811
(907) 456-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708
(907) 456-8161

TO: Senate Judiciary Committee
FROM: Rep. Mike Davis
DATE: April 28, 1988
RE: CSHB 340, granting immunity from civil liability for providing volunteer emergency services.

CSHB 340 amends the Good Samaritan Act to protect volunteers in first aid and rescue organizations from liability. The committee heard the identical Senate companion bill, SB 346, last month.

Ordinary citizens who try to help in emergency situations are protected from liability by the Good Samaritan Act, AS 09.65.090. Paramedics and EMTs who are certified by the state are covered in liability questions by AS 18.08.086. However, members of volunteer rescue organizations such as the National Ski Patrol, Civil Air Patrol, and mountain rescue groups may not have any statutory protection.

First aid and rescue volunteers are vulnerable to litigation because they have an obligation to help people while serving in their organizations. The Alaska Supreme Court has ruled that the Good Samaritan Act does not protect those who have a "pre-existing obligation to assist individuals in danger".

CSHB 340 would protect emergency services volunteers from liability for their good faith attempts to aid those in danger. However, they would still be liable for damages as a result of "gross negligence, recklessness, or intentional misconduct" as stated in subsection (b) of the existing Good Samaritan Act.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 11, 1988

SUBJECT: Immunity from civil liability for volunteer
emergency services (Work Order No. 5-1495)

TO: Representative Mike Davis

FROM: Edward H. Hein *EHA*
Legislative Counsel

You have asked whether volunteer ski patrol members are in fact open to liability for negligence during rescue operations and whether, therefore, your legislation (Work Order No. 5-1495A) is needed.

Your bill amends AS 09.60.090, Alaska's "Good Samaritan" law. This law provides immunity from civil liability for negligent acts or omissions by persons rendering emergency aid to people in immediate danger of serious harm or death. The purpose of the law is to encourage people to voluntarily come to the aid of persons in need of rescue without having to fear potential civil liability for negligence. Lee v. State, 490 P.2d 1206, 1209 (Alaska 1971).

The Alaska Supreme Court in Lee ruled that the immunity under this statute does not extend to persons, such as state troopers, who are under a "pre-existing duty to rescue." It is an open question whether ski patrollers have a pre-existing duty to rescue. The Alaska courts have not decided that question. It can be argued that ski patrollers are under a pre-existing duty to rescue and are, therefore, not immune from civil liability under Alaska's Good Samaritan Act. In order that ski patrollers and other similar rescue group volunteers are assured of immunity, it would be prudent to have the provisions of your bill or similar language in the statutes.



NATIONAL SKI PATROL SYSTEM, INC.
ALASKA DIVISION

DIVISION

M

101 College Road
Fairbanks, Alaska
January 16, 1988

Representative Mike Davis
Fairbanks Legislative Delegation
Fairbanks, Alaska

Dear Representative Davis:

Re: House Bill # 340

Thank you for your interest in amending the "Good Samaritan" act in the State of Alaska.

The Ski Patrol is a volunteer organization dedicated to public service by promoting safe skiing and providing rescue services. All members are trained in emergency first aid care to the level of American Red Cross Advanced First Aid, or beyond. This bill will directly and immediately affect our position as volunteers.

As the Director of the Ski Patrol in Alaska, representing three hundred and fifty members, I strongly urge your support of Senate Bill #346, and request immediate action on said bill.

Thank you.

Sincerely,

Harley Adamson
DIVISION DIRECTOR
ALASKA DIVISION
NATIONAL SKI PATROL SYSTEM



A NON-PROFIT CORPORATION
AFFILIATED WITH
MOUNTAIN RESCUE ASSOCIATION

8101 White Drive
Anchorage, Alaska 99511

EMPLOYER I.D. #92-0084973

February 22, 1988

Representative Mike Davis
P.O. Box V
Juneau, Alaska 99811

Re: House Bill No. 340

Dear Representative Davis:

I am writing on behalf of the Alaska Mountain Rescue Group to urge passage of House Bill 340, an amendment to Alaska's Good Samaritan Statute.

The Alaska Mountain Rescue Group is a volunteer organization which performs search and rescue work in the mountains and other difficult terrain. The Group is funded entirely by private contributions. All of its members are volunteers, and all of its members supply their own equipment. The Group was founded more than 20 years ago and has performed hundreds of rescues, often under very dangerous conditions. Many lives have been saved.

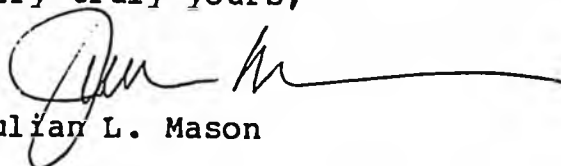
Under present law, Rescue Group members may be exposed to substantial personal liability when they in good faith and to the best of their ability attempt to help victims of unfortunate accidents. This liability exposure is unfair and a deterrent to the spirit of volunteerism which is so important in Alaska. Although the Group was formed to help mountaineers, most of its work has been on behalf of hunters, hikers, lost children, and the victims of plane crashes. Your neighbor, or a member of your family, could well be the next person helped by the Alaska Mountain Rescue Group.

I do not know the names of other sponsors of the Bill in the House or in the Senate. I would appreciate your making this letter available to the other sponsors. The Group

Representative Mike Davis
February 22, 1988
Page Two

thanks you for your help in sponsoring this important
legislation.

Very truly yours,



Julian L. Mason

JLM/mcm

SEADOGS

SOUTHEAST ALASKA DOGS
ORGANIZED FOR GROUND SEARCH

PO BOX 244

JUNEAU, ALASKA 99802

1/15/88


REPRESENTATIVE MIKE DAVIS
ALASKA STATE LEGISLATURE
PO BOX V
JUNEAU, AK. 99811

REPRESENTATIVE DAVIS:

I AM WRITING YOU IN SUPPORT OF HOUSE BILL 340, "AN ACT GRANTING IMMUNITY FOR VOLUNTEER EMERGENCY SERVICES". "SEADOGS" IS A STATEWIDE SEARCH AND RESCUE DOG ORGANIZATION WHICH PROVIDES TRAINED SEARCH DOGS AND HANDLERS TO THE STATE TROOPERS, COAST GUARD, AND AIRFORCE RESCUE CENTERS, AS WELL AS LOCAL LAW ENFORCEMENT AGENCIES ON A VOLUNTEER BASIS. OUR HANDLERS DEVOTE MANY HOURS OF THEIR PERSONAL TIME EVERY WEEK TRAINING FOR SEARCHES, AND THE TIME THEY SPEND IN THE FIELD SEARCHING FOR SOMEONE'S CHILD, A LOST HIKER OR HUNTER, OR SOMEONE TRAPPED IN AN AVALANCHE OR EARTHQUAKE RUBBLE IS PAID FOR OUT OF OUR OWN POCKETS. THIS BILL WOULD ALLOW TEAM MEMBERS TO OPERATE CONFIDENT IN THE KNOWLEDGE THAT ANY FIRST AID ADMINISTERED BY THEM, OR ANY ATTEMPTS TO ASSIST A LOST OR INJURED INDIVIDUAL WITHIN THE SCOPE OF OUR TRAINING, WOULD NOT BE MET BY CIVIL LIABILITY.

WE WHOLEHEARTEDLY SUPPORT THE BILL, AND REQUEST THAT YOU GIVE IT YOUR BEST EFFORTS.

SINCERELY,



L. BRUCE BOWLER
PRESIDENT
SEADOGS



NATIONAL SKI PATROL SYSTEM, INC.

Affiliations
UNITED STATES SKI ASSOCIATION
NATIONAL SAFETY COUNCIL
ADVISORY COMMITTEE U.S.
ARMY 101 MOUNTAIN AND
ARCTIC WARFARE

ALASKAN DIVISION

January 14, 1988

The Honorable Mike Davis
Alaska House of Representatives
542 4th Ave., Suite c
Fairbanks, Alaska 99701

Dear Representative Davis,

We the undersigned, are members of Denali Ski Patrol registered with the National Ski Patrol System. We are writing in support of your efforts to amend the Good Samaritan Act (AS 09.65.090) to include trained first aid volunteers.

Denali Ski Patrol provides countless hours of community service each year. Our training is extensive and in addition we are required to complete 35-40 hours of refresher work yearly. We are obligated to provide first aid care at our ski area although we do this strictly on a volunteer basis.

We have recently become aware that we are probably, in fact, not covered by either the Good Samaritan Act or AS 18.08.086 which protects state certified first aid personnel.

We would greatly appreciate any assistance you can give us in remedying this unfortunate situation so that we have the protection that we are due.

Sincerely,

Patricia K. Evans
Patricia K. Evans, Director
Denali Ski Patrol
10023 Preuss Lane
Eagle River, Alaska 99577
And
Denali Ski Patrol Members

Michael A. Ruedergast
Mike Abbe
Loren Nelson
Thomas E. Mounader
Sandy Long
Annabeth Long
Edward C. Long

David A. Handrickson
Miles Johnson
W. T. Anderson
CRAIG WALLING
Mouman M. Jork
Roy Hansen
Todd E. Nyback
Haren Nelson
James A. Jones
Don
Delva A. Kriete
Walter Blum

MAR 18 1988



CITY OF MC GRATH

P.O. BOX 57 MC GRATH, ALASKA 99627
PHONE (907) 524-3825

March 15, 1988

Representative Kay Wallis
Alaska State Legislature
P.O. Box V
Juneau, Ak. 99811

Subject: Civil Liability Immunity for Emergency Services

Dear Representative Wallis:

At the regular City Council meeting on February 16th, 1988 the City Council discussed HB #340 and Senate Bill #346. It was decided by consensus that the City of McGrath go on record as supporting passage of these Legislative Bills.

The Kuskokwim Valley Rescue Squad is a very strong and viable organization of certified volunteers that responds to emergencies in the area. This legislation is necessary to protect the organization and to help facilitate the emergency services needed by the general population.

Thank you.

Respectfully,

B.R. "Walt" Walton
B.R. "Walt" Walton
Mayor

BILL NO: HB 340

DATE: 1/20/88

TITLE: An Act Granting Immunity
From Civil Liability For
Providing Volunteer
Emergency Services.

CONTACT: Capt. McConnaughey

DEPARTMENT OF
PUBLIC SAFETY

POSTED PER /

Search and rescue in Alaska is the responsibility of the Alaska State Troopers, U.S. Air Force, and U.S. Coast Guard. All three agencies use volunteers to aid in the search activities. Probably 70% of all Trooper searches are conducted by volunteers acting under the direction of the Troopers. The organized volunteers are trained, equipped, and ready on a moment's notice. All search and rescue agencies depend on the volunteers. Without volunteers our job would be more difficult and time consuming. This bill provides the volunteers with a degree of civil protection if someone is inadvertently injured during the rescue.

Arthur English /jc
Arthur English, Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST
 Revision Date: _____
 Title: "An Act Granting immunity ... for providing ... emergency services."
 Sponsor: Rep. Davis, etc.
 Requestor: _____

Bill Version: HB340
 Publish Date: _____
 Agency Affected: Public Safety
 BRU: Alaska State Troopers
 Components: Detachments

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 | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|---|---|---|---|---|---|
| GENERAL FUNDS | 0 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

No increase or decrease in the level of expenditures is anticipated as a result of the passage of this legislation.

Prepared by: Francis C. Allan
 Division: Alaska State Troopers
Arthur E. English / jc
 Approved by Commissioner: Arthur E. English
 Agency: Public Safety
 Distribution: (by preparer):

Phone: 269-5691
 Date: 1/20/88
 Date: 1/20/88

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

Position Paper

CSHB 340 (L&C)

For an Act entitled: "An Act granting immunity from civil liability for providing volunteer emergency services."

This Act amends AS 09.65.090 (civil liability for emergency aid) to expand the coverage to a person who provides emergency services (e.g., first aid and search and rescue), while acting as a volunteer for an organization that exists for the purpose of providing the service rendered, regardless of whether the organization or members are under a preexisting duty to render assistance. Currently, AS 09.65.090 only provides immunity from liability to persons who do not have a preexisting duty to act. Many individuals and organizations providing emergency services, such as volunteer ski patrollers and search and rescue teams, do not currently have protections from liability afforded by statute.

The department assumes that the term "other emergency services," on line 13, does not include advanced life support services such as defibrillation, drug therapy, intravenous therapy, and advanced airway treatment, as these emergency services should be provided only by trained and licensed professionals.

Position

The department supports the intent of this legislation because it increases immunity from liability for volunteer emergency service workers, many of whom are under a preexisting duty to act and, consequently, are not covered by AS 09.65.090. It is likely that passage of this legislation would increase the number of individuals willing to provide emergency services and would decrease the rate of attrition among emergency service volunteers.

However, the department recommends that the term "other emergency services" be defined to exclude advanced life support procedures as defined in AS 18.08.090.

POSITION PAPER/Department of Health & Social Services

Position Paper, CSHB 340 (L&C), pg. 2

Recommended by: *Elizabeth Ward*
Elizabeth Ward, M.N.
Director
Division of Public Health

Date: *February 9, 1988*

Approved by: *Myra M. Munson*
Myra M. Munson
Commissioner
Department of Health and
Social Services

Date: *February 9, 1988*

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act granting immunity
from civil liability for...
Sponsor: Davis et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: State Health Services
Components: EMS Certification and
Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS .: (Attach a separate page if necessary)

The enactment of HB 340 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090
Division: Public Health Date: 1-20-88

Approved by Commissioner: *M. M. Munson* Date: 1-20-88
Agency: Department of Health & Social Services

Distribution (by preparer):

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

Valdez, Sup. Ct. Op. No. 2243 (File No. 4451), 620 P.2d 683 (1980).

When there was no evidence before the superior court suggesting that a city's warning of safety hazards was issued with a knowing or reckless disregard for the truth of the statements if contained that communication was protected by a privilege extended to administrative officers making defamatory communications required or permitted in the performance of official duties even though there was no immunity under this section. *Urethane Specialities, Inc. v. City of Valdez*, Sup. Ct. Op. No. 2243 (File No. 4451), 620 P.2d 683 (1980).

City's failure to follow own rules governing relations with employees. — This section does not immunize city from liability for damages resulting from its failure to follow its own rules governing its relations with its employees. *Stanfill v. City of Fairbanks*, Sup. Ct. Op. No. 2624 (File No. 6321), P.2d (1983).

Negligence in operation of ambulance. — The object to be accomplished by ambulance service operated and main-

tained by a city, that of service to the infirm, was so closely related to hospitalization benefits that it could be said to come within the scope of the opinion in *Tucngel v. City of Sitka*, 118 F. Supp. 399 (D. Alas. 1954), *aff'd*, 245 F.2d 61 (9th Cir. 1957), and the city could be held liable for any negligence in the operation of the ambulance. *Lucas v. City of Juneau*, 168 F. Supp. 195 (D. Alas. 1958).

Negligence of fire department. — For case decided prior to second 1975 amendment holding that a city which maintained a fire department could be held liable for injuries resulting from negligence connected with the department's firefighting activities, see *City of Fairbanks v. Shaible*, Sup. Ct. Op. No. 97 (File Nos. 112, 113), 375 P.2d 201 (1962). See *contra*: *City of Fairbanks v. Gilbertson*, 16 Alaska 590 (1957), *aff'd*, 262 F.2d 734 (9th Cir. 1959), where § 56-2-2 ACLA 1949 (predecessor to this section) was ignored by both the district court and the court of appeals.

Quoted in *Atkinson v. Haldane*, Sup. Ct. Op. No. 1495 (File No. 2981), 569 P.2d 151 (1977).

Collateral references. — Fire departments as pertaining to the governmental or to the proprietary branch of municipality, 9 ALR 143; 33 ALR 688; 84 ALR 514.

Necessity of consent to suit against state, 42 ALR 1464; 50 ALR 1408.

Municipal immunity from liability for torts, 120 ALR 1376; 60 ALR2d 1198.

Sec. 09.65.080. Suits by incorporated units of local government. An action may be maintained by an incorporated borough, city, or other public corporation of like character in its corporate name, and upon a cause of action accruing to it in its corporate character

- (1) upon a contract made with the public corporation;
- (2) upon a liability prescribed by law in favor of the public corporation;
- (3) to recover a penalty or forfeiture given to the public corporation;
- (4) to recover damages for an injury to the corporate rights or property of the public corporation. (§ 2 ch 23 SLA 1964)

Sec. 09.65.090. Civil liability for emergency aid. (a) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in

(b) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct. (§ 1 ch 32 SLA 1967; am § 1 ch 119 SLA 1971; am § 38 ch 102 SLA 1976)

NOTES TO DECISIONS

Common law. — At common law there is no duty to rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

The law has persistently refused to recognize the moral obligation of common decency and common humanity, to come to the aid of another human being who is in danger. Only in certain limited situations, as for example where the actor was responsible for placing the imperiled person in his endangered position, has a duty been recognized. However, once rescue operations have begun, the rescuer is held to a duty of due care. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

The purpose of this section is to induce voluntary rescue by removing the fear of potential liability which acts as an impediment to such rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

This section is directed at persons who are not under some preexisting

duty to rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

A rescuer under a preexisting duty to rescue would not need the added inducement of immunity from civil liability for his ordinary negligence. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

Such as a police officer. — A holding that police officers have no duty to rescue would not comport with public conceptions of their role. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

This section, the Alaska Good Samaritan statute, does not shield a police officer from liability for ordinary negligence. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

Sec. 09.65.092. Civil liability for voluntary aircraft safety inspection. An aircraft or power plant technician or mechanic certified by the Federal Aviation Administration who participates without compensation in a voluntary aircraft safety inspection program is not liable for civil damage resulting from an act or omission arising out of an aircraft safety inspection in that program unless the act or omission constitutes gross negligence or reckless or intentional misconduct. (§ 1 ch 3 SLA 1982)

Sec. 09.65.095. Liability for administration of blood test. (a) No civil or criminal action arising out of battery may be brought against a health care provider for the act of taking a blood sample if the

FISCAL NOTE

REQUEST:

38

Revision Date: _____
Title: An Act granting immunity
from civil liability for...
Sponsor: Davis et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: State Health Services
Components: FMS Certification and
Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 340 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090
Division: Public Health Date: 1-20-88

Approved by Commissioner: *Maria M. Munson* Date: 1-20-88
Agency: Department of Health & Social Services

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APR 29 1988

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JAMES B. FRIDERICI
ANDREW GUIDI
DEBORAH K. IVY
DONALD G. THOMAS
JILL E. MICKELSEN
HOWARD A. LAZAR

FACSIMILE COVER SHEET

APR 29 1988

| | | | |
|---|--|--|--|
| DATE: April 29, 1988 | | TIME: 9:00 AM | |
| TO: Sen. Jay Kerttula Capital Room 107 | | FROM: Marc Bond 607 W. 3rd Ave #400 Anchorage Ak 99501 | |
| FAX NO. 586-9548 | | This fax includes 2 pages, including this cover sheet. | |
| REFERENCE: CSHB 340 - Partial immunity for volunteer rescuers | | | |
| Please call _____ at (907) 279-3581 to confirm receipt of this fax. | | | |
| <input checked="" type="checkbox"/> No confirmation required. | | | |
| ADDITIONAL INFORMATION: Please deliver this letter to Senator Kerttula, and deliver copies to Senators Sturgulewski, Josephson, Fairis and Roday. Thanks! 😊 | | | |



National Ski Patrol System, Inc. Alaska Division

Marc D. Bond
Division Director

APR 29 1988

April 29, 1988

Senator Jalmar Kerttula, Chairman
Senate Judiciary Committee
Pouch V, Mail Stop 3100
Juneau AK 99811

Re: CSHB 340 - Partial Immunity for Volunteer Rescue Workers

Dear Chairman Kerttula:

I urge your support for CSHB 340, now before your committee. This bill will provide substantial support to the members of several, diverse volunteer rescue organizations. These well-trained volunteers contribute many valuable hours of service to the lost, shipwrecked and injured in Alaska's wilderness and waters.

We are the consummate Good Samaritans: not only do we take the time to stop and help those in distress, we spend many hours planning and training to meet the anticipated needs. Our very preparedness and willingness to help has also been our potential undoing: In Lee v. State, the Alaska Supreme Court held that those who have a pre-existing duty to assist the lost and injured are not protected by the general Good Samaritan statute. For a number of years we have pondered whether this ruling would deprive us of the essential protection from being mulcted in damages by those we rescue. The question is sufficiently open that several of our ski patrollers have decided the risk is too great. They have left the patrol, casualties of our litigious society.

We want to continue to provide rescue services to all Alaskans. It is good public policy to protect those who volunteer for difficult and often dangerous rescue operations against permissive liability.

We are very happy with the present form of CSHB 340. We urge the Judiciary Committee to quickly consider and report the bill out with a "Do Pass" recommendation.

Sincerely,

A handwritten signature in cursive script that reads "Marc D. Bond".

Marc D. Bond

cc: Arliss Sturgulewski
Joe Josephson
Jan Faiks
Pat Rodey

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

39

REQUEST
Revision Date: _____
Title: "An Act Granting immunity ... for providing ... emergency services."
Sponsor: Rep. Davis, etc.
Requestor: _____

Bill Version: CSHR 340(L&C)
Publish Date: HOUSE 1/22/88
Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments

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 | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|---|---|---|---|---|---|
| GENERAL FUNDS | 0 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

No increase or decrease in the level of expenditures is anticipated as a result of the passage of this legislation.

Prepared by: Francis C. Allan
Division: Alaska State Troopers
Approved by Commissioner: Arthur E. English
Agency: Public Safety

Phone: 269-5691
Date: 1/20/88
Date: 1/20/88

Distribution: (by preparer):
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